

## **REIMBURSEMENT AGREEMENT**

THIS REIMBURSEMENT AGREEMENT ("Agreement") is made and entered into as of September 5, 2024 (the "Effective Date"), by and between TAHOE TRUCKEE UNIFIED SCHOOL DISTRICT, (the "District"), and the TAHOE CROSS-COUNTRY SKI EDUCATION ASSOCIATION, (the "Association"). Hereafter, the District and Association and collectively referred to as "Parties" and individually as "Party."

### **RECITALS**

- A.** The District is the owner of that certain real property located at 2945 Polaris Road, Tahoe City, California 96145 (the "School Property"), at which the District operates the North Tahoe High School and Middle School (the "High School"). The School Property is more particularly described in Exhibit A of the RPA (as defined below).
- B.** The Association is seeking to construct a new Lodge ("Lodge Project") on property owned by the Tahoe City Public Utility District ("TCPUD") located adjacent to the School Property. The Association will construct and operate the Lodge Project on said TCPUD property pursuant to an exclusive lease agreement ("Lease") with the TCPUD within the Lease area designated therein ("Lodge Property"). The Lodge Property is more particularly described in Exhibit B of the RPA (as defined below).
- C.** Upon the completion of the Lodge Project, the Association requires access to parking lots nearby the Lodge Property.
- D.** The Parties are parties to that certain Reciprocal Parking Agreement dated as of March 20, 2024 (the "RPA"). The RPA is attached hereto as Exhibit 2.
- E.** Pursuant to Section 1(a) of the RPA, the Association has the right to a non-exclusive use of no fewer than thirty (30) parking lots located at the School Property's parking lot (the "Parking Lot").
- F.** Pursuant to Section 1(c) of the RPA, the Association is permitted, at its sole expense, to construct a connecting driveway and walkway (the "Connecting Driveway and Walkways") connecting the Lodge Property and the School Property. The Connecting Driveway and Walkways is more particularly described in Exhibit C of the RPA.
- G.** Pursuant to Section 1(d) of the RPA, the District "may construct portions of the Connecting Driveway and Walkways ahead of Lodge Project as part of a High School project, the Association shall reimburse the District the full documented cost of said construction."
- H.** Pursuant to Section 1(d) of the RPA, if the District constructs such a portion of the Connecting Driveway and Walkways, the Parties "shall enter into a reimbursement agreement pursuant to which the Association shall pay the full costs and expense of construction and design of the Connecting Driveway and Walkways."
- I.** The District has elected to construct such a portion of the Connecting Driveway and Walkway (the "Path Project"). As such, Parties agree to enter into a reimbursement agreement pursuant to Section 1(d) of the RPA where the

Association agrees to reimburse the District for the full costs and expense of construction and design of the Path Project.

- J. The estimated cost summary attached hereto as Exhibit 1 (the "Estimated Cost Summary") sets forth a general estimate of costs to be reimbursed to the District by the Association for the ADA path and driveway connector. Exhibit 1A dated September 5, 2024, is the shared cost for the rework of the ADA path due to the grade bust, the design costs, and the estimated costs for the materials testing and inspection by NV 5 and the DSA inspection by CS3. The actual costs for NV 5 and CS3 will be identified once the final invoices are received and the project is certified by DSA.

## **AGREEMENT**

NOW, THEREFORE, for valuable consideration and the mutual covenants herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### **1. Reimbursement.**

1.1. The Association agrees to reimburse the District for all of the District's costs associated with the Path Project (the "Reimbursable Costs").

1.2. The Reimbursable Costs shall include the following categories:

1.2.1. "Hard Costs" as defined as the direct aggregate costs of all labor, materials, equipment, and fixtures necessary for completion of construction of the Path Project.

1.2.2. "Soft Costs" as defined as the direct aggregate of costs that are indirectly related to all labor, materials, equipment, and fixtures necessary for completion of construction of the Path Project. Such costs may include, but are not limited to:

1.2.2.1. Architectural, design, and studies fees;

1.2.2.2. Inspection costs and services (including, but not limited to, inspection fees); and

1.2.2.3. Material testing costs (including, but not limited to, testing fees).

1.2.3. "Other Costs" as defined as all other costs associated with the District's preparation, construction, completion, maintenance, and all other work in performance of the construction of Path Project.

1.3. Within fifteen (15) calendar days of receiving invoice(s) pertaining to the District's costs associated with the Path Project's Reimbursable Costs, the Association shall provide the District with a complete payment of such invoice(s).

