

**Recorder's Office Cover Sheet**

**Recording Requested By:**

**Name Philip Ritger**

**Department: Public Works**



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SHAWNYNE GARREN, RECORDER

**Type of Document: (please select one)**

- Agreement
- Contract
- Grant
- Change Order
- Easement
- Other specify: \_\_\_\_\_

NO. 2023.045

4/3/2023

DATE

DOUGLAS COUNTY CLERK  
MINDEN, NVBY ed DEPUTY**INTERLOCAL AGREEMENT**

THIS INTERLOCAL CONTRACT ("Contract") is entered into this 1st day of December, 2022 between Douglas County, Nevada, a political subdivision of the State of Nevada ("County"), and the Douglas County School District ("DCSD"). County and DCSD are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

**WITNESSETH:**

WHEREAS, the Parties are authorized by Chapter 277 of the Nevada Revised Statutes (NRS) to enter into agreements to perform any governmental service, activity or undertaking which any one or more of them are authorized by law to perform;

WHEREAS, the Parties desire to coordinate their efforts to ensure the most efficient use of resources;

WHEREAS, the Parties believe that the public within Douglas County will benefit if the County and DCSD combine efforts to construct and maintain a single fueling station in the Tahoe Basin with shared construction and maintenance costs;

WHEREAS, the Parties do foresee that one or both parties will be required to expend more than \$25,000 to carry out the terms of this Contract;

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

1. Effective Date. The term of this Contract shall commence on **March 17, 2023** ("Effective Date"), and shall remain in effect until terminated in accordance with the terms herein.
2. Purpose. The purpose of this Contract is to establish the framework by which the County will provide an initial payment to DCSD for the purpose of installing a fueling station in the Tahoe Basin for joint use.
3. Required Approval: This Contract shall not become effective until and unless approved by appropriate official action of the governing body of each party.
4. Notices. All notices, requests, demands and other communications hereunder must be in writing and will be deemed delivered when sent via certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

To County: Douglas County  
Attn: Public Works Director  
1120 Airport Road Building F-2  
Post Office Box 218  
Minden, Nevada 89423  
Telephone: (775) 783-6437

To DCSD: Douglas County School District  
Attn: Sue Estes, Director of Business Services  
1638 Mono Avenue  
Minden, Nevada 89423  
Telephone (775) 782-5131

5. Termination: This Contract may be terminated by either party, provided that a termination shall not be effective until 30 days after a party has served written notice upon the other party of intended termination. 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 Understanding is withdrawn, limited, or impaired. The foregoing notwithstanding, termination of this Contract by County shall not excuse County's obligation under paragraph 7(a) "Initial Payment," once DCSD has contracted for the acquisition or performance of work related to the installation of the fueling station. Additionally, the Parties agree that the County's investment, under paragraph 7(a) of this Contract will be linearly amortized over a term of 60 months. If DCSD unilaterally terminates this Contract prior to the end of the Term, then DCSD agrees to refund County for any investment that has not been amortized. Specifically, for the purposes of this calculation, County's investment shall be deemed to be **amortized at a rate of \$802 per calendar month**, beginning on the date that the fueling system is available for use by Douglas County, which is anticipated in **May 2023**.
6. DCSD Responsibilities:
- a. Initial Construction: DCSD agrees to install and maintain a vehicle fueling station on its property at the George Whittell High School at 240 Warrior Way in Zephyr Cove, Nevada (the "Facility").
  - b. Permitting and Maintenance: DCSD will be responsible for all initial and ongoing permitting and insurance requirements. DCSD will properly maintain and secure the Facility and will keep the Facility in good working order at all times. DCSD is solely responsible for the maintenance of the site upon which the Facility is located (including snow removal).
  - c. County Use: DCSD will authorize and facilitate Douglas County's use of the Facility once it is complete, which is anticipated in May 2023. DCSD will

facilitate the use 24h/day, 7 days/week, except in the event of required maintenance, road closures, or other impediments beyond DCSD's control.

- d. Billing: DCSD will monitor and record all fueling transaction and bill the County for its consumption on a monthly basis. DCSD will provide the fuel to the County "at-cost" plus a \$0.05 per gallon service and maintenance fee. It is anticipated that this means that DCSD will charge the County the same rate as it bills internally, plus \$ 0.05 per gallon.
- e. Notifications: DCSD will notify the County promptly of any planned maintenance, hazardous site conditions, instructions for use of the equipment, altered equipment, or other information pertinent to the use of the Facilities.

