

**SUBGRANT AGREEMENT
CONTROL #DEPS 20-027**

A Subgrant 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 Subgrantee:

**Washoe County Community Service
1001 E. Ninth Street
Reno, NV 89512
hereinafter the "Subgrantee"**

WHEREAS, 40 CFR Part 31.37, NRS 445A.265 and NRS 445A.450 authorize the Division of Environmental Protection to award subgrants 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 subgrant;

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

1. **REQUIRED APPROVAL.** This Subgrant 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. **SUBGRANT TERM.** This Subgrant shall be effective from **Nevada Division of Environmental Protection Administrator's Approval** to **March 31, 2022**, unless sooner terminated by either party as set forth in this Subgrant.
4. **TERMINATION.** This Subgrant 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 Subgrant may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Subgrant shall be terminated immediately if for any reason federal and/or State Legislature funding ability to satisfy this Subgrant is withdrawn, limited, or impaired.
5. **NOTICE.** All notices or other communications required or permitted to be given under this Subgrant 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 Subgrant incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT A: SCOPE OF WORK (consisting of 5 pages)

ATTACHMENT B: NDEP ADDITIONAL TERMS & CONDITIONS (consisting of 4 pages)

ATTACHMENT B: THIRD PARTY MATCH (consisting of 1 page)

7. CONSIDERATION. Public Agency agrees to provide the services set forth in paragraph (6) at a cost of \$N/A per N/A with the total Subgrant or installments payable: quarterly, not exceeding \$200,000.00. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Subgrant 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 Subgrant are also specifically a part of this Subgrant 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 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 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 Subgrant must be retained a minimum three years from the date of final payment by the State to the Public Agency, 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 Subgrant shall be deemed a breach. Except as otherwise provided for by law or this Subgrant, 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. Subgrant liability of both parties shall not be subject to punitive damages. Actual damages for any State breach shall never exceed the amount of funds which have been appropriated for payment under this Subgrant, but not yet paid, for the fiscal year budget in existence at the time of the breach.

12. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Subgrant 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 Subgrant after the intervening cause ceases.

13. INDEMNIFICATION.

- a. To the fullest extent of limited liability as set forth in paragraph (11) of this Subgrant, 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 attorneys' 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 which would otherwise exist as to any party or person described in this paragraph.
- b. The indemnification obligation under this paragraph is conditioned upon receipt of written notice by the indemnifying party within 30 days of the indemnified party's actual notice of any actual or pending claim or cause of action. The indemnifying party shall not be liable to hold harmless any attorneys' fees and costs for the indemnified party's chosen right to participate with legal counsel.

14. INDEPENDENT PUBLIC AGENCIES. The parties are associated with each other only for the purposes and to the extent set forth in this Subgrant, and in respect to performance of services pursuant to this Subgrant, each party is and shall be a public agency separate and distinct from the other party and, subject only to the terms of this Subgrant, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Subgrant. Nothing contained in this Subgrant 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 Subgrant 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 Subgrant is held to be unenforceable by a court of law or equity, this Subgrant 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 Subgrant unenforceable.

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

18. 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 Subgrant), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Subgrant 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 Subgrant.

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

22. GOVERNING LAW; JURISDICTION. This Subgrant 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 Subgrant.

23. ENTIRE AGREEMENT AND MODIFICATION. This Subgrant 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 Subgrant specifically displays a mutual intent to amend a particular part of this Subgrant, general conflicts in language between any such attachment and this Subgrant shall be construed consistent with the terms of this Subgrant. Unless otherwise expressly authorized by the terms of this Subgrant, no modification or amendment to this Subgrant 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 Subgrant to be signed and intend to be legally bound thereby.

