

**NOTICE OF PUBLIC MEETING OF THE
CARSON CITY REGIONAL TRANSPORTATION COMMISSION
WEDNESDAY, NOVEMBER 12, 2014 4:30 P.M.
COMMUNITY CENTER- SIERRA ROOM
851 EAST WILLIAM STREET
CARSON CITY, NEVADA**

NOTE: The Carson City Regional Transportation Commission is pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify Carson City Regional Transportation Commission staff in writing at 3505 Butti Way, Carson City, Nevada, 89701, or ppittenger@carson.org, or call Patrick Pittenger at (775) 887-2355 as soon as possible (requests are required prior to 12:00 p.m. on November 10, 2014).

For more information regarding any of the items listed on the agenda, please contact Patrick Pittenger, Transportation Manager, at (775) 887-2355. Additionally, the agenda with all supporting material is posted under "Agendas & Minutes" at www.carson.org, or is available upon request at 3505 Butti Way, Carson City, Nevada, 89701.

AGENDA

A. ROLL CALL AND DETERMINATION OF A QUORUM

B. PUBLIC COMMENT: Members of the public who wish to address the Regional Transportation Commission may approach the podium and speak on matters related to the Regional Transportation Commission. Comments are limited to three minutes per person per topic. If your item requires extended discussion, please request the Chair to calendar the matter for a future Regional Transportation Commission meeting. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an Agenda as an item upon which action may be taken.

C. For Possible Action: APPROVAL OF MINUTES

C-1 For Possible Action: Action to approve the minutes of the September 10, 2014 meeting.

D. AGENDA MANAGEMENT NOTICE: Items on the agenda may be taken out of order; RTC may combine two or more agenda items for consideration; and RTC may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.

E. DISCLOSURES: Any member of the Commission that may wish to explain any contact with the public regarding an item on the agenda or business of the Commission.

F. PUBLIC MEETING ITEMS:

F-1 For Possible Action: To recommend to the Board of Supervisors approval of the Federal Land Access Program (FLAP) Project Memorandum of Agreement (MOA) for the State Route 28 Corridor between Carson City and the Tahoe Transportation District (TTD), as the lead agency, as well as other named parties.

Staff Summary: The proposed agreement documents the intent of the parties and sets forth the anticipated responsibilities of each party in the development, construction, and future maintenance of the SR 28 Project.

F-2 Information on Old Clear Creek Road.

Staff Summary: Following recent action by the Carson City Board of Supervisors related to a proposed development off of Old Clear Creek Road, there have been numerous questions and comments regarding the status of that road. Staff has re-confirmed the position of the City with the District Attorney's office and will discuss the status of the road and answer any questions.

F-3 For Possible Action: To approve Amendment 1 to Highway Agreement No. P187-12-063 between the Carson City RTC and the Nevada Department of Transportation (NDOT) for the Hells Bells Pedestrian project.

Staff Summary: An amendment to the agreement is required as there are no longer Federal funds available for reimbursement of the project construction costs. Instead, state funds will be used for reimbursement.

F-4 For Possible Action: To authorize the Transportation Manager to execute a cooperative agreement between the Carson City RTC and the Nevada Department of Transportation (NDOT) for the US 50 East Shared Use Path Improvement Project and to authorize the Transportation Manager to sign future amendments to this agreement regarding time extensions or a change in the value of funding of up to 20% of the initial funding amount.

Staff Summary: The US 50 East Shared Use Path Improvement Project has been approved for Transportation Alternatives Program (TAP) funds to construct sections of concrete path, curb and gutter, repair of the existing asphalt path, signs, and striping along the north side of US 50 from North Lompa Lane to College Parkway.

F-5 Information on proposed closure of a portion of W. Third Street.

Staff Summary: The permanent closure of W. Third Street between Carson and Curry Streets has been proposed to create a space for pedestrian and special events use. Staff has evaluated the traffic in the area to ensure that the proposed closure would not have a significant impact on traffic in the area.

F-6 For Possible Action: To determine that RO Bus Sales Bid Submittal is not responsive and therefore Staff recommends the rejection of their bid and bid protest.

Staff Summary: Carson City received sealed bids for all labor, materials, tools and equipment necessary to provide for new 2015 23-foot-long paratransit buses capable of seating 15 forward-facing ambulatory adult passengers, or two (2) wheelchair securement stations (with 13 ambulatory passengers), a driver, and a front, curb-side wheelchair ramp. Procuring agency requested proposals for the manufacture and delivery of two (2) paratransit buses in accordance with the terms and conditions set forth.

F-7 For Possible Action: To determine that Creative Bus Sales' is the lowest responsive and responsible bidder pursuant to N.R.S. Chapter 332 and to authorize Public Works to purchase Paratransit Buses for a bid amount of \$122,116.00, to be funded from the Transit Fund, Machinery & Equipment/Vehicle Purchase account as provided in FY 2015/2016 budget. (Contract File 1415-051).

Staff Summary: Carson City received sealed bids for all labor, material, tools and equipment necessary for the new 2015 23-foot-long paratransit buses capable of seating 15 forward-facing ambulatory adult passengers, or two (2) wheelchair securement stations (with 13 ambulatory passengers), a driver, and a front, curb-side wheelchair ramp. Procuring agency requests proposals for the manufacture and delivery of two (2) paratransit buses in accordance with the terms and conditions set forth.

G. INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS (Non-Action Items)

G-1 Street Operations Report – September 2014

Staff Summary: Monthly Status Report for the Commission's information.

G-2 Project Status Report

Staff Summary: Monthly Status Report for the Commission's information.

G-3 Future Agenda Items

H. COMMISSION COMMENTS: Status reports and comments from the members of the Regional Transportation Commission.

I. PUBLIC COMMENT: Members of the public who wish to address the Regional Transportation Commission may approach the podium and speak on any matter that is not specifically included on the agenda as an action item and allowable under the Open Meeting Law. Comments are limited to three minutes per person per topic. If your item requires extended discussion, please request the Chair to calendar the matter for a future Regional Transportation Commission meeting. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an Agenda as an item upon which action may be taken.

J. For Possible Action: ADJOURNMENT

The next regular meeting is tentatively scheduled for Wednesday, December 10, 2014, immediately after the adjournment of the CAMPO meeting, which begins at 4:30 p.m., at the Sierra Room - Community Center, 851 East William Street.

This agenda has been posted at the following locations
before 5:00 p.m. on Thursday, November 6, 2014:
CITY HALL, 201 North Carson Street
CARSON CITY LIBRARY, 900 North Roop Street
COMMUNITY CENTER, SIERRA ROOM, 851 East William Street
CARSON CITY PUBLIC WORKS, 3505 Butti Way
PLANNING DIVISION, 2621 108 E. Proctor Street

DRAFT MINUTES
Regular Meeting
Carson City Regional Transportation Commission
Wednesday, September 10, 2014 ● 4:48 PM
Community Center Sierra Room, 851 East William Street, Carson City, Nevada

Board Members:

Chair – John McKenna	Vice Chair – Jim Smolenski
Commissioner – Brad Bonkowski	Commissioner – Mark Kimbrough
Commissioner – Robert McQueary	

Staff:

Darren Schulz, Public Works Department Director
Patrick Pittenger, Transportation Manager
Daniel Doenges, Senior Transportation Planner
Graham Dollarhide, Transit Coordinator
Joseph Ward, Senior Deputy District Attorney
Tamar Warren, Deputy Clerk/Recording Secretary

NOTE: A recording of these proceedings, the Board’s agenda materials, and any written comments or documentation provided to the recording secretary during the meeting are public record. These materials are on file in the Clerk-Recorder’s Office, and available for review during regular business hours.

The televised Regional Transportation Commission (RTC) meeting recordings are available on:
<http://www.breweryarts.org/carsontv-public-access/rtccampo/>.

A. CALL TO ORDER AND DETERMINATION OF QUORUM (4:48:31) – A quorum was present.

Attendee Name	Status	Arrived
Chairperson John McKenna	Present	
Vice Chairperson Jim Smolenski	Present	
Commissioner Brad Bonkowski	Present	
Commissioner Mark Kimbrough	Present	
Commissioner Robert McQueary	Present	

B. PUBLIC COMMENT (4:49:16) – None.

C. For Possible Action: APPROVAL OF MINUTES

C-1 For Possible Action: ACTION TO APPROVE THE MINUTES OF THE JULY 9, 2014 MEETING.

(4:49:38) – MOTION: I move to approve the minutes of the RTC meeting of July 9, 2014 as presented.

RESULT:	APPROVED (5-0-0)
MOVER:	Bonkowski
SECONDER:	Smolenski
AYES:	McKenna, Smolenski, Bonkowski, Kimbrough McQueary
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

D. AGENDA MANAGEMENT NOTICE (4:48:53) – Chairperson McKenna suggested discussing item F4 prior to item F1.

E. DISCLOSURES (4:49:56) – None.

F. PUBLIC HEARING ITEMS

F1 INFORMATION ON THE IMPLEMENTATION OF JUMP AROUND CARSON'S EXPANDED EVENING SERVICE.

(6:02:48) – Mr. Pittenger presented the agenda materials which are incorporated into the record, and noted that the program had been implemented a week ago.

PUBLIC COMMENTS

(6:04:56) – None.

F2 FOR POSSIBLE ACTION: TO DETERMINE THAT HORIZON CONSTRUCTION, INC. IS THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER PURSUANT TO N.R.S. CHAPTER 338 AND TO AWARD CONTRACT NO. 1415-028, "5TH STREET PEDESTRIAN IMPROVEMENTS PROJECT" FOR A BID AMOUNT OF \$289,000.00, PLUS A CONTINGENCY AMOUNT OF \$28,900.00, FOR A TOTAL NOT TO EXCEED PRICE OF \$317,900.00 TO BE FUNDED FROM THE GRANT FUND, CAPITAL PROJECTS/CONSTRUCTION ACCOUNT AS PROVIDED IN FY 2014/2015 BUDGET.

(6:05:02) – Mr. Pittenger presented the agenda materials, which are incorporated into the record. He noted that the cost had exceeded the engineering estimates, and recommended the selection of Horizon Construction even though they were the fourth low bidder, as the other three low bids were not responsive to the requirements. Mr. Pittenger also reminded the Commission that the project was 100 percent federally-funded. Discussion ensued regarding the responsive bidding process. Mr. Schulz explained the additional training planned by his department to future bidders in order to facilitate the process.

PUBLIC COMMENTS

(6:14:11) – Lori Bagwell inquired and was informed that the construction would begin as soon as possible to avoid cold temperatures, and would end six weeks from the start date. She also suggested including the start and end dates on the agenda materials. Ms. Bagwell received clarification on the funding sources (CDBG and FTA) of the project and was informed by Mr. Pittenger that the overages had not been determined yet. She also suggested having a checklist for all the bidders to follow.

(6:18:11) – MOTION: I move to determine that Horizon Construction, Inc. is the lowest responsive and responsible bidder pursuant to N.R. S. Chapter 338 and to award Contract Number 1415-028, "Fifth Street Pedestrian Improvements Project" for a bid amount of \$289,000.00, plus a contingency amount of

\$28,900.00, for a total not to exceed price of \$317,900.00 to be funded from the Grant Fund, Capital Projects/Construction account as provided in FY 2014/2015 budget.

RESULT:	APPROVED (5-0-0)
MOVER:	Bonkowski
SECONDER:	McQueary
AYES:	McKenna, Smolenski, Bonkowski, Kimbrough McQueary
NAYS:	None
ABSTENTIONS:	None
ABSENT:	None

F-3 INFORMATION ON THE FORMATION OF A CARSON CITY BICYCLE AND PEDESTRIAN ADVISORY WORKGROUP.

(6:19:10) – Mr. Doenges presented the agenda materials, which are incorporated into the record.

(6:21:08) – Chairperson McKenna suggested inviting a representative from the disabled community.

(6:21:18) – Commissioner Bonkowski was informed that the workgroup would comprise a maximum of 15 members.

(6:21:34) – Commissioner Kimbrough inquired and was informed that Carson City would take the lead in this workgroup. He also offered to participate in the workgroup.

(6:22:40) – In response to a question by Commissioner Bonkowski, Mr. Pittenger stated that the workgroup was an advisory body to Staff, and Mr. Ward confirmed that it would not be subject to the Open Meeting Law. Chairperson McKenna was informed that the public would be able to attend the workgroup meetings should they wish to do so.

PUBLIC COMMENTS

(6:24:30)– None.

F-4 INFORMATION ON THE EXPENDITURE OF FUNDS FOR ROADWAY MAINTENANCE.

(4:51:06) – Mr. Pittenger gave background on Carson City’s street systems, and noted that his presentation tonight would focus on funding street projects and street maintenance. He addressed road deterioration and indicated that the current road conditions are below “what our goals are”. Mr. Pittenger presented a map of the road conditions, adding that it is constantly updated. He addressed the cost of road maintenance versus the available budget, the fund types available for such projects, and how they are generated.

(4:59:33) – Mr. Pittenger’s presentation also included the amount of fuel sold in Carson City, noting that although it shows a leveling off in the past few years, a large drop in fuel sales was experienced since 2007. The total annual cost for bond payments, per Mr. Pittenger, is \$1.7 Million of the \$3 Million RTC funds. He also confirmed that the funds dedicated to roads would not be used for any other projects.

(5:07:47) – Based on a question by Chairperson McKenna, Mr. Pittenger clarified that the \$18 Million bonds issued in 2009 and 2010 were used for capital projects such as Curry Street, the North Stewart Street extension, and the widening and reconstruction of Roop Street. He also explained that the streets are maintained via an eight-year schedule cycle for eight geographic areas, and the upcoming project was to slurry seal in the east-central part of town and the area near Eagle Valley Middle School.

(5:10:37) – Commissioner Kimbrough inquired about tax revenues from fuel purchased by the State and the federal government, and was informed that they were not taxed. Chairperson McKenna explained the existence of the different federal gas tax uses such as the fuel for farming equipment. Discussion ensued regarding the prioritization of the street maintenance.

(5:14:58) – Vice Chairperson Smolenski was informed that the sooner the \$2.2 Million were accessed; the easier it would be to prevent further deterioration. Mr. Schulz explained the difference between the capital project expenditures and the funds spent on the smaller maintenance projects.

(5:19:25) – Commissioner McQueary inquired about receiving reimbursement from development companies using heavy equipment and trucks on City streets. Mr. Pittenger noted that Carson City did not impose an “impact fee”; however, as part of an agreement, an upcoming development will make phased improvements to its streets.

(5:22:45) – In response to a question by Commissioner Bonkowski, Mr. Schulz explained that the general fund was the only other option for a funding source for street maintenance without imposing a tax. Mr. Pittenger noted that he was exploring grant funding as well for sidewalk repairs, in order to decrease the dependence on RTC funds.

(5:24:59) – Chairperson McKenna was informed by Mr. Pittenger that Carson City had been in partnership with NDOT for the new freeway construction for many years, in the form of street exchanges and payment reductions.

PUBLIC COMMENTS

(3:30:12) – Paul McGrath gave background on the five cent gasoline tax, called a special use tax at the time. He suggested using that tax revenue to repair City streets. Mr. Schulz explained that the revenue from the five-cent gasoline tax was used to pay for the new freeway; and in 2005, upon its relief, the revenue was absorbed by RTC and was combined with the existing gasoline taxes and incorporated into the budget. Mr. Pittenger stated that the 5 cent tax was being used for road repairs such as Curry and Roop Streets. Mr. McGrath noted that any change in the tax status should have been voted on, and wished to understand its implementation. Mr. Schulz noted that he would have an answer for Mr. McGrath in a month or two.

(5:38:22) – Jim Bagwell thanked the City for the repairs done on his street and cited statistics on heavy equipment vehicles that would cause most of the damage on pavement. He suggested having a weight-limit enforcement program during times when the roads are most vulnerable. Commissioner Bonkowski noted that “time and mother nature cause more damage to our roads than heavy equipment”, adding that both issues need to be addressed; however, not during this agenda item. Chairperson McKenna suggested looking into how the enforcements by the City of Reno are progressing.

(5:47:08) – Chairperson McKenna inquired about the existence of different standards for different streets. Mr. Pittenger cited several streets that were in greater need of repair than others. Mr. Schulz explained that there were many streets that required “a big expense” to be repaired as they were not built to the current standards. Chairperson McKenna requested a recommendation from the Public Works Department to start solving this problem. Mr. Schulz explained that a statewide ballot initiative was underway; therefore, the plan was to continue updating the Commission until then. Discussion ensued regarding alternative maintenance methods and how they were handled in different counties.

(6:00:01) – Commissioner Kimbrough praised Mr. Pittenger’s efforts of acquiring grant funding for many of the City’s projects. He was also informed that the City had a 20-year bond.

G-1: STREET OPERATIONS REPORT – JULY 2014./G-2: PROJECT STATUS REPORT. / G-3: FUTURE AGENDA ITEMS.

(6:24:35) – Mr. Pittenger presented an informational report, incorporated into the record, and highlighted the completed signs and markings as important to the safety of the community. Chairperson McKenna noted that the Hells Bells Road project was underway. Mr. Pittenger also gave an update on the Fifth Street project.

(6:27:07) – Mr. Pittenger informed the Commission that the pedestrian safety issues discussed in the previous meeting, and a sidewalk project on Nye Lane would be placed on upcoming meeting agendas. He also invited the public to attend the downtown improvement meeting on Tuesday, September 16, 2014, after which the recommendations would be presented to the Redevelopment Area Citizens Committee on October 6, 2014 and to this Commission on October 8, 2014, prior to being presented to the Board of Supervisors. Mr. Pittenger also invited the public to attend the September 17, 2014 NDOT public meeting on the next phase of the freeway.

H. COMMISSION COMMENTS

(6:30:44) – Commissioner Bonkowski announced that he would not be present at the October meeting.

I. PUBLIC COMMENT

(6:31:09) – None.

J. FOR POSSIBLE ACTION: ADJOURNMENT

(6:31:13) – MOTION: Vice Chairperson Smolenski moved to adjourn. The motion was seconded by Commissioner Bonkowski. The meeting was adjourned at 6:31 p.m.

The Minutes of the September 10, 2014 Carson City Regional Transportation Commission meeting are so approved this 12th day of November, 2014.

JOHN MCKENNA, Chair

**CARSON CITY REGIONAL TRANSPORTATION COMMISSION
REQUEST FOR COMMISSION ACTION**

Date Submitted: October 29, 2014

Meeting Date: November 12, 2014

To: Carson City Regional Transportation Commission

From: Patrick Pittenger, Transportation Manager

Subject Title: For Possible Action: To recommend to the Board of Supervisors approval of the Federal Land Access Program (FLAP) Project Memorandum of Agreement (MOA) for the State Route 28 Corridor between Carson City and the Tahoe Transportation District (TTD), as the lead agency, as well as other named parties.

Staff Summary: The proposed agreement documents the intent of the parties and sets forth the anticipated responsibilities of each party in the development, construction, and future maintenance of the SR 28 Project.

Type of Action Requested: (check one)

() None – Information Only

() Formal Action/Motion

Recommended Commission Action: I move to recommend to the Board of Supervisors approval of the Federal Land Access Program (FLAP) Project Memorandum of Agreement (MOA) for the State Route 28 Corridor between Carson City and the Tahoe Transportation District (TTD), as the lead agency, as well as other named parties.

Explanation for Recommended Action: In June of 2012, the RTC signed a non-binding Project Charter, which documented the expectations for accomplishing multi-agency coordination in developing the SR 28 Corridor Management Plan and improving the Nevada State Route 28 National Scenic Byway. Since that time, the SR 28 Corridor Management Plan was developed and approved and provided a detailed analysis of proposed improvements within the corridor.

The proposed agreement identifies and assigns responsibilities for the environmental analysis, design, right-of-way, utilities, acquisition and construction as appropriate for this programmed project, and to ensure maintenance of the facilities for public use after improvements are made. Proposed improvements include three miles of a new shared use path from Ponderosa Ranch Road (Incline Village) to Sand Harbor, expansion of public parking lots along the corridor, and safety and operations improvements. It is anticipated that these improvements will be funded through reimbursement of FLAP funds. Carson City is party to the agreement as a segment of SR 28 lies within the City's jurisdiction. However, Carson City is not named in the agreement as entity

having title or maintenance responsibilities for any facilities.

Applicable Statue, Code, Policy, Rule or Policy: N/A

Fiscal Impact: N/A

Explanation of Impact: N/A

Funding Source: N/A

Alternatives: N/A

Supporting Material: To be distributed as late material.

Prepared By: Dan Doenges, Senior Transportation Planner

Reviewed By: *Robert Allen*
(Transportation Manager)

Date: 11/3/14

Carlson
(Public Works Director)

Date: 11/3/14

Michelle P. ...
(Finance Director)

Date: 11/3/14

Joseph L. ...
(District Attorney's Office)

Date: 11/3/14

Board Action Taken:

Motion: _____

1) _____ Aye/Nay
2) _____

_____ (Vote Recorded By)

FEDERAL LANDS ACCESS PROGRAM
PROJECT MEMORANDUM OF AGREEMENT

Project/Facility Name: NV FLAP SR 28(1)(2)(3)(4) Lake Tahoe SR 28

Project Route: Nevada State Route 28

State: Nevada

Counties: Washoe County; Carson City; Douglas County

Owner of Federal Lands to which the Project Provides Access: United States Forest Service (USFS), Lake Tahoe Basin Management Unit

Entities with Title or Maintenance Responsibilities for Facility: Nevada Department of Transportation, USFS, Washoe County, Douglas County Tahoe Transportation District

Type of Work:

The Lake Tahoe watershed is the most heavily visited national forest in the United States. At 11 miles long, the Nevada SR 28 corridor claims the longest stretch of undeveloped land in the watershed, nearly one hundred percent of which is public and feels like a “National Park”. This corridor is also considered a National Scenic Byway attracting locals and tourists alike.

At over 1 million visitors recreating and 2.6 million vehicles traveling through annually, the lack of multi-modal facilities in the corridor creates dangerous situations for residents and visitors trying to access recreational destinations as well as simply trying to travel through the corridor. Recreation demand is double the existing parking capacity. NDOT completed a Road Safety Audit identifying 175 crashes in the corridor over a 5 year period with 2 fatal crashes resulting in 3 fatalities.

The project consists of elements benefiting the users of the public lands by improving safety, access and the environment along the east shore of Lake Tahoe. The project aims to maintain and improve access to the beauty and the recreational opportunities unique to this corridor. Given the current congestion and the constraints limiting potential roadway expansion, the option for improving this corridor is to enhance the existing infrastructure where feasible and provide alternative means of transportation along the east shore. Each segment may have independent utility; however all segments play an important role in the larger project. The project was developed by thirteen agencies representing local, state, and federal interests as part of the SR 28 Corridor Management Plan. An Interlocal Agreement among nine local, state, and federal agencies has also been established for the Nevada Stateline to Stateline Bikeway (shared

use path) element of the project.

This project agreement (the “Agreement”) does not obligate Federal Lands Access Program (“FLAP”) funds. FLAP funds will be obligated pursuant to separate reimbursement agreements. In the event that FLAP funds are not ultimately obligated, this Agreement does not commit the parties to complete the project described herein (the “Project”). Rather, this Agreement sets forth the respective responsibilities of the parties as the Project proceeds through the project development process.

Parties to this Agreement:

- Tahoe Transportation District (“TTD”)
- Nevada Department of Transportation (“NDOT”)
- Federal Highways Administration - Central Federal Lands Highway Division (“FHWA-CFLHD”)
- Federal Highways Administration – Nevada Division (“FHWA-NV”)
- United States Forest Service, Lake Tahoe Basin Management Unit (the “Forest Service”)
- Washoe County
- Carson City
- Douglas County
- Tahoe Regional Planning Agency (“TRPA”)

The Nevada Programming Decision Committee approved this Project by letter dated July 23, 2014.

AGREED:

Nevada Department of Transportation
Rudy Malfabon, P.E., Director

Date

Tahoe Transportation District
Carl Hasty, District Manager

Date

Federal Highway Administration - Nevada Division
Susan Klekar, Division Administrator

Date

Lake Tahoe Basin Management Unit, U.S. Forest Service
Nancy Gibson, Forest Supervisor

Date

Washoe County
Dave Solaro, Director, Community Service Department

Date

Carson City
Bob Crowell, Mayor

Date

Douglas County
Jim Nichols, County Manager

Date

Tahoe Regional Planning Agency
Joanne Marchetta, Executive Director

Date

Central Federal Lands Highway Division
Michael Davies, Director of Project Delivery

Date

A. PURPOSE OF THIS AGREEMENT

This Agreement documents the intent of the parties and sets forth the anticipated responsibilities of each party in the development, construction, and future maintenance of the Project. The purpose of the Agreement is to identify and assign responsibilities for the environmental analysis, design, right-of-way, utilities, acquisition and construction as appropriate for this programmed project, and to ensure maintenance of the facilities for public use after improvements are made. The parties understand that any final decision as to design or construction will not be made until after the environmental process is completed under the National Environmental Policy Act (“NEPA”) and TRPA Code of Ordinances and Rules of Procedure.

Any decision to proceed with the design and construction of the project will depend on the availability of appropriations at the time of obligation and other factors such as issues during the NEPA process, a natural disaster that changes the need for the project, or a change in Congressional direction.

When FLAP funds are used for the development or construction of this Project, NDOT and TTD collectively agree to provide the required local match. There will be a non-federal matching share equal to 5% of the total cost of the Project, and additional contributions expected to equal at least 42% of the total cost of the Project, as detailed more fully described in Section K below. Before the expenditure of any funds for which reimbursement will be sought from FHWA, the parties agree to execute separate reimbursement agreements with CFLHD for FLAP funds. No reimbursement will be made for expenditures made prior to execution of a reimbursement agreement.

B. AUTHORITY

This Agreement is entered into between the parties pursuant to 23 U.S.C. 204.

C. JURISDICTION AND MAINTENANCE COMMITMENT

NDOT, TTD, Washoe County, Carson City, Douglas County and the Forest Service have jurisdictional authority to operate and maintain their respective portions of the completed Project. Prior to completion of the 100% PS&E and advertising the construction project, those parties agree to enter into separate agreements regarding the operation and maintenance of the completed Project.

