

WF

DOC # 0672523  
04/11/2006 11:38 AM Deputy: KLJ

**OFFICIAL RECORD**  
Requested By:  
D C/COMMUNITY DEVELOPMENT

Douglas County - NV  
Werner Christen - Recorder  
Page: 1 Of 19 Fee: 0.00  
BK-0406 PG- 3777 RPTT: 0.00



Assessor's Parcel Number: N/A

Date: APRIL 10, 2006

Recording Requested By:

✓ Name: LYNDA TEGLIA, COMMUNITY DEVELOPMENT

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Real Property Transfer Tax: \$ N/A

CONTRACT #2006.065  
(Title of Document)

# INTRASTATE INTERLOCAL CONTRACT BETWEEN PUBLIC AGENCIES

A Contract Between the State of Nevada  
Acting By and Through Its

Department of Conservation and Natural Resources, Division of Environmental Protection  
901 S. Stewart, Suite 4001, Carson City, Nevada 89701-5249  
Phone: (775) 687-4670 Fax: (775) 687-5856

and

Douglas County  
hereinafter the "Public Agency"  
P.O. Box 218, Minden, NV 89423  
Phone: (702) 782-6239

2006 APR 10 PM 12: 04

0606.0605

FILED

*Priscilla Reed*  
PRISCILLA REED  
CLERK

WHEREAS, NRS 277.180 authorizes any one or more public agencies to contract 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 contract is authorized by law to perform; and

WHEREAS, it is deemed that the services hereinafter set forth are both necessary and in the best interests of [the State of Nevada;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

- 1. REQUIRED APPROVAL.** This Contract shall not become effective until and unless approved by appropriate official action of the governing body of each party.
- 2. DEFINITIONS.** "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.
- 3. CONTRACT TERM.** This Contract shall be effective from Board of Examiner's approval to December 31, 2007, unless sooner terminated by either party as set forth in this Contract.
- 4. TERMINATION.** This Contract may be terminated by either party prior to the date set forth in paragraph (3), provided that a termination shall not be effective until thirty (30) days after a party has served written notice upon the other party. This Contract may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Contract shall be terminated immediately if for any reason State and/or federal funding ability to satisfy this Contract is withdrawn, limited, or impaired.
- 5. NOTICE.** All notices or other communications required or permitted to be given under this Contract 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 above.
- 6. INCORPORATED DOCUMENTS.** The parties agree that the services to be performed shall be specifically described; this Contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT A: SCOPE OF WORK (consisting of 6 pages)

ATTACHMENT B: ADDITIONAL AGENCY TERMS & CONDITIONS (consisting of 3 pages)

ATTACHMENT C: THIRD PARTY MATCH RECORD-KEEPING REQUIREMENTS

**7. CONSIDERATION.** Public Agency agrees to provide the services set forth in paragraph (6) at a cost of \$N/A per N/A with the total Contract or installments payable: quarterly not exceeding \$95,000.00. In addition, the State does not agree to reimburse contractor for expenses unless otherwise specified in the incorporated documents. Any intervening end to an annual or biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.



8. **ASSENT.** The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations expressly provided.

9. **INSPECTION & AUDIT.**

a. **Books and Records.** Each party agrees to keep and maintain under general accepted accounting principles full, true and complete records, agreements, books, and documents as are necessary to fully disclose to the other party, the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with any applicable regulations and statutes.

b. **Inspection & Audit.** Each party agrees that the relevant books, records (written, electronic, computer related or otherwise), including but not limited to relevant accounting procedures and practices of the party, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location where such records may be found, with or without notice by the other party, the State Auditor, Employment Security, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives.

c. **Period of Retention.** All books, records, reports, and statements relevant to this Contract must be retained by each party for a minimum of three years and for five years if any federal funds are used in this Contract. The retention period runs from the date of termination of this Contract. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

10. **BREACH; REMEDIES.** Failure of either party to perform any obligation of this Contract shall be deemed a breach. Except as otherwise provided for by law or this Contract, 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 attorneys' fees and costs.

11. **LIMITED LIABILITY.** The parties will not waive and intend to assert available NRS chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. To the extent applicable, actual contract damages for any breach shall be limited by NRS 353.260 and NRS 354.626.

12. **FORCE MAJEURE.** Neither party shall be deemed to be in violation of this Contract 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 limitation, 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 Contract after the intervening cause ceases.

13. **INDEMNIFICATION.** Neither party waives any right or defense to indemnification that may exist in law or equity.

14. **INDEPENDENT PUBLIC AGENCIES.** The parties are associated with each other only for the purposes and to the extent set forth in this Contract, and in respect to performance of services pursuant to this Contract, each party is and shall be a public agency separate and distinct from the other party and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract 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.

