

WILLIAM N. PENNINGTON

FOUNDATION

RICHARD P. BANIS
Director

FRED V. SCARPELLO
Director

October 7, 2020

Ms. Hillary Schieve
Mayor
City of Reno
1 East First Street
Reno, Nevada 89501

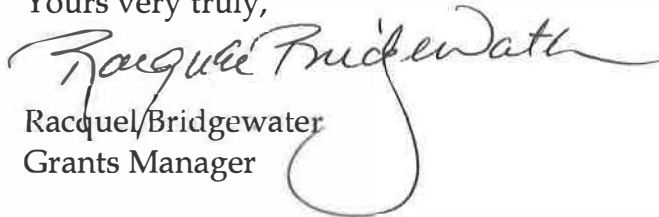
Dear Mayor Schieve:

We are delighted to inform you that the Board of Directors of the William N. Pennington Foundation have signed the Amended Conditional Pledge Agreement. Please find attached a copy for your records.

We are very hopeful the City of Reno will one day have a new pool.

Thank you for your service that you provide and continue to provide to our community.

Yours very truly,


Racquel Bridgewater
Grants Manager

WILLIAM N. PENNINGTON FOUNDATION

AMENDED CONDITIONAL PLEDGE AGREEMENT

PLEASE READ CAREFULLY

The **William N. Pennington Foundation** ("Grantor") agrees to make the following conditional pledge and the **City of Reno** ("Grantee") agrees to accept such conditional pledge, in accordance with the term and subject to the conditions set forth herein:

DATE PLEDGE AUTHORIZED: June 3, 2019

DATE PLEDGE AMENDED: June 29, 2020

AMOUNT OF THE CONDITIONAL PLEDGE: \$9,000,000 (Nine Million Dollars)

PAYMENT SCHEDULE: Two payments of \$4,500,000 (Four Million Five Hundred Dollars). Unless otherwise agreed to by Grantor, no pledge payment shall be made to Grantee prior to year 2021. Grantor shall fund \$4,500,000 at start of construction and \$4,500,000 the subsequent year.

SPECIFIC PURPOSES OF THE CONDITIONAL PLEDGE:

The pledge amount shall be restricted for the exclusive use of Grantee per the following description and grant request submitted. Funds shall be restricted for the exclusive use of constructing the Moana Springs Community Aquatics and Fitness Center (the "Purpose").

CITY COUNCIL APPROVAL: Parties acknowledge that a formal majority vote by the Reno City Council was required to accept and execute the commitments by the Grantee contained here within.

GENERAL CONDITIONS OF THE CONDITIONAL PLEDGE

1. **PURPOSE:** Grantee agrees to use the funds only for the Purpose described in this Conditional Pledge Agreement and grant request submitted, and to so designate the funds in Grantee's records. Grantee further agrees to use the funds only for public purposes as defined from time to time by Internal Revenue Code and equivalent provisions of applicable state law. (For all purposes of this Conditional Pledge Agreement, any reference to the Internal Revenue Code or to any other statute shall be deemed to refer also to any successor statute and to the applicable regulations under such statute or successor statute.) Any change in the Purpose and/or the organizational leadership of Grantee must be reported to Grantor within ten (10) days of said change. If this pledge is restricted to a specific public project, Grantee affirms that the public

project's current budget, as previously explained and/or submitted to Grantor, accurately reflects the Grantee's present intentions to expend at least the amount of the pledge on said public project.

2. CONDITIONS: The pledge amount (whether paid as a one-time amount or as multiple payments) is specifically conditioned upon and subject to Grantee satisfying the following conditions:

