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OFFICIAL RECORDS

Requested By:
DC/SENIOR SERVICES

DOUGLAS COUNTY RECORDERS
Karen Ellison - Recorder

Page: 1 of 9 Fee: \$ 0.00

Bk: 0813 Pg: 018



Deputy: sg

Assessor's Parcel Number: N/A

Date: JULY 31, 2013

Recording Requested By:

Name: TRAVIS LEE, SENIOR SERVICES

Address: _____

City/State/Zip: _____

Real Property Transfer Tax: \$ N/A

GRANTEE AGREEMENT #2013.161

(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.

Agreement Number PI08-12-802

**GRANTEE AGREEMENT
DOUGLAS AREA RURAL TRANSIT (DART) ARRA COMMUNICATION SYSTEM
FOR THE DART TRANSIT SYSTEM**

This Agreement is made and entered the 15th day of May, 2012, by and between the State of Nevada, acting by and through its Department of Transportation hereinafter called "DEPARTMENT" and the Douglas Area Rural Transit (DART), a governmental agency, hereinafter called "GRANTEE".

WITNESSTH:

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 services that may be required; and

WHEREAS, the purpose of 49 USC 5311 is to enhance access of people in small urban and rural areas to activities 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 purpose of the American Recovery and Reinvestment Act of 2009 ("ARRA") is to support multi-pronged efforts to stimulate the economy. Goals include the preservation or creation of jobs and promotion of an economic recovery, as well as the investment in transportation, environmental protection and other infrastructure providing long-term economic benefits.

WHEREAS, in the furtherance of its aforesaid purposes, the ARRA provides for the availability of federal funds for capital acquisition, and operating assistance through 49 USC 5311 in small urban and rural areas of the State by way of Federal Transit Administration ("FTA") Formula Grant Program to be administered by the DEPARTMENT; and

WHEREAS, the Governor of Nevada, in accordance with 49 USC 5311 has designated the DEPARTMENT as the agency to receive and administer federal funds under the aforementioned FTA Formula Grant Program for State agencies, local public bodies and agencies thereof, Indian reservations and colonies, nonprofit organizations, and operators of public transportation services; and

WHEREAS, the GRANTEE is a governmental agency eligible to receive 49 USC 5311 grant funds; and

WHEREAS, before FTA Formula Grant Program funding will be made available to the GRANTEE, the GRANTEE and the DEPARTMENT shall be required to enter into an agreement whereby the functions of the project are identified.

WHEREAS, the GRANTEE will design, advertise, award, and manage construction of a communication system for the DART transit offices and the fixed route buses as outlined in the Project Scope attached hereto and incorporated herein as Attachment A hereinafter "PROJECT"; and

WHEREAS, the PROJECT has been approved for Federal funding under the ARRA; and


TED THRAN
CLERK

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2013 JUL 31 PM 12: 02

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

ARTICLE I - DEPARTMENT AGREES:

1. To ensure that the GRANTEE's actions are in accordance with applicable Federal and State regulations and policies.
2. To obligate Federal funding under ARRA for a maximum amount of Five Hundred Seventy-Five Thousand and No/100 Dollars (\$575,000.00).
3. To ensure that all reporting and project documentation, as necessary for financial management and required by applicable Federal requirements, is submitted by the DEPARTMENT to the FTA.
4. To reimburse the GRANTEE, monthly as work progresses on the PROJECT, for one hundred percent (100%) of ELIGIBLE PROJECT COSTS based on supporting documentation. Total reimbursement shall not exceed the total obligated amount, as established in ARTICLE I Paragraph 2. ELIGIBLE PROJECT COSTS are those costs as defined in the applicable Federal Office of Management and Budget (OMB) Circulars including but not limited to those listed on Attachment B, attached hereto and incorporated herein.

ARTICLE II - GRANTEE AGREES:

1. The PROJECT shall be operated and maintained in accordance with applicable Federal, State and local laws, regulations, ordinances and policies.
2. The GRANTEE will include all Federally required procurement clauses in all purchase contracts as required by the State Management Plan to include Buy America, Debarment and Suspension, and Lobbying.
3. To provide to the DEPARTMENT all reporting and project documentation, as necessary for financial management, required by applicable Federal requirements and any future reporting requirements associated with the ARRA funding.
4. To submit to the DEPARTMENT monthly employee reports as required by the ARRA. The reports shall be submitted electronically on the form provided by the DEPARTMENT on <http://www.nevadadbe.com>, no later than 8 days after the end of each month. Failure to submit the required employee information may result in withholding of the payment.
5. As work progresses on the PROJECT, the GRANTEE shall provide the DEPARTMENT with monthly invoices for payment of the PROJECT COSTS. The invoice shall be based upon and accompanied by auditable supporting documentation. Total reimbursement shall not exceed the total obligated amount, as established in ARTICLE I Paragraph 2. Invoices shall be forwarded to the DEPARTMENT's Project Coordinator for payment processing. The DEPARTMENT's Project Coordinator shall forward the invoice to the DEPARTMENT's Project Accounting Division for payment processing. ELIGIBLE PROJECT COSTS are those costs as defined in the applicable Federal OMB Circulars including but not limited to those listed on Attachment B.

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

7. The GRANTEE accepts maintenance responsibilities.

8. The GRANTEE shall comply with all terms, conditions, and requirements of the FTA Section 5311 – Small Urban and Rural Transportation Program as stated in the State Management Plan, incorporated herein by reference, and shall abide by all applicable FTA regulations as well as the ARRA requirements.

9. The GRANTEE understands and agrees that the Federal Government retains a Federal interest in any equipment financed with Federal assistance (Project property) until, and to the extent, that the Federal Government relinquishes its Federal interest in that Project equipment. With respect to any Project equipment financed with Federal assistance under the Grant Agreement, the GRANTEE agrees to comply with the provisions of the FTA Master Agreement (available at www.ftaamweb.fta.dot.gov/static/Agreements/2010-16-MASTER.pdf), except to the extent FTA determines otherwise in writing.

10. The GRANTEE shall comply with all applicable FTA required drug free work place and alcohol testing regulations, and drug/alcohol testing requirements. The GRANTEE shall comply with the DEPARTMENT's "Zero Tolerance" Drug and Alcohol Testing Policy as stated in the State Management Plan. The GRANTEE shall adopt and submit to the DEPARTMENT within ninety (90) days of execution of this Agreement, a signed and acknowledged copy of the DEPARTMENT'S Drug and Alcohol Testing Policy. The GRANTEE shall establish and implement a drug and alcohol testing program that complies with 49 CFR Part 655, produce any documentation necessary to establish its compliance, and permit any authorized representative of the DEPARTMENT, the United States Department of Transportation or its operating administrations, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program required under 49 CFR Part 655 and review the testing process. The GRANTEE shall annually certify its compliance and shall submit Management Information System (MIS) reports to the DEPARTMENT before March 1 of each calendar year contained within the term of this Agreement.

In order to certify compliance, the GRANTEE shall use the "Substance Abuse Certifications" contained within the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published by the FTA annually and found in the Federal Register at www.fta.dot.gov, and also included in Attachment A.

11. The GRANTEE shall not assign or subcontract any of the work performed under this Agreement without the prior written approval of the DEPARTMENT. Upon the GRANTEE'S receipt of the DEPARTMENT'S written approval to assign or subcontract any of the work performed under this Agreement, the GRANTEE will provide the DEPARTMENT with a copy of the executed contract 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 unauthorized and may effect the reimbursement of funds.

12. The GRANTEE and all successors, executors, administrators, and assigns of the GRANTEE'S interest in the work or the compensation herein provided shall be bound by the terms of this Agreement.

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

ARTICLE III - IT IS MUTUALLY AGREED:

1. The PROJECT must be advertised by June 30, 2012. The term of this Agreement shall be from the date first written above through September 30, 2012, save and except the responsibility for maintenance as specified herein.

2. Costs associated with this Agreement will be administered in accordance with the cost principles contained in the applicable Federal OMB Circulars A-87 and A-122 incorporated herein by reference and located at www.fta-dot.gov.

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

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

5. The TOTAL ESTIMATED PROJECT COSTS are Five Hundred Seventy-Five Thousand and No/100 Dollars (\$575,000.00), comprising Federal funding of one hundred percent (100%) of the TOTAL ESTIMATED PROJECT COSTS. The parties acknowledge and agree that the TOTAL ESTIMATED PROJECT COSTS set forth herein are only estimates and that in no event shall the DEPARTMENT or federal portion exceed the total obligated amount, as established in ARTICLE I Paragraph 2.

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

TOTAL ESTIMATED PROJECT COSTS:	\$575,000.00
<u>AVAILABLE FUNDING SOURCE:</u>	
FTA ARRA Funds:	\$575,000.00
TOTAL PROJECT FUNDING:	\$575,000.00

7. The DEPARTMENT shall not be responsible for reimbursement of any PROJECT COSTS until this Agreement is executed by both parties and the federal funding has been obligated.