15. **WAIVER OF BREACH.** Failure to declare a breach or the actual waiver of any particular breach of the Contract 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

16. SEVERABILITY. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract 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 Contract unenforceable.

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

18. OWNERSHIP OF PROPRIETARY INFORMATION. Unless otherwise provided by law or this Contract, any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Contract shall be the joint property of both parties.

19. PUBLIC RECORDS. 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 made confidential by law or a common law balancing of interests.

20. CONFIDENTIALITY. 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 Contract.

21. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract and that the parties are authorized by law to perform the services set forth in paragraph (6).

22. GOVERNING LAW; JURISDICTION. This Contract 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 Contract.

23. ENTIRE AGREEMENT AND MODIFICATION. This Contract and its integrated attachment(s) constitute the entire agreement of the parties and such are 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 Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto, approved by the State of Nevada Office of the Attorney General.



IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

DIVISION

By: FMA For  
Signature

Name: Leo Drozdoff

Title: Administrator Date: 1/9/06

PUBLIC AGENCY

By: Carl Roschmeyer  
Signature

Name: Carl Roschmeyer

Title: County Engineer Date: 1-6-06

BUREAU

By: Linda Mulkey  
Signature

Name: Linda Mulkey

Title: Contract Manager Date: 1/10/06

APPROVED AS TO FORM ONLY:

Janet Hess  
Deputy Attorney General for Attorney General  
Date: January 10, 2006

APPROVED BY BOARD OF EXAMINERS

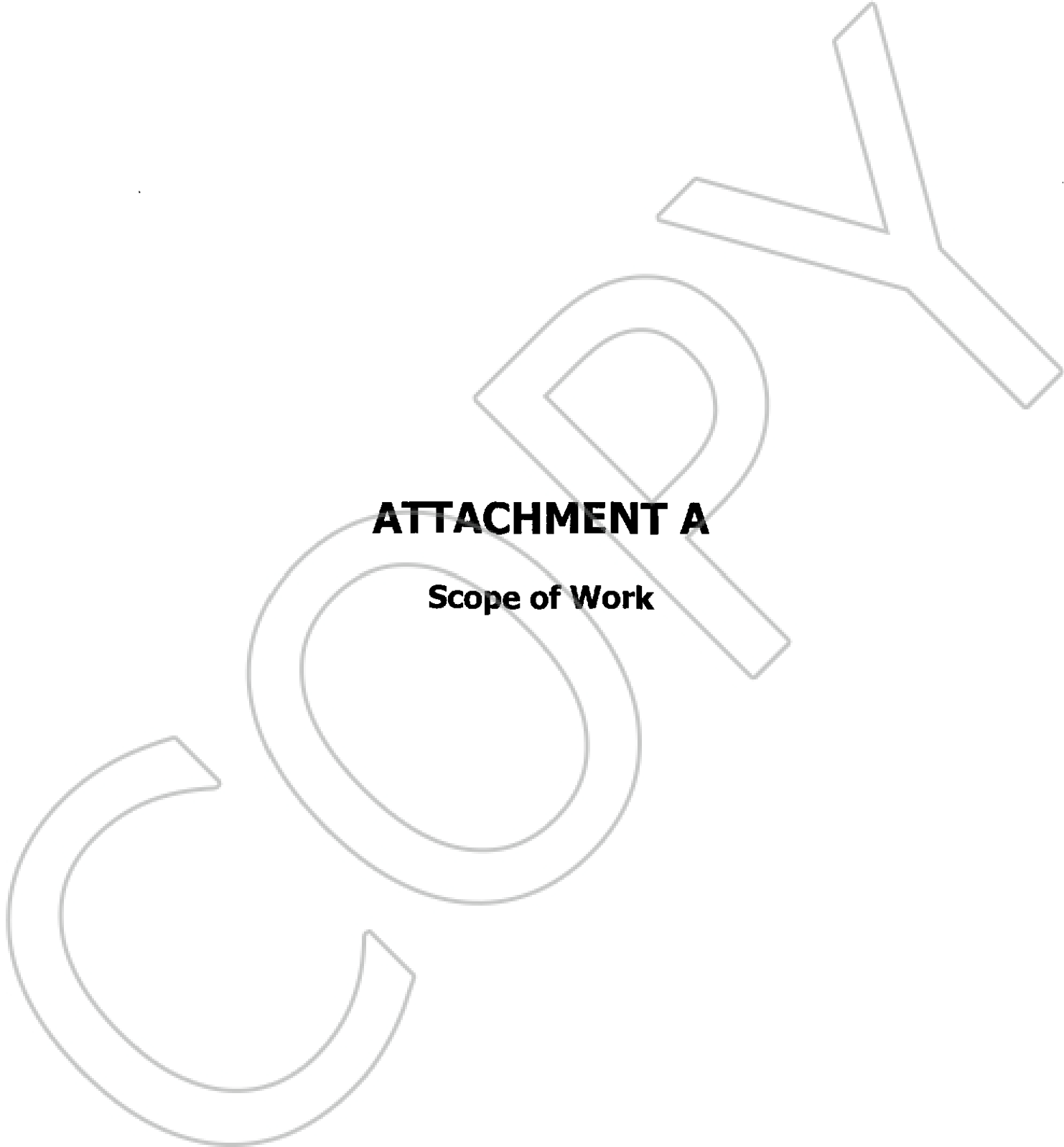
[Signature]  
2-14-06  
Signature - Board of Examiners  
Date: \_\_\_\_\_

