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# CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR

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A CONTRACT BETWEEN DOUGLAS COUNTY

AND

LEIGH, SCOTT & CLEARY, INC.

BARBARA REED  
CLERK  
BY *[Signature]* DEPUTY

NAME AND TITLE OF INDEPENDENT CONTRACTOR

2690 LAKE FOREST ROAD, BOX 5875, TAHOE CITY, CA 96145

ADDRESS OF INDEPENDENT CONTRACTOR

WHEREAS, Douglas County, a political subdivision of the State of Nevada, from time to time requires the services of independent contractors; and

WHEREAS, it is deemed that the services of Contractor herein specified are both necessary and desirable and in the best interests of Douglas County; and

WHEREAS, Contractor represents that he is duly qualified, equipped, staffed, ready, willing and able to perform and render the services hereinafter described;

NOW, THEREFORE, in consideration of the agreements herein made, the parties mutually agree as follows:

**1. DOCUMENTS INCORPORATED.** The following exhibits are by this reference incorporated herein and are made part of this contract:

- Exhibit A--General Conditions for Contracts
  - Exhibit B--Scope of Work
  - Exhibit C--Compensation Schedule.
  - Exhibit D--Contract Time.
  - Exhibit E--Grantee's Agreement between State of Nevada and Douglas County
- Except as otherwise specifically provided herein, no other documents shall be part of this contract.

**2. WORK TO BE PERFORMED.** Except as otherwise provided in this contract, Contractor shall furnish all services, equipment, and materials and shall perform all operations necessary and required to carry out and perform in accordance with the terms and conditions of the contract the work described in Exhibit B.

**3. PERIOD OF PERFORMANCE.** Contractor shall perform and complete all work within the time periods set forth in Exhibit D. The time periods set forth in Exhibit D may only be altered by the parties by a written agreement to extend the period of

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performance or by termination in accordance with the terms of the contract. Contractor shall begin performance upon receipt of a Notice to Proceed from the County.

**4. COMPENSATION.** Contractor agrees to perform the work for a total cost not to exceed **\$20,000.00**, which, unless otherwise provided in this contract, shall be paid in accordance with the provisions of Exhibit C. Unless otherwise provided in Exhibit C or unless Contractor has received a written exemption from the County, Contractor shall submit monthly requests for payment for services performed under this agreement. Requests for payment shall be submitted no later than fifteen (15) days after the end of each month and must include a detailed summary of the expenditures reported in a form that supports the approved budget. Specifically, Contractor agrees to provide the following with each request for payment:

1. Appropriate invoice forms. The forms shall include the project purchase order number, a listing of personnel hours and billing rates, and other expenditures for which payment is sought.

2. A progress report. The report shall include, for each monthly reporting period, a description of the work accomplished, problems experienced, upcoming work, any extra work carried out, and a schedule showing actual expenditures billed for the period, cumulative total expenditures billed and paid to date under the contract, and a comparison of cumulative total expenditures billed and paid to the approved budget.

The County will pay for work satisfactorily completed by Contractor. The County will pay Contractor within 30 days of approval by the County of the submitted invoice forms and progress reports. No payments will be made by the County until the invoice forms and progress reports have been submitted and approved. The parties expressly agree that progress payments shall not exceed the amounts for any particular task or phase of work set forth in Exhibit C and may be made in accordance with General Condition ¶ 14.

**5. EFFECTIVE DATE OF CONTRACT.** This contract shall not become effective until and unless approved by the Douglas County Board of County Commissioners.

**6. Notices.** All notices, requests, or approvals required or permitted to be given under this contract shall be in writing, shall be sent by hand delivery, overnight carrier, or by United States mail, postage prepaid, and registered or certified, and shall be addressed to:

COUNTY REPRESENTATIVE:

Jeffrey L. Foltz, PE, Associate Civil Engineer  
PO Box 218  
Minden, NV 89423

CONTRACTOR REPRESENTATIVE:

Gordon R. Shaw, PE, AICP  
Leigh, Scott & Cleary, Inc.  
2690 Lake Forest Road, Suite C  
PO Box 5875  
Tahoe City, CA 96145

RECEIVED  
JUN 27 1997  
DOUGLAS COUNTY  
COMMUNITY DEVELOPMENT

Any notice required or permitted under this contract, if sent by United States mail, shall be deemed to be given to and received by the addressee thereof on the third business day after being deposited in the mail. The County or Contractor may change the address or representative by giving written notice to the other party.

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

*Gordon R. Shaw* June 23, 1997  
Independent Contractor (date)

*Jacques Adhege* 9-10-97  
Board of County Commissioners (date)

ATTEST:

*Barbara J. Reed* 7-11-97  
County Clerk *(By: L. Lynch, deputy)* (date)

Approved as to form by:

*Robert J. Morris* June 30, 1997  
District Attorney (date)

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**EXHIBIT A  
GENERAL CONDITIONS**

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**1. DEFINITIONS.** Unless otherwise required by the context, "Contractor" includes any of the Contractor's consultants, subconsultants, contractors, and subcontractors

Unless otherwise required by the context or unless no County Representative is designated under General Condition ¶ 4 of this agreement, "County" means the person designated under General Condition ¶ 4 of this agreement.

**2. INDEPENDENT CONTRACTOR STATUS AND PROVISION OF WORKERS**

**COMPENSATION COVERAGE.** The parties agree that Contractor shall have the status of and shall perform all work under this contract as an independent contractor, maintaining control over all its consultants, subconsultants, contractors, or subcontractors. The only contractual relationship created by this contract is between the County and Contractor, and nothing in this contract shall create any contractual relationship between the County and Contractor's consultants, subconsultants, contractors, or subcontractors. The parties also agree that this contract, by explicit agreement of the parties, incorporates and applies the provisions of Nev.Rev.Stat. § 284.713, as necessarily adapted, to the parties, including that Contractor is not a County employee and that there shall be no:

- (1) Withholding of income taxes by the County;
- (2) Industrial insurance coverage provided by the County;
- (3) Participation in group insurance plans which may be available to employees of the County;
- (4) Participation or contributions by either the independent contractor or the County to the public employees retirement system;
- (5) Accumulation of vacation leave or sick leave provided by the County;
- (6) Unemployment compensation coverage provided by the County if the requirements of NRS 612.085 for independent contractors are met.

If applicable (and Contractor bears the sole responsibility for producing proof satisfactory to the County that these provisions are not applicable to Contractor), Contractor further agrees, as a precondition to the performance of any work under this contract and as a precondition to any obligation of the County to make any payment under this contract, to provide the County with a work certificate and/or a certificate issued by the State Industrial Insurance System (SIIS) in accordance with Nev.Rev.Stat. § 616.280. Contractor also agrees, prior to commencing any work under the contract, to complete and to provide the following written request to SIIS:

(Company Name) has entered into a contract with Douglas County to perform work from (starting date) to (ending date) and requests that the State Industrial Insurance System provide to Douglas County 1) a certificate of coverage issued pursuant to Nev.Rev.Stat. § 616.280 and 2) notice of any lapse in coverage or nonpayment of coverage that the contractor is required to maintain. The certificate and notice should be mailed to:

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Douglas County Manager  
Post Office Box 218  
Minden, Nevada 89423

Contractor agrees to maintain required workers compensation coverage throughout the entire term of the contract. If Contractor does not maintain coverage throughout the entire term of the contract, Contractor agrees that County may, at any time the coverage is not maintained by Contractor, immediately order the Contractor to stop work and may immediately suspend or terminate the contract. For each six month period this contract is in effect, Contractor agrees, prior to the expiration of the six month period, to provide another written request to SIIS for the provision of a certificate and notice of lapse in or nonpayment of coverage. If Contractor does not make the request or does not provide the certificate before the expiration of the six month period, Contractor agrees that County may order the Contractor to immediately stop work and may immediately suspend or terminate the contract. In the event of an immediate suspension or termination under this provision, Contractor is entitled to receive all amounts due and not previously paid to Contractor for work satisfactorily completed in accordance with the contract prior to the date of the suspension or termination. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work. In addition, the provisions of ¶ 11 shall apply in the case of a suspension or termination in accordance with this paragraph.

