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FILED
NO. 97.154

COMMUNITY WATER SYSTEM CAPITAL IMPROVEMENT '97 OCT -7 A8:40

FUNDING AGREEMENT

Uppaway Water System Improvement Project

BARBARA REED
CLERK
BY *[Signature]* DEPUTY

This agreement is made and entered into between the State of Nevada, acting by and through its Board for Financing Water Projects, hereinafter referred to as "STATE," and Douglas County, Nevada hereinafter referred to as "GRANTEE." This Agreement is effective upon the signature of all parties to the Agreement. This Agreement is entered into pursuant to the authority contained in NRS 349.980 through NRS 349.987, inclusive.

WHEREAS, the STATE will fund and administer this grant-in-aid awarded to the GRANTEE in an amount not to exceed thirty-eight percent (38%) of the eligible project costs, or \$131,212 to assist in the Uppaway Water System Improvement Project: Total Project Cost of \$507,374 (eligible project cost of \$345,294; non-eligible project cost of \$162,080 - See Attachment A) for a 5 year time period during which the STATE will continue to administer the grant as long as the GRANTEE continues to make progress on the project. The minimum Grantee share required for this grant is sixty-two percent (62%) of the eligible project costs plus one hundred percent of ineligible costs which is \$376,162. (\$214,082 plus \$162,080).

NOW, THEREFORE, the GRANTEE in undertaking this project agrees to:

1. Duly and faithfully comply with the terms and conditions of this Agreement, all applicable Federal and State laws, and all directives issued by the STATE relating to the performance of this agreement.
2. At all times during regular business hours and as often as the STATE requires, allow authorized representatives of the STATE full and free access to the project and to the accounts, records, and books of the GRANTEE relative hereto, including the right to make copies from such accounts, records, and books. Such accounts, records and books must be retained for three (3) years after the completion of the project.
3. To the extent authorized by law, the GRANTEE agrees to indemnify and hold the State of Nevada, its agents and employees harmless from all suits, actions and proceedings of every name or description, including reasonable attorney's fees and expenses in defending same, in law or equity, on account of any loss, damage,

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liability, cost or expense to the person or property of another which was caused by the negligence of the GRANTEE, its officers, employees and agents under this agreement.

4. Provide, erect and maintain a project sign of a size and format specified, and location approved by the STATE prior to submittal of the first pay request.
5. Provide the STATE with a monthly progress report, monthly fiscal report, and any pay request in a format prescribed by the STATE, and other documentation as required. A final completion report for the project, or any component project, funded by this grant agreement shall be submitted by the GRANTEE to the STATE within sixty (60) days of final acceptance of the project by the GRANTEE.
6. Maintain:
 - a. An accurate record of all cash and in-kind expenditures related to the project. Records must be supported by source documentation. All in-kind services claimed as non-State share must be documented through time cards or records signed by both the employee and project supervisor.
 - b. A special account for the project so that an exact itemization of project expenditures can be submitted by check number along with copies of canceled checks, itemized invoices, and properly documented time sheets.
7. Notify the STATE immediately in writing of problems or changes in scope of work, budget, product, and performance. The STATE reserves the right to withhold payment until acceptance of the change.
8. Submit all plans and specifications to the Division of Health for approval, prior to construction. Submit all plans and specifications to the State Division of Water Planning, prior to construction, for review and approval for conformance with the grant award. Provide the STATE an invitation with 48 hours notice prior to all preconstruction conferences held between the GRANTEE and any contractor.
9. Submit proof to the State, prior to construction, that all required permits and approvals have been obtained. Construction shall not commence until the STATE has issued a Notice to Proceed.

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FURTHER, THEREFORE, the parties to this Agreement acknowledge and will comply with the following general terms:

1. Disbursement of grant funds shall be made upon compliance with the terms of the Agreement, including but not limited to:
 - a. Submission of monthly progress reports following an inspection by the GRANTEE or the GRANTEE'S designated representative guaranteeing that construction work to-date has been completed in accordance with approved plans and specifications.
 - b. Requests for payment are to be on a form prescribed by the STATE and must be signed by the GRANTEE or the GRANTEE'S designated representative. Such payments shall not exceed the full value of the grant, consistent with the terms and conditions of this agreement.
 - c. Proof of GRANTEE'S timely payment of contractor, subcontractor, supplier and engineering fees must be included with each monthly progress report.
 - d. The making by the STATE of any payment shall not constitute nor be construed as a waiver by the STATE of any breach of covenant, or impair or prejudice any right or remedy at law or equity available to the STATE.

Method of Procurement:

2. Procurement procedures shall not restrict or eliminate competition, and must be in accordance with the Nevada Revised Statutes and the Nevada State Administrative Code.

