



**REGIONAL TRANSPORTATION COMMISSION**

*Metropolitan Planning • Public Transportation & Operations • Engineering & Construction*

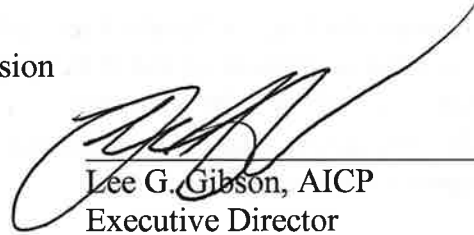
Metropolitan Planning Organization of Washoe County, Nevada

May 20, 2019

**AGENDA ITEM 3.15**

**TO:** Regional Transportation Commission

**FROM:** Judy L. Tortelli, P.E.  
Engineer II



Lee G. Gibson, AICP  
Executive Director

**SUBJECT: Interlocal Cooperative Agreements for Reimbursement Related to the Sparks Consolidated 19-01 Project**

**RECOMMENDATION**

Approve the Interlocal Cooperative Agreements with the City of Sparks and the Truckee Meadows Water Authority for work that has been incorporated into the plans and specifications for the Sparks Consolidated 19-01 – 15<sup>th</sup> Street, Franklin Way, Hulda Court and El Rancho Drive Project; authorize the RTC Executive Director to execute the agreements.

**SUMMARY**

The Regional Transportation Commission (RTC) is finalizing design and preparing to advertise the Sparks Consolidated 19-01 Project. The project limits include the following streets: 15<sup>th</sup> Street from C Street to Prater Way; Franklin Way from the Union Pacific Rail Road crossing to East Greg Street; Hulda Court and El Rancho from G Street to Oddie Boulevard. The project will include removal and replacement of the roadway structural section, mill and fill, sidewalk, curb and gutter replacement as necessary, correction of localized drainage deficiencies, reconstruction of existing handicapped ramps, reconstruction of driveways, and other incidentals necessary for the rehabilitation and/or reconstruction of the street segments within the Project limits.

During design of the project it was determined the condition of sanitary sewer and storm drain infrastructure within the project limits warrant replacement. The new design of sanitary sewer and storm drains created conflicts with a water main. In lieu of delaying the project or having a new infrastructure damaged for later required utility work, the City of Sparks' sanitary sewer and storm drain infrastructure improvements and the Truckee Meadows Water Authority's (TMWA's) water main replacement have been incorporated into the project plans and specifications.

The City of Sparks and TMWA are participating in the project by having RTC construct infrastructure associated with either relocating facilities or constructing betterments or upgrades to existing infrastructure. The City of Sparks will reimburse RTC for the cost of improvements associated with sanitary sewer and storm drain infrastructure. The utility company (TMWA) will

reimburse RTC for the cost of improvements associated with water main replacement. Reimbursable costs include direct bid item construction costs plus any additional amounts of contract change orders.

The agreements require the City of Sparks (see Attachment A) and the utility (see Attachment B) to pay actual costs of their portion of the RTC project. Costs for the improvements are based on Engineer's estimated costs at 100% design. The reimbursement amount included in each agreement includes actual costs and a contingency amount. The estimated cost to be included in reimbursement agreements are as follows:

- City of Sparks - \$230,000
- Truckee Meadows Water Authority - \$92,000

Actual agreement costs may vary slightly depending on amount of contingency. The total reimbursable amount to the RTC for the utility relocations is 13 percent of the total estimated construction cost of the project.

The agreements have been negotiated and developed in cooperation between RTC, City of Sparks, and TMWA with review by legal counsel. The forms of the negotiated agreements are attached hereto.

### **FISCAL IMPACT**

All costs incurred by the RTC related to the above discussed work are individually, fully reimbursable under the terms of utility agreement.

### **PREVIOUS ACTIONS BY BOARD**

September 21, 2018                      Approved a Professional Services Agreement (PSA) with CFA, Inc. to provide design and engineering during construction services for the Sparks Consolidated 19-01 Project.

June 15, 2018                              Approved the FY 2019 Program of Projects

### **ADVISORY COMMITTEE(S) RECOMMENDATION**

There are no advisory committee recommendations pertaining to this agenda item.

Attachments

**INTERLOCAL COOPERATIVE AGREEMENT  
FOR REIMBURSEMENT**

This Agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between the **CITY of Sparks, Nevada**, (hereinafter called "**CITY**") and the **Regional Transportation Commission**, (hereinafter called "**RTC**").