1.4. The invoice(s) shall include summaries of all costs incurred by District in constructing such improvements that is referenced in the invoice(s), including but not limited to, Hard Costs, Soft Costs, and other costs associated with the District's



preparation, construction, completion, maintenance, and all other work in performance of the construction of the Path Project.

- 1.5. The Parties agree that the Estimated Cost Summary attached hereto provides, as of the Effective Date, the costs anticipated to be included in the invoice(s) related to the costs incurred by the District in completing the Path Project. However, the invoice(s) may include costs other than those set forth on the Estimated Cost Summary and the actual amount of the costs may differ than those set forth on the Estimated Cost Summary. Parties agree to accept the invoice(s) that the District provides to the Association regardless of whether such invoice(s) is/are greater or less than the estimates in the Estimated Cost Summary.
- 1.6. At its complete discretion, the District may send the Association multiple invoices pertaining to the District's accrued expenses associated with the construction and design of the Connection Driveway and Walkway. The District can issue invoices to the Association at any stage of the Path Project, including, but not limited to, the planning stage, the construction phase, the completion phase of the Path Project, and the maintenance/repair stage of the Path Project.
- 1.7. The District may construct the Path Project as a part of another development or construction project related to the High School. At the complete discretion of the District, the District shall use its best efforts to extrapolate the Reimbursable Costs associated with the Path Project from its accrued costs from other District projects. The District shall separate such costs in any manner the District chooses to and shall include the extrapolated costs in the invoice(s) that it provides to the Association.

## **2. Indemnification.**

- 2.1. To the furthest extent permitted by California law, the Association shall indemnify and hold harmless the District, its agents, representatives, officers, consultants, employees, and volunteers (the "Indemnified Parties") from any and all demands, damages, injuries, losses, expenses, liabilities, claims, suits, and actions (the "Claims") of any kind, nature, and description, including, but not limited to, attorneys' fees and costs, directly or indirectly arising from, arising out of, connected with, or resulting from its performance of the construction of the Path Project unless the claims are caused by the active negligence or willful misconduct of the Indemnified Parties and/or defects in design furnished by the Path Project's architect or designer, as found by a court or arbitrator of competent jurisdiction, in which case the Association's indemnification and hold harmless obligation shall be reduced by the proportion of the Indemnitees' and/or Path Project's architect or designer's liability.
- 2.2. The Association shall also, to the furthest extent permitted by California law, defend the Indemnified Parties at the Association's own expense, including attorneys' fees and costs, from any and all claims directly or indirectly arising from, arising out of, connected with, or resulting from the performance of the construction of the Path Project unless the claims are caused by the active negligence or willful misconduct of the Indemnified Parties and/or defects in design furnished by the Path Project's architect or designer, as found by a court or arbitrator of competent jurisdiction, in which case, without impacting the Association's obligation to provide an immediate and ongoing defense of the Indemnified Parties, the Association's defense obligation shall be retroactively reduced by the proportion of the Indemnitees' and/or Path Project's architect or designer's liability. The District shall have the right to accept or

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reject any legal representation that the architect or designer proposes to defend the District.

2.3. If the Indemnitees provide their own defense due to failure to timely respond to tender of defense, rejection of tender of defense, or conflict of interest of proposed counsel, the Association shall reimburse Indemnitees for any expenditures, including reasonable attorney's fees and costs.

2.4. The Association's defense and indemnification obligations hereunder shall survive the completion of Work, including the warranty/guarantee period, and/or the termination of the Agreement.

**3. Notices.** Except as otherwise specified herein, all notices, including the above-referenced invoice(s), shall be sent pursuant to this Agreement and shall be made in writing and sent to the Parties at their respective addresses specified below, or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by:

3.1. Personal delivery, in which case notice is effective upon delivery;

3.2. Certified or registered mail, return receipt requested, in which case notice shall be deemed delivered upon receipt, if delivery is confirmed by a return receipt; or

3.3. Nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective upon delivery, if delivery is confirmed by the delivery service;

If to Association:

PO Box 7260  
Tahoe City, California 96145  
Attn.: Jim Robins, Board President

If to District:

Tahoe Truckee Unified School District  
11603 Donner Pass Road  
Truckee, California 96161  
Attn.: Kerstin Kramer, Superintendent Chief Learning Officer

**4. Entire Agreement.** This instrument and the RPA contain the entire agreement between the parties relating to the reimbursement described herein. Any oral representations or modifications concerning this Agreement shall be of no force and effect excepting the subsequent modification in writing, signed by the party to be charged.

