Agreement Number _____

NEVADA SAFE ROUTES TO SCHOOL PROGRAM
SUBRECIPIENT'S AGREEMENT FOR NONINFRASTRUCTURE ACTIVITIES

This Agreement is made and entered into the _____ day of _____, 2008 by and between the STATE OF NEVADA, acting by and through its Department of Transportation, hereinafter called "DEPARTMENT" and City of Las Vegas hereinafter called "SUBRECIPIENT".

WITNESSETH:

WHEREAS, 23 USC 402 provides the Federal Highway Administration Office of Safety funds for the establishment and carrying out of a safe routes to school program (SRTS Program) for the benefit of children in primary and middle schools; and

WHEREAS, the purposes of 23 USC 402 are(1) to enable and encourage children, including those with disabilities, to walk and bicycle to school; (2) to make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age; and (3) to facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools; and

WHEREAS, amounts apportioned to the State of Nevada, pursuant to 23 USC 402, shall be administered by the State's Department of Transportation; and

WHEREAS, before Federal-Aid 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 proposal that has been approved for funding; and

WHEREAS, the SUBRECIPIENT is a governmental entity eligible to receive 23 USC 402 funds:

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, and as further set forth within the SUBRECIPIENT'S application, attached hereto and incorporated herein as Attachment "A", is to provide Safe Routes to School initiatives related to Education, Enforcement, Encouragement and Evaluation, hereinafter referred to as "PROJECT", and to state the terms, conditions and mutual understanding of the parties as to the manner in which the PROJECT will be undertaken and completed.

ARTICLE II - SCOPE OF PROJECT

1. The SUBRECIPIENT shall coordinate with the DEPARTMENT'S Safe Routes to School Coordinator and provide support data, surveys or other information as needed to review the strategies implemented by the project, crossing guard equipment, public service announcements, printed education materials, incentives for their effectiveness in achieving the project's objectives near each affected school.

ARTICLE III - REIMBURSEMENT

1. The maximum dollar amount that is reimbursable under this Agreement shall not exceed One Hundred Eighty Five Thousand Eight Hundred Sixty Eight and No/100 ($185,868.00). Approval of reimbursement will be contingent upon receipt of invoice and supporting documentation, verification, and inspection (as appropriate) of work completed as specified in Attachment A attached hereto and incorporated herein.

2. The SUBRECIPIENT agrees to invoice quarterly.

3. This agreement is based on Federal Funds being made available through the Federal Highway Administration. Regulations found under Chapter 1, Title 23 United States Code and Title 49 Code of Federal Regulations must be followed.

ARTICLE IV - PERFORMANCE

1. Activities and purchases outlined under this agreement which are implemented or expended prior to the date of a written "Notice to Proceed" has been transmitted by the DEPARTMENT to the SUBRECIPIENT will not be eligible for reimbursement.

2. The term of this Agreement shall be from the date first written above, and shall run through and June 30, 2010.

ARTICLE V - USE OF PROJECT VEHICLES AND EQUIPMENT

1. Equipment funded under this agreement may only be used by the SUBRECIPIENT within two (2) miles of an elementary or middle school (schools K-8) as defined 23 USC 402.

2. Equipment purchased with federal funds that is no longer needed for its original purpose or program or for other activities currently or previously supported by a federal agency are to disposed of according to Title 49 CFR 18.32.

ARTICLE VI - 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. The SUBRECIPIENT shall use the FHWA "Parent – Walking and Biking to School Survey" (Survey) and "Student Arrival and Departure Tally Sheet" (Tally Sheet) at all project school locations. Data is to be collected by using both the Survey and Tally Sheet prior to project initiation and at the end of each semester for the duration of the project. Both surveys and Tally Sheets are to be sent to the State's Safe Routes to School Coordinator so they may be forwarded to the FHWA for processing. The Survey and Tally Sheet are available at www.walknevada.com.

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

ARTICLE VII - TERMINATION

1. This Agreement may be terminated upon thirty (30) 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 of administrative bodies or tribunals in any manner affecting the performance of this Agreement, including without limitation, worker's compensation laws, licensing laws and regulations.

2. Regulations found under Chapter 1, Title 23 United States Code and Title 49 Code of Federal Regulations must be followed by the SUBRECIPIENT. These references can be found at http://www.access.gpo.gov.

3. 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.

4. No member, officer or employee of the SUBRECIPIENT during his or her tenure and for a period of one (1) year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

5. 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, with the concurrence of the FHWA, 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.

6. To the fullest extent of NRS Chapter 41 liability limitations, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorney's fees and costs, arising out of any alleged negligent or willful acts or omissions of the party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity that would otherwise exist as to any party or person described herein. The indemnifying party conditions this indemnification obligation upon service of written notice within thirty (30) days of the indemnified party's notice of actual or

pending claims or cause of action. The indemnifying party shall not be liable to hold harmless any attorney's fees and costs for the indemnified party's chosen right to participate with legal counsel.

7. 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.

8. 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. Venue for any such actions shall be in Carson City.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

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

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

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

SUBRECIPIENT: City of Las Vegas

APPROVED:

John S. Ridilla 6/23/08

City Attorney

John S. Ridilla
Deputy City Attorney

Name (Print)

ATTEST:

BEVERLY K. BRIDGES, CMC, City Clerk

CITY OF LAS VEGAS

BY: _____
OSCAR B. GOODMAN, Mayor

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

Director

Reviewed:

Kent Cooper, Assistant Director

Recommended:

Charlie Cerocke, Intermodal Planning Chief

Approved as to Legality and Form:

Deputy Attorney General