**WITNESSETH:**

WHEREAS, agreements between **RTC** and public entities are authorized under Chapter 277 of the Nevada Revised Statutes for the work described herein; and

WHEREAS, **RTC** is undertaking a project, referred to as Sparks Consolidated 19-01 Project for the purpose of rehabilitating portions of El Rancho Drive, 15<sup>th</sup> Street, Franklin Way, and Hulda Ct.; and

WHEREAS, the **CITY** desires to construct specific improvements, (hereinafter called "**IMPROVEMENTS**"), described as rehabilitation of portions of storm drain infrastructure, portions of sewer infrastructure and surface improvements related to utility work, that are within and/or adjacent to the **PROJECT**. The **IMPROVEMENTS**, as requested by the **CITY**, are described in Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, **RTC** is willing to incorporate the **IMPROVEMENTS** into the **PROJECT** drawings, details, and specifications and subsequently cause the improvements to be constructed;

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

**RTC AGREES:**

1. To provide drawings, details and specifications, and construction, including but not limited to, inspection, quality assurance testing, administration and **PROJECT** management of the **IMPROVEMENTS**. Drawings, details and specifications for the **IMPROVEMENTS** shall be subject to review and approval by the **CITY**.
2. To prepare solicitation documents for the **PROJECT** that include the **IMPROVEMENTS** and, following receipt of bids, award a construction contract in accordance with Chapter 338 of Nevada Revised Statutes.
3. To provide **CITY**, upon determination of the apparent low bidder, the total cost of the **IMPROVEMENTS**. This amount shall not be exceeded unless the **CITY** agrees that the actual quantity of the **IMPROVEMENTS** exceeds the estimated quantity of the **IMPROVEMENTS** or the parties mutually agree to an additional sum.
4. To allow the **CITY** or its authorized agents to review and approve contract change orders

associated with the construction of the IMPROVEMENTS.

5. To execute change orders upon written approval from the CITY or its authorized agents.
6. To invoice the CITY at the completion of the PROJECT, for the actual costs associated with the IMPROVEMENTS not to exceed the awarded bid amount unless otherwise agreed to by the Parties.

**CITY AGREES:**

1. To provide an initial determination of the IMPROVEMENTS for estimation of the costs of the IMPROVEMENTS and the costs for incorporation of the IMPROVEMENTS into the drawings, details and specifications prepared by RTC and its agents.
2. To invoke any authority available under State law or existing permits to have impacted utilities relocated at the utility owner's expense.
3. To acquire all additional right-of-way, easements and/or entry permits from adjacent property owners, as necessary, to allow RTC and its agents to construct IMPROVEMENTS in accordance with the drawings, details, and specifications.
4. To direct all questions or requests pertaining to the IMPROVEMENTS to the RTC Project Manager and designate a representative to assist RTC Project Manager in the administration of all issues relating to the IMPROVEMENTS.
5. To timely review and provide RTC Project Manager with prompt input relating to the approval, modification or disapproval of contract change orders related to the IMPROVEMENTS and to reimburse the RTC for costs that result from the approved contract change orders. For purposes of this Agreement, actual costs include, but are not limited to, additional engineering, change orders and compensable delays caused by conditions related to such change orders.
6. To reimburse the RTC for the actual costs associated with the IMPROVEMENTS not to exceed the awarded bid amount unless otherwise agreed to by the Parties. The reimbursable costs include, but are not limited to, those costs reasonably incurred during construction as described in Exhibit A attached.
7. That the costs of the IMPROVEMENTS, including those referred to in item 6 above, are estimated (see Exhibit A attached) and that the CITY will reimburse RTC for all actual costs not to exceed the awarded bid amount unless otherwise agreed to by the Parties.
8. To remit payment within thirty (30) calendar days following receipt of an invoice from RTC and, if not timely paid, to pay interest as provided in NRS 99.040.

**IT IS MUTUALLY AGREED:**

1. That each party will cooperate with the other party to this agreement and their agents in carrying out their respective responsibilities under this agreement.

2. That each party will assist the other party in communicating with the public regarding the provisions of this agreement.

