



WASHOE COUNTY

Integrity Communication Service
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STAFF REPORT

BOARD MEETING DATE: April 25, 2017

CM/ACM	<u>JS</u>
Finance	<u>KE</u>
DA	<u>LA</u>
Risk Mgt	<u>-</u>
HR	<u>-</u>
Other	<u>CH</u>

DATE: March 28, 2017

TO: Board of County Commissioners

FROM: Patsy Buxton, Fiscal Compliance Officer, 775-328-2418,
pbuxton@washoecounty.us

THROUGH: Anna Heenan, Administrative Health Services Officer, 775-328-2417,
aheenan@washoecounty.us

SUBJECT: Approve amendments totaling an increase of [\$9,119] in both revenue and expense to the FY17 Air Quality Management Environmental Protection Agency (EPA) Multipurpose Grant Program, IO 11397; and if approved direct the Comptroller's office to make the appropriate budget amendments. (All Commission Districts)

SUMMARY

The Washoe Board of County Commissioners must approve amendments to the adopted fiscal year budget and direct the Comptroller's Office to make the appropriate budget amendments.

BCC Strategic Objective supported by this item: Safe, Secure and Healthy Communities.

PREVIOUS ACTION

There has been no previous action taken by the Board.

GRANT AWARD SUMMARY

Project/Program Name: EPA Multipurpose Grant

Scope of the Project: The goal of the associated work plan is the following:

To support the implementation of the Keep it Clean – Rack Em Up and Be Idle Free outreach programs. Through the promotion of active transportation and avoidance of unnecessary vehicle idling, emission reductions will be achieved in Washoe County. The outreach campaigns will include, but are not limited to, 10 and 30 second radio spots, outdoor billboards, pamphlets, and social media marketing to relay the messages to the community. AQMD will provide a final report of the supported contractual

AGENDA ITEM # 5, B,

activities, estimate of outreach-related emission reductions, and itemized list of outreach expenditures and indirect charges.

Benefit to Washoe County Residents: Implementation of clean air solutions that protect the quality of life for the citizens of Reno, Sparks and Washoe County.

On-Going Program Support: These funds will be used for one-time program expenditures.

Award Amount: Total award is \$10,000 (\$9,119 direct/\$881 indirect)

Grant Period: March 3, 2017 – June 30, 2017

Funding Source: Environmental Protection Agency (EPA)

Pass Through Entity: Nevada Department of Conservation and Natural Resources, Division of Environmental Protection

CFDA Number: 66.204

Grant ID Number: DEP# 17-025

Match Amount and Type: None

Sub-Awards and Contracts: No Sub-Awards are anticipated.

FISCAL IMPACT

As this award was not anticipated in the FY17 budget, a budget amendment in the amount of \$9,119 is necessary to bring the Award into alignment with the direct program budget.

No amendment is necessary for indirect revenue.

Should the BCC approve these budget amendments, the FY17 budget will be increased by \$9,119 in the following accounts:

<u>Account Number</u>	<u>Description</u>	<u>Amount of Increase/(Decrease)</u>
2002-IO-11397 -431100	Federal Revenue	\$9,119
	Total Revenue	\$9,119
	-710546 Advertising	\$9,119
	Total Expenditures	\$9,119

RECOMMENDATION

It is recommended that the Board of County Commissioners approve amendments totaling an increase of [\$9,119] in both revenue and expense to the FY17 Air Quality Management Environmental Protection Agency (EPA) Multipurpose Grant Program, IO 11397; and if approved direct the Comptroller’s office to make the appropriate budget amendments.

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be: "Move to approve amendments totaling an increase of [\$9,119] in both revenue and expense to the FY17 Air Quality Management Environmental Protection Agency (EPA) Multipurpose Grant Program, IO 11397; and if approved direct the Comptroller's office to make the appropriate budget amendments."