Upon acceptance of the construction project, NDOT will operate and maintain the following improvements along SR 28 at its expense (as further explained in Section E below):

- Safety and operations improvements along SR 28 within the NDOT right-of-way
- NDOT Water Quality and Erosion Control Improvements

Upon acceptance of the construction project, Washoe County and TTD will operate and maintain the 3 mile multi-use path constructed as part of the North Demonstration Project (as further explained in Section E below):

Upon acceptance of the construction project, Washoe County will operate and maintain the following parking lots at its expense (as further explained in Section E below):

- Flume Trail Trailhead
- North Trailhead Parking Areas A and B

Upon acceptance of the construction project, the USFS will operate and maintain the following parking lots at its expense (as further explained in Section E below):

- Chimney Beach Trailhead
- Secret Harbor Trailhead
- Thunderbird Cove
- Skunk Harbor
- Any US 50 Park-n-Ride improvements within the USFS Property Boundary

Upon acceptance of the construction project, Douglas County will operate and maintain the following parking lots at its expense (as further explained in Section E below):

- US 50 Park-n-Ride Lot improvements outside the USFS Property Boundary

TTD has authority to own and operate transportation facilities through Article IX of the Compact.

Any party may delegate ownership and maintenance responsibilities to one or more willing agency(s) via a subsequent agreement.

D. FEDERAL LAND MANAGEMENT AGENCY COORDINATION

NDOT and TTD have coordinated project development with the Forest Service. The Forest Service's support of the Project is documented in the Nevada Access Program Project Application. Each party to this Agreement who has a primary role in NEPA, right-of-way, design, or construction shall coordinate their activities with the Forest Service.

E. PROJECT BACKGROUND/SCOPE

The scope of the project will include all of the following elements as approved by the Nevada Programming Decision Committee by letter dated July 23, 2014:

- 1) North Demonstration Project
 - a. 3 miles of new shared use path from Ponderosa Ranch Road (Incline Village) to Sand Harbor including retaining walls and bridges. The lakeside alternative

is anticipated to be selected as a result of the Environmental Assessment (Finding of No Significant Impacts).

- b. Expanded public parking near Ponderosa Road to alleviate congestion on SR 28 and Lakeshore Boulevard and to provide access to the existing recreation trails including the Tahoe Rim Trail, and historic Flume Trail. The parking will also serve as trailhead parking for the proposed Nevada Stateline to Stateline Bikeway.
 - i. Flume Trail Trailhead Parking: 31 spaces
 - ii. North Trailhead Parking (Areas A & B): 98 spaces
- 2) Safety and Operations Improvements from Incline Village to US 50 identified in SR 28 Road Safety Audit that include:
 - a. Emergency/Maintenance Turnout - 6 locations from south of Tunnel Creek Station Parking to north of Sand Harbor Parking.
 - b. Viewpoint turnouts
 - i. Tunnel Creek area
 - ii. South of Memorial Point
 - c. Restriction of the parking that may include well defined “No Parking” zones with specific signing and the use of pavement markings on the paved shoulder area to delineate the limits of the “No Parking” zone.
 - d. Installation of NDOT approved physical barriers in select shoulder areas to prohibit parking where drivers pull into the non-paved areas.
 - e. Installation of turnout identification signs.
 - f. Installation of barrier rail on the lake side of SR 28 at those locations of unprotected steep slope.
 - g. Repair and/or replacement of those the timber retaining walls showing signs of failure.
 - h. Installation of a centerline rumble strip, as approved by NDOT. Prior to the implementation of the centerline rumble strip it is recommended to assess any environmental concerns over potential noise impacts from the rumble strip.
- 3) Central Corridor Parking Improvements Identified in SR 28 Corridor Management Plan:
 - a. Expansion of 2 existing USFS parking lots
 - i. Chimney Beach Trailhead: 67 additional spaces, 21 existing spaces
 - ii. Secret Harbor Trailhead: 54 additional spaces, 31 existing spaces
 - b. New Forest Service Parking Lots
 - iii. Thunderbird Cove: 15 spaces
 - iv. Skunk Harbor: 26 spaces
 - c. Visitor Center/ Park and Ride Lot at US 50
 - v. South Corridor Park-n-Ride: 53-150 spaces

- vi. The Park-n-ride must be designed in such a way as to allow for multipurpose use, including a future TRPA Aquatic Invasive Species Station, a future transit center, and a future visitor center
- 4) NDOT Water Quality and Erosion Control Improvements
 - a. Improvements from Sand Harbor to Carson City/Washoe County Line including drainage facilities, timber walls, riprap slopes, re-vegetated slopes, curbing, and paved shoulders.
- 5) Other Safety and Operation Improvements along SR28 (as deemed practical and cost effective by NDOT, CFLHD, and TTD), including expanding the no parking zone and providing barriers and/or signage with relocated shoulder parking.

The costs for preliminary engineering (PE), construction (CN), and construction engineering (CE) for Project Elements 2, 3, and 5 have not been determined and estimated costs are used for this Project Agreement. After execution of the Project Agreement and Reimbursable Agreements, the Project Team will scope Elements 2, 3, and 5 to determine the PE, CE, and CN costs. TTD, NDOT, and CFLHD will meet, review, and agree in writing on the costs, local match requirements, and develop a funding plan to design and construct Elements 2, 3, and 5 as part of the overall project.

F. PROJECT BUDGET

The following is a budget of the estimated cost of the Project, and is subject to change during the preliminary engineering, design and construction of the Project.

North Demonstration Project (Element 1)

PE = \$1,705,000
 CE = \$700,000
 CN = \$11,500,000

NDOT Erosion Control Project (Element 4)

PE = \$335,000
 CE = \$350,000
 CN = \$4,000,000

Estimated Budget for Remaining SR 28 Improvements (parking, safety, retaining walls, shoulders, rumble strips – Elements 2, 3, and 5)*

PE = \$965,000
 CE/CN = Between \$3,900,000 and \$5,350,000

Total Cost = Between \$23,455,000 and \$24,905,000

* The costs for preliminary engineering (PE), construction (CN), and construction engineering (CE) for Project Elements 2, 3, and 5 have not been determined and estimated costs are used for this Project Agreement. After execution of the Project Agreement and Reimbursable Agreements, the Project Team will scope Elements 2, 3, and 5 to determine the PE, CE, and CN costs. TTD, NDOT, and CFLHD will meet, review, and agree in writing on the costs, verify match requirements, and develop a funding plan to design and construct Elements 2, 3, and 5 as part of the overall project.

G. ROLES AND RESPONSIBILITIES

1. CFLHD

- Act as co-lead agency with NDOT and TTD for development of the Project. NDOT and TTD written approval shall be required at each design milestone during project development before CFLHD can proceed with the Project.
- Co-host project delivery team meetings and field reviews
- Provide support to TTD for public involvement and engagement efforts.
- Manage project development schedule, preliminary engineering, and construction engineer with assistance from NDOT and TTD.
- Perform topographic surveys, environmental surveys, and pavement, hydraulic/hydrologic, and geotechnical investigations.
- Act as lead agency responsible for review and approval of the joint NEPA and TRPA environmental documents.
- Obtain federal, state and local permits required for construction, with assistance from TTD.
- Prepare right-of-way plans, legal descriptions, and other documents required for the Letter of Consent and Highway Easement Deed and any private or public parcels to be acquired.
- Prepare the plans, specifications and engineer's estimate for the Project (the "PS&E").
- Procure and manage the construction contract (Including innovative procurement strategies such as: Single Award Task Order Contract ("SATOC") and Construction Manager General Contractor (CMGC)).
- Advertise, award and administer the construction contract. CFLHD will not solicit bids until TTD, NDOT and the Forest Service have concurred with the PS&E.
- Provide on-site construction staff for administration of the construction contract, including inspection services.
- Allow NDOT, TTD and the Forest Service to observe and review all activities in connection with CFLHD's administration of the construction contract.
- Determine the need for any proposed changes to contract documents, evaluate change impacts, coordinate technical reviews as needed, and ensure that construction meets the requirements intended in the PS&E.
- Notify TTD and NDOT of change order amounts or the use of contingency amounts, and resolve any impacts to budgets and funding responsibilities prior to any increase in contingency amounts.

- Attend final inspection with the project delivery team, be responsible for close-out of the construction contract, and provide a final construction report to the project delivery team.

2. TTD

- Act as co-lead agency with NDOT and CFLHD for development of the Project. TTD written approval shall be required at each design milestone during project development before CFLHD can proceed with the Project.
- Co-host project delivery team meetings and field reviews
- Act as responsible agency for public outreach, involvement and other engagement efforts.
- Assist CFLHD with the joint NEPA and TRPA environmental documents.
- Assist CFLHD in managing project development schedule and preliminary engineering costs.
- Assist CFLHD in obtaining state and local permits required for construction.
- Review PS&E during each phase of the design and provide comments within 30 calendar days of submittals. If no comments are provided within the 30 calendar day period, then design will proceed with the understanding of concurrence from TTD.
- Notify other parties, if necessary, and work with CFLHD to resolve any impacts to budgets and funding responsibilities prior to any increase in contingency amounts.
- Designate a representative who will be the primary contact for CFLHD construction staff during construction.
- Review change orders and construction modifications
- Attend final inspection with project delivery team.

3. Nevada Division of FHWA

- Designate a representative who will be the primary contact for CFLHD construction staff during construction.
- Attend project delivery team meetings and field reviews
- Review the NEPA and TRPA environmental documents and provide comments within 30 calendar days of submittals. If no comments are provided within the 30 calendar day period, then the environmental process will proceed with the understanding of concurrence from NDOT.
- Review the PS&E during each phase of the design and provide comments within 30 calendar days of submittals. If no comments are provided within the 30 calendar day period, then design will proceed with the understanding of concurrence from FHWA.
- Attend final inspection with project delivery team.

4. NDOT

- Act as co-lead agency with TTD and CFLHD for development of the Project. NDOT written approval shall be required at each design milestone during project development before CFLHD can proceed with the Project.

- Attend project delivery team meetings and field reviews
- Provide direction regarding NDOT policy and administration for the Project.
- Provide available data requested by CFLHD or TTD, including but not limited to traffic, accidents, material sources, construction costs, agreements, and other technical data.
- Provide right-of-way and utility information, and direct utility companies that do not have prior rights to relocate utilities impacted by the Project.
- Review the NEPA and TRPA environmental documents and provide comments within 30 calendar days of submittals. If no comments are provided within the 30 calendar day period, then the environmental process will proceed with the understanding of concurrence from NDOT.
- Review the PS&E during each phase of the design and provide comments within 30 calendar days of submittals. If no comments are provided within the 30 calendar day period, then design will proceed with the understanding of concurrence from NDOT.
- Upon approval of the 100% plans, authorize CFLHD to procure, administer and manage the construction improvements within the NDOT right-of-way for the Project.
- Designate a representative who will be the primary contact for CFLHD construction staff during construction.
- Review change orders and construction modifications
- Attend final inspection with project delivery team.
- Assume ownership and maintenance responsibilities as outlined in Section C and provide such documentation to CFLHD prior to completion of the 100% PS&E and advertising the construction project.

5. Washoe County, Carson City and Douglas County

- Attend project delivery team meetings and field reviews
- Provide direction regarding county policy and administration for the Project.
- Provide data requested by CFLHD, NDOT, or TTD, including but not limited to traffic, accidents, material sources, construction costs, agreements, and other technical data.
- Provide right-of-way and utility information and coordination.
- Review the NEPA and TRPA environmental documents and provide comments within 30 calendar days of submittals. If no comments are provided within the 30 calendar day period, then the environmental process will proceed with the understanding of concurrence from the counties.
- Review the PS&E during each phase of the design and provide comments within 30 calendar days of submittals. If no comments are provided within the 30 calendar day period, then design will proceed with the understanding of concurrence from the counties.
- Designate a representative who will be the primary contact for CFLHD construction staff during construction.
- Attend final inspection with project delivery team.

- Assume ownership and maintenance responsibilities as outlined in Section C and provide such documentation to CFLHD prior to completion of the 100% PS&E and advertising the construction project.

6. USFS - LTBMU

- a. Designate a representative who will be the primary contact for CFL during preliminary engineering and construction.
- b. Attend project delivery team meetings and field reviews.
 - Provide direction regarding USFS and administration for the Project.
 - Provide data requested by CFL, NDOT, or TTD, such as resource surveys, fire prevention plans, and land management data.
 - Provide right-of-way and utility information and coordination.
 - Review the NEPA and TRPA environmental documents and provide comments within 30 calendar days of submittals to designated representatives. If no comments are provided within the 30 calendar day period, then the environmental process will proceed with the understanding of concurrence from USFS-LTBMU.
 - Coordinate with CFLHD and TTD on any Section 4(f) consultation
 - Review the PS&E during each phase of the design and provide comments within 30 calendar days of submittals. If no comments are provided within the 30 calendar day period, then design will proceed with the understanding of concurrence from USFS.
 - Coordinate and recommend concurrence from Regional Forester on Project for acceptance of 100% PS&E.
 - Provide written acknowledgement of special use permit receipt and further document needs.
 - Attend final inspection with project delivery team.
 - Assume ownership and maintenance responsibilities as outlined in Section C and provide such documentation to CFLHD prior to completion of the 100% PS&E and advertising the construction project.

7. TRPA

- Designate a representative who will be the primary contact for CFL during preliminary engineering and construction.
- Attend project delivery team meetings and field reviews.
- Provide direction regarding TRPA policy and administration for the Project.
- Act as lead agency for, and approver/certifier of, the TRPA environmental document.
- Review TRPA environmental document pursuant to TRPA Code of Ordinances and Rules of Procedure.
- Upon approval of the TRPA environmental document, issue a conditional permit for the Project.
- Provide any data requested by CFL or TTD, including but not limited to traffic, accidents, material sources, construction costs, agreements, and other technical data.

- Review the PS&E during each phase of the design and provide comments within 14 calendar days of submittals. If no comments are provided within the 14 calendar day period, then design will proceed with the understanding of concurrence from TRPA.
- Upon approval of the final PS&E, provide a final construction permit for the Project.
- Attend final inspection with project delivery team.

I. ROLES AND RESPONSIBILITIES - SCHEDULE

Construction of the Project may be broken out into separate contracts as determined for the construction contract procurement.

Project 1 - Trailhead parking lot (31 spaces) and 1st mile of North Demonstration shared use path from Incline Village to Hidden Beach including the tunnel crossing				
Task	Description of Critical Elements	Schedule		
		Start	Finish	Duration
30% Design	Development of 30% PS&E documents	complete	complete	-
Supplemental Surveying	Centerline Staking, Field Verify Existing Topo, Additional Topo	Sep-14	Dec-14	As weather permits
Environmental Compliance	TRPA, NEPA completed	ongoing	Nov-14	
Project Agreement Signed	Project Agreement for all project elements	-	Nov-14	
70% Design	Development of 70% PS&E documents	Nov-14	Jan-15	3 months
95% Design	Development of 95% PS&E documents	Jan-15	Mar-15	3 months
100% PS&E	Development of final contract documents, Finalize Permits, Utility Agreements	Mar-15	Apr-15	2 months
PS&E Approval	Obligate Funds		Apr-15	
ROW Acquisition	Easement with State Lands/USFS	Nov-14	Mar-15	4 months
Advertisement/Award/NTP		Apr-15	June-15	3 months
Construction- 1 season	May to October season for earthwork	June -15	Nov-15	1 season

Project 2 – Last 2 miles of North Demonstration shared use path from Hidden Beach to Sand Harbor and remaining improvements; and Elements 2, 3, 4, and 5 in Section E

Task	Description of Critical Elements	Schedule		
		Start	Finish	Duration
30% Design	Development of 30% PS&E documents	Nov-14	Mar-15	6 months
Supplemental Surveying	Centerline Staking, Field Verify Existing Topo, Additional Topo	Sep-14	Dec-14	As weather permits
Environmental Compliance	TRPA, NEPA completed	Sep-14	Aug-15	12 months
70% Design	Development of 70% PS&E documents	Aug-15	Dec-15	4 months
95% Design	Development of 95% PS&E documents	Dec-15	Mar-16	4 months
100% PS&E	Development of final contract documents, Finalize Permits, Utility Agreements	Mar-16	Apr-16	2 months
PS&E Approval	Obligate Funds (FY 15 Backup)		Apr-16	
ROW Acquisition	USFS/NDOT Easements	Sep-14	Dec-15	15 months
Advertisement/Award/NTP	Dependent on FLAP funding and Local match being in place	Apr-16	June-16	3 months
Construction- 2 Seasons	May to October season for earthwork	June-16	Oct-17	2 seasons

J. PROPOSED DESIGN STANDARDS

Final design standards will be determined through the NEPA process.

Criteria	Proposed	Comments
Standard	AASHTO	AASHTO and State design standards
Functional Classification		
Surface Type		
Design Volume		
Design Speed		
Bike Path Width	10'	
Shoulder Width	1-2'	

K. FUNDING

FLAP and other funds will be used for the development and construction of this Project. TTD and NDOT agree to provide a non-federal matching share to CFLHD equal to 5% of the total cost of the Project. TTD and NDOT will we required to provide additional contributions in an amount expected to be at least 42% of the total costs of the Project, but that amount and

percentage may change during the scoping of Elements 2, 3 and 5 and development of a funding plan for those elements.

Before the expenditure of any funds for which reimbursement will be sought, CFLHD, TTD and NDOT must agree to execute separate reimbursement agreements. No reimbursement will be made for expenditures made prior to execution of a reimbursement agreement.

The maximum amount of FLAP funding provided for this project is \$12.5 million. Any cost overruns on the Project exceeding the \$12.5 million in FLAP Funding will be agreed to by TTD, NDOT, and CFLHD in a subsequent agreement

During preliminary engineering CFLHD will provide quarterly reports to NDOT and TTD showing actual costs and projected remaining costs, and any revised cost estimates for the construction and construction engineering.

Fund Source	Amount	Comments
Nevada Federal Lands Access Program Funds	\$12,500,000	Maximum amount of NV FLAP Funds to be provided for PE/CE/CN
Local Match	\$11,084,906	Minimum 5% non-federal local match required.

L. MATCHING SHARE REQUIREMENTS

Matching or cost sharing requirements may be satisfied following the obligation of funds to the Project by allowable costs incurred by the State or local government, cash donations, and the fair and reasonable value of third party in-kind contributions (but only to the extent that the value of the costs would be allowable if paid for by the party responsible for meeting the matching share), including materials or services. However no costs or value of third party contributions may count towards satisfying the matching share requirements under this Agreement if they have or will be counted towards meeting the matching share requirements under another federal award.

Costs and third party contributions counting toward satisfying a cost sharing or matching requirement must be verifiable from the records of the party responsible for meeting the matching requirements. The records must demonstrate how the value of third party in kind contributions was derived. Voluntary services sought to be applied to the matching share will be supported by the same methods that the party to this Agreement uses to support the allocation of personnel costs. Any donated services provided by a third party will be valued at rates consistent with those ordinarily paid by employers for similar work in the same labor market. Supplies furnished will be valued at their market value at the time of donation. Donated equipment or space will be valued at fair rental rate of the equipment or space. All records associated with valuations or costs shall be accessible and maintained for three years following Project close-out.

Matching funds and additional contributions may be tapered so that payments may be a lesser percentage early in the project development process and a greater percentage as the Project progresses through construction.

M. INTERAGENCY TEAM AND CONFLICT RESOLUTION

Executive Committee

The Executive Committee (EC) will provide senior guidance and be responsible for high level policy decisions for the project. They will address and resolve any issues that are elevated to them from the PST and the PDT in a timely manner as they arise. The core membership of the EC will be from the agencies responsible for project delivery including ongoing operations and maintenance following completion. Other partner agencies may have involvement at the executive level, as project issues arise. Table 1 lists the members of the core EC. The EC will be chaired by the TTD and CFL Project Managers. The Project Managers will set the meetings, develop the agenda, prepare the presentation materials, and facilitate the conversations, and record the meetings and decisions. EC meetings will be scheduled on an as needed basis and will be structured with formal agendas and result in agreed upon action items at the conclusion of each meeting.

Table 1. Executive Committee

AGENCY	REPRESENTATIVE
TTD	Carl Hasty
NDOT	Rudy Malfabon
CFLHD	Mike Davies
USFS	Nancy Gibson
FHWA	Susan Klekar
Washoe County	Dave Solaro
Carson City	John McKenna
Douglas County	Jim Nichols
TRPA	Joanne Marchetta

Project Delivery Team

The Project Delivery Team (PDT) will act in the lead management role for all elements of project procurement, design, and construction; will actively involve Project Support Team (PST)

agencies; and will strive to advance the project in a timely, cost efficient and professional manner. The PDT Project Managers (PMs) will act as the single point of contact for their respective agencies. They will ensure that their respective agency’s interests are conveyed to the PDT in clear, consistent, and concise manner, lead and manage their internal technical functional teams, and coordinate with the fiscal team members to facilitate the funding transfer process. Each agency will assign technical staff, as appropriate, to the project during preliminary and final design to support the development of the project. Their responsibilities to the PDT will be to ensure that their respective agency’s interests are conveyed; to provide appropriate technical guidance regarding their agency’s policies, standards, and guidelines; and to provide effective and timely communication as work progresses. Table 2 lists the members for the personnel assigned to the PDT.

The TTD and CFLHD PMs will chair the PDT, providing overall project coordination and serve as the contact for the PDT, Executive Committee, and PST.

Table 2. Project Delivery Team

AGENCY ----- POSITION	TTD	NDOT	CFLHD	USFS	NV State Parks	Washoe County	TRPA	NV State Lands
Project Manager	Alfred Knotts/ Derek Kirkland	Pedro Rodriguez	Matt Ambroziak	Mike Gabor	Jay Howard	Cheryl Surface	Brian Judge	Elizabeth Harrison
Highway Design		TBD	Jill Mathewson					
Env.	Alfred Knotts	Chris Young	Timberley Bellish					
Hydraulics		Matt Nussbaum er	Veronica Ghelardi					
Geotech		TBD	Khamis Haramy					
Right of Way		TBD	Alan Blair					
Survey and Mapping		TBD	Bob Bell					
GIS		TBD	Brooke Rosener					
Utilities		TBD	Jeff Bellen					

Pavements			Mike Voth					
Encroachment Permits		Steve Smith	Alan Blair					
Safety		TBD	Barb Burke					
Traffic		TBD						
Structures		TBD	Karl Eikermann					
Construction		TBD	Matt Ambroziak					
Maintenance & Operations		Mike Fuess						

The following table provides the points of contact for this project. They are to be the first persons to deal with any issues or questions that arise over the implementation of each party's role and responsibility for this agreement.

Name/Title	Organization	Address/Phone Number/Email
Matt Ambroziak, Project Manager	CFLHD	12300 West Dakota Avenue Lakewood, CO 80228 720-963-3619 Matthew.ambroziak@dot.gov
Alfred Knotts, Project Manager	TTD	PO Box 499 Zephyr Cove, NV 89448 775-589-5503 aknotts@tahoetransportation.org
Pedro Rodriquez, Project Manager	NDOT	1263 S. Stewart Street Carson City, NV 89712 775-888-7320 PRodriguez@dot.state.nv.us
Mike Gabor, Forest Engineer	Forest Service, LTBMU	35 College Ave South Lake Tahoe, CA 96150 530-543-2642 mgabor@fs.fed.us
Cheryl Surface, Park Planner	Washoe County	P.O. Box 11130 Reno, NV 89520 775-328-2019 csurface@washoecounty.us

Elizabeth Harrison, Lake Tahoe Coordinator	NV Division State Lands	901 S. Stewart Street, Ste. 5003 Carson City, NV 89701 775-684-2736 eharrison@lands.nv.gov
Jay Howard, Park Supervisor III	NV Division State Parks	2005 Highway 28, PO Box 6116 Incline Village, NV 89450 775-831-0494, x 229 775-831-2514 jayattahoe@gmail.com
Jin Zhen, ITS/Transportation Engineer	FHWA NV Division	705 N. Plaza Street, Suite 220 Carson City, NV 89701 Phone: 775-687-8581 Cell: 775-881-8794 Fax: 775-687-3803 jin.zhen@dot.gov
Brian Judge Principal Environmental Specialist	TRPA	PO Box 5310 Stateline, NV 89449 775-589-5262 brianj@trpa.org

Project Support Team

The PST is comprised of stakeholder agencies that are affected directly by and/or involved in the project through governmental responsibilities and/or maintain a “sphere of influence” associated with the Project. Similar to the EC and PDT, each PST liaison assigned to the project is critical to the overall success of the project. They will act in an advisory role to the PDT, will ensure that their respective agency’s interests are conveyed to the CFLHD PM, and will strive to support the project in a timely, cost efficient, and professional manner. Table 3 lists the members of the PST.

Table 3. Project Support Team

AGENCY	NAME
IVGID	Brad Johnson
USFS – LTMBU	Anjanette Hoefler, Garret Villanueva
Douglas County	Scott Morgan
FHWA NV Division	Jin Zhen

Washoe Tribe	TBD

CONFLICT RESOLUTION/ISSUE ESCALATION

As issues or conflicts arise on the project it is critical that they be resolved amenablely and expeditiously. As such, conflict resolution processes shall be agreed upon in regards to escalation and resolution. Table 4 is the escalation matrix. It provides the contacts for resolution of issues at each level. If an issue cannot be resolved at a PDT level it will be elevated to the next level. The ultimate decision making ability and conflict resolution is at the EC level. The time period for each level to work on an issue shall be 10 working days unless otherwise agreed to by the members at each level. Collectively, all EC, PDT, and PST members agree to share the following principals in the resolution of conflicts:

1. The efficient delivery of effective, appropriate projects is the primary goal of both parties
2. The parties will focus on their common goals rather than differences.
3. Win/win solutions to conflicts should be sought.
4. Differences of opinion are okay.
5. Timely, open honest communication is the key to avoiding and resolving conflicts.
6. Decisions should be made and conflicts should be resolved at the lowest possible level.

ACCEPTABILITY AND CHANGES

If project related changes are required, the responsible team member will escalate the change needs, with justification for the change, to their respective Project Manager. The Project Manager will ensure that additional funds are available to accommodate the change before any changes are authorized or acted on. It is the responsibility of the PDT to recognize when changes are needed and to make timely notification to management in order to avoid project delivery delays. All changes shall be memorialized in formal correspondence from the TTD and CFL PMs.

