

## GRANT AGREEMENT

Date	January 11, 2023
Eligible Project/Eligible Expenses	A ten unit affordable housing development by Truckee Meadows Housing Solutions at City donated property located at the southwest corner of Keystone Avenue and West Fourth Street (APN 010-610-19). All ten of the units will be rented to households earning no more than 50 percent of the area median income as established annually by the Department of Housing and Urban Development, and shall pay no more than 40 percent of their monthly income for rent.
Operator	Truckee Meadows Housing Solutions 1369 Faland Way Reno, NV 89503 ♦ Authorized Administrator: Monica DuPea, Executive Director
City	City of Reno One East First Street, 12 <sup>th</sup> Floor P.O. Box 1900 Reno, Nevada 89505 Authorized Representative: Community Development Director
Grant Amount & Purpose	\$75,000 for Eligible Expenses, to offset sewer costs for the affordable housing development at the project address, APN 010-610-19.
Term of Agreement	January 11, 2023 - December 31, 2023

Exhibit A: Form of Request for Payment

## RECITALS

WHEREAS:

A. The City of Reno may grant public funds in accordance with NRS 268.028(1), entitled “Expenditure of public money; grant of public money and donation of certain property to certain nonprofit organizations or governmental entities,” when such expenditure provides a substantial benefit to the inhabitants of the City;

B. NRS 268.028 expressly authorizes the City to expend money to a non-profit organization created for religious, charitable or educational purposes to be expended for a selected purpose;

C. Truckee Meadows Housing Solutions is a 501(c)(3) nonprofit organization founded to increase the inventory of low income housing;

D. The City conveyed city-owned land at no charge for the Project, and Operator has requested funding to pay for government fees and permitting expenses as well as site improvements for the project on 0 West 4<sup>th</sup> Street;

E. The City seeks to support affordable housing activities through the allocation of budgeted affordable housing funds approved by the Reno City Council;

F. The City desires to grant and Truckee Meadows Housing Solutions desires to accept the sum of Seventy-Five Thousand Dollars (\$75,000) pursuant to the terms and conditions of the Donation Agreement included herein as Attachment A;

G. The grant must be made by Resolution, which is adopted by City Council action and incorporated herein as part of this Grant Agreement; and,

H. The original Grant Agreement between the City and Truckee Meadows Housing Solutions expired on December 1, 2020, prior to the funds being spent.

NOW THEREFORE, in consideration of the mutual covenants, the parties agree as follows.

## **Art. 1 GRANT AGREEMENT.**

### ***§1.01 Grant Commitment; purpose and use of funds; method of payment.***

a. So long as Operator uses the Project Property and grant money for charitable purposes as defined in the Disposition and Development Agreement and in this Grant Agreement, City agrees to grant, from Affordable Housing Funds of the City, \$75,000 to Operator to reimburse Operator for Eligible Expenses for Eligible Projects all as defined above.

### ***§1.02 Conditions Precedent***

a. Each advance under this Grant Agreement is subject to the following conditions:

1. Operator must validly exist as a nonprofit organization under Nevada law, and a tax-exempt organization under Section 501 (c) (3) of the U.S. Internal Revenue Code;

2. Operator has provided an invoice of actual fees and expenses paid or to be paid.

3. Operator must not be in default under the Disposition and Development Agreement or any agreement between City and Operator regarding any Eligible Project including any Eligible Project for which grants were previously given.

4. Operator must not be in breach or default under this Agreement.

***§1.03 Reimbursement requests.***

- a. All grant funds must be disbursed during the term of this Agreement, and shall be disbursed upon submittal and approval of a reimbursement request.
- b. Each reimbursement request must on the form attached hereto as Exhibit A and include:
  - (1) A description of the expense requested for reimbursement.
  - (2) Invoice or proof of payment of the expense.
  - (3) A rolling accounting of reimbursements made.
- c. City will not pay:
  - (1) Any expense that is not an Eligible Expense.
  - (2) Any amount that exceeds a necessary and reasonable cost as defined above.
  - (3) Costs of or awards in litigation.
  - (4) Operational and/or administrative expenses (including profits, mark-ups or administrative fees or charges) for Operator.

***§1.04 Use of Funds.***

- a. Operator shall use the funds only to reimburse Operator or to directly pay the vendor/provider for the expense listed in the request for reimbursement request and only as authorized above.
- b. Operator agrees that none of the grant funds advanced under this Agreement shall be used for any partisan political activity, or to support or defeat legislation pending before the State legislature.

