

**City of Carson City
Agenda Report**

Date Submitted: October 24, 2014

Agenda Date Requested: November 6, 2014
Time Requested: 10 Minutes

To: Carson City Board of Supervisors

From: Chief Tad Fletcher, Department of Alternative Sentencing

Subject Title: For possible action: Action to approve the State of Nevada Department of Public Safety, Office of Traffic Safety Project Number 956 781 041, Grant Award of \$50,000 for the period of October 1, 2014 – September 30, 2015 to fund a full time DUI Case Manager position.

Staff Summary: The grant funding will be utilized to continue to fund a full time DUI Case Manager. The Case Manager will be responsible for the oversight and coordination of third time DUI offenders participating in the Western Regional DUI Felony Court in the First Judicial District Court.

Type of Action Requested: (check one)
 Resolution Ordinance
 Formal Action/Motion Other (Specify) Information Only

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to approve the State of Nevada Department of Public Safety, Office of Traffic Safety Project Number 956 781 041, Grant Award of \$50,000 for the period of October 1, 2014 – September 30, 2015 to fund a full time DUI Case Manager position.

Explanation for Recommended Board Action: The Nevada Department of Public Safety's Office of Traffic Safety has funded a full time DUI Case Manager position since 2009. The grant will allow for continued funding to support the existing DUI Case Manager position. The total in-kind match is \$39,827. The DUI Case Manager coordinates and ensures that convicted third time DUI offenders participating in the Western Regional DUI Offender Specialty Court are meeting all program requirements, performs drug and alcohol testing, and other ancillary services. The Western Regional DUI Offender Specialty Court is comprised of a Specialty Court Judge, the Carson City District Attorney's Office, the State Public Defender, and the Department of Alternative Sentencing in Carson City. The program is mandated by NRS 484C.340.

Applicable Statute, Code, Policy, Rule or Regulation: NRS 484C.340

Application by third-time offender to undergo program of treatment; sentencing of offender and conditional suspension of proceedings; requirements to participate in program of treatment; certain previous convictions preclude offender from participating in program of treatment.

1. An offender who enters a plea of guilty or nolo contendere to a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (c) of subsection 1 of NRS 484C.400 may, at the time the offender enters a plea, apply to the court to undergo a program of treatment for alcoholism or drug

abuse which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services for at least 3 years if:

(a) The offender is diagnosed as an alcoholic or abuser of drugs by:

(1) An alcohol and drug abuse counselor who is licensed or certified, or a clinical alcohol and drug abuse counselor who is licensed, pursuant to chapter 641 Cof NRS, to make that diagnosis; or

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners; and

(b) The offender agrees to pay the costs of the treatment to the extent of his or her financial resources.

È An alcohol and drug abuse counselor, a clinical alcohol and drug abuse counselor or a physician who diagnoses an offender as an alcoholic or abuser of drugs shall make a report and recommendation to the court concerning the length and type of treatment required for the offender.

2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the matter. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion.

3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter and other information before the court.

4. If the court determines that an application for treatment should be granted, the court shall:

(a) Immediately, without entering a judgment of conviction and with the consent of the offender, suspend further proceedings and place the offender on probation for not more than 5 years upon the condition that the offender be accepted for treatment by a treatment facility, that the offender complete the treatment satisfactorily and that the offender comply with any other condition ordered by the court.

(b) Advise the offender that:

(1) If the offender is accepted for treatment by such a facility, he or she may be placed under the supervision of the facility for not more than 5 years and during treatment the offender may be confined in an institution or, at the discretion of the treatment facility, released for treatment or supervised aftercare in the community.

(2) If the offender is not accepted for treatment by such a treatment facility, or if he or she fails to complete the treatment satisfactorily, the court will enter a judgment of conviction for a violation of paragraph (c) of subsection 1 of NRS 484C.400. Any sentence of imprisonment may be reduced by a time equal to that which the offender served before beginning treatment.

(3) If the offender completes the treatment satisfactorily, the court will enter a judgment of conviction for a violation of paragraph (b) of subsection 1 of NRS 484C.400.

(4) The provisions of NRS 483.460 requiring the revocation of the license, permit or privilege of the offender to drive do not apply.

5. The court shall administer the program of treatment pursuant to the procedures provided in NRS 458.320 and 458.330, except that the court:

(a) Shall not defer the sentence or set aside the conviction upon the election of treatment, except as otherwise provided in this section; and

(b) May enter a judgment of conviction and proceed as provided in paragraph (c) of subsection 1 of NRS 484C.400 for a violation of a condition ordered by the court.

