

NF  
Co Mgr

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OFFICIAL RECORD

Requested By:

DC/COUNTY MANAGERS OFFICE

Assessor's Parcel Number: N/A

Date: MARCH 28, 2008

Recording Requested By:

Douglas County - NV  
Werner Christen - Recorder  
Page: 1 Of 13 Fee: 0.00  
BK-0308 PG- 7672 RPTT: 0.00



Name: COUNTY MANAGER'S OFFICE

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Real Property Transfer Tax: \$ N/A

AGREEMENT #2008.065

(Title of Document)

This page added to provide additional information required by NRS 111.312 Sections 1-2. (Additional recording fee applies)

*This cover page must be typed or legibly hand printed.*

FILED

NO. 2008.065

Agreement Number ~~2008 MAR 28~~ PM 2:43

SUB-RECIPIENT AGREEMENT

BARBARA J. GRIFFIN

CLERK

This Agreement is made and entered into the 20 day of MARCH, 2008 by and between the Carson Area Metropolitan Planning Organization, a governmental agency, hereinafter called "DESIGNATED RECIPIENT" and Douglas County, hereinafter called "SUB-RECIPIENT".

WITNESSETH:

WHEREAS, NRS 277.045 authorizes two or more political subdivisions of Nevada to enter into a cooperative agreement for the performance of any governmental function; and

WHEREAS, DESIGNATED RECIPIENT and SUB-RECIPIENT are political subdivisions of Nevada; and

WHEREAS, on May 1, 2002 Carson City was identified by the United States Department of Commerce, Bureau of the Census as a qualifying urban area for Census 2000 in the Federal Register; and

WHEREAS, Urbanized Area Formula Grants are allocated by the Federal Transit Administration for use by qualifying urban areas for the expansion, enhancement, and increased use of transit services; and

WHEREAS, on February 26, 2003, the Carson Area Metropolitan Planning Organization was designated by the Governor of Nevada in accordance with the provisions of Title 23, Section 134 of the United States Code as the metropolitan planning organization for the Carson City urbanized area; and

WHEREAS, the Carson Area Metropolitan Planning Organization will be the designated recipient and grantee beginning with the Federal Fiscal Year 2008, and already has a role in cooperation with the Nevada Department of Transportation in processing Federal financial assistance; and

WHEREAS, Douglas County operates transit services in the Carson Urbanized Area and is eligible for Federal financial assistance; and

WHEREAS, the Carson Area Metropolitan Planning Organization is tasked with the process for planning transportation and transit services as well as expenditures of Federal funds within the metropolitan planning organization boundary; and



WHEREAS, before Federal-Aid will be made available to the SUB-RECIPIENT, the SUB-RECIPIENT and DESIGNATED RECIPIENT are required to enter into an agreement whereby the functions of the PROJECT are identified; and

WHEREAS, the Chairman of the DESIGNATED RECIPIENT may enter into agreements for such technical services that may be required; and

WHEREAS, the SUB-RECIPIENT and the DESIGNATED RECIPIENT have developed a Transportation Improvement Program 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 purpose of this Agreement is to designate authority to the DESIGNATED RECIPIENT to obtain financial assistance for SUB-RECIPIENT and to state the terms, conditions and mutual understanding of the parties as to the manner in which the PROJECTS will be undertaken and completed. Furthermore, this agreement establishes the financial responsibilities of the SUB-RECIPIENT.

#### ARTICLE II - DESIGNATION OF AUTHORITY

1. The SUB-RECIPIENT authorizes DESIGNATED RECIPIENT to apply for State and Federal financial assistance for PROJECTS.

#### ARTICLE III - FINANCIAL RESPONSIBILITY

1. The SUB-RECIPIENT shall provide proof of sufficient funds to operate and maintain the PROJECTS.
2. The SUB-RECIPIENT shall provide the necessary local match funds for the PROJECTS prior to submittal of allowable reimbursable expenses to DESIGNATED RECIPIENT.
3. The DESIGNATED RECIPIENT shall not be responsible for any expense incurred by SUB-RECIPIENT for any reason.

#### ARTICLE IV - PERFORMANCE

1. The SUB-RECIPIENT shall comply with all terms, conditions, and requirements of the FTA as stated in the SUB-RECIPIENT'S Master Agreement For Federal Transit Administration Agreements

authorized by 49 U.S.C. chapter 53, Title 23, United States Code (Highways), the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, the Transportation Equity Act for the 21<sup>st</sup> Century, as amended, the National Capital Transportation Act of 1969, as amended, or other Federal laws that FTA administers, incorporated herein by reference.