***§1.05 Failure to use funds.***

If City reasonably anticipates that the total amount of funds granted will not be expended in the time and manner prescribed in this Agreement, City shall inform Operator of an intent to use the funds for another purpose, and if Operator fails within 30 days to prove that it will be able to use the funds as provided hereunder, City may cancel future payments under this Agreement and use the funds for another project.

## **Art. 2        GENERAL PROGRAM REQUIREMENTS.**

### ***§2.01   Compliance with laws.***

- a.     General.     In constructing and operating each Eligible Project, Operator shall obey and comply with all applicable federal, state and local laws, including, but not limited to those listed below.
- b.     Housing Standards.     Operator represents, warrants and agrees to maintain all dwelling units in a decent, safe and sanitary condition.
- c.     No discrimination.     Operator shall not discriminate against any employee, applicant for employment, any user, licensee, vendor, concessionaire, contractor under this Agreement or any tenant or program participant because of race, religion, color, sex, sexual orientation, disability, national origin, ancestry, physical handicap, or age, and any other class or classification protected under federal or Nevada law and will take affirmative steps to ensure that all such persons are employed, and treated without regard to race, religion, color, sex, sexual orientation, disability, national origin, ancestry, physical handicap, or age and any other class of classification protected under federal, state or local law.
- d.     Prevailing Wage and Employment Practices laws.     If grant funds are paid in furtherance of an Eligible Project that constitutes a public work as defined in NRS Chapter 338, Operator shall require its contractor to comply with all the requirements of NRS Chapter 338 including the payment of prevailing wages.
- e.     Tenant/participant abuse.     Operator shall not and shall not allow any of its officers, directors, contractors or employees to negligently or intentionally fail to maintain acceptable living and sanitary conditions (if Operator is providing in residential care), safety and security of tenants and program participants.
- f.     Licensing Requirements.     Operator must be duly licensed to perform all duties to be performed when the Eligible Project is completed.

### ***§2.02   Conflicts of Interest.***

- a.     Operator agrees that no officer or employee of City may seek or accept any gifts, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in that position to depart from the faithful and impartial discharge of the duties of that position.
- b.     Operator agrees that no officer or employee of Operator may use their position to secure or grant any unwarranted privilege, preference, exemption or advantage for themselves, any member of their household, any business entity in which they have a financial interest, or any other person.
- c.     Operator agrees that no officer, employee or agent of City shall have any interest, direct or indirect, financial or otherwise, in any contract or subcontract or the proceeds thereof, for any of the work to be performed on this specific project during the period of service of such officer,

employee or agent, or for one year thereafter.

### ***§2.03 Records, Inspections, Monitoring.***

- a. Records. Operator shall maintain all records and written agreements for a minimum of seven years after this Grant Agreement expires or is terminated.
- b. Monitoring and Inspections. Operator shall allow City access to its records and operations to review processes, files, Board minutes, and other relevant information, and shall allow duly authorized representatives of City to conduct reviews, audits and on-site monitoring of Operator's projects as City deems to evaluate (i) progress toward grant objectives; (ii) efficient and effective implementation of activities; (iii) establishment of management control systems and internal procedures to meet the Grant objectives; (iv) verification of information provided in periodic reports to City; and (v) solvency of projects planned and/or developed as a result of operating expense assistance.
- c. Visits by City to Operator shall be announced to Operator in advance and shall occur during normal business hours.
- d. The representatives of City may, from time to time, interview recipients of grant-related housing services who consent to be interviewed.

## **Art. 3 TERM, TERMINATION.**

### ***§3.01 Term of Agreement, Early Termination.***

- a. Term. Unless sooner terminated as provided below, this Agreement shall remain in full force and effect for the term stated above.
- b. Partial or Early Termination. This Agreement shall terminate in any of the following events:
  - (1) This Agreement shall automatically be deemed terminated if a condition precedent listed above in Article 1 fails.
  - (2) This Agreement may be terminated by the non-defaulting party if a default occurs as provided under Article 4, Default and Remedies, of this Grant Agreement.
  - (3) The parties may agree to terminate this Agreement for convenience.
  - (4) City's obligation to grant funds is subject to annual appropriations by the City Council in its sole discretion, and the obligation to grant funds hereunder shall terminate as of the first day of any fiscal year for which funds have not been appropriated in an amount sufficient to pay the grant. Upon such termination, City shall not be obligated to make any further payments hereunder with respect to the fiscal year commencing on or after the termination date, but City shall be obligated to make payments hereunder with respect to prior fiscal years to the extent that

funds have been appropriated.

