

**MINUTES OF WELLS CITY COUNCIL
MEETING OF MAY 10, 2022**

CALL TO ORDER

Date: Tuesday, May 10, 2022
Time: 7:00 P.M.
Place: Council Chambers, Wells City Hall
525 Sixth Street Wells, Nevada
Type of Meeting: Regular Meeting of City of Wells Board of Councilmen
Presiding Officer: Layla M. Walz, Mayor

ROLL CALL

Present: Layla M. Walz, Mayor
Robert Woolsey, Vice-Mayor
Jonathan Goolsby, Councilman
Chris Micheli, Councilman

Absent: Laura Moore-DelRio, Councilwoman

Quorum: Yes

Staff Present: Jordan Tilley, City Manager
Patti Zander, Deputy Clerk

PLEDGE OF ALLEGIANCE

Mayor Walz led everyone in the Pledge of Allegiance.

APPROVAL OF MINUTES OF PREVIOUS MEETINGS

Councilman Woolsey made a motion to approve meeting minutes dated April 26, 2022.
Councilman Micheli provided the second and motion passed unanimously.

CITIZENS TO ADDRESS THE COUNCIL

There were none.

**DISCUSSION AND CONSIDERATION OF A LETTER IN RESPONSE TO
FEDERAL LEGISLATION INTRODUCED BY THE U.S. HOUSE OF
REPRESENTATIVES NATURAL RESOURCES COMMITTEE TITLED THE
“CLEAN ENERGY MINERALS REFORM ACT OF 2022”**

Walz stated the county commissioners drafted a letter opposing this act. Tilley added the county commissioners asked that we as a city discuss this and see if we want to draft a similar letter. The bill will create royalties that mines on public lands will have to pay; 8% for existing mines and 12 ½% for new mines. The environmental protection requirements will be stricter and will make it more difficult for the mines to operate.

Tilley talked with Curtis Caulder in Elko who was going to reach out and see if cities should participate or if this should all be at the county level. It was on the City of Elko agenda tonight as well. Caulder thought maybe this should be a county response and not a city response. There are some draft letters available from Elko County and Humboldt County that will be submitted.

Woolsey would like to see how it impacts the mine. The mining industry is very large in Northeastern Nevada and would probably impact Northeastern Nevada more than it would the rest of the state. The mines do a lot for our communities and schools and Woolsey would like to see how that would impact their ability to continue helping in the community. Tilley is waiting to hear back from the mines if they have any dollar figures. NGM is giving a large amount towards the Main Street retail center and those types of things may go away if this royalty is put in place. Woolsey wants to see where the county stands as well as the mines and how it will impact them. Tilley will bring back information he receives.

DISCUSSION AND POSSIBLE ACTION TO CHANGE THE GOVERNANCE OF THE ELKO CENTRAL DISPATCH ADMINISTRATIVE AUTHORITY FROM AN INTERLOCAL AGREEMENT BETWEEN THE CURRENT MEMBER ENTITIES TO A DEPARTMENT WITHIN THE ELKO COUNTY GOVERNMENT, INCLUDING CONSIDERATION AND APPROVAL OF A LETTER OF INTENT TO PROCEED WITH THE PROPOSAL

Lee Cabiniss, Emergency Manager for Elko County as well as one of the board members for the executive board, was at the meeting. Cabiniss stated this item is to change the governance of the Elko Central Dispatch administrative authority from one administered by an interlocal agreement to a department within Elko County. The interlocal agreement has been in place in its current form since 2000.

During the time this agreement has been in place, changes have occurred such as the Elko County Sheriff's Office taking over law enforcement in the City of Wells. Fire suppression within Elko County has transitioned from NDF to Elko County Fire Protection District. A different way to allocate costs has been identified through consultant evaluation of its fiscal administration. To make the changes referenced above, the Interlocal Agreement would need to be updated or a different governance for the dispatch center would be needed. The change to a county department is the most feasible.

This proposal recommends changing the governance of the dispatch center from an executive board made up of county and city officials and one at-large position and an

operations board that is made up of some user agencies. The executive board voted to recommend to the user entities that we change the governance from these boards to a department within Elko County. The county is the logical place for this new department to develop as dispatch is a regional operation.

