

**Carson City
Agenda Report**

Date Submitted: March 10, 2015

Agenda Date Requested: March 19, 2015

Time Requested: 5 mins

To: Mayor and Supervisors

From: Max Cortes, Courts

Subject Title: For Possible Action: To adopt a resolution approving and authorizing the Mayor to sign the Intrastate Interlocal Contract to engage the State of Nevada, Department of Employment, Training and Rehabilitation, Rehabilitation Division, Business Enterprises of Nevada to provide vending services at the Carson City Public Safety Complex. *(Max Cortes)*

Staff Summary: The City is required to contract with the Department of Employment, Training and Rehabilitation, Rehabilitation Division, Business Enterprises of Nevada for any concessions located on public property. The current contract is set to expire on June 30, 2015.

Type of Action Requested: (check one)

Resolution

Ordinance

Formal Action/Motion

Other (Specify)

Does this action require a Business Impact Statement: () Yes (X) No

Recommended Board Action: I move to adopt Resolution No. _____ a resolution approving and authorizing the Mayor to sign the Intrastate Interlocal Contract to engage the State of Nevada, Department of Employment, Training and Rehabilitation, Rehabilitation Division, Business Enterprises of Nevada to provide vending services at the Carson City Public Safety Complex.

Explanation for Recommended Board Action: See staff summary.

Applicable Statute, Code, Policy, Rule or Regulation: NRS 277.180 & NRS 426.640

Fiscal Impact: None

Explanation of Impact: N/A

Funding Source: N/A

Alternatives: N/A

Supporting Material: Intrastate Interlocal Contract and resolution.

Prepared By: Janet Busse, Department Business Manager

Reviewed By: Nicholas Manno
(City Manager)

Date: 3/10/15

[Signature]
(District Attorney)

Date: 3/10/15

Uddell A. Pugh
(Finance Director)

Date: 3/10/15

Board Action Taken:

Motion: _____

- 1) _____
- 2) _____

Aye/Nay

(Vote Recorded By)

RESOLUTION NO. _____

A RESOLUTION ADOPTING AND APPROVING THE INTRASTATE INTERLOCAL CONTRACT TO ENGAGE THE STATE OF NEVADA, DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION, REHABILITATION DIVISION, BUSINESS ENTERPRISES OF NEVADA TO PROVIDE VENDING SERVICES AT THE CARSON CITY PUBLIC SAFETY COMPLEX

WHEREAS, Carson City and the State of Nevada may enter into cooperative contracts for the performance of any governmental function pursuant to NRS 277.180; and,

WHEREAS, NRS 277.180 provides that every such interlocal contract must be ratified by appropriate official action of the governing body of each party to the contract as a condition precedent to its entry into force; and,

WHEREAS, the parties to this contract for the joint use of the Carson City Public Safety Complex agree to allow the State to provide vending services and adopt and approve such interlocal contract as required by NRS 277.180. A copy of the contract is attached to this Resolution as Exhibit "A;" and,

WHEREAS, the parties entering into this interlocal contract are Carson City and the State of Nevada.

NOW, THEREFORE, BE IT RESOLVED, that the terms and conditions of the Intrastate Interlocal Contract entered into between Carson City and State of Nevada are hereby adopted and approved; and

BE IT FURTHER RESOLVED that the contract shall be spread at large upon the minutes or attached thereto as exhibit, and that a copy of this Resolution shall be sent to the State of Nevada, Department of Employment, Training and Rehabilitation.

ADOPTED this _____ day of _____, 2015.

AYES: Supervisors _____

NAYES: Supervisors _____

ABSENT: Supervisors _____

Robert L. Crowell, Mayor

ATTEST:

Susan Merriwether, Clerk/Recorder

INTRASTATE INTERLOCAL CONTRACT BETWEEN PUBLIC AGENCIES

A Contract Between the State of Nevada
Acting By and Through Its

**Department of Employment, Training and Rehabilitation
Rehabilitation Division**

Business Enterprises of Nevada

Kathleen Wynands ~ kewynands@nvdetr.org

500 East Third Street

Carson City, NV 89713

ph: (775) 684-3883 ~ fx: (775) 684-3892

and

Consolidated Municipality of Carson City

201 North Carson Street #2

Carson City, NV 89701

Janet Busse ~ JBusse@carson.org

Ph: (775) 283-7124 ~ Fx: (775) 887-2286

T80990941

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, it is deemed that the services hereinafter set forth are both necessary and in the best interests of the State of Nevada;

