

Item # 21B

**City of Carson City
Agenda Report**

Date Submitted: August 7, 2009

Agenda Date Requested: August 20, 2009
Time Requested: 10 Minutes

To: Mayor and Supervisors
From: Public Works

Subject Title: Review and approval for Amendment No. 3 with NDOT Regarding Phase 2 Funding of the Carson City Freeway.

Staff Summary: Staff will present Amendment No. 3 to the current NDOT funding agreement for Phase 2 of the freeway to the RTC for approval. The amendment provides that the City will assume ownership of several State roadways in exchange for credit towards the City's obligation for payment towards the freeway. (Andrew Burnham)

Type of Action Requested: (check one)

☐ Resolution ☐ Ordinance
☒ Formal Action/Motion ☐ Other (Specify)

Does This Action Require A Business Impact Statement: ☐ Yes ☒ No

Recommended Board Action: I move to approve Amendment No 3 to Highway Agreement No. R159-97-060 As Amended By Highway Agreement No. R386-04-002.

Explanation for Recommended Board Action: This agreement provides for the City to accept ownership and maintenance responsibility for several NDOT streets, trade in value for improvements to Carson Street, and trade in value for NDOT payment for improvements to Fairview Drive in exchange for reduction in payment to NDOT in the amount of \$7,872,660 from the \$15,000,000 obligation to NDOT for Phase 2 of the Carson City Freeway. Additionally the agreement provides for a possible further trade in value when the freeway is fully completed for improvements to Carson Street in an amount to be determined, but which may be in the \$2-3,000,000 range thus decreasing the overall obligation remaining from the City to NDOT to approximately \$4-5,000,000. The agreement also defines when the City will assume maintenance responsibility and when payments to NDOT will re-commence.

Applicable Statute, Code, Policy, Rule or Regulation:

Fiscal Impact: Reduction in payment to NDOT in the amount of \$7,872,660 in exchange for increased long term maintenance costs.

Explanation of Impact: Value of street maintenance costs allows for approximately 30 years of maintenance of the streets to be acquired which is considered to be a reasonable return on the City's investment.

Funding Source: RTC and Streets Funds

Alternatives: Not approve and recommend changes to the amendment.

Supporting Material: Amendment #3

Prepared By: Andrew Burnham, Public Works Director

Reviewed By:

(Public Works)

Date:

8/11/09

Date:

8/11/09

(City Manager)

Date:

8-11-09

(District Attorney)

Date:

8-11-09

(Finance Director)

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)

**Amendment No.3 to Highway Agreement No. R159-97-060,
As Amended By
Highway Agreement No. R386-04-002**

This Amendment is made and entered into this _____ day of _____, 2009, between the State of Nevada, Department of Transportation, hereinafter referred to as "NDOT", and CARSON CITY, Nevada, a consolidated municipality under the Nevada Revised Statutes, hereinafter referred to as "CARSON".

WITNESSETH:

WHEREAS, on the 1st day of April, 1997 the parties entered into Agreement No. R159-97-060 to facilitate the construction of the Carson City Bypass, a limited access freeway passing downtown Carson City on the east side of Carson City, from US-395 north at Lakeview Hill to the intersection of US-395/US-50 south; and

WHEREAS, Agreement No. R159-97-060 provides for the construction of the Carson City Bypass to be undertaken in phases, with its Phase 1 to include preliminary engineering, right-of-way acquisition, construction and construction engineering from Lakeview Hill to US-50 east; and

WHEREAS, the purpose of Agreement No. R159-97-060 is to address CARSON's financial contribution to Phase 1 of the Carson City Bypass; and

WHEREAS, Agreement No. R159-97-060 provides that NDOT's Board of Directors approved funding for Phase 1 of the Carson City Bypass on September 16, 1996, with the contingency that CARSON contribute Nineteen Million and No/100 Dollars (\$19,000,000.00) from a combination of cash or debt principal repayment plus interest; and

WHEREAS, Agreement No. R159-97-060 provides that CARSON intends to fund its obligation through an increase in the county motor vehicle fuel tax to be approved by the Carson Board of Supervisors, pursuant to Chapter 373 of the Nevada Revised Statutes; and

WHEREAS, on October 14, 2004, the parties entered into Highway Agreement No. R386-04-002, constituting Amendment No. 1 to Agreement No. R159-97-060, for the purpose of addressing construction of Phase 2 of the Carson City Freeway (Carson City Bypass) and addressing CARSON's financial contribution to Phase 2; and

WHEREAS, one of the purposes of Highway Agreement No. R386-04-002 is to amend Agreement No. R159-97-060, in order to allow a three year temporary suspension of CARSON's financial contribution in order for CARSON to use its funds to improve Fairview Drive, and in order to clarify CARSON's funding obligation for Phase 1; and