The second major point is revising the cost allocation that users pay. The approximately \$1.7 million dispatch budget through user fees is intended to be allocated differently. Approximately 1/3 of the cost would be based on fixed costs such as radios and FTE's with 2/3 of the cost allocated on system usage (calls for service). This has the benefit of more equitable distributing costs to users. Currently the user fees are based exclusively upon a fixed cost (radios) with no accounting for system usage.

No staffing will be changed nor the location or the infrastructure of the center. Due diligence will be done with county staff, the dispatch boards, user entities, user agencies and dispatch employees from now through the end of the year as phase one. Phase two could begin around January 1, 2023 and would be a pre-implementation phase that would continue until July 1, 2023 when phase three of implementation begins July 1, 2023.

Elko County has approved the letter and it's two-fold implications for the county. First to dissolve the interlocal agreement and second to agree to accept the dispatch center as a department with the county. Cabiniss is asking the city to approve the letter of intent to initiate this change. As a user entity approving the letter of intent, it is a vote to dissolve the current interlocal agreement and start the process of making this change. Cabiniss added that he was at the Elko City Council meeting earlier and this was approved.

Walz liked the restructure of the cost but is concerned that with no seat at the table, our concerns won't get met. The communications department would not be under any current public safety agencies. It would be a department head reporting to the county manager or assistant. The enhanced 911 board would supervise the surcharge fee which would continue to support the capital costs. Nothing will change with the way things are functioning but the cost for the City of Wells may be less. Woolsey made a motion to change the governance of the Elko Central Dispatch Administrative Authority from the interlocal agreement between the current member entities to a department within the Elko County Government, including consideration and proceeding with the proposal. Micheli provided the second and motion passed with Goolsby abstaining.

DISCUSSION AND POSSIBLE ACTION TO APPROVE SPECIAL USE PERMIT FOR APN #002-740-003 & #002-740-020

Walz began that this is two special use permits for the Maverik group. Tilley added that James Copeland from DRH Company was on zoom to answer any questions. Tilley stated that city code has a forty-five-foot height requirement on signs and Maverik is proposing to put in a sign that is a hundred feet tall so it can be seen from the freeway, like the Loves, Flying J and Petro signs. A special use permit usually requires construction to be commenced within 185 days or the extension thereof. Staff has

requested them to ask for an additional 185 days. It is not likely they will need all of that time but there could be supply chain issues.

Walz declared she lives across the street from where the sign will be and wanted to know if it would obstruct the view of the mountain or chimney rock. Walz added that currently, her bathroom glows green from the Loves sign and is concerned about the light that will be generated from this sign. Walz wondered if it could be directional lighting towards the interstate and not the homes in the area. Copeland stated the sign itself is oriented parallel with the interstate to maximize visibility from the interstate. Walz mentioned dark sky lighting is used at the mine site at Pequop so there is very little light and wondered if this sign lighting would be similar. Copeland added that there will be automatic dimmers and will run at fifteen percent of brightness at night. Copeland added he would give Tilley any more information when he gets it. The electrical engineer for this site is well versed in designing for dark sky areas.

Woolsey doesn't think there would be any problem with obstruction of the mountains as this sign won't be as big as some of the billboards in the same area. Walz asked if Maverik would have ethanol free gas. Copeland stated there will be a forty-thousand-gallon diesel tank; a forty-thousand-gallon unleaded tank and a triple compartment tank that will have premium, midgrade and ethanol free. Walz asked if any one in the audience had any questions or concerns regarding special use permits for signs for Maverik. Quinn wondered if in the future, the city would adopt a code for low lighting requirements. Woolsey made a motion to approve the special use permit to allow the sign to be one hundred feet. Goolsby provided the second and motion passed unanimously.