- (A) On or before June 30, 2022 Grantee shall raise \$9,716,410 or more in actual funds or signed "bankable" commitments for the Purpose and submit proof to Grantor of said funds ("Grantee's Fund-Raising Obligation"). Grantee's Fund-Raising Obligation timeline shall be: Grantee shall raise \$4,800,000 of Grantee's Fund-Raising Obligation by June 30, 2021; Grantee shall raise an additional \$2,400,000 of the Grantee's Fund-Raising Obligation by December 30, 2021; Grantee shall have raised 100% of Grantee's Fund-Raising Obligation by June 30, 2022. Grantee shall also raise any additional funds needed if final construction costs are above the original estimated amount per grant request, by June 30, 2022.
 - (1) Up to 10% of Grantee's Fund-Raising Obligation can be in the form of "in kind" donations made by third parties which directly relate to or otherwise benefit the Purpose. Said in kind donations must be evidenced by a written statement, together with supporting documents satisfactory to Grantor, from the third party donor which provides, in detail, the services performed for the Purpose, the amount the third party donor would normally have charged for the services (the "Standard Fee") and the amount actually charged for the services (the "Actual Fee"). The difference between the Standard Fee and Actual Fee shall be the amount of credit Grantee will be entitled to receive toward Grantee's Fund-Raising Obligation.
- (B) Should Grantee fail to satisfy the conditions set forth in Section 2(A), Grantor may, in its sole discretion, terminate this Conditional Pledge Agreement upon written notice to Grantee and without any further obligation hereunder. GRANTEE HEREBY ACKNOWLEDGES AND AGREES THAT GRANTOR'S OBLIGATION TO PAY THE PLEDGE AMOUNT IS SPECIFICALLY CONDITIONED UPON GRANTEE MEETING THE GRANTEE'S FUND-RAISING OBLIGATION ON OR BEFORE THE DATE INDICATED HEREIN.
- (C) Grantee shall manage and operate the newly constructed facility for a minimum of 25 (Twenty-Five) years. Grantee shall also fund all costs associated with maintenance and operations for a minimum of 25 (Twenty-Five) years, and the annual Capital Improvement Fund, per grant request.

- (D) Prior to the payment of any pledge amount to Grantee, the parties shall enter into a grant agreement substantially similar to the sample set forth in Exhibit A of this Conditional Pledge Agreement.

3. **RESTRICTIONS:** No funds awarded through this Conditional Pledge Agreement are to be shared with or used to pay fees or wages for the services of fundraising or consulting firms. Further, Grantee will not intervene in any election of support or oppose any political party or engage in any attempts to influence legislation (lobbying) not permitted by the Internal Revenue Code or more specifically (if applicable), Internal Revenue Code 501(h) and 4911. Grantee shall not use any of the funds received from Granter to (i) carry on propaganda, or otherwise attempt to influence legislation within the meaning of Internal Revenue Code 4945(d)(1); (ii) influence the outcome of any specific public election, or to carry on, directly or indirectly, any voter registration drive (within the meaning of Internal Revenue Code 4945(d)(2); or undertake any activity for any public purpose.

4. **GRANTEE STATUS:** Grantee shall immediately give written notice to Granter if, prior to receipt of all or any portion of the pledge, or before all or any portion of the funds are expended, Grantee ceases to be an organization as set forth in Internal Revenue Service Code Section 170(c)(1).

5. **ADDITIONAL SUPPORT:** By making this conditional pledge, Granter assumes no obligation to provide other or additional support for Grantee. This conditional pledge is not to be construed as establishing a precedent for further support of Grantee.

6. **REVERSION OF PLEDGE AMOUNT:** All or any portion of the funds paid pursuant to this Conditional Pledge Agreement shall be returned to Granter in the event such portion of the pledge is not expended or committed for the Purpose. By written instrument only, Granter may, upon written request from Grantee, authorize a modification in the disbursement of the funds.

7. **PRESS RELEASES:** Under no circumstances shall Grantee be permitted to issue a press release or similar public announcement regarding the conditional pledge without the prior written approval of the Granter's directors.

8. **NOTICES:** All notices required herein shall be made by certified mail, addressed to:

Granter:

WILLIAM N. PENNINGTON FOUNDATION
P.O. Box 7290
Reno, Nevada 89510

Grantee:

CITY OF RENO
1 E. First Street
Reno, Nevada 89501

9. **GOVERNING LAW AND VENUE:** This Conditional Pledge Agreement shall be governed by and construed under the laws of the State of Nevada. Venue for any legal

proceedings brought pursuant to this Conditional Pledge Agreement shall be with the Second Judicial District Court in Washoe County, Nevada.

Executed by or on behalf of Grantor and Grantee as follows:

GRANTOR:

WILLIAM N. PENNINGTON FOUNDATION



Richard P. Banis, Co-Director



Fred V. Scarpello, Co-Director

GRANTEE:

CITY OF RENO