6. To participate in a program of treatment, the offender must:

(a) Serve not less than 6 months of residential confinement;

(b) Install, at his or her own expense, a device for not less than 12 months;

(c) Not drive any vehicle unless it is equipped with a device;

(d) Agree to be subject to periodic testing for the use of alcohol or controlled substances while participating in a program of treatment; and

(e) Agree to any other conditions that the court deems necessary.

7. An offender may not apply to the court to undergo a program of treatment for alcoholism or drug abuse pursuant to this section if the offender has previously applied to receive treatment pursuant to this section or if the offender has previously been convicted of:

(a) A violation of NRS 484C.430;

- (b) A violation of NRS 484C.130;
 - (c) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430;
 - (d) A violation of paragraph (c) of subsection 1 of NRS 484C.400;
 - (e) A violation of NRS 484C.410; or
 - (f) A violation of law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a), (b), (c) or (d).
8. As used in this section, "device" has the meaning ascribed to it in NRS 484C.450.
 (Added to NRS by 2007, 1058; A 2009, 422, 1891)—(Substituted in revision for NRS 484.37941)

Fiscal Impact: No fiscal impact.

Funding Source:

Alternatives: Not approve.

Supporting Material: Grant Award.

Prepared By: Tad Fletcher, Chief of Alternative Sentencing.

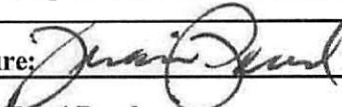
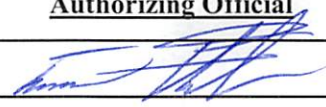
<p>Reviewed By: <u>Nicholas Marano</u> (City Manager)</p> <p><u>[Signature]</u> (District Attorney)</p> <p><u>[Signature]</u> (Finance Director)</p>	<p>Date: <u>10/28/14</u></p> <p>Date: <u>10/28/14</u></p> <p>Date: <u>10/28/14</u></p>
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Board Action Taken:

<p>Motion: _____</p>	<p>1) _____</p> <p>2) _____</p>	<p>Aye/Nay</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
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 (Vote Recorded By)

**STATE OF NEVADA
DEPARTMENT OF PUBLIC SAFETY
OFFICE OF TRAFFIC SAFETY
PROJECT AGREEMENT
OTS DUNS # 956 781 041**

Project Title: Carson City Felony DUI Court			
Applicant Agency: Carson City District Court		Governmental Unit: Carson City Court	
DUNS Number: 073787152		501(c):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Grant Period: From: Effective date of Authorization To: September 30, 2015			
PROJECT DESCRIPTION : To provide funding for a DUI Case Manager. Track the status of participants in the program, participate in team meetings and court appearances, maintain data, evaluate results, prior arrests/convictions, violations, track recidivism and prepare pre-sentence reports to aid the District Court Judges in making sentencing decisions. This program follows the National guidelines for specialty courts and utilizes the 10 Key Components of DUI Courts.			
Federal Funds Funding Level	FFY2015	\$50,000.00	CFDA # 20.616(d)
Future Funding Requests will be reviewed each applicable Federal Fiscal Year upon receipt of a new application, where a subsequent year award will be based on available funding, previous performance, and a reassessment of priority concerns.			
ACCEPTANCE OF CONDITIONS: It is understood and agreed by the undersigned that a grant received as a result of this agreement is subject to Public Law 112-141 (Highway Safety Act of 1966) and Nevada Revised Statutes, Chapter 223.200 and all administrative regulations governing grants established by the U.S. Department of Transportation and the State of Nevada. It is expressly agreed that this project constitutes an official part of the State's Highway Safety Plan and that said Applicant Agency will meet the requirements as set forth herein, including Schedules A, B, C, & C Supplemental which are incorporated herein and made a part of this agreement. The Applicant Agency <u>MAY NOT</u> proceed with this project, or any portion thereof, until funds are appropriated by the U.S. Congress and written authorization is received from the Office of Traffic Safety. It is also understood by the Applicant Agency that any funds expended prior to receipt of the written <u>Authorization to Proceed WILL NOT</u> be reimbursed.			
<u>Department of Public Safety</u>		<u>Authorizing Official</u>	
Signature: 		Signature: 	
Name: Traci Pearl		Name: Tad Fletcher	
Title: Highway Safety Coordinator, NV DPS - OTS		Title: Chief	
		Phone: (775) 887-2528	
		E-Mail: tfletcher@carson.org	
<u>Contact Information</u>		<u>Project Director</u>	
Office of Traffic Safety – Phone: 775 684-7471		Signature:	
Program Manager: John - PM Johansen		Name: Regina Baca	
Phone: (775) 684-7477		Title: DUI Case Manager	
E-Mail: jjohanse@dps.state.nv.us		Phone: (775) 283-7418	
		E-Mail: rbaca@carson.org	

SCHEDULE A
DESCRIPTION OF PROJECT

PURPOSE

PROBLEM STATEMENT:

PROBLEM STATEMENT: The ongoing effort to reduce the number of impaired drivers on Nevada's roadways begins with enforcement efforts to identify and arrest drivers impaired by alcohol and/or drugs. A known problem is the high rate of recidivism of these individuals. While the offense of impaired driving has been addressed by the criminal justice system, the underlying cause has not been addressed. The Third DUI Court Program is targeting third time offenders; however, it is our hope to work toward the implementation of a Second DUI Court Program to target second time offenders to deter them from re-offending.