**3. STANDARD OF CARE.** Contractor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all work performed under this contract. Contractor warrants that all work shall be performed with the degree of professional skill, care, diligence, and sound practices and judgment which are normally exercised by recognized professional firms with respect to services of a similar nature. It shall be the duty of Contractor to assure at its own expense that all work is technically sound and in conformance with all applicable federal, state, and local laws, statutes, regulations, ordinances, orders, or other requirements. In addition to all other rights which the County may have, Contractor shall, at its own expense and without additional compensation, re-perform work to correct or revise any deficiencies, omissions, or errors in the work or the product of the work or which result from Contractor's failure to perform in accordance with this standard of care. Any approval by the County of any products or services furnished or used by Contractor shall not in any way relieve Contractor of the responsibility for professional and technical accuracy and adequacy of its work. County review, approval, or acceptance of, or payment for any of Contractor's work under this contract shall not operate as a waiver of any of the County's rights or causes of action under this contract, and Contractor shall be and remain liable in accordance with the terms of the contract and applicable law.

Contractor shall furnish competent and skilled personnel to perform the work under this contract. The County reserves the right to approve key personnel assigned by Contractor to perform work under this contract. Approved key personnel shall not be taken off of the project by Contractor without the prior written approval of the County,

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except in the event of termination of employment. Contractor shall, if requested to do so by the County, remove from the job any personnel whom the County determines to be incompetent, dishonest, or uncooperative.

**4. COUNTY REPRESENTATIVE.** The County may designate a County representative for this contract. If designated, all notices, project materials, requests by Contractor, invoice forms, and progress reports, and any other communication about the contract shall be addressed or be delivered to the County Representative.

**5. CHANGES TO SCOPE OF WORK.** The County may, at any time, by written order, make changes to the general scope, character, or cost of this contract and in the services or work to be performed, either increasing or decreasing the scope, character, or cost of Contractor's performance under the contract. Contractor shall provide to the County within 10 calendar days, a written proposal for accomplishing the change. The proposal for a change shall provide enough detail, including personnel hours for each sub-task and cost breakdowns of tasks, for the County to be able to adequately analyze the proposal. The County will then determine in writing if Contractor should proceed with any or all of the proposed change. If the change causes an increase or a decrease in Contractor's cost or time required for performance of the contract as a whole, an equitable adjustment shall be made and the contract accordingly modified in writing. Any claim of Contractor for adjustment under this clause shall be asserted in writing within 30 days of the date the County notified Contractor of the change.

When changes are sought by Contractor, Contractor shall, before any work commences, estimate their effect on the cost of the contract and on its schedule and notify the County in writing of the estimate. The proposal for a change shall provide enough detail, including personnel hours for each sub-task and cost breakdowns of tasks, for the County to be able to adequately analyze the proposal. The County will then determine in writing if Contractor should proceed with any or all of the proposed change.

Except as provided in this paragraph, no change shall be implemented by Contractor unless the change is approved by the County in writing. Unless otherwise agreed to in writing, the provisions of this contract shall apply to all changes. Verbal approval of a change may be provided by the County when the County, in its sole discretion, determines that time is critical or public health and safety are of concern. Any verbal approval shall be confirmed in writing as soon as practicable. Any change undertaken without prior County approval shall not be compensated and is, at the County's election, sufficient reason for contract termination.

**6. COUNTY COOPERATION.** The County agrees that its personnel will cooperate with Contractor in the performance of its work under this contract and that such personnel will be available to Contractor for consultation at reasonable times and after being given sufficient advance notice that will prevent conflict with their other

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responsibilities. The County also agrees to provide Contractor with access to County records in a reasonable time and manner and to schedule items which require action by the Board of County Commissioners in a timely manner. The County and Contractor also agree to attend all meetings called by the County or Contractor to discuss the work under the Contract, and that Contractor may elect to conduct and record such meetings and shall later distribute prepared minutes of the meeting to the County.

**7. DISCOVERY OF CONFLICTS, ERRORS, OMISSIONS, AMBIGUITIES, OR**

**DISCREPANCIES.** Contractor warrants that it has examined all contract documents, has brought all conflicts, errors, discrepancies, and ambiguities to the attention of the County in writing, and has concluded that the County's resolution of each matter is satisfactory to Contractor. All future questions Contractor may have concerning interpretation or clarification of this contract shall be submitted in writing to the County within 10 calendar days of their arising. The writing shall state clearly and in full detail the basis for Contractor's question or position. The County representative shall render a decision with 15 calendar days. The County's decision on the matter is final and accepted by Contractor as final. Any work affected by a conflict, error, omission, or discrepancy which has been performed by Contractor prior to having received the County's resolution shall be at Contractor's risk and expense. At all times, Contractor shall carry on the work under this contract and maintain and complete work in accordance with the requirements of the contract or determination of the County. Contractor is responsible for requesting clarification or interpretation and is solely liable for any cost or expense arising from its failure to do so.

**8. CONSTRUCTION AND INTERPRETATION OF CONTRACT.** This contract shall be construed and interpreted according to the laws of the State of Nevada.

**9. DISPUTE RESOLUTION.** Any dispute not within the scope of ¶ 7 shall be resolved under this paragraph. Either party shall provide to the other party, in writing and with full documentation to verify and substantiate its decision, its stated position concerning the dispute. No dispute shall be considered submitted and no dispute shall be valid under this provision unless and until the submitting party has delivered the written statement of its position and full documentation to the other party. The parties shall then attempt to resolve the dispute through good faith efforts and negotiation between the County Representative and a Contractor representative. At all times, Contractor shall carry on the work under this contract and maintain and complete work in accordance with the requirements of the contract or determination or direction of the County. If the dispute is not resolved within 30 days, either party may request that the dispute be submitted to the County Manager for final resolution. The decision of the County Manager shall be final and binding on the parties. If either party is dissatisfied with the decision of the County Manager, that party may immediately terminate the contract under this paragraph, with Contractor being entitled to compensation for work actually and satisfactorily performed up to the time of the termination and the County being entitled to all contract materials in accordance with ¶ 21 and compensation for any additional damages or expenses incurred in completing the work under the

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contract, including, without limitation, the costs of securing the services of other independent contractors.

## **10. TERMINATION OF CONTRACT.**

**A. TERMINATION, ABANDONMENT, OR SUSPENSION AT WILL.** Except as otherwise provided in ¶ 2, the County, in its sole discretion, shall have the right to terminate, abandon, or suspend all or part of the project and contract at will. If the County chooses to terminate, abandon, or suspend all or part of the project, it shall provide Contractor 10 days written notice of its intent to do so.

If all or part of the project is suspended for more than 90 days, the suspension shall be treated as a termination at will of all or part of the project and contract.

Upon receipt of notice of termination, abandonment, or suspension at will, Contractor shall:

1. Immediately discontinue work on the date and to the extent specified in the notice.
2. Place no further orders or subcontracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of work under the contract that is not terminated.
3. Immediately make every reasonable effort to obtain cancellation upon terms satisfactory to the County of all orders or subcontracts to the extent they relate to the performance of work terminated, abandoned, or suspended under the notice, assign to the County any orders or subcontracts specified in the notice, and revoke agreements specified in the notice.
4. Not resume work after the effective date of a notice of suspension until receipt of a written notice from the County to resume performance.

