

AGREEMENT FOR TREATED EFFLUENT

BETWEEN

**CITY OF RENO, a municipal corporation, and
CITY OF SPARKS, a municipal corporation**

AND

**TRI GENERAL IMPROVEMENT DISTRICT,
a political subdivision of the State of Nevada**

TABLE OF CONTENTS

1.	Definitions.....	-1-
1.1	"Additional NPWSS Improvements"	-1-
1.2	"Capacity Reservation"	-1-
1.3	"Cities"	-1-
1.4	"Effective Date"	-1-
1.5	"NPWSS"	-1-
1.6	"NRS"	-1-
1.7	"Pipeline Project"	-1-
1.8	"Point of Connection"	-1-
1.9	"Process Water"	-2-
1.10	"Reno"	-2-
1.11	"Reservoir"	-2-
1.12	"Resource".....	-2-
1.13	"Return Flow Management Agreement"	-2-
1.14	"Replacement Water"	-2-
1.15	"Sparks"	-2-
1.16	"Storey County"	-2-
1.17	"TMWA"	-2-
1.18	"TMWRF"	-2-
1.19	"TMWRF Supply"	-2-
1.20	"TRI"	-3-
1.21	"TRI Center"	-3-
1.22	"TRIGID"	-3-
1.23	"TRIGID Customers"	-3-
1.24	"TRIGID WWTP"	-3-
2.	General	-3-
2.1	Charter	-3-
2.2	Treatment	-3-
2.3	TMWRF Effluent Requirements.....	-3-
2.4	Authority	-3-
2.5	TMWRF Pipeline Alignment.....	-3-
2.6	TRIGID Service	-4-
2.7	Agreement to Take/Deliver Treated Effluent	-4-
3.	TRIGID Duties and Commitments	-4-
3.1	TRIGID Responsibility/Easement	-4-
3.2	No Discharge.....	-4-
3.3	Priority of Commitment of Use	-4-
3.4	Operation and Maintenance	-5-

TABLE OF CONTENTS (Cont'd.)

3.5	Audits	-5-
3.6	NDEP Requirements	-5-
3.7	Metering and Reporting	-6-
3.8	Compliance with Laws.....	-6-
3.9	Indemnities	-6-
3.10	Operation.....	-6-
3.11	Notification	-6-
3.12	Permits Compliance	-7-
3.13	Notice of Violations	-7-
3.14	Responsible Entity	-7-
3.15	Cooperation	-7-
3.16	Best Practices	-7-
4.	Cities' Duties and Commitments.....	-7-
4.1	Capacity Reservation	-7-
4.2	TMWRF Supply.....	-8-
4.3	Temporary Uses	-8-
4.4	Operation of TMWRF.....	-8-
4.5	Quality Requirements.....	-8-
4.6	Quantity Requirements.....	-8-
4.7	Compliance with Laws.....	-8-
4.8	Reports	-9-
4.9	Notification	-9-
4.10	Discharge Permit.....	-9-
4.11	Effluent Management Plan.....	-9-
4.12	Flow Rates.....	-9-
4.13	Maintenance of TMWRF Discharge Permit	-9-
5.	TMWRF Capital and Operating Costs.....	-9-
5.1	Capital Costs	-9-
5.2	Increased Operating Expenses	-10-
6.	Term of Agreement/Termination	-10-
6.1	Initial Term.....	-10-
6.2	Extensions	-10-
6.3	Notice of Termination	-10-
7.	Replacement Water and Return Flow Management Agreement.....	-10-

TABLE OF CONTENTS (Cont'd.)

8.	Permissible Fees and Charges	-11-
9.	Assignments	-11-
9.1	Assignment by Cities	-11-
9.2	Assignments by TRIGID	-12-
10.	Interruption of Delivery	-12-
10.1	Force Majeure	-12-
10.2	Other Causes	-12-
11.	User Acknowledgment.....	-13-
12.	Disclaimers.....	-13-
12.1	Warranties	-13-
12.2	Limitation on Damages	-13-
13.	Miscellaneous Provisions.....	-14-
13.1	Integration	-14-
13.2	Amendment/Waiver	-14-
13.3	Binding Nature	-14-
13.4	No Third Party Beneficiary Rights	-14-
13.5	Governing Law.....	-14-
13.6	Attorney's Fees.....	-14-
13.7	Jurisdiction; Venue.....	-14-
13.8	Claims	-15-
13.9	Inspection & Audit.....	-15-
13.10	Duplicate Originals/Counterparts.....	-15-
13.11	Subject Headings.....	-15-
13.12	Drafting Presumption	-15-
13.13	Additional Documents	-15-
13.14	Due Authorization.....	-15-
13.15	Notice	-16-
13.16	Severability	-16-
13.17	Time	-17-

EXHIBITS

A..... TRI Center Site Plan

THIS AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2017 by and between the City of Sparks, a municipal corporation and a political subdivision of the State of Nevada; the City of Reno, a municipal corporation and a political subdivision of the State of Nevada; and TRI General Improvement District, a political subdivision of the State of Nevada.