Table 4. Escalation Matrix

Entity	Tier 1	Tier 2	Tier 3	Tier 4
CFLHD	Matt Ambroziak, Project Manager	Gary Strike, Project Management Branch Chief	Michael Davies, Director of Project Development	Rick Suarez, Division Engineer
FHWA	Jin Zhen, Transportation Engineer	Andrew Soderborg, Operations Team Leader	Paul Schneider, Asst. Div Administrator	Susan Klekar, Division Administrator
TTD	Alfred Knotts, Project Manager	Alfred Knotts, Project Manager	Carl Hasty, District Manager	Carl Hasty, District Manager
NDOT	Pedro Rodriquez, Project Manager	Pedro Rodriquez, Project Manager	Bill Hoffman, Deputy Director	Rudy Malfabon, Director
USFS	Garrett Villanueva, Asst. Forest Engineer	Mike Gabor, Forest Engineer	Jeff Marsolais, Deputy Forest Supervisor	Nancy Gibson, Forest Supervisor
Washoe County	Cheryl Surface, Park Planner	David Solaro, Director-CSD	Dave Solaro, Director-CSD	Kevin Schiller, Assistant County Manager
Douglas County	Scott Morgan, Community Services/Parks & Rec Director	Scott Morgan, Community Services/Parks & Rec Director	Jim Nichols, County Manager	Jim Nichols, County Manager
Carson City	TBD	TBD	TBD	TBD
TRPA	Brian Judge, Principal Environmental Specialist	Brian Judge, Principal Environmental Specialist	Joanne Marchetta, Executive Director	Joanne Marchetta, Executive Director

N. CHANGES/AMENDMENTS/ADDENDUMS

The Agreement may be modified, amended, or have addendums added by mutual agreement of all parties. The change, amendment, or addendum must be in writing and executed by all of the

parties. A change in the composition of the project team members does not require the Agreement to be amended.

The types of changes envisioned include, but are not limited to, changes that significantly impact scope, schedule, or budget; changes to the local match, either in type or responsibility; changes that alter the level of effort or responsibilities of a party. The parties commit to consider suggested changes in good faith. Failure to reach agreement on changes may be cause for termination of this Agreement.

It is the responsibility of the project team members to recognize when changes are needed and to make timely notification to their management in order to avoid project delivery delays.

O. TERMINATION

This agreement may be terminated by mutual written consent of all parties. This agreement may also be terminated if either the NEPA process or funding availability requires a change and the parties are not able to agree to the change. Any termination of this agreement shall not prejudice any rights or obligations accrued to the parties prior to termination. If Federal Access funds have been expended prior to termination, the party responsible for the match agrees to provide a match in the applicable percentage of the total amount expended on the project prior to the termination.

**CARSON CITY REGIONAL TRANSPORTATION COMMISSION
REQUEST FOR COMMISSION ACTION**

Date Submitted: October 23, 2014

Meeting Date: November 12, 2014

To: Regional Transportation Commission

From: Patrick Pittenger, Transportation Manager

Subject Title: Information on Old Clear Creek Road.

Staff Summary: Following recent action by the Carson City Board of Supervisors related to a proposed development off of Old Clear Creek Road, there have been numerous questions and comments regarding the status of that road. Staff has re-confirmed the position of the City with the District Attorney's office and will discuss the status of the road and answer any questions.

Type of Action Requested: (check one)

() None – Information Only

() Formal Action/Motion

Recommended Commission Action: N/A

Explanation for Information Item: Old Clear Creek Road has been discussed on numerous occasions by the Carson City RTC and by other entities as well. The road is located in both Carson City and Douglas County and is a former State road which was abandoned by the State to the adjacent property owners in 1957. Public Works and District Attorney's Office staff will discuss the City's position regarding the road and answer any questions.

Applicable Statute, Code, Policy, Rule or Policy: N/A

Fiscal Impact: N/A

Explanation of Impact: N/A

Funding Source: N/A

Alternatives: N/A

Supporting Material: Memorandum from District Attorney's Office dated October 10, 2014

Prepared By: Patrick Pittenger, Transportation Manager

Reviewed By: *Robert Potters*
(Transportation Manager)

Date: 11/3/14

Carl J...
(Public Works Director)

Date: 11/3/14

Michael Sp...
(Finance Director)

Date: 11/3/14

Joseph L. Wang...
(District Attorney's Office)

Date: 11/3/14

NEIL A. ROMBARDO
District Attorney



<http://www.carson.org>

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INVESTIGATIONS
(775) 887-2098

MEMORANDUM

To: Patrick Pittenger, Transportation Manager for Public Works,
Darren Schulz, Public Works Director
Nick Marano, City Manager

From: Joseph L. Ward, Jr., Senior Deputy District Attorney 

Date: October 10, 2014

Subject: Liability exposure to City with respect to Old Clear Creek Road

ATTORNEY-CLIENT

BACKGROUND

Before October of 1957, Old Clear Creek Road was the travel link between Carson City and Lake Tahoe. It was State Route 3 or 705, which was purportedly abandoned by Nevada on October 21, 1957, after the current stretch of U.S. 50 to the North was completed.¹ Carson City has held firm in refusing to accept the dedication of Old Creek Road – a private road.

According to Wikipedia,

State Route 705 (SR 705) begins in Douglas County at the Carson City/Douglas County line southwest of Carson City on Clear Creek Road (shown on some maps as "Old Clear Creek Road"), just north of Clear Creek. ... SR 705 is currently not directly connected to the remainder of Nevada's state highway system.

¹ "EXERPT FROM MINUTES OF BOARD OF DIRECTORS [of the Nevada Department of Highways] RE: ABANDONMENT OF OLD CLEAR CREEK ROAD" October 21, 1957, which was recorded at the request of Robert W. Schulz on July 7, 1966 at 12 Min. Past 4 o'clock P.M. Recorded in Book 52 of Official Records, Page 477 or 478. File No. 7605. Attached as Exhibit A to Exhibit 1 hereto.

...

Trails connecting Lake Tahoe with the Comstock Lode mining region near Carson City had been established in the mid-1800s, with the first wagon road route through Kings Canyon to the north having been constructed by November 1863. This route was eventually selected to become part of the Lincoln Highway and, later, a branch of SR 3.

The advent of the automobile greatly changed this region of Nevada. From 1927 to 1928, aided by both state and forest highway funding, a graded two-lane road was constructed along the corridor of Clear Creek to connect Carson City to Spooner Summit, just east of Glenbrook on the eastern shore of Lake Tahoe. **The Clear Creek Road replaced the former Kings Canyon route as the major road to Lake Tahoe in 1928, and was subsequently selected as a later realignment of the Lincoln Highway. Clear Creek Road later became part of US 50, but was bypassed in the 1950s by the current four-lane alignment located a short distance to the north.**

[http://en.wikipedia.org/wiki/SR_705_\(NV\)](http://en.wikipedia.org/wiki/SR_705_(NV)) (Emphasis added).

DA Rombardo sent a letter dated January 23, 2012 to Mr. Bob Fredlund stating: "As is the law with abandonments, the ownership reverted back to the adjacent property owners, and as a result, the road is the responsibility of the adjacent property owners." Exhibit 1 attached with Exhibits A – J attached thereto. The DA noted that Carson City has "consistently" refused to accept the dedication of Old Clear Creek Road. *See id.*

On July 21, 1992 City Manager Berkich wrote a letter to affected property owners in the Old Clear Creek Road area advising them that the Nevada Department of Transportation (NDOT) determined the cost or repairs would be about \$800,000. They were noticed of the upcoming August 6, 1992 Board of Supervisors' meeting. Exhibit 1B.

According to the Carson City Board of Supervisors Minutes of its August 6, 1992 Meeting, at p. 11 Item 11, attached as Exhibit 1C, there were negotiations about maintenance of this road among NDOT, Douglas County, Carson City and the residents in the Old Clear Creek Road area, together with discussions about establishing an assessment district. Although the State abandoned this road in 1957,

apparently due to the State Job Corps Center, the State continued to maintain the road until 1980." See Exhibit 1C, at p. 12. "Senator Lawrence Jacobsen explained the public use of the camp, his 1963 role in obtaining the youth camp, its current usage, and cooperative efforts in maintaining the road and fire control. He suggested that all of the users – BIA, BLM, Forestry, etc. – cooperate in the maintenance costs." *Id.* Robert W. "Doc" Schultz talked about the number of personal residences in the area in 1962. There was discussion about closing the road. "A map was used to explain the State, City, and Douglas County areas and residents." *Id.*

On October 11, 2006, NDOT expressed it did not want to participate. Exhibit 1D, Carson RTC minutes of October 11, 2006 meeting, Item P-5 at p.5. The Washoe Indian Tribe does not want to participate. See *id.* There was discussion about bringing the road up to an acceptable standard and the City and Douglas County accepting a dedication. Mr. Werner mentioned that the City has done repair work on the road. The State Public Lands Division had committed to participate. The U.S. Forest Service may have access to Rural Highway Funds. Regardless, this wasn't part of Mr. Werner's calculations summarized below. Douglas County suggested the formation of a general improvement district for its residents in this area. See *id.* Exhibit 1D, at p. 5. At the end of the day, the Carson City RTC went with Mr. Werner's Option 2 – State of Nevada \$146,880 or 5%, Clear Creek LLC [residents] \$558,673 or 21%, Washoe Tribe \$0.00 or 0%, Carson City Parcels \$1,160,353 or 43.4% and Douglas County Parcels \$807,841 or 30.1% [I calculated the percentages]. The cost per ADT or the ADT contribution cost was calculated to be \$14,880. This never materialized.

On March 7, 2007, then City Engineer Larry Werner sent a letter out to property owners in the Old Clear Creek Road area informing them that the City and Douglas County anticipated that the formation of a Special Assessment District would facilitate funding. See Exhibit 1E.

The draft minutes of Carson City's RTC, for its August 12, 2009 meeting, indicate that "the language from a parcel map [reads] 'Clear Creek Road, Old Highway 50 West, is an 80-foot wide public access drainage and utility easement.' ... It recognizes that it's a private road, but it also grants public access over the road." Exhibit 1F, RTC minutes August 12, 2009 at 7:29:18. The City, however, has never accepted the dedication.

In late 2009 Transportation Manager Pittenger addressed the proposal for gates on this road and advised "any and all proposed gates are for Old Clear Creek [Road] only and would not hinder access from the interchange to the golf course and residential development." Exhibit 1G, RTC minutes November 4, 2009 meeting, Item F-9, p. 6.

There was more talk about the possibility of the closure of Old Clear Creek Road and other options. There was some dissent among the property owners. See Exhibit 1H, RTC minutes of its December 9, 2009 meeting.

In February of 2010, Transportation Manager Pittenger advised “there is no complete agreement among the property owners as to whether or not there should be any gate at all.” Exhibit 1I, RTC minutes February 10, 2010 meeting, Item G-5, p. 9. Property owners were encouraged to continue their discussions with the Washoe Tribe. It was noted that “pursuant to the District Attorney’s opinion, Carson City does not have a direct interest in this matter.” *Id.*

At the October 13, 2010 Carson RTC meeting Transportation Manager Pittenger stated “not a whole lot has changed... .” Exhibit 1J, RTC Minutes of October 13, 2010 meeting, Item G-5, p. 5. Chairperson Aldean noted that the residents were cordial and that the discussion included “a few ideas about how we could possibly accommodate the people who have historically recreated in that area and yet address the owners’ concerns about ... liability .. .” *Id.* She raised the question of “who is legally liable.”

QUESTION

What is Carson City’s exposure to liability with respect to Old Clear Creek Road; a privately owned and maintained road?

ANALYSIS

The City’s potential exposure to liability falls within the confines of NRS 41.031 and 41.032. It enjoys immunity under NRS 41.032 for its acts or omissions while exercising due care in the execution of a statute or regulation or for its discretionary functions regardless of whether it abuses its discretion. See NRS 41.032. The DA correctly opined in his letter to Mr. Fredlund (Exhibit 1), that upon an abandonment the ownership of the road would revert to the adjacent property owners who would become responsible for such road. The Old Clear Creek Road would:

“revert[s] to the abutting property owners in the approximate proportion that the property was dedicated by the abutting property owners or their predecessors in interest.” [quoting NRS 278.480]. [*378] Similarly, under NRS 408.523(3), an abandoned easement for a public highway is simply destroyed.¹⁵

15 NRS 408.523(3) provides that: HN6 “When a highway for which the State holds only an easement is abandoned, or when any other easement is abandoned, the property previously subject thereto is free from the public easement for highway purposes.”

Brooks v. Bonnet, 124 Nev. 372, 378, 185 P.3d 346, 349-50 (2008). This is consistent with the legal encyclopedia American Jurisprudence Second (Am Jur 2d), which states:

When a governmental body abandons a public right-of-way, it only relinquishes the public's right to use that road, street, or easement. When a road is vacated, abutting property owners retain a private right or easement to use the road for ingress and egress to their properties. The abandonment of a public road or highway does not in and of itself extinguish an abutting property owner's right to access the abandoned road. Rather, abutting owners may still use an abandoned road unless they consent to the abandonment. Nor are private easements held by the landowners with regard to the highway extinguished, at least where the statute providing for abandonment itself does not provide for compensation to the owners of any such easements that would be extinguished.

The soil of a highway descends to heirs and passes to grantees as an appurtenant to the land adjoining, so that whenever the highway is discontinued, the adjoining proprietors hold the land discharged of the easement. Similarly, a statute may provide that, upon proper vacation of a public road, all title and interest to the highway right of way vests in the present adjacent or abutting landowner or to the owners of the fee discharged from the servitude.

39 Am Jur 2d Highways, Streets, and Bridges § 154 (2014) (Emphasis added and footnotes omitted). “[T]itle, upon abandonment, **reverts to the adjacent owner.**” 39 Am Jur 2d Highways, Streets, and Bridges § 159 (2014) (Emphasis added) and see also 39 Am Jur 2d Highways, Streets, and Bridges § 220 (2014).

American Jurisprudence Second notes that “one of the more common purposes of a dedication is to appropriate land for a highway, street, road, or alley.” 23 Am Jur 2d Dedication § 7 (2014). The City is **not “responsible for maintenance, repair, and liability, where [it] ... had not expressly accepted a private roadway.”** 39 Am Jur 2d Highways, Streets, and Bridges § 76 (2014) (Emphasis added), citing *Wemple ex rel. Dang v. Dahman*, 103 Haw. 385, 83 P.3d 100 (2004). However, this encyclopedia also referred to a case where the court found the following: “A county has been deemed to have assumed a duty to users of a private road because it **voluntarily undertook to maintain the road over a period of years.**” 310 Am Jur 2d Highways, Streets, and Bridges § 391 (2014) (Emphasis added), citing *Martinez v. State*, 177 Ariz. 270, 866 P.2d 1356 (Ct. App. Div. 2 1993). In *Martinez* the court stated: “over a period of years the county maintained the Potter Road by grading it so as to permit its use by county residents **Having assumed a duty to keep this road passable for county residents, the County assumed the additional duty to make that road reasonably safe for travel.**” *Martinez v. State*, 866 P.2d 1356, 1357, 177 Ariz. 270, 271 (Ariz. Ct. App. 1993) (Emphasis added).

According to the Nevada Supreme Court:

The law is settled that HN5 **a person is not liable for injuries resulting from conditions which he has not been instrumental in creating or [***5] maintaining.**

...

In the absence of some **substantial evidence showing that respondent either created or maintained the hazardous condition causing the accident** which resulted in injury to appellant's horses, the **respondent's motion to set aside the jury's verdict and to have judgment entered in his favor was well taken, and the order of the learned trial judge must be affirmed.**

Dudley v. Prima, 84 Nev. 549, 552-553, 445 P.2d 31, 33 (1968) (Emphasis added).

CONCLUSION

The State purportedly abandoned Old Clear Creek Road in 1957. Upon such an abandonment, Old Clear Creek Road reverted to the adjoining property owners. The City has no exposure to liability for injuries occurring on this private road unless it is found to have been instrumental in creating or maintaining conditions thereon proximately causing such injuries.

**CARSON CITY REGIONAL TRANSPORTATION COMMISSION
REQUEST FOR COMMISSION ACTION**

Date Submitted: October 29, 2014

Meeting Date: November 12, 2014

To: Carson City Regional Transportation Commission

From: Patrick Pittenger, Transportation Manager

Subject Title: For Possible Action: To approve Amendment 1 to Highway Agreement No. P187-12-063 between the Carson City RTC and the Nevada Department of Transportation (NDOT) for the Hells Bells Pedestrian project.

Staff Summary: An amendment to the agreement is required as there are no longer Federal funds available for reimbursement of the project construction costs. Instead, state funds will be used for reimbursement.

Type of Action Requested: (check one)

() None – Information Only

() Formal Action/Motion

Recommended Commission Action: I move to approve Amendment 1 to Highway Agreement No. P187-12-063 between the Carson City RTC and the Nevada Department of Transportation (NDOT) for the Hells Bells Pedestrian project.

Explanation for Recommended Action: On May 18, 2012, Carson City entered an agreement with NDOT to construct sidewalk and curb and gutter as well as storm drain improvements on Hells Bells Road from Mexican Trail to E. Fifth Street and on E. Fifth Street from Hells Bells Road to Eagle Valley Middle School. The project is now complete and the Federal funds that were to be used for reimbursement of the construction costs of the project are no longer available. As a result, NDOT has agreed to reimburse the construction costs with state funds.

Applicable Statue, Code, Policy, Rule or Policy: N/A

Fiscal Impact: \$210,022.58

Explanation of Impact: \$190,000 in state funds will be used to reimburse project construction costs and \$20,022.58 in Safe Routes to School funds will be used to reimburse design costs.

Funding Source: State Funds, Federal Safe Routes to School Program.

Alternatives: N/A

Supporting Material: Amendment, Executed Cooperative Agreement.

Prepared By: Dan Doenges, Senior Transportation Planner

Reviewed By: *Robert Miller* Date: 11/3/14
(Transportation Manager)
Carlson Date: 11/3/14
(Public Works Director)
Michael Spivey Date: 11/3/14
(Finance Director)
Joseph L. Ward Jr. Date: 11/3/14
(District Attorney's Office)

Board Action Taken:

Motion: _____ 1) _____ Aye/Nay
2) _____

_____ (Vote Recorded By)

Amendment No. 1 to
Cooperative (LPA) Agreement No. P187-12-063

This Amendment is made and entered into the _____ day of _____, _____, by and between the State of Nevada, acting by and through its Department of Transportation, hereinafter called the DEPARTMENT, and Carson City, acting by and through its Regional Transportation Commission, 3505 Butti Way, Carson City, NV 89701 (hereinafter "CITY").

WITNESSETH:

WHEREAS, on May 18, 2012, the parties entered into Agreement No. P187-12-063 to delegate authority to the CITY to design, advertise, award, and manage construction of the Hells Bells Pedestrian Project; and

WHEREAS, this amendment is necessary to address changes to the PROJECT funding and cost due to the withdrawal of federal funds from portions of the PROJECT; and

WHEREAS, the DEPARTMENT has agreed to provide State funds to replace a portion of federal funds withdrawn from the PROJECT, and

WHEREAS, the parties hereto desire to make certain amendments to Agreement No. P187-12-063.

NOW, THEREFORE, the parties agree as follows:

1. ARTICLE I, Paragraph 3, is amended by deleting it in its entirety and inserting in its place:
"To obligate Federal SRTS funding for a maximum amount of Twenty Thousand Twenty-Two and 58/100 Dollars (\$20,022.58), and DEPARTMENT funding for a maximum amount of One Hundred Ninety Thousand and No/100 Dollars (\$190,000.00)."
2. ARTICLE I, Paragraph 24, is amended by deleting it in its entirety and inserting in its place:
"To reimburse the CITY monthly, as work progresses on the PROJECT, for one hundred percent (100%) of ELIGIBLE PROJECT COSTS based on supporting documentation minus any DEPARTMENT PROJECT COSTS. Total reimbursement shall not exceed the total obligated amount, as established in ARTICLE I Paragraph 3, minus any DEPARTMENT PROJECT COSTS as established in ARTICLE III Paragraph 6. ELIGIBLE PROJECT COSTS are those costs as defined in the applicable Federal Office of Management and Budget (OMB) Circulars including but not limited to those listed on Attachment B, attached hereto and incorporated herein."
3. Insert the following paragraph in ARTICLE I:
"25. To provide DEPARTMENT construction engineering at no cost to the PROJECT."
4. ARTICLE II, Paragraph 25, is amended by deleting it in its entirety and inserting in its place:
"As work progresses on the PROJECT, the CITY shall provide the DEPARTMENT with monthly invoices for payment of the PROJECT COSTS. The invoice shall be based upon and accompanied by auditable supporting documentation. Total reimbursement shall not exceed the total obligated amount, as established in

Article I Paragraph 3, less any DEPARTMENT PROJECT COSTS, as established in Article III Paragraph 6. Invoices for the preliminary engineering and right-of-way phases shall be forwarded to the DEPARTMENT's Local Public Agency Coordinator for payment processing. Invoices for the construction phase including the final invoice shall be forwarded to the DEPARTMENT's Resident Engineer for review. The DEPARTMENT's Resident Engineer shall forward the invoice to the DEPARTMENT's Local Public Agency Coordinator for payment processing. ELIGIBLE PROJECT COSTS are those costs as defined in the applicable Federal OMB Circulars including but not limited to those listed on Attachment B.”

5. ARTICLE II, Paragraph 26, is amended by deleting it in its entirety and inserting in its place:

“To be responsible for the CITY's preliminary engineering, construction engineering, and material testing costs exceeding Eighteen Thousand Nine Hundred One and 76/100 Dollars (\$18,901.76), and for all other PROJECT COSTS exceeding Two Hundred Ten Thousand Twenty-Two and 58/100 Dollars (\$210,022.58). The CITY shall provide the remaining construction engineering and material testing services at no cost to the PROJECT. The CITY agrees the DEPARTMENT and the State of Nevada are not responsible for any costs exceeding the obligated amount, as established in Article I Paragraph 3.”

6. ARTICLE III, Paragraph 1, is amended by changing the termination date from December 31, 2014, to December 31, 2015.

7. ARTICLE III, Paragraph 5, is amended by deleting it in its entirety and inserting in its place:

“The TOTAL ESTIMATED PROJECT COSTS are Two Hundred Ten Thousand Twenty-Two and 58/100 Dollars (\$210,022.58), which includes: Twenty Thousand Twenty-Two and 58/100 Dollars (\$20,022.58), Federal SRTS funding, and One Hundred Ninety Thousand and No/100 Dollars (\$190,000.00), DEPARTMENT funding comprising of one hundred percent (100%) of the TOTAL ESTIMATED PROJECT COSTS. The parties acknowledge and agree that the TOTAL ESTIMATED PROJECT COSTS set forth herein are only estimates and that in no event shall the DEPARTMENT or federal portion exceed the total obligated amount, as established in Article I Paragraph 3.”

8. ARTICLE III, Paragraph 6, is amended by deleting it in its entirety and inserting in its place:

- “6. The following is a summary of TOTAL ESTIMATED PROJECT COSTS and available funds:

TOTAL ESTIMATED PROJECT COSTS:

DEPARTMENT PROJECT Costs:	\$ 1,120.82
CITY Preliminary Engineering Costs:	\$ 18,323.66
CITY Construction Engineering Costs:	\$ 578.10
Construction Costs:	<u>\$ 190,000.00</u>

TOTAL ESTIMATED PROJECT COSTS: \$ 210,022.58

AVAILABLE FUNDING SOURCES:

Federal SRTS Funds:	\$ 20,022.58
DEPARTMENT Funds:	<u>\$ 190,000.00</u>

<u>TOTAL PROJECT FUNDING:</u>	\$ 210,022.58”
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9. ARTICLE III, Paragraph 8, is amended by deleting it in its entirety and inserting in its place:

“The TOTAL PROJECT COSTS shall be the federal eligible costs of Twenty Thousand Twenty-Two and 58/100 Dollars (\$20,022.58) incurred by the DEPARTMENT and CITY and construction costs. The CITY is responsible for one hundred percent (100%) of all costs not eligible for PROJECT funding. ELIGIBLE PROJECT COSTS are those costs as defined in the applicable Federal OMB Circulars, including but not limited to those listed on Attachment B.

10. ARTICLE III, Paragraph 14, is amended by deleting it in its entirety and inserting in its place:

“All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile or electronic mail 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:

FOR DEPARTMENT: Rudy Malfabon, P.E., Director
Attn: Dean C. Morton, P.E., CPM
Local Public Agency Coordinator
Nevada Department of Transportation
Roadway Design
1263 South Stewart Street
Carson City, Nevada 89712
Phone: (775) 888-7595
Fax: (775) 888-7401
E-mail: dmorton@dot.state.nv.us

FOR CITY: Robert D. Fellows, P.E.
Carson City Public Works
3505 Butti Way
Carson City, NV 89701
Phone: (775) 283-7370
Fax: (775) 887-2164
E-mail: rfellows@carson.org”

11. All of the other provisions of Agreement No. P187-12-063, dated May 18, 2012, shall remain in full force and effect as if set forth herein.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 on the day and year first above written.

Carson City Regional Transportation
Commission

State of Nevada, acting by and through its
DEPARTMENT OF TRANSPORTATION

Patrick Pittenger, AICP, PTP
Transportation Manager

Director

Attest:

Approved as to Legality & Form:

Alan Glover, City Clerk

Deputy Attorney General



STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION

1263 S. Stewart Street
Carson City, Nevada 89712

BRIAN SANDOVAL
Governor

June 13, 2012

SUSAN MARTINOVICH, P.E., *Director*

In Reply Refer to:

Robb Fellows
Carson City Public Works
3505 Butti Way
Carson City, NV 89701

Federal Project No. SI-0025(022)
Project Number: 73740
Notice to Proceed with Design Phase

Dear Mr. Fellows,

Please find enclosed a fully executed copy of Agreement No. P187-12-063 between Carson City and the State of Nevada to advertise, award and administer a contract to construct the Hells Bells Pedestrian Project.

The necessary paperwork for programming the Federal funds for the project has been completed and approved. This letter is a confirmation that Carson City received a "Notice to Proceed" with the design of the project on June 8, 2012, as outlined in the agreement.

The project has been assigned the following project number, 73740. It has also been assigned the following federal project number, SI-0025(022). The Federal project number must be shown on every plan sheet as well as on the pages of the bid package. Please refer to the project number on future correspondence and billings.

If you have any questions or require more information, please feel free to contact Janelle Thomas at (775) 888-7988 or me at (775) 888-7669.

Sincerely,

Kirsten E. Kehe, P.E.
Principal Road Design Engineer
Local Public Agency Program

KK:ll

Enclosure

Cc: Elaine Martin, Accounting
Janelle Thomas, LPA Coordinator, w/attach

COOPERATIVE (LOCAL PUBLIC AGENCY) AGREEMENT
HELLS BELLS PEDESTRIAN PROJECT

This Agreement is made and entered into this 18TH day of MAY, 2012, by and between the STATE OF NEVADA, acting by and through its Department of Transportation (hereinafter "DEPARTMENT") and Carson City, acting by and through its Regional Transportation Commission, 3505 Butti Way, Carson City, NV 89701 (hereinafter "CITY").

