

Sub-Grant Agreement

**SUB-GRANT AGREEMENT
CONTROL #DEPS18-030**

A Sub-grant awarded by:

**Department of Conservation and Natural Resources, Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, NV 89701-5249
Phone: (775) 687-4670 Fax: (775) 687-5856**

and awarded to Sub-grantee:

**Churchill County
Eleanor Lockwood, Manager
155 North Taylor Street, Suite 153
Fallon, NV 89406
Phone: (775) 423-5136**

hereinafter the "Sub-grantee"

WHEREAS, 40 CFR Part 31.37, and NRS 459.892 and NAC459.99929 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 upon approval by the Division of Environmental Protection Administrator to June 30, 2020, 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terminated immediately if for any reason federal and/or State Legislature funding ability to satisfy this Sub-grant is withdrawn, limited, or impaired.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)

ATTACHMENT C: THIRD PARTY MATCH REQUIREMENTS

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 Sub-grant or installments payable: quarterly, not exceeding \$19,000.00. Any intervening end to a 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 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 Sub-grant 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 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. Actual damages for any State breach shall never exceed the amount of funds which have been appropriated for payment under this Sub-grant, 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 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.

- a. To the fullest extent of limited liability as set forth in paragraph (11) of this Sub-grant, 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 Sub-grant, and in respect to performance of services pursuant to this Sub-grant, each party is and shall be a public agency 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 non-enforceability 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 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: Eleanor Lockwood
Signature, Churchill County

Name: Eleanor Lockwood

Title: Churchill County Manager Date: 5/3/2018

DIVISION:

By: [Signature]
Signature, Nevada Division of Environmental Protection

Name: Greg Lovato

Title: NDEP Administrator Date: May 9, 2018

Attachment A

Attachment A

**Churchill County Senior Center Site Clean-up
Scope of Work and Budget
FY18 – FY20
Sub-Grant Contract Control #DEP S18-030**

Project Budget Projection:

NDEP, RLF funding provided	\$15,200.00
Churchill County match funds	<u>\$ 3,800.00</u>
Total Project Cost	\$19,000.00

Sub-Grantee Contact:

Eleanor Lockwood
Churchill County Manager
155 North Taylor Street, Suite 153
Fallon, NV 89406
Ph. (775) 423-5136
e-mail: countymanager@churchillcounty.org

NDEP Project Contacts:

Brownfields Program Supervisor:

Rebecca Bodnar
Branch Supervisor
Ph. (775) 687-9545
e-mail: rebecca.bodnar@ndep.nv.gov

Brownfields Program Project Coordinator:

David Friedman
Staff Engineer II
Ph. (775) 687-9385
e-mail: dfriedmen@ndep.nv.gov

Contract Manager:

Kim Valdez
Management Analyst II
Ph. (775) 687-9370
e-mail: kvaldez@ndep.nv.gov

NDEP Mailing Address:

Nevada Division of Environmental Protection
Bureau of Corrective Actions
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701

1. Program Objectives and Project Overview

The Nevada Division of Environmental Protection (NDEP) is providing a grant under the Brownfields Revolving Loan Fund (RLF) program to provide Churchill County the necessary funding to continue the groundwater monitoring program associated with the construction of the new William N. Pennington Life Center, 952 South Maine Street, Fallon, NV.

An environmental site assessment conducted on the property prior to construction found contamination from benzene of the near surface groundwater aquifer. Nevada regulation under Nevada Administrative Code (NAC) 445A.2269 required the installation of groundwater monitoring wells on the site to investigate and characterize the nature of this contamination. Three monitoring wells were installed to satisfy these requirements.

The NDEP opened a Corrective Action case for the site as Facility ID #E-000234, 892 and 894 South Maine Street, Fallon, NV. Churchill County has previously conducted five sampling events and analysis of the groundwater in compliance with state requirements. Case records indicate that one well, identified as MW-8, has demonstrated contamination above regulatory standards, but the concentrations have not been at a level associated with high risk relative to the aquifer's use. Due to an unusually high amount of precipitation in the 2016-17 water year, groundwater elevations at the site monitoring wells increased notably, and it is believed this increase in groundwater level was the cause of a notable "spike" in the benzene concentration at location MW-8 during the September and October 2017 sampling events.

