

BOARD OF REGENTS BRIEFING PAPER

1. **AGENDA ITEM TITLE:** University of Nevada, Reno- Establish Banking Account for Donated and Privately-Funded Construction Projects

MEETING DATE: March 5-6, 2020

2. BACKGROUND & POLICY CONTEXT OF ISSUE:

Summary: UNR seeks Board approval to establish a separate bank account for the specific and limited purpose of receiving, holding, and remitting private funds for payment of State Public Works Division (SPWD) permitting and inspection fees on construction projects (a) constructed through donated services, and/or (b) funded exclusively by private funds. This limited purpose account, if approved, would be in the name and tax identification number of the Board of Regents of the Nevada System of Higher Education.

Background: The State Public Works Division (SPWD) serves as the building official for all construction projects carried-out on the UNR campus, regardless of the funding source for such construction (e.g., State appropriations, bond revenue, student fees, private donations, etc.). NRS 341.100(9). In that role, SPWD charges certain permitting and inspection fees. NAC 341.171. SPWD will accept payment for those fees only from UNR directly, again, irrespective of the funding source for the underlying construction.

UNR periodically receives offers from licensed contractors seeking to donate construction services. Similarly, and sometimes in conjunction with the offer for donated construction services, UNR has periodically received offers from private parties to fully fund construction projects of interest to them. In such instances, the donors/private parties have offered to fund the required SPWD permit and inspection fees. Given SPWD's above referenced position, however, SPWD will not allow private parties to directly pay such fees.

Pursuant to NSHE Handbook Title 4, Chapter 10, Section 27, the Chancellor is authorized to establish imprest zero balance checking accounts at the same bank as the Board of Regents' general account. Because this request instead seeks to open an operating account, the request exceeds the authority granted to the Chancellor under the Handbook and Board approval is being requested. UNR desires to establish such an account for the specific and limited purpose of receiving, hold, and remitting private funds for payment of SPWD fees on construction projects that are (a) constructed through donated services, and/or (b) funded exclusively by private funds. This new and separate account will allow UNR to clearly demonstrate such funds were not comingled with public dollars, and that no public dollars are contributed to privately donated and/or funded construction projects. Demonstrating that public funds were not contributed to such projects is required to ensure the project does not fall within the definition of a "public work" subject to competitive bidding where the donor/private party is not willing to make the donation or fund the project without the use of their desired contractor, donated services, supplies/materials, or similar.

UNR notes that utilization of such account does not impact the applicability of prevailing wages. Contracts for construction work of NSHE for which the estimated costs exceeds \$100,000 require the payment of prevailing wages even if the construction work does not qualify as a "public work." NRS 338.010

This permanent bank account, if approved, would not carry a regular balance as excess funds would be remitted back to the funding party upon completion of each given project. The account will be managed under the UNR Controller and subject to all current and future fiscal and internal controls/reporting requirements applicable to NSHE/UNR's existing banking accounts. As with other financial accounts, this account would be in the name of the Board of Regents and under the NSHE tax identification number.

Resolution: See Exhibit 1.

SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

University of Nevada, Reno President Marc Johnson requests Board of Regents' approval of a resolution authorizing the President of the University of Nevada Reno and the NSHE CFO, or designee, to establish a new

bank account for the specific and limited purpose of receiving, holding, and remitting private funds for payment of State Public Works Division (SPWD) permitting and inspection fees on construction projects that are (a) constructed through donated services, and/or (b) funded exclusively by private funds.

4. IMPETUS (WHY NOW?):

Several projects proposed to be constructed exclusively through donated services and projects proposed to be funded exclusively with private dollars have been turned-down over the last few years due to the inability to comply with donor wishes. Passage of the requested resolution would allow construction funded entirely without public funds to proceed.

5. CHECK THE NSHE STRATEGIC PLAN GOAL THAT IS SUPPORTED BY THIS REQUEST:

- Access (Increase participation in post-secondary education)
- Success (Increase student success)
- Close the Achievement Gap (Close the achievement gap among underserved student populations)
- Workforce (Collaboratively address the challenges of the workforce and industry education needs of Nevada)
- Research (Co-develop solutions to the critical issues facing 21st century Nevada and raise the overall research profile)
- Not Applicable to NSHE Strategic Plan Goals

INDICATE HOW THE PROPOSAL SUPPORTS THE SPECIFIC STRATEGIC PLAN GOAL

Allows construction projects for which public funds are not available or utilized to proceed through private sources. Past projects discussed but turned-down have included athletics facilities, and the University is currently in discussions with a donor regarding an art installation.

6. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- Allows construction projects for which public funds are not available or utilized to proceed through private sources.
- Does not impact the applicability of prevailing wages to such projects if they are otherwise subject to same.

7. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

None have been brought forward.

8. ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED:

The University is not aware of other mechanisms to address this issue.

9. RECOMMENDATION FROM THE CHANCELLOR'S OFFICE:

10. COMPLIANCE WITH BOARD POLICY:

- Consistent With Current Board Policy: Title # 4 Chapter # 10 Section # 27
- Amends Current Board Policy: Title # _____ Chapter # _____ Section # _____
- Amends Current Procedures & Guidelines Manual: Chapter # _____ Section # _____
- Other: _____
- Fiscal Impact: Yes _____ No X
Explain: _____

EXHIBIT 1

RESOLUTION NO. _____

A RESOLUTION PERTAINING TO THE APPROVAL AND AUTHORIZATION OF THE ESTABLISHMENT OF A NEW BANK ACCOUNT FOR THE SPECIFIC AND LIMITED PURPOSE OF ALLOWING THE UNIVERSITY OF NEVADA, RENO TO RECEIVE, HOLD, AND REMIT PRIVATE FUNDS FOR PAYMENT OF PERMITTING AND INSPECTION FEES ON CONSTRUCTION PROJECTS THAT ARE CONSTRUCTED THROUGH DONATED SERVICES AND/OR FUNDED EXCLUSIVELY BY PRIVATE FUNDS.

BE IT RESOLVED that the Board of Regents approves the request to establish a new, permanent bank account for the purpose of allowing the University of Nevada, Reno (UNR) to receive, hold, and remit private funds for payment of State Public Works Division (SPWD) permitting and inspection fees on construction projects that are (a) constructed through donated services, and/or (b) funded exclusively by private funds.

BE IT FURTHER RESOLVED that said account shall be established in the name of the Board of Regents and under the Nevada System of Higher Education tax identification number.

BE IT FURTHER RESOLVED that said account shall be managed under the UNR Controller and subject to all current and future fiscal and internal controls/reporting requirements applicable to NSHE/UNR's existing banking accounts.

BE IT FURTHER RESOLVED the Board of Regents hereby authorizes the UNR President and the NSHE CFO, or designee, after review by NSHE Chief General Counsel, to approve and sign such documents as are reasonably necessary to establish the account authorized hereunder.

PASSED AND ADOPTED on _____, 2020.

Chairman
Board of Regents of the
Nevada System of Higher Education

(SEAL)
Attest:

Chief of Staff and Special Counsel

To the Board of Regents and
Ex fact Secretary of the Board of Regents
(BUSINESS, FINANCE AND FACILITIES COMMITTEE 03/05/20) Ref. BFF-2d, Page 3 of 3