WITNESSETH:

WHEREAS, agreements between the DEPARTMENT and local public agencies are authorized under N.R.S. (Nevada Revised Statutes) Chapters 277 and 408; and

WHEREAS, the DEPARTMENT and the Nevada Division of the Federal Highway Administration (FHWA) have entered into a Stewardship Agreement pursuant to Title 23 U.S.C. (United States Code) § 106; and

WHEREAS, N.R.S. 408.245 authorizes the DEPARTMENT to act as agent and to accept federal funds on behalf of local public agencies; and

WHEREAS, 23 C.F.R. § 635.105(c) provides that when a local public agency project is located on a street or highway over which the DEPARTMENT does not have legal jurisdiction, or when special conditions warrant, the DEPARTMENT may arrange for the local public agency having jurisdiction over such street or highway to perform the work with its own forces or by contract provided certain conditions are met; and

WHEREAS, 23 USC 402 provides the Federal Highway Administration Office of Safety funds for the establishment and carrying out of a safe routes to school program (SRTS Program) for the benefit of children in primary and middle schools; and

WHEREAS, the purposes of 23 USC 402 are (1) to enable and encourage children, including those with disabilities, to walk and bicycle to school; (2) to make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age; and (3) to facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools; and

WHEREAS, the CITY will design, advertise, award, and manage construction of curb, gutter and sidewalk, storm drain improvements, fencing and pedestrian ramps on Hells Bells Road, from Mexican Trail to East 5th Street, and on East 5th Street, from Hells Bells Road to Eagle Valley Middle School as outlined in the Project Scope attached hereto and incorporated herein as Attachment A (hereinafter "PROJECT"); and

WHEREAS, the PROJECT has been approved for Federal Safe Routes to School (SRTS) funds and the CITY had been declared the sub recipient of C.F.D.A. (Code of Federal Domestic Assistance) Number 20.205; and

NOW, THEREFORE, in consideration of the premises and mutual covenants hereinafter contained, it is agreed as follows:

ARTICLE I - DEPARTMENT AGREES:

1. To assist the CITY with: (a) completing the National Environmental Policy Act (NEPA) documentation in conformance with 23 C.F.R. § 771 and (b) obtaining the environmental permits and clearances.
2. To ensure that the CITY's actions are in accordance with applicable Federal and State regulations and policies.
3. To obligate Federal SRTS funding for a maximum amount of Two Hundred and Fifty Thousand and No/100 Dollars (\$250,000.00).
4. To establish a Project Identification Number to track all PROJECT costs.
5. Once the funding is obligated, to provide the CITY with a written "Notice to Proceed" authorizing the preliminary engineering of the PROJECT.
6. To ensure that applicable environmental laws and regulations are met on the PROJECT and to certify the PROJECT to FHWA in accordance with Federal requirements.
7. To review and comment on the CITY's design (including plans, specifications and estimates) in fifteen working days and to ensure that American Association of State Highway Transportation Officials (AASHTO) and Manual of Uniform Traffic Control Devices (MUTCD) Guidelines are followed and that the design meets the requirements of the Americans with Disability Act (ADA).
8. To review all exceptions to AASHTO design standards, and to approve those exceptions when acceptable.
9. To assign a Right-of-Way Agent to provide guidance and oversight to ensure all utility relocations are performed in accordance with State and Federal regulations including, but not limited to N.A.C. (Nevada Administrative Code) Chapter 408 and 23 C.F.R. Part 645.
10. To provide the CITY the approved appraiser list maintained by the DEPARTMENT for use on the PROJECT.
11. To assign DEPARTMENT Right-of-Way Engineering section staff to review and approve the title reports, mapping and legal descriptions for the CITY to ensure compliance with FHWA regulations and standards.
12. To review the mapping, title reports and legal descriptions for the right-of-way acquisitions for the CITY to ensure compliance with State and Federal regulations and standards.
13. To set just compensation for the acquisition parcels and provide it to the CITY.
14. Once the Right-of-Way Setting memo is approved and funding authorized, to provide the CITY with a written "Notice to Proceed" authorizing the right-of-way acquisition for the PROJECT.

15. To assign a Right-of-Way Agent to provide guidance and oversight to ensure the acquisition of right-of-way is in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended.

16. To ensure that applicable right-of-way laws and regulations are met on this PROJECT and to document those actions in accordance with the DEPARTMENT's administrative requirements.

17. To review and approve the CITY's procedures utilized for advertising, bid opening and award of the PROJECT, so that the DEPARTMENT may satisfy itself that the same are in accordance with applicable Federal requirements.

18. To provide an overall Disadvantaged Business Enterprise (DBE) participation goal for the PROJECT based on the DEPARTMENT's DBE program.

19. To ensure that all reporting and project documentation, as necessary for financial management and required by applicable Federal requirements, is submitted by the DEPARTMENT to the FHWA.

20. To authorize the CITY to proceed with the advertisement/award of the contract and construction of the PROJECT, once the final design (including plans, specifications and estimates) has been reviewed and approved by the DEPARTMENT, all certifications have been completed and the funding authorized. The DEPARTMENT shall issue such authorization through a written "Notice to Proceed".

21. To assign a Local Public Agency Coordinator and a resident engineer to act as the DEPARTMENT's representative to monitor the CITY's compliance with applicable Federal and State requirements.

22. To review and approve when appropriate addenda, supplementals and change orders to the construction contract of the PROJECT to ensure compliance with the terms of this Agreement within five (5) working days. Failure to respond within five (5) working days constitutes approval. Approval of said addenda, supplementals and change orders does not alter the maximum reimbursement to the CITY as established in ARTICLE I Paragraph 3, minus any DEPARTMENT PROJECT COSTS as established in ARTICLE III Paragraph 7.

23. To review the CITY's as-built plans and to attend the CITY final inspection of the PROJECT.

24. To reimburse the CITY, monthly as work progresses on the PROJECT, for one hundred percent (100%) of ELIGIBLE PROJECT COSTS based on supporting documentation minus any DEPARTMENT PROJECT COSTS. Total reimbursement shall not exceed the total obligated amount, as established in ARTICLE I Paragraph 3, minus any DEPARTMENT PROJECT COSTS as established in ARTICLE III Paragraph 7. ELIGIBLE PROJECT COSTS are those costs as defined in the applicable Federal Office of Management and Budget (OMB) Circulars including but not limited to those listed on Attachment B, attached hereto and incorporated herein.

ARTICLE II - CITY AGREES:

1. To perform or have performed by consultant forces: (a) the design of the PROJECT (including the development of plans, specifications and estimates); (b) the completion of the NEPA documentation in conformance with 23 C.F.R. § 771; (c) the acquisition

of environmental permits and clearances; (d) complete the survey and right-of-way engineering to prepare mapping, title reports and legal descriptions of the new right-of-way parcels to be acquired; (e) acquire right-of-way; (f) the acquisition of environmental permits and clearances; and (g) the advertisement, award and construction management of the PROJECT, as outlined in Attachment A, in accordance with Federal, State and local laws, regulations, ordinances and policies, including but not limited to those listed in the FHWA "Contract Administration Core Curriculum Participant's Manual and Reference Guide" at <http://www.fhwa.dot.gov/programadmin/contracts/coretoc.cfm>, incorporated herein by reference. The PROJECT shall be designed and constructed in accordance with CITY standards. The PROJECT shall be operated and maintained in accordance with applicable Federal, State and local laws, regulations, ordinances and policies.

2. To require those utility companies having franchise agreements with the CITY, when permitted under the terms of the franchise agreement, to relocate their facilities if necessary or otherwise accommodate the PROJECT at no cost to the PROJECT, DEPARTMENT or the CITY.

3. To coordinate and provide a liaison for the relocation or adjustment of utilities in accordance with applicable State and Federal regulations, including but not limited to N.A.C. Chapter 408 and 23 C.F.R. Part 645.

4. To ensure that any utility relocations are in compliance with ADA requirements.

5. To invite the DEPARTMENT to PROJECT meetings, including but not limited to field reviews, right-of-way settings, review meetings, and the pre-construction conference.

6. To hold a right-of-way setting meeting at the sixty percent (60%) design phase, wherein the CITY shall provide plans showing limits of existing right-of-way and easements, and any necessary right-of-way for the PROJECT, i.e. Fee Takes, Permanent and Temporary Easements, and Permission to Construct limits.

7. To proceed with the PROJECT right-of-way acquisition only after receiving a written "Notice to Proceed" from the DEPARTMENT.

8. To generate right-of-way mapping, title reports, and legal descriptions for those parcels to be acquired for the PROJECT.

9. To provide mapping, title reports and legal descriptions of the new right-of-way parcels to be acquired to the DEPARTMENT for review and approval.

10. To contract an appraiser listed on the approved appraiser list maintained by the DEPARTMENT for appraisal reports and review of the appraisal reports for the acquisition parcels.

11. To provide the appraisal reports and appraisal review reports to the DEPARTMENT for the determination of just compensation.

12. To provide acquisition documents for Department review to assure all necessary Right-of-Way are acquired in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended and to comply with and follow the policies and regulations pertaining to real property acquisitions for federal projects as provided by direction from DEPARTMENT Right-of-Way personnel.

13. To submit to the DEPARTMENT for review and approval, preliminary plans at sixty percent (60%), ninety percent (90%) and one hundred percent (100%) design phases. The ninety percent (90%) and one hundred percent (100%) submittals shall include the PROJECT specifications, cost estimate and bid documents, which must include the provisions listed in Attachment C "Required Documents In Bid Packets Of Projects with DBE Goals ", attached hereto and incorporated herein.

14. The CITY shall use the FHWA "Parent – Walking and Biking to School Survey" (Survey) and "Student Arrival and Departure Tally Sheet" (Tally Sheet) at all project school locations. Data is to be collected by using both the Survey and Tally Sheet prior to project initiation and at the end of each semester for the duration of the project. Both surveys and Tally Sheets are to be sent to the State's Safe Routes to School Coordinator so they may be forwarded to the FHWA for processing. The Survey and Tally Sheet are available at www.walknevada.com.

15. Concurrent with its provision to the DEPARTMENT of the hundred percent (100%) submittal, the CITY shall submit a written certification accompanied by supporting documentation, evidencing that the proposed improvements will be constructed on property owned or authorized to be used by the CITY and that any right-of-way acquired for the PROJECT was obtained in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and that all utility relocations and /or adjustments have been or will be completed in accordance with federal and state regulations.

16. To proceed with the PROJECT advertisement only after receiving a written "Notice to Proceed" from the DEPARTMENT.

17. To submit to the DEPARTMENT three (3) final sets of plans, specifications, estimates and bid documents for the DEPARTMENT's use.

18. To perform the contract administration of the construction contract by providing appropriate personnel to: (a) observe, review, inspect, perform materials testing; (b) be in responsible charge of the construction; (c) be capable of answering any question that may arise in relation to the contract plan and specifications during construction; (d) be responsible for ensuring that all applicable NEPA, environmental permits and clearances requirements for monitoring and mitigation during construction of the PROJECT are being met; and (e) to report to the DEPARTMENT's Resident Engineer on administration of the contract, compliance with Federal requirements and the contractor's acceptable fulfillment of the contract.

19. To submit to the DEPARTMENT for review and approval any addenda, supplementals and change orders and to obtain written DEPARTMENT approval for any addenda, supplementals and change orders prior to incorporating them into the PROJECT.

20. To allow the DEPARTMENT and its designated representatives to monitor all work associated with the PROJECT during construction.

21. To incorporate all required D.B.E. (Disadvantaged Business Enterprise) goals into the contract for the project as well as all applicable Federal and State required provisions and terms regarding the D.B.E. goals.

22. To monitor the consultant and/or contractor on the project to ensure that D.B.E. goals are being met in accordance with all applicable Federal and State Laws, including but not limited to 49 CFR §26, and to make available to the DEPARTMENT all necessary documents to support compliance with the D.B.E. standards.

23. To provide to the DEPARTMENT all reporting and project documentation, as necessary for financial management, required by applicable Federal requirements and any future Federal reporting requirements and to comply with the Federal Funding Accountability and Transparency Act and implementing regulations of 2CFR §170, including Appendix A available at <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>

24. To perform PROJECT documentation and quality control during contract administration according to the CITY's established procedures, as approved by the DEPARTMENT. If the CITY does not have DEPARTMENT approved procedures, it must then follow the procedures contained in the DEPARTMENT's "Documentation Manual" and "Construction Manual," incorporated herein by reference. The manuals may be obtained from the DEPARTMENT's Administrative Services Division.

25. As work progresses on the PROJECT, the CITY shall provide the DEPARTMENT with monthly invoices for payment of the PROJECT COSTS. The invoice shall be based upon and accompanied by auditable supporting documentation. Total reimbursement shall not exceed the total obligated amount, as established in Article I Paragraph 3, less any DEPARTMENT PROJECT COSTS, as established in Article III Paragraph 7. Invoices for the preliminary engineering and right-of-way phases shall be forwarded to the DEPARTMENT's Local Public Agency Coordinator for payment processing. Invoices for the construction phase including the final invoice shall be forwarded to the DEPARTMENT's Resident Engineer for review. The DEPARTMENT's Resident Engineer shall forward the invoice to the DEPARTMENT's Local Public Agency Coordinator for payment processing. ELIGIBLE PROJECT COSTS are those costs as defined in the applicable Federal OMB Circulars including but not limited to those listed on Attachment B.

26. To be responsible for one hundred percent (100%) of all costs exceeding the obligated Federal funds. The CITY agrees the DEPARTMENT and the State of Nevada are not responsible for any costs exceeding the obligated Federal funds.

27. To accept maintenance responsibilities including utility costs for the sidewalk, storm drain and fencing improvements constructed as part of the PROJECT, upon completion and the DEPARTMENT's final written acceptance of the PROJECT.

28. To complete and sign Attachment D – "Affidavit Required Under Section 112(c) of Title 23 United States Code, Act of August 27, 1958 and Part 29 of Title 49, Code of Federal Regulations, November 17, 1987" and Attachment E – "Certification Required by Section 1352 of Title 31, United States Code, Restrictions of Lobbying Using Appropriated Federal Funds," "Instructions for Completion of SF-LLL, Disclosure of Lobbying Activities," and "Disclosure of Lobbying Activities" attached hereto and incorporated herein.

ARTICLE III - IT IS MUTUALLY AGREED:

1. The term of this Agreement shall be from the date first written above through and including December 31, 2014, or until the construction of all improvements contemplated herein has been completed and accepted by the DEPARTMENT, whichever occurs first, save and except the responsibility for maintenance as specified herein.

2. Costs associated with this Agreement will be administered in accordance with the cost principles contained in 2 C.F.R. § 225.

3. The description of the PROJECT may be changed in accordance with Federal

requirements and by mutual written consent of the parties.

4. Each party agrees to complete a joint final inspection prior to final acceptance of the work by the DEPARTMENT.

5. The TOTAL ESTIMATED PROJECT COSTS are Two Hundred Fifty Thousand Dollars and No/100 Dollars (\$250,000.00), which includes: Two Hundred Fifty Thousand Dollars and No/100 Dollars (\$250,000.00), comprising Federal funding of one hundred percent (100%) of the TOTAL ESTIMATED PROJECT COSTS. The parties acknowledge and agree that the TOTAL ESTIMATED PROJECT COSTS set forth herein are only estimates and that in no event shall the DEPARTMENT or federal portion exceed the total obligated amount, as established in Article I Paragraph 3.

6. The following is a summary of TOTAL ESTIMATED PROJECT COSTS and available funds:

TOTAL ESTIMATED PROJECT COSTS:

DEPARTMENT Preliminary Engineering Costs:	\$ 3,000.00
CITY Preliminary Engineering Costs:	\$ 15,000.00
DEPARTMENT Right-of-Way Costs:	\$ 2,000.00
CITY Right-of-Way Costs:	\$ 3,000.00
DEPARTMENT Construction Engineering Costs:	\$ 5,000.00
CITY Construction Engineering Costs:	\$ 22,000.00
Construction Costs:	<u>\$ 200,000.00</u>

TOTAL ESTIMATED PROJECT COSTS: \$ 250,000.00

AVAILABLE FUNDING SOURCES:

Federal SRTS Funds:	\$ 250,000.00
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TOTAL PROJECT FUNDING: \$ 250,000.00

7. The CITY may not incur any reimbursable PROJECT COSTS until this Agreement is executed by both parties and the DEPARTMENT has issued a written "Notice to Proceed."

8. The TOTAL PROJECT COSTS shall be determined by adding the total costs incurred by the DEPARTMENT and the CITY for preliminary engineering, completing the NEPA process and acquiring environmental permits and clearances, right-of-way engineering, right-of-way acquisition, the relocation or adjustment of utilities, construction engineering and construction costs. The CITY is responsible for one hundred percent (100%) of all costs not eligible for Federal funding. ELIGIBLE PROJECT COSTS are those costs as defined in the applicable Federal OMB Circulars, including but not limited to those listed on Attachment B.

9. An alteration requested by either party which substantially changes the services provided for by the expressed intent of this Agreement shall be considered extra work, and shall be specified in an amendment which will set forth the nature and scope thereof. The method of payment for extra work shall be specified at the time the amendment is written.

10. The CITY'S TOTAL ESTIMATED PROJECT COSTS may not be an accurate reflection of the final cost. The final costs may vary widely depending on the Contractor's bid

prices.

11. Plans, specifications, and estimates shall be reviewed by the DEPARTMENT for conformity with the Agreement terms. The CITY acknowledges that review by the DEPARTMENT does not include detailed review or checking of major components and related details or the accuracy and sufficiency of such deliverables.

12. This Agreement may be terminated by mutual consent of both parties without cause. The parties expressly agree that this Agreement shall be terminated upon written notification if for any reason Federal and/or State and/or CITY funding ability to satisfy this Agreement is withdrawn, limited, or impaired.

13. Should this Agreement be terminated by the CITY for any reason prior to the completion of the PROJECT, or the Agreement is terminated by the DEPARTMENT due to the CITY's failure to perform, the CITY shall reimburse the DEPARTMENT for any payments made to the CITY and PROJECT costs incurred by the DEPARTMENT.

14. All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile or electronic mail 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:

FOR DEPARTMENT: Susan Martinovich, P.E., Director
Attn: Janelle K. Thomas, P.E.
Local Public Agency Coordinator
Nevada Department of Transportation
Roadway Design
1263 South Stewart Street
Carson City, Nevada 89712
Phone: (775) 888-7988
Fax: (775) 888-7401
E-mail address: jthomas2@dot.state.nv.us

FOR CITY: Robert Fellows, P.E.
Carson City Public Works
3505 Butti Way
Carson City, NV 89701
Phone: (775) 283-7370
Fax: 775-887-2164
E-mail: rfellows@carson.org

15. Up to the limitation of law, including, but not limited to, N.R.S. Chapter 41 liability limitations, each party shall be responsible for all liability, claims, actions, damages, losses, and expenses, caused by the negligence, errors, omissions, recklessness or intentional misconduct of its own officers and employees.

16. The parties do not waive and intend to assert available N.R.S. Chapter 41 liability limitations in all cases. Agreement liability of both parties shall not be subject to punitive damages. Actual damages for any State or CITY breach shall never exceed the amount of funds which have been appropriated for payment under this Agreement, but not yet paid, for the fiscal year budget in existence at the time of the breach.

17. 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 exclusive jurisdiction of the Nevada district courts for enforcement of this Agreement.

18. The illegality or invalidity of any provision or portion of this Agreement shall not affect the validity of the remainder of the Agreement and this Agreement shall be construed as if such provision did not exist and the unenforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.

19. Failure to declare a breach or the actual waiver of any particular breach of the Agreement and 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.

20. Except as otherwise expressly provided herein, all property presently owned by either party shall remain in such ownership upon termination of this Agreement, and there shall be no transfer of property between the parties during the course of this Agreement.

21. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create any rights in any person or entity, public or private, a third party beneficiary status hereunder, or to authorize anyone not a party to this Agreement to maintain a suit pursuant to the terms or provisions of this Agreement.

22. Each party agrees to keep and maintain under generally accepted accounting principles full, true and complete records and documents pertaining to this Agreement and to present, at any reasonable time, such information for inspection, examination, review, audit and copying at any office where such records and documentation are maintained. Such records and documentation shall be maintained for three (3) years after final voucher is made by FHWA. If any litigation, claim or audit is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claim, or audit findings involving the records have been resolved.

23. The parties are associated with each other only for the purposes and to the extent set forth in this Agreement. Each party is and shall be a public agency separate and distinct from the other party and shall have the 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.

24. In connection with the performance of work under this Agreement, the parties agree not to discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, disability, pregnancy, sexual orientation, genetic information (GINA) or gender identity or expression, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including without limitation apprenticeship. The parties further agree to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

25. Pursuant to all applicable laws including but not limited to the Civil Rights Act of 1964, the Federal Highway Act of 1973, Section 504 of the Rehabilitation Act of 1973, the Age

Discrimination Act of 1975, Executive Order 12898 (Environmental Justice), and Executive Order 13166 (Limited English Proficiency), CITY shall ensure that no person shall on the grounds of race, color, national origin, sex, age and handicap/disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the recipient regardless of whether those programs and activities are federally-funded or not. Breach of this covenant may be regarded as a material breach of this Agreement.

26. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Agreement without the prior written consent of the other party.

27. The parties hereto represent 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 engage in the cooperative action set forth herein.

28. Pursuant to N.R.S. 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 confidential by law or a common law balancing of interests.

29. 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.

30. All references herein to federal and state code, law, statutes, regulations and circulars are to them, as amended.

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


32. This Agreement constitutes the entire agreement of the parties and as such is 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 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 and approved by the Attorney General.

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

Carson City, acting by and through its
Regional Transportation Commission


Shelly Aldean, Chairperson

State of Nevada, acting by and through its
DEPARTMENT OF TRANSPORTATION


Director

Approved as to Legality & Form:

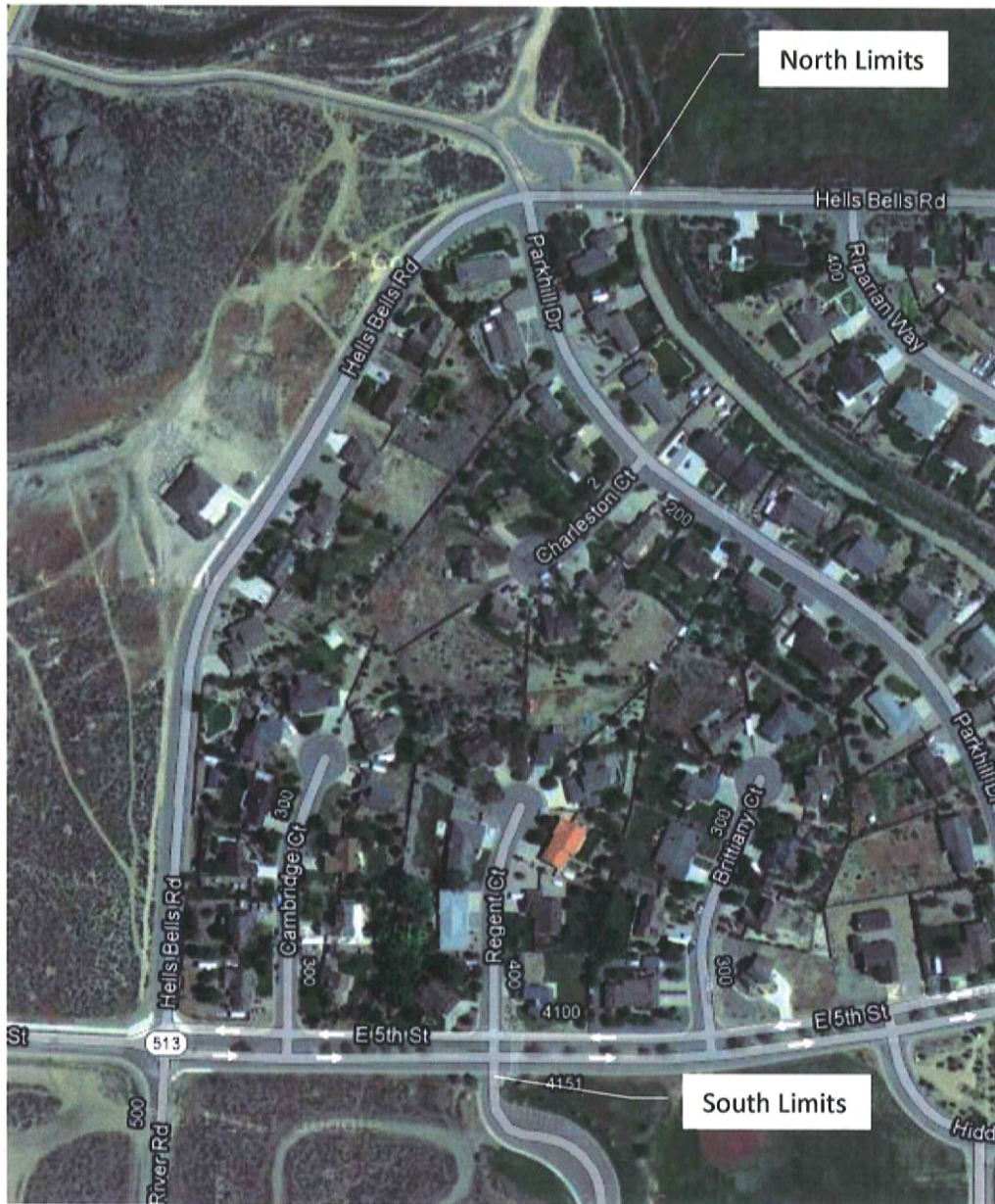

Deputy Attorney General

Attachment A

SCOPE OF WORK

HELLS BELLS PEDESTRIAN PROJECT

The project consists of constructing: 1.) curb, gutter, sidewalk , fence and storm drain improvements along the west side of Hells Bells Road, from Mexican trail to E. 5th Street; 2.) curb, gutter, sidewalk and storm drain improvements on E. 5th Street, from Hells Bells Road to Eagle Valley Middle School; 3.) pedestrian ramps at Eagle Valley Middle School entrance.