Contract Control Number: 06-049  
Grant Number: C9-97908105-0 Division Number: 37 Grant Expiration Date: 09/30/09

CFDA Number: 66.460



BK- 0406  
PG- 3781  
0672523 Page: 5 Of 19 04/11/2006



**ATTACHMENT A**

**Scope of Work**





**A. COVER PAGE**

**Project Title:** Lincoln Park Water Quality Improvement Project/EIP # 677

**Lead Agency:** Douglas County  
P.O. Box 218  
Minden, NV 89423  
(775) 782-6239

**Primary Contact:** Ron Roman, Associate Engineer  
Contact Info Above

**Consultant Contact Information:** Carter Burgess, 1027 South Carson Street, Carson City, NV 89701  
Steve Oxoby, Project Manager (Design), (775) 841-9600

**Project Location:** Lincoln Park Subdivision  
West side of Highway 50 just south of Cave Rock

**Project Summary:**

The purpose of this project is to mitigate the transport of sediment and to improve the quality of storm water reaching Lake Tahoe that originates in the Lincoln Park Subdivision. The project focuses on collecting runoff, conveying it to one location where it can be treated to remove sediment, and then discharging the treated runoff into a vegetated bioswale for further treatment before entering Lake Tahoe.

**Start and Completion Dates:**

The project design is complete and the Tahoe Regional Planning Agency (TRPA) permit has been issued. Construction is scheduled to begin in June 2006 and the project is anticipated to be complete by TRPA's October 15 grading deadline.

**Fiscal Summary:**

Total Estimated Project Cost:	\$ 806,286
NDEP 319 Funds:	\$ 95,000
Non-federal match:	\$ 300,000

(The non-federal match is provided by Tahoe Bond Act funds administered through the Nevada Division of State Lands)



BK- 0406  
PG- 3783  
0672523 Page: 7 Of 19 04/11/2006

**B. PROJECT PARTNERS**

Vanessa Gallo  
Nevada Division of State Lands  
333 South Carson Meadow Drive, Suite 44  
Carson City, NV 89701  
(775) 687-2736  
[vgallo@lands.nv.gov](mailto:vgallo@lands.nv.gov)

Amy Roberts, Acting District Manager  
Nevada-Tahoe Conservation District  
P.O. Box 4605  
Stateline, NV 89449  
(775) 586-1610 ext 25  
(775) 338-5975 (cell)  
[aroberts@ntcd.org](mailto:aroberts@ntcd.org)

Jerry Harper  
United States Forest Service-Lake Tahoe Basin Management Unit  
35 College Drive  
South Lake Tahoe, CA 96150  
(530) 543-2738  
[jbharper@fs.fed.us](mailto:jbharper@fs.fed.us)

Heather Gustafson  
Tahoe Regional Planning Agency  
P.O. Box 5310  
Stateline, NV 89449  
(775) 588-4547  
[hgustafson@trpa.org](mailto:hgustafson@trpa.org)



0672523 Page: 8 Of 19 04/11/2006

BK- 0406  
PG- 3784



## C. SCOPE OF WORK

### 1. Background

Due to its amazing clarity, Lake Tahoe has been designated as Outstanding National Resource Water by the United States Environmental Protection Agency. This designation affords the highest level of protection, strictly forbidding degradation of water quality. However, since 1968, there has been a decline of Lake Tahoe's clarity at an alarming rate of nearly one foot per year. Research and monitoring suggests that this clarity loss is due to the urbanization that has occurred within the watershed. Alteration of the natural watershed hydrology has increased fine sediment and nutrient loadings to the lake. Urbanization has altered the hydrologic cycle by decreasing the rainfall abstraction, increasing runoff and diminishing the natural pollutant assimilation capacity of the system. Impervious surfaces such as roads, parking lots and buildings act as a surface upon which sediments and nutrients accumulate; act to increase the efficiency of delivery of these pollutants to the Lake via stormwater runoff; and through increased runoff velocities, cause accelerated erosion.