PROJECT SOLUTION: To address the underlying cause of recidivism (dependence or abuse of alcohol and/or drugs) the dependency must be addressed. To achieve this, it is necessary to combine criminal sanctions with treatment for dependency and perform intense monitoring and supervision. Specialty Courts, such as the Third DUI Court Program, have successfully addressed the problem. The Third DUI Court Program consists of all stakeholders (a Judge, a prosecutor, a public defender, the DUI case manager, a probation officer and treatment providers) in the adjudication process acting as a multi-disciplinary team working towards a common goal of modifying the behavior of offenders. This approach addresses both the offense of impaired driving and the substance abuse/dependency that underlies the high recidivism rate for those individuals who do not address their dependency.

LOCAL DATA:

According to Carson City Justice Court records, in 2013 seventeen individuals were adjudicated in Carson City for DUI III. All seventeen individuals were screened by the Case Manager and eight were found to be eligible for the program. Of those eight, three have been sentenced to the program and five are still pending sentencing. Those five individuals are expected to be sentenced to the program in 2014. The nine individuals who were found to be ineligible all had prior felony convictions for DUI which prohibited them from participating in the program according to Nevada Revised Statutes.

In 2013, thirty-five individuals were adjudicated in Carson City for DUI II. Preliminary investigation indicates approximately two-thirds of those individuals (twenty-three) would be eligible to participate in a Misdemeanor DUI court.

Of the twenty-nine successful graduates to date, none have been arrested for DUI offenses.

CAUSE:

The underlying cause of recidivism for DUI offenders is dependance and addiction. When offenders do not recieve treatment, they are unable to break the cycle of addiction. Prison is not designed for treatment. By allowing DUI III and II offenders to remain in the community, properly supervised and held accountable, they are able to recieve the treatment services they require and benefit from the support of family and self-help groups like AA in their journey to sobriety.

COUNTERMEASURES:

In order to effectively address the problem of repeat drunk driving, the first Judicial District of Carson City has implemented a DUI Court, countermeasure 3.1. of the NHTSA Highway Safety Countermeasure Guide.

A DUI court can reduce recidivism because judge, prosecutor, probation staff, and treatment staff work together as a team to assure that alcohol treatment and other sentencing requirements are satisfied for offenders on an individual basis. A key feature of a DUI court is that the team meets regularly, giving all parties an opportunity to discuss the status of a case. Judges can then immediately revise restrictions, if appropriate. DUI courts can be more efficient and effective than regular courts because judges and prosecutors closely supervise the offenders and are familiar with the complex DUI laws, evidentiary issues, sentencing options, and the offenders.

A number of individual program evaluations show that DWI courts can be successful. Low DWI recidivism rates have been found for graduates of DWI courts in Athens (Georgia), Maricopa County (Arizona), Los Angeles County (California), and elsewhere (Marlowe et al., 2009). One study in Michigan found that DWI court participants were 19 times less likely to be rearrested for DWI within two years than a comparison group of offenders who were in traditional probation (Michigan Supreme Court & NPC Research, 2008). Another study of three DWI courts in Georgia found that offenders who graduated from the court program had a 9% recidivism rate within the next 4 years, compared to a 24% recidivism rate for a comparison group of offenders processed in traditional courts (Fell, Tippetts, & Langston, 2011).

GOALS:

GOALS: The goals of this project are as follows:

To support the Zero Fatalities Nevada program, to reduce the number of traffic injuries or deaths as a result of impaired driving.

To develop a self-sustaining program for the treatment of those found guilty of impaired driving that will reduce the recidivism rate by 50% or more and reduce the likelihood of individuals re-offending.

To provide a a case manager, in order to follow the 10 Guiding Principles of DWI Court. The case manager is an integral part of the Western Regional DUI Court team. The case manager is also an integral part of the participants' recovery and continued sobriety.

To provide observed urine drug/alcohol screening and evaluations and report findings to the DUI Court team.

To provide a liaison between treatment providers, supervising officers and the court.

