

Recorder's Office Cover Sheet

Recording Requested By:

Name Marcia Johnson

Department: County Manager



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SHAWNYNE GARREN, RECORDER

Type of Document: (please select one)

- Agreement
- Contract
- Grant
- Change Order
- Easement
- Other

specify: _____

FILED

NO. 2023, 040

3/20/2023
DATE

INTERLOCAL CONTRACT BETWEEN PUBLIC AGENCIES DOUGLAS COUNTY CLERK
MINDEN, NV

A Contract Between

BY ed DEPUTY

Douglas County, Nevada
Acting as the Tahoe Douglas Transportation District
(collectively "Douglas County")
1594 Esmeralda Avenue
Minden, NV 89423

and

Tahoe Douglas Visitor's Authority ("TDVA")
169 Highway 50
Stateline, NV 89449

RECITALS AND DEFINITIONS

WHEREAS, Douglas County is a political subdivision of the State of Nevada; and

WHEREAS, Douglas County previously established the Tahoe Douglas Transportation District by enactment of Douglas County Code Section Chapter 18.14 *et seq.* pursuant to Nevada Revised Statutes (NRS) 244A.252 to 244A.256, inclusive, and the Douglas County Board of Commissioners is *ex officio* the governing body of the Tahoe Douglas Transportation District; and

WHEREAS, TDVA is a governmental agency within the State of Nevada established by the Tahoe Douglas Visitor's Authority Act, Chapter 496, Statutes of Nevada 1997 (the "Act"); and

WHEREAS, pursuant to the Act, TDVA is authorized to develop, construct, and operate a multiuse event center to be located within the Tahoe Township of Douglas County (the "Event Center"), and to contract for services in connection with the Event Center, as further detailed in the Act; and

WHEREAS, Douglas County and TDVA previously entered into a Tax Increment Pledge Agreement recorded with the Douglas County Recorder as Document No. 2020-945152 whereby Douglas County agreed to remit a portion of Redevelopment Area Tax Increment revenues to TDVA to partially fund the construction of the Event Center as further detailed in the Tax Increment Pledge Agreement; and

WHEREAS, as part of the approval of the Event Center project, the Tahoe Regional Planning Agency ("TRPA") issued a Permit dated March 31, 2020 and signed by TDVA on July 6, 2020 in File No. ERSP2017-1212 (the "TRPA Permit") that includes a condition that TDVA implement a public Micro-Transit System ("MTS") in connection with the Event Center as further detailed in the TRPA Permit; and

WHEREAS, in anticipation of the TRPA Permit condition that TDVA implement a MTS in connection with the Event Center, the Douglas County Board of Commissioners previously approved Resolution No. 2020R-037 by which Douglas County agreed to allocate up to one-half (1/2) of the 1% Transient Lodging Rental Tax collected within the Tahoe Douglas Transportation District pursuant to Douglas County Code Section 3.14.020(B) and Nevada Revised Statute (NRS) 244.3351 (the "TLRT") for the purpose of funding the operation of the MTS upon the negotiation of a separate mutually agreeable interlocal agreement as further detailed in Resolution No. 2020R-037; and

WHEREAS, Resolution No. 2020R-037 requires that Douglas County and TDVA collaborate "to ensure [the MTS] is carried out efficiently and best serves the needs of [Douglas] County residents and visitors"; and

WHEREAS, NRS 244.33512 (2) and (3) permit Douglas County to use the TLRT to pay the cost of establishing, operating and maintaining a public transit system, including any improvement thereto, within the boundaries of the Tahoe Douglas Transportation District, or outside those boundaries if the Douglas County governing body finds that such a system outside the boundaries of the district will facilitate transportation within the district, or both; and

WHEREAS, Douglas County finds that the MTS will facilitate transportation within the Tahoe Douglas Transportation District; and

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, by this Interlocal Contract Between Public Agencies (the "Contract"), Douglas County intends to remit \$520,000.00 of the TLRT to TDVA to be used by TDVA for the sole purpose of funding the operation of the MTS during Fiscal Year 2022-2023 (defined as July 1, 2022 to June 30, 2023), as further detailed in Paragraph 2 herein, and the terms of this Contract (the "MTS Funding Commitment"); and

WHEREAS, it is deemed that the Contract hereinafter set forth is both necessary and in the best interests of both Douglas County and TDVA (collectively referred to herein as the "Parties").

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

1. CONTRACT TERM. Upon the approval by the parties' respective governing Boards, this Contract shall become effective immediately upon execution by both parties and shall remain in effect until June 30, 2023.
2. MTS FUNDING COMMITMENT. Upon execution of this Agreement by the parties, Douglas County shall remit \$520,000.00 of the TLRT to TDVA to be used by TDVA for the sole purpose of funding the operation of the MTS during Fiscal Year 2022-2023. Remittance of the \$520,000.00 shall occur within 30 days of the parties' execution of this agreement.
3. MTS EXPANSION IN DOUGLAS COUNTY. As a condition of the MTS Funding Commitment, TDVA agrees to implement the expansion of the MTS Service Area to include areas within Douglas County

generally described as Lake Village, Kahle Drive/Oliver Park, and Ponderosa Park on or before April 15, 2023.

4. ADMINISTRATION OF MTS IN COLLABORATION WITH DOUGLAS COUNTY. TDVA and its agent(s), including the South Shore Transportation Management Association (SSTMA), agrees to keep Douglas County reasonably and regularly informed as to the administration, operation and budget of the MTS, and collaborate with Douglas County representatives related to the administration, operation, budget, and any proposed future expansion of the MTS.

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. INSPECTION & AUDIT.

a. Books and Records. Each party agrees to keep and maintain under generally accepted accounting principles full, true and complete records, agreements, books, and documents as are necessary to fully disclose to the other party, other appropriate government agencies, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with the terms of this Contract and all county, state, and federal 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 this Contract 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.

7. 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.

8. LIMITED OBLIGATION OF DOUGLAS COUNTY. Douglas County's obligations relating to the MTS are expressly limited to Douglas County's duties under this Contract. Douglas County shall have no obligation, duty, or liability whatsoever for, arising out of, or related to the operation and funding of the MTS by TDVA, TDVA's agent, or any other third party.

9. 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. Actual damages for any breach shall never exceed the amount of funds which have been appropriated for payment under this Contract, but not yet paid, for the fiscal year budget in existence at the time of the breach.

10. 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.

11. INDEMNIFICATION. To the fullest extent of limited liability as set forth in paragraph (11) of this Contract, 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 in this paragraph.

12. 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.

13. 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.

14. 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 non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

15. 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.

16. 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.

17. 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 required under the Contract.

18. 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 9th Judicial District Court for the State of Nevada for enforcement of this Contract.

19. ENTIRE AGREEMENT AND MODIFICATION. This Contract and any 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. There shall be no presumption for or against the drafter in interpreting or enforcing 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.

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

DOUGLAS COUNTY, NEVADA

3/9/2023
Date

Mark Gardner
Mark Gardner, Chairman, Douglas County Board of Commissioners
Acting as the *Ex Officio* Chairman of the Tahoe Douglas Transportation District

TAHOE DOUGLAS VISITOR'S AUTHORITY

03/08/2023
Date

Carol Chaplin
Carol Chaplin, Chief Executive Officer

Douglas County

State of Nevada

CERTIFIED COPY

I certify that the document to which this certificate is attached is a full and correct copy of the original record on file in the Clerk-Treasurer's Office on this

20~~th~~ day of MARCH, 20 23

By Emmy Dombrowski Deputy