In the event of a termination, abandonment, or suspension at will, Contractor shall receive all amounts due and not previously paid to Contractor for work satisfactorily completed in accordance with the contract prior to the date of the notice and compensation for work thereafter completed as specified in the notice. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work.

**B. TERMINATION FOR CAUSE.** This agreement may be terminated by the County on 10 calendar days written notice to Contractor in the event of a failure by Contractor to adhere to all the terms and conditions of the contract or for failure to satisfactorily, in the sole opinion of the County, pursue the project or to complete work in a timely and professional manner. Contractor shall be given an opportunity for consultation with the County prior to the effective date of the termination. Contractor may terminate the contract on 10 calendar days written notice if, through no fault of Contractor, the County fails to pay Contractor for 30 days after the date of approval of any submitted invoice forms and progress reports.

In the event of a termination for cause, Contractor shall receive all amounts due and not previously paid to Contractor for work satisfactorily completed in accordance with the contract prior to the date of the notice, less all previous payments. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work. Any such payment may be adjusted to the extent of any additional costs occasioned to the County by reasons of Contractor's failure. Contractor shall not be relieved of liability to the County for damages sustained from the failure, and the County may withhold any payment to the Contractor until such time as the exact amount of damages due to the County is determined. All claims for payment by the Contractor must be submitted to the County within 30 days of the effective date of the notice of termination.

If after termination for the failure of Contractor to adhere to all the terms and conditions of the contract or for failure to satisfactorily, in the sole opinion of the County, pursue the project or to complete work in a timely and professional manner, it is determined that Contractor had not so failed, the termination shall be deemed to have been a termination at will. In that event, an equitable adjustment in the compensation paid to Contractor shall be made by the County. The adjustment shall include a reasonable profit for services or other work performed up to the effective date of termination less all previous payments.

**C. GENERAL PROVISIONS FOR TERMINATION.** Upon termination of the contract, the County may take over the work and prosecute it to completion by agreement with another party or otherwise. In the event Contractor shall cease conducting business, the County shall have the right to solicit applications for employment from any employee of the Contractor assigned to the performance of the contract.

Neither party shall be considered in default of the performance of its obligations hereunder to the extent that performance of such obligations is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such party. Delays arising from the actions or inactions of one or more of Contractor's principals, officers, employees, agents, subcontractors, consultants, vendors, or suppliers are expressly recognized to be within Contractor's control.

**11. NO DAMAGES FOR DELAY.** Apart from a written extension of time, no payment, compensation, or adjustment of any kind shall be made to Contractor for damages because of hindrances or delays in the progress of the work from any cause, and Contractor agrees to accept in full satisfaction of such hindrances and delays any extension of time which the County may provide.

**12. INSURANCE.** Contractor shall carry and maintain in effect during the performance of services under this contract worker's compensation and employer's liability insurance covering the Contractor's employees in accordance with statutory

requirements, professional liability insurance, general liability insurance, and such other insurance coverage normally carried by Contractor insuring against the injury, loss, or damage to persons and property caused by Contractor's activities. Any additional insurance as may be required shall be as set forth below. Contractor shall maintain in effect at all times during the performance under this contract all specified insurance coverage with insurers and forms of policy satisfactory to the County, acceptance of which shall not be unreasonably withheld. None of the requirements as to types, limits, and approval of insurance coverage to be maintained by Contractor are intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Contractor under the contract. Unless specifically set forth below, the County shall not maintain any insurance on behalf of Contractor.

Contractor will provide the County with certificates of insurance for coverage as listed below and endorsements affecting coverage required by the contract within 10 calendar days after the notice of award is issued by the County. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer and who is licensed by the State of Nevada.

A. Each insurance company's rating as shown in the latest Best's Key rating guide shall be fully disclosed and entered on the required certificate of insurance. The adequacy of the insurance supplied by Contractor, including the rating and financial health of each insurance company providing coverage, is subject to the approval of the County.

B. The County and its officers and employees must be expressly covered as insureds, except on workers compensation coverage.

C. Contractor's insurance shall be primary as respects the County and its officers and employees.

D. Contractor's general liability insurance policies shall provide coverage for Contractor's contractual liability to the County. The parties further agree that Contractor or its insurance carrier shall provide the County with 30 days advance notice of cancellation of the policies.

E. All deductibles and self-insured retentions shall be fully disclosed in the certificates of insurance.

F. If aggregate limits of less than \$2,000,000 are imposed on bodily injury and property damage, the Contractor must maintain umbrella liability insurance of at least \$1,000,000. All aggregates must be fully disclosed on the required certificate of insurance.

G. Contractor shall obtain and maintain, for the duration of this contract, general liability insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work



under this contract by Contractor or its agents, representatives, or employees. No separate payment shall be made by the County for the cost of such insurance.

H. General liability coverage shall be on a "per occurrence" basis only and not "claims made." The coverage must be provided either on a Commercial General Liability Form A or a Broad Form Comprehensive General Liability form. The parties agree that no exceptions will be permitted to the coverage provided in such forms. Policies must include, but need not be limited to, coverage for bodily injury, personal injury, broad form property damage, premises operations, severability of interest, products and completed operations, contractual and independent contractors. General liability insurance policies shall be endorsed to include the County as an additional insured. Subject to ¶ F of this section, Contractor shall maintain limits of no less than \$1,000,000 combined single limit per occurrence for bodily injury (including death), personal injury, and property damages.

I. Contractor shall obtain and maintain, for the duration of this contract, automobile coverage which must include, but need not be limited to, coverage against claims for injuries to persons or damages to property which may arise from or in connection with the use of any automobile in the performance of work under this contract by Contractor or its agents, representatives, or employees. Subject to ¶ F of this section, Contractor shall maintain limits of no less than \$1,000,000 combined single limit "per occurrence" for bodily injury and property damage.

J. Contractor shall obtain and maintain professional liability coverage in a form acceptable to the County in an amount of \$250,000 per occurrence, \$250,000 annual aggregate. If Contractor's retention or deductible is greater than \$25,000, Contractor shall demonstrate upon request of the County to the County's satisfaction Contractor's ability to fund the retention or deductible.

K. If contractor fails to maintain any of the required insurance coverage, then the County will have the option to declare Contractor in breach and terminate the contract, or the County may purchase replacement insurance or pay the premiums that are due on existing policies in order that the required coverage is maintained. Contractor is responsible for any payments made by the County to obtain or maintain such insurance, and the County may collect the same from Contractor or deduct the amount paid from any sums due Contractor under this contract.

L. The specified insurance requirements do not relieve Contractor of its responsibility or limit the amount of its liability to the County or other persons, and Contractor is encouraged to purchase such additional insurance as it deems necessary.

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M. Contractor is responsible for and required to remedy all damage or loss to any property, including property of the County, caused in whole or in part by Contractor or anyone employed, directed, or supervised by Contractor.

**13. FISCAL CONTINGENCY.** All payments under this contract are contingent upon the availability to the County of the necessary funds. In accordance with Nev.Rev.Stat. § 354.626, Nev.Rev.Stat. § 244.320, and any other applicable provision of law, the financial obligations under this contract between the parties shall not exceed those monies appropriated and approved by the County for this contract for the then current fiscal year under the Local Government Budget Act. This contract shall terminate and the County's obligations under it shall be extinguished at the end of any fiscal year in which the county fails to appropriate monies for the ensuing fiscal year sufficient for the performance of this contract.

Nothing in this contract shall be construed to provide Contractor with a right of payment over any other entity. Any funds obligated by the County under this contract that are not paid to Contractor shall automatically revert to the County's discretionary control upon the completion, termination, or cancellation of the agreement. The County shall not have any obligation to re-award or to provide, in any manner, the unexpended funds to Contractor. Contractor shall have no claim of any sort to the unexpended funds.