Contract Provisions:

3. Any recipient of state grant funds shall include the following contract provisions or conditions in all procurement contracts and subcontracts:
 - a. Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for the termination of the contract and any other such sanctions and

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penalties as may be appropriate.

- b. All negotiated contracts (except those awarded by small purchases procedures) awarded by GRANTEE utilizing state grant funds shall include a provision to the effect that the STATE shall have access to any books, documents, papers, and records of the contractor directly pertinent to that specific contract, for the purpose of examination, audit and duplication. The GRANTEE shall require contractors to maintain all required records for three years after GRANTEE makes final agreement with contractors.
4. The STATE may terminate this Agreement for reason of default by the GRANTEE. Any of the following events shall constitute default:
- a. Termination of the grant by reason or fault of the GRANTEE;
 - b. Failure by the GRANTEE to observe any of the covenants, conditions, or warranties of this Agreement and its incorporated provisions;
 - c. Failure by the GRANTEE to make progress on the project;
 - d. Unsatisfactory financial conditions of the GRANTEE which endanger the performance of the grant; and/or
 - e. Delinquency by the GRANTEE in payments to contractors, except for those payments to contractors which are being contested in good faith by the GRANTEE.

The STATE shall give notice to the GRANTEE if the GRANTEE is in default in the performance of any of the duties of the GRANTEE described in this agreement.

The GRANTEE shall have 30 days from receipt of notice to remedy the default, and if the GRANTEE cannot remedy the default within such period of time, the STATE may terminate this agreement. The right of the STATE to terminate this agreement shall not impair any other rights or remedies at law or equity the STATE may have against the GRANTEE under this agreement or under the law.

No waiver of any default by the GRANTOR under this contract shall be held to be a waiver of any other subsequent default by the GRANTEE. All remedies afforded under this contract are cumulative; this is in addition to every other remedy

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provided therein or under the law.

5. Upon default by the GRANTEE and subsequent failure to cure, the STATE may withhold further payments and may take the following additional actions as appropriate:
 - a. Terminate all or any part of the balance of the grant.
 - b. Demand immediate repayment of all or part of any payment made to the GRANTEE.
6. If the GRANTEE fails to comply with any of the terms of this Agreement, the STATE shall have the right to file suit, in law or equity. The purpose of the suit shall be to cause the GRANTEE to cure said violation or to obtain the return of funds granted to the GRANTEE by the STATE. Such suit may be brought in the District Court of the county in which the property is located.
7. Audits may be required by the STATE. Such audits shall be at the expense of the GRANTEE.
 - a. The GRANTEE must submit copies of the audit reports to the STATE along with comments on the findings and recommendations in the audit report, including a plan for corrective action taken or planned and comments on the status of corrective actions taken on prior findings. If corrective action is not necessary, a statement describing the reason it is not necessary should accompany the audit report. The report shall be sent within thirty (30) days after the completion of the audit.
 - b. If the GRANTEE submits in-kind contributions for consideration as matching funds for the grant, an audit of all in-kind costs charged to the project must be provided to the STATE.
8. This funding Agreement shall be construed and interpreted according to the laws of the State of Nevada.
9. This Agreement, including exhibits attached hereto and made a part hereof, shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be

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binding upon either party except to the extent incorporated in this Agreement.

10. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing, signed by each party or an authorized representative of each party.
11. Wherever in this agreement it shall be required or permitted that notice be given by either party to the other, such notice must be in writing and must be given personally, or forwarded by certified mail addressed as follows:

Division of Water Planning
1550 E. College Parkway, Ste 142
Carson City, NV 89706-7921
ATTN: Craig C. Steele P.E.
(702) 687-3600

Douglas County Public Works Department
P.O. Box 218
Minden, NV 89423
ATTN: Carl Ruschmeyer P.E.
(702) 782-6227

12. Upon receipt of engineer's certificate of completion, the STATE shall execute a release only of its rights under the contract to seek repayment of the grant based on default. The release shall specifically state that the GRANTEE has performed the required duties under the contract and the STATE releases its rights to seek repayment of the grant or any portion thereof. The GRANTEE shall at the same time, execute and deliver to the STATE a discharge from all claims or demands growing out of or connected with this contract.

IN WITNESS the following hereby acknowledge and have read the foregoing agreement.

The parties hereto have caused this funding agreement to be signed and intend to be legally bound thereby.