The Environmental Improvement Program (EIP) was envisioned during the 1997 Presidential Summit at Lake Tahoe. President Clinton and others convened in Lake Tahoe to focus efforts on protecting the lake for future generations. The resulting program encompasses more than 700 capital improvement, research, program support, and operation and maintenance projects in the Tahoe Basin, all designed to help restore Lake Tahoe's clarity and environment. EIP projects are designed to achieve and maintain environmental thresholds that protect Tahoe's unique and valued resources. Water quality is one of the resource areas contained in the EIP. Water Quality Improvement Projects (WQIPs) are capital improvement projects contained within the EIP that are carried out to mitigate and control pollutants that affect water quality in the Lake Tahoe Basin.

Lincoln Park is a private single-family residential development of approximately several dozen homes located in the Cave Rock intervening zone and the Lincoln Creek subwatershed. Runoff from impervious surfaces within this subdivision is currently untreated and remains a concern as the subdivision is directly adjacent to Lake Tahoe. The Lincoln Park Water Quality Improvement Project is listed as EIP project number 677. This capital improvement project will help to mitigate the transport of sediment and to improve the quality of storm water that originates from the Lincoln Park Subdivision. The design has been completed, however construction of the project was delayed when all bids received were much higher than the cost estimate provided by the design consultant. To cover the increased costs, Douglas County applied for additional funding through the Nevada Division of State Lands and the State of Nevada Nonpoint Source Pollution Management Program.

### 2. Project Goal

The goal of this project is to improve the quality of storm water entering Lake Tahoe from the Lincoln Park Subdivision.

### 3. Project Description

This water quality project proposes improvements that will reduce the amount of sediment and nutrients entering Lake Tahoe primarily through source control and then runoff

collection, conveyance and treatment. Source control will be accomplished through re-grading and revegetation of cut slopes where feasible. Where such methods are impractical or cost-prohibitive, rock slope protection will be utilized. Structural controls such as parking barriers and curb and gutter will be installed to minimize roadside ditch and slope toe erosion. Runoff will be conveyed to a stormwater treatment facility, where it will be treated and then discharged to a vegetated bioswale prior to discharge to Lake Tahoe.

#### 4. Tasks and Deliverables

##### Task 1. Project Management and Administration

- 1.1 **Project Oversight:** Provide all technical and administrative services as needed for contract completion; monitor, supervise and review work performed; and coordinate budgeting and scheduling to assure that the contract is completed within budget, on schedule, and in accordance with approved contract documents, applicable laws, and regulations. Douglas County (Contractor) shall promptly notify the NDEP Contract Coordinator of events or proposed changes that could affect the scope, budget or schedule of work performed under this agreement.
- 1.2 **Progress Reporting:** Contractor shall ensure that the contract requirements are met through regular communication with NDEP Contract Coordinator and through submittals of progress reports. Progress reporting will occur on a bi-monthly basis and will be timed to coincide with reporting requirements of the Nevada Division State Lands, the primary funding partner for this project. Progress reports shall describe activities undertaken, accomplishments of tasks, milestones achieved, and problems encountered in the performance of the work under this contract. The description of activities and accomplishments of each task during the quarter shall be of sufficient detail to provide a basis for payment of invoices. *If quarterly reports are not satisfactory to meet these requirements, additional information as requested by NDEP will be provided before payment of the invoice for that quarter.*
- 1.3 **Invoicing:** Contractor shall submit invoices to the NDEP Contract Coordinator on a monthly or less frequent basis. Appropriate back-up documentation of expenses (including match moneys) shall be provided. Documentation must be of sufficient detail to provide a basis for payment and ensure NDEP accountability to the U.S. Environmental Protection Agency.

##### Deliverables:

- ◆ Quarterly progress reports
- ◆ Quarterly invoices

##### Task 2. Project Construction

The 100% design plans and design report have been produced and are contained within the NDEP contract file. Contractor plans to proceed with advertisement for bids and construction based on the following schedule:

Task	Timeline
Advertise for Bids	February to April 2006
Open Bids	April 2006
Award Construction Contract	May 2006
Construction	June - September 2006

The terms of this contract will support construction of the project. The project proponent's consulting firm will be responsible for administration/oversight of construction and will conduct regular monitoring to ensure the project is implemented according to design. Minor changes or modifications to the original design will be recorded and noted on the record drawings (as-built plans), which will be submitted upon completion of construction.

**Deliverables:**

- ◆ 100% design plans & design report
- ◆ Record drawings

**Task 3. Inspection and Maintenance (I & M)**

Regular inspection and maintenance (I & M) of best management practices implemented for this project are critical to ensure improvements in water quality are realized and sustained. To ensure the project goals continue to be met for *at least 20 years*, Contractor shall implement an inspection and maintenance program according to the recommendations outlined in the 100% Design Report (Carter Burgess 2005). Contractor shall log maintenance activities and will prepare an annual summary report detailing I & M activities and respective dates.