2. The SUB-RECIPIENT will make available to the DESIGNATED RECIPIENT when requested such information as needed to comply with FTA reporting requirements including grant milestones, narrative progress reports, and Financial Status Reports, by providing timely reports of activities completed and anticipated.
3. The SUB-RECIPIENT will comply with all applicable FTA regulations, including but not limited to those addressing Safety Jurisdiction, Environmental Protection, Private Sector Participation, School Bus Transportation, Coordination and Public Hearings.
4. The SUB-RECIPIENT will comply with all applicable FTA required drug free work place and alcohol testing regulations.

#### ARTICLE V - RECORDS AND REPORTS

1. The SUB-RECIPIENT shall advise the DESIGNATED RECIPIENT regarding the progress of the PROJECT at such times and in such manner as the DESIGNATED RECIPIENT may require, including, but not limited to meetings and interim reports. The SUB-RECIPIENT shall submit to the DESIGNATED RECIPIENT, at such time as the DESIGNATED RECIPIENT may require, such financial statements, data, records, contracts and other documents related to the PROJECT as may be deemed necessary by the DESIGNATED RECIPIENT.
2. It is expressly understood that the duly authorized representatives of the DESIGNATED RECIPIENT and the FTA shall have access to such records of the SUB-RECIPIENT as they pertain to all matters arising under this Agreement, and the SUB-RECIPIENT will retain records subject to audit, for three (3) years from the Fiscal Year or the time of Agreement termination, which ever occurs first.

#### ARTICLE VI - TERMINATION

1. This Agreement may, by mutual consent be terminated upon thirty (30) days written notice.

2. The continuation of this Agreement is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the State Legislature and/or Federal Transit Administration (FTA) and the ability of the SUB-RECIPIENT to secure the required matching funds. The DESIGNATED RECIPIENT may terminate this Agreement, and the SUB-RECIPIENT waives any and all claims for damages, effective immediately upon service of written notice, or any date specified therein, if for any reason the DESIGNATED RECIPIENT'S funding from state and/or federal sources is not appropriated or is withdrawn, limited or impaired.
3. A default or breach may be declared with or without termination. Either party upon service of written notice of default or breach to the other party upon the following grounds may terminate this Agreement:
  - a. If the SUB-RECIPIENT fails to provide or satisfactorily perform any of the conditions, professional services, deliverables, goods or services called for by this Agreement; or
  - b. If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law or regulation to be held by the SUB-RECIPIENT or subcontractor to provide the goods or services required by this Agreement is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed or not renewed; or
  - c. If the SUB-RECIPIENT becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or
  - d. If any party materially breaches any material duty under this Agreement and any such breach impairs the other party's ability to perform; or
  - e. If it is found by the DESIGNATED RECIPIENT that any quid pro quo or gratuities in the form of money, services, entertainment, gifts or otherwise were offered or given by the SUB-RECIPIENT, or any agent or representative of the SUB-RECIPIENT, to any officer or employee of the Carson Area Metropolitan Planning Organization with a view toward securing an agreement or securing favorable treatment with respect to awarding, extending, amending or making any determination with respect to the performing of such agreement.

4. Termination upon a declared default or breach may be exercised after service of written notice and the subsequent failure of the defaulting party, within fifteen (15) calendar days of service of that notice, to provide evidence, satisfactory to the aggrieved party, showing the declared default or breach has been corrected. The date of the postmark on the written notice will be the service date.
5. Upon termination or cancellation of the services embraced under this Agreement, all current project vehicle(s) purchased with FTA funds shall be returned to the DESIGNATED RECIPIENT.

#### ARTICLE VII - MISCELLANEOUS PROVISIONS

1. The SUB-RECIPIENT, for itself, its assignees and successors in interest agrees as follows:
  - a. Debarment and/or Suspension: The SUB-RECIPIENT certifies that neither it nor its principals, or subcontractors, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
  - b. ADA: The SUB-RECIPIENT and its subcontractors, shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act (ADA) of 1990, and regulations adopted thereunder contained in 49 CFR, Parts 27, 37 and 38, inclusive, and any relevant program-specific regulations.
  - c. Civil Rights: The SUB-RECIPIENT and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or person offered employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition, including AIDS and AIDS-related conditions.
  - d. Disadvantaged Business Enterprises (DBEs): In connection with the performance of this Agreement, the SUB-RECIPIENT will cooperate with the DESIGNATED RECIPIENT in meeting the DESIGNATED RECIPIENT'S commitments and goals with regard to the maximum utilization of Disadvantaged Business Enterprises (DBEs) and will use its best efforts

to insure the DBEs have the maximum practicable opportunity to compete for subcontract work under this Agreement.