1. Definitions. Terms not defined elsewhere in this Agreement shall have the meanings stated below in this Section 1.
 - 1.1 “Additional NPWSS Improvements” means the NPWSS improvements in addition to the Pipeline Project which must be constructed in order to deliver Process Water from TMWRF to TRIGID Customers.
 - 1.2 “Capacity Reservation” means the effluent capacity reserved by the Cities for annual delivery through the Pipeline Project to TRI Center, in the amount of 4,000 acre feet annually, pursuant to the terms of this Agreement and the Return Flow Management Agreement.
 - 1.3 “Cities” means collectively the City of Reno and the City of Sparks, and each city may be referred to individually as a “City”.
 - 1.4 “Effective Date” means the day stated in the first paragraph of this Agreement.
 - 1.5 “NPWSS” (Nonpotable Process Water Supply System) means any and all water system facilities, equipment and appurtenances now or hereafter owned, operated or controlled by TRIGID that are necessary or used to contain, convey, treat, store and deliver nonpotable water to be used as Process Water to TRIGID Customers including without limitation, pipes, wells, transmission and distribution mains, treatment facilities, ponds, storage facilities, pump stations, valves, fittings and appurtenant facilities and interconnection facilities necessary to connect into the NPWSS.
 - 1.6 “NRS” means Nevada Revised Statutes.
 - 1.7 “Pipeline Project” means an 18 inch (18”) (or larger) underground pipeline and at least one pump station transporting treated effluent from TMWRF to TRI Center.
 - 1.8 “Point of Connection” means the location where the Pipeline Project connects to the discharge manifold on the grounds of TMWRF.

- 1.9 “Process Water” means water delivered by TRIGID to TRIGID Customers for use in irrigation, washing, manufacturing, cooling and other industrial or commercial applications other than for potable water use for domestic purposes (e.g. sinks, showers, toilets, indoor faucets, etc.) Effluent delivered by the Pipeline Project from TMWRF is Process Water.
- 1.10 “Reno” means the City of Reno.
- 1.11 “Reservoir” means a water storage facility to be constructed as a portion of the Additional NPWSS Improvements located on USA Parkway in TRI Center, which will function as an intake reservoir for sources of Process Water, including TMWRF Supply, with a storage capacity of ± 1,500 acre feet.
- 1.12 “Resource” means the physical water or effluent that may be used as Process Water, whether potable or non-potable, and whether delivered through the NPWSS or the potable water system of TRIGID, measured in acre feet annually.
- 1.13 “Return Flow Management Agreement” means an agreement between Reno, Sparks, TRIGID, TRI, the State of Nevada and TMWA specifying rights, obligations, terms and conditions by which TMWA will manage certain Truckee River water rights as more fully set forth in Section 7.
- 1.14 “Replacement Water” means Truckee River surface water rights identified in Section 7 for instream flow for the purpose of satisfying return flow requirements set forth in the Return Flow Management Agreement.
- 1.15 “Sparks” means the City of Sparks.
- 1.16 “Storey County” means the County of Storey, a political subdivision of the State of Nevada, in whose jurisdiction TRI Center is located.
- 1.17 “TMWA” means the Truckee Meadows Water Authority, in Washoe County, Nevada.
- 1.18 “TMWRF” means the Truckee Meadows Water Reclamation Facility in Washoe County, Nevada.
- 1.19 “TMWRF Supply” means the effluent provided to TRIGID by TMWRF through the Pipeline Project.

- 1.20 “TRI” means Tahoe-Reno Industrial Center, LLC, a Nevada limited liability company.
- 1.21 “TRI Center” means the Tahoe-Reno Industrial Center, a real estate development of over 20,000 acres zoned for commercial and industrial uses located in Storey County, Nevada, as shown on Exhibit “A”, attached hereto. TRI Center may expand beyond the boundaries shown on Exhibit “A” by annexation pursuant to the terms of the Development Agreement dated February 1, 2000 between TRI and Storey County.
- 1.22 “TRIGID” means TRI General Improvement District.
- 1.23 “TRIGID Customers” (collectively) and “TRIGID” Customer (individually) means those owners or owner of properties in TRI Center receiving Process Water service provided by TRIGID.
- 1.24 “TRIGID WWTP” means the wastewater treatment plant facility located at 145 Britain Drive in TRI Center, which is a component of the TRIGID sewer system.

