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AT THE REQUEST OF

Lincoln County

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LINCOLN COUNTY CLERK  
FEE  $\phi$  LESLIE BOUQUER

**COMMISSION FOR CULTURAL AFFAIRS FUNDING AGREEMENT  
BETWEEN STATE OF NEVADA  
AND  
LINCOLN COUNTY**



1 final completion report shall be submitted by the APPLICANT in a format prescribed by the  
2 STATE within SIXTY (60) days of the completion of the project named herein.

3 5. Maintain:

- 4 a. An accurate record of all expenditures related to the project. Records must be supported by  
5 source documentation. Audits may be required by the STATE. Such audits shall be at the  
6 expense of the applicant and are considered an allowable project cost.
- 7 b. A special account for the project so that an exact itemization of project expenditures can be  
8 submitted by check number along with copies of canceled checks and itemized invoices.
- 9 c. A comparison of actual expenditures with budgeted amounts for the Agreement.

10 6. Notify the STATE immediately in writing of problems or changes in scope of work, budget,  
11 product, and performance reporting. No changes can be made without prior written approval  
12 from the STATE.

13 7. Following the notification of the grant award and before work begins, the APPLICANT will  
14 attend a project conference held by the STATE. It is the responsibility of the APPLICANT to  
15 coordinate the conference date and time.

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

- 18 1. Payment of the grant shall be made upon compliance with the terms of this Agreement which  
19 include:
- 20 a. An inspection by the STATE to ensure that work has been completed satisfactorily in  
21 accordance with the terms of this Agreement.
- 22 b. The submission of satisfactory progress reports as referred to above.
- 23 c. The submission of a Certificate of Eligible Actual Costs/Request for Reimbursement which  
24 must be executed by the person in charge of the project. The request shall be accompanied

1 by copies of all original bills from contractors, suppliers, and vendors. Proof of payment of  
2 those bills will be required at the close of the grant period. A progress report must  
3 accompany all requests for reimbursements.

4 d. The STATE may, at its discretion, retain ten percent (10%) of the STATE'S Contribution to  
5 the project. When the final completion report and proof of payment of all bills and canceled  
6 checks has been received and approved in writing by the STATE, the funds retained will be  
7 paid to the APPLICANT.

8 e. Progress payments may be made at the discretion of the STATE upon the completion of  
9 distinct phases of work provided that the above-mentioned conditions have been met for each  
10 phase of work.

11 f. The making of the STATE of any progress payment shall not constitute nor be construed as a  
12 waiver by the STATE of any breach of covenants or any default which may exist on the part  
13 of the APPLICANT, nor shall any such breach or default impair or prejudice any right or  
14 remedy available to the STATE.

15 2. In any news release or printed material describing or promoting the project or any material  
16 produced as a result of the grant, appropriate credit shall be given to the STATE by including the  
17 phrase "this project has been funded with the assistance of the State of Nevada Commission for  
18 Cultural Affairs.

19 3. The STATE or the Applicant may terminate this Agreement in whole, or in part, when both  
20 parties agree that the continuation of the project will not produce beneficial results commensurate  
21 with the further expenditure of funds. The two parties must both agree in writing upon the  
22 termination condition, including the effective date, and in the case of partial termination, the  
23 portion to be terminated.  
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- 4. If the APPLICANT fails to comply with any of the terms of this Agreement, the STATE shall have the right to cancel this Agreement without the consent of the APPLICANT and to file suit, in law or equity. The purpose of the suit shall be to cause the APPLICANT to cure said violations or to obtain the return of funds granted to the APPLICANT by the STATE. Such suit may be brought in the District Court of the county in which the property is located.
- 5. The commencement date for all work to be performed under this Agreement is **SEPTEMBER 15, 2003**. The termination or end date is **DECEMBER 31, 2004**. No work performed at any time other than described in this paragraph shall be considered as an eligible activity for reimbursement purposes. All requests for reimbursement must be submitted to the STATE no later than **JANUARY 30, 2005**. Requests that have not been received at the office of the STATE by this date shall not be paid pursuant to this funding Agreement.
- 6. This funding Agreement shall be construed and interpreted according to the laws of the State of Nevada.
- 7. All work conducted by the APPLICANT shall be assessed by the staff of the Commission for Cultural Affairs for adequacy of performance. If work does not meet the terms of this Agreement, the APPLICANT shall remedy the work even if that requires the expenditure of funds other than those contributed to the project by the Commission for Cultural Affairs.
- 8. The APPLICANT agrees to revert to the STATE all funds contributed to the project by the Commission for Cultural Affairs if the terms of this Agreement are not met by the APPLICANT or if the APPLICANT violates any section of NRS.

