

Western Regional Water Commission

STAFF REPORT

DATE: August 11, 2016

TO: Chairman and Members, Western Regional Water Commission ("WRWC")

FROM: Jim Smitherman, Water Resources Program Manager

SUBJECT: Acceptance of a Clean Water Act grant in the amount of \$40,000, to offset funding for the Bedell Flat Rapid Infiltration Basin Investigation; and, if accepted, ratify the Chairman's prior execution of a Subgrant Agreement with the Nevada Division of Environmental Protection for that purpose

SUMMARY

Earlier this year, the Nevada Division of Environmental Protection ("NDEP") offered \$40,000 in federal economic stimulus package funding, to the WRWC, as the local "208 Agency", in the form of a Clean Water Act grant. The Regional Effluent Management Team ("the Team") indicated interest in having the grant money applied to a proposed Bedell Flat infiltration investigation component of the ongoing regional effluent planning effort. In May 2016, the Team proposed this to the Northern Nevada Water Planning Commission ("NNWPC"), which made a recommendation to the WRWC that it accept the grant from the State to partially fund the proposed scope of work for the Bedell Flat Rapid Infiltration Basin Feasibility (Subgrant Agreement attached).

In the interest of time, staff requested that the Chairman execute the Agreement so that it could be processed for approval by the State. Paragraph 1 states that the Subgrant shall not become effective until and unless it is approved by the appropriate governing body.

The proposed investigation includes infiltration testing to determine the potential for use of rapid infiltration basins ("RIBs") as part of an integrated water resource aquifer storage and recovery ("ASR") program. Geologic/hydrogeologic feasibility investigations and environmental clearance and permitting work will also be conducted to gain an understanding of the feasibility, scope and cost of an integrated water resources program in Bedell Flat.

RECOMMENDATION

Staff recommends that the WRWC accept the \$40,000 grant from the State to offset funding for the Bedell Flat Rapid Infiltration Basin Feasibility project and, if accepted, ratify the Chairman's prior execution of the Subgrant Agreement with the NDEP for that purpose.

POSSIBLE MOTION

Should the Board agree with the recommendation, a possible motion would be: "Move to accept the \$40,000 grant from the State to offset funding for the Bedell Flat Rapid Infiltration Basin Feasibility project, and ratify the Chairman's prior execution of the Subgrant Agreement with the NDEP for that purpose."

JS:df

Attachment: Subgrant Agreement

SUB-GRANT AGREEMENT

A Sub-grant awarded by:

Department of Conservation and Natural Resources, Division of Environmental Protection
901 S. Stewart Street, Carson City, NV 89701-5249
Phone: (775) 687-4670 Fax: (775) 687-5856

and awarded to Sub-grantee:

Western Regional Water Commission
c/o Washoe County Community Services Department
hereinafter the "Sub-grantee"
PO Box 11130
Reno, NV 89520

WHEREAS, 40 CFR Part 31.37, NRS 445A.265 and NRS 445A.450 authorize the Division of Environmental Protection to award sub-grants of federal financial assistance to local governments for the purposes set forth in authorizing statutes; and

WHEREAS, it is deemed that the project purposes hereinafter set forth are consistent with the federal grant agreement that provides support of the sub-grant;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **REQUIRED APPROVAL.** This Sub-grant shall not become effective until and unless approved by appropriate official action of the governing body of each party.
2. **DEFINITIONS.** "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.
3. **SUB-GRANT TERM.** This Sub-grant shall be effective from Nevada Division of Environmental Protection Administrator's approval to June 30, 2017, unless sooner terminated by either party as set forth in this Sub-grant.
4. **TERMINATION.** This Sub-grant may be terminated by either party prior to the date set forth in paragraph (3), provided that a termination shall not be effective until 30 days after a party has served written notice upon the other party. This Sub-grant may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Sub-grant shall be terminated immediately if for any reason State and/or federal funding ability to satisfy this Sub-grant is withdrawn, limited, or impaired.
5. **NOTICE.** All notices or other communications required or permitted to be given under this Sub-grant shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile 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 above.
6. **INCORPORATED DOCUMENTS.** The parties agree that the services to be performed shall be specifically described; this Sub-grant incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT A: SCOPE OF WORK (consisting of 4 pages)

ATTACHMENT B: ADDITIONAL AGENCY TERMS & CONDITIONS (consisting of 3 pages)

7. **CONSIDERATION.** Sub-grantee agrees to provide the services set forth in paragraph (6) at a cost of \$ N/A per N/A with the total Sub-grant or installments payable: quarterly not exceeding \$40,000.00. In addition, the State does not agree to reimburse Sub-grantee for expenses unless otherwise specified in the incorporated documents. Any intervening end to an annual or biennial appropriation period shall be deemed an automatic renewal (not changing the overall Sub-grant term) or a termination as the results of legislative appropriation may require.

8. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this Sub-grant are also specifically a part of this Sub-grant and are limited only by their respective order of precedence and any limitations expressly provided.

9. 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 other party, the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with any applicable 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 other party, the 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 Sub-grant must be retained by each party for a minimum of three years from the date of final payment by the State to the Sub-grantee, and all other pending matters are closed. 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.

10. BREACH; REMEDIES. Failure of either party to perform any obligation of this Sub-grant shall be deemed a breach. Except as otherwise provided for by law or this Sub-grant, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including but not limited to actual damages. If the court awards reasonable attorney's fees to the prevailing party, reasonable shall be deemed \$125 per hour.

11. LIMITED LIABILITY. The parties will not waive and intend to assert available NRS chapter 41 liability limitations in all cases. Sub-grant liability of both parties shall not be subject to punitive damages. To the extent applicable, actual Sub-grant damages for any breach shall be limited by NRS 353.260 and NRS 354.626.

12. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Sub-grant if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Sub-grant after the intervening cause ceases.

13. INDEMNIFICATION. Neither party waives any right or defense to indemnification that may exist in law or equity.

14. INDEPENDENT PUBLIC AGENCIES. The parties are associated with each other only for the purposes and to the extent set forth in this Sub-grant, and in respect to performance of services pursuant to this Sub-grant, each party is and shall be a Sub-grantee separate and distinct from the other party and, subject only to the terms of this Sub-grant, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Sub-grant. Nothing contained in this Sub-grant 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.

15. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Sub-grant 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

16. SEVERABILITY. If any provision contained in this Sub-grant is held to be unenforceable by a court of law or equity, this Sub-grant shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Sub-grant unenforceable.

17. ASSIGNMENT. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Sub-grant without the prior written consent of the other party.

18. OWNERSHIP OF PROPRIETARY INFORMATION. Unless otherwise provided by law or this Sub-grant, 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 Sub-grant), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Sub-grant shall be the joint property of both parties.

19. 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.

20. 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 Sub-grant.

21. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Sub-grant on behalf of each party has full power and authority to enter into this Sub-grant and that the parties are authorized by law to perform the services set forth in paragraph (6).

22. GOVERNING LAW; JURISDICTION. This Sub-grant 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 Sub-grant.

23. ENTIRE AGREEMENT AND MODIFICATION. This Sub-grant and its integrated attachment(s) constitute the entire agreement of the parties and such are 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 Sub-grant specifically displays a mutual intent to amend a particular part of this Sub-grant, general conflicts in language between any such attachment and this Sub-grant shall be construed consistent with the terms of this Sub-grant. Unless otherwise expressly authorized by the terms of this Sub-grant, no modification or amendment to this Sub-grant shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Sub-grant to be signed and intend to be legally bound thereby.

SUB-GRANTEE

By: 
Signature

Name: Vaughn Hartung

Title: Chair

Date: 6.17.16

DIVISION

By: 
Signature

Name: David Emme

Title: Administrator

Date: 7/7/16

**Scope of Work
And
Budget Attachment**

ATTACHMENT "A"
Contact Page
DEPS 16-029

Project – Bedell Flat Rapid Infiltration Basin Feasibility Study

ORGANIZATION: Western Regional Water Commission
DUNS#:

PROJECT BUDGET PROJECTION:

Funds awarded	\$ 40,000.00
Total Project Cost	\$ 40,000.00

Contract Term: Upon NDEP Administrator approval—June 30, 2017

CONTRACT CONTACT: Jim Smitherman

MAILING ADDRESS: Western Regional Water Commission
c/o Washoe County Community Services Dep
PO Box 11130
Reno, NV 89520
PHONE NUMBER: (775) 954-4657
E-MAIL: jsmitherman@washoecounty.us