CONTINUED DISCUSSION ABOUT OPTIONS TO IMPROVE ANIMAL CONTROL

Walz did hear some community comments before the meeting started that there have been some improvements. Tilley has talked with a couple of the deputies and with Lt. Fisher and they feel the notice on the reader board is the way to go as well as it being on Facebook. Just getting the information out will hopefully deter people to keep a better eye on their dogs. Tilley has heard of some people calling dispatch. One animal control officer was covering Spring Creek specifically. Both animal control officers are now being paid by the county.

Lt. Fisher has said the deputies are trained, able and capable of handling dog calls as well. Tilley has not seen as many dogs loose around town. Woolsey added that there have been less dogs at the school in the last two weeks. Denny Stanhope stated the problem he was having with dogs has decreased and the dogs he had issues with have been behind fences. Stanhope thinks there has been improvement but hopes council will continue to move forward with this issue. Woolsey thinks it needs to be revisited. Walz questioned if the city wants to commit funds to code enforcement if the Elko County Sheriff is willing to be our partner. Will they provide the person if we provide the budget? Is there enough need that the code enforcement person could work in Spring

Creek half the week and in Wells half the week? There is still a lot of discussion that needs to take place. Nicole Rodriguez asked how many times a loose dog is picked up before it will not be returned to the owner. Supp added there is a leash law in the code and there is a citation that the sheriff's department can cite the property owner. Tilley added that Lt. Fisher sent out a notice to all the deputies in Wells to be more pro-active at picking up loose dogs.

DISCUSSION AND POSSIBLE ACTION TO APPROVE GRANT APPLICATION TO DISPOSE OF CONTAMINATED DIRT UNDER THE FORMER STINKER STATION GAS STATION

Tilley met with David Freeman and Rueben Ramos from NDEP and asked that this item just be discussed tonight. Action can be taken at the next meeting because it needs to be reviewed by their Deputy Attorney General. This will cost \$64,000 to be funded through this grant with \$16,000 as in-kind. NDEP has received permission for the city to use the old landfill for this dirt, so it doesn't have to be trucked to Elko. The dirt will have to be dug up and let it sit for a week to do some tests to make sure all the contaminated dirt is removed. Hopefully this can be approved at the next meeting and work will be able to start by the middle of July. There will be four quarterly ground water monitoring events where they will come in and check the contaminated dirt to see if it is diminishing which should take about a year to totally complete the process.

CLAIMS COMMITTEE REPORT: ACTION TO APPROVE FINANCIAL STATEMENTS

Goolsby made a motion to approve check register dated April 1, 2022 through April 30, 2022 in the amount of \$153,147.60. Micheli provided the second and motion passed unanimously. Goolsby again made a motion to approve Warrant Register dated April 28, 2022 through May 10, 2022 in the amount of \$85,180.75. Micheli provided the second and motion passed unanimously.

COUNCILMEN'S REPORTS

Woolsey mentioned that Friday and Saturday, the softball and baseball regionals will be held. There will be several teams in town. Woolsey would like to revisit hiring parttime help at the golf course and would like to see if it will continue to be done yearly. Woolsey would like to bring back the numbers for when it was done last year and put it on the next agenda. It wasn't a large profit but did come out ahead. It created a couple of jobs and provided a service. Woolsey would like to discuss this on the next agenda.

Goolsby stated that there was a recent fundraiser for the Booster Club that did well. Goolsby mentioned he had seen some chickens not too far from here and thinks maybe this should be revisited in the future. He understands there should be no roosters but with the price of eggs, he would like chickens. Quinn mentioned that there are six racoons in her neighborhood, so the chickens and eggs won't last long.

Walz received an email from NNRDA saying that with the infrastructure money, they are looking at railroad crossings and wondering if we want to apply for grants to improve our railroad crossings. Walz does not think the railroad crossings can be moved but may want to talk about overpasses for pedestrians.

STAFF REPORTS

Tilley stated code enforcement has been on his mind and will have it on the next agenda. Tilley will be out of the office the end of this week and all next week to attend the Main Street conference in Richmond, Virginia. Tilley will be meeting with the County Manager, the sheriff and Undersheriff Justin Ames to start the process of revising the interlocal agreement the week after he gets back. Tilley hopes to have a contract that will be easier to understand, enforce and follow on both sides.