2. General.

- 2.1 Charter. Sparks City Charter §2.110 and Reno City Charter §2.140 permit the Cities to provide utility service and fix the rates for such utility service.
- 2.2 Treatment. Sewage influent delivered to TMWRF is usually treated by chemical, biological and aeration processes; then discharged to the Truckee River via the Steamboat Canal as treated effluent.
- 2.3 TMWRF Effluent Requirements. TMWRF is owned by the Cities and provides centralized wastewater treatment for residents of the Truckee Meadows. To meet National Pollutant Discharge Elimination System standards, TMWRF must achieve a complex balance between treatment plant processes, effluent reuse, water rights requirements, Truckee River water quality standards, and numerous other interrelated, regional water management objectives.
- 2.4 Authority. The Cities hereby warrant that they have the authority to allocate the TMWRF Effluent Supply from the Cities to TRIGID pursuant to this Agreement.
- 2.5 TMWRF Pipeline Alignment. The TMWRF Pipeline may traverse property owned by Reno and Sparks as mutually agreed to by the parties.

- 2.6 TRIGID Service. TRIGID is a general improvement district created by Storey County pursuant to NRS Chapter 318 and 308 to provide community water and sewer service to all developed and developing properties in TRI Center. TRIGID provides potable water service from groundwater supplied by a system of wells, pipes, pump stations, water tanks and associated facilities. TRIGID provides sewer service through a system of sewer lines to the TRIGID WWTP, which discharges treated effluent into the Reservoir. TRIGID does not discharge treated effluent in the Truckee River. A portion of the NPWSS improvements have been constructed in TRI Center, consisting primarily of nonpotable water transmission and distribution pipe within public right-of-ways. The Additional NPWSS Improvements are currently designed to allow delivery of 10,000 acre feet annually or more of nonpotable Process Water to TRIGID Customers. The TMWRF Supply delivered through the Pipeline Project will add Resource capacity to the TRIGID NPWSS.
- 2.7 Agreement to Take/Deliver Treated Effluent. Subject to and in accordance with the provisions of this Agreement, TRIGID shall accept and utilize treated effluent as Process Water in TRI Center; and Cities agree to provide treated effluent to TRIGID.

3. TRIGID Duties and Commitments.

- 3.1 TRIGID Responsibility/Easement. TRIGID shall be responsible for planning, permitting, engineering and construction of all Pipeline Project improvements in Washoe County and Storey County, and all Additional NPWSS Improvements in Storey County. Sparks and Reno authorize their respective city managers, with approval from their respective city attorney's office, to grant an easement at TRIGID's request for the construction and operation of the Pipeline Project on its property, APN 021-020-02, at no charge. The costs of this work shall be solely the responsibility of TRIGID.
- 3.2 No Discharge. All TMWRF Supply provided to TRIGID by the Cities pursuant to this Agreement shall be beneficially used in a manner that is consistent with applicable federal and state law. TRIGID is responsible for using the TMWRF Supply in a lawful manner with no return flow to the Truckee River. If any return flow occurs, it will be the sole responsibility of TRIGID.
- 3.3 Priority and Commitment of Use.
- A. TRIGID will either store or use TMWRF Supply for all new TRIGID Customers connected to the NPWSS in TRI Center requiring Process

Water, until the TMWRF Supply is fully utilized. Except for reclaimed water from the TRIGID WWTP, TMWRF Supply shall have a priority for storage and use over other sources for Process Water (e.g., groundwater and Truckee River water). TRIGID and TRIGID Customers may assign and/or reallocate usage of TMWRF Supply within TRI Center at any time in their sole discretion. TMWRF Supply may not be reassigned outside the TRI Center without prior approval of the Cities. TRIGID shall be responsible for any and all costs associated with reassignment.

- B. TRIGID agrees that in drought conditions, when Replacement Water may not be available, subject to the availability of effluent and subject to the Return Flow Agreement, TRIGID will acquire Treated Effluent from the Cities as a reuse customer pursuant to Sparks Municipal Code Chapter 13.85 and an agreement between City of Reno and City of Sparks or an adopted Reno Municipal Code;
- C. TRIGID commits to accept for delivery 4000 acre feet of TMWRF Supply within eight (8) years from the date the Return Flow Management Agreement is executed. Commencing with the execution of this Agreement, the parties shall meet every 2 years to discuss projected effluent demand by TRIGID . If TRIGID does not accept 4,000 acre feet of TMWRF supply within eight (8) years, the parties will meet and confer regarding the Cities right to commit unused supply to other users.

