



# STAFF REPORT

**Report To:** Board of Supervisors

**Meeting Date:** April 20, 2017

**Staff Contact:** Nicki Aaker (naaker@carson.org)

**Agenda Title:** For Possible Action: To approve Carson City Health and Human Services accepting Nevada Department of Transportation (NDOT) Gap Agreement in an amount not to exceed \$66,300. This agreement reimburses Safe Routes to School program costs from October 2016 through April 30, 2017.

**Staff Summary:** This funding reimburses the Safe Routes to School program costs incurred from October 2016 through April 30, 2017 under Article I - Purpose of Agreement. Article IV - Performance states that the term of the Agreement shall be from October 1, 2016 and shall run through and including June 30, 2017. To explain the difference in dates under Article I and Article IV, NDOT always provides more time for the term of the agreement in order to allow time for agencies to submit for reimbursements and the processing of the reimbursement. CCHHS staff has been in conversation with NDOT concerning this agreement since August 31, 2016.

**Agenda Action:** Formal Action/Motion

**Time Requested:** 5 min.

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## **Proposed Motion**

I move to approve Carson City Health and Human Services accepting Nevada Department of Transportation (NDOT) Gap Agreement in an amount not to exceed \$66,300. This agreement reimburses Safe Routes to School program costs from October 2016 through April 30, 2017.

## **Board's Strategic Goal**

Quality of Life

## **Previous Action**

Several years ago, the Board of Supervisors approved Carson City Health and Human Services applying for and accepting funding to establish and coordinate the Western Nevada Safe Routes to School Program. On March 2, 2017, the Board of Supervisors approved the acceptance of Federal STBG Set-aside (formerly Transportation Alternative Program) funding through the Nevada Department of Transportation in an amount not to exceed \$650,000 for the period beginning in FY2017 and lasting through FY2020.

## **Background/Issues & Analysis**

The Western Nevada Safe Routes to School Program provides bicycle and pedestrian safety education and encouragement, as well as engineering support, program evaluation, and technical assistance, to schools and partner organizations in Carson City and neighboring Lyon, Douglas, and Storey Counties. Carson City Health and Human Services has been administering the Western Nevada Safe Routes to School Program since 2012. The Transportation Alternatives Program (TAP) funded the program through the Nevada Department of Transportation until October 2016. This Gap Agreement reimburses program expenses incurred from October 2016 until the Federal STBG Set-aside funding is available. Nevada Department of Transportation anticipates this to be before April 30, 2017.

**Applicable Statute, Code, Policy, Rule or Regulation**

N/A

**Financial Information**

Is there a fiscal impact?  Yes  No

If yes, account name/number: 275-6881-441-06-25

Is it currently budgeted?  Yes  No

Explanation of Fiscal Impact: This funding source is reimbursable, so costs were incurred by the city and with this agreement will be reimbursed by the Nevada Department of Transportation.

**Alternatives**

To deny Carson City Health and Human Services permission to accept Nevada Department of Transportation (NDOT) Gap Agreement.

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

2) \_\_\_\_\_

Aye/Nay

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

NEVADA BICYCLE AND PEDESTRIAN EDUCATION PROGRAM  
SUBRECIPIENT'S AGREEMENT FOR SAFETY EDUCATION ACTIVITIES

This Agreement is made and entered into on October 1, 2016, between the STATE OF NEVADA, Department of Transportation, hereinafter referred to as the DEPARTMENT, and Carson City Department of Health and Human Services, 900 E Long Street, Carson City, NV 89706, hereinafter referred to as the SUBRECIPIENT.