**14. RETENTIONS.** Review by the County of Contractor's submitted monthly invoice forms and progress reports for payment will be promptly accomplished by the County. If there is insufficient information, the County may require Contractor to submit additional information. Unless the County, in its sole discretion, decides otherwise, the County shall pay Contractor in full within 30 days of approval of the submitted monthly invoice forms and progress reports as follows:

a) From the dollar amount of work in place, a 10% retention may, at the County's election during any point of the contract, be deducted from each monthly progress payment.

b) Upon completion of 50% of the work in place and if, in the sole opinion of the County, the work is progressing satisfactorily, the County may forego further retentions.

c) If, at any time after foregoing a retention from a payment, the County determines that Contractor is failing to make satisfactory progress, the County may resume retentions.

d) No interest will be paid on any retention.

**15. COMPLIANCE WITH APPLICABLE LAWS.** Contractor, at all times, shall fully and completely comply with all applicable local, state and federal laws, statutes,

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regulations, ordinances, orders, or requirements of any sort in carrying out the obligations of this contract, including, but not limited to, all federal, state, and local accounting procedures and requirements, all immigration and naturalization laws, and the Americans With Disabilities Act. Contractor shall, throughout the period services are to be performed under this contract, monitor for any changes to the applicable laws, statutes, regulations, ordinances, orders, or requirements, shall promptly notify the County in writing of any changes to the same relating to or affecting this contract, and shall submit detailed documentation of any effect of the change in terms of both time and cost of performing the contract.

**16. NONDISCRIMINATION.** If applicable or required under any federal or state law, statute, regulation, order, or other requirement, Contractor agrees to the following terms. Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for employment which the employee or applicant for employment is qualified. Contractor agrees to take affirmative action to employ, advance in employment, or to otherwise treat qualified, handicapped individuals without discrimination based upon physical or mental handicap in all employment practices, including but not limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, rates of pay, or other forms of compensation and selection for training, including apprenticeship.

Contractor acknowledges that it is aware of and is fully informed of Contractor's obligations under Executive Order 11,246 and, where applicable, shall comply with the requirements of the Order and all other orders, rules, and regulations promulgated under the Order unless exempted from therefrom.

Without limitation of the foregoing, Contractor's attention is directed to 41 C.F.R. § 60-1.4, and the clause entitled "Equal Opportunity Clause" which, by reference, is incorporated into this contract, to 41 C.F.R. § 60-250 *et seq.* and the clause entitled "Affirmative Action Obligations of Contractors and Subcontractor for Disabled Veterans and Veterans of the Vietnam Era," which, by reference, is incorporated in this contract, and to 41 C.F.R. § 60-471 and the clause entitled "Affirmative Action Obligations of Contractors and Subcontractors for Handicapped Workers," which, by this reference, is incorporated in this contract.

Contractor agrees to assist disadvantaged business enterprises in obtaining business opportunities by identifying and encouraging disadvantaged suppliers, consultants, and subconsultants to participate to the extent possible, consistent with their qualification, quality of work, and obligation of Contractor under this contract.

In connection with the performance of work under this contract, Contractor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, or age. This agreement includes, but is not limited to, the following: 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.

Contractor agrees, if applicable, to insert these provisions in all subcontracts, except for subcontracts for standard commercial supplies or raw materials. Any violation of any applicable provision by Contractor shall constitute a material breach of the contract.

**17. FEDERAL SUBCONTRACTING REQUIREMENTS.** If Contractor awards a subcontract under this contract, Contractor, if applicable, shall use the following alternative steps:

- a. Placing Small Businesses in Rural Areas (SBRAs) on solicitation lists;
- b. Ensuring that SBRAs are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by SBRAs;
- d. Establishing delivery schedules, where the requirements of work will permit, which would encourage participation by SBRAs;
- e. Using the services of the Small Business Administration and the Minority Business Development Agency of the United States Department of Commerce, as appropriate; and
- f. Requiring the subcontractor, if it awards subcontracts, to take the affirmative steps set forth in ¶¶ a-e.

If applicable, Contractor agrees to complete and submit to the County a Minority Business Enterprise/Woman Business Enterprise (MBE/WBE) Utilization Report (Standard Form 334) within 30 days after the end of each fiscal quarter until the end of the contract.

**18. CONTRACTOR ENDORSEMENT.** Contractor shall provide an endorsement of drawings, plans, maps, reports, specifications, and other instruments of service prepared by Contractor or under its direction. Endorsement shall be evidenced by Contractor's signature, date, and applicable professional registration stamp or seal issued by the State of Nevada.

**19. ASSIGNMENT, TRANSFER, DELEGATION, OR SUBCONTRACTING.** Contractor shall not assign, transfer, delegate, or subcontract any rights, obligations, or duties under this contract without the prior written consent of the County. Any such assignment, transfer, delegation, or subcontracting without the prior written consent of the County is void. Any consent of the County to any assignment, transfer, delegation, or subcontracting shall only apply to the incidents expressed and provided for in the written consent and shall not be deemed to be a consent to any subsequent assignment, transfer, delegation, or subcontracting. Any such assignment, transfer, delegation, or subcontract shall require compliance with or shall incorporate all terms

and conditions set forth in this agreement, including all incorporated Exhibits and written amendments or modifications. Subject to the foregoing provisions, the contract inures to the benefit of, and is binding upon, the successors and assigns of the parties.

**20. COUNTY INSPECTION OF CONTRACT MATERIALS.** The books, records, documents and accounting procedures and practices of Contractor related to this contract shall be subject to inspection, examination and audit by the County, including, but not limited to, the contracting agency, the County Manager, the District Attorney, and, if applicable, the Comptroller General of the United States, or any authorized representative of those entities.

**21. DISPOSITION OF CONTRACT MATERIALS.** Any books, reports, studies, photographs, negatives or other documents, data, drawings or other materials, including but not limited to those contained in media of any sort (e.g., electronic, magnetic, digital) prepared by or supplied to Contractor in the performance of its obligations under this contract shall be the exclusive property of the County and all such materials shall be remitted and delivered, at Contractor's expense, by Contractor to the County upon completion, termination, or cancellation of this contract. Alternatively, if the County provides its written approval to Contractor, any books, reports, studies, photographs, negatives or other documents, data, drawings or other materials including but not limited to those contained in media of any sort (e.g., electronic, magnetic, digital) prepared by or supplied to Contractor in the performance of its obligations under this contract must be retained by Contractor for a minimum of four years after final payment is made and all other pending matters are closed. If, at any time during the retention period, the County, in writing, requests any or all of the materials, then Contractor shall promptly remit and deliver the materials, at Contractor's expense, to the County. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than the performance of Contractor's obligations under this contract without the prior written consent of the County.

**22. PUBLIC RECORDS LAW, COPYRIGHTS, AND PATENTS.** Contractor expressly agrees that all documents ever submitted, filed, or deposited with the County by Contractor (including those remitted to the County by Contractor pursuant to ¶ 21), unless designated as confidential by a specific statute of the State of Nevada, shall be treated as public records pursuant to Nev.Rev.Stat. ch. 239 and shall be available for inspection and copying by any person, as defined in Nev.Rev.Stat. § 0.039, or any governmental entity.

No books, reports, studies, photographs, negatives or other documents, data, drawings or other materials including but not limited to those contained in media of any sort (e.g., electronic, magnetic, digital) prepared by or supplied to Contractor in the performance of its obligations under this contract shall be the subject of any application for a copyright or patent by or on behalf of Contractor. The County shall have the right to reproduce any such materials.