- 3.4 Operation and Maintenance. TRIGID shall operate and maintain at its expense the Pipeline Project downstream of the Point of Connection. The Cities shall have no responsibility for any costs to operate or maintain any TRIGID facilities. Compliance with all applicable laws and regulations governing the use of treated effluent and all required reporting of such usage for all TRIGID facilities shall be the sole responsibility of TRIGID.
- 3.5 Audits. Upon request, the Cities shall have access to TRIGID records to audit the amount and use of TMWRF Supply. Upon request of a party, but not less than annually, the parties shall meet and confer on the TMWRF Supply and the Pipeline Project, including the use of the Capacity Reservation and the availability of treated effluent in excess of the TMWRF Supply to TRIGID.
- 3.6 NDEP Requirements. TRIGID shall be solely responsible for obtaining its NDEP Discharge Permit and acquiring NDEP approval of its Effluent Management Plan utilizing TMWRF Supply. TRIGID shall be liable for

any sanctions imposed by the State of Nevada for use of treated effluent in its NPWSS not in conformance with its discharge permit or Effluent Management Plan.

- 3.7 Metering and Reporting. TRIGID shall install a meter approved by the Cities at the Point of Connection to be dedicated to the Cities by TRIGID prior to the delivery of water to TRIGID. Monthly effluent flow will be reported to TRIGID.
- 3.8 Compliance with Laws. TRIGID shall be solely liable for Process Water service to TRIGID Customers and all NPWSS improvements described in this Agreement, and shall at all times comply with any and all standards for performance, including requirements specified, issued or promulgated by any government agency, board, department or authority which has jurisdiction over TRIGID's Process Water service described herein.
- 3.9 Indemnities. The Cities shall not be liable for any injury to persons or damage to property arising from TRIGID's construction of the Pipeline Project or Additional NPWSS Improvements, and TRIGID shall indemnify, defend and hold harmless the Cities from any claims, causes of action or liability therefrom. TRIGID shall be responsible for all legal services and costs, administrative and engineering costs and fees, including permit fees, associated with any legal or administrative challenges that are related to the water uses and change applications that are contemplated by this Agreement.
- 3.10 Operation. TRIGID shall be solely responsible for providing, operating, maintaining and repairing its NPWSS from the Point of Connection to Its customer(s), together with all appurtenant facilities, as are necessary to accept, convey, control and use TMWRF Supply in compliance with the requirements of all applicable federal, state, city and local regulatory agencies. TRIGID shall be the owner of the Project Pipeline beginning at the point of Connection at TMWRF. TRIGID shall be responsible for conveying and controlling, in compliance with applicable regulatory agency requirements the treated effluent delivered through TRIGID's Project Pipeline, after the Point of Connection. Cities shall have no responsibility whatsoever relative to TMWRF Supply transmitted by the Project Pipeline to TRIGID'S Reservoir after the Point of Connection.
- 3.11 Notification. TRIGID shall notify Cities by telephone within 24 hours if TRIGID becomes aware of any condition of the NPWSS which affects TMWRF Supply and violates federal, state, city and local applicable regulatory agency requirements or discharge standards. TRIGID shall

notify the Cities in writing within 5 business days all available details of the condition necessitating the notification, including the type, location and volume of any discharge of effluent not allowed by permit, and the ultimate fate of that discharge. These notifications to the Cities shall not absolve TRIGID of any responsibility to notify NDEP of any permit violation.

- 3.12 Permits Compliance. TRIGID shall be responsible for adhering to all conditions of its Discharge Permit and Effluent Management Plan regarding use of TMWRF Supply.
- 3.13 Notice of Violations. TRIGID shall notify the Cities and all relevant state and federal environmental agencies within twenty-four (24) hours of any situation that knowingly constitutes a material violation of TRIGID's Discharge Permit or Effluent Management Plan.
- 3.14 Responsible Entity. TRIGID shall provide to City the name of the company or person responsible for operation and repair of its NPWSS. TRIGID shall notify Cities of any changes in responsibility. This company or person shall be knowledgeable in the operation of the NPWSS and the rules and regulations governing the proper use of treated effluent.
- 3.15 Cooperation. TRIGID agrees to cooperate with Cities in obtaining any state and federal regulatory permits that might be required of Cities relating to this Agreement.
- 3.16 Best Practices. TRIGID agrees to use and manage the treated effluent in a manner consistent with best management practices and any approved Effluent Management Plan and Discharge Permit in effect. TRIGID understands that it is receiving treated effluent, which is not intended for human consumption, and further agrees that it assumes any and all risks associated with the use of the treated effluent under this Agreement in its NPWSS.