NDEP CONTACT PERSONS:

PROJECT COORDINATOR: Randy Pahl, P.E.
Bureau of Water Quality Planning
Special Projects/TMDLs
PHONE NUMBER: (775) 687-9453
E-MAIL: rpahl@ndep.nv.gov

NDEP CONTRACT MANAGER: Stephanie Simpson
Contract Manager
PHONE NUMBER: (775) 687-9444
E-MAIL: s.simpson@ndep.nv.gov

NDEP MAILING ADDRESS: Nevada Division of Environmental Protection
Bureau of Water Quality Planning
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701

Attachment A - Scope of Work

Bedell Flat RIB Investigation

Introduction

The 2007 Washoe County 208 Water Quality Management Plan contemplates a small number of long term regional alternatives for the management of treated wastewater effluent. Alternatives include new and innovative treatment technology and aquifer recharge using highly treated effluent. A 2010 report entitled "Regional Integrated Wastewater System Planning", funded in part by the Nevada Division of Environmental Protection's ("NDEP") 604(b) Water Quality Planning fund, identifies Bedell Flat as an area for possible aquifer storage or aquifer recharge using highly treated wastewater effluent. This concept also appears in the 2011-2030 Comprehensive Regional Water Management Plan, and more recently in the Truckee Meadows Water Authority's ("TMWA") draft 2016-2035 Water Resource Plan, as a potential site for an integrated water resource aquifer storage and recovery ("ASR") program. The program would provide for the management of treated wastewater effluent from one or more water reclamation facilities and enhance drought and/or emergency water reserves. The Western Regional Water Commission ("WRWC") proposes to partner with the City of Reno, Washoe County and TMWA to accomplish permitting and testing tasks as part of a larger feasibility effort for such a program.

Proposal

Integrated water resource management alternatives in Bedell Flat include infiltration of highly treated wastewater effluent through a proposed rapid infiltration basin ("RIB"), infiltration of highly treated wastewater effluent along a natural drainage referred to as Bird Spring Wash, injection of potable water using ASR wells and North Valleys Importation Project ("NVIP") water or a combination of these. Geologic/hydrogeologic feasibility investigations and environmental clearance and permitting work are proposed to gain an understanding of the feasibility, scope and cost of an integrated water resources program in Bedell Flat. This proposal is for infiltration testing and environmental clearance and permitting work to determine the potential for use of RIBs. Subsequent phases may include RIB pilot testing, potential use of dry wells for infiltration (to access more permeable materials beneath less permeable surficial soils), vadose zone and groundwater characterization activities (i.e., borehole drilling to collect samples for geotechnical and geochemical tests) and groundwater monitoring (well installation) and assessing the infiltration capacity of an identified surface water reservoir site within the Bird Spring drainage (adjacent to Bedell Flat). A related objective will be to determine the acreage to be permitted with the Bureau of Land Management ("BLM"), which would be assessed by cultural and ecological resource subcontractors. The infiltration testing method recommended for the Bedell Flat area consists of a larger modified pilot infiltration test ("PIT") procedure, documented by the State of Washington Department of Ecology ("WDOE"). This approach will reduce some of the scale errors associated with relatively small-scale double ring infiltrometer or "stove-pipe" infiltration tests, and will better approximate infiltration rates for potential facility design. This method will use a track-hoe (or backhoe) to excavate to depths of 6 to 8 feet below ground surface, producing a flat

base with an area of approximately 5-10 square feet. Although this is not a standard infiltration test, this approach is a practical field procedure that has been widely used in the western U.S.

The PIT procedure, documented by the WDOE, involves the following steps:

- Excavate the test pit to the depth of the bottom of the proposed infiltration facility. Lay back the slopes sufficiently to avoid caving and erosion during the test.
- Log the excavated soils as a function of depth using the SCS (soil classification system; ASTM D2487).
- Collect soil samples for potential grain size analyses for select or all PIT locations.
- The horizontal surface area of the bottom of the test pit should be approximately 10 square feet.
- Accurately document the size and geometry of the test pit.
- Install a vertical measuring rod (staff gauge) of sufficient length marked in half-inch increments in the center of the pit bottom.
- Use a rigid 6-inch diameter pipe with a splash plate on the bottom (or equivalent system) to convey water to the pit and reduce side-wall erosion or excessive disturbance of the pond bottom (excessive erosion and bottom disturbance will likely yield lower than actual infiltration rates).
- Add water to the pit at a rate that will maintain a water level between 3 and 4 feet above the bottom of the pit, and continuously record water levels and discharge rates during the early testing period to maintain a water level of 3 to 4 feet.
- Add water to the pit until one hour after the flow rate into the pit has stabilized (constant flow rate) while maintaining the same pond water level (this steady-state condition should be maintained for at least one hour).
- After the flow rate has stabilized, turn off the water and record the rate of infiltration in inches per hour from the measuring rod data, until the pit has drained.