SUBGRANTEE

By: _____
Signature

Name: _____

Title: _____ Date: _____

DIVISION

By: _____
Signature

Name: Greg Lovato _____

Title: Administrator _____ Date: _____

Attachment A
Scope of Work
And
Budget Attachment

ATTACHMENT "A"
DEP-S 20-027 Work Plan

A. COVER PAGE

Project Title: Lower Wood Creek Phase I Water Quality Improvement Project

Lead Agency: Washoe County Community Service
Department Engineering and Capital Projects Division

Primary Contact: Ben Jesch, P.E. Licensed Engineer
1001 E. Ninth St.
Reno, NV 89512
bjesch@washoecounty.us
Ph. (775) 954-4635

Project Location: Incline Village, Washoe County, Lake Tahoe, HUC: 16050101

Project Summary: Washoe County identified the Lower Wood Creek Project as the next water quality improvement project (WQIP) to be implemented in the 2017 Annual Stormwater Report. The area was chosen due to its catchment connectivity, estimated fine sediment particles (FSP) load rank, and highly urbanized contributing drainage areas. Project improvements expected to be constructed include source control, conveyance improvements and infiltration. This project will be implemented to improve water quality in catchments J01, C04, and C07 by mitigating sources of FSP, anticipated to result in a potential 30-40 Lake Tahoe Clarity Credits to help meet the County's Total Maximum Daily Load (TMDL) reduction requirements.

Start-Complete Dates: Anticipated Project Start Date: 2/1/2021
Anticipated Project Completion Date: 3/31/2022

Fiscal Summary:

NDEP 319(h) _____	\$200,000
Total amount of non-federal match funds _____	\$280,000
Total Project Cost _____	\$480,000

Project Partners: Nevada Division of State Lands - Meredith Gosejohan, funding partner
Tahoe Regional Planning Agency - Shannon Friedman, TAC member
Nevada Department of Transportation - Chris Holman, TAC member
Incline Village General Improvement District - Michael Lefrancois, TAC member
Nevada Division of Environmental Protection - Mark McDaniel, TAC member
Nevada Tahoe Conservation District - Domi Fellers, PLRM consultant
NCE - Jason Drew, design consultant

B. SCOPE OF WORK

1. Background

The Lower Wood Creek Phase I (LWCphi) water quality improvement project (WQIP) is located in the highly urbanized core of Incline Village. The project was selected based on information in the PLRM V2.1 Recalculated Baseline Pollutant Loads for Washoe County and the Nevada Department of Transportation (NTCD, 2016 [Baseline Report]). In the Water Year 2016 Annual Stormwater Report (Washoe County, 2017), Washoe County identified LWCphi WQIP as the next water quality improvement project to be implemented. This is a high priority project due to a relatively high fine sediment particle (FSP) load from directly connected catchments to Lake Tahoe. Contributing drainage areas, estimated FSP load rank, and catchment connectivity have been defined in the Baseline Report, and these criteria provide the basis for project development. Notable water quality concerns within the project area include unprotected and erodible road shoulders that experience heavy parking pressure; bare earth ditches that serve as the primary drainage conveyance; and Wood Creek culverts with limited ability to convey greater than the average annual creek flow. The project area is moderately steep with existing stormwater infrastructure that drains directly to Wood Creek or Lake Tahoe. Heavy parking demand on the unprotected road shoulders in the project area results in tracking of FSP to the paved roadway. That FSP is then washed into the existing conveyance system (consisting mainly of bare earth ditches) during runoff events. Although some ponding may occur in some ditches, most ditches have flow velocities such that FSP will remain suspended in the runoff and not drop out before discharging to Wood Creek or Lake Tahoe.

2. Goals and Objectives

The LWCphi WQIP will be implemented to meet load reduction requirements contained in the Interlocal Agreement to Implement the Lake Tahoe TMDL (ILA) established between Washoe County and NDEP. Water quality and lake clarity will be improved by removing FSP from urban stormwater runoff before it flows from the Washoe County right-of way into Lake Tahoe. Specific project goals are presented below.

