

**INTERLOCAL AGREEMENT BETWEEN  
THE CITY OF YERINGTON AND LYON COUNTY, NEVADA**

This interlocal agreement (“Agreement”) is made and entered into by and between the City of Yerington, a political subdivision of the State of Nevada (“City”) and Lyon County, a political subdivision of the State of Nevada (“County”).

**RECITALS**

**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 agreement is authorized by law to perform; and

**WHEREAS**, City is a political subdivision of the State of Nevada organized and governed pursuant to the provisions of its City Charter and NRS Chapter 268; and

**WHEREAS**, County is a political subdivision of the State of Nevada governed by NRS Chapter 244; and

**WHEREAS**, County desires to install fiber communication infrastructure in City to bolster communications among County facilities; and

**WHEREAS**, City may benefit from an enhancement of communications among County facilities located in City; and

**WHEREAS**, City has awarded a water and sewer improvement project to Q&D Construction (“Contractor”); and

**WHEREAS**, in the course of bidding for its water and sewer improvement project, City awarded Contractor an ancillary project for the benefit of County to install fiber communication infrastructure in City (“ancillary project”); and

**WHEREAS**, this ancillary project can be readily combined with the City’s larger utility improvement project; and

**WHEREAS**, Farr West Engineering (“Farr West”) is City’s engineer and will be the engineer as to the ancillary project; and

**WHEREAS**, County wishes that the ancillary project proceed, at its sole expense.

**WITNESSETH NOW**, in consideration of the foregoing promises, the City and the County hereby enter into this Agreement on the following terms and conditions:

1. **RECITALS INCORPORATED.** The recitals set forth above are adopted and incorporated into this Agreement by reference hereto.

2. **PARTIES.** This Agreement is made and entered into by and between the City and County.

3. **PURPOSE.** The purpose of this Agreement is for the City to contract with Contractor for the completion of the ancillary project.

4. **TERM.** This Agreement is effective upon the day and date last signed and executed by the duly authorized representatives of parties. It will remain in full force and effect until completion of the ancillary project and County payment thereafter.

5. **RIGHTS AND OBLIGATIONS OF CITY.**

- a. City will contract with Contractor to complete the ancillary project.
- b. City will have no financial responsibility for payment of Contractor's services.
- c. City will process Contractor's invoices and issue timely payment in accordance with the terms and conditions set forth herein.
- d. City will not allow circumstances which would permit contractor to stop work or lien any property.
- f. City will allow Contractor to perform its work at Contractor's convenience, schedule, and timing, and will allow no interference with its work.

6. **RIGHTS AND OBLIGATIONS OF COUNTY.**

- a. County will be 100% financially responsible for the payment of all work regarding the ancillary project.
- b. County will immediately pay City for any overages of Contractor's service charges as they arise.
- c. County will utilize services of Farr West to inspect Contractor's work daily to ensure compliance with all County plans and applicable codes and will immediately notify City as to any problems or discrepancies.
- d. The parties believe that all easements necessary for this ancillary project are in-hand. In the event additional easements or rights of way are required, County will secure and dedicate easements as City or Contractor may require, whether permanent or construction in nature.

e. County will not allow circumstances which would permit Contractor to stop work or impose a lien upon any property.

f. County will ensure that it will allow Contractor to perform its ancillary project at Contractor's convenience, schedule and timing and will allow no interference with its work.

g. County will permit City and Contractor to utilize County-owned real property, infrastructure, and equipment as may be reasonably necessary for the ancillary project.

h. County will contract separately with the ancillary project engineer, Farr West, for the implementation of the project services and all necessary inspections thereto. County will be 100% responsible for payment of obligations to Farr West related to the ancillary project.

i. County will make itself readily available and responsive to requests for direction and/or information from City, Farr West, and/or Contractor.

j. County shall bear all responsibility to locate and mark its underground improvements when requested for Underground Service Alert ("USA" call before you dig) purposes.

7. **PAYMENT TO CONTRACTOR.** City will timely pay Contractor for installation services upon notification from the project engineer, Farr West, that payment is due and that it has approved Contractor's invoice. City may rely upon Farr West's payment approval and instruction. County will indemnify and hold City harmless regarding payments made by City in reliance upon Farr West's direction.

8. **PRICING.** City and County understand and agree that Contractor's pricing for installation services may be subject to change. County will promptly respond to inquiries from City, Contractor and Farr West in relation to pricing and payment.

9. **CONSIDERATION.** In exchange for City adding the ancillary project to its utility improvement project, County agrees to be 100% responsible for payment of all Contractor charges for installation services.

