

**City of Carson City  
Agenda Report**

**Date Submitted:** January 21, 2011

**Agenda Date Requested:** February 3, 2011  
**Time Requested:** Consent

**To:** Mayor and Supervisors

**From:** Public Works

**Subject Title:** Action to adopt Resolution No.\_\_\_\_, a resolution approving and authorizing the Mayor to sign an Interlocal Agreement by and between Carson City and the Carson City School District addressing participation and funding for removal of fill material at Carson High School. (Burnham).

**Staff Summary:** This agreement provides for Carson City to participate with the School District to remove fill material at the rear of the high school for development of a solar project and the regional water line project. Overall costs are estimated to be between \$250,000-\$300,000 with the City's share not to exceed \$150,000.

**Type of Action Requested:** (check one)  
(XXX) Resolution ( ) Ordinance  
( ) Formal Action/Motion ( ) Other

**Does This Action Require A Business Impact Statement:** ( ) Yes (XXX) No

**Recommended Board Action:** I move to adopt Resolution No.\_\_\_\_\_ a resolution approving and authorizing the Mayor to sign an Interlocal Agreement by and between Carson City and the Carson City School District addressing participation and funding for removal of fill material at Carson High School.

**Explanation for Recommended Board Action:** This agreement provides for Carson City and the School District to remove fill material at the rear of the high school for development of a solar project. The fill has been deposited by the City and the School District over the last two decades and is within a flood plain. The district is planning a solar project in the area and the City needs to install part of the regional water line through the area. Overall costs are estimated to be between \$250,000-\$300,000 with the City's share not to exceed \$150,000.

**Applicable Statue, Code, Policy, Rule or Regulation:** NA

**Fiscal Impact:** Not to exceed \$150,000.

**Explanation of Impact:** The project funding is contained in the City water capital budget.

**Funding Source:** Water Fund

**Alternatives:** Do not approve and direct staff otherwise.

**Supporting Material:** Interlocal Agreement between Carson City and the Carson City School District.

**Prepared By:** Andrew Burnham, Public Works Director

Reviewed By: [Signature]  
(Department Head)  
[Signature]  
(City Manager)  
[Signature]  
(District Attorney)  
[Signature]  
(Finance Director)

Date: 1-25-11  
Date: 1/25/11  
Date: 1/25/11  
Date: 1/25/11

**Board Action Taken:**

Motion: \_\_\_\_\_ 1) \_\_\_\_\_ Aye/Nay  
2) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

**RESOLUTION ADOPTING AND APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CARSON CITY SCHOOL DISTRICT AND CARSON CITY, A CONSOLIDATED MUNICIPALITY ADDRESSING FUNDING FOR FILL REMOVAL**

**WHEREAS**, any two or more public agencies may enter into cooperative agreements for the performance of any governmental function pursuant to NRS 277.080 to 277.180, inclusive; and

**WHEREAS**, NRS 277.110 provides that every such agreement must be by formal resolution or ordinance of the governing body of each public agency included and must be spread at large upon the minutes, or attached in full thereto as an exhibit, of each governing body; and

**WHEREAS**, the parties to the Interlocal Agreement between the Carson City School District and Carson City, a Consolidated Municipality, Addressing Funding for Fill Removal, desire to adopt and approve such agreement as required by NRS 277.110. A copy of the agreement is attached to this Resolution as Exhibit "B"; and

**WHEREAS**, both parties to the Interlocal Agreement between the Carson City School District and Carson City, a Consolidated Municipality Addressing Funding for Fill Removal are public agencies as defined by NRS 277.100; and

**NOW, THEREFORE, BE IT RESOLVED** that the terms and conditions of the Interlocal Agreement between the Carson City School District and Carson City, a Consolidated Municipality, Addressing Funding for Fill Removal are hereby adopted and approved; and

**BE IT FURTHER RESOLVED** that the Interlocal Agreement between the Carson City School District and Carson City, a Consolidated Municipality, Addressing Funding for Fill Removal shall be spread at large upon the minutes or attached in full thereto as an exhibit, and that a copy of this Resolution shall be sent to the Carson City School District.