To provide a pre-sentence report to the District Court Judges at the time of sentencing to aid in determining the eligibility of potential participants.

To begin a Second DUI/ High BAC misdemeanor Court in Justice Court

OBJECTIVES

MEASURABLE STEPS / TIMELINE:

The Carson City DUI Court will increase the number of participants by 100% in the next fiscal year by adding DUI II defendants to the program. In order to properly supervise these individuals the Court will require the continued funding of the Case Manager position and Judicial time which will be pursued through other means to include grants and City funding.

SELF SUSTAINABLE:

The project will become self-sustainable through collection of fees associated with alcohol/drug testing and probation fees. As the program grows the amount of fees collected will increase. The increase is projected to double last years collected fees if the DUI II program is able to be established. If the program is able to get off the ground and fully functioning, the amount brought in should match the cost of benefits and salaries of the DUI Case Manager. With that being said, the potential of being a self sustainable program is extremely high.

ACTIVITIES:

Meet and interview all potential candidates for the program. Explain all conditions and requirements of the program.

Prepare transfers of persons coming into or out of the jurisdiction of the Carson City DUI program. This transfer allows participants to utilize court services in the jurisdiction of the participant's home and thus making it easier to successfully complete the program. Driving privileges are often revoked and transportation is often an issue for participants.

Track the status of all participants in program.

Assist participants in filling out job applications and resumes.

Attend court and provide complete and accurate information on current participants to the DUI Court team at the DUI Staffing meetings. This information includes urine test results, verifying AA/12 step meetings, collecting counseling reports, verifying jail and other sanction completion and any other relevant information regarding participants.

Ensure compliance with all program requirements and conditions.

Maintain data from program e.g. evaluation results, prior arrests/convictions, arrest while in program, violations while in program, follow up data on graduates (two years from graduation date). The follow up data will be a summary of only active participants and graduates.

Collect and analyze urine samples from participants following standard collection guidelines.

Hold a press conference or submit press release to local newspaper detailing the program, funding source, goals and objectives and the probable outcome within 30 days of receipt of Authorization to Proceed.

Track, account for and report all in-kind contributions pertaining to his project.

Submit quarterly progress reports detailing the status of each objective and activity on January 15, April 15, July 15 and October 15 of the current year, as well as a final Annual Report summarizing the project's accomplishments or shortcomings submitted by October 31. Progress reports should include copies of any reports, documents, press releases, promotional items, and print media coverage related to the grant period.

OTHER REQUIRED ACTIVITIES:

1. All law enforcement agencies are required to report motor vehicle fatality data to Nevada's Fatality Analysis Reporting System (FARS) analyst at the Nevada Office of Traffic Safety, 4615 W. Sunset Rd, Las Vegas NV 89118, fax: 702.432.5377, or NV@fars.us
2. All law enforcement agencies are required to send their motor vehicle crash reports per NRS 484.219, et seq., electronically or manually to the Department of Public Safety/NCATS database and as otherwise required by state law.
3. Hold a press conference or submit press release to local newspaper(s) detailing the program, funding source, goals and objectives and the probable outcome within 30 days of receipt of Authorization to Proceed.
4. Track, account for and report all in-kind contributions pertaining to this project. Vehicle operation and maintenance, in addition to officer and supervisor salaries/benefits when not in a grant overtime mode, are examples of in-kind contributions.
5. Submit monthly progress reports detailing the status of each objective and activity by the 15th of the following month, as well as final *Annual* report summarizing the project's accomplishments or shortcomings by October 31. **Progress reports should include** copies of any reports, documents, press releases, promotional items, and print media coverage related to the grant project. **It is suggested that a claim for reimbursement for each month accompany the progress report.**

CLAIMS FOR REIMBURSEMENT:

Claims for reimbursement must be submitted in the e-Grants system. Claims must be submitted at least quarterly, if any grant project expenses were incurred and paid during that quarter. Reimbursement claims may be submitted monthly with the progress report.

Your agency/organization is ultimately responsible for verifying that claims for reimbursement, including timesheets for personnel costs, are accurate and that statistics or other data submitted to OTS are correct and valid.

Only costs included in the Project Agreement budget can be claimed. Costs must be for goods and services received during the grant period. If costs incurred were not included in the budget, they become in-kind contributions. In-kind contribution amounts should be reported on your claim. **Back-up documentation for all expenses claimed is required to be uploaded/attached within the Nevada eGrants system.**

Deadline for Filing Reimbursement Claims

Federal grant projects end on September 30 of each fiscal year. **All final claims must be filed within 30 days following the end of the fiscal year or the expiration of the project, whichever comes first.**

Any claim received after the final deadline (October 31) cannot be honored.