2.1. GOAL #1: Implement the Lake Tahoe Total Maximum Daily Load (TMDL)

The primary project goal is to implement the Lake Tahoe TMDL in accordance with the ILA. This agreement guides Washoe County's efforts to improve Lake Tahoe's water quality by reducing pollutants of concern in urban stormwater runoff before it enters Lake Tahoe. The LWCphi project will plan, design and construct capital improvements that reduce urban stormwater FSP loads to the lake. The improvements will be registered in the Lake Clarity Crediting Program and maintained to provide annual Lake Clarity Credit awards.

2.2. GOAL #2: Provide for Public Safety

The second goal is to design a project that has no adverse effect on public safety. Stormwater facilities are often surface features installed adjacent to public roads, and as such, should not pose a hazard to the public. All treatment BMPs within and immediately adjacent to the public road right-of-way will be designed in compliance with the American Association of State Highway and Transportation Officials (AASHTO) criteria. AASHTO criteria will be discussed early in the planning process to ensure the design does not proceed without addressing public safety.

2.3. GOAL #3: Cost Effectiveness

Goal three is to utilize project funds in the most cost-effective manner to meet the other project goals. This includes streamlining the project delivery process where possible. Although grant application guidance encourages utilizing the Pollutant Load Reduction Model (PLRM) to

develop and select project alternatives, Washoe County will draw from the design team’s professional judgement and past experience to develop one alternative that will provide maximum load reductions considering both construction costs and long term maintenance costs. This approach will result in cost savings during the planning phase and increase funds available for construction. Additionally, the County will only evaluate alternatives that comply with AASHTO criteria discussed in Goal #2; resources will not be expended to assess treatment types where sufficient right-of-way is unavailable.

2.4. GOAL #4: Collaboration and Coordination

The fourth goal is to collaborate where appropriate, and coordinate with other public agencies and private property owners on opportunities to improve water quality within the project area.

2.5. GOAL #5: Complete TRPA EIP #01.01.01.0111

LWCphl WQIP is identified on the Tahoe Regional Planning Agency’s Environmental Improvement Program (EIP) 5-year list as Project #01.01.01.0111. Project progress will be tracked in the EIP Tracker through project completion.

3. **Tasks and Deliverables**

3.1. Task #1: Project Management

Submit quarterly progress reports and reimbursement invoices. Coordinate with funders and partners; and monitor, supervise, and coordinate budgeting and scheduling to ensure project is completed within budget and on schedule.

Deliverables: Quarterly progress reports and reimbursement invoices

3.2. Task #2: Construction

Conduct formal advertisement and bid process to select contractor, and issue notice of award. Selected contractor will construct project improvements in accordance with contract documents. Contractor will submit progress reports for progress payments. Contractor will inform engineer of any deviation in existing conditions from contract documents and submit requests for information (RFI) and change orders as necessary. Progress review by TAC at 25%, 50%, and 75% construction, as well as project completion, prior to release of contractor.

Deliverables: Construction of project per contract documents. Construction progress review at 25%, 50%, and 75%, and project completion, prior to release of contractor.

C. **SCHEDULE OF TASKS AND DELIVERABLES**

Task	Date
Progress Reports	Quarterly
Advertise and Bid	February 2021 - April 2021
Construction	May 2021 - October 2021
Project Closeout	October 2021 - March 2022

D. BUDGET

Project Budget Detail

Subcontract	319(h) Funds	Cash Match	Total Budget [a]
Construction	\$200,000	\$280,000	\$2,147,000
Totals	\$200,000	\$280,000	\$3,087,000

[a] Total construction budget and total project budget include additional funding sources which are neither 319(h) nor match funds.

Project Budget by Task

Project Task	Budget Category							
	Salaries	Fringe Benefits	Operating	Travel	IDC	Equipment	Subcontract	Other
A. Grant Administration: Reporting, Invoicing, Preparation of Final Project Report								
B. Planning, Design, and Permitting							\$725,000	
C. Construction							\$2,147,000	
D. Construction Management							\$215,000	
Project Total Cost								\$3,087,000

Note: Project task budgets and total project cost include additional funding sources which are neither 319(h) nor match funds.