Contractor expressly and indefinitely waives all of its rights to bring, including but not limited to, by way of complaint, interpleader, intervention, or any third party practice, any claims, demands, suits, actions, judgments, or executions, for damages or any other relief, in any administrative or judicial forum, against the County or any of its officers or employees, in either their official or individual capacity, for violations of or infringement of the copyright or patent laws of the United States or of any other nation. Contractor agrees to indemnify, to defend, and to hold harmless the County, its representatives, and employees from any claim or action seeking to impose liability, costs, and attorney fees incurred as a result of or in connection with any claim, whether rightful or otherwise, that any material prepared by or supplied to Contractor infringes any copyright or that any equipment, material, or process (or any part thereof) specified by Contractor infringes any patent.

Contractor shall have the right, in order to avoid such claims or actions, to substitute at its expense non-infringing materials, concepts, products, or processes, or to modify such infringing materials, concepts, products, or processes so they become non-infringing, or to obtain the necessary licenses to use the infringing materials, concepts, products, or processes, provided that such substituted or modified materials, concepts, products, or processes shall meet all the requirements and be subject to all the terms and conditions of this contract.

**23. INDEMNIFICATION.** Regardless of the coverage provided by any insurance, Contractor agrees to indemnify and save and hold the County, its agents and employees harmless from any and all claims, causes of action or liability arising from the performance of this contract by Contractor or Contractor's agents or employees. Contractor hereby indemnifies and shall defend and hold harmless the County, its officials, employees, and authorized representatives and their employees from and against any and all suits, actions, legal or administrative proceedings, arbitrations, claims, demands, damages, liabilities, interest, attorney's fees, costs and expenses of whatsoever kind or nature, including those arising out of injury to or death of Contractor's employees, whether arising before or after completion of the work under this contract and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part by reason of any negligent act, omission, or fault or willful misconduct, whether active or passive, of Contractor or of anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this contract. Contractor's indemnity, defense, and hold harmless obligations, or portions or applications thereof, shall apply even in the event of the fault or negligence, whether active or passive, of the party indemnified to the fullest extent permitted by law, but in no event shall they apply to liability caused by the sole negligence or willful misconduct of the party indemnified or held harmless.

**24. FINAL ACCEPTANCE.** Upon completion of all work under the contract, Contractor shall notify the County in writing of the date of the completion of the work and request confirmation of the completion from the County. Upon receipt of the notice, the County shall confirm to Contractor in writing that the whole of the work was



completed on the date indicated in the notice or provide Contractor with a written list of work not completed. With respect to work listed by the County as incomplete, Contractor shall promptly complete the work and the final acceptance procedure shall be repeated. The date of final acceptance of a project by the County shall be the date upon which the Douglas County Board of County Commissioners accepts and approves the notice of completion.

**25. TAXES.** Contractor shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work performed under the contract and make any and all payroll deductions required by law. The contract sum and agreed variations to it shall include all taxes imposed by law. Contractor hereby indemnifies and holds harmless the County from any liability on account of any and all such taxes, levies, duties, assessments, and deductions.

**26. NON-WAIVER OF TERMS AND CONDITIONS.** None of the terms and conditions of this contract shall be considered waived by the County. There shall be no waiver of any past or future default, breach, or modification of any of the terms and conditions of the contract unless expressly stipulated to by the County in a written waiver.

**27. RIGHTS AND REMEDIES.** The duties and obligations imposed by the contract and the rights and remedies available under the contract shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.

**28. PROHIBITED INTERESTS.** Contractor shall not allow any officer or employee of the County to have any indirect or direct interest in this contract or the proceeds of this contract. Contractor warrants that no officer or employee of the County has any direct or indirect interest, whether contractual, noncontractual, financial or otherwise, in this contract or in the business of Contractor. If any such interest comes to the attention of Contractor at any time, a full and complete disclosure of the interest shall be immediately made in writing to the County. Contractor also warrants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this contract. Contractor further warrants that no person having such an interest shall be employed in the performance of this contract. If County determines that a conflict exists and was not disclosed to the County, it may terminate the contract at will or for cause in accordance with ¶ 10.

In the event Contractor (or any of its officers, partners, principals, or employees acting with its authority) is convicted of a crime involving a public official arising out or in connection with the procurement of work to be done or payments to be made under this contract, County may terminate the contract at will or for cause in accordance with ¶ 10. Upon termination, Contractor shall refund to the County any profits realized under this contract, and Contractor shall be liable to the County for any costs incurred by the County in completing the work described in this contract. At the discretion of the

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County, these sanctions shall also be applicable to any such conviction obtained after the expiration or completion of the contract.

Contractor warrants that no gratuities (including, but not limited to, entertainment or gifts) were offered or given by Contractor to any officer or employee of the County with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this contract. If County determines that such gratuities were or offered or given, it may terminate the contract at will or for cause in accordance with ¶ 10.

The rights and remedies of this section shall in no way be considered for be construed as a waiver of any other rights or remedies available to the County under this contract or at law.

**29. THIRD PARTY INTERESTS AND LIABILITIES.** The County and Contractor, including any of their respective agents or employees, shall not be liable to third parties for any act or omission of the other party. This contract is not intended to create any rights, powers, or interest in any third party, and this agreement is entered into for the exclusive benefit of the County and Contractor.

**30. SURVIVAL OF RIGHTS AND OBLIGATIONS.** The rights and obligations of the parties which by their nature survive termination or completion of this contract shall remain in full force and effect.

**31. SEVERABILITY.** In the event that any provision of this contract is rendered invalid or unenforceable by any valid act of Congress or of the Nevada legislature or any court of competent jurisdiction, or is found to be in violation of state statutes or regulations, the invalidity or unenforceability of any particular provision of this contract shall not affect any other provision, the contract shall be construed as if such invalid or unenforceable provisions were omitted, and the parties may renegotiate the invalid or unenforceable provisions for sole purpose of rectifying the invalidity or unenforceability.

**32. MODIFICATION OF CONTRACT AND ENTIRE AGREEMENT.** This contract constitutes the entire contract between the County and Contractor. The parties shall not be bound by or be liable for any statement, representation, promise, inducement, or understanding of any kind or nature not set forth in this contract. No changes, amendments, or modifications of any terms or conditions of the contract shall be valid unless reduced to writing and signed by both parties.

## *Exhibit B* *Scope of Work*

The following work elements will be completed in compliance with all regulations regarding the Federal Transit Administration Section 5311 (Section 18) program, of which LSC is fully aware.

### **ELEMENT I: INVENTORY OF EXISTING TRANSPORTATION SERVICES**

**Purpose:** To establish the supply side of transportation in Douglas County for comparison with transit service need to be estimated in Element III, to determine the extent to which the goals and objectives for transit service in the region are being met and whether the transit services are provided effectively and efficiently; and to review in detail the operations and financial effectiveness of the current transit services.

**Method:** The Consultant will compile data regarding the Douglas County Senior Center, the Tahoe Douglas Senior Center, the Washoe Tribe Elders Program, and the new service initiated by the Tahoe Douglas Transportation District. A profile of each provider will be prepared by the Consultant to include the following:

- ▶ Name of operation, location and type of ownership
- ▶ Type of operation (fixed-route or demand-responsive)
- ▶ Service area and clients served
- ▶ Hours of operation and level of service
- ▶ Routes and schedules (if appropriate)
- ▶ Number of passengers and passenger-trips by market segment
- ▶ Operating budget, funding sources and financial program
- ▶ Vehicle fleet, including age, condition, equipment, and funding source
- ▶ Maintenance, administrative, and passenger facilities
- ▶ System management structure
- ▶ Maintenance arrangements
- ▶ Marketing efforts

As part of collecting this data, we will visit the operating base for each program, and meet with program management. A thorough review of existing ridership data for each service provider will be conducted. Specifically, we will evaluate ridership by service and service area as follows:

- Trip origin/destination,
- Peak service demand by time of day,
- By season, considering weekly ridership levels throughout the year;
- By day of week; and
- By run.