In accordance with NAC 445A.22691, the case officer for NDEP requested Churchill County to continue the groundwater monitoring program by performing four more monitoring events to be completed consecutively once per calendar quarter beginning with the first quarter of 2018. If groundwater samples demonstrate that the contamination in this monitoring well is stable or decreasing, Churchill County can request site closure with existing groundwater contamination in accordance with NAC 445A.22725(2), more commonly known as an "exemption closure." The Nevada Administrative Code requires three years of sampling data to evaluate the protectiveness of an exemption closure and to eliminate seasonal variability such as the high water level conditions experienced in Winter 2016/Spring 2017. However, given the relatively low concentrations present in MW-8 the NDEP case officer has determined that two years of quarterly monitoring data should be sufficient to show a stable or declining trend. With the five quarters of groundwater sampling performed previously, the scope of work presented below is expected to satisfy the remaining data needs identified by the case officer.

2. Scope of Work

Phase 1: Once per quarter for four consecutive quarters following execution of the Sub-grant

- A. Measure and record groundwater elevations at site monitoring wells MW-8, MW-9 and MW-10.
- B. Collect a sample from MW-8. The sample should be collected after an appropriate number of well volumes have been purged. Purged groundwater shall be managed in an appropriate manner.
- C. Submit one sample of groundwater collected from MW-8 to a qualified laboratory for analysis using USEPA Method 8260 for Benzene, Toluene, Ethyl Benzene and Xylene (BTEX).
- D. Prepare and submit a report including a summary of the quarterly tasks above and the analytical findings, including the laboratory data and associated sample quality control reports. The report shall include a map to indicate the monitoring well locations on the site and the water table surface of the aquifer as measured in the groundwater elevations.

Phase II: Completion of groundwater sampling

- A. Prepare and submit a Final Report with the necessary supporting analysis (as per NAC 445A.22725(2)) to request site closure with groundwater contamination (if appropriate based on the data findings of the four quarter results).
- B. Following approval and closure with exemption by NDEP, properly close and abandon the three groundwater monitoring wells at the site.

3. Budget

- A. Phase I:
 - i. Four (4) quarterly groundwater monitoring events and reporting **\$8,000.00**
- B. Phase II:
 - i. Cost for Final Report and Well Closure Reporting **\$4,500.00**
 - ii. Well Abandonment **\$6,500.00**
- C. Total Project Cost Not to Exceed:
 - i. **\$19,000.00**
- D. Budget Summary:

Sub-Grant Agreement	FY18 - FY20	Total
NDEP Funding	\$15,200	\$15,200
Churchill Co. Match Funding	\$3,800	\$3,800
Total Sub-Grant Request		\$19,000

4. Invoicing Requirements and Approved Billing Rates

- A. Sub-grantee will provide detailed quarterly invoice with Payment Request Cover letter, provided by NDEP.
- B. Invoicing, deliverables, and match requirements as outlined in Attachment C - Third Party Match Record Keeping Requirements, Sub-Grant Control DEP #S18-030, must be followed.
- C. Approved Billing Rates for Contractor, Converse Consultant:

Converse Consultants Hourly Personnel Billing Rates	
Principal Officer	\$170
Principal Professional	\$150
Certified Environmental Hygienist	\$140
Senior Professional	\$130
Project/Environmental Professional	\$105
Senior Technician/ICDO	\$ 92
Senior Staff Professional	\$ 85
GIS	\$ 80
Staff Professional	\$ 80
Supervising Technician	\$ 75
Field Technician	\$ 70
Technical Drafting	\$ 55
Word Processor	\$ 55
Senior Intern	\$ 55
Staff Support and Clerical	\$ 50
Intern	\$ 40

Attachment B

ATTACHMENT B
NDEP ADDITIONAL AGENCY TERMS & CONDITIONS
SUB-GRANT CONTROL #DEPS18-030
Churchill County

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 \$77.84 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: \$3,800.00. If match funds are required, the Sub-grantee 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 Sub-grant.

4. Unless otherwise provided in Scope of work attachment, 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	2%	2%
Services	1%	2%
Supplies	1%	1%
Equipment	1%	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 - 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

ATTACHMENT C
THIRD PARTY MATCH RECORD-KEEPING REQUIREMENTS
SUB-GRANT CONTROL #DEPS18-030
Churchill County

- 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, Contractor or Sub-grantee 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:
Upon approval of the Administrator of the Division of Environmental Protection through June 30, 2020 .
 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.