EVALUATION:

Participation in the DUI Court Program will be increased to 75 or more participants by end of grant period. This would be a combination of felony level and misdemeanor level offenders.

The case manager will track the recidivism rate of persons who have successfully completed the 3 to 5 year treatment program for two years following graduation.

The case manager will conduct interviews of persons who are unable or unwilling to complete the program to ascertain the reason(s) for failure. The reason(s) will be documented and reported to the Judge, treatment team and to the grantor..

Prior to graduation from the program, participants must fill out an exit survey. This survey identifies certain needs of the program as well as who has influenced the participants towards their success. The case manger is listed in the top three of every successful graduate to date.

Participants also must have an exit plan. This plan is reviewed by the staffing team. To maintain a clean and sober lifestyle and not re-offend, participants must have a plan. This plan is an important part of the continued success for participants of the program.

SCHEDULE B
ITEMIZATION OF BUDGET

Agency: Carson City District Court

Project Title: Carson City Felony DUI Court

Federal Fiscal Year: 2015

Category	Federal Fund	Matching Fund	Total Project Cost 100%
Personnel	\$43,650.00	\$15,622.00	\$59,272.00
Travel	\$6,350.00	\$1,504.00	\$7,854.00
Equipment	\$0.00	\$2,700.00	\$2,700.00
Contract Services	\$0.00	\$0.00	\$0.00
Other Direct Costs	\$0.00	\$20,000.00	\$20,000.00
Indirect Costs	\$0.00	\$0.00	\$0.00
Program Income			\$0.00
Total Expenses	\$50,000.00	\$39,826.00	\$89,826.00

BUDGET NARRATIVE (only those items to be funded by federal funds):

.This grant would fund one full time (FTE) DUI Court Case Manager position. The Case Manager is an integral member of the DUI Court Team, as described throughout this grant application. The DUI Court adheres to the 10 Guiding Principles of DWI Courts and the team approach to ensure a successful program.

Match for the Case Manager will come from unrestricted funds.

All other expenses related to the position will be in-kind match including office space, office furniture, office supplies, office phone, some office equipment and related expenses.

Travel expenses would include all DUI Court team members to be able to attend the NADCP Training Conference in Anaheim, California in the summer of 2014. This includes hotel accommodations, air fare, transfers, per diem and conference fees.

SCHEDULE C AGREEMENT OF UNDERSTANDING AND COMPLIANCE

THIS AGREEMENT made and entered into by and between the STATE OF NEVADA by and through the Department of Public Safety, Office of Traffic Safety, hereinafter referred to as "STATE" and the Governmental unit or organization named in this application, hereinafter referred to as "APPLICANT."

WHEREAS, MAP-21, the Moving Ahead for Progress in the 21st Century Act (P.L. 112-141), of July 6, 2012 provides Federal funds to the State for approved traffic safety projects, and

WHEREAS, STATE may make said funds available to various state, county, or municipal agencies or governments or political sub-divisions upon application and approvals by STATE and the United States Department of Transportation, and

WHEREAS, the APPLICANT must comply with the requirements listed herein, to be eligible for Federal funds in approved traffic safety projects, and

WHEREAS, the APPLICANT has submitted an application for Federal funds for traffic safety projects, and is aware that this agreement is dependent upon availability of funds as appropriated by Congress.

NOW THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES AGREE AS FOLLOWS:

I. REIMBURSEMENT OF ELIGIBLE EXPENDITURES

1. It is mutually agreed and promised that upon written application by APPLICANT and approval by STATE and the United States Department of Transportation, STATE shall obligate said Federal funds to APPLICANT'S account for reimbursement of eligible expenditures as set forth in the application.
2. It is mutually agreed and promised that APPLICANT shall reimburse STATE for any ineligible or unauthorized expenditure for which Federal funds have been claimed and payment received as determined by a State or Federal audit.
3. It is mutually agreed and promised that where reimbursement is made to APPLICANT in installments, STATE shall have the right to withhold any installments to make up reimbursement received for any ineligible or unauthorized expenditure until such time as the ineligible claim is made up or corrected by APPLICANT.
4. It is further agreed that a clear audit trail must be established to determine costs charged against this agreement. Claims with documents to substantiate all costs will be submitted at least quarterly.

II. PROPERTY AGREEMENT

1. Property purchased through this project which has an anticipated useful life extending beyond one year, is not consumed in use, is not attached permanently as a non-movable fixture and which costs more than \$1,000 will be recorded in the property management file of the agency in accordance with the State Administrative Manual. The STATE retains the right to inspect and to reclaim custody of any or all of the property described above if, in the opinion of the STATE, the property is not being used as intended; not being used to the capacity that it could be; or being used in a negligent manner.
2. It is mutually agreed and promised by the APPLICANT that no property purchased through this project will be conveyed, sold, salvaged, transferred, etc. without the express written approval of the STATE.