### ***§3.02 Extensions.***

This Agreement may be extended by the Reno City Council, subject to city budget appropriations.

### ***§3.03 Obligations and rights upon termination.***

Upon termination of this Agreement, each party agrees to take prompt and reasonable steps to mitigate continuing damages to itself and the other party. Operator agrees to turn over to City copies of all records and documents necessary to determine and prove compliance with this Agreement. The termination of this Agreement does not relieve, discharge or waive any liability or damages that occurred before the termination.

## **Art. 4        DEFAULT AND REMEDIES.**

### ***§4.01 Default.***

a.        A party shall be in default hereunder in any of the following events or circumstances (subject to force majeure and notice and opportunity to cure if specified):

(1)       The party repudiates, breaches, or fails to promptly and fully perform any covenant, condition or agreement contained in this Agreement (subject to notice and opportunity to cure).

(2)       There occurs a material change in the financial condition of Operator which, in the reasonable judgment of City, may impair Operator's ability to operate the project for which funds are being granted (subject to notice and opportunity to cure).

(3)       Any representation of a material fact expressed in the grant application or herein was false at the time it was made, or, if a continuing representation becomes false as a result of a subsequent event or occurrence; or any warranty made herein is breached at the time made or, if a continuing warranty is breached as a result of a subsequent event or occurrence (subject to notice and opportunity to cure).

(4)       An event required to occur does not occur by the time required due to the lack of diligence or fault of a party (subject to notice and opportunity to cure).

(5)       A party makes an assignment for the benefit of creditors or files or suffers the involuntary filing of a petition for appointment of a receiver, or for relief under the U.S. Bankruptcy Code or any federal or state law that provides relief to debtors from creditors and such petition is not rescinded or resolved within 60 days from the date of filing (not subject to notice and opportunity to cure).

(6)       Any interest in the Eligible Project or any improvements on the Eligible Project, or

any right to receive funds under the Eligible Project become an asset in a receivership or bankruptcy estate or become the subject of any proceedings (a) relating to prejudgment attachment of assets, (b) a judgment lien, (c) a mechanics lien or any claim for payment of amounts owed for the provision of services or materials to the Property or any Improvements thereon; (d) any execution proceedings for the enforcement of judgments; (e) any foreclosure or enforcement of a security interest; (f) any forfeiture action; or (g) any other action where a party may lose possession thereof (following 60 days notice and opportunity to cure).

(7) A party reorganizes into or merges with another entity, dissolves, breaks up, ceases doing business, or there occurs a change in ownership of more than 25% of the power to manage or control Operator (not subject to notice and opportunity to cure).

(8) Operator or any agent/ employee or contractor of Operator commits a tortuous or criminal act that causes a loss of funds (i.e. embezzlement or theft) or impairs the perceived or actual safety or security of Project participants or tenants or the integrity of the Grant program and City's role under it (i.e. fraud, child endangerment or abuse, assault, battery, breach of duty to provide a safe and habitable dwelling for tenants) (subject to notice and opportunity to cure).

(9) Any other circumstance or event specified in this Agreement (subject to force majeure and notice and opportunity to cure unless otherwise specified).

#### ***§4.02 Notice and Opportunity to cure.***

For those events or circumstances of default which are expressly subject to the notice and cure, and unless otherwise specified in this Agreement, the party intending to declare a default shall first provide written notice to the defaulting party of such event or circumstance and the specific action required to cure it and the defaulting party shall have thirty (30) days from the date that the notice is deemed given to cure the default. If a party has commenced to and diligently pursues to cure the default, one or more extensions in time may be granted which may be revoked without advance notice if the defaulting party abandons the attempt to cure or if cure becomes impossible.

#### ***§4.03 Remedies.***

a. In the event of default by a party, the non-defaulting party may pursue any one or combination of the following remedies:

(1) Suspend, modify or terminate any counter-performance or other obligation hereunder, including suspending or terminating any future reimbursements or advances.

(2) If reimbursement is paid for an expense not authorized under this Agreement or under circumstances not authorized under City Regulations, City may demand repayment of funds so advanced, and if Operator fails to repay such advances within 30 days of demand, Operator agrees to pay interest on the amounts advanced at the rate specified in specified in NRS 99.040, on the unpaid balance, simple interest based on actual days elapsed.

- (3) Terminate this Agreement as a whole.
- (4) Appear in any proceeding (receivership, bankruptcy, forfeiture, judicial or other proceeding) to protect the non-defaulting party's interests.
- (5) Commence an action for damages, injunctive relief or equitable relief as provided under Nevada law.
- (6) Any other remedy provided in this Agreement or under applicable law.