4. Cities' Duties and Commitments.

- 4.1 Capacity Reservation. Subject to Section 7 and the Return Flow Management Agreement, the Cities shall reserve for TRIGID and commit to deliver TMWRF Supply in the maximum amount of the Capacity Reservation. The Cities acknowledge that the maximum amount of the Capacity Reservation will not be utilized for some time. The demand will ramp up over time as TRIGID Customers commence operation of facilities using non-potable Process Water. TRIGID can only accept the amount of TMWRF Supply its TRIGID Customers can utilize. If TRIGID has

sufficient TRIGID Customer demand in the future to use more than 4,000 acre feet, TRIGID may request the Cities increase the Capacity Reservation and the Cities shall decide, in their sole discretion, whether to commit and deliver additional TMWRF Supply above the Capacity Reservation.

- 4.2 TMWRF Supply. The Cities warrant and represent that they are the owners of treated effluent pursuant to state permits and permit conditions that can be provided for the TMWRF Supply pursuant to this Agreement, and subject to those conditions.
- 4.3 Temporary Uses. The Cities may use any unused portion of the Capacity Reservation at other disposal sites on a temporary basis if TRIGID is not fully utilizing the Capacity Reservation.
- 4.4 Operation of TMWRF. Subject to the provision of Section 5, the Cities shall be responsible for providing, operating and maintaining TMWRF facilities, including the cost of the process water treatment, and for supplying TMWRF Supply at the Point of Connection, at their expense.
- 4.5 Quality Requirements. Cities shall be responsible for supplying TMWRF Supply to the Point of Connection which meets or exceeds the Category B effluent requirements as defined in NAC 445A.276. In the event the cities modify their treatment process, or the regulations defining the Category B effluent are amended, the parties will meet and confer to assure that TMWRF can continue to deliver the TMWRF Supply in a manner that is acceptable for uses by the TRIGID Customers. Cities shall be responsible for testing the TMWRF Supply in a manner necessary to ensure that the TMWRF Supply meets this water quality standard prior to delivery to the Point of Connection. If testing reveals conditions that do not meet Category B effluent requirements, then it shall be the responsibility of the Cities to address the problem by adjusting its method of sewer treatment.
- 4.6 Quantity Requirements. The Cities agree to reserve and commit the full quantity of the Capacity Reservation to TRIGID once demand has ramped up as described in Section 4.1 of this Agreement subject to any limitations set forth in the Return Flow Management Agreement. The Cities agree to reserve and commit the necessary quantity of the Capacity Reservation during the ramping up period as described in Section 4.1 of this Agreement.
- 4.7 Compliance with Laws. Cities shall be responsible for operating TMWRF in order to provide TMWRF Supply in compliance with applicable requirements of federal, state, city and local laws and regulations.

- 4.8 Reports. Upon TRIGID's request, Cities will make available NDEP Discharge Monitoring Reports pertinent to TMWRF's discharge to the Effluent Supply Pipeline. Upon Cities request, TRIGID will make available NDEP Discharge Monitoring Reports pertinent to TRIGID's usage of treated effluent.
- 4.9 Notification. Cities shall notify TRIGID if Cities become aware of any condition which violates federal, state, city and local regulatory agency requirements or discharge standards at TMWRF and affects TMWRF Supply.
- 4.10 Discharge Permit. Cities shall be responsible for maintaining a NDEP Discharge Permit necessary to supply TMWRF Supply to TRIGID. TRIGID shall be responsible for maintaining NDEP Discharge Permits as necessary to utilize treated effluent.
- 4.11 Effluent Management Plan. Cities shall be responsible for maintaining with NDEP an amended Effluent Management Plan as needed. The plan shall convey all information regarding planned operating and management criteria for delivery of treated effluent to the Point of Connection. Said plan must be approved by NDEP prior to delivery of TMWRF Supply by Cities under this Agreement. TRIGID shall be responsible for new or amended Effluent Management Plans, as needed, for the Effluent Pipeline System and all utilization of effluent.
- 4.12 Flow Rates. The parties acknowledge that the daily use of TMWRF Supply may fluctuate in accordance with the season and needs of TRIGID, and it is agreed that TMWRF will provide on a daily basis the amount of TMWRF Supply necessary to satisfy the TRIGID uses, insofar as those uses fall within the parameters of this Agreement and are consistent with the management of return flow as required by the Return Flow Management Agreement.
- 4.13 Maintenance of TMWRF Discharge Permit. TMWRF shall be solely responsible for obtaining or modifying its NDEP Discharge permit to allow discharge of TMWRF Supply into the Effluent Supply Pipeline.