**5. Attorneys' Fees.** Each Party shall bear its own costs and attorneys' fees incurred or connected with the drafting and signing of this Agreement and the events leading up to this Agreement.

**6. Binding Effect.** This Agreement shall bind and inure to the benefit of the permitted successors and assigns of the parties hereto.



7. **Governing Law; Venue.** This Agreement shall be governed by and construed in accordance with laws of the state of California. Any action or proceeding to enforce this Agreement shall be commenced and maintained in the County in which the District's administrative office are located.
8. **Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
9. **Invalid Term.** If any provision of this Agreement is declared or determined by any court of competent jurisdiction to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining parts, terms and provisions shall not be affected thereby, and said illegal, unenforceable or invalid part, term or provision will be deemed not to be a part of this Agreement.
10. **No Oral Modification.** No oral agreement or conversation with any officer, agent, or employee of the District, either before or after execution of Agreement, shall affect or modify any of the terms or obligations contained in any of the documents comprising the Agreement.
11. **Incorporation of Exhibits.** All exhibits attached and referred to in this Agreement are hereby incorporated and will be deemed to be a part of this Agreement.
12. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which, for all purposes, shall be deemed an original and all such counterparts, taken together, shall constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Reimbursement Agreement as of the Effective Date.

**DISTRICT:**

TAHOE TRUCKEE UNIFIED SCHOOL DISTRICT

By: \_\_\_\_\_  
Name: Mrs. Kerstin Kramer  
Title: Superintendent/Chief Learning Officer

**ASSOCIATION:**

TAHOE CROSS-COUNTRY SKI EDUCATION ASSOCIATION

By: Jim Robins  
Name: Jim Robins  
Title: President B.O.D.

**SIGNATURE PAGE TO REIMBURSEMENT AGREEMENT**

**EXHIBIT 1**

**The Estimated Cost Summary**

#	DESCRIPTION	ALTERNATES (not included in base bid)
		Alt. #1 Cross County Path
	SITE WORK (ROUGH)	
		\$96,350.00
7	Horizontal Survey & Staking	\$2,350.00
8	Earthwork & AC Paving	\$94,000.00
	SITE WORK (FINISH)	\$0
26	Misc. Steel	\$0
	STRUCTURE	\$52,206.00
30	Concrete	\$52,206.00
33	Structural Steel	\$0
	ENCLOSURE	\$2,000.00
40	Caulking & Sealants	\$2,000.00
	<b>SUBTOTAL</b>	<b>\$150,556.00</b>
	CONTINGENCIES & ALLOWANCES	
3.5%	Contractor Construction Contingency	\$5,269.00
5.0%	Owner Contingency	\$7,528.00
	<b>SUBTOTAL</b>	<b>\$163,353.00</b>
	GENERAL CONDITIONS	
LS	General Conditions - Inc. 1	\$0
LS	General Conditions - Inc. 2 & Site	\$13,950.00
0.35%	Warranty	\$572.00
	<b>SUBTOTAL</b>	<b>\$177,875.00</b>
	INSURANCE, BONDS, AND BUILDERS RISK	
1.50%	Mark-up on Subcontractors	\$2,450.00
2.50%	General Liability & P&P Bond	\$4,508.00
0.25%	Builders Risk Insurance	\$446.00
	<b>SUBTOTAL</b>	<b>\$185,279.00</b>
Rate	CONTRACTOR'S FEE	
4.25%	Lease Lease Back Fee	\$7,784.00
	<b>GMP TOTAL</b>	<b>\$193,153.00</b>
		ALT#1 Cross County Path

#4208877v4<DMS> - Reimbursement Agreement - Lodge to High School Pathway Project by and Between Tahoe Truckee Unified School District and Tahoe Cross-County Ski Education Association



**Exhibit 1A -North Tahoe ADA Path and Driveway Connection- 9.5.2024**

Item	Cost	Comment
Core Construction- Hard costs for ADA path and driveway	\$193,153	
Core Construction- Change order for grade bust at ADA path \$24,013.00.	\$12,007	Cost is split between TTUSD and Cross Country Lodge
Studio W - Design cost for ADA path and driveway	\$10,377	
NV 5- Special inspection of subgrade and concrete	\$7,000	Waiting on invoice for the exact amount
CS3- DSA on site inspection	\$1,500	Waiting on invoices for the exact amount.
<b>Total cost</b>	<b>\$224,037</b>	

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**EXHIBIT 2**

The RPA

[AVAILABLE AT DISTRICT'S OFFICE]