

Approved 5-15-03
Summ Deu
eff Foltz

FILED
NO. 2003.102
03 MAY 20 P1 50

TROLLEY LEASE BETWEEN DOUGLAS COUNTY
AND AREA TRANSIT MANAGEMENT, INC.

THIS VEHICLE LEASE, made this 15TH day of MAY 2003, by Barbara Reed DEPUTY
and between Douglas County (County) and Area Transit Management, Inc. (ATM).

WITNESSETH

WHEREAS, County and ATM wish to provide trolley service for transporting people within the Lake Tahoe Basin using vehicles leased by ATM from County.

NOW, THEREFORE, and in consideration of the mutual promises and agreements herein contained, it is agreed by and between the parties as follows:

1. County hereby leases to ATM for the period June 1, 2003 to September 30, 2003, two trolley vehicles for regular operation of a trolley service (1993 Golden Gate Model VIN 1FDWK74C3PVA28398 and San Francisco Mode VIN 1FDNF70J9PVA09018). In addition, the trolleys will be used for the following special events:

<u>Activity</u>	<u>Location</u>	<u>Dates</u>
N/A	N/A	N/A

2. During the term of the agreement, ATM will assure an adequate back-up vehicle (Bus Plus van) in case of vehicle malfunction. ATM shall assume full responsibility for not only providing the back-up vehicle but also for all maintenance, repairs, storage, insurance, fuel, and drivers to insure a safe and reliable level of service. The lease payment for the trolleys shall be \$1.00.

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NF
Comm Dev
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3. ATM shall provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of \$5,000,000. The policy shall remain in force through the life of this contract and shall be payable on a "per occurrence" basis unless County specifically consents to a "claims made" basis. Collision/comprehensive coverage shall be the actual cash replacement value.

County shall be named as an additional insured on the policy. The insurer shall supply a certificate of insurance and endorsements signed by the insurer evidencing such insurance to County prior to commencement of service, and said certificate of endorsement shall provide for thirty days advance notice to County of any termination or reduction in coverage. All deductibles shall be the responsibility of ATM.

4. ATM shall operate the trolleys in accordance with any Grant Funding Agreement between the County and the South Shore Transportation Management Association (SSTMA) and any Operations Agreement between SSTMA and ATM.

5. ATM agrees to respond promptly to recommendations and suggestions of County that are within the scope of this Lease. Issues and operating details not defined herein shall be discussed between the parties as they may arise and mutually agreed upon before implementation of policy or operating decision.

6. ATM shall indemnify and hold harmless County, their officers, agents and employees, against liability for injury or death of persons, or damage to

property, caused by any act or omissions of ATM's agents, officers or employees arising out of the performance of this contract.

If any judgment is rendered against County for any injury, death or damage caused by ATM during the term of this agreement, ATM shall, at its own expense, satisfy and discharge any judgment.

Neither of the foregoing paragraphs shall be applicable if the injury, death or damage is caused by County's gross negligence.

As used above, County means County or its officers, agents, employees or volunteers.

7. ATM shall not sublease a trolley or assign its use without prior written approval of County Board for the term of this Lease.

8. ATM shall maintain the appropriate operators licenses throughout the life of this contract. ATM shall also obtain any and all permits that might be required for the services to be performed herein.

9. ATM shall maintain on a current basis complete books and records to this contract. Such records shall include, but not be limited to, documents supporting all income and all expenditures. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the work on this contract.

ATM will permit County or its authorized agent upon written notice to audit all books, accounts, or records relating to this contract or all books, accounts, or records of any business entities controlled by ATM who participated in the performance of this agreement in any way. An audit shall be conducted on

ATM's premises, and ATM shall provide all books and reports within a maximum of fifteen days upon receipt of written notice from County.

10. ATM acknowledges that it is aware of the provisions of Nevada law which requires every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code and it certifies that it will comply with such provisions before commencing the performance of the work of this agreement.