5. TMWRF Capital and Operating Costs.

- 5.1 Capital Costs. If capital improvements are required at TMWRF solely to provide TMWRF Supply to TRIGID (e.g., upsized pumps, electrical improvements, piping, fittings, and building improvements at the discharge manifold), TRIGID shall reimburse the Cities therefor. The parties shall

meet and confer within sixty (60) days of the Effective Date to identify and estimate any said capital improvements and costs.

5.2 Increased Operating Expenses. If operating expenses are incurred at TMWRF solely to provide TMWRF Supply to TRIGID (e.g., electric power operation and maintenance costs, and replacement costs,), TRIGID shall reimburse the Cities therefor. After identifying capital improvements, if any, as specified in Subsection 5.1, the parties shall meet and confer to identify said increased operating costs and agree on the terms of reimbursement.

6. Term of Agreement / Termination.

6.1 Initial Term. This Agreement shall have an initial term of thirty (30) years, unless terminated earlier by mutual agreement of TRIGID and Cities.

6.2 Extensions. After the initial term of this Agreement, this Agreement may be extended for two (2) successive periods of twenty (20) years each upon mutual agreement of the parties in writing.

6.3 Notice of Termination. The parties agree that Notice of Termination must be provided no less than ten (10) years prior to termination.

7. Replacement Water and Return Flow Management Agreement. Performance of this Agreement is contingent upon the provision of Replacement Water in the amount of the Capacity Reservation, and the execution by TRIGID, Sparks, Reno, TMWA, and the State of Nevada of the Return Flow Management Agreement, and the State Engineer's approval of any and all required permits. Among other matters, in order to replace TMWRF Supply with return flow to the Truckee River in the amount of the Capacity Reservation, the Return Flow Management Agreement shall provide TMWA with the right to manage and control the following:

A. 1,500 acre feet of Truckee River or tributary water rights held by TRIGID and acceptable to TMWA to be changed and permitted to in-stream flow and managed by TMWA for return flow obligations during the term of this Agreement at no cost to the Cities;

B. 1,500 to 2,200 acre feet of Truckee River water rights held by the State of Nevada and acceptable to TMWA, title to which must be researched and proved to be held by the State of Nevada to the satisfaction of the Nevada Division of Water Resources at no cost to Cities, TMWA or the State of

Nevada. Permits will be changed to in-stream flow and managed by TMWA for return flow obligations during the term of this Agreement; and

- C. 300 to 1,000 acre feet of existing TMWA resources that will be made available due to this Agreement and the resulting water management efficiencies that occur from the utilization and control of Subsection 7.A and 7.B water rights, and that will be used by TMWA to meet return flow obligations during the term of this Agreement. TMWA's contribution will be limited to only the quantity of water that is not provided from the Subsection 7.A and 7.B water rights, and remains needed after the contribution of those water rights to make up 4000 acre feet of replacement water.

The Return Flow Management Agreement shall be in compliance with the operational requirements set by the Federal Water Master/TROA Administrator. The Return Flow Management Agreement shall require the monitoring and management of annual return flow obligations by TMWA to assure that the TMWRF Supply is provided in compliance with return flow requirements, and to maximize water quality benefits to TMWRF. The Return Flow Management Agreement shall provide for a fee payable by TRIGID to TMWA for its services. The Return Flow Management Agreement will also specify that in the event Return Flow Replacement Water cannot be provided in the amount of the Capacity Reservation, the Cities have the right to limit the amount of Capacity Reservation to the amount of Replacement Water. It shall further provide that the Replacement Water be made available and permitted for instream flow for the term of this Agreement and any agreed on extensions.

In the event the Return Flow Management Agreement is not fully executed in a form acceptable to the parties within 24 months of the Effective Date, this Agreement shall terminate and the parties shall not have any liability to, or claims against, the other parties.

8. Permissible Fees and Charges. Under the conditions set forth in Section 3.3 B above, fees and charges will be pursuant to Sparks Municipal Code Chapter 13.85 and an agreement between City of Reno and City of Sparks or an adopted Reno Municipal Code with regard to fees and charges for effluent use.
9. Assignments
 - 9.1 Assignment by Cities. Cities shall not assign any rights or obligations under this Agreement unless TRIGID approves the assignment, and said approval will not be unreasonably withheld. However, an assignment by Cities is hereby approved by TRIGID in the event of an assignment to an

assignee which owns TMWRF and becomes the purveyor of TMWRF Supply, provided said assignee receives an assignment of all Cities' rights hereunder and said assignee assumes all Cities' obligations hereunder.

- 9.2 Assignments by TRIGID. TRIGID shall not assign any rights or obligations under this Agreement unless the Cities approve the assignment, and said approval will not be unreasonably withheld. However, an assignment by TRIGID is hereby approved by the Cities in the event of an assignment to an assignee which owns the NPWSS and becomes the purveyor of Process Water from the NPWSS to TRIGID Customers, provided said assignee receives an assignment of all TRIGID'S rights hereunder and said assignee assumes all TRIGID's obligations hereunder.