3. That all communications/notices required pursuant to the Agreement shall be given as hereinafter provided, unless written notice of a new designee is sent certified or registered mail, to the other party, as follows:

RTC: Brian Stewart, P.E.  
Engineering Director  
Regional Transportation Commission  
1105 Terminal Way, Suite 108  
Reno, Nevada 89502  
(775) 335-1880

CITY: John Martini  
{Sparks} Director of Public Works  
City of Sparks  
P.O. Box 857  
Sparks, Nevada 89432-0857  
(775) 353-2330

4. Subject to the limitations of Chapter 41, each party agrees to indemnify, defend and hold harmless the other party from and against any liability including, but not limited to, property damage and personal injury or death, proximately caused by the negligent acts or omissions of its officers, agents and employers arising out of the performance of this Agreement.

5. That the laws of the State of Nevada shall be applied in interpreting and construing this Agreement.

6. That the legality or invalidity of any provision or portion of this Agreement shall not affect the validity of the remainder of the Agreement.

7. That this Agreement constitutes the entire contract between the parties and shall not be modified unless in writing and signed by the parties.

8. That it is not intended, and this Agreement shall not be construed, to provide any person or entity not a party to this Agreement, with any benefits or cause of action or to obligate the parties to this Agreement to any entity or person not a party to this Agreement.

9. That in the event either party initiates litigation to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its costs, including reasonable attorney fees.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their authorized officers the day and year first above written.

APPROVED AS TO LEGALITY AND FORM:

BY: \_\_\_\_\_  
RTC Chief Counsel

**REGIONAL TRANSPORTATION COMMISSION  
OF WASHOE COUNTY**

BY: \_\_\_\_\_  
Lee Gibson, Executive Director

**CITY COUNCIL OF SPARKS, NEVADA**

By: \_\_\_\_\_  
Ron Smith, Mayor

ATTEST:

APPROVED AS TO FORM AND CONTENT:

BY: \_\_\_\_\_  
Sparks City Clerk

BY: \_\_\_\_\_  
Sparks City Attorney

SAMPLE

**EXHIBIT A**

Description of IMPROVEMENTS:

Storm drain realignment, sewer rehabilitation and surface overlay work as requested by the City of Sparks in accordance with the drawings and specifications for the PROJECT.

Estimated costs of IMPROVEMENTS:

Construction:	\$230,000.00
TOTAL ESTIMATED AMOUNT:	\$230,000.00

SAMPLE

**INTERLOCAL REIMBURSEMENT AGREEMENT**

This agreement (“this Agreement”) is made and entered into on May 21, 2019, by and between the Truckee Meadows Water Authority (“TMWA”), and the Regional Transportation Commission of Washoe County, Nevada (“RTC”).

**WHEREAS**, RTC is undertaking the Sparks Consolidated 19-01 Project, a project to rehabilitate and/or reconstruct the following streets: 15<sup>th</sup> Street from C Street to Prater Way; Franklin Way from the Union Pacific Rail Road crossing to East Greg Street; Hulda Court and El Rancho Drive from G Street to Oddie Boulevard (hereinafter the “Project”); and

**WHEREAS**, TMWA owns and operates a municipal water system, including certain underground water mains and infrastructure within and adjacent to the Project; and

**WHEREAS**, TMWA is planning to replace certain water system infrastructure within and adjacent to the Project (the “TMWA Improvements”); and

**WHEREAS**, RTC will complete the TMWA Improvements as part of the Project; and

**WHEREAS**, TMWA will reimburse RTC for the actual cost of the TMWA Improvements and is precluded from seeking reimbursement from RTC for any portion thereof;

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

1. RTC agrees to:
  - (a) Enter into an agreement with its contractor to provide all material, construct, install and perform all work to complete the TMWA Improvements.
  - (b) Satisfy the following insurance requirements:
    - (1) Require its contractor to maintain commercial general liability (CGL), business automobile, excess/umbrella liability and workers’ compensation/employer’s liability insurance.
    - (2) Require that all coverage shall be written on occurrence and not claims-made or claims-made and reported coverage forms.
    - (3) Require that all liability coverage shall be primary insurance with respect to RTC and TMWA and any insurance maintained by the RTC or TMWA shall be considered excess and non-contributory.
    - (4) Require that all liability coverage shall include a waiver of the insurance carrier’s subrogation rights against RTC and the TMWA.