WITNESSETH:

WHEREAS, NRS 408.571 provides for the DEPARTMENT to develop a program for bicycle and pedestrian education, for all age groups, that is designed to improve riding skills, inform on applicable traffic laws, and promote bicycle and pedestrian safety; and

WHEREAS, NRS 408.228 provides for the DEPARTMENT to administer a program of safety education concerning the interaction of motor vehicles, bicycles, electric bicycles and pedestrians, and provide grants to local governments, including school districts, for assistance in carrying out programs of safety education; and

WHEREAS, NRS 483.415 provides for collection of fees from driver's licenses by the Department of Motor Vehicles, to be placed in the Highway and Safety Administrative Account; and

WHEREAS, the money placed in the account may be used by the DEPARTMENT to carry out provisions of NRS 408.228; and

WHEREAS, before State monies will be made available, the SUBRECIPIENT and DEPARTMENT shall be required to enter into an agreement whereby the functions of the PROJECT are identified; and

WHEREAS, the SUBRECIPIENT and the DEPARTMENT have developed a PROJECT that has been approved for funding; and

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 cover program costs incurred by the SUBRECIPIENT, in an amount up to Sixty-Six Thousand Three Hundred and No/100 Dollars (\$66,300.00), in providing a bicycle and pedestrian safety education program for the period spanning October 1, 2016, through April 30, 2017.

ARTICLE II - SCOPE OF PROJECT

1. The SUBRECIPIENT shall coordinate and implement a bicycle and pedestrian education program for school age students, grades Kindergarten through 8<sup>th</sup> grade, within Carson City, Storey, Lyon, and Douglas Counties. This program must aid students in improving their bicycle riding skills; inform students of applicable traffic laws relating to bicyclists and pedestrians; and promote bicycle and pedestrian safety.

### ARTICLE III – REIMBURSEMENT

1. The maximum dollar amount that is reimbursable under this Agreement shall not exceed Sixty-Six Thousand Three Hundred and No/100 Dollars (\$66,300.00). Approval of reimbursement will be contingent upon receipt of invoice and supporting documentation, verification, and inspection (as appropriate) of work completed.

2. The SUBRECIPIENT agrees to provide an invoice for the entire project amount within nine (9) months from date of purchase.

### ARTICLE IV – PERFORMANCE

1. The term of this Agreement shall be from October 1, 2016, and shall run through and including June 30, 2017.

### ARTICLE V - RECORDS AND REPORTS

1. The SUBRECIPIENT shall advise the DEPARTMENT regarding the progress of the PROJECT at such times and in such manner as the DEPARTMENT may require, including, but not limited to meetings and interim reports. The SUBRECIPIENT shall submit to the DEPARTMENT, at such time as the DEPARTMENT may require, such financial statements, data, records, contracts, and other documents related to the PROJECT as may be deemed necessary by the DEPARTMENT.

2. It is expressly understood that the DEPARTMENT shall have access to such records of the SUBRECIPIENT as pertain to all matters arising under this Agreement, and the SUBRECIPIENT will retain such records subject to audit, for a period of three (3) years from the ending date of this Agreement.

### ARTICLE VI – TERMINATION

1. This Agreement may be terminated upon thirty (30) calendar days written notice by mutual consent of both parties, or unilaterally by either party without cause.

### ARTICLE VIII - MISCELLANEOUS PROVISIONS

1. The SUBRECIPIENT 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 or administrative bodies or tribunals in any manner affecting the performance of this Agreement, including without limitation, worker's compensation laws, licensing laws, and regulations.

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

3. No member, officer or employee of the SUBRECIPIENT 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.

4. 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 Director of the DEPARTMENT, 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.

5. 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) calendar 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.

6. 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 DEPARTMENT 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.

7. 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 State district courts for enforcement of this Agreement. Venue for any such actions shall be in Carson City, Nevada.

8. 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.

9. 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 status 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 or provisions of this Agreement.

10. It is specifically agreed between the parties executing this Agreement that it is intended to create a contractual relationship solely between the DEPARTMENT and the SUBRECIPIENT. 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 SUBRECIPIENT's subcontractors, the public, or any member thereof, a contractual relationship between such persons and entities and the DEPARTMENT.

11. 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.

12. 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.

13. 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.

14. 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.

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

16. 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 and the Nevada Attorney General.

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

SUBRECIPIENT: Carson City  
Department of Health and Human Services

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

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\_\_\_\_\_

Director

\_\_\_\_\_  
Name and Title (Print)

Approved as to Legality and Form:

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Deputy Attorney General