1 9. Under the terms of this Agreement, the APPLICANT warrants that it shall not discriminate nor  
2 allow discrimination against any employee based on race, color, religion, ancestry, gender,  
3 national origin or disability. The APPLICANT shall permit the STATE access to its records of  
4 employment, advertisements and other pertinent data relative to this provision.

5 IN WITNESS WHEREOF, the parties hereto have caused this 2003 Commission for Cultural  
6 Affairs (CCA) Funding Agreement to be signed and intend to be legally bound thereby entered into this

7 20<sup>th</sup> day of October, 2003.

8 **APPLICANT-LINCOLN COUNTY**

9 By: [Signature]

10 Name (print): RANDY HORNBECK

11 Title (print): Lincoln County Commissioner

12 Date (print): October 2, 2003

13 **STATE-DEPARTMENT OF CULTURAL AFFAIRS, HISTORIC PRESERVATION OFFICE**

14 By: [Signature]

15 Ronald M. James

16 State Historic Preservation Officer

17 Date (print): 10-20-03

18  
19 **REVIEWED AS TO FORM ONLY:**

20 Brian Sandoval

21 Attorney General

22 By: [Signature]

23 Melanie Meehan Crossley

24 Deputy Attorney General

**ATTACHMENT A-1  
CONTINUATION FORM**

Project Scope: **REHABILITATION OF THOMPSON OPERA HOUSE USING COMMISSION FOR CULTURAL AFFAIRS (CCA) FUNDS (CCA 03-29).**

This project will support the following:

- Continue stabilization and reconstruction  
Continue removal of damaged 2<sup>nd</sup> story floor, wall and roof structure of the opera house (resulting from April 2002 windstorm) and reconstruction of walls, 2<sup>nd</sup> story floor and roof structure to original appearance.
- Underground water and sewer line  
Dig trench for water/sewer line into existing utility lines in main Street, install a new 4" sewer and a 1 1/2" water line, stubbed into existing building; replace/patch existing asphalt street paving removed during this operation.
- Construct walls for future restroom facilities  
Construct new 2x4 walls for future restroom facilities. These walls are designed to act as a shear walls to help provide necessary structural stability of the building.
- Consultants  
Employ, if needed an architect/engineer to draw and design the water and sewer line to connect to existing line and for future plumbing in the restrooms.

State Historic Preservation Office (SHPO) and CCA Project Stipulations:

1. All work will conform with the Secretary of the Interior's Standards for Rehabilitation unless otherwise approved by the SHPO.
2. If any changes are made to the project, the applicant/grantee must submit updated visual and/or written specifications for the proposed rehabilitation work before any work commences and for written approval from the SHPO.
3. All completed work must conform with visual and/or written specifications submitted to and approved by the SHPO before work begins.
4. The applicant/grantee will provide the SHPO with quarterly updates on project progress.
5. The applicant/grantee will provide the SHPO with full access to all documents necessary for a comprehensive audit. Should the SHPO find costs that are not allowed by state accounting practices or that are outside the terms of this agreement, the applicant/grantee will refund the amount to the SHPO.
6. The grant recipient agrees to notify the Commission when there are fundamental changes to its programming, to its structure as an organization, or to its leadership, and the Commission may consider these changes in future funding decisions.





1 **ATTACHMENT B**

2 **COMMISSION FOR CULTURAL AFFAIRS (CCA) COVENANTS**

3 These covenants are made and entered into between the State of Nevada, acting by and through the  
4 State Historic Preservation Office (SHPO), hereinafter referred to as "STATE" and the LINCOLN COUNTY  
5 hereinafter referred to as "APPLICANT", for the purpose of the property known as the THOMPSON  
6 OPERA HOUSE, which is owned in fee simple by the APPLICANT.