7. Douglas County Responsibilities:

- a. Initial Payment: Promptly upon approval of this Contract by both parties, Douglas County shall pay DCSD a lump sum amount of **\$48,120**.
- b. Use of Facility: The County will follow all objectively reasonable instructions issued by DCSD in writing regarding the safe and effective use of the Facility. Minor deviations by individual users will not constitute a breach, but will obligate the County to provide additional training and safeguards.
- c. Notifications: The County will promptly notify DCSD of any observed hazard or defect at the Facility. The County will promptly notify DCSD of any on-site fuel spill or leak.
- d. Ongoing Payments: The County will promptly pay all undisputed portions of bills received by DCSD. If the County disputes a portion of a bill, it will promptly notify DCSD of the dispute and work collaboratively with DCSD to resolve the issue.

8. Employees. This Contract shall not be construed as giving the either Party any authority to direct or supervise employees of the other Party.

9. Limited Liability. Except as specifically provided herein, the Parties will not waive and intend to assert available NRS Chapter 41 liability limitations in all cases. The contract liability of both Parties shall not be subject to punitive damages and both Parties promise and agree to not assert any claim for punitive damages against the other.

10. Indemnification.

- a) 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 or person or entity described in this paragraph.

- b) The indemnification obligation under this paragraph is conditioned upon the indemnifying Party receiving written notice from the indemnified Party within 15 days of the indemnified Party's actual notice of any actual or pending claim or cause of action. The indemnifying Party shall not be liable to hold harmless any attorneys' fees and costs incurred by the indemnified Party if the Indemnified Party chooses to participate with legal counsel.

11. Reasonable Care. Each Party shall exercise reasonable care in the performance of its obligations and rights under this Contract to ensure that the other Party's equipment, facilities and personnel are not injured, impaired or damaged.
12. Breach and Waiver: 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. Failure to declare a breach or the actual waiver of any particular breach of this 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.
13. Contract Disputes. There will be no presumption for or against the drafter in interpreting or enforcing the Contract. In the event a dispute arises between the Parties, the Parties promise and agree to first meet and confer to resolve any dispute. If such meeting does not resolve the dispute, then the Parties agree to mediate any dispute arising from or relating to the Contract before an independent mediator. The fee, rate or charge of the mediator will be shared equally by the Parties, who will otherwise be responsible for their own attorney's fees and costs. If mediation is unsuccessful, litigation may only proceed before a Court of competent jurisdiction within Douglas County, Nevada. Any such litigation shall proceed in a department that was not involved in the mediation process and attorney's fees and costs will be awarded to the prevailing party. The mediator and court will recognize any offers of judgment made by a Party pursuant to Nevada law.
14. Force Majeure. No Party to this Contract shall be considered to be in default in the performance of any obligations under this Contract when a failure of performance shall be due to unanticipated and uncontrollable forces. The Term "uncontrollable force" shall mean any cause beyond the control of the Party unable to perform such obligation, including but not limited to failure or threat of failure of facilities, flood, earthquake, storm, fire, lightning, and other natural catastrophes,

epidemic, war, civil disturbance or disobedience, strike, labor dispute, labor or material shortage, sabotage, restraint by order of a court or regulatory body or agency of competent jurisdiction, and any non-action by, or failure to obtain the necessary authorization or approvals from a Federal governmental agency or authority, which by the exercise of due diligence and foresight such Party could not reasonably have been expected to overcome. Nothing contained herein shall be construed to require a Party to settle any strike or labor dispute in which it is involved or accede to claims or conditions which it believes to be adverse to its business or other interests.

15. 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.
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.
  - a) The Parties hereto present 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 this Contract.
  - b) The Parties are associated with each other only for the purpose and to the extent set forth in this Contract and, in respect to performance of services and payment of costs 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.
18. Governing Law and 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 courts located

in the Ninth Judicial District Court, in and for Douglas County, Nevada, for enforcement of this Contract.

19. Entire Contract and Modification. This Contract constitutes the entire agreement and understanding of the Parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other contracts or 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.

IN WITNESS WHEREOF, the Parties have executed this Contract.

**DOUGLAS COUNTY**

  
\_\_\_\_\_  
Patrick Cates, County Manager

As authorized by the BOCC on **12/01/2022**

**DCSD**

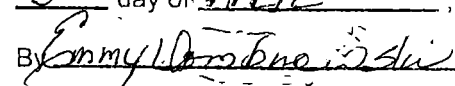
  
\_\_\_\_\_  
Name: Michelle Lewis

Title: Department

**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

3<sup>rd</sup> day of April, 2023

By  Deputy