Attachment B
Additional Agency
Terms & Conditions
Attachment

ATTACHMENT B
NDEP ADDITIONAL AGENCY TERMS & CONDITIONS
SUBGRANT CONTROL #DEPS 20-027

1. The Nevada Division of Environmental Protection (NDEP) shall pay no more compensation than the federal Executive Schedule Level 4 daily rate (exclusive of overhead) for individual consultants retained by the Subgrantee or by the Subgrantee's contractors or subcontractors. This limitation as defined in 2 CFR § 1500.9 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 \$78.94 per hour.

2. *NDEP shall only reimburse the Subgrantee for actual cash disbursed.* Invoices may be provided via email or facsimile and 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 which time invoices must be received by the first Friday in August of the same calendar year;
- at the expiration date of the grant, or the effective date of the revocation of the Subgrant, at which times original invoices must be received by NDEP no later than thirty-five (35) calendar days after this date.

Failure of the Subgrantee 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 Subgrantee shall provide with each invoice a detailed fiscal summary that includes the approved Subgrant 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 Subgrantee 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 Subgrant amount.

3. The Subgrantee shall, as part of its approved scope of work and budget under this Subgrant, provide third party match funds of not less than: \$280,000.00. If match funds are required, the Subgrantee shall comply with additional record-keeping requirements as specified in 40 CFR 31.24 and the Third party Match Record-Keeping Requirements attachment, which is attached hereto and by this reference is incorporated herein and made part of this Subgrant.

4. Unless otherwise provided in Scope of work attachment, the Subgrantee shall submit quarterly reports or other deliverables within ten (10) calendar days after the end of each quarter.

5. All payments under this Subgrant are contingent upon the receipt by NDEP of sufficient funds, necessary to carry out the purposes of this Subgrant, 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 Subgrant. If funds are not received from either source for the specific purposes of this Subgrant, NDEP is under no obligation to supply funding for this Subgrant. The receipt of sufficient funds as determined by NDEP is a condition precedent to NDEP's obligation to make payments under this Subgrant. Nothing in this Subgrant shall be construed to provide the Subgrantee with a right of payment over any other entity. If any payments that are otherwise due to the Subgrantee under this Subgrant are deferred because of the unavailability of sufficient funds, such payments will promptly be made to the Subgrantee 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 Subgrant that are not expended by the Subgrantee shall automatically revert back to NDEP upon the completion, termination or cancellation of this Subgrant. NDEP shall not have any obligation to re-award or to provide, in any manner, such unexpended funds to the Subgrantee. The Subgrantee shall have no claim of any sort to such unexpended funds.

8. The Subgrantee 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	2%	2%
Services	1%	2%
Supplies	1%	1%
Equipment	1%	1%

The Subgrantee 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 Subgrantee 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 Subgrant is in effect and within fifteen (15) calendar days after the termination date of this Subgrant.

10. The books, records, documents and accounting procedures and practices of the Subgrantee or any subcontractor relevant to this Subgrant 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 Subgrantee in the performance of its obligations under this Subgrant shall be the joint property of both parties. Such items must be retained by the Subgrantee for a minimum of three years from the date of final payment by NDEP to the Subgrantee, 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 Subgrantee, at the Subgrantee’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 Subgrantee may disclose or use for purposes other than the performance of the Subgrantee’s obligations under this Subgrant. For any work outside the obligations of this Subgrant, the Subgrantee must include a disclaimer that the information, report or products are the views and opinions of the Subgrantee and do not necessarily state or reflect those of NDEP nor bind NDEP.

12. Unless otherwise provided in the Scope of Work or Workplan 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 Subgrant, the Subgrantee 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 Subgrantee 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 the Scope of Work or Workplan Attachment A, all property purchased with funds provided pursuant to this Subgrant is the property of NDEP and shall, if NDEP elects within four (4) years after the completion, termination or cancellation of this Subgrant or after the conclusion of the use of the property for the purposes of this Subgrant during its term, be returned to NDEP at the Subgrantee's expense.