Data for a minimum of one week during the peak winter service period, one week during the peak summer season, and one week during the "off-season" will be reviewed, to

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ensure that variations in ridership patterns between specific days and seasons are identified. If this data is not currently available, we will work with service providers to develop a data collection program for drivers and dispatchers to collect the necessary data.

Finally, we will conduct an analysis of the service effectiveness and financial efficiency of each transit service. The data collected will be used to evaluate the following, for each service and route:

- Passengers per vehicle-hour
- Passengers per vehicle-mile
- Cost per vehicle-hour
- Cost per vehicle-mile
- Cost per passenger-trip
- Subsidy per passenger-trip

This evaluation will help to identify which services are making effective use of resources, and where the study should focus on means of improving the effectiveness of current services.

This data will be presented in charts and graphs with supportive text as part of the Technical Memorandum.

## **ELEMENT II: IDENTIFY SPECIFIC TRANSPORTATION NEEDS**

**Purpose:** To realistically quantify the need for various types of transit services in all portions of the county.

**Method:** The first step in this element will be to develop a list of potential transit needs. We would propose to meet with local decision makers (such as NDOT, county, and local service provider staffmembers and others as appropriate), to discuss the needs of the various communities in Douglas County -- both those currently met by the existing services, as well as those currently not met. As part of this initial "kick-off" meeting in Minden/Gardnerville, we will also go over the data required for the remainder of the study, and identify local sources for this data.

Transit demand analysis will then be conducted to identify transit demand generated both by social service programs and the general public, using the methodology presented in Transit Cooperative Research Project B-3: Estimation of Rural Public Transportation Demand. This procedure, developed by SG Associates, Inc. and Leigh, Scott & Cleary, Inc. in 1994, provides the first advance in rural and non-urbanized demand estimation techniques since the 1970's. These figures will be generated on the census tract level, in order to allow comparison of transit needs in each community, and for each social service agency. In addition, these figures will be disaggregated by type of passenger (elderly, disabled, youth, and general public).

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In addition, we would propose to undertake a phone survey of the general public, to be conducted by Sue Rae Irelan Environmental Planning, Inc. An initial survey instrument (i.e., surveyor form) will be developed by Sue Rae Irelan Environmental Planning and LSC, for review by NDOT and local staff. This survey will identify trip-making patterns among all household members, as well as perceptions regarding the need for service, and the level of interest in public sector support. A "pre-test" will be conducted with a limited survey size, and the results reviewed to identify any further improvements in the survey method. A standard random number selection technique will be used to generate a list of phone numbers to ensure a representative cross-sample of Douglas County residents. This list will then be used by Sue Rae Irelan Environmental Planning staff to call local residences. In order to minimize any bias introduced by non-respondents, each phone number will be called up to four times before being dropped from the list. A minimum of 200 completed surveys will be collected. After collection and analysis, these surveys will be used to refine the transit needs analysis.

Finally, we will prepare an analysis of inter-community commuting needs. This analysis will be based upon three factors:

- We will contact major employers in both Carson City and the Stateline areas to identify the number of employees living in the Carson Valley portion of Douglas County, and to identify their shift times and variability in shifts. (We already have much of this information for Stateline employers.)
- The general public telephone survey discussed above will include questions relating to work location, which will provide another quantitative indicator of commuting patterns.
- Finally, we will conduct a "peer survey" of similar commute corridors around the western U.S., to identify a realistic transit trip rate.

By evaluating transit ridership in other corridors (such as in the Salt Lake City, Sacramento, and San Joaquin Valley areas) that are currently served by transit, and by factoring by local characteristics applicable to Douglas County, we will be able to estimate the need for commuter transit services generated by Douglas County residents. A similar analysis will be conducted regarding recreational transit needs in the area, based upon visitor ridership in similar transit "markets."

The results of these analyses will be presented in the Technical Memoranda, accompanied by a series of maps and charts that will clearly identify the locations of relatively high transit needs.

### **ELEMENT III: DEFINE CURRENT AND PROJECTED STATUS OF NEED**

**Purpose:** To compare current demand with existing transit ridership, and to project any shortfall into the future.

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**Method:** Results of the transportation needs analysis prepared in Element II will be evaluated and summarized by the following characteristics:

- Trip purpose
- Trip origin/destination
- Trip time of day
- Special passenger needs
- Service corridor (US 395 North, US 50, US 395 South, SR 207, etc.)

Next, existing needs will be projected into the future. Available population and employment projections will be collected. In addition, any available land-use and transportation plans will be reviewed. Growth factors will be developed based upon total population growth, planned future development, growth in elderly population, and growth in disabled population. The future change in population/employment balance will be evaluated to identify the forecast change in commuting patterns affecting Douglas County.

These forecasts will be disaggregated by area (census tract and community), public transportation service corridor, and type of public transportation service. By comparing these forecasts against existing ridership and service capacity, the future shortfall can be evaluated. Up to three planning horizons will be considered.

These evaluations will be presented in both text and graphic form, as the last portion of the Technical Memorandum. This document will be presented at the end of this task, and will provide NDOT and local representatives with a “mid-course” opportunity to review the results of the study to date, and to make any corrections and modifications necessary before the data is used in the final three study elements.

#### **ELEMENT IV: ANALYSIS OF IDENTIFIED TRANSIT PROJECTS**

**Purpose:** To evaluate transit projects identified through prior planning processes, in light of the transit need estimated identified in previous tasks.

**Method:** The Transportation Five-Year Plan and the Transportation Improvement Plan will be reviewed, to identify existing transit-related plans that are “on the table.” As necessary, persons responsible for plan development will be contacted to clarify each project.

An alternatives analysis (as discussed more fully in Element V, below) will be conducted. The characteristics of each planned project will be used to factor the total transit need, in order to estimate the ridership potential of each project. These ridership figures will then be used to estimate potential farebox revenues. Next, the costs factors associated with existing services will be used to identify operating, capital, and administrative costs associated with each project. The

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ridership and financial figures will then be used to evaluate the cost-effectiveness of each project.

A summary of each transit project will be prepared, that details the steps necessary to implement the project, the costs that would be associated with the project, and the ridership that would be served. This information will be presented in the Draft Needs Assessment Report, and presented to the study steering committee.

## **ELEMENT V: EVALUATION OF EXISTING SERVICES VERSUS TRANSIT NEEDS AND THE DEVELOPMENT OF ALTERNATIVES**

**Purpose:** To identify current and future shortfalls in transit services, for each service corridor, passenger category, and community in Douglas County. To refine the transit needs evaluation in light of survey data for Douglas County, and to develop and evaluate a wide range of service alternatives. The alternatives will be analyzed in terms of effectiveness, efficiency, and the local goals for transit service.

**Method:** Existing ridership by each trip characteristic for all existing providers will be summarized. In addition, the total existing transit capacity along each corridor and within each transit service market will be summarized.

These figures will be compared against the identified transit need, for existing conditions, as well as the future planning horizons. This process will identify the current “shortfall” in public transportation services. These figures will be disaggregated by corridor, community, and by type of passenger (elderly, disabled, commuter, visitor, general public, etcetera.)

A series of service alternatives will then be developed and evaluated. The Consultant team will work with the NDOT and local representatives, and others as deemed appropriate, to determine alternatives which should be evaluated. The alternatives will be formulated based on the unmet needs identified in Elements 1 and 4. The Consultant will then develop detailed information on each service alternative. The detailed information will be used in the analysis of each alternative and the development of recommendations to the client. The following information will be provided for each alternative:

- ▶ Type of service to be offered;
- ▶ Operating characteristics, including service areas, routes and schedules, hours of operation, vehicle mileage and vehicle-hours of service;
- ▶ Capital requirements, including vehicles, radios and other dispatch equipment.
- ▶ Ridership impacts, disaggregated by type of rider. In particular, we will compare the potential for additional new riders versus the impact of any service modifications on existing ridership;

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- ▶ Financial characteristics including operating, capital and administrative costs; fare, charter, advertising, tax, and other revenues. Cost and revenue figures will be projected for each of the five years; and
- ▶ Provisions for meeting elderly and disabled needs in general, and the requirements of the ADA in particular.