After each test pit has drained, the trench will be backfilled with the excavated materials to approximate the surrounding land surface. This proposal assumes that the backfilling would satisfy BLM requirements, but some additional reclamation efforts may be required by the BLM. Reclamation efforts would be determined during the permitting process. Work will be completed by December 31, 2016.

Deliverables

Draft and Final Technical Memoranda will be submitted to the Nevada Division of Environmental Protection as available.

Estimated Project Budget

The total project costs are estimated at \$78,705 for tasks that include: 1) site visit and data review; 2) field testing plan development; 3) BLM permitting; 4) field testing plan implementation; and 5) draft and final technical memoranda. The 604(b) grant funds will cover \$40,000 of the total costs.

The cost estimate assumes 10 infiltration test locations with one location completed per day, 10 acres of BLM land subject to both cultural and ecological resource surveys and 30 laboratory grain-size analyses. The preliminary budget includes sub-consultant costs and the costs associated with a local construction company providing a track-hoe and water truck.

The WRWC proposes to enter into an interlocal agreement with TMWA which will serve as the lead agency for the project. A primary consulting firm retained by TMWA will be responsible for completing the work and submitting invoices to TMWA. TMWA will then submit invoices to WRWC for reimbursement up to \$40,000. Following this, WRWC will submit an invoice and other required documentation to NDEP for reimbursement.

Table 1. Budget Summary

Item	Total Project	604(b) Contribution	Local Contribution
Contractors	\$78,705	\$40,000	\$38,705
TOTAL	\$78,705	\$40,000	\$38,705