**Deliverables:**

- ◆ Annual inspection reports and maintenance activity logs shall be provided to NDEP upon request.

**D. ACKNOWLEDGMENTS**

When issuing statements, press releases, printed materials or other items describing any aspect of activities funded in whole or in part with funds provided under this contract, Douglas County will ensure that the Nevada Division of Environmental Protection and the U.S. Environmental Protection Agency are acknowledged.

**E. REFERENCE**

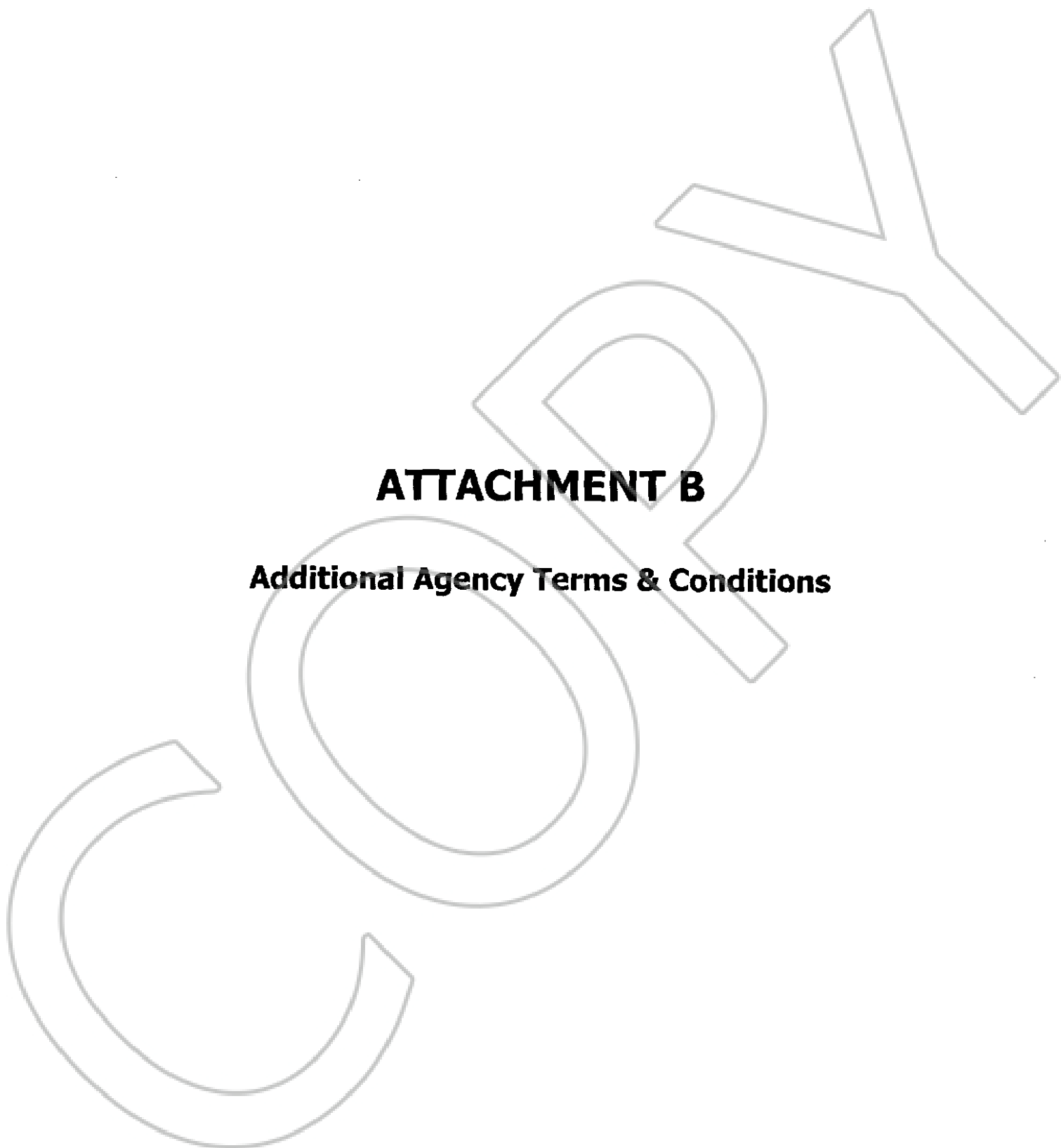
"Lincoln Park Water Quality Improvement Project, 100% Design Report," April 18, 2005, by Carter Burgess, 1027 South Carson Street, Carson City, NV 89701.