10. **LAWS AND REGULATIONS.** City will ensure that installation services within the City comply with all applicable Federal, State, and local laws, regulations and standards for public health and safety, siting, construction, operations, and maintenance in exercising the rights granted under this Agreement.

11. **INDEMNIFICATION** County will defend, indemnify, and hold City harmless from any claims relating to Contractor's unpaid bills for the ancillary project. County will also defend, indemnify, and hold City harmless for any claims and/or liabilities relating to defects in the installation services' workmanship, design, materials, and/or safety.

12. **NO WARRANTIES.** City extends no warranties to County for any work performed by Contractor, its subcontractors, or agents. City is not responsible for defects in workmanship, design, materials and/or safety relating to installation services.

13. **ASSIGNMENT.** City will assign to County all warranties made by Contractor in relation to the ancillary project, if any.

14. **NO CITY FINANCIAL RESPONSIBILITY.** City's financial responsibility for the ancillary project will be zero. County will reimburse City for any out of pocket expenditures relating to the installation services within sixty (60) days of request by City, whether or not identified or anticipated by this Agreement. City will provide documentation to support all requests for reimbursement for out of pocket expenditures showing that such expenditures are related to the ancillary project. City will make reasonable efforts to notify County if it has knowledge that it will incur such expenses.

15. **DISPUTE RESOLUTION.** Disputes between City and County shall be resolved by Farr West, if possible. If City is required to negotiate, mediate, or arbitrate disputes between Contractor and County, City shall be reimbursed by County for its labor and expenses associated with same. To the extent practicable, City will allow County to participate in any such negotiations. City will also document any labor and expenses to show that such are related to the ancillary project.

16. **PREVAILING PARTY ATTORNEY'S FEES & COSTS.** In the event of any legal action between City and County regarding this Agreement, the non-prevailing party shall pay the prevailing party its reasonable attorney's fees and costs. For purposes of this Agreement, a prevailing party must secure against the other party a judgement or a monetary recovery as a condition precedent to its entitlement to attorney's fees and costs.

17. **TERMINATION.** This Agreement will be terminated upon the occurrence of any of the following events:

- a. Upon mutual agreement of both parties. Each party agrees to perform their respective duties hereunder until the date of termination.
- b. Upon breach of agreement if breach is not cured within 90 days of occurrence.

Termination of this Agreement does not relieve either party of their financial responsibilities and duties herein incurred through the date of termination. In the event of a breach of this Agreement, the non-breaching party shall have the right to seek damages and all other available legal and equitable relief against the breaching party.

18. **AMENDMENTS.** Either party may request changes to this Agreement. Any changes, modifications, revisions, or amendments to this Agreement which are mutually agreed upon by and between the parties to this Agreement will be incorporated by written instrument, and effective when executed and signed by all parties to this Agreement.

19. **APPLICABLE LAW.** The construction, interpretation and enforcement of this Agreement will be governed by the laws of the State of Nevada. The courts of Lyon County, Nevada will have jurisdiction over any action arising out of this Agreement and over the parties.

20. **SEVERABILITY.** Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of the Agreement will continue in full force and effect, and either party may renegotiate the terms affected by the severance.

21. **THIRD PARTY BENEFICIARY RIGHTS.** The parties do not intend to create in any other individual or entity the status of a third-party beneficiary, and this Agreement will not be construed so as to create such status. The rights, duties and obligations contained in this Agreement will operate only between the parties and will inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement. The parties to this Agreement intend and expressly agree that only parties' signatory to this Agreement will have any legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this Agreement, or to bring an action for the breach of this Agreement.

22. **NOTICES.** Notices and demands will be served by postage prepaid to:

CITY OF YERINGTON: Robert Switzer, City Manager  
14 East Goldfield Avenue  
Yerington, NV 89447

LYON COUNTY: Jeff Page, County Manager  
27 S. Main Street  
Yerington, NV 89447

Subject to the right of either party to designate by notice in writing to any new address to which notices, demands and installments of rental may be sent. Notice will be deemed received three days after posting.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

**CITY OF YERINGTON:**

**ATTEST:**

\_\_\_\_\_  
John Garry, Mayor Date

\_\_\_\_\_  
Sheema Shaw, City Clerk Date

**LYON COUNTY:**

**ATTEST:**

\_\_\_\_\_  
Vida Keller, Chairwoman Date

\_\_\_\_\_  
Nikki Bryan, County Treasurer Date

**APPROVED AS TO FORM**

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Charles S. Zumpft, Esq.      Date  
Yerington City Attorney

**APPROVED AS TO FORM:**

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Steven Rye, Esq.      Date  
Deputy District Attorney

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