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

1. REQUIRED APPROVAL. This Contract shall not become effective until and unless approved by appropriate official action of the governing body of each party.
2. DEFINITIONS. "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.
3. CONTRACT TERM. This Contract shall be effective from July 1, 2015 to June 30, 2019, unless sooner terminated by either party as set forth in this Contract.
4. TERMINATION. This Contract may be terminated by either party prior to the date set forth in paragraph (3), provided that a termination shall not be effective until 30 days after a party has served written notice upon the other party. 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 Contract is withdrawn, limited, or impaired.
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. INCORPORATED DOCUMENTS. The parties agree that the services to be performed shall be specifically described; this Contract incorporates the following attachments in descending order of constructive precedence: **ATTACHMENT AA: STATEMENT OF STIPULATIONS**
7. CONSIDERATION. **The Department of Employment, Training and Rehabilitation, Rehabilitation Division, Business Enterprises of Nevada** agrees to provide the services set forth in paragraph (6) at a cost of **\$0.00. The total contract shall not exceed \$0.00.** Any intervening end to an annual or biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.
8. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations expressly provided.
9. INSPECTION and AUDIT.
 - a. Books and Records. Each party agrees to keep and maintain under general accepted accounting principles full, true and complete records, agreements, books, and documents as are necessary to fully disclose to the other party, the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with any applicable regulations and statutes.
 - b. Inspection and 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 the work product 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, the State Auditor, Employment Security, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives.
 - c. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained by each party for a minimum of three years and for five years if any federal funds are used in this Contract. The retention period runs from the date of termination of this Contract. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.
10. 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.
11. 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. To the extent applicable, actual contract damages for any breach shall be limited by NRS 353.260 and NRS 354.626.
12. 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.

13. INDEMNIFICATION. Neither party waives any right or defense to indemnification that may exist in law or equity.
14. 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.
15. 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.
16. 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 nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.
17. 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.
18. OWNERSHIP OF PROPRIETARY INFORMATION. Unless otherwise provided by law or this Contract, any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Contract shall be the joint property of both parties.
19. 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.
20. 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 or otherwise required by this Contract.
21. 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 set forth in paragraph (6).
22. 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 Nevada district courts for enforcement of this Contract.

23. ENTIRE AGREEMENT AND MODIFICATION. This Contract and its 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. 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, approved by the State of Nevada Office of the Attorney General.

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

CONSOLIDATED MUNICIPALITY OF CARSON CITY:

Robert L. Crowell Date

Mayor, Consolidated Municipality of Carson City Title

Attest:

Susan Merriwether Date

County Clerk Title

Approved as to form:



Adriana G. Fralick
Chief Deputy District Attorney

On 3/10/15

Date

DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION:

Shelley Hendren Date

Administrator, Rehabilitation Division Title

Don Soderberg Date

Director, Department of Employment, Training and Rehabilitation Title

Approved as to form by:

Deputy Attorney General for Attorney General, State of Nevada

On _____
(Date)

Pursuant to the provisions of NRS 277.180 by and between City of Carson City and Business Enterprises of Nevada, of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation hereinafter referred to as “AGENCY”, which provides for an Operator and/or Vendor to operate a cafeteria/snack bar and/or vending services in accordance with NRS 426.630 through NRS 426.720, NAC 426.010 through NAC 426.400 and in accordance with the Randolph Sheppard Act, Chapter 6A of Title 20.