8. The TOTAL PROJECT COSTS shall be determined by the total costs incurred by the GRANTEE as established in ARTICLE III Paragraph 6. The GRANTEE is responsible for one hundred percent (100%) of any and all costs not eligible for Federal funding. ELIGIBLE PROJECT COSTS are those costs as defined in the applicable Federal OMB Circulars, including but not limited to those listed on Attachment B.

The specifications, cost estimate and bid documents are listed in Attachment C "Required Documents in Bid Packets of Projects without DBE Goals", attached hereto and incorporated herein.

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

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

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

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

13. All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile or electronic mail with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth below:

FOR DEPARTMENT:

Susan Martnovich, P.E., Director
ATT.: Michelle Gardner
Nevada Department of Transportation
1263 South Stewart Street
Carson City, NV 89712
Phone: (775) 888-7312
Fax: (775) 888-7207
E-Mail: mgardner@dot.state.nv.us

FOR GRANTEE:

Travis Lee
Douglas Area Rural Transit
1112 Airport Road, Building C-2
Minden, NV 89423
Phone Number: (775) 783-6455
Fax: (775) 783-6457
Email: lee@co.douglas.nv.us

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

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

16. This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the exclusive jurisdiction of the Nevada district courts for enforcement of this Agreement.

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

18. Failure to declare a breach or the actual waiver of any particular breach of the Agreement and or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

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

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

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

22. The parties are associated with each other only for the purposes and to the extent set forth in this Agreement. Each party is and shall be a public agency separate and distinct from the other party and shall have the right to supervise, manage, operate, control and direct performance of the details incident to its duties under this Agreement. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.

23. In connection with the performance of work under this Agreement, the parties agree not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation or age, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including, without limitation, apprenticeship. The parties further agree to insert this provision in

all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

24. Both parties shall assure that no person shall on the grounds of race, color, national origin, gender, age or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any service, program or activity offered by said parties, regardless of funding source. Both parties further assure that every effort will be made to prevent discrimination through the impacts of their programs, policies, and activities on minority and low-income populations. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Agreement without the prior written consent of the other party.

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 cooperative action set forth herein.

26. Pursuant to N.R.S. 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is confidential by law or a common law balancing of interests.

27. 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.

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

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

30. Section 902 of the ARRA requires that each contract awarded using ARRA funds must include a provision that provides the U.S. Comptroller General and his representatives with the authority to:

a. to examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and

b. to interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

Accordingly, the Comptroller General and his representatives shall have the authority and rights as provided under Section 902 of the ARRA with respect to this PROJECT, which is funded by ARRA funds. Section 902 further states that nothing therein shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

The GRANTEE agrees it will include the above-referenced provisions in its contracts on this PROJECT.

31. Section 1515(a) of the ARRA provides as follows:

(a) ACCESS. --With respect to each contract or grant awarded using covered funds, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), is authorized --

(1) to examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract, that pertain to, and involve transactions relating to, the contract, subcontract, grant, or subgrant; and

(2) to interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.

Section 1515(a) of the ARRA provides authority for any representatives of the Inspector General to examine any records or interview any employee or officers working on a contract involving ARRA funds. The GRANTEE agrees to advise any contractor that representatives of the Inspector general have the authority to examine any record and interview any employee or officer of the contractor, its subcontractors or other firms working on this PROJECT. Section 1515(b) further provides that nothing in Section 1515(a) shall be interpreted to limit or restrict in any way any existing authority of an Inspector general.

The GRANTEE agrees it will include the above-referenced provisions in its contracts on this PROJECT.

32. This Agreement constitutes the entire agreement of the parties and as such is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Agreement specifically displays a mutual intent to amend a particular part of this Agreement, general conflicts in language between any such attachment and this Agreement shall be construed consistent with the terms of this Agreement. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Attorney General.

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

GRANTEE: Douglas Area Rural Transit,
(DART) a governmental agency

Signature

Lee Bonner

Name (Print)

Chairman, Board of Commissioners
Title (Print)

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

Director

Reviewed:

Tracy Larkh-Thomason
Asst. Director, Planning

Approved as to Legality and Form:

Deputy Attorney General

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:

July 31, 2013
TARA Clerk of the Judicial District Court
of the State of Nevada, In and for the County of Douglas.

By Deputy