GRANTEE:
DOUGLAS COUNTY

Jacques Etchegoyhen

JACQUES ETCHEGOYHEN, CHAIRMAN
DOUGLAS COUNTY BOARD OF COMMISSIONERS

9/11/97

DATE

Attest:

Barbara J. Reed

Barbara J. Reed by Sondra Cordrum, deputy
County Clerk, Board of County Commissioners

Sept 11, 1997

DATE

DEPARTMENT OF CONSERVATION AND
NATURAL RESOURCES:

Peter G. Morros

Peter G. Morros
Director

9-29-97

DATE

Naomi S. Duerr

Naomi S. Duerr
State Water Planner

9/26/97

DATE

REVIEWED AS TO FORM ONLY:
Frankie Sue Del Papa
Attorney General

BY:

George H. Taylor

George Taylor
Deputy Attorney General

7/29/97

DATE

ATTACHMENT A

SUMMARY OF ESTIMATED COSTS FOR
Uppaway - Water System Improvement Project

This project involves the construction of a new well, well house, chlorinator, standby generator, controls, access road, and piping connections. As noted below, portions of the project are made necessary by the State Board of Health pursuant to NRS 445.361 through NRS 445.391, inclusive, and the regulations adopted pursuant to the Safe Drinking Water Act, and are considered grant eligible. Other portions, namely demolition of the existing pump house and costs associated with the purchase of water rights, are ineligible and not to receive the financial participation of the STATE.

TABLE 1

UPPAWAY/BOUCHER-YOUNG WATER SYSTEM - INELIGIBLE AND ELIGIBLE PROJECT COSTS

ITEM DESCRIPTION	COST	INELIGIBLE COST	ELIGIBLE COST
Site clearing	\$2,500	\$0	\$2,500
Well construction	\$94,780	\$0	\$94,780
Building	\$25,430	\$0	\$25,430
Power service	\$5,650	\$0	\$5,650
Stand-by generator	\$19,200	\$0	\$19,200
Chlorinator	\$4,600	\$0	\$4,600
Piping, appurtenances	\$7,800	\$0	\$7,800
Modify existing controls and telemetry	\$1,250	\$0	\$1,250
Disinfection and startup	\$2,000	\$0	\$2,000
Access Road	\$7,800	\$0	\$7,800
Demolition of existing pump house, restoration	\$4,500	\$4,500	\$0
Construction surveying	\$1,500	\$0	\$1,500
Site restoration	\$6,800	\$0	\$6,800
SUBTOTAL - CONSTRUCTION COSTS	\$183,810	\$4,500	\$179,310
Construction contingency, 20%	\$36,762	\$900	\$35,862
TOTAL - CONSTRUCTION COSTS	\$220,572	\$5,400	\$215,172
Geophysical, hydrologic and geologic consulting	\$29,050	\$0	\$29,050
Design and consulting services	\$23,350	\$0	\$23,350
Services during construction	\$10,500	\$0	\$10,500
Water rights transfers	\$9,200	\$1,800	\$7,400
Legal and administrative	\$6,500	\$0	\$6,500
Grant app. fee, TRPA fee, grant admin. fee, building permits	\$12,500	\$0	\$12,500
Engineering fees expended to date	\$40,822	\$0	\$40,822
TOTAL PROJECT COSTS (without water rights acquisition)	\$352,494	\$7,200	\$345,294
Groundwater rights purchase (41.737 AF @ \$3,500/AF)	\$146,080	\$146,080	\$0
Fees associated with groundwater rights purchase	\$8,800	\$8,800	\$0
TOTAL PROJECT COSTS (with water rights acquisition)	\$607,374	\$162,080	\$345,294

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**SUMMARY OF ESTIMATED COSTS FOR
Uppaway Water System Improvement Project**

BOARD APPROVED STATE GRANT SHARE

(38% OF ELIGIBLE COSTS) \$131,212

GRANTEE SHARE

(100% OF INELIGIBLE COSTS + 62% OF ELIGIBLE COSTS \$376,162

NON-ELIGIBLE PROJECT COSTS

(1) As noted above, portions of the project are not eligible for the STATE's assistance, specifically, costs associated with the purchase of water rights have been excluded. It is understood that Douglas County owns sufficient ground water and surface water rights to service this system. Portions of these water rights must be changed to reflect the appropriate place of use and point of diversion to satisfy State requirements and water resources regulations.

OTHER COSTS

The non-construction costs for the new well are considered 100 percent eligible, including engineering and design, inspection and testing, and legal and administrative costs.

REFERENCE: Community and Nontransient Water System Capital Improvement Project Grant Application - Uppaway-Boucher/Young Water System Improvement Project, December 1995.

REQUESTED BY
DOUGLAS COUNTY
UNOFFICIAL RECORDS OF
DOUGLAS COUNTY, NEVADA

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LINDA SLATER
RECORDER

\$ 0 PAID K DEPUTY

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and on record in my office.

DATE: October 7, 1997
B. REED Clerk of the 9th Judicial District Court
of the State of Nevada, in and for the County of Douglas.

By Carol M. Ladd Deputy

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