**Additional Agency Terms
And Conditions
Attachment**

**ATTACHMENT B:
ADDITIONAL AGENCY TERMS & CONDITIONS
SUB-GRANT CONTROL #DEP-S 16-029
Western Regional Water Commission**

1. The Nevada Division of Environmental Protection shall pay no more compensation than the federal Executive Service Level 4 (U.S. Code) daily rate (exclusive of fringe benefits) for individual consultants retained by the Sub-grantee or by the Sub-grantee's contractors or subcontractors. This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. The current Level 4 rate is \$75.27 per hour.
2. ***NDEP shall only reimburse the Sub-grantee for actual cash disbursed.*** Original invoices (facsimiles are not acceptable) must be received by NDEP no later than forty (40) calendar days after the end of a month or quarter except at the end of the fiscal year of the State of Nevada (June 30th), at the expiration date of the grant, or the effective date of the revocation of the Sub-grant, at which times original invoices must be received by NDEP no later than thirty-five (35) calendar days after this date. Failure of the Sub-grantee to submit billings according to the prescribed timeframes authorizes NDEP, in its sole discretion, to collect or withhold a penalty of ten percent (10%) of the amount being requested for each week or portion of a week that the billing is late. The Sub-grantee shall provide with each invoice a detailed fiscal summary that includes the approved Sub-grant budget, expenditures for the current period, cumulative expenditures to date, and balance remaining for each budget category. If match is required pursuant to paragraph 3 below, a similar fiscal summary of match expenditures must accompany each invoice. The Sub-grantee shall obtain prior approval to transfer funds between budget categories if the funds to be transferred are greater than ten percent (10%) cumulative of the total Sub-grant amount.
3. The Sub-grantee shall, as part of its approved scope of work and budget under this Sub-grant, provide third party match funds of not less than: \$N/A. If match funds are required, the Sub-grantee shall comply with additional record-keeping requirements as specified in 40 CFR 31.24 and Attachment N/A (Third Party Match Record-Keeping Requirements) which is attached hereto and by this reference is incorporated herein and made part of this Sub-grant.
4. Unless otherwise provided in Attachment A (Scope of Work), the Sub-grantee shall submit quarterly reports or other deliverables within ten (10) calendar days after the end of each quarter.
5. All payments under this Sub-grant are contingent upon the receipt by NDEP of sufficient funds, necessary to carry out the purposes of this Sub-grant, from either the Nevada Legislature or an agency of the United States. NDEP shall determine if it has received the specific funding necessary for this Sub-grant. If funds are not received from either source for the specific purposes of this Sub-grant, NDEP is under no obligation to supply funding for this Sub-grant. The receipt of sufficient funds as determined by NDEP is a condition precedent to NDEP's obligation to make payments under this Sub-grant. Nothing in this Sub-grant shall be construed to provide the Sub-grantee with a right of payment over any other entity. If any payments that are otherwise due to the Sub-grantee under this Sub-grant are deferred because of the unavailability of sufficient funds, such payments will promptly be made to the Sub-grantee if sufficient funds later become available.
6. Notwithstanding the terms of paragraph 5, at the sole discretion of NDEP, payments will not be made by NDEP unless all required reports or deliverables have been submitted to and approved by NDEP within the schedule stated in Attachment A.
7. Any funds obligated by NDEP under this Sub-grant that are not expended by the Sub-grantee shall automatically revert back to NDEP upon the completion, termination or cancellation of this Sub-grant. NDEP shall not have any obligation to re-award or to provide, in any manner, such unexpended funds to the Sub-grantee. The Sub-grantee shall have no claim of any sort to such unexpended funds.
8. The Sub-grantee shall ensure, to the fullest extent possible, that at least the "fair share" percentages as stated below for prime contracts for construction, services, supplies or equipment are made available to organizations owned or controlled by socially and economically disadvantaged individuals (Minority Business Enterprise (MBE) or Small Business Enterprise (SBE)), women (Women Business Enterprise (WBE)) and historically black colleges and universities.

	MBE/SBE	WBE
Construction	3%	1%
Services	1%	1%
Supplies	1%	1%
Equipment	2%	1%

The Sub-grantee agrees and is required to utilize the following seven affirmative steps:

- a. Include in its bid documents applicable "fair share" percentages as stated above and require all of its prime contractors to include in their bid documents for subcontracts the "fair share" percentages;
- b. Include qualified Small Business Enterprises (SBEs) Minority Business Enterprises (MBEs), and Women Business Enterprises (WBEs) on solicitation lists;
- c. Assure that SBEs, MBEs, and WBEs are solicited whenever they are potential sources;
- d. Divide total requirements, when economically feasible, into small tasks or quantities to e. permit maximum participation of SBEs, MBEs, and WBEs;
- e. Establish delivery schedules, where the requirements of the work permit, which will encourage participation by SBEs, MBEs, and WBEs;
- f. Use the services and assistance of the Small Business Administration and the Minority Business Development Agency, U.S. Department of commerce as appropriate; and
- g. If a subcontractor awards contracts/procurements, require the subcontractor to take the affirmative steps in subparagraphs a. through e. of this condition.

9. The Sub-grantee shall complete and submit to NDEP a Minority Business Enterprise/Woman Business Enterprise (MBE/WBE) Utilization Report (Standard Form 334) within fifteen (15) calendar days after the end of each federal fiscal year (September 30th) for each year this Sub-grant is in effect and within fifteen (15) calendar days after the termination date of this Sub-grant.

10. The books, records, documents and accounting procedures and practices of the Sub-grantee or any subcontractor relevant to this Sub-grant shall be subject to inspection, examination and audit by the State of Nevada, the Division of Environmental Protection, the Attorney General of Nevada, the Nevada State Legislative Auditor, the federal or other funding agency, the Comptroller General of the United States or any authorized representative of those entities.

11. All books, reports, studies, photographs, negatives, annual reports or other documents, data, materials or drawings prepared by or supplied to the Sub-grantee in the performance of its obligations under this Sub-grant shall be the joint property of both parties. Such items must be retained by the Sub-grantee for a minimum of three years from the date of final payment by NDEP to the Sub-grantee, and all other pending matters are closed. If requested by NDEP at any time within the retention period, any such materials shall be remitted and delivered by the Sub-grantee, at the Sub-grantee's expense, to NDEP. NDEP does not warrant or assume any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, report or product of any kind that the Sub-grantee may disclose or use for purposes other than the performance of the Sub-grantee's obligations under this Sub-grant. For any work outside the obligations of this Sub-grant, the Sub-grantee must include a disclaimer that the information, report or products are the views and opinions of the Sub-grantee and do not necessarily state or reflect those of NDEP nor bind NDEP.