CITIZENS TO ADDRESS THE COUNCIL

Supp asked that since the city has updated the website, wondered if the city could put the entire agenda packet on the website. The new candidates don't have access to all the information. Zander stated that a candidate had received the packet because it was requested.

ADJOURNMENT

The meeting adjourned at 8:20 p.m.

LAYLA M. WALZ, Mayor

ATTEST:

SAMANTHA NANCE, City Clerk

Agenda Item #8

Date of Meeting 5-24-22

Granting Federal Agency: EPA
CFDA#: 66.811
Grant Name: Brownfields Pilots Cooperative Agreements

Subgrant Agreement
Control # DEP S22-043
 A Subgrant awarded by

Agency Name:	Nevada Department of Conservation and Natural Resources, Division of Environmental Protection		
Tax ID #	88-6000022	DUNS #	0938199980000
Address:	901 S. Stewart Street, Ste. 4001		
City, State, Zip Code:	Carson City, NV 89701-5249		
Contact:	Kim Valdez		
Phone:	775-687-9370		
Fax:	775-687-8335		
Email:	kvaldez@ndep.nv.gov		

and awarded to Subgrantee.

Subgrantee Name:	City of Wells		
Tax Id #	88-6000204		
Address:	525 6 th St. PO Box 366		
City, State, Zip Code:	Wells, NV 89835		
Contact:	Jordan Tilley, City Manager, City of Wells		
Phone:	775-752-3355		
Fax:			
Email:	citymanager@cityofwellsnv.com		

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:

- REQUIRED APPROVAL.** This Subgrant shall not become effective until and unless approved by appropriate official action of the governing body of each party.
- 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.
- SUBGRANT TERM.** This subgrant shall be effective as noted below, unless sooner terminated by either party as set forth in this Subgrant.

Effective from:	Upon NDEP Administrator Approval	To:	June 30, 2024
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- 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.

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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 electronic mail, 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 and DELIVERABLES
ATTACHMENT B:	NDEP ADDITIONAL TERMS AND CONDITIONS
ATTACHMENT C:	THIRD-PARTY MATCH RECORD KEEPING 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 Subgrant or installments payable: quarterly, not exceeding **\$64,000**. 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 AND 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, reports, studies, photos, negatives, data, materials, drawings (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 Department Of Conservation and Natural Resources, the Nevada Division of Environmental Protection, 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

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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/DELEGATION.** 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, blueprints, 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. 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.

Granting Federal Agency: EPA
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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 hereby consent to the jurisdiction of the Nevada district courts for enforcement of this Subgrant.
23. **ENTIRE CONTRACT 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 Signature	Date	Subgrantee Title
NDEP Signature	Date	Administrator

Attachment A
SOW, Budget, Deliverables

Attachment A
Project Overview and Budget, Scope of Work, and Deliverables
FY22 – FY24
Subgrant # DEP S22-043

Subgrantee Contact

Jordan Tilley
City Manager
City of Wells
P.O. Box 366
525 6th Street
Wells, Nevada 89835
775-752-3355
citymanager@cityofwellsnv.com

NDEP Project Contacts

Brownfields Program Branch Supervisor:
Rebecca Bodnar
775-687-9545
rebecca.bodnar@ndep.nv.gov

Brownfields Program Project Coordinator:
Ruben Ramos-Avina, Environmental Scientist III
775-687-9572
rramos-avina@ndep.nv.gov

1. Project Overview

Projected Budget FY22-24:

NDEP, RLF funding	\$64,000.00
City of Wells match funding	<u>\$16,000.00</u>
Total project	\$80,000.00

Project Goal

The Nevada Division of Environmental Protection (NDEP) is providing a grant under the Nevada Brownfields Program (NBP) Revolving Loan Fund (RLF) to support the City of Wells (City/Subgrantee) groundwater remediation activities at the former Fearless Farris Gas Station, 1010 6th Street, Wells, Nevada (Facility ID #6-000160) (the property). The City acquired the property in 2020 to facilitate the redevelopment of a long vacant and under-utilized property located within an established redevelopment area (RDA). The remediation activities will include: limited excavation and offsite removal of contaminated soil from the site, post-excavation groundwater monitoring, compilation of case closure report, and documentation and post-closure abandonment of existing groundwater monitoring wells.