11. ATM will comply with U.S. DOT regulations on Drug-Free Workplace Requirements (Grants), 49 CFR 29.630.

12. In connection with the execution of this agreement, ATM shall not discriminate against any employee or applicant for employment on the basis of race, color, religion, age, sex, national origin, political affiliation, ancestry, marital status, or disability. This policy does not require the employment of unqualified persons.

13. If ATM fails to provide in any manner the services required under this agreement or otherwise fails to comply with the terms of this agreement or violates any ordinance, regulation, or other law which applies to its performance herein, County may terminate this contract by giving thirty (30) days written notice to ATM.

ATM shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes, or other forces over which ATM has no control.

14. It is expressly understood that in the performance of the services herein, ATM and its agents and employees thereof shall act in an independent capacity as an independent contractor, and not as officers, agents, or employees of County.

15. This Lease may be amended or modified only by written agreement of both parties.

16. This Lease shall be construed in accordance with the laws of the State of Nevada and the parties hereto agree that venue shall be Douglas County, Nevada.

17. ATM shall comply with any and all federal, state, and local laws affecting the services covered by this contract.

18. These trolleys are titled and registered in the name of the County in the State of Nevada for the duration of this lease. If licensing and/or inspection are required by any other government authority during the term of this lease, the cost thereof, proper permitting and any other costs, fees or taxes shall be the responsibility of ATM.

19. ATM shall submit to County a written report of the condition of the trolley within seven (7) days of receipt of trolley. Such report shall note any and all mechanical and cosmetic deficiencies. ATM shall provide all gasoline, oil, lubricants and anti-freeze required for the proper operation or protection of the trolleys. ATM shall keep and maintain the trolleys and each part thereof in good condition and working order, properly serviced in accordance with the manufacturer's warranty schedule, or other such schedule approved by the

County or its designee, and shall make all necessary repairs and replacements thereto, including normal wear and tear items such as tires, brakes, etc.

Compensation for customary and usual charges for necessary trolley servicing, repairs and maintenance shall be included in the hourly operating rate paid by SS/TMA to ATM under the Annual Operating Contract. Exceptional charges relating to repairs and/or maintenance are reimbursable to ATM under this Agreement and shall include major repairs or replacements involving the engine, transmission, drive train and axels. A 'major repair or replacement' shall be defined as an individual expense exceeding \$500, or a series of repairs to the same mechanical component(s) that exceeds \$750 during any single season of operations. Such expenditures shall first be approved by the County or its designee, and shall be subsequently documented by copies of paid outside vendor invoices and a detailed invoice from ATM setting forth a complete itemization of charges. Title to all replacements shall vest in County. ATM shall wash the interior and exterior of the trolleys on a minimum weekly basis and maintain the trolleys in a clean appearance and condition. ATM is not authorized to make any major repair or any modification on to the trolleys without the express written consent of County. ATM shall maintain a written service record on the trolleys during the term of this lease and make such record and the trolleys available for County's inspection at any reasonable time. Annual maintenance shall be the responsibility of County. Annual maintenance shall consist of refinishing or replacing the woodwork on the trolleys as needed to repair the effects of exposure to the elements.

20. County makes no representations, promises, statements or other warranties, express or implied, other than those set forth herein with respect to the merchantability, suitability, or fitness of the trolleys for any specific purpose. ATM agrees that County shall not be liable to ATM for any loss, claims, demand, liability, cost, damage or expenses of any kind caused or alleged to be caused, directly or indirectly, by the trolleys or by any inadequacy thereof, or any loss of business or any consequential damage whatsoever and however caused except as may be covered in the manufacturer's warranty. ATM agrees that its obligations to pay the rentals herein provided shall not, in any way, be affected by any default or failure of performance. In the event of a major trolley failure not covered by warranty the trolley shall be taken out of service and the parties shall meet and confer as to whether this agreement shall be terminated, modified, or continued.

21. Unless this agreement is amended to otherwise provide, ATM shall use the trolleys solely for the intended purpose of passenger transportation. In no event shall ATM use or permit the trolleys to be operated for any illegal purpose, or in violation of any law, statute, ordinance or regulations or by any person or persons under the influence of alcohol or narcotics or in any negligent manner that would cause damage or cause unusual wear and tear to the trolleys or for a purpose that would cause any insurance covering it to be suspended, canceled or inapplicable.