12. Unless otherwise provided in Attachment A, when issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with funds provided under this Sub-grant, the Sub-grantee shall clearly state that funding for the project or program was provided by the Nevada Division of Environmental Protection and, if applicable, the U.S. Environmental Protection Agency. The Sub-grantee will insure that NDEP is given credit in all official publications relative to this specific project and that the content of such publications will be coordinated with NDEP prior to being published.

13. Unless otherwise provided in Attachment A, all property purchased with funds provided pursuant to this Sub-grant is the property of NDEP and shall, if NDEP elects within four (4) years after the completion, termination or cancellation of

this Sub-grant or after the conclusion of the use of the property for the purposes of this Sub-grant during its term, be returned to NDEP at the Sub-grantee's expense.

Such property includes but is not limited to vehicles, computers, software, modems, calculators, radios, and analytical and safety equipment. The Sub-grantee shall use all purchased property in accordance with local, state and federal law, and shall use the property only for Sub-grant purposes unless otherwise agreed to in writing by NDEP.

For any unauthorized use of such property by the Sub-grantee, NDEP may elect to terminate the Sub-grant and to have the property immediately returned to NDEP by the Sub-grantee at the Sub-grantee's expense. To the extent authorized by law, the Sub-grantee shall indemnify and save and hold the State of Nevada and NDEP harmless from any and all claims, causes of action or liability arising from any use or custody of the property by the Sub-grantee or the Sub-grantee's agents or employees or any subcontractor or their agents or employees.

14. The Sub-grantee shall use recycled paper for all reports that are prepared as part of this Sub-grant and delivered to NDEP. This requirement does not apply to standard forms.

15. The Sub-grantee, to the extent provided by Nevada law, shall indemnify and save and hold the State of Nevada, its agents and employees harmless from any and all claims, causes of action or liability arising from the performance of this Sub-grant by the Sub-grantee or the Sub-grantee's agents or employees or any subcontractor or their agents or employees. NDEP, to the extent provided by Nevada law, shall indemnify and save and hold the Sub-grantee, its agents and employees harmless from any and all claims, causes of action or liability arising from the performance of this Sub-grant by NDEP or NDEP's agents or employees.

16. The Sub-grantee and its subcontractors shall obtain any necessary permission needed, before entering private or public property, to conduct activities related to the work plan (Attachment A). The property owner will be informed of the program, the type of data to be gathered, and the reason for the requested access to the property.

17. This Sub-grant shall be construed and interpreted according to the laws of the State of Nevada and conditions established in OMB Circular A-102. Nothing in this Sub-grant shall be construed as a waiver of sovereign immunity by the State of Nevada. Any action brought to enforce this Sub-grant shall be brought in the First Judicial District Court of the State of Nevada. The Sub-grantee and any of its subcontractors shall comply with all applicable local, state and federal laws in carrying out the obligations of this Sub-grant, including all federal and state accounting procedures and requirements established in OMB Circular A-87 and A-133. The Sub-grantee and any of its subcontractors shall also comply with the following:

- a. 40 CFR Part 7 - Nondiscrimination In Programs Receiving Federal Assistance From EPA
- b. 40 CFR Part 29 - Intergovernmental Review Of EPA Programs And Activities.
- c. 40 CFR Part 31 - Uniform Administrative Requirements For Grants And Cooperative Agreements To State and Local Governments;
- d. 40 CFR Part 32 - Governmentwide Debarment And Suspension (Nonprocurement) And Governmentwide Requirements For Drug-Free Workplace (Grants);
- e. 40 CFR Part 34 - Lobbying Activities;
- f. 40 CFR Part 35, Subpart O - Cooperative Agreements And Superfund State Contracts For Superfund Response Actions (Superfund Only); and
- g. The Hotel And Motel Fire Safety Act of 1990.

18. The Sub-grantee shall neither assign, transfer nor delegate any rights, obligations or duties under this Sub-grant without the prior written consent of NDEP.