

Item #8

**City of Carson City
Agenda Report**

Date Submitted: March 27, 2007

Agenda Date Requested: April 5, 2007

Time Requested: 10 minutes

To: Mayor and Supervisors

From: D.S., Engineering Division

Subject Title: Action to approve a Water, Sanitary Sewer and Storm Sewer Participation Improvements Agreement by and between Carson Gaming LLC, and City of Carson City, a political subdivision of the State of Nevada, for work including, but not limited to the construction of a Water, Sanitary Sewer and Storm Sewer on Curry Street - from Clearview Drive to Wialaki Street.

Staff Summary:

The applicant has agreed to perform certain work associated with engineering design and construction of the improvements on Curry Street from Clearview Drive to Wialaki Street, which work includes utility extension for water, sanitary sewer, and storm sewer with roadway restoration. The Curry Street project is currently on the RTC capital project list. The total estimated construction cost for this portion of Curry Street is \$3,500,000. The Carson Gaming project on Curry Street has provided an opportunity to accelerate this project and take advantage of developer funding for the full right-of-way improvements as well as associated utility improvements. The City commitment to this project, as specified in the agreement, is a total of \$1,376,500. \$568,500 is from the RTC, \$140,300 is from the Sanitary Sewer Fund, \$122,900 is from the Water Fund and \$544,800 is from the Storm Water Fund. The CITY agrees to pay the actual construction cost for proposed water, sanitary sewer and storm sewer improvements, including associated roadway restoration to Curry Street of which cost will be determined by the actual quantity placed in the field using the unit prices provided by the chosen Contractor. The bill shall be itemized and include cost differentials for all items to be included in the participation. Failure to provide the itemized bill will exempt the installation from participation. The reimbursement will occur upon completion and acceptance of the work by the CITY and receipt by the CITY of APPLICANT's invoice, with copies of the invoices from APPLICANT's contractors, engineers and surveyors.

This item was approved by the Carson City Regional Transportation Commission at their regular meeting of March 14, 2007.

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 a Water, Sanitary Sewer and Storm Sewer Participation Improvements Agreement by and between Carson Gaming LLC, and City of Carson City, a political subdivision of the State of Nevada, for work including, but not limited to the construction of a Water, Sanitary Sewer and Storm Sewer on Curry Street - from Clearview Drive to Wialaki Street.

Explanation for Recommended Board Action:

The City had proposed the installation of the water, sewer and storm drainage on this section of Curry Street as a *Regional Transportation project* several years ago. The original project did not anticipate the installation of full width improvements nor the installation of curbs or sidewalks, however with the construction of the Casino Fandango and the related facilities, we are able to leverage our dollars with the developer to fund the complete street and utility extension. The portions being funded by the City are regional in nature and benefit all the properties in this southwest area of the City.

Applicable Statue, Code, Policy, Rule or Regulation:

For the participation of the required improvements as a part of the Carson City Municipal Code, section 12.01.210, Nevada Revised Statues 278.462, and 338.0115, authorizing public agencies to enter into agreements to perform a service, activity or undertaking, and all applicable ordinances or regulations referred to and made part of this Participation Agreement.

Fiscal Impact:

RTC Fund \$568,500; Sanitary Sewer Fund \$140,300; \$122,900 Water Fund and Storm Water Fund \$544,800.

Explanation of Impact:

See above.

Funding Source:

RTC, Water Fund, Sewer Fund and Stormwater Fund

Alternatives:

No viable alternatives.

Supporting Material:

Participation Agreement

Prepared By: Lawrence A Werner, P.E., P.L.S.

Reviewed By:

(Department Head)

Date:

3/22/07

(City Manager)

Date:

3/27/07

(District Attorney)

Date:

3-27-07

(Finance Director)

Date:

3/27/7

Board Action Taken:

Motion: _____

1)

Aye/Nay

2)

(Vote Recorded By)

PARTICIPATION AGREEMENT

PERMIT NO. 06-663

WATER, SANITARY SEWER AND STORM SEWER IMPROVEMENTS ON Curry Street -from Clearview Drive to Wialaki Street

THIS AGREEMENT, dated this ____ day of _____, 2007, between Carson Gaming LLC, (hereinafter referred to as "APPLICANT"), and CARSON CITY, NEVADA, a consolidated municipality (hereinafter referred to as "CITY").