Attachment B

Office of Management and Budget (OMB) Circulars

State and Local Governments

- 2 CFR 225, Cost Principles for State, Local and Indian Tribal Governments (OMB Circular A-87)
- OMB Circular A-102, Grants and Cooperative Agreements with State and Local Governments; as implemented in 43 CFR 12, Subpart C
- OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations, as implemented in 43 CFR Part 12, Subpart A: Administrative and Audit Requirements and Cost Principles for Assistance Programs

Non-Profit Organizations

- 2 CFR Part 230, Cost Principles for Non-Profit Organizations (OMB Circular A-122), except recipients listed in Appendix C to Part 230 are subject to Federal Acquisition Regulation (FAR) Subpart 31.2, Contracts with Commercial Organizations (Contract Cost Principles and Procedures)
- OMB Circular A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, hospitals, and Other Non-Profit Organizations, as implemented in 2 CFR 215 and 43 CFR Part 12, Subpart F
- OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations, as implemented in 43 CFR Part 12, Subpart A: Administrative and Audit Requirements and Cost Principles for Assistance Programs

Organizations for Profit, Individuals and Others Not Covered Above

- Federal Acquisition Regulation (FAR) Subpart 31.2, Contracts with Commercial Organizations (Contract Cost Principles and Procedures)
- OMB Circular A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, hospitals, and Other Non-Profit Organizations, as implemented in 2 CFR 215 and 43 CFR Part 12, Subpart F
- FAR Subpart 42.1, Contract Audit Services; FAR Subpart 42.7, Indirect Cost Rates; FAR Subpart 42.8, Disallowance of Costs

The OMB Circulars can be found on:

<http://www.whitehouse.gov/OMB/circulars/index.html>

Attachment C

REQUIRED DOCUMENTS IN BID PACKETS

Federal Wage Rates, as provided by the Labor Commission, are included in all Federal Projects over \$2,000.00 *

The following attached provisions and forms:

Required Contract Provisions Federal-aid Construction Contracts

Additional Contract Provisions Supplement to the weekly Certified Payrolls

Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

Additional Contract Provisions Specific Equal Employment Opportunity Responsibilities

Additional Contract Provisions Minority Business Enterprise in Federal-aid Highway Construction

Affidavit Required Under Section 112(c)

Certification Required by Section 1352 of Title 31, United States Code (Restrictions of lobbying)

Bidder Subcontractor Information (exceeding 5%)**

Bidder Subcontractor Information (exceeding 1% or \$50,000.00, whichever is greater)**

List of Subcontractors and Suppliers Bidding on Contract

*** Contact NDOT's Contract Compliance Division for information**

**** Or local agency equivalent**

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

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XII. Certification Regarding Use of Contract Funds for Lobbying	10

ATTACHMENTS

- A. Employment Preference for Appalachian Contracts
(included in Appalachian contracts only)

I. GENERAL

1. These contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.

3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.

4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:

- Section I, paragraph 2;
- Section IV, paragraphs 1, 2, 3, 4, and 7;
- Section V, paragraphs 1 and 2a through 2g.

5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the DOL, or the contractor's employees or their representatives.

6. **Selection of Labor:** During the performance of this contract, the contractor shall not:

- a. discriminate against labor from any other State, possession, or territory of the United States (except for employment

preference for Appalachian contracts, when applicable, as specified in Attachment A), or

- b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

II. NONDISCRIMINATION

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

- a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.

- b. The contractor will accept as his operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

- a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

- b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all

major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable

time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:

a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

b. The contractor will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the SHA and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the SHA.

8. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.

b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.

c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.

9. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women;

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and

(4) The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.

b. The contractors will submit an annual report to the SHA each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data.

III. NONSEGREGATED FACILITIES

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further

certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

b. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).

c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

IV. PAYMENT OF PREDETERMINED MINIMUM WAGE

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

1. General:

a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account [except such payroll deductions as are permitted by regulations (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraphs 4 and 5 of this Section IV.

b. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

2. Classification:

a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.

b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:

(1) the work to be performed by the additional classification requested is not performed by a classification in the wage determination;

(2) the additional classification is utilized in the area by the construction industry;

(3) the proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) with respect to helpers as defined in Section IV.4(c), when such a classification prevails in the area in which the work is performed.

c. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the DOL, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Wage and Hour Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. Said Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

3. Payment of Fringe Benefits:

a. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor or subcontractors, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly case equivalent thereof.

b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

4. Apprentices and Trainees (Programs of the U.S. DOL) and Helpers:

a. Apprentices:

(1) Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeyman-level employees on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate listed in the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor or subcontractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

(3) Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(4) In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

b. Trainees:

(1) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work

performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the DOL, Employment and Training Administration.

(2) The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(3) Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

(4) In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Helpers:

Helpers will be permitted to work on a project if the helper classification is specified on an applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, who is not a helper as defined above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

5. Apprentices and Trainees (Programs of the U.S. DOT):

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

6. Withholding:

The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements which is held by the same prime contractor, as much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the

event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the SHA contracting officer may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

7. Overtime Requirements:

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

8. Violation:

Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

9. Withholding for Unpaid Wages and Liquidated Damages:

The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 8 above.

V. STATEMENTS AND PAYROLLS

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

1. Compliance with Copeland Regulations (29 CFR 3):

The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

2. Payrolls and Payroll Records:

a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics,

apprentices, trainees, watchmen, helpers, and guards working at the site of the work.

b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof of the types described in Section 1(b)(2)(B) of the Davis Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis Bacon Act, the contractor and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.

c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

d. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his/her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;

(2) that such laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR 3;

(3) that each laborer or mechanic has been paid not less than the applicable wage rate and fringe benefits or cash equivalent for the classification of worked performed, as specified in the applicable wage determination incorporated into the contract.

e. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 2d of this Section V.

f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the SHA, the FHWA, the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than \$1,000,000 (23 CFR 635) the contractor shall:

a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.

b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.

c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.

2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

VII SUBLETTING OR ASSIGNING THE CONTRACT

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the State. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635).

a. "Its own organization" shall be construed to include only workers employed and paid directly by the prime contractor and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime contractor.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph 1 of Section VII is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the SHA contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the SHA contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

VIII. SAFETY: ACCIDENT PREVENTION

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the SHA contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined not more than \$10,000 or imprisoned not more than 5 years or both."

X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

By submission of this bid or the execution of this contract, or subcontract, as appropriate, the bidder, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*, as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*, as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

XI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

1. Instructions for Certification - Primary Covered Transactions:

(Applicable to all Federal-aid contracts - 49 CFR 29)

a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.

f. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement

portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and

d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Covered Transactions: (Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Ex- clusion--Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

XII CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

(Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 - 49 CFR 20)

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

ADDITIONAL CONTRACT PROVISIONS

SUPPLEMENT TO THE WEEKLY CERTIFIED PAYROLLS

In addition to the required payroll data as enumerated in Section V, Part 2 of the Form FHWA-1273, "Required Contract Provisions, Federal-Aid Construction Contracts (Exclusive of Appalachian Contracts)", the Department is requiring that the employers insert, for their employees, an ethnic code and Male/Female identifier on each weekly certified payroll.

For standardization purposes the Department has established the following identification codes:

- #1 Native Americans: Persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.
- #2 Black Americans: Persons having origins in any of the Black racial groups of Africa.
- #3 Asian-Pacific Americans: Persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas and/or which includes persons whose origin are from India, Pakistan, and Bangladesh.
- #4 Hispanic Americans: Persons of Spanish or Portuguese ancestry whose culture is rooted in South America, Central America, Mexico, Puerto Rico, Cuba, the Caribbean Islands or the Iberian Peninsula, including Portugal, regardless of race.
- #5 None of These: Persons not otherwise included in the above designations.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION
CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

1. As used in these specifications:
 - a. "Covered Area" means the geographical area described in the "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246)", of these special provisions.
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 - d. "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Spanish or Portuguese ancestry whose culture is rooted in South America, Central America, Mexico, Puerto Rico, Cuba, the Caribbean Islands or the Iberian Peninsula, including Portugal, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North American and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in

paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the FEDERAL REGISTER in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U. S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.
 - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
 - d. Provide immediate written notification to the Director when the union or unions

with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees

to seek or to prepare for, through appropriate training, etc., such opportunities.

- m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory affect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are non- segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a Contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's non-compliance.
9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally, the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order

11246, as amended.

13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirement for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).
16. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the State Department of Transportation and the Federal Highway Administration.
17. Required Reports: Standard Form 257 - a Standard Form 257 will be required monthly, from the prime contractor and all subcontractors working on the project.
18. FHWA 1409 (Federal-Aid Highway Construction Contractors Semiannual report).

(INSTRUCTIONS: This report is to be completed by the Contractor semiannually for each individual employed on this contract (including any subcontracts under it) who has received training during the reporting period under the training special provisions (Attachment 2 FHPM 6-4-1.2). The report is to be submitted by the 20th of the month following the reporting period (July 20 and January 20). The original of this report is to be furnished to the trainee and two copies submitted to the Nevada Department of Transportation.)
19. Required Reports: Form PR-1391 (Federal-Aid Highway Construction Contractors Annual EEO Reports).

This report should be submitted to the Nevada Department of Transportation by each Contractor and covered subcontractor for the month of July. Subcontractors should report contract and employment data pertaining to their subcontract work only. The staffing figures to be reported under employment data should represent the project work force on board in whole or in part for the last payroll period preceding the end of the month.

The staffing figures to be reported in Table A should include journey-level men and women, apprentices, and on-the-job trainees. Staffing figures to be reported in Tables B and C should only include apprentices and on-the-job trainees as indicated.

ADDITIONAL CONTRACT PROVISIONS
SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES

1. General

- a. Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Order 11246 and Executive Order 11375 are set forth in Required Contract Provisions (Form FHWA-1273 or 1316, as appropriate) and these Special Provisions which are imposed pursuant to Section 140 of Title 23, USC, as established by Section 22 of the Federal-Aid Highway Act of 1968. The requirements set forth in these Special Provisions shall constitute the specific affirmative action requirements for project activities under this contract and supplement the equal employment opportunity requirements set forth in the Required Contract Provisions.
- b. The contractor will work with the Nevada Department of Transportation and the Federal Government in carrying out equal employment opportunity obligations and in their review of his/her activities under the contract.
- c. The contractor and all his/her subcontractors holding subcontracts not including material suppliers, of \$10,000 or more, will comply with the following minimum specific requirement activities of equal employment opportunity: (The equal employment opportunity requirements of Executive Order 11246, as set forth in Volume 6, Chapter 4, Section 1, Subsection 1 of the Federal-Aid Highway Program Manual, are applicable to material suppliers as well as contractors and subcontractors.) The contractor will include these requirements in every subcontract of \$10,000 or more with such modification of language as is necessary to make them binding on the subcontractor.

2. Equal Employment Opportunity Policy

The Contractor will accept as his operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through a positive continuing program:

It is the policy of this company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and/or on-the-job training.

3. Equal Employment Opportunity Officer

The Contractor will designate and make known to the Nevada Department of Transportation contracting officers an equal employment opportunity officer (hereinafter referred to as the EEO Officer) who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.

4. Dissemination of Policy

- a. All members of the Contractor's staff who are authorized to hire, supervise, promote, and discharge employees or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the Contractor's equal employment opportunity policy and contractual responsibilities to provide equal employment opportunity in each grade and classification of employment. To insure that the above agreement will be met, the following actions will be taken as a minimum:
 - (1) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the Contractor's equal employment opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.
 - (2) All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official covering all major aspects of the Contractor's equal employment opportunity obligations within thirty days following their reporting for duty with the Contractor.
 - (3) All personnel who are engaged in directed recruitment for the project will be instructed by the EEO Officer or appropriate company official in the Contractor's procedures for locating and hiring minority group employees.
- b. In order to make the Contractor's equal employment opportunity policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the Contractor will take the following actions:
 - (1) Notices and posters setting forth the Contractor's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
 - (2) The Contractor's equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

5. Recruitment

- a. When advertising for employees, the Contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer". All such advertisements will be published in newspapers or other publications, having a large circulation among minority groups in the area from which the project work force would normally be derived.
- b. The Contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the Contractor will, through this EEO Officer, identify sources of potential minority group employees, and establish with

such identified sources procedures whereby minority group applicants may be referred to the Contractor for employment consideration.

In the event the Contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the Contractor's compliance with equal employment opportunity contract provisions. (The U. S. Department of Labor has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the Contractor to do the same, such implementation violates Executive Order 11246, as amended.)

- c. The Contractor will encourage his present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

6. Personnel Actions

Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, or national origin. The following procedures shall be followed:

- a. The Contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- b. The Contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- c. The Contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the Contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- d. The Contractor will promptly investigate all complaints of alleged discrimination made to the Contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the Contractor will inform every complainant of all his avenues of appeal.

7. Training and Promotion

- a. The Contractor will assist in locating, qualifying and increasing the skills of minority group and women employees, and applicants for employment.
- b. Consistent with the Contractor's work force requirements and as permissible under Federal and State regulations, the Contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event the Training Special Provision is provided under this

contract, this subparagraph will be superseded as indicated in said Training Special Provisions.

- c. The Contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
- d. The Contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

8. Unions

If the Contractor relies in whole or in part upon unions as a source of employees, the Contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the Contractor either directly or through a Contractor's association acting as agent will include the procedures set forth below:

- a. The Contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
- b. The Contractor will use best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, or national origin.
- c. The Contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the Contractor, the Contractor shall so certify to the Nevada Department of Transportation and shall set forth what efforts have been made to obtain such information.
- d. In the event the union is unable to provide the Contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the Contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, or national origin, making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which the Contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the Contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such Contractor shall immediately notify the Nevada Department of Transportation.

9. Subcontracting

- a. The Contractor will use his best efforts to solicit bids from and to utilize Disadvantaged Business firms (minority and women-owned businesses) as subcontractors or subcontractors with meaningful minority group and female

representation among their employees. Contractors shall obtain lists of Disadvantaged Business Enterprise firms from the Contract Compliance Office of the Nevada Department of Transportation.

- b. The Contractor will use his best efforts to ensure subcontractor compliance with their equal employment opportunity obligations.

10. Records and Reports

- a. The Contractor will keep such records as are necessary to determine compliance with the Contractor's equal employment opportunity obligations. The records kept by the Contractor will be designed to indicate.

- (1) The number of minority and non-minority group members and women in each work classification on the project.

- (2) The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to Contractors who rely in whole or in part on unions as a source of their work force),

- (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees and,

- (4) The progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority and female representation among their employees.

- b. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the Nevada Department of Transportation and the Federal Highway Administration.

ADDITIONAL CONTRACT PROVISIONS
MINORITY BUSINESS ENTERPRISE
IN FEDERAL-AID HIGHWAY CONSTRUCTION

MINORITY BUSINESS ENTERPRISE. This project is subject to TITLE 49, Part 26, Federal Regulations entitled "Participation by Minority Business Enterprise in Department of Transportation Programs."

Policy. It is the policy of the Department of Transportation that disadvantaged business enterprise as defined in 49 CFR Part 26 shall have an equal opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently the DBE requirements of 49 CFR Part 26 apply to this agreement.

Obligation. (i) The recipient or its contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or part with Federal funds provided under this agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that minority business enterprise have an equal opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, sex or handicap in the award and performance of NDOT assisted contracts.

1. "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is;
 - a. Black (a person having origins in any of the black racial groups of Africa);
 - b. Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Carribean Islands, regardless of race);
 - c. Asian American (a person having origins in any of the original peoples of the Far East. Southeast Asia, the Indian subcontinent, or the Pacific Islands); or
 - d. American Indian and Alaskan Native (a person having origins in any of the original peoples of North America);
 - e. Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under section 8(a) of the Small Business Act as amended (15 U.S.C. 637(a)).
2. Bidders shall be fully informed respecting the requirements of the Regulations; particular attention is directed to the following matters:
 - a. A Disadvantaged Business Enterprise (DBE) must be a small business concern as defined pursuant to 49 CFR Part 26.1.
 - (a) "Disadvantaged Business" means a small business concern: (a) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
3. The Contractor shall designate and make known to the Engineer a liaison officer to administer the Contractor's minority business enterprise program.

AFFIDAVIT REQUIRED UNDER SECTION 112(c)
of Title 23 United States Code, Act of August 27, 1958
and
Part 29 of Title 49, Code of Federal Regulations,
November 17, 1987.

STATE OF _____ }
COUNTY OF _____ } SS

I, _____ (Name of party signing this affidavit and the Proposal Form) _____ (title).

being duly sworn do depose and say: That _____

(name of person, firm, association, or corporation) has not, either directly or indirectly, entered into agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this contract; and further that, except as noted below to the best of knowledge, the above named and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(Insert Exceptions, attach additional sheets)

The above exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility and whether or not the Department will enter into contract with the party. For any exception noted, indicate on an attached sheet to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions. The failure to furnish this affidavit and required exceptions if any shall disqualify the party.

Signature

Title

Sworn to before me this _____ day of _____, 20 _____

Signature

(SEAL)

Notary Public, Judge or

CERTIFICATION REQUIRED BY SECTION 1352 OF TITLE 31, UNITED STATES CODE
RESTRICTIONS OF LOBBYING USING APPROPRIATED FEDERAL FUNDS

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriate funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Name (please type or print)

Signature

Title

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity in and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, first Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB
0348-0046

<p>1. Type of Federal Actions:</p> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<p>2. Status of Federal Action:</p> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> c. Initial award <input type="checkbox"/> d. post-award	<p>3. Report Type:</p> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change
<p>4. Name and Address of Reporting Entity:</p> <input type="checkbox"/> Prime <input type="checkbox"/> Sub-awardee <p align="center">Tier _____, if known:</p> <p>Congressional District, if known:</p>		<p>For Material Change Only: year _____ quarter _____ date of last report _____</p>
<p>6. Federal Department/Agency:</p>		<p>5. If Reporting Entity in No. 4 is Sub-awardee, Enter Name and Address of Prime:</p> <p>Congressional District, if known:</p>
<p>8. Federal Action Number, if know:</p>		<p>7. Federal Program Name/Description:</p> <p>CFDA Number, if applicable: _____</p>
<p>10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI):</p> <p align="center"><i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i></p>		<p>9. Award Amount, if known:</p> <p>\$ _____</p> <p>b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):</p> <p align="center"><i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i></p>
<p>11. Amount of Payment (check all that apply):</p> <p>\$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned</p>	<p>13. Type of Payment (check all that apply):</p> <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____	
<p>12. Form of Payment (check all that apply):</p> <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____		
<p>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11:</p> <p align="center"><i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i></p>		
<p>15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
<p>16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>		<p>Signature: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Telephone No.: _____ Date: _____</p>
<p>Federal Use Only:</p>		<p>Authorized for Local Reproduction Standard Form - LLL</p>

NDOT BIDDER SUBCONTRACTOR INFORMATION

(For subcontractors exceeding five (5) percent of bid amount)

CONTRACT NO. _____ CONTRACTOR _____

PROJECT NO. (S) _____ ADDRESS _____

BID AMOUNT \$ _____

This information must be submitted with your bid proposal. The bidder shall enter "NONE" under "NAME OF SUBCONTRACTOR" if not utilizing subcontractors exceeding this amount.

NAME OF SUBCONTRACTOR	CONTRACT ITEM NO(S).	NEVADA CONTRACTOR LICENSE AND LICENSE LIMIT	DESCRIPTION OF WORK OR SERVICES TO BE SUBCONTRACTED

NOTE: Subsection 108.01 of the Standard Specifications and these Special Provisions apply to Subletting of any portion of the contract

CONTRACTOR'S SIGNATURE _____ DATE _____

TELEPHONE NO. () _____

NDOT BIDDER SUBCONTRACTOR INFORMATION

(For subcontractors exceeding one (1) percent of bid amount or \$50,000, whichever is greater)

CONTRACT NO. _____ CONTRACTOR _____

PROJECT NO. (S). _____ ADDRESS _____

BID AMOUNT \$ _____

This information must be submitted by the three lowest bidders within two (2) hours after the completion of the opening of the bids. The bidder may elect to submit this information with the bid proposal and, in that case, the bidder will be considered as having submitted this information within the above two (2) hours.

NAME OF SUBCONTRACTOR	CONTRACT ITEM NO(S).	NEVADA CONTRACTOR LICENSE AND LICENSE LIMIT	DESCRIPTION OF WORK OR SERVICES TO BE SUBCONTRACTED

NOTE: Subsection 108.01 of the Standard Specifications and these Special Provisions apply to Subletting of any portion of the contract

CONTRACTOR'S SIGNATURE _____ DATE _____

TELEPHONE NO. () _____

LIST OF SUBCONTRACTORS AND SUPPLIERS BIDDING ON FEDERAL CONTRACTS

CONTRACT NO.: _____ CONTRACTOR: _____

Subcontractor Name	Phone:	SUPPLIER	Used	DBE Certified
	() -	Yes No	Yes No	Yes No
	() -	Yes No	Yes No	Yes No
	() -	Yes No	Yes No	Yes No
	() -	Yes No	Yes No	Yes No
	() -	Yes No	Yes No	Yes No
	() -	Yes No	Yes No	Yes No
	() -	Yes No	Yes No	Yes No
	() -	Yes No	Yes No	Yes No
	() -	Yes No	Yes No	Yes No
	() -	Yes No	Yes No	Yes No
	() -	Yes No	Yes No	Yes No
	() -	Yes No	Yes No	Yes No
	() -	Yes No	Yes No	Yes No
	() -	Yes No	Yes No	Yes No

NOTICE: SUBMIT THIS FORM BY 5:00 P.M. THE NEXT WORKING DAY AFTER THE OPENING OF BIDS. YOU MAY MAKE COPIES OF THIS FORM. LIST ALL COMPANIES BIDDING WITH YOUR FIRM ON THIS CONTRACT. FIRMS THAT ARE LISTED WILL BE SENT A CONTRACTORS REGISTRATION FORM BY NDOT THAT WILL BE UPDATED ANNUALLY. FAILURE TO SUBMIT THIS FORM WITHIN THE REQUIRED TIME WILL DEEM THE BID NON-RESPONSIVE.

ATTACHMENT D

AFFIDAVIT REQUIRED UNDER SECTION 112(c) of Title 23 United States Code, Act of August 27, 1958 and Part 29 of Title 49, Code of Federal Regulations, November 17, 1987.

STATE OF Nevada } COUNTY OF Carson City } SS

I, Patrick Pittenger (Name of party signing this affidavit and the Proposal Form) Transportation Manager (title).

being duly sworn do depose and say: That Carson City RTC

(name of person, firm, association, or corporation) has not, either directly or indirectly, entered into agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this contract; and further that, except as noted below to the best of knowledge, the above named and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(Insert Exceptions, attach additional sheets)

The above exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility and whether or not the Department will enter into contract with the party. For any exception noted, indicate on an attached sheet to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions. The failure to furnish this affidavit and required exceptions if any shall disqualify the party.

Patrick Pittenger Signature Transportation Manager Title

Sworn to before me this 10th day of May, 2012

Laura A. Banks Signature Laura A. Banks Notary Public, Judge or



ATTACHMENT E

CERTIFICATION REQUIRED BY SECTION 1352 OF TITLE 31, UNITED STATES CODE
RESTRICTIONS OF LOBBYING USING APPROPRIATED FEDERAL FUNDS

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriate funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Patrick Pittenger
Name (please type or print)

Patrick Pittenger
Signature

Transportation Manager
Title

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether sub-awardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity in and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub-award recipient. Identify the tier of the sub-awardee, e.g., the first sub-awardee of the prime is the 1st tier. Sub-awards include but are not limited to subcontracts, sub-grants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Sub-awardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, first Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB

0348-0046

1. Type of Federal Actions: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> c. Initial award <input type="checkbox"/> d. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Sub-awardee Tier _____, if known: Congressional District, if known: _____	5. If Reporting Entity in No. 4 is Sub-awardee, Enter Name and Address of Prime: Congressional District, if known: _____	
6. Federal Department/Agency: _____	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if know: _____	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI): (attach Continuation Sheet(s) SF-LLL-A, if necessary)	b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI): (attach Continuation Sheet(s) SF-LLL-A, if necessary)	
11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____	
12. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11: (attach Continuation Sheet(s) SF-LLL-A, if necessary)		
15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:		Authorized for Local Reproduction Standard Form - LLL

**CARSON CITY REGIONAL TRANSPORTATION COMMISSION
REQUEST FOR COMMISSION ACTION**

Date Submitted: October 29, 2014

Meeting Date: November 12, 2014

To: Carson City Regional Transportation Commission

From: Patrick Pittenger, Transportation Manager

Subject Title: For Possible Action: To authorize the Transportation Manager to execute a cooperative agreement between the Carson City RTC and the Nevada Department of Transportation (NDOT) for the US 50 East Shared Use Path Improvement Project and to authorize the Transportation Manager to sign future amendments to this agreement regarding time extensions or a change in the value of funding of up to 20% of the initial funding amount.

Staff Summary: The US 50 East Shared Use Path Improvement Project has been approved for Transportation Alternatives Program (TAP) funds to construct sections of concrete path, curb and gutter, repair of the existing asphalt path, signs, and striping along the north side of US 50 from North Lompa Lane to College Parkway.

Type of Action Requested: (check one)

() None – Information Only

() Formal Action/Motion

Recommended Commission Action: I move to authorize the Transportation Manager to execute a cooperative agreement between the Carson City RTC and the Nevada Department of Transportation (NDOT) for the US 50 East Shared Use Path Improvement Project and to authorize the Transportation Manager to sign future amendments to this agreement regarding time extensions or a change in the value of funding of up to 20% of the initial funding amount.

Explanation for Recommended Action: The US 50 East Shared Use Path was initially constructed over 35 years ago with a grant from the Land and Water Conservation Fund and sections are in need of significant repair or replacement. Sections of the path are inconsistent in design and need to be improved for accessibility by all users. The path also needs to be more clearly identified in some locations to improve the safety of users and mitigate potential conflicts with vehicular traffic. The path is heavily used for transportation by pedestrians and bicyclists in nearby residential neighborhoods as a means to reach well-connected destinations such as schools, parks, shopping, and other community services.

The RTC approved of the submittal of a TAP grant to fund the improvements at their June 12, 2013 meeting. It was initially decided that the project would be overseen by

NDOT staff, but has since been determined that it will be more economical for City staff to provide project oversight. The TAP grant will provide reimbursement for 95% of the project cost. City staff will be able to proceed with the project upon approval of the agreement.

Applicable Statute, Code, Rule or Policy: N/A

Fiscal Impact: \$105,263

Explanation of Impact: The estimated cost of the project is \$189,474. TAP funds will reimburse up to \$180,000 (95%) of the project cost, resulting in a net fiscal impact to RTC of \$9,474 (5%).

Funding Source: TAP grant and RTC funds.

Alternatives: N/A

Supporting Material: Proposed Cooperative Agreement.

Prepared By: Dan Doenges, Senior Transportation Planner

Reviewed By:  Date: 11/3/14
 (Transportation Manager)
 Date: 11/3/14
 (Public Works Director)
 Date: 11/3/14
 (Finance Director)
 Date: 11/3/14
 (District Attorney's Office)

Board Action Taken:

Motion: _____ 1) _____ Aye/Nay
 2) _____ _____

_____ (Vote Recorded By)

COOPERATIVE (LOCAL PUBLIC AGENCY) AGREEMENT
US 50 EAST SHARED USE PATH IMPROVEMENT PROJECT

This Agreement is made and entered the _____ day of _____, _____, by and between the STATE OF NEVADA, acting by and through its Department of Transportation (hereinafter "DEPARTMENT") and Carson City, acting by and through its Regional Transportation Commission, 3505 Butti Way, Carson City, NV 89701 (hereinafter "CITY").