Site History and Background

In accordance with Nevada Administrative Code (NAC) 459.996, a report of release from a registered underground storage tank was made by the Fearless Farris gas station operator in 1998 when impacted soil was discovered during tank removal. Total petroleum hydrocarbon (TPH) concentrations were discovered in soil and benzene, ethylbenzene, toluene, xylene (BTEX) and methyl tert-butyl ether (MTBE) were detected in groundwater following excavation of the underground storage tank. Because concentrations were above state action levels, the NDEP Bureau of Corrective Actions (BCA) opened a corrective action case for the site requiring characterization and clean-up of these contaminants of concern. Cooperation and compliance in addressing the petroleum release was mixed during the history of the BCA case. Initially, the owner, Fearless Farris, cooperated in performing the necessary work to determine the concentration and extent of contamination across the site and initiated remediation activities under an approved Corrective Action Plan. However, the effectiveness of the implemented remedy was insufficient to close the case. Over time, Fearless Farris' engagement in continuing the required groundwater monitoring while pursuing a remedy suited for the site conditions diminished and the owner failed to bring about case closure under Nevada regulation.

The property is located along a section of 6th Street the City identified as a key feeder for visitor traffic coming from Interstate 80 and US Highway 93 and therefore a focus area for redevelopment. The City established this section of 6th Street as an RDA to provide tax and other incentives to developers and new businesses to promote desired redevelopment. The City recognized this vacant property along with adjacent and nearby parcels with blighted structures as barriers to achievement of the RDA's goals. The City engaged the Nevada Brownfields Program (NBP) to assess and remediate the other 6th Street properties (e.g., Ranch Café and Casino). The former Fearless Farris gas station is an especially difficult property to redevelop because of the groundwater contamination issue. In consultation with the BCA case officer and the NBP, the City acquired the property and immediately addressed the outstanding compliance issues pertaining to the groundwater contamination case. The NBP has approved the City's request for subgrant funding under the RLF, recognizing the City's proactive commitment to complete the necessary steps to bring the corrective action case to compliant closure under Nevada regulation and redevelop the property.

2. Scope of Work

Phase 1: Soil excavation, hauling, and disposal

- a. Notify 811 underground utility clearance to locate and mark potential buried utilities prior to excavation. Excavate petroleum-contaminated soil in the vicinity of former leaking underground storage tank(s).
- b. Perform waste characterization sampling on excavated soil to determine appropriate management and disposition.
- c. If determined non-hazardous, soil will be hauled to the former Wells Construction and Demolition landfill under special approval from the NDEP Bureau of Sustainable Material Management.
- d. If determined hazardous, alternative treatment, such as landfarming, will be considered to bring the soil into non-hazardous compliance.
- e. Revise Subgrant Agreement by amendment to provide funding for additional hazardous soil treatment and/or management.
- f. The City will provide sufficient clean fill to the site to backfill the excavation.

Phase 2: Continue on-going groundwater sampling and monitoring activities in all remaining site monitoring wells for a minimum of four consecutive calendar quarters following soil excavation. The proposed location and extent of soil excavation is anticipated to result in the removal of existing monitoring well MW-11 and may impact monitoring wells MW-10 and MW-12. The need to replace any of these wells will be determined after completion of the soil excavation phase.

- a. Based on field determined limits of soil excavation, determine adequacy of monitoring well network to monitor site conditions. Revise Subgrant Agreement by amendment to provide additional funding if new replacement groundwater monitoring well is determined necessary.
- b. Measure and record groundwater elevations at remaining site monitoring wells.
- c. Collect groundwater samples from all remaining site monitoring wells for analysis using US EPA Method 8260 for BTEX and MTBE.
- d. Prepare and submit quarterly reports including summary of the tasks identified above and the analytical findings, including the laboratory data and reports. The quarterly reports shall include a map to indicate the monitoring well locations on the site and water table surface of the aquifer as measured in the groundwater elevations.