- III. RECORDS** It is mutually agreed and promised that records of the project, including substantiation for reimbursement, shall be maintained for a period of three years upon reimbursement of final claim voucher and shall be subject to audit during that period.
- IV. AUDIT RESPONSIBILITY** All agencies that expend \$500,000 or more in Federal awards in a Federal fiscal year must have a single or program specific audit in compliance with the Single Audit Act of 1984 (Public Law 98-502). Therefore, funding from this traffic safety grant must be included when a Single Audit is performed. It is the responsibility of the applicant agency to insure an accepted copy of this audit is submitted to the STATE. If the applicant agency expended < \$500,000 in federal funding for the fiscal year, a copy of their most recent financial statement will be forwarded to the STATE.
- V. REPORTS** The APPLICANT shall submit required reports on the progress of the grant, and shall submit all financial, performance, and other reports required, as a condition of the grant, to the STATE within 30 days after the date of the completion of the contract. The final report of each fiscal year will include a narrative summary of the year including the successes and shortcomings, if any, of the project.
- VI. PUBLIC INFORMATION MATERIALS** It is agreed by the APPLICANT prior to production of public information materials through this grant project that proofs, scripts or concept will be submitted for STATE approval. Public information materials includes, but not limited to, TV and radio public service announcements, billboards, pamphlets/brochures and posters, and other promotional materials.
- VII. COPYRIGHTS AND PATENTS**
1. Any copyrightable materials produced in the course of a project may be the property of the STATE and APPLICANT AGENCY; however, provisions should be made to obtain for the United States Government, the State Government and its political subdivisions, a royalty-free, nonexclusive and irrevocable license to use in any manner such copyrightable material.
 2. The ownership of all rights accruing from any patentable discoveries or inventions resulting from a project should be covered in the agreement. An irrevocable, non-exclusive, nontransferable, and royalty-free license to practice each discovery or invention in the manufacture, use, and disposition, according to law, of any article or material, and in the use of any method developed as a part of the work under the agreement should be obtained for the United States Government, the State Government and its political subdivisions.
- VIII. MINORITY BUSINESS ENTERPRISE CERTIFICATION**
1. The APPLICANT agrees to ensure that the recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any subcontracts financed in whole or in part with Federal funds.
 2. Recipient will notify the Office of Traffic Safety prior to the announcement or award of any third-party contract.
- IX. CERTIFICATION OF NON-DUPLICATION OF GRANT AND MATCHING FUND EXPENDITURES**
- The APPLICANT hereby certifies, as a condition of receiving Federal funds under the above-numbered traffic safety project, that:
1. There are no Federally funded projects currently active or anticipated that would duplicate expenditures for the work to be carried out and reimbursable under this agreement and that
 2. The non-Federal funds used to match Federal funds obligated under this project are not being used to

- match any other Federal funds from any source, and that
3. Any such duplication of Federal fund expenditures subsequently determined by audit will be subject to recovery by the State of Nevada and the United States Government and that
 4. Any such duplication of non-Federal matching fund expenditures subsequently determined by audit will subject the Federal funds obligated under this project subject to recovery by the State of Nevada and the United States Government.

X. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

The State will comply with FFATA guidance, *OMB Guidance on FFATA Subward and Executive Compensation Reporting*, August 27, 2010,

(https://www.fsrs.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reporting_08272010.pdf) by reporting to FSRS.gov for each sub-grant awarded:

- Name of the entity receiving the award;
- Amount of the award;
- Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source;
- Location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country; and an award title descriptive of the purpose of each funding action;
- A unique identifier (DUNS);
- The names and total compensation of the five most highly compensated officers of the entity if in the preceding fiscal year, that entity received:
 - 80% or more of its annual gross revenues in Federal awards;
 - \$25,000,000 or more in annual gross revenues from Federal awards; and
 - the public does not have access to data on executive compensation through reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934, or section 6104 of the Internal Revenue Code of 1986
- Any other relevant information specified by OMB.

