

Assessor's Parcel Number: N/A

Date: SEPTEMBER 22, 2010

Recording Requested By:

Douglas County - NV
Karen Ellison - Recorder
Page: 1 of 9 Fee: 0.00
BK-0910 PG- 4708 RPTT: 0.00



Name: LISA GRANAHAN, COUNTY MANAGER'S OFFICE

Address: _____

City/State/Zip: _____

Real Property Transfer Tax: \$ N/A

INTERLOCAL CONTRACT #2010.228

(Title of Document)



FILED

2010-228

2010 SEP 22 PM 2: 22

TED THUAN
CLERK

INTERLOCAL CONTRACT

This Interlocal Contract (Contract) is made this 2nd day of September, 2010 by and between the Douglas County Redevelopment Agency (Agency), and Town of Genoa (Town), both political subdivisions of the State of Nevada.

RECITALS

WHEREAS, NRS 277.100(1) defines a public agency eligible to enter into an interlocal contract, and the Agency and Town are public agencies; and

WHEREAS, NRS 277.180(1) provides that any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which any of the contracting agencies is authorized by law to perform; and

WHEREAS, the Agency and Town are authorized by the laws of the State of Nevada to construct, improve, maintain, provide capital improvements including drainage facilities, and

WHEREAS, the Town desires to construct Phase II of the Carson Street Drainage Project which will reduce runoff, decrease erosion, and provide a controlled flow of storm water across Foothill Road; and

WHEREAS, the Town has applied and received approval for \$45,000 in grant funds from the Nevada Department of Transportation (NDOT) for the project; and

WHEREAS, the Town has entered into a Cooperative Agreement (Attachment A) with NDOT for the funding of these improvements; and

WHEREAS, the total project cost is estimated to be \$119,813 of which the Town is contributing \$49,813 or the balance if the project exceeds the estimate; and

WHEREAS, the Agency desires to assist by providing Twenty-Five Thousand Dollars (\$25,000) toward the funding of this project.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

1. The term of this agreement shall commence upon approval of this agreement by all parties on the date provided below.

2. The parties agree that the construction of the improvements provided for in the Cooperative Agreement between the Town and NDOT provide a benefit to the Town and Agency by improving drainage facilities.

3. The Agency agrees to transfer to the Town the amount of Twenty Five Thousand Dollars (\$25,000) for work provided for once the Cooperative Agreement between the Town and NDOT has been fully executed by both parties and upon written request of the Town.

4. The Town agrees to reimburse the Agency for any portion of the funds not used in Phase II of the Carson Street Drainage project by June 30, 2011.

5. Each respective party agrees to indemnify and hold harmless the other party, to the extent provided by law, including, but not limited to, NRS. ch. 41, from and against any liability arising out of the performance of the Contract proximately caused by any act or omission of its own officers, agents, and employees.

6. The laws of the State of Nevada shall be applied in interpreting and construing this Contract.

7. The illegality or invalidity of any provision or portion of this Contract shall not affect the validity of the remainder of the Contract.

8. This Contract constitutes the full and final Contract between the parties and shall not be modified except in writing and signed by each party.

9. All written notices under this Contract shall be delivered to the following officials at the addresses stated:

Executive Director
Douglas County Redevelopment Agency
Post Office Box 218
Minden, Nevada 89423

Town Manager
Town of Genoa
Post Office Box 218
Minden, Nevada 89423

10. This Contract may not be assigned except by an agreement in writing signed by all parties and shall be binding upon and inure to the benefit of the parties' respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed as of the day and year first above written.

DOUGLAS COUNTY
REDEVELOPMENT AGENCY

TOWN OF GENOA

By: Michael A. Olson
Michael A. Olson, Chairman

By: Bryan K. Wilkins

ATTEST:

By: [Signature]
County Clerk

BY: Lorraine Sudick
CLERK TO THE BOARD

Agreement Number PR233-10-804

COOPERATIVE AGREEMENT

This Agreement is made and entered into this 23rd day of August, 2010, by and between the STATE OF NEVADA, acting by and through its Department of Transportation, hereinafter called the DEPARTMENT, and the Town Of Genoa, an unincorporated town, hereinafter called the TOWN.

WITNESSETH:

WHEREAS, a Cooperative Agreement is defined as an agreement between two or more public agencies for the "joint exercise of powers, privileges and authority;" 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 277.110 authorizes any two or more public agencies to enter into agreements for joint or cooperative action; and

WHEREAS, the parties to this Agreement are public agencies and authorized to enter into agreement in accordance with NRS 277.080 to 277.110; and

WHEREAS, the purpose of this Agreement is to construct drainage improvements, which include connecting to the existing improvements on the west side of Foothill Road and extending new 24" piping and appurtenances that will tie into the existing crossing at Genoa Creek and Candy Dance Lane near State Route 206 in Genoa, Douglas County, Nevada, hereinafter called the PROJECT; and

WHEREAS, the services to be provided by the TOWN will be of benefit to the DEPARTMENT, the TOWN, and to the people of the State of Nevada; and

WHEREAS, the PROJECT has been approved for State Gas Tax funds; and

WHEREAS, the parties hereto are willing and able to perform the services described herein;

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

ARTICLE I - TOWN AGREES

1. To implement the improvements set forth within the TOWN's grant application, attached hereto and incorporated herein as Attachment "A", improvements will tie into the existing crossing at Genoa Creek and Candy Dance Lane near State Route 206 in Genoa, Douglas County, Nevada

2. To apply for an encroachment permit, at no cost to the TOWN, through the DEPARTMENT's District II Permit Office, for all encroachments within the DEPARTMENT's right-of-way related to the PROJECT.