7 The property is comprised essentially of grounds, collateral, appurtenances, and improvements. The  
8 property is more particularly described as follows:

9 **BEGINNING AT A POINT S 38° 42' 56" W, 22.01 FT. ALONG THE S.E. R/W LINE OF**  
10 **MAIN STREET FROM THE N.W. CORNER OF LOT 7, BLOCK 18, PIOCHE TOWN PLAT,**  
11 **LINCOLN COUNTY, NEVADA; THENCE S 55° 15' 00" E, 83.05 FT ALONG THE**  
12 **NORTHWEST WALL LINE OF THE PIOCHE OPERA HOUSE; THENCE S. 19° 20' 17" W,**  
13 **29.65 FT ALONG THE WEST LINE OF CORNWALL ROW AND EAST LINE OF BLOCK**  
14 **18; THENCE N 55° 07' 03" W, 92.90 FT ALONG A LINE BETWEEN THE GEM THEATER**  
15 **AND OPERA HOUSE; THENCE N 38° 42' 56" E, 28.44 FT ALONG THE SOUTHEAST**  
16 **RIGHT-OF-WAY LINE OF MAIN STREET TO THE POINT OF BEGINNING.**  
17 **CONTAINING 0.058 ACRES OF LAND.**

18 In consideration of the sum \$120,000.00 received in grant-in-aid assistance from the STATE, the  
19 APPLICANT hereby agrees to the following for a period on time ending DECEMBER 31, 2024.

- 20 1. The APPLICANT agrees to assume the cost of the continued maintenance and repair of said  
21 Property so as to preserve the architectural, historical, cultural or archaeological integrity of the  
22 same, in order to protect and enhance those qualities which make it historically significant as  
23 determined by the STATE.

24 .....

- 1           2.    The APPLICANT agrees that no visual or structural alterations will be made to the property  
2           without prior written permission of the STATE.
- 3           3.    The APPLICANT agrees that the STATE, its agents and designees, shall have the right to  
4           inspect the property at all reasonable times, in order to ascertain whether or not the conditions  
5           of these Covenants are being observed.
- 6           4.    The APPLICANT agrees that when the property is not clearly visible from a public right of-  
7           way or includes interior work assisted with State of Nevada, Commission for Cultural Affairs  
8           grant funds, the property will be open to the public not less than twelve (12) days a year on an  
9           equitable spaced basis and at other times by appointment. Nothing in these covenants will  
10          prohibit the APPLICANT from charging a reasonable, non-discriminatory admission fee,  
11          comparable to fees charged at similar facilities in the area.
- 12          5.    The APPLICANT further agrees that when the property is not open to the public on a  
13          continuing basis, and when the improvements assisted with State of Nevada Commission for  
14          Cultural Affairs grant funds are not visible from the public right-of-way, notification will be  
15          published for three consecutive working days, no less than one week prior to the opening date  
16          in one newspaper of general circulation in the community area in which the property is located.  
17          The advertisement shall give the dates and times when the property will be open.  
18          Documentation of such notice will be furnished annually to the STATE during the term of these  
19          Covenants.
- 20          6.    The APPLICANT agrees to comply with Title VI of the Civil Rights Act of 1964 (U.S.C. 2000  
21          (d) ), the Americans with Disabilities Act (42 U.S.C. 12204), and with Section 504 of the  
22          Rehabilitation Act of 1973 (29 U.S.C. 794). These laws prohibit discrimination on the basis of  
23          race, religion, national origin, or disability. In implementing public access, reasonable  
24          accommodation to qualified disabled persons shall be made in consultation with the STATE.

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7. The agreement shall be enforceable in specific performance by a court of competent jurisdiction.
8. SEVERABILITY CLAUSE - It is understood and agreed by the parties hereto that if any part, term, or provision of this agreement is held to be illegal by the courts, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular part, term, or provision held to be invalid.
9. These restraints shall run with the property and are binding upon the APPLICANT and any and all successors, heirs, assignees, or lessees.
10. The STATE shall have the right to file suit in law or equity, if the APPLICANT violates any of the restraints of these Covenants. The purpose of the suit shall be to cause the APPLICANT to cure said violations or to obtain the return of funds granted to the APPLICANT by the STATE.