BK- 0406  
 PG- 3787  
 Page: 11 Of 19  
 04/11/2006  
 0672523

**F. BUDGET**

Category	Rate	Cost	Funding Source		
			NDEP §319 (reimbursable)	NDSL <sup>1</sup> (match)	USFS
Construction	Actual Cost	\$550,000	\$95,000	\$394,825	\$60,175
Contingency	20% of Construction	\$110,000		\$110,000	
Engineering	Actual Cost	\$103,600		\$77,700	\$25,900
NEPA	Actual Cost	\$13,500			\$13,500
Plan Review/ Permit Fees	Actual Cost	\$5,702		\$4,277	\$1,425
<b>Subtotal</b>		\$782,802	\$95,000	\$586,802	\$101,000
Administration Fee	3% of Subtotal	\$23,484		\$23,484	
<b>TOTALS</b>		\$806,286	\$95,000	\$610,286	\$101,000

(1) The required contract match amount is \$300,000. The balance of the funds provided by the Nevada Division of State Lands (NDSL) is being used to match the U.S. Forest Service (USFS) funds.



**ATTACHMENT B**

**Additional Agency Terms & Conditions**



**ATTACHMENT B: ADDITIONAL AGENCY TERMS & CONDITIONS  
TO CONTRACT FOR SERVICES OF PUBLIC AGENCY  
DOUGLAS COUNTY, CONTRACT CONTROL # 06-049**

1. For contracts utilizing federal funds, the Nevada Division of Environmental Protection (NDEP) shall pay no more compensation per individual (including any subcontractors) than the federal Executive Service Level 4 (U.S. Code) daily rate (exclusive of fringe benefits): currently \$67.22 per hour. This limitation does not apply to contracts with firms for services.

2. ***NDEP shall only reimburse the Public Agency for actual cash disbursed.*** Original invoices (facsimiles are not acceptable) must be received by NDEP no later than forty (40) calendar days after the end of a month or quarter except at the end of the fiscal year of the State of Nevada (June 30th), at the expiration date of the grant, or the effective date of the revocation of the contract, at which times original invoices must be received by NDEP no later than thirty-five (35) calendar days after this date. Failure of the Public Agency to submit billings according to the prescribed timeframes authorizes NDEP, in its sole discretion, to collect or withhold a penalty of ten percent (10%) of the amount being requested for each week or portion of a week that the billing is late. The Public Agency shall provide with each invoice a detailed fiscal summary that includes the approved contract budget, expenditures for the current period, cumulative expenditures to date, and balance remaining for each budget category. If match is required pursuant to paragraph 3 below, a similar fiscal summary of match expenditures must accompany each invoice. The Public Agency shall obtain prior approval to transfer funds between budget categories if the funds to be transferred are greater than ten percent (10%) cumulative of the total Contract amount.

3. The Public Agency shall, as part of its approved scope of work and budget under this Contract, provide third party match funds of not less than: \$300,000.00. If match funds are required, the Public Agency shall comply with additional record-keeping requirements as specified in 40 CFR 31.24 and Attachment C (Third Party Match Record-Keeping Requirements) which is attached hereto and by this reference is incorporated herein and made part of this Contract.

4. Unless otherwise provided in Attachment A (Scope of Work), the Public Agency shall submit quarterly reports or other deliverables within ten (10) calendar days after the end of each quarter.

5. All payments under this Contract are contingent upon the receipt by NDEP of sufficient funds, necessary to carry out the purposes of this Contract, from either the Nevada Legislature or an agency of the United States. NDEP shall determine if it has received the specific funding necessary for this Contract. If funds are not received from either source for the specific purposes of this Contract, NDEP is under no obligation to supply funding for this Contract. The receipt of sufficient funds as determined by NDEP is a condition precedent to NDEP's obligation to make payments under this Contract. Nothing in this Contract shall be construed to provide the Public Agency with a right of payment over any other entity. If any payments that are otherwise due to the Public Agency under this Contract are deferred because of the unavailability of sufficient funds, such payments will promptly be made to the Public Agency if sufficient funds later become available.

6. Notwithstanding the terms of paragraph 5, at the sole discretion of NDEP, payments will not be made by NDEP unless all required reports or deliverables have been submitted to and approved by NDEP within the schedule stated in Attachment A.

7. Any funds obligated by NDEP under this Contract that are not expended by the Public Agency shall automatically revert back to NDEP upon the completion, termination or cancellation of this Contract. NDEP shall not have any obligation to re-award or to provide, in any manner, such unexpended funds to the Public Agency. The Public Agency shall have no claim of any sort to such unexpended funds.