XI. THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)

- The State will provide a drug-free workplace by:
- Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- Establishing a drug-free awareness program to inform employees about:
 1. The dangers of drug abuse in the workplace.
 2. The grantee's policy of maintaining a drug-free workplace.
 3. Any available drug counseling, rehabilitation, and employee assistance programs.
 4. The penalties that may be imposed upon employees for drug violations occurring in the workplace.
 5. Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a).
- Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will -
 1. Abide by the terms of the statement.
 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

- Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction.
- Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted -
 1. Taking appropriate personnel action against such an employee, up to and including termination.
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by Federal, State, or local health, law enforcement, or other appropriate agency.
- Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

XII. LOBBYING

A. Certification Regarding Federal Lobbying (applies to Applicants as well as States)

Certification for Contracts, Grants, Loans, and Cooperative Agreements the undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

B. Restriction on State Lobbying (applies to Applicants as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

XIII. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION (applies to Applicants as well as States)

Instructions for Primary Certification

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

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms *covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and* have the meaning set out in the Definitions and coverage sections of 49 CFR Part 29. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction", provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment

rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property; (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

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

Instructions for Lower Tier Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms *covered transaction*, *debarred*, *suspended*, *ineligible*, *lower tier covered transaction*, *participant*, *person*, *primary covered transaction*, *principal*, *proposal*, and *voluntarily excluded*, as used in this clause, have the meanings set out in the Definition and Coverage sections of 49 CFR Part 29. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. (See below).
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for

debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

XIV. BUY AMERICA ACT (applies to Applicants as well as States)

The State will comply with the provisions of the Buy America Act (49 U.S.C. 5323(j)), which contains the following requirements: Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

XV. POLITICAL ACTIVITY (HATCH ACT) (applies to Applicants as well as States)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501–1508) which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

XVI. NONDISCRIMINATION (applies to Applicants as well as States)

The State highway safety agency will comply with all Federal statutes and implementing regulations relating to nondiscrimination. These include but are not limited to:

- (a) Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352), which prohibits discrimination on the basis of race, color or national origin (and 49 CFR Part 21);
- (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681–1683 and 1685–1686), which prohibits discrimination on the basis of sex;
- (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and the Americans with Disabilities Act of 1990 (Pub. L. 101–336), as amended (42 U.S.C. 12101, et seq.), which prohibits discrimination on the basis of disabilities (and 49 CFR Part 27);
- (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101–6107), which prohibits discrimination on the basis of age;
- (e) the Civil Rights Restoration Act of 1987 (Pub. L. 100–259), which requires Federal-aid recipients and all subrecipients to prevent discrimination and ensure nondiscrimination in all of their programs and activities;
- (f) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse;
- (g) the comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
- (h) Sections 523 and 527 of the Public Health Service Act of 1912, as amended (42 U.S.C. 290dd–3 and 290ee–3), relating to confidentiality of alcohol and drug abuse patient records;
- (i) Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601, et seq.), relating to

nondiscrimination in the sale, rental or financing of housing;

(j) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and

(k) the requirements of any other nondiscrimination statute(s) which may apply to the application.

XVII. FAILURE TO COMPLY In addition, the APPLICANT agrees that if it fails or refuses to comply with these undertakings, the STATE may take any or all of the following actions:

1. Cancel, terminate, or suspend this agreement in whole or part
2. Refrain from extending any further assistance to the APPLICANT under the program, until satisfactory assurance of future compliance has been received
3. Refer the case to the Attorney General for appropriate legal proceedings.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts, or other Federal financial assistance extended after the date hereof to the APPLICANT by the Department of Public Safety under the U.S. Department of Transportation under the Highway Safety Programs and other participants in the Highway Safety Programs.

It is mutually agreed between the STATE and the APPLICANT that this AGREEMENT OF UNDERSTANDING AND COMPLIANCE shall become effective upon the STATE'S AGREEMENT and issuance of Authorization to Proceed.

SEE ALSO SCHEDULE C – STATE SUPPLEMENT BELOW

Schedule C – State Supplement

Funds cannot be expended prior to receiving a written Authorization to Proceed from the Department of Public Safety -Office of Traffic Safety

