

ATTACHMENT 1

MEMORANDUM OF UNDERSTANDING

LAHONTAN WATER BOARD SUPPLEMENTAL ENVIRONMENTAL PROJECT ESCROW ACCOUNT PROGRAM WITH [NAME OF PARTNER ORGANIZATION]

This document shall serve as a Memorandum of Understanding by and between the California Regional Water Quality Control Board, Lahontan Region (Lahontan Water Board) and the PARTNER ORGANIZATION for the Supplemental Environmental Project (SEP) Escrow Account program authorized by the Lahontan Water Board's SEP Policy, approved by Resolution No. R6T-2014-XXXX (Lahontan Water Board SEP Policy). The terms and conditions of this Memorandum of Understanding (MOU) govern PARTNER ORGANIZATION'S obligations to identify projects that may qualify as SEPs, to implement SEPs consistent with the Lahontan Water Board SEP Policy, and to use the funds transferred to it by a discharger in accordance with the Lahontan Water Board's authorizing Administrative Civil Liability Order. This MOU is effective upon its execution by PARTNER ORGANIZATION and the Executive Officer of the Lahontan Water Board.

1. PARTNER ORGANIZATION shall incorporate the SEP Qualification Criteria identified in the Lahontan Water Board SEP Policy to identify potential projects that may qualify as a SEP. This shall be incorporated within the PARTNER ORGANIZATION'S stakeholder process used for identifying potential projects.
2. PARTNER ORGANIZATION shall submit to the Lahontan Water Board Executive Officer on a biannual basis a list of potential projects that have been identified pursuant to Paragraph 1, above. The first such list shall be submitted by [DATE] and every two years thereafter.
3. When a discharger is under Order of the Water Board to pay a liability for violations, PARTNER ORGANIZATION shall enter into a direct contract with any Discharger who elects to direct a portion of its liability to fund implementation of a SEP identified on the PARTNER ORGANIZATION's list of potential projects noted in Paragraph 2, above. The contract between the PARTNER ORGANIZATION and the discharger shall include specific language noted within Attachment 2 to the Lahontan Water Board SEP Policy.
4. PARTNER ORGANIZATION shall provide quarterly reports of progress on each SEP to the Designated Lahontan Water Board Representative commencing on the first day of the fiscal quarter after a contract with a discharger becomes effective and continuing through submittal of the final reports described below. If no activity occurred during a particular quarter, a quarterly report so stating shall be submitted.

5. On or before the applicable SEP Completion Date, PARTNER ORGANIZATION shall submit a certified statement of completion of the SEPs (“Certification of Completion”). The Certification of Completion shall be submitted under penalty of perjury, to the Designated Lahontan Water Board Representative by a responsible corporate official representing PARTNER ORGANIZATION. The Certification of Completion shall include following:
 - a. Certification that the SEP has been completed in accordance with the terms of er this MOU, the Lahontan Water Board’s authorizing Order and the Lahontan Water Board’s SEP Policy. Such documentation may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the Lahontan Water Board to evaluate the completion of the SEP and the costs incurred by PARTNER ORGANIZATION.
 - b. Certification documenting the expenditures by PARTNER ORGANIZATION during the completion period for the SEP. PARTNER ORGANIZATION’S expenditures may include external payments to outside vendors or contractors performing the SEP. In making such certification, the official may rely upon normal company project tracking systems that capture employee time expenditures and external payments to outside vendors such as environmental and information technology contractors or consultants. The certification need not address any costs incurred by the Lahontan Water Board for oversight. PARTNER ORGANIZATION shall provide any additional information requested by the Lahontan Water Board Representative which is reasonably necessary to verify SEP expenditures.
 - c. Certification, under penalty of perjury, that PARTNER ORGANIZATION obtained all necessary permits and followed all applicable laws and regulations in the implementation of the SEP, including but not limited to the federal Clean Water Act, the Porter-Cologne Act, and the terms of any permits issued for the SEP.
6. To ensure compliance with the California Environmental Quality Act where necessary, PARTNER ORGANIZATION shall provide the Lahontan Water Board with the following documents from the lead agency prior to commencing SEP construction:
 - a. Categorical or statutory exemptions relied upon by the Lead Agency;
 - b. Negative Declaration if there are no potentially “significant” impacts;
 - c. Mitigated Negative Declaration if there are potentially “significant” impacts but revisions to the project have been made or may be made to avoid or mitigate those potentially significant impacts; or
 - d. Environmental Impact Report (EIR).

7. In addition to the certification, upon completion of the SEP and at the written request of the Lahontan Water Board Executive Officer, PARTNER ORGANIZATION AND DISCHARGER, at THEIR sole cost, shall submit a report prepared by an independent third party(ies) acceptable to the Lahontan Water Board Executive Officer providing such party's(ies)' professional opinion that PARTNER ORGANIZATION has expended money in the amounts claimed. The audit report shall be provided to the Designated Lahontan Water Board Representative within three (3) months of notice from the Lahontan Water Board Executive Officer to PARTNER ORGANIZATION AND DISCHARGER of the need for an independent third party financial audit. The audit need not address any costs incurred by the Lahontan Water Board for oversight.
8. Upon PARTNER ORGANIZATION'S satisfaction of its SEP obligations under this MOU and completion of each SEP(s) and any audit requested by the Lahontan Water Board, the Designated Lahontan Water Board Representative shall send PARTNER ORGANIZATION AND DISCHARGER a letter recognizing satisfactory completion of THEIR obligations under the terms of each applicable Order authorizing the completion of a SEP. This letter shall terminate any further MOU and other applicable Order obligations of PARTNER ORGANIZATION AND DISCHARGER.
9. In the event that PARTNER ORGANIZATION and each applicable discharger are not able to demonstrate to the reasonable satisfaction of the Lahontan Water Board Executive Officer that the entire amount of funds allocated under an Order authorizing a SEP has been spent to complete the components of the SEP for which a discharger is financially responsible, the discharger shall pay back to the State Water Board the difference between the funds allocated under the Order authorizing a SEP and the amount the PARTNER ORGANIZATION and the discharger can demonstrate was actually spent on the SEP. Alternatively, the Lahontan Water Board may approve the use of the surplus funds for a different SEP consistent with its and the State Water Resources Control Board's SEP Policies.

IT IS SO AGREED.

California Regional Water Quality Control Board – Lahontan Region

By: _____
Patty Z. Kouyoumdjian
Executive Officer

Date: _____

PARTNER ORGANIZATION

By: _____
[NAME OF PERSON]
[TITLE OF PERSON SIGNING]

Date: _____