INTERLOCAL CONTRACT BETWEEN PUBLIC AGENCIES

A Contract Between the State of Nevada
Acting By and Through Its

**Nevada 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

**Washoe County Health District
Air Quality Management Division
1001 E. Ninth Street, Building B
Reno, NV 89512**

WHEREAS, NRS 277.180 authorizes any one or more public agencies to contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform; and

WHEREAS, it is deemed that the services of Washoe County Health District – Air Quality Management Division hereinafter set forth are both necessary to Nevada Department of Conservation and Natural Resources, Division of Environmental Protection and in the best interests of the State of Nevada;

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

1. REQUIRED APPROVAL. This Contract 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. CONTRACT TERM. This Contract shall be effective upon approval to June 30, 2017, unless sooner terminated by either party as set forth in this Contract.
4. TERMINATION. This Contract may be terminated by either party prior to the date set forth in paragraph (3), provided that a termination shall not be effective until 15 days after a party has served written notice upon the other party. This Contract may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Contract shall be terminated immediately if for any reason federal and/or State Legislature funding ability to satisfy this Contract is withdrawn, limited, or impaired.
5. NOTICE. All notices or other communications required or permitted to be given under this Contract 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 Contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT A: SCOPE OF WORK

7. CONSIDERATION. Washoe County Health District – Air Quality Management Division agrees to provide the services set forth in paragraph (6) at a cost not exceeding \$10,000. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract 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 Contract are also specifically a part of this Contract 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 Contract must be retained a minimum three years and for five years if any federal funds are used in this Contract. The retention period runs from the date of termination of this Contract. 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 Contract shall be deemed a breach. Except as otherwise provided for by law or this Contract, 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, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation \$125 per hour for State-employed and County-employed attorneys.

11. LIMITED LIABILITY. The parties will not waive and intend to assert available NRS chapter 41 liability limitations in all cases. Contract 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 Contract, 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 Contract 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 Contract after the intervening cause ceases.

13. INDEMNIFICATION.

a. To the fullest extent of limited liability as set forth in paragraph (11) of this Contract, 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 Contract, and in respect to performance of services pursuant to this Contract, each party is and shall be a public agency separate and distinct from the other party and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract 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 Contract 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 Contract is held to be unenforceable by a court of law or equity, this Contract 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 Contract unenforceable.

17. ASSIGNMENT. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Contract 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 Contract), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Contract 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 Contract.

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

22. GOVERNING LAW; JURISDICTION. This Contract 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 Contract.

23. ENTIRE AGREEMENT AND MODIFICATION. This Contract 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 Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto, approved by the Office of the Attorney General.

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

Washoe County Health District
Public Agency #1

[Signature] 2/23/17 District Health Officer
Public Agency #1 Signature Date Title

Nevada Division of Environmental Protection
Public Agency #2

[Signature] 2/28/17 Administrator
Public Agency #2 Signature Date Title

APPROVED BY BOARD OF EXAMINERS

[Signature] for James R. Wells 3/8/17
Signature - Nevada State Board of Examiners Date

APPROVED AS TO FORM AND COMPLIANCE WITH LAW BY:

[Signature] 3/1/17
Deputy Attorney General for Attorney General, State of Nevada Date

Scope of Work

Washoe County Health District - Air Quality Management Division

EPA Multipurpose Grant Sub-contract

Issue:

The Bureau of Air Quality Planning and Pollution control with the Nevada Division of Environmental Protection received award from the USEPA Multipurpose grant FY 2016 for air work and state-led climate activities. One element of this grant is to support an outreach campaign as a control strategy for attaining PM₁₀, PM_{2.5}, and Ozone NAAQS in Washoe County. This activity is to be implemented by the Washoe Air Quality Management Division through an inter-local agreement between NDEP and the Washoe County Health District.

Project Goal, general Schedule and Tasks:

Implementation of the Keep it Clean –Rack Em Up and Be Idle Free outreach programs for the first two quarters of calendar year 2017. In particular, for the promotion of alternative active transportation, vehicle idle reduction initiatives, and applicable indirect costs. The outreach campaign will include, but is not limited to, 10 and 30 second radio spots, outdoor billboards, pamphlets, and social media marketing to relay the messages to the community. The project location is southern Washoe County, generally Washoe Lake to Silver Knolls in the North Valleys area, including the Reno-Sparks area of the Truckee Meadows Hydrographic Basin.