WHEREAS, on December 27, 2007, the parties entered into Amendment No. 2 to Highway Agreement No. R159-97-060 as amended by Highway Agreement No. R386-04-002, in order to modify CARSON's remaining Phase 1 funding obligation, whereby:

(a) NDOT was to relinquish to CARSON, certain portions of State highways identified in Attachment "A" to Amendment No. 2, together with all of their attendant maintenance responsibilities; and

(b) By virtue of the financial savings accruing to NDOT through CARSON's acceptance and undertaking of ownership and maintenance responsibilities of said portions of State highways, said relinquishment was to constitute the fulfillment of CARSON's remaining funding obligations for PHASE 1 of the Carson City Freeway (Carson City Bypass); and

(c) The commencement of CARSON's monthly payment to NDOT of its contribution of Fifteen Million and 00/100 Dollars (\$15,000,000.00) for Phase 2 of the Carson Freeway (Carson City Bypass) was deferred until July 1, 2009; and

WHEREAS, the parties now desire to make certain modifications and amendments to Highway Agreement No. R159-97-060, as amended by Highway Agreement No. R386-04-002, providing for the transfer from NDOT to CARSON of portions of State highways and their attendant maintenance duties, obligations and responsibilities; and

WHEREAS, the parties hereto desire to make certain modifications and amendments to Highway Agreement No. R159-97-060, as amended by Highway Agreement No. R386-04-002, providing for the modification of CARSON's remaining funding obligations for PHASE 2 of the Carson City Freeway (Carson City Bypass); and

WHEREAS, the parties hereto desire to make certain modifications and amendments to Highway Agreement No. R159-97-060, as amended by Highway Agreement No. R386-04-002, in order to defer until July 1, 2010, NDOT's transfer to CARSON of a portion of Carson Street from Arrowhead Drive in the north to Fairview Avenue in the south; and

WHEREAS, NRS 408.527 provides a procedure for the relinquishment of portions of State highways.

NOW THEREFORE, the parties agree as follows:

I. IT IS MUTUALLY AGREED

1. NDOT shall relinquish to CARSON and CARSON shall accept the ownership of those certain portions of State highways identified in Attachment "A" -Summary of Pavement Area and Attachment "B"- Summary of Pavement Area, attached hereto and incorporated herein, together with all of their attendant maintenance duties, obligations and responsibilities.

2. The maintenance duties, obligations and responsibilities for those portions of State highways identified in Attachment "A" shall be transferred from NDOT to CARSON upon execution of this Amendment and the recordation of the Resolutions of Relinquishment for each portion of highway to be transferred. The maintenance duties, obligations and responsibilities for those portions of State highways identified in Attachment "B" will be transferred upon completion of the Carson City Freeway Project (Carson City Bypass) and the recordation of the Resolution of Relinquishment.

3. NDOT shall provide CARSON with copies of records regarding those certain portions of State highways to be relinquished from NDOT to CARSON as identified in Attachments "A" and "B", attached hereto and incorporated herein, which records shall include but not be limited to legal descriptions, right-of-way maps, utility easement descriptions, maintenance records, as-built plans and structural details.

4. NDOT shall prepare, all legal descriptions and maps necessary for the relinquishment of those certain portions of State highways identified in Attachments "A" and "B", attached hereto and incorporated herein.

5. NDOT shall provide CARSON with legal descriptions and maps for CARSON's review and comment prior to NDOT's relinquishment to CARSON of those portions of State highways identified in Attachments "A" and "B", attached hereto and incorporated herein.

6. The parties hereto shall complete the relinquishment of those certain portions of State highways as identified in Attachment "A", together with the relinquishment and transfer of their attendant maintenance duties, obligations and responsibilities, within twenty-four (24) months of the execution of this Amendment.

7. Upon completion of Phase 2 of the Carson City Freeway Project (Carson Bypass), NDOT shall relinquish to CARSON, and CARSON shall accept the ownership of those portions of State highways identified in Attachment "B", attached hereto and incorporated herein, together with all of their attendant maintenance duties, obligations and responsibilities.

8. The parties shall complete the relinquishment of these portions of State highways identified in Attachment "B", together with the relinquishment and transfer of their attendant maintenance duties, obligations and responsibilities, within eighteen (18) months of the completion of Phase 2 of the Carson City Freeway Project (Carson City Bypass).