WITNESSETH:

WHEREAS, agreements between the DEPARTMENT and local public agencies are authorized under Nevada Revised Statutes (NRS) Chapters 277 and 408; and

WHEREAS, the DEPARTMENT and the Nevada Division of the Federal Highway Administration (FHWA) have entered into a Stewardship Agreement pursuant to Title 23 United States Code (U.S.C.) § 106; and

WHEREAS, NRS 408.245 authorizes the DEPARTMENT to act as agent and to accept federal funds on behalf of local public agencies; and

WHEREAS, 23 Code of Federal Regulations (CFR) § 635.105(a) provides the DEPARTMENT shall be responsible for insuring that local public agency projects receiving federal funds receive adequate supervision and inspection to insure that said projects are completed in conformance with approved plans and specifications; and

WHEREAS, the CITY will design, adjust and/or relocate utility facilities, advertise, award, and manage construction of curb, gutter, new pathway sections, and improvements to existing pathway sections as outlined in the Project Scope attached hereto and incorporated herein as Attachment A (hereinafter "PROJECT"); and

WHEREAS, the PROJECT has been approved for Federal Transportation Alternatives Funding (TAP); and

WHEREAS, the CITY is a sub-recipient of federal transportation funds, Catalog of Federal Domestic Assistance (C.F.D.A.) Number 20.205 will be used for reporting purposes; and

NOW, THEREFORE, in consideration of the premises and mutual covenants hereinafter contained, it is agreed as follows:

ARTICLE I - DEPARTMENT AGREES:

1. To assist the CITY with: (a) completing the National Environmental Policy Act (NEPA) documentation in conformance with 23 CFR Part 771 and (b) obtaining the environmental permits and clearances.
2. To ensure that the CITY's actions are in accordance with applicable Federal and State regulations and policies.

3. To obligate Federal TAP funding for the PROJECT in a maximum amount of One Hundred Eighty Thousand and No/100 Dollars (\$180,000.00).
4. To establish a Project Identification Number to track all PROJECT costs.
5. Once the funding is obligated, to provide the CITY with a written "Notice to Proceed" authorizing the preliminary engineering of the PROJECT.
6. To ensure that applicable environmental laws and regulations are met on the PROJECT and to certify the PROJECT to FHWA in accordance with Federal requirements.
7. To review and comment on the CITY's design (including plans, specifications, and estimates) within fifteen (15) working days from receipt of submittal and to ensure that DEPARTMENT, American Association of State Highway Transportation Officials (AASHTO) and Manual on Uniform Traffic Control Devices (MUTCD) Guidelines are followed and that the design meets the requirements of the Americans with Disability Act (ADA).
8. To review all exceptions to DEPARTMENT and AASHTO design standards, and to approve those exceptions when acceptable to the DEPARTMENT.
9. To invoke the DEPARTMENT's authority under NRS 408.210(4) to require relocation or adjustment of any encroachments, including utility facilities occupying the DEPARTMENT's right-of-way pursuant to DEPARTMENT permits issued pursuant to NRS 408.210 and/or NRS 408.423, in order to accommodate construction of the PROJECT.
10. To exercise final approval over utility adjustments that are within the DEPARTMENT's right-of-way and to have full authority to inspect said utility relocations.
11. To assign a Right-of-Way Agent to provide guidance and oversight to ensure all utility relocations are performed in accordance with State and Federal regulations including, but not limited to Nevada Administrative Code (NAC) Chapter 408 and 23 CFR Part 645.
12. To ensure that applicable right-of-way laws and regulations are met on this PROJECT and to document those actions taken in accordance with the DEPARTMENT's administrative requirements.
13. To issue an occupancy permit to the CITY, at no cost to the CITY, allowing it to occupy the DEPARTMENT's right-of-way for the purpose of constructing and maintaining the PROJECT.
14. To provide an overall Disadvantaged Business Enterprise (DBE) participation goal and/or training hours for the PROJECT based on the DEPARTMENT's DBE Program, subject to and in accordance with Federal and State law and any other applicable laws, rules and regulations.
15. To review DBE information submitted to the CITY by the bidders on the PROJECT for compliance with 49 CFR Part 26 and to provide the CITY with the results of such review.
16. To review and approve the CITY's procedures utilized for advertising, bid

opening, and award of the PROJECT, so that the DEPARTMENT may satisfy itself that the same are in accordance with applicable Federal requirements.

17. To ensure that all reporting and project documentation, as necessary for financial management and required by applicable Federal requirements, is submitted by the DEPARTMENT to the FHWA.

18. To authorize the CITY to proceed with the advertisement and award of the contract and construction of the PROJECT, once the final design (including plans, specifications and estimates) has been reviewed and approved by the DEPARTMENT, all certifications have been completed, and the funding authorized by FHWA. The DEPARTMENT shall issue such authorization through a written "Notice to Proceed".

19. To assign a Local Public Agency Coordinator and a Resident Engineer to act as the DEPARTMENT's representatives to monitor the CITY's compliance with applicable Federal and State requirements.

20. To review, and approve when acceptable to the DEPARTMENT, addenda, supplementals, and change orders to the construction contract for the PROJECT to ensure compliance with the terms of this Agreement within five (5) working days. Failure to respond within five (5) working days shall constitute approval. Approval of said addenda, supplementals, and change orders does not alter the maximum reimbursement to the CITY as established in ARTICLE I, Paragraph 3, minus any DEPARTMENT ELIGIBLE PROJECT COSTS as established in ARTICLE III, Paragraph 5.

21. To review the CITY's as-built plans and to attend the CITY final inspection of the PROJECT.

22. To reimburse the CITY upon receipt of an invoice for ninety-five percent (95%) of ELIGIBLE PROJECT COSTS based on supporting documentation minus any DEPARTMENT ELIGIBLE PROJECT COSTS. Total reimbursement shall not exceed the total obligated amount, as established in ARTICLE I, Paragraph 3, minus any DEPARTMENT ELIGIBLE PROJECT COSTS as established in ARTICLE III, Paragraph 5. ELIGIBLE PROJECT COSTS are those costs as defined in the applicable Federal Office of Management and Budget (OMB) Circulars, including but not limited to those listed on Attachment B, attached hereto and incorporated herein, and the State Administrative Manual (SAM), incorporated herein by reference. The SAM may be obtained from <http://budget.nv.gov/MainDocuments/>.

ARTICLE II - CITY AGREES:

1. To perform or have performed by consultant forces: (a) the design of the PROJECT (including the development of plans, specifications, and estimates); (b) the completion of the NEPA documentation in conformance with 23 CFR Part 771; (c) the acquisition of environmental permits and clearances; (d) coordinate utility relocations; and (g) the advertisement, award and construction management of the PROJECT, as outlined in Attachment A, in accordance with Federal, State, and local laws, regulations, ordinances, and policies, including but not limited to those listed in the FHWA "Contract Administration Core Curriculum Participant's Manual and Reference Guide" at <http://www.fhwa.dot.gov/programadmin/contracts/coretoc.cfm>, incorporated herein by reference. The PROJECT shall be designed and constructed in accordance with DEPARTMENT

standards. The PROJECT shall be operated and maintained in accordance with applicable Federal, State, and local laws, regulations, ordinances, and policies.

2. To ensure that any utility relocations are in compliance with ADA requirements.
3. To invite the DEPARTMENT to PROJECT meetings, including but not limited to field reviews, right-of-way settings, review meetings, and the pre-construction conference.
4. To submit to the DEPARTMENT for review and approval preliminary plans at sixty percent (60%), ninety percent (90%), and one hundred percent (100%) design phases. The ninety percent (90%) and one hundred percent (100%) submittals shall include the PROJECT specifications, cost estimate, and bid documents, which must include the provisions listed in Attachment C "Required Documents in Bid Packets of Projects," attached hereto and incorporated herein.
5. To obtain an occupancy permit from the DEPARTMENT, at no cost to the CITY, allowing the CITY to occupy the DEPARTMENT's right-of-way for the purpose of constructing and maintaining the PROJECT prior to advertising the PROJECT.
6. To follow the terms and conditions of the occupancy permit issued by the DEPARTMENT so long as the terms and conditions are consistent with the terms and conditions contained herein and to incorporate those terms and conditions into the contract bid documents. In the event of any inconsistencies and/or conflict in the terms and conditions, those in this Agreement shall take precedence.
7. To obtain the DEPARTMENT's approval for all exceptions to DEPARTMENT and AASHTO design standards.
8. To provide the DEPARTMENT a written certification, accompanied by supporting documentation, evidencing that: (a) the proposed improvements will be constructed on property owned or authorized to be used by the CITY; (b) any right-of-way acquired for the PROJECT has been obtained in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended; and (c) any utility relocations and /or adjustments were completed in accordance with federal and state regulations. The CITY shall submit the certification to the DEPARTMENT concurrent with its provision of the ninety percent (90%) submittal.
9. To proceed with the PROJECT advertisement only after receiving a written "Notice to Proceed" from the DEPARTMENT.
10. To submit to the DEPARTMENT three (3) final sets of plans, specifications, estimates, and bid documents for the DEPARTMENT's use.
11. To perform the contract administration of the construction contract by providing appropriate personnel to: (a) observe, review, inspect, and perform materials testing; (b) be in responsible charge of the construction; (c) be capable of answering any question that may arise in relation to the contract plan and specifications during construction; (d) be responsible for ensuring that all applicable NEPA environmental permits and clearances requirements for monitoring and mitigation during construction of the PROJECT are being met; and (e) to report to the DEPARTMENT's Resident Engineer on administration of the contract, compliance with Federal requirements, and the contractor's acceptable fulfillment of the contract.

12. To submit to the DEPARTMENT for review and approval any addenda, supplementals and change orders and to obtain written DEPARTMENT approval for any addenda, supplementals, and change orders prior to incorporating them into the PROJECT.

13. To allow the DEPARTMENT and its designated representatives to monitor all work associated with the PROJECT during construction.

14. To incorporate all required DBE goals and/or training hours into the contract for the PROJECT as well as all applicable Federal and State required provisions and terms regarding the DBE goals.

15. To submit to the DEPARTMENT the DBE information submitted by the bidders on the PROJECT and to submit any other supporting documentation required to clarify the DBE information provided for review by the DEPARTMENT prior to making a determination of the lowest responsive and responsible bidder.

16. To monitor the consultant and/or contractor on the PROJECT to ensure that DBE goals are being met in accordance with all applicable Federal and State laws, including but not limited to 49 CFR Part 26, and to make available to the DEPARTMENT all necessary documents to support compliance with the DBE standards.

17. To perform PROJECT documentation and quality control during contract administration according to the CITY's established procedures, as approved by the DEPARTMENT. If the CITY does not have DEPARTMENT-approved procedures, it must then follow the procedures contained in the DEPARTMENT's "Documentation Manual" and "Construction Manual," incorporated herein by reference. The manuals may be obtained from the DEPARTMENT's Administrative Services Division.

18. To provide to the DEPARTMENT all reporting and project documentation, as necessary for financial management, required by applicable Federal requirements and any future Federal reporting requirements and to comply with the Federal Funding Accountability and Transparency Act and implementing regulations at 2 CFR Part 170, including Appendix A available at <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>.

19. As work progresses on the PROJECT, the CITY shall provide the DEPARTMENT with monthly invoices for payment of the PROJECT COSTS. The final invoice must be submitted within 90 calendar days of completion of the PROJECT. The invoice shall be based upon and accompanied by auditable supporting documentation. Total reimbursement shall not exceed the total obligated amount, as established in Article I, Paragraph 3, less any DEPARTMENT ELIGIBLE PROJECT COSTS, as established in Article III, Paragraph 5. Invoices for the preliminary engineering and right-of-way phases shall be forwarded to the DEPARTMENT's Local Public Agency Coordinator for payment processing. Invoices for the construction phase including the final invoice shall be forwarded to the DEPARTMENT's Resident Engineer for review. The DEPARTMENT's Resident Engineer shall forward the invoice to the DEPARTMENT's Local Public Agency Coordinator for payment processing. ELIGIBLE PROJECT COSTS are those costs as defined in the applicable Federal OMB Circulars, including but not limited to those listed on Attachment B attached hereto and incorporated herein, and the SAM.

20. To be responsible for the five percent (5%) match of Federal funds in an amount

not to exceed Nine Thousand Four Hundred Seventy-Four and No/100 Dollars (\$9,474.00) and for one hundred percent (100%) of all costs exceeding the obligated Federal funds subject to the CITY's budgeted appropriations and the allocation of sufficient funds by the governing body of the CITY. The CITY agrees the DEPARTMENT and the State of Nevada are not responsible for any costs exceeding the obligated Federal funds.

21. To accept maintenance responsibilities for the improvements consisting of curb, gutter, new pathway sections, and improvements to existing pathway sections upon its completion and the DEPARTMENT's final written acceptance of the PROJECT. The level of maintenance effort shall be commensurate with the CITY's overall maintenance budget allocated by the CITY's governing body.

22. To complete and sign Attachment D – "Affidavit Required Under Section 112(c) of Title 23 United States Code, Act of August 27, 1958 and Part 29 of Title 49, Code of Federal Regulations, November 17, 1987" and Attachment E – "Certification Required by Section 1352 of Title 31, United States Code, Restrictions of Lobbying Using Appropriated Federal Funds," "Instructions for Completion of SF-LLL, Disclosure of Lobbying Activities," and "Disclosure of Lobbying Activities" attached hereto and incorporated herein.

ARTICLE III - IT IS MUTUALLY AGREED:

1. The term of this Agreement shall be from the date first written above through and including December 31, 2016, or until the construction of all improvements contemplated herein has been completed and accepted by the DEPARTMENT, whichever occurs first, save and except the responsibility for maintenance as specified herein.

2. Costs associated with this Agreement will be administered in accordance with the cost principles contained in 2 CFR Part 225 and other guidance including but not limited to those listed in Attachment B. Indirect costs are not eligible for reimbursement unless the CITY's indirect rate is approved by the cognizant federal agency and that approval is provided to the DEPARTMENT. Fringe benefit rates must be approved by the DEPARTMENT on an annual basis to be eligible for reimbursement.

3. The description of the PROJECT may be changed in accordance with Federal requirements and by mutual written consent of the parties.

4. Each party agrees to complete a joint final inspection prior to final acceptance of the work by the DEPARTMENT.

5. The following is a summary of TOTAL ESTIMATED PROJECT COSTS and available funds:

TOTAL ESTIMATED PROJECT COSTS:

DEPARTMENT Preliminary Engineering Costs:	\$ 5,000.00
CITY Preliminary Engineering Costs:	\$ 15,000.00
DEPARTMENT Construction Engineering Costs:	\$ 5,000.00
CITY Construction Engineering Costs:	\$ 18,000.00
CITY Construction Costs	<u>\$ 146,474.00</u>

TOTAL ESTIMATED PROJECT COSTS: \$ 189,474.00

AVAILABLE FUNDING SOURCES:

Federal Transportation Alternatives Program Funds: \$ 180,000.00

CITY Match Funds: \$ 9,474.00

TOTAL PROJECT FUNDING: \$ 189,474.00

6. The CITY may not incur any reimbursable PROJECT COSTS until this Agreement is executed by both parties, and the DEPARTMENT has issued a written "Notice to Proceed."

7. The TOTAL PROJECT COSTS shall be determined by adding the total direct costs incurred by the DEPARTMENT and the CITY for preliminary engineering, completing the NEPA process and acquiring environmental permits and clearances, the relocation of utilities, construction engineering, and construction costs. The CITY match will be calculated using the applicable percentage of the TOTAL PROJECT COSTS eligible for Federal funding. Subject to budgeted appropriations and the allocation of sufficient funds by the governing body of the CITY prior to entering into this Agreement, the CITY is responsible for one hundred percent (100%) of all costs not eligible for Federal funding. The CITY agrees the DEPARTMENT and the State of Nevada are not responsible for any of those costs. ELIGIBLE PROJECT COSTS are those costs as defined in the applicable Federal OMB Circulars, including but not limited to those listed on Attachment B.

8. An alteration requested by either party which substantially changes the services provided for by the expressed intent of this Agreement shall be considered extra work and shall be specified in a written amendment which will set forth the nature and scope thereof. The method of payment for extra work shall be specified at the time the amendment is written.

9. The CITY's TOTAL ESTIMATED PROJECT COSTS may not be an accurate reflection of the final cost. The final costs may vary widely depending on the Contractor's bid prices. The parties acknowledge and agree that the TOTAL ESTIMATED PROJECT COSTS set forth herein are only estimates and that in no event shall the DEPARTMENT or federal funding portion exceed the total obligated amount, as established in Article I, Paragraph 3.

10. Plans, specifications, and estimates shall be reviewed by the DEPARTMENT for conformity with the Agreement terms. The CITY acknowledges that review by the DEPARTMENT does not include detailed review or checking of major components and related details or the accuracy and sufficiency of such deliverables.

11. This Agreement may be terminated by mutual consent of both parties without cause. The parties expressly agree that this Agreement shall be terminated upon written notification if for any reason Federal and/or State and/or CITY funding ability to satisfy this Agreement is withdrawn, limited, or impaired.

12. Should this Agreement be terminated by the CITY for any reason prior to the completion of the PROJECT, or the Agreement is terminated by the DEPARTMENT due to the

CITY's failure to perform, the CITY shall reimburse the DEPARTMENT for any payments made to the CITY and any PROJECT COSTS incurred by the DEPARTMENT.

13. All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile or electronic mail 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:

FOR DEPARTMENT: Rudy Malfabon, P.E., Director
Attn: Tonia R. Andree, P.E.
Local Public Agency Coordinator
Nevada Department of Transportation
Roadway Design
1263 South Stewart Street
Carson City, Nevada 89712
Phone: (775) 888-7988
Fax: (775) 888-7401
E-mail address: tandree@dot.state.nv.us

FOR CITY: Robert D. Fellows
Senior Project Manager
Carson City Public Works
3505 Butti Way
Carson City, NV 89701
Phone: 775-283-7370
Fax: 775-887-2164
E-mail: rfellows@carson.org

14. Up to the limitation of law, including, but not limited to, NRS Chapter 41 liability limitations, each party shall be responsible for all liability, claims, actions, damages, losses, and expenses, caused by the negligence, errors, omissions, recklessness or intentional misconduct of its own officers and employees.

15. The parties do not waive and intend to assert available NRS Chapter 41 liability limitations in all cases. Agreement liability of both parties shall not be subject to punitive damages. Actual damages for any DEPARTMENT or CITY breach shall never exceed the amount of funds which have been appropriated for payment under this Agreement, but not yet paid, for the fiscal year budget in existence at the time of the breach.

16. 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 exclusive jurisdiction of the Nevada state district courts for enforcement of this Agreement.

17. The illegality or invalidity of any provision or portion of this Agreement shall not affect the validity of the remainder of the Agreement, and this Agreement shall be construed as if such provision did not exist, and the unenforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.

18. Failure to declare a breach or the actual waiver of any particular breach of the

Agreement and 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.

19. Except as otherwise expressly provided herein, all property presently owned by either party shall remain in such ownership upon termination of this Agreement, and there shall be no transfer of property between the parties during the course of this Agreement.

20. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create any rights in any person or entity, public or private, a third party beneficiary status hereunder, or to authorize anyone not a party to this Agreement to maintain a suit pursuant to the terms or provisions of this Agreement.

21. Each party agrees to keep and maintain under generally accepted accounting principles full, true, and complete records and documents pertaining to this Agreement and to present, at any reasonable time, such information for inspection, examination, review, audit, and copying at any office where such records and documentation are maintained. Such records and documentation shall be maintained for three (3) years after final payment is made.

22. The parties are associated with each other only for the purposes and to the extent set forth in this Agreement. Each party is and shall be a public agency separate and distinct from the other party and shall have the 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.

23. In connection with the performance of work under this Agreement, the parties agree not to discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, disability, pregnancy, sexual orientation, genetic information (GINA) or gender identity or expression, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including without limitation apprenticeship. The parties further agree to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

24. Pursuant to all applicable laws including but not limited to the Civil Rights Act of 1964, the Federal Highway Act of 1973, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Executive Order 12898 (Environmental Justice), and Executive Order 13166 (Limited English Proficiency), the parties shall ensure that no person shall on the grounds of race, color, national origin, sex, age, and handicap/disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the recipient regardless of whether those programs and activities are federally-funded or not.

25. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Agreement without the prior written consent of the other party.

26. The parties hereto represent 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 engage in the cooperative action set forth herein.

27. 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 confidential by law or a common law balancing of interests.

28. 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.

29. All references herein to federal and state code, law, statutes, regulations and circulars are to them, as amended.

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

31. This Agreement constitutes the entire agreement of the parties and as such is 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 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 and approved by the Attorney General.

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

Carson City Regional Transportation
Commission

State of Nevada, acting by and through its
DEPARTMENT OF TRANSPORTATION

Patrick Pittenger, AICP, PTP
Transportation Manager

Director

Attest:

Approved as to Legality & Form:

Alan Glover, City Clerk

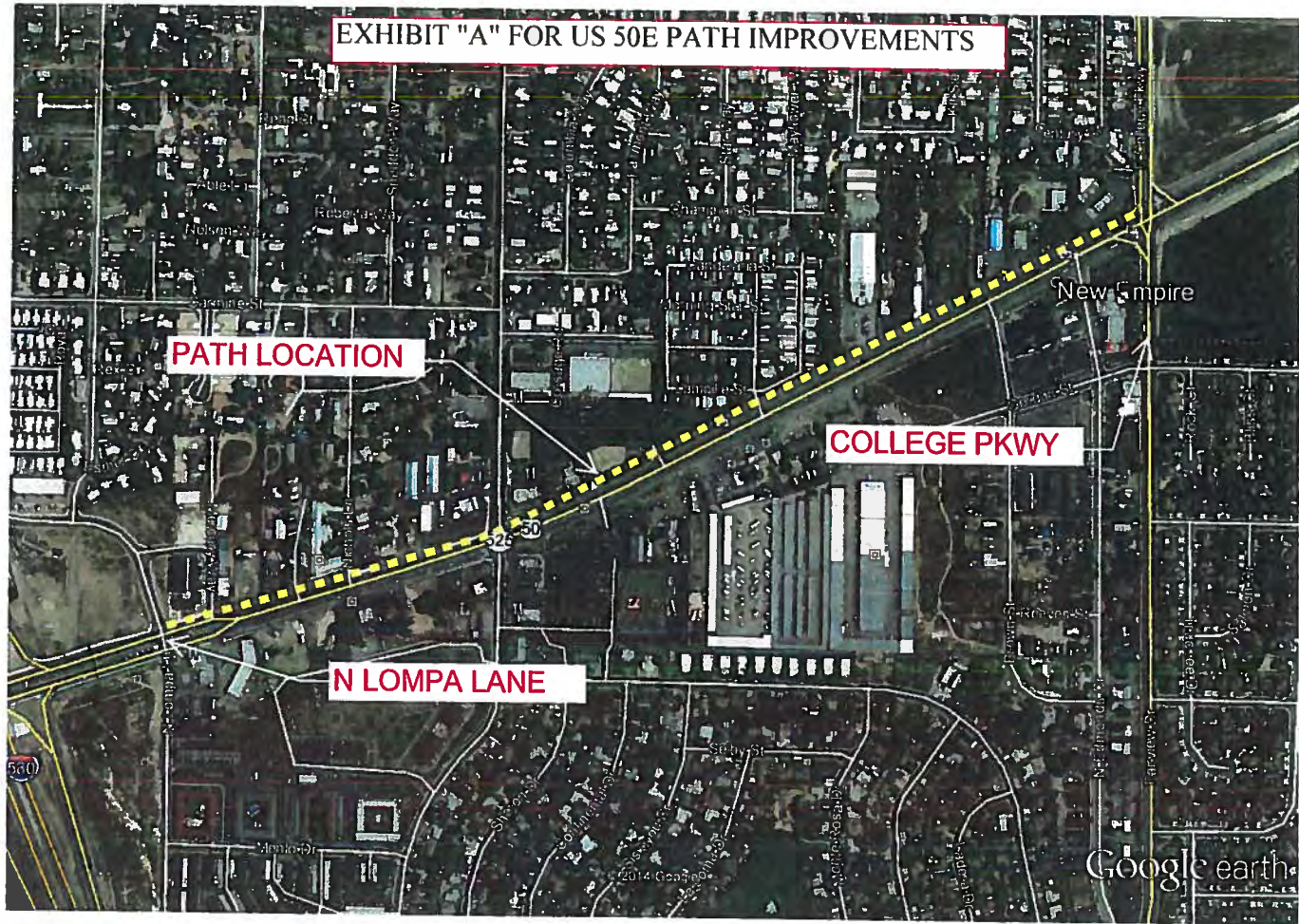
Deputy Attorney General

Attachment A

SCOPE OF WORK US 50 EAST SHARED USE PATH IMPROVEMENT PROJECT

The project consists of construction of concrete sidewalk, curb and gutter, repair of the existing asphalt path, signs, and striping along the north side of US 50 from North Lompa Lane to College Parkway as depicted on the attached drawing.