8. The Public Agency, to the fullest extent possible, shall make available a minimum of **21.79%** (consisting of **6.28%** Minority Business Enterprise (MBE) and **15.51%** Woman Business Enterprise (WBE)) of federal funds for prime contracts or subcontracts for supplies, construction, equipment or services to organizations owned or controlled by socially or economically disadvantaged individuals, women, and historically black college and universities. The Public Agency agrees and is required to utilize the following six affirmative steps:

- a. Include qualified Small Business Enterprises (SBEs) Minority Business Enterprises (MBEs), and Women Business Enterprises (WBEs) on solicitation lists;
- b. Assure that SBEs, MBEs, and WBEs are solicited whenever they are potential sources;
- c. Divide total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of SBEs, MBEs, and WBEs;
- d. Establish delivery schedules, where the requirements of the work permit, which will encourage participation by SBEs, MBEs, and WBEs;
- e. Use the services and assistance of the Small Business Administration and the Minority Business Development Agency, U.S. Department of Commerce as appropriate; and
- f. If a subcontractor awards contracts/procurements, require the subcontractor to take the affirmative steps in subparagraphs a. through e. of this condition.

9. The Public Agency shall complete and submit to NDEP a Minority Business Enterprise/Woman Business Enterprise (MBE/WBE) Utilization Report (Standard Form 334) within fifteen (15) calendar days after the end of each federal fiscal year (September 30th) for each year this Contract is in effect and within fifteen (15) calendar days after the termination date of this Contract. The Public Agency will disregard the reference to \$10,000.00 in paragraph (D) of the Instructions for Standard Form 334 (see footnote at the bottom of page one of the Instructions).

10. All books, reports, studies, photographs, negatives, annual reports or other documents, data, materials or drawings prepared by or supplied to the Public Agency in the performance of its obligations under this Contract shall be the exclusive property of NDEP. Such items must be retained by the Public Agency for a minimum of three (3) years and for five (5) years if any federal funds are used in this Contract. The retention period runs from the date of termination of this Contract. If requested by NDEP at any time within the retention period, any such materials shall be remitted and delivered by the Public Agency, at the Public Agency's expense, to NDEP. The Public Agency shall not use, willingly allow or cause to have such materials used for any purpose other than the performance of the Public Agency's obligations under this Contract without the prior written consent of NDEP. If the Public Agency wishes to use any of these materials for purposes other than the performance of the Public Agency's obligations under this Contract, the Public Agency must make a written request to NDEP. NDEP shall review the request and respond in writing to the Public Agency, with either approval or denial of the request within sixty (60) days.

11. Unless otherwise provided in Attachment A, when issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with funds provided under this Contract, the Public Agency shall clearly state that funding for the project or program was provided through a contract with the Nevada Division of Environmental Protection. The Public Agency will insure that NDEP is given credit in all official publications relative to this specific project and that the content of such publications will be coordinated with NDEP prior to being published.

12. Unless otherwise provided in Attachment A, all property purchased with funds provided pursuant to this Contract is the property of NDEP and shall, if NDEP elects within four (4) years after the completion, termination or cancellation of this Contract or after the conclusion of the use of the property for the purposes of this Contract during its term, be returned to NDEP at the Public



Agency's expense. Such property includes but is not limited to vehicles, computers, software, modems, calculators, radios, and analytical and safety equipment. The Public Agency shall use all purchased property in accordance with local, state and federal law, and shall use the property only for Contract purposes unless otherwise agreed to in writing by NDEP. For any unauthorized use of such property by the Public Agency, NDEP may elect to terminate the Contract and to have the property immediately returned to NDEP by the Public Agency at the Public Agency's expense. To the extent authorized by law, the Public Agency shall indemnify and save and hold the State of Nevada and NDEP harmless from any and all claims, causes of action or liability arising from any use or custody of the property by the Public Agency or the Public Agency's agents or employees or any subcontractor or their agents or employees.

13. The Public Agency shall use recycled paper for all reports that are prepared as part of this Contract and delivered to NDEP. This requirement does not apply to standard forms.

14. The Public Agency, to the extent provided by Nevada law, shall indemnify and save and hold the State of Nevada, its agents and employees harmless from any and all claims, causes of action or liability arising from the performance of this Contract by the Public Agency or the Public Agency's agents or employees or any subcontractor or their agents or employees. NDEP, to the extent provided by Nevada law, shall indemnify and save and hold the Public Agency, its agents and employees harmless from any and all claims, causes of action or liability arising from the performance of this Contract by NDEP or NDEP's agents or employees.

15. The Public Agency and its subcontractors shall obtain any necessary permission needed, before entering private or public property, to conduct activities related to the work plan (Attachment A). The property owner will be informed of the program, the type of data to be gathered, and the reason for the requested access to the property.