1. Definitions and Descriptions:
 - a. AGENCY.....Business Enterprises of Nevada
 - b. OPERATORLicensed Operator
 - c. CITYCity of Carson City
2. All parties agree to comply with Title VI of the Civil Rights Act of 1964, as amended, and Section 503 of the Rehabilitation Act of 1973; as amended. The OPERATOR shall comply with all applicable government regulations related to the employment and payment of personnel. The OPERATOR shall neither discriminate nor allow discrimination against any employee or applicant for employment based on race, color, religion, ancestry, disability, sex or national origin. The OPERATOR is encouraged to establish a plan on providing work opportunities for minority and disadvantaged individuals.
3. This contract shall not be construed to create a contractual relationship of any kind between the CITY and the OPERATOR or between the CITY and a Contractor or Sub-subcontractor or between any persons or entities other than the CITY and the AGENCY.
4. No alteration or variation of the terms of this contract shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or verbal agreement shall be binding on any of the parties hereto.
5. Nothing contained in this contract or any subcontract awarded by the AGENCY or the OPERATOR shall create any contractual relationship between any such subcontractor and the CITY. No subcontract entered into by the AGENCY or the OPERATOR will relieve the AGENCY or OPERATOR of the performance of all work in accordance with methods subject to compliance with this contract and the operating contract, entered into between the AGENCY and the OPERATOR.
6. The CITY and AGENCY respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this contract. The AGENCY will select, train, license and assign qualified blind persons to be the OPERATOR in this contract pursuant to NRS 426.670 (1) (c). The removal of the OPERATOR is governed by NAC Chapter 426.
7. As required in SAM 0333.0, where vending machines that dispense beverage in aluminum cans, or contracts with an outside vending provider to service vending machines which dispense beverage in aluminum cans, BEN will ensure that (a) a bin or other suitable receptacle for the collection of empty cans is provided, and (b) will ensure that the recycled materials are periodically collected and delivered to an appropriate recycling center or nonprofit organization that collects cans.
8. Personnel selections of employees on the OPERATOR's payroll shall be the OPERATOR's responsibility. The OPERATOR's agents, employees and subcontractors shall be thoroughly trained and experienced in dining facility services and must possess all required permits and/or licenses. The CITY shall have no direct control over agents, employees or subcontractors of the OPERATOR. Any provision for such control shall be exercised only through BEN or the OPERATOR.
9. The CITY shall be responsible for all utility connection, maintenance and costs necessary to execute the tasks outlined herein.

10. As applicable, the AGENCY will ensure the OPERATOR complies with the security procedures and guidelines as established by the building manager. The building manager is to provide the OPERATOR with keys as appropriate for facility, food preparation, and storage and distribution areas. As appropriate, the OPERATOR shall be issued a security card or pass for access to the building. The CITY will provide for the security of the FACILITY and will restrict access to the area by unauthorized individuals without advanced notice to the OPERATOR.
11. The OPERATOR is responsible for the control and safekeeping of keys issued by the CITY. The CITY may require the OPERATOR and its employees to obtain security badges at the expense of the OPERATOR. All security badges shall be returned to the CITY upon separation of employment by the OPERATOR and/or termination of Operating Contract between the AGENCY and the OPERATOR. If a key is lost by the OPERATOR, employee or subcontractor, the OPERATOR shall be responsible for the cost of re-keying. All re-keying shall be accomplished by the CITY at the sole expense of the OPERATOR.
12. The OPERATOR shall cooperate with the CITY on all security matters and shall promptly comply with any project security requirements established by the CITY. Such compliance with these security requirements shall neither relieve the OPERATOR of responsibility for maintaining proper security for the above-noted items, nor shall it be construed as limiting in any manner the OPERATOR's obligation to undertake reasonable action as required to establish and maintain secure conditions at the FACILITY.
13. The OPERATOR shall report to both the CITY and the AGENCY, as soon as possible following the OPERATOR's knowledge of a security event or employee injury. The OPERATOR shall be responsible for all money handling processes of its agents, employees or subcontractors. The OPERATOR shall at all times conduct all operations under this contract in a manner to avoid the risk of personal injury, or of property loss, theft, or damage by vandalism, sabotage or other means.
14. The AGENCY and the OPERATOR shall operate on their own finances and credit and shall furnish at the expense of the AGENCY and/or OPERATOR all equipment and accessory items required for the work provided for in this contract. All incoming shipments of all products, food items, materials and supplies shall be to the OPERATOR's account. Under no circumstances shall shipments be made or invoiced to the CITY.
15. Assure, through the OPERATOR, the food distribution is performed in a sanitary manner in accordance with all applicable city, state and county health codes. Where applicable, the OPERATOR shall have available upon request the rating achieved on the most recent health inspection.
16. The AGENCY will address and assist the OPERATOR to resolve any quality and quantity control issues or any other matters arising as a result of this Statement of Stipulations.
17. The AGENCY may periodically request feedback from the CITY as to the quality of services provided by the OPERATOR assigned to the FACILITY.
18. The AGENCY may, in accordance with all applicable federal and state laws and regulations, replace any OPERATOR whose performance becomes unsatisfactory to the CITY. If the AGENCY removes an OPERATOR, it shall maintain the services during the interval period between removal of one OPERATOR and the licensing of a successor.
19. The CITY and the OPERATOR hereby waive any and all right of recovery from each other for the loss to personal or real property, or loss of use thereof, however occurring, to the extent that such losses are insured under a valid and collectible insurance policy to the extent of any recovery collectible under such insurance, subject to the limitation that this waiver shall apply only when permitted by the applicable policies of insurance. This waiver shall include, but not be limited to; losses covered by policies of fire, extended coverage, boiler explosion and sprinkler leakage. This waiver shall not apply to claims for personal injury or death.