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Highway Agreement Number R296-00-201

BARBARA REED  
CLERK  
*[Signature]*

**INTERLOCAL AGREEMENT**

THIS AGREEMENT, dated this 20th day of July, 2000, by and between the STATE OF NEVADA, acting by and through its DEPARTMENT OF TRANSPORTATION, hereinafter called the DEPARTMENT, and Douglas County, a political subdivision of the State of Nevada hereinafter called the COUNTY.

**WITNESSETH:**

WHEREAS, an Interlocal Agreement is defined as an agreement by public agencies to "obtain a service" from another public agency; and

WHEREAS, pursuant to the provisions contained in Chapter 408 of the Nevada Revised Statutes, the Director of the DEPARTMENT may enter into agreements necessary to carry out the provisions of the Chapter; and

WHEREAS, NRS 277.180 authorizes any one or more public agencies to enter into agreements with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the agreement is authorized by law to perform; and

WHEREAS, the purpose of this agreement is for the DEPARTMENT to participate with the COUNTY to realign the access of County Road to US-395 and place a sidewalk in Minden, Douglas County, Nevada hereinafter called the PROJECT; and

WHEREAS, the PROJECT will be of benefit to the DEPARTMENT and to the people of the State of Nevada by providing a safer access to US-395 and providing an accessible route for pedestrians; and

WHEREAS, the COUNTY is willing and able to perform the services described herein; and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, it is agreed as follows:

**COUNTY AGREES:**

1. To complete the PROJECT as defined in District Permit No. 118-00.

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2. To bill the DEPARTMENT upon completion of the PROJECT for 42.5% of actual PROJECT costs, not to exceed Fifty-one Thousand (\$51,000) Dollars.

3. To maintain the improvements outside of the DEPARTMENT Right-of-Way without any cost to the DEPARTMENT.

4. The total cost of the PROJECT is estimated to be One Hundred Twenty Thousand Dollars and no/100 DOLLARS (\$120,000.00). The DEPARTMENT shall pay for 42.5% of PROJECT costs, not to exceed Fifty-one Thousand and no/100 DOLLARS (\$51,000.00), upon completion of the PROJECT. The COUNTY is responsible for all remaining costs associated with construction of the PROJECT.

DEPARTMENT AGREES:

1. To pay the COUNTY 42.5% of actual PROJECT costs, not to exceed Fifty-One Thousand (\$51,000) Dollars, for its portion of incurred PROJECT costs in which total costs are estimated to be One Hundred Twenty Thousand Dollars (\$120,000) upon completion of the PROJECT and upon receipt of a properly certified invoice. The DEPARTMENT will utilize normal accounting procedures in the payment of the invoice submitted.

IT IS MUTUALLY AGREED

1. This Agreement will be terminated when construction of all improvements contemplated herein have been completed and accepted by DEPARTMENT. All improvements outside the DEPARTMENT Right-of-Way will be maintained by the COUNTY, without cost to the DEPARTMENT.

2. This Agreement may be terminated by either party prior to the date set forth above, provided that a termination shall not be effective until thirty (30) days after a party has served written notice upon the other party. This Agreement may be terminated by mutual consent of both parties or unilaterally by either party without cause.

3. All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth below:

FOR DEPARTMENT: Thomas E. Stephens, P.E., Director  
Att.: Tracy Larkin-Thomason, P.E.  
Nevada Department of Transportation  
310 Galletti Way  
Sparks, NV 89429  
(775) 834-8300

FOR COUNTY: Bob Nunes, P.E.  
Douglas County Community Development Director  
P.O. Box 218  
Minden, Nevada 89423  
Tel: (775) 782-6201

4. The COUNTY agrees to pay actual PROJECT costs whether they be greater than or less than the estimates shown herein.

5. If the COUNTY decides to cancel the PROJECT for any reason, the COUNTY will be responsible for PROJECT costs spent to date.

6. To the fullest extent of NRS Chapter 41 liability limitations, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of the party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described herein. This indemnification obligation is conditioned upon receipt of written notice by the indemnifying party within 30 days of the indemnified party's notice of actual or pending claim or cause of action. The indemnifying party shall not be liable to hold harmless any attorney's fees and costs for the indemnified party's chosen right to participate with legal counsel.

7. The parties will not waive and intend to assert available NRS Chapter 41 liability limitations in all cases. Agreement liability of both parties shall not be subject to punitive damages. Actual damages for any State breach shall never exceed the amount of funds, which have been appropriated for payment under this Agreement, but not yet paid, for the fiscal year budget in existence at the time of the breach.

8. Failure to declare a breach or the actual waiver of any particular breach of the Agreement or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

9. Failure of either party to perform any obligation of this Agreement shall be deemed a breach. Except as otherwise provided for by law or this Agreement, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including but not limited to actual damages, and to a prevailing party reasonable attorney's fees and costs.

10. Any alteration considered extra work shall be an amendment to the Agreement. The amount and payment for extra work shall be specified in the amendment and will be the responsibility of the DEPARTMENT.

11. This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the jurisdiction of the Nevada district courts for enforcement of this Agreement.

12. The illegality or invalidity of any provision or portion of this Agreement shall not affect the validity of the remainder of the Agreement and this Agreement shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.

13. All or any property presently owned by either party shall remain in such possession upon termination of this Agreement, and there shall be no transfer of property between the parties during the course of this Agreement.

14. It is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions of any part of the agreement to create in the public or any member thereof a third party beneficiary status hereunder, or to authorize anyone not a party to this agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this agreement.

15. Each party agrees to keep and maintain under generally accepted accounting principles full, true and complete records and documents pertaining to this Agreement and present, at any reasonable time, such information for inspection, examination, review, audit and copying at any office where such records and documentation are maintained.

16. The parties are associated with each other only for the purposes and to the extent set forth in this Agreement. Each party is and shall be a public agency separate and distinct from the other party and shall have the right to supervise, manage, operate, control and direct performance of the details incident to its duties under this Agreement. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.

17. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Agreement without the prior written consent of the other party.

18. Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is confidential by law or a common law balancing of interests.

19. Each party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that party to the extent that such information is confidential by law or otherwise required by this Agreement.

20. The parties hereto represent and warrant that the person executing this Agreement on behalf of each party has full power and authority to enter into this Agreement and that the parties are authorized by law to perform the services set forth herein.

21. Neither party shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including without limitations, earthquakes, floods, winds or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Agreement after the intervening cause ceases.

22. This Agreement shall not become effective until and unless approved by appropriate official action of the governing body of each party.

23. This Agreement constitutes the entire agreement of the parties and such is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Agreement specifically displays a mutual intent to amend a particular part of this Agreement, general conflicts in language between any such attachment and this Agreement shall be construed consistent with the terms

of this Agreement. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Attorney General.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION

DOUGLAS COUNTY

Jerry Intume  
Director

Jaeger Ethelberg  
Title: Chairman, Douglas County

Recommended:

ATTESTED TO BY:

[Signature]  
District Engineer

Barbara Reed  
Title: By: L. Lynch, deputy

Approved as to Legality & Form

Approved as to Form

[Signature]  
Deputy Attorney General

[Signature], Deputy DA  
Attorney

REQUESTED BY  
**DOUGLAS COUNTY**  
IN OFFICIAL RECORDS OF  
DOUGLAS CO., NEVADA

2000 OCT -6 AM 11:43

LINDA SLATER  
RECORDER

\$ 0 PAID KD 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 5, 2000  
B. REED Clerk of the 9th Judicial District Court  
of the State of Nevada, in and for the County of Douglas.

6 By [Signature] Deputy

**SEAL**

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