1. **IF THE GRANTEE AGENCY NEEDS TO MAKE ANY REVISIONS TO THIS PROJECT AGREEMENT** during the grant period, the Agency Project Director or Fiscal Officer must notify OTS prior to making such changes, to obtain OTS approval. This includes changes in grant personnel, Project Director, or Fiscal Officer; address, email and phone numbers, scope of work of the project; budgetary changes, etc.
2. **AS A GRANT APPLICANT, YOUR AGENCY INCLUDED IN-KIND CONTRIBUTION FUNDS** when preparing the Schedule B (project budget). The grantee is required to report on or substantiate in-kind contributions on each claim submitted. The Office of Traffic Safety grant program manager assigned to the project can help you with this. For more information please refer to our Grant Administration Manual located on the Nevada eGrants website at: <http://egrants.nv.gov>; once logged in, click on the ‘My Training Materials’ tab.
3. **WHEN PURCHASING EQUIPMENT** (extrication, video cameras, radar units, etc.), agency should contact State Purchasing to determine the state’s contracted price, if applicable: <http://purchasing.state.nv.us/>. For equipment purchases with a unit price of \$1,000 or higher, a completed and signed Property Acquisition Report must accompany your claim for reimbursement. This form must be obtained from your assigned OTS Program Manager.
4. **PUBLIC INFORMATION AND EDUCATIONAL (PI&E) MATERIALS/PROMOTIONAL ITEMS MUST BE APPROVED BY OTS** prior to purchase. All media activities require prior approval of DPS-OTS and educational material must include the phrase: “Funding provided (in whole or in part) by the Nevada Office of Traffic Safety.” *This includes Public Service Announcements, any program artwork, key chains, etc.*
5. **STATE AND LOCAL AGENCIES SELECTED FOR FEDERAL FUNDING ARE SUBJECT TO FEDERAL SINGLE LINE** audit requirements and must submit their most recent audit report to OTS. Non-profit organizations are required to provide OTS a copy of their most recent audited financial status report prior to issuance of an Authorization to Proceed.
6. **ALL NON-PROFIT ORGANIZATIONS MUST SUBMIT A COPY OF THEIR APPROVED FEDERAL 501(C) FORM** with their signed Project Agreement (this document) as well as a copy of their most recent financial status report regardless of amount of funds awarded. An Authorization to Proceed cannot be issued without these documents on file with DPS-OTS.
7. **SUB-GRANTEES THAT RECEIVE OTS GRANT FUNDING FOR PERSONNEL COSTS** in their budgets are also required to substantiate the payroll time via an activity report, timesheet, or generally accepted payroll documentation. This is particularly applicable to sub-grantees who receive federal funding from more than one source.
8. **IN RESPONSE TO THE FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)**, all recipients of Federal grant funding, where individual awards are \$25,000 or more, are required to provide OTS with their unique DUNS number before an Authorization to Proceed can be issued. This information must be submitted to OTS via the Application Process in Nevada eGrants.

9. **SUB-GRANTEE IS AND SHALL BE INDEPENDENT** and subject only to the terms of the 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 the State whatsoever with respect to the indebtedness, liabilities, and obligations of the Sub-grantee or any other party. Sub-grantee shall be solely responsible for, and the State shall have no obligation with respect to: (1) withholding of income taxes, FICA or any other taxes or fees; (2) industrial insurance coverage; (3) participation in any group insurance plans available to employees of the State; (4) participation or contributions by either Sub-grantee or the State to the Public Employees Retirement system; (5) accumulation of vacation leave or sick leave; or (6) unemployment compensation coverage provided by the State.
10. **INSPECTION & AUDIT.**
- a) **Books and Records.** Each party agrees to keep and maintain under general accepted accounting principles full, true and complete records, agreements, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.
 - b) **Inspection & Audit.** Each party agrees that the relevant books, records (written, electronic, computer related or otherwise), including but not limited to relevant accounting procedures and practices of the party, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location where such records may be found, with or without notice by the Office of Traffic Safety, the Division of Internal Audits, the Legislative Counsel Bureau, State Auditor, Employment Security, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives.
 - c) **Period of Retention.** All books, records, reports, and statements relevant to this Agreement must be retained a minimum three years as part of this Agreement. The retention period runs from the date of completion or termination of this Agreement. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.
11. **INDEMNIFICATION.** Neither party waives any right or defense to indemnification that may exist in law or equity.
12. **LIMITED LIABILITY.** The parties will not waive and intend to assert available NRS chapter 41 liability limitations in all cases. Liability of both parties shall not be subject to punitive damages.
13. **INDEPENDENT PUBLIC AGENCIES.** The parties are associated with each other only for the purposes and to the extent set forth in this Agreement, and in respect to performance of services pursuant to this Agreement, each party is and shall be a public or non-profit agency separate and distinct from the other party and, subject only to the terms of this Agreement, shall have the sole 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.
14. **SEVERABILITY.** If any provision contained in this Agreement is held to be unenforceable by a court of law or equity, 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.

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

16. **OWNERSHIP OF PROPRIETARY INFORMATION**. Unless otherwise provided by law any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under this Agreement), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Agreement shall be the joint property of both parties.

17. **PUBLIC RECORDS**. 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 made confidential by law or a common law balancing of interests.

18. **CONFIDENTIALITY**. 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.

19. **PROPER AUTHORITY**. 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 perform duties and obligations specified in this Agreement.

20. **GOVERNING LAW; JURISDICTION**. 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 jurisdiction of the Nevada district courts for enforcement of this Agreement.

It is mutually agreed between the STATE and the APPLICANT agency that this **SCHEDULE C – STATE SUPPLEMENT** shall become effective upon the STATE’S AGREEMENT and issuance of **Authorization to Proceed**.

June 2013