Each of these components will be incorporated into a cost-effectiveness analysis for the alternatives. The alternatives will also be evaluated based on the goals and objectives for transit service in the study area.

In addition, a "status quo" alternative will be projected over the five-year study horizon to identify the impacts associated with maintaining current operations.

The results of this analysis will be documented as part of the Draft Needs Assessment Report. In addition, this information will also be presented to the study steering committee.

## **ELEMENT 6: PRESENTATION OF REPORT TO COUNTY COMMISSIONERS**

**Purpose:** To provide an opportunity for public input to the plan, and to gain final approval of the study recommendations.

**Method:** A draft final operating plan will be developed that melds the recommended service alternatives into a comprehensive plan. These recommendations will include the following:

- ▶ Areas of the County to be provided with transit service;
- ▶ Type of service in each area, the span of service, and service frequency;
- ▶ ADA service strategies;
- ▶ Appropriate provider of each service, both in-house and contracted;
- ▶ Fare strategies to maximize regional mobility.

The capital requirements of the service plan will be identified. Specific elements of the capital recommendations will include:

- ▶ Transit vehicle requirements, identifying seating capacity and other characteristics.
- ▶ Passenger facilities, including improvements to transfer centers and major bus stops.

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The forecast future financial requirements will then be used to make recommendations regarding financial strategies. Sources of operating revenue (e.g., fares, advertising) will be calculated for each year of the program. New operating costs will be combined with annual capital expenses to determine total annual system costs. Potential sources of funding from private, local, state and federal agencies (as well as from other jurisdiction, for services extending beyond the Douglas County boundaries) will be examined so that the annual operating deficit is covered by a realistic financial support program.

The materials presented in the Technical Memorandum (as modified in response to comments), along with the results of Elements IV and V, will be used to prepare the Draft Needs Assessment Report. This document will then be presented to NDOT and Douglas County staff for review and comment. All input received as part of the review of the Draft Report will be carefully considered. Modifications to individual elements will be reflected in other elements; for instance, a service plan change that impacts the need for vehicles will be reflected as necessary in the capital plan.

As necessary, modifications to wording of specific controversial sections will be sent to the MCLTC staff for review and comment. After review and approval of the modifications, a final illustrated report will be prepared. The Final Report will include all of the work accomplished in Elements 1 through 6.

This document will then be the subject of a presentation to the Douglas County Commissioners. The Consultant will respond to any comments and direction received at this presentation, and will make any necessary modifications to the Final Report.

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***Exhibit C***  
***Compensation Schedule***

The work scope identified in Exhibit A will be completed for a total cost not to exceed \$20,000. Billing invoices will be prepared monthly, detailing the costs incurred and staff time spent on the project during the previous month. These invoices will be provided to the County by the 15th of the month, and will be accompanied by a progress report detailing the work accomplished, problems experienced, upcoming work, and a schedule showing actual expenditures billed for the period, cumulative total expenditures billed and paid to date, and a comparison of cumulative total expenditures billed and paid to the approved budget.

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***Exhibit D***  
***Contract Time***

The work scope identified in Exhibit A will be completed by the end of December, 1997.

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# Exhibit E

Agreement # \_\_\_\_\_

## GRANTEE'S AGREEMENT

This Agreement, made and entered into the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_ by and between the STATE OF NEVADA, acting by and through its Department of Transportation, hereinafter called DEPARTMENT and the Douglas County here inafter called GRANTEE.

### WITNESSETH:

WHEREAS, Section 18 of the Federal Transit Act, as amended through June 1992, provides federal funds for technical assistance in rural and small urban areas by way of a formula grant program to be administered by the DEPARTMENT; and

WHEREAS, the purpose of Section 18 is to enhance access of people in small urban and rural areas for purposes such as health care, shopping, education, recreation, public services, and employment by encouraging the maintenance, development, improvement, and use of passenger transportation systems; and

WHEREAS, the Governor of Nevada, in accordance with Section 18 of the Federal Transit Act as amended through June 1992, designated the Nevada Department of Transportation as the agency to receive and administer federal funds under this program for State agencies, local public bodies and agencies thereof, Indian Reservations and colonies, nonprofit organizations, and operators of public transportation services; and

WHEREAS, before Federal-Aid will be made available, the GRANTEE and DEPARTMENT are required to enter into an agreement whereby the functions of the project are identified in the project application submitted by the GRANTEE; and

WHEREAS, pursuant to the provisions contained in Chapter 408 of the Nevada Revised Statutes, the Director of the DEPARTMENT may enter into agreements for such technical services that may be required; and

WHEREAS, the GRANTEE has submitted a project proposal to the DEPARTMENT that has been approved for funding.

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

## ARTICLE I - PURPOSE OF AGREEMENT

1. The objective of this AGREEMENT is to provide technical assistance for the conduction of a county transportation needs assessment (hereinafter referred to as "PROJECT") by the GRANTEE and to state the terms, conditions and mutual understandings of the parties as to the manner in which the PROJECT will be undertaken and completed.

## ARTICLE II - SCOPE OF PROJECT

1. The GRANTEE shall undertake and complete the PROJECT as described and approved by the DEPARTMENT and in accordance with the terms and conditions of this AGREEMENT.

2. The AGREEMENT is based on funds available through Federal Transit Administration (FTA) Grant No. NV-18-X014.

## ARTICLE III - PERFORMANCE

1. The GRANTEE shall commence and carry on and complete the PROJECT with all practical dispatch in a sound economical and efficient manner.

2. The period of performance for all expenditures under the PROJECT shall begin May 1, 1997 and end April 30, 1997.

## ARTICLE IV - COST

1. The maximum reimbursement allowed for technical assistance for the PROJECT shall not exceed the sum of \$ 25,000.

2. All receipts submitted for reimbursement shall be supported with proper documentation and a clearly marked date of payment. The request for reimbursement shall be for services rendered during the above period of performance.

## ARTICLE VI - SCHEDULE OF PAYMENTS

1. In consideration of continuous and satisfactory performance of the duties outlined in this AGREEMENT, the DEPARTMENT agrees to reimburse the GRANTEE monthly, upon the submission of copies of logs, invoices and other substantiating documentation of expenses. The DEPARTMENT will utilize its normal accounting procedure in the payment of the invoices submitted. In no case shall payment be made for any item in advance.

## ARTICLE VII - RECORDS AND REPORTS

1. The GRANTEE shall establish and maintain, in accordance with requirements established by the DEPARTMENT, separate accounts for the PROJECT, either independently or within its existing accounting system, to be known as the PROJECT account.
2. All charges to the PROJECT account shall be supported by properly executed invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges, in accordance with the rules and regulations of the DEPARTMENT.
3. Any check or order drawn by the GRANTEE with respect to any item which is or will be chargeable against the PROJECT account will be drawn only in accordance with a properly signed voucher then on file in the office of the GRANTEE stating in proper detail the purpose for which such check or order is drawn. All checks, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to the PROJECT shall be clearly identified, readily accessible and, to the extent feasible, kept separate and apart from all other such documents.
4. The GRANTEE shall advise the DEPARTMENT regarding the progress of the PROJECT at such times and in such manner as the DEPARTMENT may require, including, but not limited to meetings and interim reports. The GRANTEE shall submit to the DEPARTMENT, at such time as may be required, such financial statements, data, records, contracts and other documents related to the PROJECT as may be deemed necessary by the DEPARTMENT.