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1 11. The APPLICANT shall record these Covenants in the Recorder's Office of the County in  
2 which the subject property is located. The STATE'S obligations with regard to the subject  
3 property shall not become effective until the APPLICANT has furnished the STATE  
4 satisfactory proof of the aforementioned recordation

5 These CCA Covenants are entered into this 3rd day of October 2003.

6 **APPLICANT - LINCOLN COUNTY**

7  
8 [Signature]

9 Signature

8 RANDY HERNECK Commissioner

Name and Title (print)

10 **STATE-DEPARTMENT OF CULTURAL AFFAIRS, HISTORIC PRESERVATION OFFICE**

11  
12 [Signature]

13 Ronald M. James, State Historic Preservation Officer

15 **REVIEWED AS TO FORM ONLY:**

16 Brian Sandoval

17 Attorney General

18 By: [Signature]

19 Melanie Meehan-Crossley

20 Deputy Attorney General

1 Witnessed by Notary Public

2 State of Nevada

3 County of LINCOLN

4 On October 2, 2003, personally appeared before me, a Notary Public in  
5 and for said County and State, Ronda Herbeck

6 Known to me to be the person described in and who executed the foregoing instrument, who acknowledged to  
7 me that she executed the same freely and voluntarily and for the uses and purposes therein mentioned.

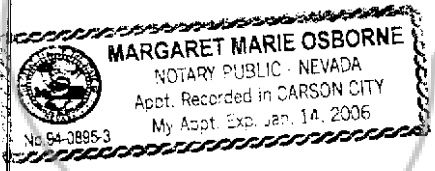
8 Cassie Adams  
9 Notary Public COUNTY CLERK & Ex-Officio Clerk  
10 of the Seventh Judicial District  
Court of the State of Nevada, in  
and for the County of Lincoln

11  
12 ACKNOWLEDGEMENT

13 State of Nevada

14 County of CARSON

15 On October 20, 2003, personally appeared before me, Notary Public in and for  
16 said County and State, RONALD M. JAMES, known to me to be the person described in and who  
17 executed the foregoing instrument, who acknowledged to me that he executed the same and freely and  
18 voluntarily and for the uses and purposed therein mentioned.



19  
20 Margaret M. Osborne  
21 Notary Public

1 **ATTACHMENT C**

2 **CIVIL RIGHTS ASSURANCE**

3 As the authorized representative of the applicant, I certify that the applicant agrees that, as a  
4 condition to receiving any public financial assistance from the State of Nevada, it will comply with all Federal  
5 laws relating to nondiscrimination. These laws include, but are not limited to: (a) Title VI of Civil Rights Act  
6 of 1964 (42 U.S.C. 2000d-1), which prohibits discrimination on the basis of race, color or national origin; (b)  
7 Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination  
8 on the basis of handicap; (c) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101et. seq.),  
9 which prohibits discrimination on the basis of age; and applicable regulatory requirements to the end that no  
10 person in the United States shall, on the grounds of race, color, national origin, handicap or age, be excluded  
11 from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program  
12 or activity conducted by the applicant. **THE APPLICANT HEREBY GIVES ASSURANCE** that it will  
13 immediately take any measures necessary to effectuate this agreement.

14 **THIS ASSURANCE** shall apply to all aspects of the applicant's operations including those parts that  
15 have not received or benefited from Federal financial assistance.

16 If any real property or structure thereon is provided or improved with the aid of public financial  
17 assistance extended to the Applicant by the Commission for Cultural Affairs, this assurance shall obligate the  
18 Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real  
19 property or structure is used for a purpose for which the Federal financial assistance is extended or for another  
20 purpose involving the provision of similar services or benefits. If any personal property is so provided, this  
21 assurance shall obligate the Applicant for the period during which it retains ownership or possession of the  
22 property. In all other cases, this assurance shall obligate the Applicant for the period during which the public  
23 financial assistance is extended to it by the State of Nevada.

24 . . . .

1 THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all publicly  
2 funded grants, loans, contracts, property, discounts or other federal financial assistance extended after the date  
3 hereof to the Applicant by the State of Nevada, including installment payments after such date on account of  
4 applicants for Federal financial assistance which were approved before such date.

5 The Applicant recognizes and agrees that such public financial assistance will be extended in reliance  
6 on the representations and agreements made in this assurance, and that the State shall have the right to seek  
7 judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees,  
8 assignees, and sub recipients and the person whose signature appears below who is authorized to sign this  
9 assurance on behalf of the Applicant.

10  
11 *[Signature]* Commissioner  
12 Signature of Authorized Certifying Official Title

13  
14 *[Signature]* October 2, 2003  
15 Authorized Certifying Official (print name) Date Submitted

16 LINCOLN COUNTY  
17 Applicant/Organization  
18 P. O. BOX 539, PIOCHE, NV 89043-0539  
19 Applicant/Organization Mailing Address