10. Interruption of Delivery.

- 10.1 Force Majeure. Cities shall not be liable for any failure to deliver TMWRF Supply under the terms of this Agreement due to a force majeure event to the extent such event causes the Cities to be unable to fulfill their duties or obligations. For the purposes of this Agreement, a force majeure event is defined as a war, act of terrorism, insurrection, riot, flood, drought, earthquake, fire, casualty, act of God, act of a public enemy, quarantine restrictions or other effects of epidemic or disease, contamination of water supply or effluent by third parties, freight embargo, order from the Federal Water Master or any other regulatory authority, restraining order or injunction in a lawsuit challenging this Agreement, or any other cause whatsoever, in each case, to the extent such event is beyond the Cities' control, except for the Cities' own voluntary acts or failure to exercise reasonable care and diligence in the performance of this Agreement.

- 10.2 Other Causes. The Cities' obligation to deliver treated effluent under this Agreement will be subject to the following.

- A. Cities must have the legal right to divert treated effluent as TMWRF Supply.
- B. The necessary Pipeline Project and Additional NPWSS Improvements and appurtenances must be constructed and made available by TRIGID for conveyance of TMWRF Supply.
- C. Cities shall use reasonable efforts to ensure the TMWRF Supply is delivered to the Point of Connection as per this Agreement without interruption. The Cities may not interrupt delivery of the TMWRF Supply, except that Cities may temporarily interrupt or reduce

delivery of TMWRF Supply necessary for TMWRF system emergencies, and necessary maintenance or management. Except in emergencies, the Cities shall give one business days' notice to TRIGID of any such interruption or reduction, the reason for such interruption or reduction, and the estimated duration of such interruption or reduction to the extent they are able to do so. The Cities shall make best efforts to minimize the effect of such interruption or reduction. In the event of interruption, either partial or total, the Cities shall use reasonable efforts to restore the delivery of the TMWRF supply to the Points of Connection.

- D. TRIGID will, except in the event of an emergency, give the Cities one business days' notice prior to the curtailment or cessation of delivery of TMWRF Supply through the Pipeline Project for system maintenance or management. The notice shall include the reason for the interruption and the estimated duration of the interruption.

11. User Acknowledgement. TRIGID acknowledges the following:

- (i) TMWRF is not equipped to detect, treat, or remove harmful chemicals or toxic materials except as required to meet federal, state, city, and local regulatory agency discharge standards; and
- (ii) treated effluent provided to TRIGID as TMWRF Supply may require additional treatment to meet the intended reuse application of the effluent.

12. Disclaimers.

12.1 Warranties. ALL WATER DELIVERED TO TRIGID WILL BE THROUGH THE FACILITIES DESIGNED AND BUILT BY TRIGID. THEREFORE, CITIES SPECIFICALLY DISCLAIM ANY REPRESENTATION OR WARRANTY AS TO THE FUNCTIONALITY OR COMPLETENESS OF TRIGID'S FACILITIES. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, CITIES MAKE NO OTHER WARRANTY, EXPRESS OR IMPLIED, AND ALL OTHER WARRANTIES WHETHER EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED, INCLUDING, WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

12.2 Limitation on Damages. CITIES SHALL NOT BE LIABLE FOR OR OBLIGATED IN ANY MANNER FOR SPECIAL, CONSEQUENTIAL,

OR INDIRECT DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF PROFITS OR SYSTEM DOWNTIME.

13. Miscellaneous Provisions.

- 13.1 Integration. This Agreement, including the exhibits hereto, all of which are true and correct and incorporated by reference as a part of this Agreement, constitutes the complete and integrated agreement between the parties with respect to the matters recited herein, and supersedes any prior or contemporaneous written or oral agreements or understandings with respect thereto.
- 13.2 Amendment/Waiver. This Agreement shall not be modified, amended, supplemented, rescinded, cancelled or waived, in whole or in part, except by written amendment signed by duly authorized representatives of TRIGID and Cities. No waiver of any of the provisions of this Agreement shall be deemed to be a waiver of any other provision, regardless of similarity, and no waiver shall constitute a continuing waiver. Forbearance of failure to declare a default or pursue a remedy shall not constitute a waiver except as provided in this Agreement.
- 13.3 Binding Nature. This Agreement shall be binding on and shall inure to the benefit of the parties to this Agreement and their respective heirs, legal representatives, successors and permitted assigns.
- 13.4 No Third Party Beneficiary Rights. This Agreement is not intended and shall not be construed to provide any person or entity not a party to this Agreement with any benefits or cause of action, or to obligate the parties to this Agreement to any entity or person not a party.
- 13.5 Governing Law. The laws of the State of Nevada shall govern this Agreement without regard to conflicts of law principles. This Agreement shall be construed and interpreted in accordance with the laws of the State of Nevada.
- 13.6 Attorney's Fees. In the event of litigation or arbitration arising out of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs to be fixed by the court or by the arbitrator.
- 13.7 Jurisdiction; Venue. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement must be brought in the Second Judicial District Court of the State of Nevada, County of Washoe. The parties consent to the jurisdiction of said court (and of the