#### ***§4.04 General Provisions Regarding Remedies.***

- a. Cumulative remedies. All remedies set forth above are cumulative with another and with any other remedy afforded by applicable law, and the pursuit of one remedy does not constitute an exclusive selection of that remedy or a waiver of or election not to pursue any other remedy.
- b. Advances. Any funds reasonably expended by a non-defaulting party to make repairs, cure defaults, protect property or an interest in property shall be reimbursed by the non-defaulting party together with interest as specified in this Agreement or as specified in NRS 99.040.
- c. Demands and claims against the City must be brought within six months as provided in NRS 268.020.

#### ***§4.05 Waivers.***

Any forbearance, inaction, or failure to promptly pursue any remedy (whether intentional or negligent) shall not be deemed a waiver of any default or remedy and shall not be construed as in any manner estopping any party from enforcing in full the provisions hereof. Waivers must be expressed in writing signed by the waiving party, and a waiver of a default is limited to the specific default identified in the written waiver and does not constitute a course of dealing or implication that similar defaults will be waived in the future. A party's acceptance of partial performance shall not be deemed to be an accord and satisfaction or a waiver of or change to any term, covenant or condition of this Agreement.

### **Art. 5 GENERAL TERMS.**

#### ***§5.01 Indemnification.***

- a. Indemnification. To the fullest extent provided by law, Operator shall indemnify, hold harmless and Defend City and its related parties from and against all Claims and Liability arising out of and to the extent caused by the Acts, Errors or Omissions of Operator and its Related Party with respect to the use of grant funds or operation of the Eligible Project.



b. Definitions: “**Act, Error or Omission**” includes acts, failure to act, errors, or omissions that constitute negligence, willful tortious conduct, or for which strict or imputed liability may be imposed as determined by a court of competent jurisdiction under applicable law, and further includes breaches of this agreement and/or violations of law. “**Claims and liability**” means all third party claims, actions, damages, losses, judgments, injuries, costs and expenses, (including those paid to settle the case) including but not limited to attorneys’ fees and costs, including those related to bodily injury, sickness, disease or death or to injury to or destruction of tangible property (including the loss of use resulting therefrom) and other economic damages. “**Defend**” includes the obligation to defend litigation at the Operator’s sole expense using counsel that is reasonably acceptable to City. City shall be permitted to participate, if it chooses, in the defense of any action claiming liability, even if City is indemnified hereunder. “**Related Party**” includes officers, directors, employees and contractors of City.

#### ***§5.02 Insurance.***

Insurance. Operator shall maintain comprehensive general liability insurance for limits of not less than two million dollars (\$2,000,000) for bodily injury and property damages, per occurrence. As evidence of insurance coverage, the City will accept certification of insurance by an authorized representative of the insurance carrier. Certificate will bear a thirty (30) day written notice of cancellation to the certificate holder. Certificate of insurance should be delivered to the office of the Risk Manager c/o Reno City Attorney’s Office, at; 1 E. 1st Street, Reno, NV 89501, or mailed to: P.O. Box 1900, Reno, NV 89505. The City must agree in writing to any waiver or modification of these requirements.

#### ***§5.03 Time Frames and Deadlines.***

The parties agree to accomplish the actions within the time frames or deadlines stated above. Time is of the essence in the performance of the obligations in this Agreement. Unless otherwise specified: (i) the term “days” means calendar days; (ii) the term “business days” means days that both parties are open for business –generally excluding weekends and holidays recognized in Nevada; (iii) if a deadline falls on a weekend or holiday, then performance is due on the next following business day of the recipient of the performance; and (iv) performance is due by 5 p.m. on the day of deadline.

#### ***§5.04 Assignment, Binding Effect.***

This grant is based in large part on the City’s evaluation of the Operator and the proposed projects. Operator may not assign any right or delegate any duty under this Agreement without the consent of City in its sole discretion. Subject to the foregoing, this Agreement shall be binding on the heirs, successors, trustees, representatives and permitted assigns of the parties.

#### ***§5.05 Standards for Approvals; Further acts and assurances.***

a. Unless otherwise specified (such as with the words "sole discretion") wherever this Agreement requires the approval of a party, or any of a party’s officers, agents or employees, such

approval shall not be unreasonably withheld delayed or conditioned.

b. City is a public body whose decisions may be subject to public hearings and input, and, except as otherwise provided herein, City shall have sole and absolute discretion to approve or disapprove any matter submitted to it provided, however, that decisions are not procured by fraud or bribery, or are arbitrary, capricious or an abuse of discretion.

c. Each party agrees to take all reasonable actions and enter into, execute and deliver all documents reasonably required by the other party to document and accomplish the sale as contemplated herein and carry out the terms of this Agreement. This provision survives the termination of this Agreement.