2. The SUB-RECIPIENT, for itself, its assignees and successors in interest agrees as follows:
  - a. Compliance with Regulations: The SUB-RECIPIENT shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
  - b. Nondiscrimination: The SUB-RECIPIENT, with regard to the work performed by it during the term of the Agreement, shall not discriminate on the grounds of race, national origin, creed, color, sex, religion, age, disability or handicap condition, including AIDS and AIDS-related conditions in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The SUB-RECIPIENT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices.
  - c. Solicitation for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the SUB-RECIPIENT 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 SUB-RECIPIENT of the SUB-RECIPIENT'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, national origin, creed, color, sex, religion, age, disability or handicap condition, including AIDS and AIDS-related conditions.
  - d. Information and Reports: The SUB-RECIPIENT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to facilities as may be determined by the DESIGNATED RECIPIENT or the Federal Transit Administration to be pertinent to ascertain compliance with such Regulations or directives.



- e. Sanctions for Noncompliance: In the event of the SUB-RECIPIENT'S noncompliance with the nondiscrimination provisions of this Agreement, the DESIGNATED RECIPIENT shall impose such Agreement sanctions as it or the Federal Transit Administration may determine to be appropriate, including, but not limited to:
1. Withholding of payments to the SUB-RECIPIENT under this Agreement until the SUB-RECIPIENT complies, and/or
  2. Cancellation, termination or suspension of this Agreement, in whole or in part.
- f. Agreements with subcontractors will include provisions making all subcontractor records available for audit by the DESIGNATED RECIPIENT and/or the Federal Transit Administration (FTA).
- g. Incorporation of Provisions: The SUB-RECIPIENT will include the provisions of Paragraphs (a) through (e) in every subcontract including those for procurement of materials and leases of equipment, unless exempt by Regulations, order, or instructions issued pursuant thereto.
3. The SUB-RECIPIENT will include all required Federal procurement clauses in all purchase contracts as required by the State Management Plan to include Buy America, Debarment and Suspension and Lobbying.
  4. The SUB-RECIPIENT agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act.
  5. The SUB-RECIPIENT agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. and the Clean Air Act, as amended, 42 U.S.C. 7401 et seq.
  6. The SUB-RECIPIENT acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, applies to its actions pertaining to the Project.
  7. The SUB-RECIPIENT shall, at its own expense, obtain and pay



for all licenses, permits and/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 SUB-RECIPIENT and all successors, executors, administrators, and assigns of the SUB-RECIPIENT'S interest in the work or the compensation herein provided shall be bound by the terms of this Agreement.
9. No member, officer or employee of the SUB-RECIPIENT during his or her tenure and for a period of one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.
10. In any dispute arising under this Agreement as to performance, compensation, and the interpretation of satisfactory fulfillment of the terms of this Agreement, the decision of the Transportation Manager of the DESIGNATED RECIPIENT, with the concurrence of the FTA, shall be final and conclusive as to all parties. Nothing herein contained shall impair the parties' rights to file suit in the courts of the State of Nevada.
11. To the fullest extent of NRS Chapter 41 liability limitations, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorney's fees and costs, arising out of any alleged negligent or willful acts or omissions of the party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity that would otherwise exist as to any party or person described herein. The indemnifying party conditions this indemnification obligation upon service of written notice within thirty (30) days of the indemnified party's notice of actual or pending claims or cause of action. The indemnifying party shall not be liable to hold harmless any attorney's fees and costs for the indemnified party's chosen right to participate with legal counsel.
12. The parties do not waive and intend to assert available NRS Chapter 41 liability limitations in all cases. Agreement liability of both parties shall not be subject to punitive damages. Actual damages for any DESIGNATED RECIPIENT breach shall never exceed the amount of funds that have been

appropriated for payment under this Agreement, but not yet paid for the fiscal year budget in existence at the time of the breach.