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

For any unauthorized use of such property by the Subgrantee, 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.

For any project involving new or replacement equipment acquired, in whole or in part, using federal funding sources under a subgrant, the Subgrantee is subject to the terms and conditions set forth in 41 CFR § 105-71.132, which contains provisions that govern the title, use, and disposal of the equipment. Equipment means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

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 – Government-wide Debarment And Suspension (Non-procurement) And Government-wide 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.

Attachment C
Third Party Match
Record-Keeping Requirements
Attachment

**THIRD PARTY MATCH RECORD-KEEPING REQUIREMENTS ATTACHMENT
TO CONTRACT/SUB-GRANT AGREEMENT
CONTROL #DEPS 20-027**

THIRD PARTY MATCH RECORD-KEEPING REQUIREMENTS

- A. If not included in the scope of work / budget attachment of the contract, the Public Agency, Contractor or Sub-grantee shall provide to the Nevada Division of Environmental Protection (NDEP) a detailed match budget clearly distinguishing between cash and non-cash (in-kind) contributions, prior to submittal of the first invoice.
- B. With each invoice, the Public Agency, Contractor or Sub-grantee shall submit a detailed match schedule that includes: (1) the total match budget; (2) match expenditures for the current period; (3) cumulative match expenditures; and (4) balance remaining. Cash and in-kind expenditures must be identified separately
- C. The Public Agency or Independent Contractor shall establish a file dedicated to this contract that includes the following:
1. For any declared in-kind contributions:
 - (a) An itemized listing of each employee's hourly rate, including the justification for the rate such as the current "Prevailing Wage Rates for Nevada Counties", NRCS cost-share rates, etc.
 - (b) A Fringe Benefit detail and explanation.
 - (c) A copy of an approved Overhead/Indirect Cost Allocation Plan.
 - (d) An itemization of per diem rates, equipment rental/usage rates, etc.
 - (e) Copies (or originals) of timesheets, with employee's and supervisor's signature, noting dates, hours, and projects worked.
 - (f) Copies (or originals) of logs/schedules for equipment usage.
 - (g) Signed statements noting fair market value for in-kind donations of materials or supplies.
 2. For any declared cash contributions:
 - (a) An itemization of each employee's hourly rate including fringe benefits, overhead, and indirect cost.
 - (b) An itemization of per diem rates, equipment rental/usage rates, etc.
 - (c) Copies (or originals) of timesheets, with employee's and supervisor's signature, noting dates, hours, and projects worked.
 - (d) Copies (or originals) of logs/schedules for equipment usage.
 - (e) Copies (or originals) of invoices for materials, supplies, equipment, etc.
- D. The Public Agency, Contractor or Sub-grantee agrees and acknowledges that:
1. Neither the costs nor the values of third party match contributions being used to satisfy the match requirements of the attached contract have been or will be used to satisfy a cost share or match requirement of another federal grant agreement, federal procurement contract, or any other award of federal funds.
 2. Third-party match contributions or expenditures must be made within the effective dates of:
10/01/2018 through 9/30/2023.
 3. All financial records, including match documentation, relevant to this project shall be retained by the Public Agency, Contractor or Sub-grantee for three years from the date of final payment by NDEP to the Public Agency, Contractor or Sub-grantee, and all other pending matters are closed.
 4. Reported match contributions deemed inappropriate or unreasonable during the invoice review process may be disallowed.
 5. NDEP may, at any time, audit the Public Agency, Contractor or Sub-grantee contract files to ensure compliance with the Third Party Match Record-Keeping Requirements. Reported match contributions deemed inappropriate or unreasonable during an audit may be disallowed.
 6. NDEP may require the Public Agency, Contractor or Sub-grantee to repay any funds provided to the Public Agency, Contractor or Sub-grantee under the attached contract that the Public Agency, Contractor or Sub-grantee is unable to match or provide adequate documentation for the reported match.