#### ***§5.06 Notices.***

a. Notices hereunder must be in writing which shall be mailed or personally delivered to each party at the address specified above. Notice is deemed received by the other party when (i) actually received if sent by first class mail or personally delivered, or (ii) three business days after delivered to and accepted by the U.S. Postal Service if sent by certified or registered mail.

#### ***§5.07 Severability.***

In the event that any word, clause, or provision herein is declared by a court of competent jurisdiction to be invalid, unenforceable, or contrary to public policy, then such offending provision shall be deemed, from the very beginning, to have been modified to the extent to bring it within the limits of validity or enforceability. If, however, such offending provision cannot be so modified, then it shall be severed from this agreement. In either event (modification or severance), all remaining words, phrases, clauses and provisions herein remain fully enforceable.

#### ***§5.08 Applicable law; Jurisdiction.***

The interpretation and enforcement of this agreement shall be governed by the laws of Nevada. Actions to enforce this Agreement shall be brought in the Second Judicial District Court in and for Washoe County, Nevada.

#### ***§5.09 Interpretation of this Agreement.***

Titles and headlines of this agreement are intended for editorial convenience and are not to be construed as a part of this agreement. The word “include” or “including” is not intended as a limitation and shall be construed to include the words “but not limited to.” Unless otherwise specified, the word “herein” means anywhere in this Agreement or the attachments. Any reference to the masculine genders includes, where appropriate in the context, the feminine gender. Any term in the singular includes, where appropriate in the context, the plural. The Parties hereto were each advised by counsel in drafting and negotiating this agreement, and each Party contributed to its contents. No presumptions against or in favor of any party are appropriate based on who drafted this Agreement or any provision herein.

#### ***§5.10 Warranties of Authority.***

Each party who signs this Agreement represents and warrants that he/she has obtained all necessary approvals and has actual authority to execute this Agreement with the effect of binding his/her principal.

***§5.11 Modifications; Authority to administer and approve changes.***

a. This agreement may not be modified or amended and no waivers are effective unless expressed in writing and duly signed by the party to be bound by the modification, amendment or waiver.

b. The Authorized Agents designated above shall have the authority to (i) negotiate and execute all assignments, amendments or modifications to this Agreement, except that any increase in the amount to be granted or any extension beyond six months must be approved by the City Council; (ii) execute all deeds, notices and other instruments necessary to effectuate the purposes of this Agreement, and to accept all performances, and waive or negotiate remedies for defaults.

***§5.12 Entire Agreement; Counterparts.***

This Agreement shall be effective on the date it is duly executed by all of the parties. The parties agree that this Agreement, together with its attachments, contains the entire agreement of the parties and supersedes any written or oral representations, promises, warranties, or other undertakings made during the negotiation of this Agreement. This Agreement may be executed in counterparts and is effective when each party receives a complete set of counterpart signature pages.

*[signatures on following page]*

**City** City of Reno

By: \_\_\_\_\_  
Doug Thornley, City Manager

Date \_\_\_\_\_

Attest:

By \_\_\_\_\_  
City Clerk

Date \_\_\_\_\_

Approved as to form

\_\_\_\_\_  
Deputy City Attorney

**Operator**

Truckee Meadows Housing Solutions, a Nevada non-profit corporation

By \_\_\_\_\_  
Monica DuPea, Executive Director

Date \_\_\_\_\_

Grant Agreement

**Exhibit A**

**Payment Request**

Date of Request	
Regarding Grant Agreement	Grant Agreement between the City of Reno and Truckee Meadows Housing Solutions, a Nevada non-profit corporation for an affordable housing project at City donated property (010-610-19).
Amount Requested	\$
For payment of Eligible Expense (invoices attached)	
Incurred in Eligible Project	
Make Check Payable to	
Total Amount Granted so far	

To: City of Reno, Finance Director.

To induce a grant payment in the amount specified above, I represent, warrant and agree that the amount requested is for fees actually incurred or work actually performed and that funds granted under this request will be used solely for paying such fees or sums due for the work actually performed.

\_\_\_\_\_  
Authorized Agent

\_\_\_\_\_  
Date

Approved for Payment

By \_\_\_\_\_

\_\_\_\_\_  
Date