

## Memorandum of Understanding between the County of Nevada and the Washington County Water District

**THIS Memorandum of Understanding (“MOU”)** is made and entered into as of the 30th day of October 2020 by and between the COUNTY OF NEVADA, a political subdivision of the State of California (“COUNTY”), and the Washington County Water District (“District”), collectively the “Parties”, who agree as follows:

- MOU Fund Allocation:** County shall allocate funds as designated in the Office of Emergency Services FY 20/21 Budget as adopted by Resolution 20-208. The allocation specified herein shall be the total payment made to the District. The amount of funding shall be Ten Thousand Dollars (\$10,000.00) and shall be payable within 30 days of the execution of this MOU.
- Use of Funds:** The District agrees to use the funds on expenditures relating to the provision of public safety services by the Washington Fire Department. Eligible use of award funds includes, but is not limited to, payment of salary and benefits, purchase of equipment, and operating costs during the period that begins on July 1, 2020 and ends on June 30, 2021.
- Term of MOU:** This MOU shall commence on October 30, 2020. All funds provided by this MOU shall be expended by June 30, 2021.
- Funding Allocation:** The sole source of funding by COUNTY for this disbursement is from the Office of Emergency Services Budget Allocation Fund No. 0101-20702-414-1000/522090. No other County funding source shall be held liable for any obligations set forth in this MOU.
- Electronic Signatures:** The parties acknowledge and agree that this MOU may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, “electronic signature” shall include faxed or emailed versions of an original signature or electronically scanned and transmitted versions (e.g. via pdf) of an original signature.
- REPORTING** Upon completion of the term, The District shall submit a report no later than 60 days after the expiration of this MOU. The report shall contain the number of incidents the District has responded to by category including Fire, Accidents, PSPS Events, Medical Aid, Public Assist, the total cost of providing the listed services, and total number of volunteer hours for the fiscal year.
- Hold harmless and Indemnification:** To the fullest extent permitted by law, each Party (the “Indemnifying Party”) hereby agrees to protect, defend, indemnify, and hold the other Party (the “Indemnified Party”), its officers, agents, employees, and volunteers, free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character resulting from the Indemnifying Party’s negligent act, willful misconduct, error or omission, or material breach of this MOU, including, but not limited to, the amounts of judgments, penalties, reimbursements, interest, court costs, legal fees, and all other expenses incurred by the Indemnified Party arising in favor of any Party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of the Indemnified Party) and without limitation, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of, the MOU and the expenditures of the CRF funding. The Indemnifying Party agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demand, or suit at the sole expense of the Indemnifying Party,

using legal counsel approved in writing by Indemnified Party. Indemnifying Party also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against either Party or to enlarge in any way either Party's liability but is intended solely to provide for indemnification of the Indemnified Party from liability for damages, or injuries to third persons or property, arising from or in connection with Indemnifying Party's performance pursuant to this MOU. This obligation is independent of, and shall not in any way be limited by, the minimum insurance obligations contained in this MOU. These Hold Harmless and Indemnification provisions shall survive the termination of this MOU.