WITNESSETH:

WHEREAS, the CITY has asked the APPLICANT to perform certain work associated with engineering design and construction of water, sanitary sewer and storm sewer improvements, including roadway restoration, on Curry Street from Clearview Drive to Wialaki Street; and

WHEREAS, the APPLICANT has agreed to perform certain work associated with engineering design and construction of the improvements on Curry Street from Clearview Drive to Wialaki Street, which work includes utility extension for water, sanitary sewer, and storm sewer with roadway restoration; and

WHEREAS, the CITY desires to have improvements completed by the APPLICANT in accordance with the approved plans, specifications and drawings, all applicable provisions of the Carson City Municipal Code and any other applicable ordinances or regulations which are hereby referred to and made a part of this AGREEMENT by reference, and in accordance with the specific conditions set forth within this AGREEMENT itself; and

NOW, THEREFORE, the parties to this AGREEMENT, in consideration of the provision herein and other good and valuable consideration, do hereby agree as follows:

1. The AGREEMENT is subject to the requirements set forth in NRS 338.0115. The APPLICANT shall contract for and complete design work and construction of improvements as described herein; and, the CITY agrees to reimburse the APPLICANT in the amount of ONE MILLION THREE HUNDRED SEVENTY SIX THOUSAND DOLLARS (\$1,376,000.00) and any cost increases for which CITY is the responsible party pursuant to Section 3 of this AGREEMENT for the actual construction cost set forth in Exhibit A as "City Costs," attached hereto, associated with the actual construction costs of constructing the above Curry Street Improvements on Curry Street from Clearview Drive to Wialaki Street based on the items as pertaining to the "City" in Exhibit A.

2. The reimbursement will occur within thirty (30) days upon completion and acceptance of the Curry Street Improvements described in Exhibit A by the CITY, and the receipt by the CITY of APPLICANT'S invoice, copies of invoices from the APPLICANT'S contactors, material suppliers, engineers and surveyors along with proof of payment thereof. The invoice shall be itemized and include cost differentials for all items to be included in the AGREEMENT. Failure to provide the itemized bill and proof of payment to contactors, material suppliers, engineers and surveyors is grounds for the City to withhold reimbursement.

3. In the event that unforeseen conditions are found to exist that cause change orders to be issued, cost overruns, redesign costs and/or expanded scope of

work resulting in increased costs, the party (APPLICANT or CITY) who would otherwise be responsible for that component of the work pursuant to Exhibit A shall also be responsible for the increased costs attributable thereto. The responsible party who would be responsible for the increased costs must approve the change and/or redesign costs prior to a Contractor proceeding with the increased work. In the event the parties cannot agree, after conferring in good faith, as to which party is responsible for the increased cost, the design and construction improvements will be completed by the APPLICANT, and the dispute will be submitted to arbitration with each party paying arbitration costs and expenses equally.

Handwritten: [^]binding *BL*

4. This AGREEMENT shall be binding on the parties until completion of the project or within two (2) years of execution of the agreement by the parties whichever occurs first.

5. The construction work pursuant to this AGREEMENT shall begin when and if the Applicant commences construction of the Curry Street Improvements on Curry Street from Clearview Drive to Wialaki Street.

6. If APPLICANT fails, neglects, or refuses to construct said improvements as and when agreed, such failure shall constitute a breach of this AGREEMENT. If APPLICANT fails to cure the default upon the request of CITY within thirty (30) days, the CITY, at its option, may correct such default and thereupon recover from APPLICANT the cost thereof or may require the specific performance by APPLICANT of all the construction as required under this AGREEMENT. The foregoing shall be in addition to, and not exclusive of, any other remedy now or hereafter provided by law.

7. In the event CITY fails, neglects, or refuses to reimburse the APPLICANT as and when agreed in accordance with this AGREEMENT, interest on any balance due and owing shall accrue at the legal rate. The foregoing shall be in addition to, and not exclusive of, any other remedy now or hereafter provided by law.

8. This AGREEMENT shall bind the heirs, executors, administrators, successors, and assigns of the respective parties.

9. To the fullest extent permitted by law, the parties, APPLICANT and CITY, shall indemnify, hold harmless and defend, not excluding the party's right to participate, each other from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent, willful acts or omissions of the APPLICANT or the CITY, its officers, employees, consultants, contractors, agents invitee's and/or guest's wrongful conduct.

10. This AGREEMENT shall be construed and enforced in accordance with the laws of the State of Nevada.

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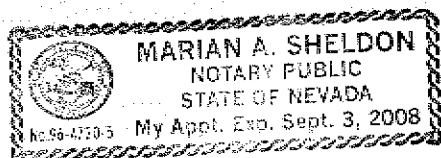
11. This AGREEMENT constitutes the entire understanding between the parties with respect to the subject matter hereof.