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3. To fund the portion of the PROJECT, that exceeds the DEPARTMENT'S contribution of Forty Five Thousand and No/100 Dollars (\$45,000.00), (Article II, Section 1), estimated to be Seventy Four Thousand Eight Hundred Thirteen and No/100 Dollars (\$74,813.00).

4. To bill the DEPARTMENT upon completion of the PROJECT for actual PROJECT costs not to exceed Forty Five Thousand and No/100 Dollars (\$45,000.00). The DEPARTMENT will deduct any preliminary engineering and construction engineering costs incurred by the DEPARTMENT for the PROJECT to determine reimbursable PROJECT costs. The TOWN will provide the DEPARTMENT with supporting documentation to be audited in order to document that work performed conforms to DEPARTMENT and Federal Highway Administration guidelines.

ARTICLE II - DEPARTMENT AGREES

1. To fund the PROJECT with State Gas Tax funds, estimated to be and not to exceed Forty Five Thousand and No/100 Dollars (\$45,000.00).

2. To review the PROJECT plans, provide comment, and following the DEPARTMENT's determination that the plans are acceptable and compliant with accepted standards, to provide an encroachment permit, at no cost to the TOWN, for PROJECT related activities encroaching within the DEPARTMENT's right-of-way.

ARTICLE III - IT IS MUTUALLY AGREED

1. The term of this Agreement shall be from the date first written until construction of all PROJECT related improvements contemplated herein have been completed and accepted by the DEPARTMENT, or until June 30, 2011, whichever occurs first.

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. The parties expressly agree that this Agreement shall be terminated immediately if for any reason Federal and/or State Legislature funding ability to satisfy this Agreement is withdrawn, limited, or impaired.

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 or electronic mail 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: Susan Martinovich, P.E., Director
Attn.: Sandi Stanio, Manager Local Government Programs
Nevada Department of Transportation
Planning Division
1263 South Stewart Street
Carson City, NV 89712
Phone: (775) 888-7122
Fax: (775) 888-7105
E-mail: sstanio@dot.state.nv.us

FOR TOWN: Sheryl Gonzales, Town Manager
Town of Genoa
2289 Main Street
P.O. Box 14
Genoa, Nevada 89411
Phone: (775) 782-8696
Fax: (775) 782-2779
E-Mail: sgonzales@co.douglas.nv.us

4. Should this Agreement be terminated by the TOWN prior to completion of the PROJECT, the TOWN will reimburse the DEPARTMENT for all PROJECT costs incurred up to the point of Agreement termination, and all costs incurred by the DEPARTMENT because of the Agreement termination.

5. 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.

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, caused by the negligence, errors, omissions, recklessness or intentional misconduct of its own 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 the performance of the duty of the party seeking indemnification (indemnified party), to serve the other party (indemnifying party) with written notice of actual or pending claim, within thirty (30) days of the indemnified party's notice of actual or pending claim or cause of action. The indemnifying party shall not be liable for reimbursement of any attorney's fees and costs incurred by the indemnified party due to said party exercising its right to participate with legal counsel.

7. The parties do 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 DEPARTMENT 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. An alteration ordered by the DEPARTMENT which substantially changes the services provided for by the expressed intent of this Agreement will be considered extra work, and shall be specified in an Amendment which will set forth the nature and scope thereof. The method of payment for extra work shall be specified at the time the amendment is written.

10. 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 exclusive jurisdiction of the Nevada state district courts for enforcement of this Agreement.

11. 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. The unenforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.

12. Except as otherwise expressly provided within this Agreement, all or any property presently owned by either party shall remain in such ownership upon termination of this Agreement, and there shall be no transfer of property between the parties during the course of this Agreement.

13. 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.

14. 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 is maintained. Such records and documentation shall be maintained for three (3) years after final payment is made.

15. 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.

16. In connection with the performance of work under this Agreement, the parties agree not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation or age, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including, without limitation, apprenticeship. The parties further agree to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

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. 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 engage in the cooperative action set forth herein.

19. 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.

20. 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 to be kept confidential by this Agreement.

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

22. 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.

TOWN OF GENOA

State of Nevada, acting by and through its DEPARTMENT OF TRANSPORTATION

Brian K. Williams

R. Scott Rawlin
Director
for

BRIAN K. WILLIAMS

Name (Print)
CHAIRMAN,
GENOA TOWN ADVISORY BOARD
Title (Print)

Recommended:
Dennis Taylor
Dennis Taylor, Planning Chief

Approved as to Form:
SA P. W.
Attorney

Approved as to Legality & Form:
[Signature]
Deputy Attorney General

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: Sept 22 2010
[Signature] Clerk of the 9th Judicial District Court
of the State of Nevada, in and for the County of Douglas.
By [Signature] Deputy