Phase 3: 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 finding of the four quarter results).
- b. Following approval and closure with exemption by NDEP, properly close and abandon the remaining groundwater monitoring wells at the site.

3. Budget

Phase 1:

- a. Soil excavation, hauling and disposal: **\$16,000.00**
- b. Excavated soil waste characterization and soil removal oversight: **\$8,000.00**

Phase 2:

- a. Four (4) quarterly groundwater monitoring events and reporting: **\$20,000.00**

Phase 3:

- a. Cost of groundwater closure final report and well closure reporting: **\$6,000.00**
- b. Well abandonment (including oversight): **\$30,000.00**

Total not-to-exceed project cost: **\$80,000.00**

4. Invoicing Requirements, Deliverables and Approved Billing Rates

- a. Subgrantee will establish an account and provide detailed quarterly draw requests via NIFS online program.
- b. Invoicing, deliverables, and match requirements as outlined in Attachment C – Third Party Match Record Keeping Requirements, Subgrant DEP # S22-043 must be followed.
- c. In consideration of an approved draw, the Subgrantee will provide the following based on the agreed upon project schedule and conform to all deliverable requirements set forth in the scope of work.
 - i. All reports required for review and approval of draw requests are to be provided in Adobe Acrobat format to the Brownfields Program Project Coordinator, who will verify receipt and sign as Services Provided Approved, in conjunction with the related draw requests.
 - ii. Draw requests are required to follow established NIFS system accounting and invoicing practices developed by the NDEP Office of Financial Assistance (OFA). Upon approved Subgrant Agreement, the OFA will provide guidance to establish an account in the NIFS system.
 - iii. Draw requests including invoices received and paid for by the Subgrantee including all subcontractor work, supplies, and or other outside vendor services performed during a billing period must be included as back-up in the NIFS system to verify a draw request. Travel completed by the Subgrantee, or their subcontractors, must be requested using a State template to be supplied by the Brownfields Program Project Coordinator, which conforms to GSA and State mandated travel terms and/or approved rates.
 - iv. The Subgrantee is responsible for all required corrections to invoices submitted, management of subcontractor invoices, and management of subcontractor timely billing practices.

- d. Estimated billing rates for Subgrantee’s contractor. Final approved billing rates yet to be determined for Subgrantee-selected contractor.

Estimated Hourly Personnel Billing Rates	
Program Director/Principal	\$163.98
Associate or Project Manager	\$145.68
Senior Engineer	\$131.08
Senior Hydrogeologist	\$131.08
Project Geologist	\$100.00
Project Engineering	\$100.00
Project Draftsperson	\$75.75
Field Technician	\$75.75
Administrative/Clerical	\$63.63
Other Job Title: Staff Engineer/Geologist	\$95.00
Other Job Title: Database Engineer/GIS Specialist	\$121.20

5. Brownfields Revolving Loan Fund Requirements

- a. Subgrantee will comply with applicable regulations NAC 459.9991 through 459.99939 “Fund for Brownfield Projects” unless otherwise provided in this Subgrant Agreement.

Attachment B
NDEP Additional Terms and Conditions

Attachment B
NDEP Additional Terms and Conditions
FY22-24
City of Wells Subgrant # DEP S22-043

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 § 1500.10 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 \$84.76 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: \$16,000. 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 C
Third Party Match Record Keeping Requirements
FY22-24
City of Wells Subgrant # DEP S22-043

- A. If not included in the scope of work / budget attachment of the contract, the Public Agency, Contractor or Subgrantee 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 Subgrantee 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 Subgrantee 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 NDEP Administrator Approval through June 30, 2024.
 3. All financial records, including match documentation, relevant to this project shall be retained by the Public Agency, Contractor or Subgrantee for three years from the date of final payment by NDEP to the Public Agency, Contractor or Subgrantee, 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 Subgrantee 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 Subgrantee to repay any funds provided to the Public Agency, Contractor or Subgrantee under the attached contract that the Public Agency, Contractor or Subgrantee is unable to match or provide adequate documentation for the reported match.