- (5) Require its contractor to be responsible to provide no less than thirty (30) days written notice to RTC and TMWA prior to the cancellation, non-renewal, or reduction in available limits of insurance or material change in any required coverage.
  - (6) Require its contractor to maintain deductible or retention amounts not exceeding 5% of the required per occurrence coverage limits, unless submitted to and approved by the RTC and TMWA.
  - (7) Require its contractor to name TMWA as an additional insured under its commercial general liability, automobile and excess/umbrella liability policies maintained by contractor without requirement for a direct written contract or agreement between contractor and TMWA. RTC shall furnish (directly or through its contractor) TMWA with an Certificate of Liability and applicable policy forms or endorsements evidencing commercial general liability (CGL) and, if necessary, commercial excess/umbrella liability insurance with an occurrence of not less than Five Million Dollars (\$5,000,000), Business Auto Coverage and, if necessary, commercial excess/umbrella liability insurance with a combined single limit for bodily injury and property damage of not less than Two Million Dollars (\$2,000,000), Workers' Compensation coverage meeting the statutory requirements of the State of Nevada and Employer's Liability limits of not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.
  - (8) Require that all policies be written by insurers approved to do business in the State of Nevada and have A.M. Best Ratings of no less than A- VII.
  - (9) Require its contractor to include TMWA as an additional insured under its Commercial General Liability coverage for Utility with respect to liability arising out of the completed operations of the contractor, and maintain such insurance for the entire period during construction and for a period of at least 3 years following completion of the contractor's operations.
  - (10) Require its contractor to obtain pollution liability coverage for working with, handling, disturbing, removing and disposing of pipe containing transite (ACP) and asbestos. Contractor shall be required to provide disposal manifest(s) for all transite (ACP) and asbestos pipe materials.
- (c) Provide material testing services during construction for the TMWA Improvements.

(d) Notify TMWA three (3) business days prior to the completion of the TMWA Improvements to request inspection, testing and acceptance by TMWA.

(e) Require its contractor to correct any deficiencies identified during the inspection and testing of the TMWA Improvements.

(f) Warrant and represent that the TMWA Improvements shall comply with all applicable state and local laws and ordinances and will strictly comply with the provisions of this Agreement and the plans and specifications. The quality of the material and workmanship used in the TMWA Improvements will be satisfactory for a period of one (1) year after final acceptance of the TMWA Improvements. Any defects occurring and noticed by RTC or TMWA during the guarantee period shall be corrected by RTC's contractor at no additional cost to TMWA.

(g) Without limiting any other rights or remedies of TMWA, if any defect in the work associated with the TMWA Improvements, in violation of the foregoing guarantees, arises within twelve (12) months after the date of final acceptance of the TMWA Improvements by TMWA, RTC shall, upon receipt of written notice of such defect, promptly furnish, at no additional cost to TMWA, all labor, equipment, and materials at the site of the defective work necessary to correct such defect and cause the work to comply fully with the foregoing guarantees. If RTC fails to promptly correct any defect, then TMWA may correct, or cause to have corrected, such defect and RTC shall reimburse TMWA for all such related, reasonable, and verifiable costs of correction.

(h) To provide TMWA, upon determination of the apparent low bidder, the total contract cost of the TMWA Improvements.

(i) Notify TMWA of any changed conditions that RTC becomes aware of and which affect the contract cost, and allow TMWA to review and approve any changes to the contract cost due to unforeseen conditions.

(j) Allow TMWA or its authorized agents to review and approve contract change orders associated with the construction of the TMWA Improvements and to execute change orders upon written approval from TMWA or its authorized agents.

(kj) Notify TMWA when RTC becomes aware that the actual costs will exceed the estimate in Exhibit A by more than five percent (5%).

(l) Pay in full any and all amounts owed its contractor for performing the TMWA Improvements.

(m) Submit to TMWA a detailed monthly invoice for the actual amounts of the TMWA Improvements within sixty (60) calendar days of completion of the TMWA Improvements.

(n) Maintain all records and documents related to the TMWA Improvements for at least three (3) years after final payment has been received, and to make the records available for inspection upon request.

(o) Require its contractor to indemnify and hold harmless TMWA and its agents, employees, officers and directors from and against any and all claims, damages, losses, costs and expenses arising from labor, material or construction costs and expenses in connection with the Project other than to the extent arising from the TMWA Improvements or from TMWA's negligent acts or omissions.