appropriate appellate court) in any such action or proceeding and waive any objection to venue.

13.8 Claims. Pursuant to NRS 268.020, which the parties agree to abide by contractually, all demand and accounts against Reno or Sparks must be presented to the Reno City Council or the Sparks City Council, as the case may be, in writing within six months from the time the demands or accounts become due. No demand or account may be audited, considered, allowed or paid by Reno or Sparks unless this requirement is strictly complied with.

13.9 Inspection & Audit. TRIGID agrees to keep and maintain under generally accepted accounting principles (GAAP) full, true and complete records and documents as are necessary to fully disclose to the Cities sufficient information to determine compliance with ordinances, regulations and statutes.

TRIGID further agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of TRIGID, financial statements and supporting documentation shall be subject, with reasonable notice by the Cities, to inspection, examination, and review where such records may be found during business hours.

13.10 Duplicate Originals/Counterparts. This Agreement may be executed simultaneously in one or more duplicate originals or counterparts and is binding on a party only when all parties have signed.

13.11 Subject Headings. The subject headings of the sections and subsections of this Agreement are included for convenience only and shall not affect the construction or interpretation of any of its provisions.

13.12 Drafting Presumption. The parties acknowledge that this Agreement has been agreed to by all of the parties, that all of the parties have consulted or have had the opportunity to consult with their attorneys with respect to the terms, and that no presumption shall be created against any party as the drafter of the Agreement.

13.13 Additional Documents. The parties agree to execute such additional documents and to take such additional action as is reasonably necessary to carry out the purposes hereof.

13.14 Due Authorization. Each party represents that all required authorizations have been obtained to execute this Agreement and for the compliance with

each and every term hereof. Each person signing this Agreement warrants and represents to the other parties that he or she has the actual authority to execute this Agreement and bind the party for whom he or she is signing.

- 13.15 Notice. Unless written notice of a new designee is sent in accordance with this subsection, all communications or notices required pursuant to this Agreement shall be in writing and shall be delivered in person, transmitted by facsimile, email, or mailed by certified mail, postage prepaid, return receipt requested, to the individuals at the addresses indicated below. Notices that are mailed are deemed received the third day after they have been postmarked by the U. S. Postal Service.

TRIGID: TRI General Improvement District
8600 Technology Way
Reno, NV 89521
Facsimile: (775) 329-8591
Email: rmsader@robertmsaderltd.com

CITIES: City of Sparks
Attn: City Manager
P. O. Box 857
Sparks, Nevada 89432-0857
Facsimile: (775) 353-2489
Email: sdriscoll@cityofsparks.us

City of Reno
Attn: City Manager
1 East First Street
Reno, NV 89501
Facsimile: (775) 334-2097
Email: newbys@reno.gov

- 13.16 Severability.

- A. Each term and provision of this Agreement shall be valid and enforceable to the extent permitted by law. If any term or provision of this Agreement or the application thereof is held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected.

- B. To prevent windfall or unintended consideration, if any term or provision of this Agreement is deemed invalid or unenforceable, or enforceable only to a limited extent, the parties agree to negotiate in good faith to adjust any counter performance, condition or corresponding consideration.

13.17 Time. Time is of the essence in all matters relating to this Agreement.

[Signature Page Follow]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first above written.

TRIGID:

TRI GENERAL IMPROVEMENT DISTRICT, a political subdivision of the State of Nevada

By: _____
KRIS THOMPSON, President

CITY OF SPARKS, a municipal corporation and a political subdivision of the State of Nevada

By: _____
MAYOR

ATTEST:

Teresa Gardner, City Clerk

APPROVED AS TO FORM:

CHESTER H. ADAMS
Sparks City Attorney

CITY OF RENO, a municipal corporation and a political subdivision of the State of Nevada

By: _____
HILARY L. SHIEVE, Mayor

ATTEST:

By: _____
ASHLEY D. TURNEY, City Clerk

M:

By: _____
SUSAN BALL ROTHE,
Deputy City Attorney

Exhibit "A"