## ARTICLE VIII - TERMINATION

1. This AGREEMENT may be terminated at any time by either of the parties. The GRANTEE may terminate its participation in the PROJECT by notifying in writing and receiving concurrence of the DEPARTMENT thirty (30) days in advance of the termination. In the event of the failure of the GRANTEE to comply with the terms of this AGREEMENT, the DEPARTMENT may terminate the AGREEMENT by giving the GRANTEE thirty (30) days written notice. The DEPARTMENT, before issuing notice of AGREEMENT termination, shall allow the GRANTEE a reasonable opportunity to comply with the terms of the AGREEMENT.
2. In any dispute concerning a question of fact in connection with the PROJECT the decision of the Director of the Nevada Department of Transportation, with the concurrence of the FTA shall be final and conclusive as to all parties.
3. Upon termination of the PROJECT and cancellation of this AGREEMENT under the provisions of Paragraphs (1) and (2) of this



ARTICLE, the GRANTEE agrees to dispose of the PROJECT vehicle in accordance with DEPARTMENT procedures.

#### ARTICLE IX - MISCELLANEOUS PROVISIONS

1. The GRANTEE shall establish and maintain a separate account within its existing accounting system specifically for, and limited to, all fiscal activities required to perform the services under this AGREEMENT. GRANTEE'S accounting system shall comply with the regulations and standards of the Cost Accounting Standards Board or conform to uniform standards that may be established by the DEPARTMENT.
2. The GRANTEE accepts the terms and conditions of the FTA required Special Section 13(c) Labor Warranty.
3. The GRANTEE will comply with all the requirements imposed by Section 504 of the Rehabilitation Act, Americans with Disabilities Act (ADA) and the Regulation of U. S. Department of Transportation issued thereunder (CFR Title 49, Part 27), and the assurance pursuant thereto.
4. The GRANTEE will be in compliance with all FTA required drug free work place regulations and drug/alcohol testing, as appropriate.
5. This AGREEMENT is subject to a financial assistance agreement between the State and the U. S. Department of Transportation.
6. In connection with the performance of this AGREEMENT, the GRANTEE will cooperate with the DEPARTMENT in meeting his commitments and goals with regard to the maximum utilization of Disadvantaged Business Enterprises (DBE) and will use its best efforts to insure that DBEs have the maximum practicable opportunity to compete for subcontract work under this AGREEMENT.
7. The GRANTEE shall, at his own expense, obtain and pay for all licenses, permits or fees and comply with all federal, state and local laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts of administrative bodies or tribunals in any manner affecting the performance of this AGREEMENT, including without limitation, Worker's Compensation Laws, Licensing Laws and Regulations.
8. The GRANTEE will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49, code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATION), which are herein incorporated by reference and made a part of this AGREEMENT.

(a) Nondiscrimination: The GRANTEE, with regard to the work performed by it during the agreement, shall not discriminate on the grounds of race, color, age, religion, sex, creed, handicap, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The GRANTEE shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the agreement covers a program set forth in Appendix B of the REGULATIONS.

(b) Solicitations for Subcontracts, including Procurement of Materials, and Equipment: In all solicitations either by competitive bidding or negotiation made by the GRANTEE for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the GRANTEE of the GRANTEE'S obligations under this AGREEMENT and the REGULATIONS relative to nondiscrimination on the grounds of race, color, age, religion, sex, creed, handicap or national origin.

(c) Information and Reports: The GRANTEE shall provide all information and reports required by the REGULATIONS, or directives issued pursuant thereto, and shall permit access to its facilities as may be determined by the DEPARTMENT and the FTA to be pertinent to ascertain compliance with such regulations or directives. Where any information required of a GRANTEE is in the exclusive possession of another who fails or refuses to furnish this information, the GRANTEE shall so certify to the DEPARTMENT, or the FTA as appropriate, and shall set forth what efforts it has made to obtain the information.

(d) Sanctions for Noncompliance: In the event of the GRANTEE'S noncompliance with the nondiscrimination provisions of this AGREEMENT, the DEPARTMENT shall impose such AGREEMENTsanctions as it or the FTA may determine to be appropriate including, but not limited to:

1. Withholding of payments to the GRANTEE under the AGREEMENT until the GRANTEE complies, and/or
2. Cancellation, termination or suspension of the AGREEMENT, in whole or in part.

(e) Incorporation of Provisions: the GRANTEE will include the provisions of Paragraphs (a) through (d) in every subcontract including procurement of materials and leases of equipment, unless exempt by Regulations, order, or instructions issued pursuant thereto. The GRANTEE will take such action with respect to any subcontract or procurement as the DEPARTMENT or

FTA may direct as a means of enforcing such provisions including sanctions for non-compliance. Provided, however, that in the event the GRANTEE becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, GRANTEE may request the DEPARTMENT to enter into such litigation to protect the interests of the DEPARTMENT, and, in addition, the GRANTEE may request the U. S. Department of Transportation(USDOT) to enter into such litigation to protect the interests of the USDOT.

9. It is expressly understood that the duly authorized representatives of the DEPARTMENT and the FTA shall have access to such records of the GRANTEE as pertain to charges made under this AGREEMENT, and the GRANTEE will retain records subject to audit, for three (3) years from the date of final payment.

10. The GRANTEE shall not assign or subcontract any of the work performed under this AGREEMENT without the prior written approval of the DEPARTMENT. The GRANTEE will, subsequent to obtaining written approval from the DEPARTMENT, provide the DEPARTMENT with a copy of the contract or agreement for said work. Any attempted assignment of rights or delegation of duties under this AGREEMENT, without the prior written consent of the DEPARTMENT, shall be void.

11. The GRANTEE hereby agrees to fully exonerate, indemnify and save harmless the State of Nevada, any of its departments, divisions, agencies, officers or employees from and against all claims or actions, and all expenses incidental to the defense of any such claims or actions, based upon or arising out of damage or injury (including death) to persons or property due to any error, negligence, omission or act of the GRANTEE or any person employed by him, or any others for whose acts the GRANTEE is legally liable. The sums shall include, in the event of any action, the amount of the judgement, court costs, expenses of litigation, expert witness fees and reasonably attorney's fees.

12. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this AGREEMENT or to any benefit arising therefrom.

13. No member, officer or employee of the GRANTEE during his tenure or one year thereafter shall have any interest, direct or indirect, in this AGREEMENT or the proceeds thereof.

14. The laws of the State of Nevada shall be applied in interpreting and construing this AGREEMENT.

15. The illegality or invalidity of any provision or portion of this AGREEMENT shall not affect the validity of any remaining provision.

16. As used herein the GRANTEE shall include the plural as well as the singular, and the feminine as well as the masculine.

17. This AGREEMENT shall constitute the entire understanding between the parties, and no modification shall be binding unless in writing and signed by the parties.

COPY



IN WITNESS WHEREOF, the GRANTEE has signed and the DEPARTMENT has caused its name to be signed hereon the date first above written.

GRANTEE:

By: Jacqueline Etchegoyen  
NAME

Chairman, Douglas County Commission  
TITLE

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

BY: \_\_\_\_\_  
DIRECTOR

Approved as to Legality and Form:

\_\_\_\_\_  
DEPUTY ATTORNEY GENERAL  
Department of Transportation

REQUESTED BY  
**DOUGLAS COUNTY**  
IN OFFICIAL RECORDS OF  
DOUGLAS CO. NEVADA

**CERTIFIED COPY**

The document to which this certificate is attached is a full, true and correct copy of the original on file and on record in my office.

'97 JUL 14 AM 11:42

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DATE: July 14, 1997  
B. REED, Clerk of the Judicial District Court of the State of Nevada, in and for the County of Douglas.

By: Carol M. Culloch Deputy

LINDA SLATER  
RECORDER  
\$ 0 PAID K0 DEPUTY

**SEAL**

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