8. **Conflict of Interest:** The District certifies that no official or employee of the County, nor any business entity in which an official of the County has an interest, has been employed or retained to solicit or aid in the procuring of this MOU. In addition, The District agrees that no such person will be employed in the performance of this MOU unless first agreed to in writing by County. This includes prior Nevada County employment in accordance with County Personnel Code.
9. **Entirety of MOU:** This MOU contains the entire agreement of County and District with respect to the subject matter hereof, and no other agreement, statement, or promise made by any Party, or to any employee, officer or agent of any Party, which is not contained in this MOU, shall be binding or valid. Should all or any portion of any provision of this MOU be held unenforceable or invalid for any reason, but the remainder of the MOU can be enforced without failure of material consideration to any Party, then the remaining portions or provisions shall be unaffected.
10. **Exhibits** All exhibits referred to herein and attached hereto are incorporated herein by this reference.
11. **Insurance** THE DISTRICT shall procure and maintain insurance or self-insure against claims for injuries to persons, damages to property, or misappropriation of funds which may arise from or in connection with this project ("Project") and the results of that work by the DISTRICT, his agents, representatives, employees or subcontractors. Coverage shall be at least as broad as:
  - a. Commercial General Liability (CGL) insurance services office form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$1,000,000 per occurrence and \$2,000,000 general aggregate. The COUNTY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to the Project; coverage shall be at least as broad as ISO form CG 20 10 11 85 or through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38 and CG 20 37. For claims related to this Project, the DISTRICT's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, or volunteers shall be excess of the DISTRICT's insurance and shall not contribute with it.
  - b. Worker's compensation coverage as required by the State of California, with statutory limits, and employer's liability insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
  - c. **Director and Officers (D&O) Liability Insurance** covering breach of fiduciary duty, misrepresentation of company assets, misuse of company funds, fraud, failure to comply with workplace laws, theft of intellectual property, and lack of corporate governance with limit no less than **\$1,000,000** per occurrence or claim, **\$2,000,000** aggregate.
  - d. If the DISTRICT maintains broader coverage and/or higher limits than the minimums

shown above, the COUNTY requires and shall be entitled to the broader coverage and/or higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

- e. THE DISTRICT hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said the DISTRICT may acquire against the COUNTY by virtue of the payment of any loss under such insurance. The DISTRICT agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
- f. THE DISTRICT shall furnish to COUNTY original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause), a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to the COUNTY before work begins, and proof of ability to pay self-insured retention. However, failure to obtain the required documents prior to the work beginning shall not waive the DISTRICT's obligation to provide them. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

- 12. Upon request, COUNTY or its authorized representative shall have access to and the right to examine all records, books, papers or documents of the DISTRICT related to the Project and use of COUNTY funds provided under this MOU. The DISTRICT shall retain such records, books, papers and documents for a period of not less than five (5) years from the Completion Date.
- 13. The Parties to this MOU hereby certify that they are acting independently and not as agents, employees, or joint ventures with each other. Neither Party nor its officers, employees or volunteers are employees of the other.
- 14. The terms and conditions of this MOU, including any exhibits hereto, may not be amended except in writing, signed by both parties. Any amendment or addendum to this MOU shall expressly refer to this MOU.
- 15. The waiver of any provision of this MOU shall be in writing, signed by the Party granting the waiver, and such waiver shall not operate or be construed as a waiver of any other provision of the MOU.
- 16. Any notices that either Party desires to or is required to give to the other Party or to any other person shall be in writing and either served personally or sent by prepaid first-class mail. Such notices shall be addressed to the other Party at the address set forth below. Either Party may change its address by notifying the other Party of the change of address. Notice shall be deemed received within seventy-two hours from the date of mailing, if mailed as provided in this Paragraph.

To County:

Elise Strickler  
Information General Services  
950 Maidu Avenue, Suite 130  
Nevada City, CA 95959

To Washington County Water District

Mike Stewart  
Washington Water District  
P O Box 34  
Washington, CA 95986

17. **Assignment:** This MOU may not be assigned by either Party. This MOU is made and entered into for the sole protection and benefit of COUNTY and the DISTRICT. No other person or entity shall have any right of action based upon any provision of this MOU.

18. **Governing Law and Venue:** This MOU shall be governed by the laws of the State of California. The venue for any legal proceedings regarding this MOU shall be the County of Nevada, State of California.

19. **Authority:** All individuals executing this MOU on behalf of a Party represents and warrants to the other Party that he or she has authority to bind and commit each such Party to this MOU.

**IN WITNESS WHEREOF**, the Parties hereunto have executed this MOU on the dates hereinafter set forth.

COUNTY OF NEVADA:

By: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name/Title: Honorable Dan Miller, Chair of the Board of Supervisors

By: \_\_\_\_\_

Attest: Julie Patterson Hunter, Clerk of the Board of Supervisors

**APPROVED AS TO FORM:**

By: \_\_\_\_\_

County Counsel

**DISTRICT:**

By: \_\_\_\_\_ Dated: \_\_\_\_\_

Washington County Water District, Kass Kozloski, President