Financial Information and Budget Summary

Funding for this project is generated from the USEPA Multipurpose grant FY 2016. A single up-front allocation of \$10,000 will be provided to the Washoe County Health District.

Report requirements

A final report will be due by August 31, 2017 to include a summary of supported contractual activities, estimate of outreach-related emissions decrease, and itemized list of the outreach expenditure and indirect charges.

**ADDITIONAL AGENCY TERMS & CONDITIONS
ATTACHMENT TO CONTRACT FOR SERVICES
CONTRACT CONTROL #DEP 17-025**

1. For contracts utilizing federal funds, the Nevada Division of Environmental Protection (NDEP) shall pay no more compensation per individual (including any subcontractors) than the federal Executive Service Level 4 (U.S. Code) daily rate (exclusive of fringe benefits): 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 Contractor/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 contract, at which times original invoices must be received by NDEP no later than thirty-five (35) calendar days after this date. Failure of the Contractor/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 Contractor/Sub-grantee shall provide with each invoice a detailed fiscal summary that includes the approved contract 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 Contractor/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 Contract amount.

3. If match is required, the Contractor/Sub-grantee shall, as part of its approved Scope of Work or Workplan and budget under this Contract, provide third party match funds of not less than: \$N/A. If match funds are required, the Contractor/Sub-grantee shall comply with additional record-keeping requirements as specified in 48 CFR 31.2 (which, if applicable, is attached hereto and by this reference is incorporated herein and made part of this contract.

4. Unless otherwise provided in the Scope of Work or Workplan, the Contractor/Sub-grantee shall submit quarterly reports or other deliverables within ten (10) calendar days after the end of each quarter.

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 Scope of Work or Workplan agreed to.

6. Any funds obligated by NDEP under this Contract that are not expended by the Contractor/Sub-grantee shall automatically revert back to NDEP upon the completion, termination or cancellation of this Contract. NDEP shall not have any obligation to re-award or to provide, in any manner, such unexpended funds to the Contractor/Sub-grantee. The Contractor/Sub-grantee shall have no claim of any sort to such unexpended funds.

7. For contracts utilizing federal funds, the Contractor/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 Contractor/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 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.

8. The Contractor/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 Contract is in effect and within fifteen (15) calendar days after the termination date of this Contract.

9. Unless otherwise provided in the Scope of Work or Workplan, 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 Contract, the Contractor/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 Contractor/Sub-grantee will ensure that NDEP is given credit in all approved official publications relative to this specific project and that the content of such publications will be coordinated with NDEP prior to being published.

10. Unless otherwise provided in the Scope of Work or Workplan, all property purchased with funds provided pursuant to this Contract is the property of NDEP and shall, if NDEP elects within four (4) years after the completion, termination or cancellation of this Contract or after the conclusion of the use of the property for the purposes of this Contract during its term, be returned to NDEP at the Contractor/Sub-grantee's expense. Such property includes but is not limited to vehicles, computers, software, modems, calculators, radios, and analytical and safety equipment. The Contractor/ Sub-grantee shall use all purchased property in accordance with local, state and federal law, and shall use the property only for Contract purposes unless otherwise agreed to in writing by NDEP.

For any unauthorized use of such property by the Contractor/Sub-grantee, NDEP may elect to terminate the Contract and to have the property immediately returned to NDEP by the Contractor/Sub-grantee at the Contractor/Sub-grantee's expense. To the extent authorized by law, the Contractor/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 Contractor/Sub-grantee or the Contractor/Sub-grantee's agents or employees or any subcontractor or their agents or employees.

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

12. The Contractor/Sub-grantee and any subcontractors shall obtain any necessary permission needed, before entering private or public property, to conduct activities related to the Scope of Work or Workplan. 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.

13. Nothing in this Contract shall be construed as a waiver of sovereign immunity by the State of Nevada. Any action brought to enforce this contract shall be brought in the First Judicial District Court of the State of Nevada. The Contractor/Sub-grantee and any of its subcontractors shall comply with all applicable local, state and federal laws in

carrying out the obligations of this Contract, including all federal and state accounting procedures and requirements established in 2 CFR 1500 EPA Uniform Administrative Requirements, Cost Principles, and audit requirements for federal awards. The Contractor/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.