EXHIBIT "A" FOR US 50E PATH IMPROVEMENTS



PATH LOCATION

COLLEGE PKWY

N LOMPA LANE

Google earth



Attachment B

Office of Management and Budget (OMB) Circulars

State and Local Governments

- 2 CFR 225, Cost Principles for State, Local and Indian Tribal Governments (OMB Circular A-87)
- OMB Circular A-102, Grants and Cooperative Agreements with State and Local Governments; as implemented in 43 CFR 12, Subpart C
- OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations, as implemented in 43 CFR Part 12, Subpart A: Administrative and Audit Requirements and Cost Principles for Assistance Programs

Non-Profit Organizations

- 2 CFR Part 230, Cost Principles for Non-Profit Organizations (OMB Circular A-122), except recipients listed in Appendix C to Part 230 are subject to Federal Acquisition Regulation (FAR) Subpart 31.2, Contracts with Commercial Organizations (Contract Cost Principles and Procedures)
- OMB Circular A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, hospitals, and Other Non-Profit Organizations, as implemented in 2 CFR 215 and 43 CFR Part 12, Subpart F
- OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations, as implemented in 43 CFR Part 12, Subpart A: Administrative and Audit Requirements and Cost Principles for Assistance Programs

Organizations for Profit, Individuals and Others Not Covered Above

- Federal Acquisition Regulation (FAR) Subpart 31.2, Contracts with Commercial Organizations (Contract Cost Principles and Procedures)
- OMB Circular A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, hospitals, and Other Non-Profit Organizations, as implemented in 2 CFR 215 and 43 CFR Part 12, Subpart F
- FAR Subpart 42.1, Contract Audit Services; FAR Subpart 42.7, Indirect Cost Rates; FAR Subpart 42.8, Disallowance of Costs

The OMB Circulars can be found on:

<http://www.whitehouse.gov/OMB/circulars/index.html>

Attachment C

REQUIRED DOCUMENTS IN BID PACKETS OF PROJECTS

Federal Wage Rates, as provided by the Labor Commission, are included in all Federal Projects over \$2,000.00 *

The following attached provisions and forms:

Required Contract Provisions Federal-aid Construction Contracts

Additional Contract Provisions Supplement to the weekly Certified Payrolls

Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

Additional Contract Provisions Specific Equal Employment Opportunity Responsibilities

Additional Contract Provisions Minority Business Enterprise in Federal-aid Highway Construction

Affidavit Required Under Section 112(c)

Certification Required by Section 1352 of Title 31, United States Code (Restrictions of lobbying)

Bidder Disadvantaged Business and Small Business Enterprise (DBE/SBE) Information*

List of Subcontractor and Suppliers Bidding

Bidder Subcontractor Information (exceeding 5%)**

Bidder Subcontractor Information (exceeding 1% or \$50,000.00, whichever is greater)**

Bidder Subcontractor Information (For subcontractors exceeding \$250,000.00)**

*** Contact NDOT's Contract Compliance Division for information (775) 888- 7497**

**** Or local agency equivalent**

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex,

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any

color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates

the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by

the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants /

Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of

Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the

award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are

exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the

classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either

directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the

journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR

4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not

include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier

Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier

covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

ADDITIONAL CONTRACT PROVISIONS

SUPPLEMENT TO THE WEEKLY CERTIFIED PAYROLLS

In addition to the required payroll data as enumerated in Section V, Part 2 of the Form FHWA-1273, "Required Contract Provisions, Federal-Aid Construction Contracts (Exclusive of Appalachian Contracts)", the Department is requiring that the employers insert, for their employees, an ethnic code and Male/Female identifier on each weekly certified payroll.

For standardization purposes the Department has established the following identification codes:

- #1 Native Americans: Persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.
- #2 Black Americans: Persons having origins in any of the Black racial groups of Africa.
- #3 Asian-Pacific Americans: Persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas and/or which includes persons whose origin are from India, Pakistan, and Bangladesh.
- #4 Hispanic Americans: Persons of Spanish or Portuguese ancestry whose culture is rooted in South America, Central America, Mexico, Puerto Rico, Cuba, the Caribbean Islands or the Iberian Peninsula, including Portugal, regardless of race.
- #5 None of These: Persons not otherwise included in the above designations.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION
CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

1. As used in these specifications:
 - a. "Covered Area" means the geographical area described in the "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246)", of these special provisions.
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 - d. "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Spanish or Portuguese ancestry whose culture is rooted in South America, Central America, Mexico, Puerto Rico, Cuba, the Caribbean Islands or the Iberian Peninsula, including Portugal, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North American and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation

from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the FEDERAL REGISTER in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U. S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.
 - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
 - d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the

Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

- m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory affect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are non- segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a Contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's non-compliance.
9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally, the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirement for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).
16. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the State Department of Transportation and the Federal Highway Administration.
17. Required Reports: Standard Form 257 - a Standard Form 257 will be required monthly, from the prime contractor and all subcontractors working on the project.
18. FHWA 1409 (Federal-Aid Highway Construction Contractors Semiannual report).

(INSTRUCTIONS: This report is to be completed by the Contractor semiannually for each individual employed on this contract (including any subcontracts under it) who has received training during the reporting period under the training special provisions (Attachment 2 FHPM 6-4-1.2). The report is to be submitted by the 20th of the month following the reporting period (July 20 and January 20). The original of this report is to be furnished to the trainee and two copies submitted to the Nevada Department of Transportation.)

19. Required Reports: Form PR-1391 (Federal-Aid Highway Construction Contractors Annual EEO Reports).

This report should be submitted to the Nevada Department of Transportation by each Contractor and covered subcontractor for the month of July. Subcontractors should report contract and employment data pertaining to their subcontract work only. The staffing figures to be reported under employment data should represent the project work force on board in whole or in part for the last payroll period preceding the end of the month.

The staffing figures to be reported in Table A should include journey-level men and women, apprentices, and on-the-job trainees. Staffing figures to be reported in Tables B and C should only include apprentices and on-the-job trainees as indicated.

ADDITIONAL CONTRACT PROVISIONS
SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES

1. General

- a. Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Order 11246 and Executive Order 11375 are set forth in Required Contract Provisions (Form FHWA-1273 or 1316, as appropriate) and these Special Provisions which are imposed pursuant to Section 140 of Title 23, USC, as established by Section 22 of the Federal-Aid Highway Act of 1968. The requirements set forth in these Special Provisions shall constitute the specific affirmative action requirements for project activities under this contract and supplement the equal employment opportunity requirements set forth in the Required Contract Provisions.
- b. The contractor will work with the Nevada Department of Transportation and the Federal Government in carrying out equal employment opportunity obligations and in their review of his/her activities under the contract.
- c. The contractor and all his/her subcontractors holding subcontracts not including material suppliers, of \$10,000 or more, will comply with the following minimum specific requirement activities of equal employment opportunity: (The equal employment opportunity requirements of Executive Order 11246, as set forth in Volume 6, Chapter 4, Section 1, Subsection 1 of the Federal-Aid Highway Program Manual, are applicable to material suppliers as well as contractors and subcontractors.) The contractor will include these requirements in every subcontract of \$10,000 or more with such modification of language as is necessary to make them binding on the subcontractor.

2. Equal Employment Opportunity Policy

The Contractor will accept as his operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through a positive continuing program:

It is the policy of this company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and/or on-the-job training.

3. Equal Employment Opportunity Officer

The Contractor will designate and make known to the Nevada Department of Transportation contracting officers an equal employment opportunity officer (hereinafter referred to as the EEO Officer) who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.

4. Dissemination of Policy

- a. All members of the Contractor's staff who are authorized to hire, supervise, promote, and discharge employees or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the Contractor's equal employment opportunity policy and contractual responsibilities to provide equal employment opportunity in each grade and classification of employment. To insure that the above agreement will be met, the following actions will be taken as a minimum:
 - (1) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the Contractor's equal employment opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.
 - (2) All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official covering all major aspects of the Contractor's equal employment opportunity obligations within thirty days following their reporting for duty with the Contractor.
 - (3) All personnel who are engaged in directed recruitment for the project will be instructed by the EEO Officer or appropriate company official in the Contractor's procedures for locating and hiring minority group employees.
- b. In order to make the Contractor's equal employment opportunity policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the Contractor will take the following actions:
 - (1) Notices and posters setting forth the Contractor's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
 - (2) The Contractor's equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

5. Recruitment

- a. When advertising for employees, the Contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer". All such advertisements will be published in newspapers or other publications, having a large circulation among minority groups in the area from which the project work force would normally be derived.
- b. The Contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the Contractor will, through this EEO Officer, identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the Contractor for employment consideration.

In the event the Contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the Contractor's compliance with equal employment opportunity contract provisions. (The U. S. Department of Labor has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the Contractor to do the same, such implementation violates Executive Order 11246, as amended.)

- c. The Contractor will encourage his present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

6. Personnel Actions

Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, or national origin. The following procedures shall be followed:

- a. The Contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- b. The Contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- c. The Contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the Contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- d. The Contractor will promptly investigate all complaints of alleged discrimination made to the Contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the Contractor will inform every complainant of all his avenues of appeal.

7. Training and Promotion

- a. The Contractor will assist in locating, qualifying and increasing the skills of minority group and women employees, and applicants for employment.
- b. Consistent with the Contractor's work force requirements and as permissible under Federal and State regulations, the Contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event the Training Special Provision is provided under this contract, this subparagraph will be superseded as indicated in said Training Special Provisions.

- c. The Contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
- d. The Contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

8. Unions

If the Contractor relies in whole or in part upon unions as a source of employees, the Contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the Contractor either directly or through a Contractor's association acting as agent will include the procedures set forth below:

- a. The Contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
- b. The Contractor will use best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, or national origin.
- c. The Contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the Contractor, the Contractor shall so certify to the Nevada Department of Transportation and shall set forth what efforts have been made to obtain such information.
- d. In the event the union is unable to provide the Contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the Contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, or national origin, making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which the Contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the Contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such Contractor shall immediately notify the Nevada Department of Transportation.

9. Subcontracting

- a. The Contractor will use his best efforts to solicit bids from and to utilize Disadvantaged Business firms (minority and women-owned businesses) as subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of Disadvantaged Business Enterprise firms from the Contract Compliance Office of the Nevada Department of Transportation.

- b. The Contractor will use his best efforts to ensure subcontractor compliance with their equal employment opportunity obligations.

10. Records and Reports

- a. The Contractor will keep such records as are necessary to determine compliance with the Contractor's equal employment opportunity obligations. The records kept by the Contractor will be designed to indicate.
 - (1) The number of minority and non-minority group members and women in each work classification on the project.
 - (2) The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to Contractors who rely in whole or in part on unions as a source of their work force),
 - (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees and,
 - (4) The progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority and female representation among their employees.
- b. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the Nevada Department of Transportation and the Federal Highway Administration.

ADDITIONAL CONTRACT PROVISIONS
MINORITY BUSINESS ENTERPRISE
IN FEDERAL-AID HIGHWAY CONSTRUCTION

MINORITY BUSINESS ENTERPRISE. This project is subject to TITLE 49, Part 26, Federal Regulations entitled "Participation by Minority Business Enterprise in Department of Transportation Programs."

Policy. It is the policy of the Department of Transportation that disadvantaged business enterprise as defined in 49 CFR Part 26 shall have an equal opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently the DBE requirements of 49 CFR Part 26 apply to this agreement.

Obligation. (i) The recipient or its contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or part with Federal funds provided under this agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that minority business enterprise have an equal opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, sex or handicap in the award and performance of NDOT assisted contracts.

1. "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is;
 - a. Black (a person having origins in any of the black racial groups of Africa);
 - b. Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Carribean Islands, regardless of race);
 - c. Asian American (a person having origins in any of the original peoples of the Far East. Southeast Asia, the Indian subcontinent, or the Pacific Islands); or
 - d. American Indian and Alaskan Native (a person having origins in any of the original peoples of North America);
 - e. Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under section 8(a) of the Small Business Act as amended (15 U.S.C. 637(a)).
2. Bidders shall be fully informed respecting the requirements of the Regulations; particular attention is directed to the following matters:
 - a. A Disadvantaged Business Enterprise (DBE) must be a small business concern as defined pursuant to 49 CFR Part 26.1.
 - (a) "Disadvantaged Business" means a small business concern: (a) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the social-ly and economically disadvantaged individuals who own it.
3. The Contractor shall designate and make known to the Engineer a liaison officer to administer the Contractor's minority business enterprise program.

AFFIDAVIT REQUIRED UNDER SECTION 112(c)
of Title 23 United States Code, Act of August 27, 1958
and
Part 29 of Title 49, Code of Federal Regulations,
November 17, 1987.

STATE OF _____ }
COUNTY OF _____ } SS

I, _____ (Name of party signing this
affidavit and the Proposal Form) _____ (title).

being duly sworn do depose and say: That _____

(name of person, firm, association, or corporation) has not, either directly or indirectly, entered into agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this contract; and further that, except as noted below to the best of knowledge, the above named and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(Insert Exceptions, attach additional sheets)

The above exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility and whether or not the Department will enter into contract with the party. For any exception noted, indicate on an attached sheet to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions. The failure to furnish this affidavit and required exceptions if any shall disqualify the party.

Signature

Title

Sworn to before me this _____ day of _____, 20 _____

Signature

Notary Public, Judge or

(SEAL)
other Official

CERTIFICATION REQUIRED BY SECTION 1352 OF TITLE 31, UNITED STATES CODE

RESTRICTIONS OF LOBBYING USING APPROPRIATED FEDERAL FUNDS

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriate funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Name (please type or print)

Signature

Title

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity in and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, first Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB
0348-0046

1. Type of Federal Actions: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> c. Initial award <input type="checkbox"/> d. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Sub-awardee Tier _____, if known: Congressional District, if known: _____		5. If Reporting Entity in No. 4 is Sub-awardee, Enter Name and Address of Prime: Congressional District, if known: _____
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if know:	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI): <p style="text-align: center;"><small>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</small></p>	b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI): <p style="text-align: center;"><small>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</small></p>	
11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____	
12. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11: <p style="text-align: center;"><small>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</small></p>		
15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:		Authorized for Local Reproduction Standard Form - LLL

BIDDER DISADVANTAGED BUSINESS OR SMALL BUSINESS ENTERPRISE (DBE/SBE) INFORMATION

Contract No.:

Contractor: _____

Project No(s).:

Address: _____

Total Bid Amount \$ _____

Contract DBE/SBE Goal: ____%.

This information must be submitted with the bid proposal. Please list all subcontractors used to fulfill the DBE/SBE requirements for this contract. A bidder unable to meet the DBE/SBE goal shall submit documentation to outline their Good Faith Efforts (GFE) toward meeting the contract goal. Total DBE/SBE participation is subject to verification. Please fill out the form completely. Use additional forms if necessary.

DBE/SBE SUBCONTRACTORS:

DBE/SBE NAME AND ADDRESS	DBE/SBE PHONE NO.	PROPOSAL ITEM NO(S).	100% DBE/SBE SUB BID AMOUNT	DBE/SBE CERTIFICATION NO.*	DESCRIPTION OF WORK OR SERVICES TO BE CONTRACTED OR SUPPLIES TO BE SUPPLIED
A. TOTAL OF SUBCONTRACTOR DBE BID AMOUNT:					

DBE/SBE SUPPLIERS:

DBE/SBE NAME AND ADDRESS	DBE/SBE PHONE NO.	PROPOSAL ITEM NO(S).	100% DBE/SBE SUPPLIER BID AMOUNT	60% DBE/SBE SUPPLIER BID AMOUNT (PARTICIPATION)	DBE/SBE CERTIFICATION NO.*	DESCRIPTION OF WORK OR SERVICES TO BE CONTRACTED OR SUPPLIES TO BE SUPPLIED
B. TOTAL OF SUPPLIER DBE PARTICIPATION AMOUNT:						

C. Total Dollar Value of DBE/SBE Participation (Add Totals from Lines A & B): \$ _____**

D. Total Percent of DBE/SBE Participation (Divide Line C by Total Bid Amount): _____%

Contractor's Signature

Date

*DBEs/SBEs must be certified by the Nevada Unified Certification Program.

**DBE/SBE Participation amount is 100% of the subcontractor's bid amount and 60% of the supplier's bid amount .

Telephone No. _____

BIDDER SUBCONTRACTOR INFORMATION

(For subcontractors exceeding five percent (5%) of the bid amount)

Contract No.: _____ Contractor: _____

Project No(s): _____ Address: _____

Total Bid Amount \$ _____

This information must be submitted with your bid proposal. The bidder shall enter "NONE" under "SUBCONTRACTOR NAME" if not using subcontractors exceeding 5% of the bid amount.

SUBCONTRACTOR NAME AND ADDRESS	PHONE NO.	PROPOSAL ITEM NO(S)* (7 DIGIT #)	NEVADA CONTRACTOR LICENSE # (IF APPLICABLE)	LICENSE LIMIT (IF APPLICABLE)	DESCRIPTION OF WORK OR SERVICES TO BE SUBCONTRACTED

The undersigned affirms all work, other than that being performed by the subcontractors listed in the subcontractor reports submitted for this contract, will be performed by the Prime Contractor listed above.

* Please list all items (attach a separate sheet if necessary). Do not enter "multiple" or "various."

_____ Contractor's Signature _____ Date

Telephone No. _____

BIDDER SUBCONTRACTOR INFORMATION

(For subcontractors exceeding one percent (1%) of bid amount or \$50,000, whichever is greater)

Contract No.: _____ Contractor: _____

Project No(s).: _____ Address: _____

Bid Amount \$ _____

This information must be submitted by the three (3) lowest bidders **no later than 2 hours after the bid opening time.** The bidder shall enter "NONE" under "SUBCONTRACTOR NAME" if not using subcontractors exceeding 1% of the bid amount.

SUBCONTRACTOR NAME AND ADDRESS	SUBCONTRACTOR PHONE NO.	PROPOSAL ITEM NO(S).* (7 DIGIT #)	NEVADA CONTRACTOR LICENSE # (IF APPLICABLE)	LICENSE LIMIT (IF APPLICABLE)	DESCRIPTION OF WORK OR SERVICES TO BE SUBCONTRACTED

* Please list all items (attach a separate sheet if necessary). Do not enter "multiple" or "various."

_____ Contractor's Signature _____ Date

Telephone No. _____

BIDDER SUBCONTRACTOR INFORMATION

(For subcontractors exceeding \$250,000.00)

Contract No.: _____ Contractor: _____

Project No(s) : _____ Address: _____

Bid Amount \$ _____

This information must be submitted, by the three (3) lowest bidders, **no later than 2 hours after the bid opening time.** The bidder shall enter "NONE" under "SUBCONTRACTOR NAME" if not using subcontractors exceeding \$250,000.00.

SUBCONTRACTOR NAME AND ADDRESS	SUBCONTRACTOR PHONE NO.	PROPOSAL ITEM NO(S).* (7 DIGIT #)	NEVADA CONTRACTOR LICENSE # (IF APPLICABLE)	LICENSE LIMIT (IF APPLICABLE)	DESCRIPTION OF WORK OR SERVICES TO BE SUBCONTRACTED

* Please list all items (attach a separate sheet if necessary). Do not enter "multiple" or "various."

_____ Contractor's Signature _____ Date

Telephone No. _____

LIST OF SUBCONTRACTORS AND SUPPLIERS BIDDING

Contract No.:

Contractor: _____

List all subcontractors providing bids to your firm for this contract. You may make copies of this form.

This form must be submitted no later than 5:00 pm the next business day after the bid opening time.

SUBCONTRACTOR NAME AND ADDRESS	SUBCONTRACTOR PHONE NO.	NEVADA CONTRACTOR LICENSE # (IF APPLICABLE)	LICENSE LIMIT (IF APPLICABLE)	USED?		DBE CERTIFIED?		SUPPLIER?	
				Yes	No	Yes	No	Yes	No
				Yes	No	Yes	No	Yes	No
				Yes	No	Yes	No	Yes	No
				Yes	No	Yes	No	Yes	No
				Yes	No	Yes	No	Yes	No
				Yes	No	Yes	No	Yes	No
				Yes	No	Yes	No	Yes	No
				Yes	No	Yes	No	Yes	No
				Yes	No	Yes	No	Yes	No
				Yes	No	Yes	No	Yes	No
				Yes	No	Yes	No	Yes	No
				Yes	No	Yes	No	Yes	No
				Yes	No	Yes	No	Yes	No
				Yes	No	Yes	No	Yes	No
				Yes	No	Yes	No	Yes	No

Attachment D

**AFFIDAVIT REQUIRED UNDER SECTION 112(c)
of Title 23 United States Code, Act of August 27, 1958
and
Part 29 of Title 49, Code of Federal Regulations,
November 17, 1987.**

STATE OF _____ }
COUNTY OF _____ }

SS

I, _____ (Name of party signing this
affidavit and the Proposal Form) _____ (title).

being duly sworn do depose and say: That _____

(name of person, firm, association, or corporation) has not, either directly or indirectly, entered into agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this contract; and further that, except as noted below to the best of knowledge, the above named and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(Insert Exceptions, attach additional sheets)

The above exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility and whether or not the Department will enter into contract with the party. For any exception noted, indicate on an attached sheet to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions. The failure to furnish this affidavit and required exceptions if any shall disqualify the party.

Signature

Title

Sworn to before me this _____ day of _____, _____

Signature

Notary Public, Judge or other Official

Attachment E

**CERTIFICATION REQUIRED BY SECTION 1352 OF TITLE 31, UNITED STATES CODE
RESTRICTIONS OF LOBBYING USING APPROPRIATED FEDERAL FUNDS**

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriate funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Name (please type or print)

Signature

Title

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether sub-awardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity in and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub-award recipient. Identify the tier of the sub-awardee, e.g., the first sub-awardee of the prime is the 1st tier. Sub-awards include but are not limited to subcontracts, sub-grants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Sub-awardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, first Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB

0348-0046

1. Type of Federal Actions: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> c. Initial award <input type="checkbox"/> d. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Sub-awardee Tier _____, if known: Congressional District, if known:		5. If Reporting Entity in No. 4 is Sub-awardee, Enter Name and Address of Prime: Congressional District, if known:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if know:	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI): <i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i>	b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI): <i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i>	
11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____	
12. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11: <i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i>		
15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form - LLL	

**CARSON CITY REGIONAL TRANSPORTATION COMMISSION
REQUEST FOR COMMISSION ACTION**

Date Submitted: October 27, 2014

Meeting Date: November 12, 2014

To: Regional Transportation Commission

From: Patrick Pittenger, Transportation Manager

Subject Title: Information on proposed closure of a portion of W. Third Street.

Staff Summary: The permanent closure of W. Third Street between Carson and Curry Streets has been proposed to create a space for pedestrian and special events use. Staff has evaluated the traffic in the area to ensure that the proposed closure would not have a significant impact on traffic in the area.

Type of Action Requested: (check one)

() None – Information Only

() Formal Action/Motion

Recommended Commission Action: N/A

Explanation for Information Item: There is a proposal to close W. Third Street between Carson and Curry Streets which has been discussed in several forums, including by the Redevelopment Authority Citizen's Committee (RACC). The proposed project is expected to be agendized for an upcoming Board of Supervisors meeting.

Staff has collected data regarding traffic in the area. Traffic information was collected for the following streets:

- W. Third Street is a one-way street westbound between Carson and Curry Streets. The daily traffic volume is approximately 260 vehicles per day.
- W. Fourth Street is also a one-way street in this area. The daily traffic volume is approximately 180 vehicles per day.
- W. Second Street is a two-way street in this area. The daily traffic volume is approximately 160 vehicles per day westbound and approximately 120 vehicles per day eastbound.

Given the low volumes of traffic on W. Third Street itself and the capacity of the parallel streets to accommodate traffic which would be diverted if W. Third Street were closed to traffic, there is not a significant concern regarding traffic flows for the proposed project. While the proposed project is not expected to significantly impact traffic in the area, any similar future projects would also need to be considered carefully in the context of current traffic patterns as well as larger plans in the downtown area.

Applicable Statue, Code, Policy, Rule or Policy: N/A

Fiscal Impact: N/A

Explanation of Impact: N/A

Funding Source: N/A

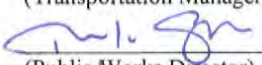
Alternatives: N/A

Supporting Material: N/A

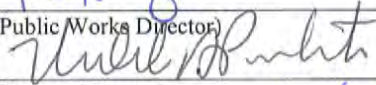
Prepared By: Patrick Pittenger, Transportation Manager

Reviewed By: 
(Transportation Manager)

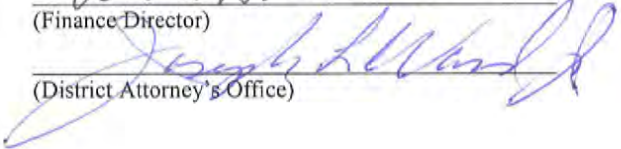
Date: 11/3/14


(Public Works Director)

Date: 11/3/14


(Finance Director)

Date: 11/3/14


(District Attorney's Office)

Date: 11/3/14

**CARSON CITY REGIONAL TRANSPORTATION COMMISSION
REQUEST FOR COMMISSION ACTION**

Date Submitted: November 3, 2014

Meeting Date: November 12, 2014

To: Regional Transportation Commission
From: Purchasing and Contracts

Subject Title: For Possible Action: To determine that RO Bus Sales Bid Submittal is not responsive and therefore Staff recommends the rejection of their bid and bid protest.

Staff Summary: Carson City received sealed bids for all labor, materials, tools and equipment necessary to provide for new 2015 23-foot-long paratransit buses capable of seating 15 forward-facing ambulatory adult passengers, or two (2) wheelchair securement stations (with 13 ambulatory passengers), a driver, and a front, curb-side wheelchair ramp. Procuring agency requested proposals for the manufacture and delivery of two (2) paratransit buses in accordance with the terms and conditions set forth.

Type of Action Requested: (check one)

- () None – Information Only
() Formal Action/Motion

Recommended Commission Action: I move to determine that RO Bus Sales Bid Submittal is not responsive and therefore Staff recommends the rejection of their bid and bid protest.

Explanation for Recommended Commission Action: A Notice of Protest received from RO Bus Sales, on October 30, 2014, stating that they (RO Bus Sales) complied with the Bid Specifications and ARBOC (Creative Bus Sales Manufacturer) does not meet the original specifications. Based on the letter from the Manufacturer, City Staff is requesting rejection of bid and bid protest.

Applicable Statute, Code, Rule or Policy: N.R.S. Chapter 332 Purchasing Local Governments

Explanation of Impact: N/A

Funding Source: N/A

Alternatives: Provide other direction pursuant to Commission Action.

Supporting Material: Bid Protest, Bid Protest Response

Prepared By: Kim Belt, Purchasing and Contracts Manager

Reviewed By: *Robert Bates* Date: 11/4/14
(Transportation Manager)
Carl S... Date: 11/4/14
(Public Works Director)
Danny Pauls Date: 11/5/14
(Finance Director)
Joseph W... Date: 11/5/14
(District Attorney's Office)

Commission Action Taken:

Motion: _____ 1) _____ Aye/Nay
2) _____

_____ (Vote Recorded By)



BUS SALES SERVICE PARTS

October 30, 2014

Attn: Kim Belt, Purchasing and Contracts Manager
Carson City Purchasing and Contracts
201 North Carson Street, Suite 3
Carson City, Nevada 89701

RE: Recommendation of Award Bid #1415-051:

Dear Kim Belt,

We respectfully request that the Award Recommendation for Bid # 1415-051 be reconsidered based on the following:

In response to your email dated Monday, October 27, 2014, attached hereto as Exhibit A, you stated that Public Works determined Creative Bus Sales' Arboc to be the lowest responsive and responsible bidder because our unit had significant deviations from the listed specifications. We wanted to clarify that our proposed unit is compliant and does not have "significant deviations" from the specifications of Bid #1415-051.