(p) Require its contractor to grant TMWA the status of a co-beneficiary (with the RTC) of any warranty rights provided by its contractor as related to the TMWA Improvements upon receipt of TMWA's payment.

(q) Upon completion of the Project, and payment by TMWA to RTC for the TMWA Improvements, RTC shall ensure that no liens by RTC's contractors, subcontractors, materialmen and other providers of labor, equipment or material and/or services encumber the TMWA Improvements.

2. TMWA agrees to:

(a) Perform inspection of TMWA Improvements during construction.

(b) Perform specialized labor for installation of any TMWA Improvements not identified in the project drawings, specification or details.

(c) Provide RTC with written acceptance or disapproval of contract change orders for the TMWA Improvements within five (5) business days of receipt. If RTC does not receive a written response within the 5-business-day period, it will be deemed that TMWA consents to the change order and authorizes RTC to execute the change order.

(d) Reimburse RTC for the actual costs it incurs that are directly related to the inclusion of the TMWA Improvements in the Project, in a total amount not to exceed the contract cost plus any additional amounts of contract change orders. Reimbursement shall be due and payable within sixty (60) calendar days after receipt of billing from RTC. RTC will be responsible for costs associated with adjustment of TMWA owned and operated valves, manholes, services, meters, fire hydrants, and installation of new fire hydrants.

3. It is mutually agreed that each party will cooperate with the other party and its agents in carrying out their respective responsibilities.

4. It is mutually agreed that each party will assist the other party in communicating with the public regarding the provisions of this Agreement.

5. Communications/notices required pursuant to this Agreement shall be in writing and addressed as follows:

If to TMWA: Mark Foree, General Manager  
c/o Steve Volk, Project Manager  
Truckee Meadows Water Authority  
P.O. Box 30013  
Reno, NV 89520

If to RTC: Lee G. Gibson, AICP, Executive Director  
c/o Judy Tortelli, Project Manager  
Regional Transportation Commission of Washoe County  
1105 Terminal Way, Suite 108  
Reno, NV 89502

6. Subject to and without waiving the liability limitations in NRS Chapter 41, each party agrees to indemnify, defend and hold harmless the other party to the extent permitted by law from and against any liability including, but not limited to, property damage, and personal injury or death, proximately caused by the negligent or intentional acts or omissions of its officers and employees arising out of the performance of this Agreement, and claims, damages, losses, costs and expenses arising from labor, material or construction costs and expenses in connection with the indemnifying party's obligations with respect to the Project.

7. The laws of the State of Nevada shall be applied in interpreting and construing this Agreement without giving effect to its principles of conflicts of laws. Venue for adjudication of any dispute arising out of this Agreement shall be the state and federal courts located in Washoe County, Nevada.

8. The legality or invalidity of any provision or portion of this Agreement shall not affect the validity of the remainder of this Agreement.

9. This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and shall not be modified unless in writing and signed by the parties.

10. It is not intended and this Agreement shall not be construed to provide any person or entity not a party to this Agreement with any benefits or cause of action or to obligate the parties to this Agreement to any entity or person not a party to this Agreement.

11. In the event either party initiates litigation to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its costs, including reasonable attorneys' fees.

12. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed on the date first above written.

REGIONAL TRANSPORTATION COMMISSION  
OF WASHOE COUNTY

TRUCKEE MEADOWS  
WATER AUTHORITY

\_\_\_\_\_  
Lee G. Gibson, AICP  
Executive Director

\_\_\_\_\_  
Mark Foree  
General Manager

APPROVED AS TO LEGALITY  
AND FORM:

APPROVED AS TO LEGALITY  
AND FORM:

\_\_\_\_\_  
Dale Ferguson, Esq.  
RTC Chief Counsel

\_\_\_\_\_  
Michael A. T. Pagni, Esq.

SAMPLE

Exhibit A

**Estimated Costs**

Description: The TMWA Improvements include removal and replacement of water main in the C / 15<sup>th</sup> Street intersection.

Estimated Costs for Reimbursement to RTC:

Construction (1)(2):	\$80,000
Contingency (15%)	\$12,000
<b>TOTAL ESTIMATED AMOUNT:</b>	<b>\$92,000</b>

- (1) Based on Engineer's Estimated Cost at 100% design.
- (2) Costs include estimates for direct bid item construction costs associated with the TMWA Improvements.

SAMPLE