9. The parties hereto shall comport with the requirements of NRS 408.527 in facilitating NDOT's relinquishments to CARSON of those portions of State highways identified in Attachments "A" and "B", attached hereto and incorporated herein. NDOT shall prepare a Resolution or Resolutions of Relinquishment for issuance by its Board of Directors. Should NDOT's Board of Directors approve the Resolution or Resolutions of Relinquishment relating to those portions of State Highways identified within Attachments "A" and "B", NDOT shall cause a certified copy or copies of the Resolution or Resolutions of Relinquishment to be filed with CARSON's legislative body. NDOT shall record the Resolution or Resolutions of Relinquishment in the office of the Carson City Recorder, and upon recordation, all right title and interest of NDOT in and to said portions of highway shall vest in CARSON. CARSON's duty to maintain those portions of State highways shall commence upon the recordation of the Resolution of Relinquishment for each portion of State highway transferred.

10. Through:

(A) NDOT's relinquishment to CARSON of those portions of State highways identified within Attachments "A" and "B" attached hereto and incorporated herein, together with the relinquishment to CARSON of all attendant maintenance duties, obligations and responsibilities for said portions of State highways, and by virtue of the financial savings accruing to NDOT through the relinquishment and CARSON's acceptance and undertaking of ownership and maintenance responsibilities of said highways, the amount of Two Million Fifty-Five Thousand One Hundred Sixty and 00/100 Dollars (\$2,055,160.00), the summation of three years of maintenance costs for those certain portions of State highways to be transferred from NDOT to CARSON as identified in Attachments "A" and "B", attached hereto and incorporated herein, shall be deducted from the Fifteen Million and 00/100 Dollars (\$15,000,000.00) funding obligations for Phase 2 of the Carson City Freeway Project (Carson City Bypass) as required pursuant to Article II, Paragraph 4 of Agreement No. R386-04-002, said Agreement constituting Amendment No. 1 to Agreement No. R159-97-060; and

(B) The amount of Eight Hundred Seventeen Thousand Five Hundred and No/100 Dollars (\$817,500.00), constituting fifty-percent (50%) of additional projects undertaken on Fairview Drive due to increased traffic projections on the subject highways due to delays in the completion of Phase 2 of the Carson City Freeway Project (Carson City Bypass), shall be credited to CARSON's remaining funding obligations for Phase 2 of the Carson City Bypass Project; and

(C) NDOT shall credit CARSON in the amount of Five Million and No/100 Dollars (\$5,000,000.00), in lieu of NDOT's performance of pavement surfacing which

was to be undertaken by NDOT pursuant to Agreement R386-04-002 (Amendment No. 1 to Highway Agreement No. R159-97-060), and which sum represents the estimated costs for the most appropriate pavement surfacing strategy in accordance with current NDOT standards, including, at a minimum, a two (2) inch overlay. Through NDOT's provision of said credit, NDOT shall be deemed to have fulfilled its obligation to rehabilitate the Carson Street pavement from Arrowhead Drive in the north to Fairview Avenue in the south; then

(D) CARSON shall be deemed to have satisfied and fulfilled Seven Million Eight Hundred Seventy Two Thousand, Six Hundred Sixty and No/100 Dollars (\$7,872,660.00) of its Fifteen Million and No/100 Dollars (\$15,000,000.00) funding obligations for Phase 2 of the Carson City Freeway Project (Carson City Bypass) as required pursuant to Article II, Paragraph 4 of Agreement No. R386-04-002, said Agreement constituting Amendment No. 1 to Agreement No. R159-07-060.

11. Article III, Paragraph 2 of Highway Agreement R386-04-002 (Amendment No. 1 to Highway Agreement No. R159-97-060) is hereby amended whereby through this Amendment, NDOT shall rehabilitate the Carson Street pavement from Fairview Drive in the north to the US50/Spooner Intersection in the south within these limits not more than two years prior to relinquishment. The rehabilitation shall be the most appropriate pavement surfacing strategy in accordance with current NDOT standards, but shall at a minimum constitute a 2-inch overlay. In the alternative, NDOT may fulfill its obligation to rehabilitate the Carson Street pavement from Fairview Avenue in the north to the US 50/Spooner Intersection in the south, by:

(A) Crediting CARSON's remaining funding obligations for Phase 2 with a sum equal to a project for the most appropriate pavement surfacing strategy in accordance with current NDOT standards, including at a minimum a 2-inch overlay; or

(B) By paying CARSON a sum equal to a project for the most appropriate pavement surfacing strategy in accordance with current NDOT standards, including at a minimum a 2-inch overlay to CARSON's remaining funding obligations for Phase 2; or

(C) Any combination of credit, payment or project mutually agreed upon by the parties hereto, through a signed written amendment to Highway Agreement No. R159-97-060, as amended by Highway Agreement R386-04-002.

12. NDOT shall defer until after the completion of the Carson City Freeway (Carson City Bypass), CARSON's payment of its remaining funding obligation of Seven Million One Hundred Twenty Seven Thousand, Three Hundred Forty and No/100 dollars (\$7,127,340.00), relating to CARSON's contribution to Phase 2 of the Carson City Bypass Project, as required pursuant to Agreement No. R159-97-060, as Amended by Agreement R386-04-002.