13. This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the exclusive jurisdiction of the Nevada district courts for enforcement of this Agreement.
14. All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephone facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted and addressed to the other parties at the addresses set forth below:

FOR DESIGNATED RECIPIENT:

Shelly Aldean, Chairman  
ATT.: Patrick Pittenger, Transportation Manager  
Carson Area Metropolitan Planning Organization  
3505 Butti Way  
Carson City, NV 89701-3498  
Phone: (775) 883-2355  
Fax: (775) 888-2112  
E-Mail: ppittenger@ci.carson-city.nv.us

FOR SUB-RECIPIENT:

Kelly Kite, Chairman  
ATT.: County Manager  
Douglas County  
PO Box 218  
Minden, NV 89423  
Phone: (775) 782-9821  
Fax: (775) 782-6255

15. The SUB-RECIPIENT shall not assign, transfer or delegate any rights, obligations or duties under this Agreement without the prior written consent of the DESIGNATED RECIPIENT.
16. The parties are associated with each other only for the purposes and to the extent set forth in this Agreement. Each party is and shall be an entity separate and distinct from the other party and shall have the right to supervise, manage, operate, control and direct performance of the details incident to its duties under this Agreement.

17. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof a third party beneficiary statutes hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms and or provisions of this Agreement.
18. It is specifically agreed between the parties executing this Agreement that it is intended to create a contractual relationship solely between the DESIGNATED RECIPIENT and the SUB-RECIPIENT. It is further specifically agreed between the parties executing this Agreement that it is not intended by any provisions of any part of this Agreement, to create in the SUB-RECIPIENT's subcontractors, the public, or any member thereof, a contractual relationship between such persons and entities and the DESIGNATED RECIPIENT.
19. Neither party shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder for any reason beyond its control, including, without limitation, strikes, inmate disturbances, acts of God, civil or military authority, act of public enemy, accidents, fires, explosions, earthquakes, floods, winds storms, failure of public transportation, or any other similar serious cause beyond the reasonable control of either party. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of this Agreement after the intervening cause ceases.
20. Each party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that party to the extent that such information is confidential by law or otherwise required by this Agreement.
21. The SUB-RECIPIENT acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the SUB-RECIPIENT, or any other party pertaining to any matter resulting from the underlying Agreement.
22. The SUB-RECIPIENT acknowledges that if it makes, or causes to be made, a false, fictitious or fraudulent claim, statement,

submission or certification to the Federal Government under an agreement connected with a project that is financed in whole or in part with Federal assistance originally awarded by the FTA under the authority of 49 U.S.C. 5311, the Government reserves the right to impose the penalties of 18 U.S.C. 1001 and 49 U.S.C. 5307 (n)(1) against the SUB-RECIPIENT, to the extent the Federal Government deems appropriate.

23. Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is confidential by law or a common law balancing of interests.
24. The illegality or invalidity of any provision or portion of this Agreement shall not affect the validity of the remainder of this Agreement and this Agreement shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.
25. The parties hereto represent and warrant that the person executing this Agreement on behalf of each party has full power and authority to enter into this Agreement and that the parties are authorized by law to engage in the activities which form the subject of this Agreement.
26. This Agreement shall not become effective until and unless approved by appropriate official action of the governing body of each party.
27. As used herein, the term "SUB-RECIPIENT" shall include the plural as well as the singular, and the feminine as well as the masculine.
28. Except as otherwise provided for by law or this Agreement, the rights and remedies of the parties hereto shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, the recovery of actual damages and the prevailing party's reasonable attorney's fees and costs.
29. This Agreement constitutes the entire agreement of the parties and such is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Agreement specifically displays a mutual intent to amend a particular part of this Agreement, general conflicts in language between any such attachment and this Agreement shall



be construed consistent with the terms of this Agreement. Unless otherwise specifically authorized by the terms of this Agreement, no modifications or amendment to this Agreement shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.

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

SUB-RECIPIENT:  
Douglas County

DESIGNATED RECIPIENT:  
Carson Area Metropolitan  
Planning Organization

SIGNATURE

*Kelly Kite*  
Kelly Kite

Chairman

ATTEST:

*Barbara J. Griffin*  
Signature  
By: *L. Lynch, Clerk's Board*

Approved as to From:

*Scott Mann*  
Attorney

SIGNATURE

*Shelly Aldean*  
Shelly Aldean

Chairman

ATTEST:

*Katherine L. McLaughlin Deputy*  
Alan Glover

Approved as to From:

*[Signature]*  
Attorney

**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: March 28, 2008  
Secretary of the 9th Judicial District Court  
of the State of Nevada, in and for the County of Douglas.  
By Carol M. Mulvey Deputy

SEAL