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

APPLICANT: CARSON GAMING LLC

By: *Rick Berkner*
Its: V.P. CONSTRUCTION

Subscribed and sworn to before me on this day of March 8, 2007



Marian A. Sheldon
Notary Public

Approved as to form:

APPROVED:

District Attorney

Lawrence A. Werner
LAWRENCE A. WERNER, P.E./P.L.S.
City Engineer

Carson City Regional Transportation Commission

Carson City Board of Supervisors

Richard Staub
RICHARD STAUB, Chairman

Marv Teixeira
MARV TEIXEIRA, Mayor

ATTEST:

ATTEST:

Alan Glover
ALAN GLOVER, Clerk-Recorder

Alan Glover
ALAN GLOVER, Clerk-Recorder

Exhibit A Summary Curry Street Participation

Item	City Share from Exhibit		City Fund Distribution	
	"A" Spreadsheet	Without Dry Utilities		
Streets	\$352,619			
<u>Sidewalks</u>	<u>\$48,277</u>			
Street/Sidewalk Total	\$400,896	RTC	\$400,896	41%
Sewer	\$98,918	Sewer	\$98,918	10%
Stormdrain	\$384,190	Stormwater	\$384,190	40%
<u>Water</u>	<u>\$86,655</u>	<u>Water</u>	<u>\$86,655</u>	<u>9%</u>
	\$970,659		\$970,659	100%
General	\$16,908	Distributed Proportionally		
Dry Utilities	\$100,284	Distributed Proportionally		
Gen Contractor	\$64,453	Distributed Proportionally		
Contractor Fee	\$80,661	Distributed Proportionally		
Contingency	\$61,648	Distributed Proportionally		
Cold Weather Prot	\$1,640	Distributed Proportionally		
Testing	\$5,210	Distributed Proportionally		
<u>SPPCo</u>	<u>\$75,000</u>	<u>Distributed Proportionally</u>		
Distributed Cost	\$405,804			
Total Cost	\$1,376,463			
Distribution	Participation Amount			
RTC	\$568,498.84			
Water	\$122,882.91			
Sewer	\$140,272.71			
Stormwater	\$544,808.55			
	<u>\$1,376,463.00</u>			

Project Name: Curry St. Improvements

<u>Task Description</u>	<u>Fund Budget</u>	<u>City's share</u>				<u>Comment</u>
General Requirements						
Mobilization	\$15,900	\$6,454	\$4,713	\$205	\$1,687	
Erosion control / SWPP	\$4,100	\$1,664	\$1,215	\$52	\$435	\$2,841
Pot Holing	\$6,200	\$2,790	\$1,554	\$62	\$620	\$733
Dust Control	\$6,800	\$2,760	\$2,016	\$87	\$721	\$1,174 Allowance
General labor	\$4,320	\$1,944	\$1,084	\$40	\$432	\$1,215
Trash boxes	\$658	\$296	\$165	\$6	\$66	\$820 Daily Laborer
Sweeper service final clean up	\$2,500	\$500	\$500	\$500	\$500	\$125 Allowance
Wash down	\$2,500	\$500	\$500	\$500	\$500	\$500 Allowance
Category Sub Total	\$42,977	\$16,908	\$11,747	\$1,452	\$4,961	\$500 Allowance \$7,908
Demolition						
Demo-Remove Head wall	\$1,039	\$1,039	\$0	\$0	\$0	
Demo-Pulverize A.C.Paving	\$23,799	\$10,851	\$5,833	\$219	\$2,369	\$0 \$4,527
Demo-Rmv. A.C.(Curry & Clearv)	\$4,309	\$4,309	\$0	\$0	\$0	\$0
Demo-Saw Cut Conc. & A.C.	\$1,225	\$497	\$363	\$16	\$130	\$221
Demo-Curb, Gutter, walk Koontz	\$3,429	\$3,429	\$0	\$0	\$0	\$0
Demo-Moses & Curry Drives	\$2,135	\$2,135	\$0	\$0	\$0	\$0
Demo-Trench Plate Allowance	\$1,200	\$540	\$301	\$68	\$120	\$171 Allowance
Traffic control and Signage	\$32,183	\$13,065	\$9,541	\$411	\$3,415	\$5,752 Include. In base bid
Traffic control (Specific) C.C.Req'd	\$13,455	\$13,455	\$0	\$0	\$0	\$0 Per City Reqmt
N-DOT R/W Demolition	\$0	\$0	\$0	\$0	\$0	\$0 Excluded, none shown
Category Sub Total	\$82,774	\$49,319	\$16,038	\$713	\$6,033	\$10,671

[illegible]

[illegible]

[illegible]