16. This Contract shall be construed and interpreted according to the laws of the State of Nevada and conditions established in OMB Circular A-102. Nothing in this Contract shall be construed as a waiver of sovereign immunity by the State of Nevada. Any action brought to enforce this contract shall be brought in the First Judicial District Court of the State of Nevada. The Public Agency and any of its subcontractors shall comply with all applicable local, state and federal laws in carrying out the obligations of this Contract, including all federal and state accounting procedures and requirements established in OMB Circular A-87 and A-133. The Public Agency and any of its subcontractors shall also comply with the following:

- a. 40 CFR Part 7 - Nondiscrimination In Programs Receiving Federal Assistance From EPA
- b. 40 CFR Part 29 - Intergovernmental Review Of EPA Programs And Activities.
- c. 40 CFR Part 31 - Uniform Administrative Requirements For Grants And Cooperative Agreements To State and Local Governments;
- d. 40 CFR Part 32 - Governmentwide Debarment And Suspension (Nonprocurement) And Governmentwide Requirements For Drug-Free Workplace (Grants);
- e. 40 CFR Part 34 - Lobbying Activities;
- f. 40 CFR Part 35, Subpart O - Cooperative Agreements And Superfund State Contracts For Superfund Response Actions (Superfund Only); and
- g. The Hotel And Motel Fire Safety Act of 1990.

17. The Public Agency shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written consent of NDEP.



# **ATTACHMENT C**

## **Third Party Match Record Keeping Requirements**

COPY



**ATTACHMENT C**

To the contract between  
the Division of Environmental Protection  
and  
Southern Nevada Water Authority – DEP # 06-025

**THIRD PARTY MATCH RECORD-KEEPING REQUIREMENTS**

- A. If not included in the budget submitted in Attachment A of the contract, the Public Agency or Independent Contractor shall provide to the Nevada Division of Environmental Protection (NDEP) a detailed match budget clearly distinguishing between cash and non-cash (in-kind) contributions, prior to submittal of the first invoice.
- B. With each invoice, the Public Agency or Independent Contractor shall submit a detailed match schedule that includes: (1) the total match budget; (2) match expenditures for the current period; (3) cumulative match expenditures; and (4) balance remaining. Cash and in-kind expenditures must be identified separately
- C. The Public Agency or Independent Contractor shall establish a file dedicated to this contract that includes the following:
1. For any declared in-kind contributions:
    - (a) An itemized listing of each employee's hourly rate, including the justification for the rate such as the current "Prevailing Wage Rates for Nevada Counties", NRCS cost-share rates, etc. .
    - (b) A Fringe Benefit detail and explanation.
    - (c) A copy of an approved *Overhead/Indirect Cost Allocation Plan*.
    - (d) An itemization of per diem rates, equipment rental/usage rates, etc.
    - (e) Copies (or originals) of timesheets, with employee's and supervisor's signature, noting dates, hours, and projects worked.
    - (f) Copies (or originals) of logs/schedules for equipment usage.
    - (g) Signed statements noting fair market value for in-kind donations of materials or supplies.
  2. For any declared cash contributions,
    - (a) An itemization of each employee's hourly rate including fringe benefits, overhead, and indirect cost.
    - (b) An itemization of per diem rates, equipment rental/usage rates, etc.
    - (c) Copies (or originals) of timesheets, with employee's and supervisor's signature, noting dates, hours, and projects worked.
    - (d) Copies (or originals) of logs/schedules for equipment usage.
    - (e) Copies (or originals) of invoices for materials, supplies, equipment, etc.
- D. The Contractor agree and acknowledge that:
1. Neither the costs nor the values of third party match contributions being used to satisfy the match requirements of the attached contract have been or will be used to satisfy a cost share or match requirement of another federal grant agreement, federal procurement contract, or any other award of federal funds.
  2. Third-party match contributions or expenditures must be made within the effective dates of:  
February 14, 2006 through December 31, 2007
  3. All financial records, including match documentation, relevant to this project shall be retained by the Public Agency or Independent Contractor until March 31, 2011. The Public Agency or Independent Contractor must obtain authorization from NDEP prior to disposal of any records.
  4. Reported match contributions deemed inappropriate or unreasonable during the invoice review process may be disallowed.
  5. NDEP may, at any time, audit the Public Agency or Independent Contractor contract files to ensure compliance with the Third Party Match Record-Keeping Requirements. Reported match contributions deemed inappropriate or unreasonable during an audit may be disallowed.
  6. NDEP may require the Public Agency or Independent Contractor to repay any funds provided to the Public Agency or Independent Contractor under the attached contract that the Public Agency or Independent Contractor is unable to match or provide adequate documentation for the reported match.

COPY

**SEAL**

**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: April 10, 2006  
B. Reed Clerk of the 5th Judicial District Court  
of the State of Nevada, in and for the County of Douglas.  
By Paul W. Mullock Deputy



BK- 0406  
PG- 3795