Considering approved equals were sent via email and were not posted as an addendum or amendment to the bid specification, we wanted to ensure that these were officially documented. Therefore, we stated this information was approved by placing it into the "Exception Summary Instructions" page attached hereto as Exhibit B.

If we had made the assumption that approved equals had been made part of the bid specifications, as we believe was the case for the proposed Arboc, we would have been awarded due to the fact that we are entirely compliant and the lowest responsive and responsible bidder. For example, there is not an available low floor unit on the market that provides the suspension as described on page 2 of Attachment A of Bid No. 1415-051 (attached hereto as Exhibit C). Had the proposed Arboc acknowledged this deviation for the sake of documenting approved equals on "Exception Summary Instructions" page as we did, the Arboc would have the same deviations/approved equals as our proposed Glaval. We are confident in our knowledge of the builds in the industry today and are sure that the Arboc does not meet the original specifications without requiring approved equals.

The information we listed in Exhibit A, "Exception Summary Instructions" was simply a restatement of information that was to supplement the bid specifications. The unit that we proposed, when considering approved equals and original bid specifications, complies 100% with what was requested by Carson City Purchasing. Considering this, it is our position that we are the lowest responsive and responsible bidder and we respectfully request the bid be evaluated on this basis and awarded to RO Bus Sales.

Sincerely,

Bobby Bracken-GM
2701 Westwood Dr.
Las Vegas, NV 89109
(702) 798-0029 Ext. 333
(702) 798-0559 Fax
(702) 523-0938
Bobby@robussales.com



BUS SALES SERVICE PARTS

Exhibit A “Email dated 10/27/2014”

RE: 1415-051 Paratransit Bus Procurement

Kim Belt [KBelt@carson.org]

Sent: Mon 10/27/2014 8:17 AM

To: 'Melissa Hatfield'

Cc: 'Bobby'; 'Mario Dominique'

Here is the information from Public Works on their recommendation:

Upon evaluating each of the three bid responses to RFB #1415-051 for the provision of paratransit vehicles we have determined Creative Bus Sales's ARBOC proposal to be the lowest responsive and responsible bidder. While this bid response was the highest of the three, the other two bidders had significant deviations from our specs in their proposals that made them unresponsive. Please accept Creative Bus Sales's ARBOC proposal for award.

If you need additional information, please feel free to call. Thanks!

From: Melissa Hatfield [<mailto:melissa@robussales.com>]

Sent: Friday, October 24, 2014 2:52 PM

To: Kim Belt

Cc: 'Bobby'; 'Mario Dominique'

Subject: 1415-051 Paratransit Bus Procurement

Ms. Belt,

After reviewing the bid tabulation that was recently posted on the carson.org website, we notice that the Recommendation for Award went to Creative Bus Sales. The protest policy states 5 days within bid opening, although bid tabulation had not yet been posted within the specified time frame. Our question to you now is, considering our unit price was \$13,000 less than the competitor, we had all exceptions approved, and complied with all other specifications of the bid contract, what would be the appropriate means as to protesting the recommendation for award?

Thank You,

Melissa Hatfield
RO Bus Sales

2701 Westwood Dr.
Las Vegas, NV 89109
(702) 798-0029 Ext. 226
(702) 798-0559



BUS SALES SERVICE PARTS

Exhibit B “Exception Summary Instructions”

CARSON CITY PURCHASING AND CONTRACTS BID RESPONSE

Bidder's initials & date _____

EXCEPTION SUMMARY INSTRUCTIONS:

Use this document to record any deviations, modifications, and/or alternates proposed to this **REQUEST FOR BID**. Failure to do so may be justification for rejection of the **BID RESPONSE**. Bidder must indicate the line number corresponding to the item and a detailed description of the deviation, modification, and/or alternate. Failure to note deviations, modifications, and/or alternates on the **EXCEPTION SUMMARY** shall be interpreted to convey that Bidder will perform in the manner described and/or specified in this **REQUEST FOR BID**.

If additional space is required, use company letterhead and mark as "Exhibit G".

If there are no deviations, modifications, and/or alternates proposed to this **REQUEST FOR BID**, write "None".

Battery: There will be a single 12V 770 CCA battery located under the hood. A single 12V 770 CCA battery shall be located on a slide out tray in better compartment located in skirt. The master disconnect switch will be located in the battery compartment.

Raifings/Schock Absorbers: Front axle suspension: The OEM front axle lower control arm is replaced with a purpose designed lower control arm that incorporates mounting provisions for an air spring and shock absorber. the OEM front coil spring suspension is replaced with air springs and shock absorbers. The upper air spring mount is designed to utilize the OEM spring and shock tower. The lower air spring mount is incorporated into the lower control arm. Rear Axle/ Suspension: No modification is made to the OEM rear axle. The OEM rear multi-leaf spring suspension system is replaced with a trailing arm air suspension priving the kneeling feature to lower the passenger entry height.

Axles: Front axle will have lubricated bearings.

Steering: Vehicle will be equipped with OEM power-assisted steering to include tilt and cruise control. OEM steering wheel does not include a telescopic wheel feature.

HVAC: Air conditioning condensor will be mounted on the roof instead of skirt mounted. Low floor vehicle has less physical clearance from ground.

Safety Equipment: Kneel override switch- Kneel feature is active and interlocked by a driver controlled switch on the dash.



BUS SALES SERVICE PARTS

Exhibit C “Ratings and Shock Absorbers” – Technical Specification Regarding Suspension)

Ratings and Shock Absorbers

The front and rear suspension ratings shall have a ground load rating equal to or exceeding the GVWR of the vehicle. Shock absorbers on each chassis shall be equipped with front and rear, heavy-duty, double-acting, gas-filled shock absorbers with the highest rating available from OEM.

Deviation from Specification: FRONT AXLE/SUSPENSION: The OEM front axle lower control arm assembly is replaced with a purpose designed lower control arm that incorporates mounting provisions for an air spring and shock absorber. The OEM front coil spring suspension is replaced with air springs and shock absorbers. The upper air spring mount is designed to utilize the OEM spring and shock tower. The lower air spring mount is incorporated into the lower control arm.
REAR AXLE/SUSPENSION: No modification is made to the OEM rear axle. The OEM rear multi-leaf spring suspension system is replaced with a trailing arm air suspension providing the kneeling feature to lower the passenger entry height.



Creative Bus Sales

11/4/14

Carson City Purchasing and Contracts
Attn: Kim Belt
201 North Carson Street Suit 3
Carson City, NV 89701

Dear Ms. Belt,

RE: Protest Recommendation of Award Bid #1415-051

Creative Bus Sales has received our manufactures response to address the false accusations posed by RO Bus Sales. It is unfortunate that we have to defend ourselves and that our integrity was challenged by our competitor.

Our company stands behind our submittal that we meet or exceed all the technical specifications outlined in IFB #1415-051.

Attached is a statement from Arboc Specialty vehicles that states all the facts related to our submittal and the accusations laid out by RO Bus Sales.

Please contact me if any further information is needed to complete our protest response.

We appreciate your business and look forward to working with the City on this round of vehicles being ordered.

Thanks,

Marcus P Hoffman
Transit Sales
Office: 602-437-2255
Mobile: 602-571-4475
marcush@creativebussales.com

Creative Bus Sales • 800.326.2877 • CreativeBusSales.com

California • Nevada • Indiana • Arizona • New Mexico • Texas • Florida • Oklahoma • New York • Illinois

CREATIVE BUS SALES



November 3rd, 2014

Attn: Marcus Hoffman, Transit Bus Sales
Creative Bus Sales, Inc.

RE: Support of Recommendation of Award Bid #1415-051:

Dear Marcus,

I am writing this letter in support of the recent Carson City CAMPO award for the purchase of paratransit buses on behalf of the Carson City Public Works Department.

Responses to Competitor's claims of ARBOC not meeting Exhibit B and C:

Stating that ARBOC did not list these exceptions is correct since in fact we do in fact meet these specifications. It must be pointed out that there are two items that are simply not applicable to the Chevy G4500 chassis. The "oil bath" front wheel bearings and a "telescoping" steering wheel are simply not available for anyone quoting a Chevy G4500 chassis. Aside from those two items, ARBOC meets and actually exceeds all deviations which the competitor listed.

In response to the competitor stating that we do not meet 'Exhibit C' which is specifically about shock absorbers. ARBOC does in fact utilize OEM shock absorbers in the front and actually exceeds OEM shocks for the rear utilizing a high performance shock produced by Billstein.

I would like to take this opportunity to point out the several specifications that the competitor chose to not disclose with any formal request for approval amongst their list of deviations:

- "All tubular steel cage construction with full E-Coat corrosion protection". This is not something that the competition does.
- "Sub-Floor is to be a minimum of 5/8" engineered wood floor-one piece". Competition uses 4'x8' sheets of plywood ending up with multiple seams. Plywood is also inferior to an "engineered" wood.
- Interior floor coating to be Poly Urea and covered up the walls. This is not available from the competition. Traditional floor covering such as Koroseal or RCA Rubber are nowhere near the slip resistance to our Poly Urea coating. Also not as durable as Poly Urea.

Sincerely,

Ken Becker
Sales Manager
ARBOC Specialty Vehicles, LLC.

**ARBOC SPECIALTY VEHICLES LLC, 51165 Greenfield Parkway, MIDDLEBURY, INDIANA 46540
574-825-4880 (PHONE) * 574-825-1750 (FAX)
www.ARBOCsv.com**

**CARSON CITY REGIONAL TRANSPORTATION COMMISSION
REQUEST FOR COMMISSION ACTION**

Date Submitted: October 24, 2014

Meeting Date: November 12, 2014

To: Regional Transportation Commission

From: Purchasing and Contracts

Subject Title: For Possible Action: To determine that Creative Bus Sales' is the lowest responsive and responsible bidder pursuant to N.R.S. Chapter 332 and to authorize Public Works to purchase Paratransit Buses for a bid amount of \$122,116.00, to be funded from the Transit Fund, Machinery & Equipment/Vehicle Purchase account as provided in FY 2015/2016 budget. (Contract File 1415-051)

Staff Summary: Carson City received sealed bids for all labor, material, tools and equipment necessary for the new 2015 23-foot-long paratransit buses capable of seating 15 forward-facing ambulatory adult passengers, or two (2) wheelchair securement stations (with 13 ambulatory passengers), a driver, and a front, curb-side wheelchair ramp. Procuring agency requests proposals for the manufacture and delivery of two (2) paratransit buses in accordance with the terms and conditions set forth.

Type of Action Requested: (check one)

() None – Information Only

() Formal Action/Motion

Recommended Commission Action: I move to determine that Creative Bus Sales' is the lowest responsive and responsible bidder pursuant to N.R.S. Chapter 332 and to authorize Public Works to purchase Paratransit Buses for a bid amount of \$122,116.00, to be funded from the Transit Fund, Machinery & Equipment/Vehicle Purchase account as provided in FY 2015/2016 budget. (Contract File 1415-051)

Explanation for Recommended Commission Action: *NOTICE TO BIDDERS* were distributed on August 29, 2014 and the *NOTICE TO CONTRACTORS* was published in the Nevada Appeal on August 29, 2014.

The bids were opened at approximately 2:10 p.m. on September 29, 2014 at 201 North Carson Street, Carson City, Nevada 89701. Present during the bid opening were:

Graham Dollarhide from Public Works, and Kim Belt, Purchasing and Contracts.

Bids were received from the following bidders. Please refer to the **BID TABULATION** for specifics.

Name of Bidder	Total Bid
RO Bus Sales	\$109,531.00
Creative Bus Sales – Champion	\$117,002.00
Creative Bus Sales – Arboc	\$122,116.00

Staff recommends award to Creative Bus Sales as the lowest responsive and responsible bidder pursuant to NRS Chapter 332. RO Bus Sales and Creative Bus Sales - Champion Bids were found not to be responsive as there were substantial deviations from the requested specifications.

Applicable Statute, Code, Rule or Policy: N.R.S. Chapter 338 Public Works

Fiscal Impact: Not to exceed \$244,232.00

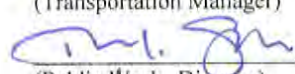

Explanation of Impact: If approved the below referenced account could be decreased by \$244,232.00.

Funding Source: Transit Fund – Machinery & Equipment/Vehicle Purchase – account number 225-3026-430-77-05 for a not to exceed amount of \$244,232.00. Currently there is \$270,588.00 budgeted for FY 2015/16.

Alternatives: Determine another bidder is the lowest responsive and responsible bidder pursuant to NRS Chapter 338 or do not award the contract.

Supporting Material: Bid Tabulation Report

Prepared By: Kim Belt, Purchasing and Contracts Manager

Reviewed By:  Date: 11/3/14
(Transportation Manager)
 Date: 11/4/14
(Public Works Director)
 Date: 11/3/14
(Finance Director)
 Date: 11/3/14
(District Attorney's Office)

Commission Action Taken:

Motion: _____

1) _____ Aye/Nay

2) _____

_____ (Vote Recorded By)

**Bid Tabulation Report from Carson City Purchasing & Contracts
775-283-7137**

<http://www.carson.org/Index.aspx?page=998>

BID# 1415-051 Paratransit Bus Procurement

Time and Date of Opening: September 29, 2014 - 2:10 p.m.

Description	Bidder # 1	Bidder # 2	Bidder # 3
	RO Bus Sales	Creative Bus Sales - Champion	Creative Bus Sales - Arboc
BONDING Provided, \$, %, or no	Y	Y	Y
Bidder acknowledges receipt of addendums	0	0	0
Exceptions Y/N?	Y	Y	N
Total Unit Price			
	\$109,531.00	\$117,002.00	\$122,116.00
Total Unit Price written in words? y/n	Y	Y	Y
Bidder Information provided? y/n	Y	Y	Y
Buy America Certification attached Y/N?	Y	Y	Y
Debarment & Suspension Certification Y/N?	Y	Y	Y
Lobbying Certification attached Y/N?	Y	Y	Y
DBE Provision attached Y/N?	Y	Y	Y
FTA TVM Certificate Y/N?	Y	Y	Y
Bus Testing Certification Y/N?	Y	Y	Y
Bid Document executed? v/n	Y	Y	Y
END OF DOCUMENT			



**Carson City Regional Transportation Commission
Item for Commission Information**

RTC Meeting Date: November 12, 2014
To: Regional Transportation Commission
From: Curtis Horton, Public Works Operations Chief
Date Prepared: October 3, 2014
Subject Title: Street Operations Activity Report.
Staff Summary: Monthly Status Report for the Commission’s Information

**Carson City Public Works, Street Operations Division
Status Report to RTC: Activities of September 2014**

Pavement Management Program

ACTIVITES	COMMENTS
Slurry Seal Operation	N/A
Overlay Operation	N/A
Crack Seal Operation	1,201 blocks applied
Street Patching Operation	45 tons of asphalt
Pot Hole Repair’s	3

Tree Care and Maintenance

ACTIVITES	COMMENTS
Tree Trimming & Pruning Operations	81 trees pruned
Tree Removal	3
Tree Care Chemical Treatment	N/A
Tree Work for Other Departments	16 trees pruned at Mills Park
Weed Abatement Chemical sprayed	100 Gallons of round up applied

Concrete Repair and Maintenance

ACTIVITES	COMMENTS
Concrete Total Yards Poured	24.25
Curb & Gutter Linear Feet	234
Sidewalk & Flat Work Sq/Ft	418
Wheel Chair Ramps	1

Grading and Shoulder Maintenance

ACTIVITES	COMMENTS
Dirt Road Work	Installed 1,000 feet of fabric and rock in the drainage ditch on Center Dr.
Shoulder Work on Asphalt Roads	N/A
Debris cleaned up	Hauled 315 yards of debris from Sierra Vista Ln drainage. Picked up 3 yards of branches from the wind event.

Storm Water

ACTIVITES	COMMENTS
Sediment removed from ditches	315 yards
Linear feet of pipe hydro flushed	240'
Number of Drainage Inlets Cleaned	N/A
Total sediment removed from system	320 Yards
Line Locations Performed	260

Sweeper Operations

ACTIVITES	COMMENTS
Curb Miles Swept	720.1
Yards of Material Picked Up	273.5 Yards
City Parking Lots Swept	3 rd St parking lot, Community Center

Trucking Bins

ACTIVITES	COMMENTS
Bins Hauled for WWTP	14
Bins Hauled for Fire Department	28
Bins Hauled for Sweeping Operation	35
Bins Hauled for Other Operations	2 Metal bins
Transport Equipment for other Departments	N/A

Banner and Decorations Activities

ACTIVITES	COMMENTS
Remove Banner Carson Street	4
Install Banner Carson Street	4
Change out Side Banners	N/A
Install Christmas Decorations	N/A
Remove Christmas Decorations	N/A

Signs and Markings

ACTIVITES	COMMENTS
Signs Made	7
Signs Replaced	14
Sign Post Replaced	3
Signs Replaced due to Graffiti Damage	2
Cross Walks Painted	120
Stop Bars Painted	174
Yield Bars Painted	47
Right Arrows Painted	47
Left Arrows Painted	161
Straight Arrows Painted	17
Stop (word)	7
Only (word)	73
Parking lot striping	N/A

Storm Events

ACTIVITES	COMMENTS
Snow and Ice Control	N/A
Rain Event/Flood Control	N/A
Wind	1

Item G-2



Carson City Regional Transportation Commission Request for Commission Action

RTC Meeting Date: November 12, 2014

Time Requested: 15 Minutes

To: Regional Transportation Commission

From: Darren Schulz, Public Works Director

Date Prepared: October 29, 2014

Subject Title: Project Status Report

Staff Summary: Monthly Status Report for the Commission's Information



Carson City, Nevada

2010/11-2014/15 Capital Improvement Program

Project Description Report

Project Name:	East/West Water Transmission Main Phase 2A-1		
Department Responsible:	Public Works		
Project Description:	East/West Water Transmission Main Phase 2A-1 involves construction of approximately 3,762 linear feet of 24 inch diameter water transmission main from the intersection of E. Robinson Street/Saliman Road, then north on Saliman Road to Mills Park, then west through Mills Park to 140 feet west of N. Roop Street.		
Justification:			
Project Location:	Saliman Road through Mills Park to the intersection of Roop Street and Washington Street	Project No: 4.0901	
Total Estimated Cost:	\$2,100,000	Project to Date Cost: \$0.00	

Source of Funding				
Fund No	Fund Name	FY 2012-13	FY 2013-14	FY 2014-15
520	WATER	\$0	\$2,100,000	\$0
Status: Project was awarded on August 7. Currently procuring materials. Construction to start approximately February 2.				



Carson City, Nevada

2010/11-2014/15 Capital Improvement Program

Project Description Report

Project Name:	E. Fifth Street Pedestrian Improvements		
Department Responsible:	Public Works		
Project Description:	Replace deteriorated sidewalk and construct ADA improvements.		
Justification:	The project will replace sidewalk that has deteriorated and construct ADA-compliant improvements, thereby removing barriers and enhancing connectivity for a safer and more accessible pedestrian network.		
Project Location:	The south side of East Fifth Street between Roop Street and Saliman Road and southward into the adjacent neighborhood as funds allow.	Project No: 3.1302.2	
Total Estimated Cost:	\$360,000	Project to Date Cost: \$60,000	


Source of Funding				
Fund No	Fund Name	FY 2012-13	FY 2013-14	FY 2014-15
275	GRANT FUND	\$0	\$360,000*	\$0
Status: Construction is underway.				
*The project is 100% reimbursable with Community Development Block Grant (CDBG) funds and Federal Transit Administration (FTA) 5339 funds. CDBG funds will provide the necessary match to FTA funds for zero net cost to the City.				



Carson City, Nevada

2010/11-2014/15 Capital Improvement Program

Project Description Report

Project Name:	William Street (Route 50) Path Improvements		
Department Responsible:	Public Works		
Project Description:	The project consists of removing and replacing approximately 1,600 feet of a substandard asphalt concrete path with an elevated 10-ft wide concrete path. The new path would be about 7 to 12 inches above the existing path grade. Other project components include improvements to drainage, raising utility boxes, installing signs and striping and other common improvements related to the project.		
Justification:	This project will replace sections of the existing path that have deteriorated that currently pose barriers to accessibility. The project will also incorporate striping and signage to further demarcate the path from adjacent land uses.		
Project Location:	South side of East William Street between Saliman Road and the Gold Dust West Casino (just west of the freeway)	Project No: 3.1403	
Total Estimated Cost:	\$210,000	Project to Date Cost: \$6,000	

Source of Funding				
Fund No	Fund Name	FY 2012-13	FY 2013-14	FY 2014-15
250	REGIONAL TRANSPORTATION	\$0	\$210,000*	\$0
Status: 60% submittal to NDOT at the end of October.				
* Project is 95% reimbursable through a Federal Transportation Alternatives Program (TAP) grant.				



Carson City, Nevada

2010/11-2014/15 Capital Improvement Program

Project Description Report

Project Name:	Western Nevada College Sidewalk Improvements		
Department Responsible:	Public Works		
Project Description:	The project consists of constructing approximately 3,150 sq.ft. of new sidewalk that is offset from the roadway, providing for a buffer. The new sidewalk would cross two driveways which would be made ADA accessible and crosswalks would be striped at the driveway locations. A crosswalk would also be striped across College Parkway connecting the new sidewalk to an existing sidewalk on the opposite (north) side of the roadway.		
Justification:	This project will improve the safety and connectivity for pedestrians accessing the campus of Western Nevada College (WNC). Completion of the project will also honor an agreement between the City and WNC.		
Project Location:	South side of College Parkway from the west end of the existing sidewalk leading on to the WNC campus	Project No:	
Total Estimated Cost:	\$105,265	Project to Date Cost: \$500	

Source of Funding				
Fund No	Fund Name	FY 2012-13	FY 2013-14	FY 2014-15
250	REGIONAL TRANSPORTATION	\$0	\$105,265*	\$0
Status: SHPO comments received 10/20. 100% plans submitted to NDOT.				
* Project is 95% reimbursable through a Federal Transportation Alternatives Program (TAP) grant.				



Carson City, Nevada

2010/11-2014/15 Capital Improvement Program

Project Description Report

Project Name:	Long Street Sidewalk Improvements		
Department Responsible:	Public Works		
Project Description:	Construct new ADA-compliant sidewalk.		
Justification:	This project will construct new sidewalk and ADA-compliant improvements, thereby removing barriers and enhancing connectivity for a safer and more accessible pedestrian network.		
Project Location:	Long Street between Stewart Street and Carson Street.	Project No:	
Total Estimated Cost:	\$140,000	Project to Date Cost: \$0.00	

Source of Funding				
Fund No	Fund Name	FY 2012-13	FY 2013-14	FY 2014-15
275	GRANT FUND	\$0	\$0	\$140,000*
Status: Project is currently under design, construction anticipated in spring 2015.				
*The project is 100% reimbursable with Community Development Block Grant (CDBG) funds and Federal Transit Administration (FTA) 5339 funds. CDBG funds will provide the necessary match to FTA funds for zero net cost to the City.				



Carson City, Nevada

2010/11-2014/15 Capital Improvement Program

Project Description Report

Project Name:	Robinson Street and Telegraph Street Pavement Rehabilitation and Sidewalk Improvements		
Department Responsible:	Public Works		
Project Description:	Street paving and replacement of existing sidewalk with ADA-compliant sidewalks.		
Justification:	Pavement is in need of rehabilitation and the existing sidewalk is not ADA-compliant.		
Project Location:	Robinson Street between Carson Street and Fall Street and Telegraph Street between Carson Street and Plaza Street.	Project No: ST0003	
Total Estimated Cost:	\$230,000	Project to Date Cost: \$8,000	

Source of Funding				
Fund No	Fund Name	FY 2012-13	FY 2013-14	FY 2014-15
250	REGIONAL TRANSPORTATION	\$0	\$0	\$230,000
Status: Design is 90% complete. Estimated construction start date is early spring 2015.				



Carson City, Nevada

2010/11-2014/15 Capital Improvement Program

Project Description Report

Project Name:	Nye Lane Pedestrian Improvements		
Department Responsible:	Public Works		
Project Description:	Construct new ADA-compliant sidewalk, replacement of curb and gutter, driveway, as well as construction of pedestrian ramps, asphalt patching, and utility adjustments.		
Justification:	This project will construct new sidewalk and ADA-compliant improvements, thereby removing barriers and enhancing connectivity for a safer and more accessible pedestrian network.		
Project Location:	The south side of Nye Lane between Northgate Lane and Hot Springs Road and the west side of Northgate Lane north of Hot Springs Road.	Project No: 031302.3	
Total Estimated Cost:	\$125,000	Project to Date Cost: \$10,000	

Source of Funding				
Fund No	Fund Name	FY 2012-13	FY 2013-14	FY 2014-15
275	GRANT FUND	\$0	\$0	\$125,000*
Status: Project was awarded at October 8 RTC meeting. Estimated construction start date is 11/10/14.				
*The project is 100% reimbursable with Community Development Block Grant (CDBG) funds.				



Carson City, Nevada

2010/11-2014/15 Capital Improvement Program

Project Description Report

Project Name:	Slurry Seal Program		
Department Responsible:	Public Works		
Project Description:	The work consists of notification to residents, asphalt crack preparation, furnishing and placing asphalt crack seal material, furnishing and placing emulsion with aggregate (slurry seal/chip seal), layout and painting of traffic striping and symbols, and traffic control.		
Justification:	Slurry seal maintenance extends pavement life. Although the serviceability of an untreated asphalt pavement may be adequate for some time, pavement deterioration continues.		
Project Location:	Citywide	Project No: 3.0804	
Total Estimated Cost:	\$700,000 (annually)	Project to Date Cost: \$0.00	

Source of Funding				
Fund No	Fund Name	FY 2012-13	FY 2013-14	FY 2014-15
256	STREETS MAINTENANCE	\$0	\$686,007	\$1,006,000
Status: Expect to award contract for FY 2014-15 on August 13.				



Carson City, Nevada

2010/11-2014/15 Capital Improvement Program

Project Description Report

Project Name:	Traffic Line Markings (Long Line)		
Department Responsible:	Public Works		
Project Description:	Paint traffic line markings.		
Justification:	Safety of motoring/cycling public.		
Project Location:	Citywide	Project No: 3.0805	
Total Estimated Cost:	\$120,000 (annually)	Project to Date Cost: \$0.00	

Source of Funding				
Fund No	Fund Name	FY 2012-13	FY 2013-14	FY 2014-15
256	STREETS MAINTENANCE	\$96,907	\$119,760	\$173,000
Status: Expect to award contract for FY 2014-15 on August 13.				