As required by TRPA regulations ATM or its agent shall not fasten signs, banners, posters or advertising to the interior or exterior of the trolleys unless

such mountings do not in anyway penetrate or damage the exterior/ interior, paint or woodwork of the trolleys. ATM shall bear the cost of removal and of any repairs to damage caused by the removal of any signs, banners, posters or advertising.

ATM shall comply with the provisions previously set forth in the maintenance and repairs clause and must return the trolleys in clean and good operating condition, reasonable wear and tear excepted. ATM hereby agrees to the following standards for return of the trolleys.

The trolleys must:

1. Be clean.
2. Be in good mechanical and operating condition with no missing parts, inoperative parts or otherwise unacceptable physical damage or appearance.
3. Have no scratches or dents over one (1) inch long on the body, including disfigured metal work.
4. Have no paint scratches, chips or rusted areas or series thereof over one (1) inch long.
5. Have no damaged or broken wood parts.
6. Have no tears, cuts or damage to the flooring necessitating repair or replacement.
7. Have no cracks, scratches, pits or chips in the windshield, nor other broken windows or inoperative window mechanisms.
8. Have neither broken headlights, nor broken lenses nor broken sealed beams.
9. Contain no other damage that must first be repaired in order to put the trolleys in service.

Should any of the above conditions exist upon return of the trolleys to County (unless noted in the acceptance inspection report), ATM will be responsible for the cost associated with County's repairs of such defects and shall promptly reimburse County upon receipt of an invoice covering such repair costs.

In the event ATM fails to comply with any terms of this lease or violates any ordinance, regulation or law which applies to the proper operation of the trolleys or service provided, the County may at its sole option terminate this lease by giving thirty (30) days written notice to ATM. On receipt of such notice, ATM shall have seven (7) days to correct such deficiency or reach agreement with County on how such deficiency will be corrected, otherwise ATM shall be deemed in default and this agreement shall terminate.

In the event of such default, without demand or legal process and without being guilty of trespass or conversion and without thereby rendering the County liable to refund any sums received as a deposit or as prepaid rental, County, or its agent, may enter into premises where the trolleys may be found and take possession and remove the trolleys, whereupon all rights ATM has in such trolleys shall terminate.

22. ATM agrees that it will report to the County chair or his/her designee within forty-eight (48) hours following any occurrence of collision that occurs while the trolleys are in the custody of ATM or its drivers or agent. ATM and County shall cooperate fully with any insurance carriers in the investigation and defense of any and all claims or suits arising from operation of the trolleys.

23. This constitutes the entire agreement between the parties and may not be changed except by an instrument in writing signed by County and ATM. In the event any provision hereof shall be determined to be invalid, illegal, or unenforceable, such invalidity, illegality or unenforceability shall not affect the other or remaining provisions hereof.

24. Notices. Notices under this lease shall be sent by first class mail to the following addresses:

TAHOE DOUGLAS
TRANSPORTATION DISTRICT

County Manager

PO Box 218, Minden, NV 89423

AREA TRANSIT MANAGEMENT

PO Box 18400

South Lake Tahoe, CA 96151

TAHOE DOUGLAS
TRANSPORTATION DISTRICT

By: *Steve Weissinger*

Steve Weissinger, Chairman

AREA TRANSIT MANAGEMENT

By: *Ken Daley*

KEN DALEY, President

APPROVED AS TO FORM

F. Cheryl
Douglas County District Attorney

REQUESTED BY
DOUGLAS COUNTY
IN OFFICIAL RECORDS OF
DOUGLAS COUNTY, NEVADA

2003 MAY 21 AM 8:04

WERNER CHRISTEN
RECORDER

PAID Kg DEPUTY

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.

DATE: May 20, 2003

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B. Reed Clerk of the *9th* Judicial District Court
of the State of Nevada, in and for the County of Douglas.

By: *Carol M. Hullock* Deputy

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