Upon motion by Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, the foregoing Resolution was passed and adopted this \_\_\_\_\_ day of 2010 by the following vote:

AYES: \_\_\_\_\_ NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_ ABSTAIN: \_\_\_\_\_

Resolution No. \_\_\_\_\_

\_\_\_\_\_  
Robert L. Crowell, Mayor  
Carson City, Nevada

ATTEST:

\_\_\_\_\_  
Alan Glover, Clerk  
Carson City, Nevada

## INTERLOCAL AGREEMENT FOR FILL REMOVAL

This INTERLOCAL AGREEMENT is entered into this \_\_\_\_ day of \_\_\_\_\_, 2011 ("Effective Date"), by and between Carson City School District, formerly known as Ormsby County School District (hereinafter referred to as the "DISTRICT"), and Carson City, a consolidated municipality and political subdivision of the State of Nevada (hereinafter referred to as "CARSON CITY")."

### RECITALS

1. NRS 277.100(1) defines a public agency eligible to enter into an interlocal contract to include counties and consolidated municipalities, districts and CARSON CITY and DISTRICT are public agencies under that definition.

2. 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.

3. CARSON CITY and DISTRICT have disposed of fill material at the rear of the Carson City High School over the last two decades for the convenience of both entities which now needs to be removed due to the need to prepare the area for a solar project.

4. CARSON CITY and DISTRICT desire to share in the cost of the removal of the fill material.

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

1. REQUIRED APPROVAL. This AGREEMENT shall not become effective until and unless approved by appropriate official action of the governing body of each party.

2. TERM OF AGREEMENT. The term of this agreement shall be for one (1) year commencing on the effective date.

3. CARSON CITY'S RESPONSIBILITIES

a) CARSON CITY will pay DISTRICT for 50%, but not to exceed \$150,000, of the costs for removal of the fill material and will pay DISTRICT within 30 days of receiving an invoice from DISTRICT.

b) CARSON CITY will accept all or a portion of the fill material if necessary, at its landfill at no cost to DISTRICT.

4. DISTRICT'S RESPONSIBILITIES.

DISTRICT agrees to arrange for removal and transport of the fill material and shall invoice CARSON CITY for 50%, but not to exceed \$150,000, of the costs upon completion of the removal of the fill material..

5. 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.

6. INDEMNIFICATION.

a) To the fullest extent of limited liability as set forth in paragraph (5) of this agreement, 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.

b) The indemnification obligation under this paragraph is conditioned upon receipt of written notice by the indemnifying party within 30 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 for the indemnified party's chosen right to participate with legal counsel.

7. FORCE MAJEURE: No party to this agreement shall be considered to be in default in the performance of any obligations under this agreement when a failure of performance shall be due to 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.

8. SEVERABILITY. If any provision contained in this agreement is held to be unenforceable by a court of law or equity, this agreement 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 agreement unenforceable.

9. TERMINATION. This agreement may be terminated only by the mutual consent and agreement of the parties. If a party is in breach of a portion of this agreement then the party alleging such breach shall provide written notice to the other party specifying the nature of the violation and allowing thirty (30) days for the party in breach to correct the violation.

10. 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.

11. CONFIDENTIALITY. 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.

12. PROPER AUTHORITY

a) The parties hereto present 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 perform the services set forth in this agreement.

b) The parties are associated with each other only for the purpose and to the extent set forth in this agreement, and in respect to performance of services and payment of costs pursuant to this agreement, each party is and shall be a public agency separate and distinct from the other party and, subject only to the terms of this agreement, shall have the sole 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.

13. GOVERNING LAW: JURISDICTION. 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 jurisdiction of the Nevada district courts for enforcement of this agreement.

14. ENTIRE CONTRACT AND MODIFICATION. This agreement constitutes the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other contracts 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.

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

CARSON CITY  
SCHOOL DISTRICT

CARSON CITY BOARD  
OF SUPERVISORS

By: \_\_\_\_\_  
President

By: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

Approved as to form:

\_\_\_\_\_  
Clerk of the Board

By: \_\_\_\_\_  
Deputy District Attorney

ATTEST:

By: \_\_\_\_\_  
Clerk Recorder