13. The parties agree that should any alternative funding sources, not yet identified, be made available for the Carson City Freeway Project (Carson City Bypass), NDOT shall consider the application of that funding toward CARSON's funding obligations for Phase 2 of the Carson City Bypass Project, as required pursuant to Article II, Paragraph 4 of Agreement No. R386-04-002, said Agreement constituting Amendment No. 1 to Agreement No. R159-07-060.

14. Article III, Paragraph 2 of Highway Agreement No. R386-04-002, (Amendment No. 1 to Highway Agreement No R159-97-060 is hereby deleted in its entirety and replaced with the following:

"2. CARSON shall assume ownership and maintenance duties, obligations and responsibilities for that portion of Carson Street from Arrowhead Drive in the north, to Fairview Avenue in the south, and shall assume such ownership and maintenance

duties, obligations and responsibilities on July 1, 2010. "

15. All notices or other communications required or permitted to be given under Agreement No. R159-97-060, as amended by Agreement No. R386-04-002, 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 below, or provided by e-mail at the address set forth below:

FOR DEPARTMENT: Susan Martinovich, P.E., Director
Attn.: Tracy Larkin-Thomason, P.E.
Nevada Department of Transportation
1263 South Stewart Street
Sparks, NV 89431
Telephone: (775)-888-7240
Fax: (775) 888-7203
E-mail: tlarkin@dot.state.nv.us

FOR CITY: Laurence A. Werner, Carson City Manager
Attn: Andrew Burnham
3505 Butti Way
Carson City, NV 89701-3498
Telephone: (775) 887- 2355
Fax: (775) 887-2112
E-mail: ABurnham@ci.carson-city.nv.us

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

IN WITNESS WHEREOF, the above named parties have hereunto set their hands and executed this Amendment the date first written above.

CARSON CITY: STATE OF NEVADA, acting by and through its
DEPARTMENT OF TRANSPORTATION

Director

Name (Print) Reviewed and Recommended:

Title (Print) Tracy Larkin-Thomason, P.E., Asst. Director

Approved as to Legality and Form:

Clerk Recorder, Date Deputy Attorney General

Carson City Transfer Table

Attachment A - Summary of Pavement Area			
Roads to be transferred to Carson City			
Location:	From*	To*	Length (mi.)*
SR 513- 5th St.	S. Carson St.	Edmonds Dr.	2.171
SR 520 Stewart St.	S. Carson St.	E. Williams St.	1.227
SR 525 -Airport Rd./ College Pkwy	US-50	E. College Pkwy (at Lompa Ln.)	1.323
SR 430 - William St. **	N. Carson St.	US 395	1.464
SR 531 - College Parkway	N. Carson St.	E. College Pkwy (at Lompa Ln.)	1.645
** This portion of Williams St. to be transferred when the portion of Carson St. from Arrowhead to Fairview Dr. is transferred reference Highway Agreement no. R386-04-002, Article III, Paragraph 2 (Attachment A)			
Total - To Be Transferred to City			7.830
*Notes:			
1) Termini shown are approximate and only for reference. Actual limits will be defined in right-of-way documents.			
2) Length shown is approximate and only for reference. Actual lengths will be defined in right-of-way documents.			
3) Actual conveyance of the properties will occur upon recordation of the resolution			
4) There will be no transfer of ownership of any portion of roadways falling within Carson Freeway right-of-way.			

Carson City Transfer Table

Attachment B - Summary of Pavement Area			
Location:	From*	To*	Length (mi.)*
Roads to be transferred to Carson City upon completion of Carson Freeway Phase 2			
SR 518 Snyder	Carson St.	Jacobsen Way	1.017
FRCC01- this frontage road falls within Carson Street Right-of-Way and will be transferred with the portion of Carson St. from Fairview Dr. to Spooner Junction. The Carson Street transfer is covered Highway Agreement no. R386-04-002, Article III, Paragraph 2 (Attachment A)			
Segment 1	0.096 Miles s. of Lupin Dr.	Snyder Ave.	0.776
Segment 2	Roventini Way	Clearview Dr.	0.074
Segment 3	S. Carson St. (past Koontz Ln./Moses Ave.)	S. Carson St. (near Sonoma)	0.519
Total - To Be Transferred to City upon completion of Carson Freeway Phase 2			2.386
*Notes:			
1) Termini shown are approximate and only for reference. Actual limits will be defined in right-of-way documents.			
2) Length shown is approximate and only for reference. Actual lengths will be defined in right-of-way documents.			
3) Actual conveyance of the properties will occur upon recordation of the resolution			
4) There will be no transfer of ownership of any portion of roadways falling within Carson Freeway right-of-way.			