

Attachment E - EPA  
SFBWQIF Grant Agreement

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 <p><b>U.S. ENVIRONMENTAL PROTECTION AGENCY</b></p> <p><b>Grant Agreement</b></p>	<b>GRANT NUMBER (FAIN): 98T15701</b> <b>MODIFICATION NUMBER: 0</b> <b>PROGRAM CODE: W9</b>		<b>DATE OF AWARD</b> 09/13/2020
	<b>TYPE OF ACTION</b> New		<b>MAILING DATE</b> 09/21/2020
	<b>PAYMENT METHOD:</b> ASAP		<b>ACH#</b> 90607
<b>RECIPIENT TYPE:</b> Municipal		<b>Send Payment Request to:</b> US EPA RTP-Finance Center Email: <a href="mailto:rtpfc-grants@epa.gov">rtpfc-grants@epa.gov</a>	
<b>RECIPIENT:</b> City of Oakland - Environmental Services Div 250 Frank H. Ogawa Plaza, Suite 5301 Oakland, CA 94612 <b>EIN:</b> 94-6000384		<b>PAYEE:</b> City of Oakland - Environmental Services Div 250 Frank H. Ogawa Plaza, Suite 5301 Oakland, CA 94612	
<b>PROJECT MANAGER</b> Terri Fashing 250 Frank H. Ogawa Plaza, Suite 5301 Oakland, CA 94612 <b>E-Mail:</b> <a href="mailto:tfashing@oaklandca.gov">tfashing@oaklandca.gov</a> <b>Phone:</b> 510-238-7276		<b>EPA PROJECT OFFICER</b> Luisa Valiela 75 Hawthorne Street, WTR-3 San Francisco, CA 94105 <b>E-Mail:</b> <a href="mailto:Valiela.Luisa@epa.gov">Valiela.Luisa@epa.gov</a> <b>Phone:</b> 415-972-3400	
<b>EPA GRANT SPECIALIST</b> Susan Chiu Grants Branch, MSD-6 <b>E-Mail:</b> <a href="mailto:chiu.susan@epa.gov">chiu.susan@epa.gov</a> <b>Phone:</b> 415-972-3674			
<b>PROJECT TITLE AND DESCRIPTION</b> San Francisco Bay Water Quality Improvement Fund - Courtland Creek  This agreement supports the grantee's project to restore the Courtland Creek. This includes approximately 950 feet of creek through grading, slope stabilization, and native plant revegetation and approximately two acres of riparian and wetland habitats. The project reaches are located within disadvantaged communities and will improve water quality, reduce flood risk, and beautify the neighborhood. Additional efforts will address homeless encampment impacts to creek water quality. The project is being designed in collaboration with the adjacent community.  This agreement provides full federal funding in the amount of \$1,500,000.			
<b>BUDGET PERIOD</b> 10/01/2020 - 10/31/2024	<b>PROJECT PERIOD</b> 10/01/2020 - 10/31/2024	<b>TOTAL BUDGET PERIOD COST</b> \$3,000,000.00	<b>TOTAL PROJECT PERIOD COST</b> \$3,000,000.00
<h3>NOTICE OF AWARD</h3>			
Based on your Application dated 05/13/2020 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$1,500,000. EPA agrees to cost-share 50.00% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$1,500,000. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.			
<b>ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)</b>		<b>AWARD APPROVAL OFFICE</b>	
<b>ORGANIZATION / ADDRESS</b> U.S. EPA, Region 9 Grants Branch, MSD-6 75 Hawthorne Street San Francisco, CA 94105		<b>ORGANIZATION / ADDRESS</b> U.S. EPA, Region 9 Water Division, WTR-1 75 Hawthorne Street San Francisco, CA 94105	
<b>THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY</b>			
Digital signature applied by EPA Award Official Carolyn Truong - Grants Management Officer			<b>DATE</b> 09/13/2020

## EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 1,500,000	\$ 1,500,000
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$ 500,000	\$ 500,000
State Contribution	\$	\$ 1,000,000	\$ 1,000,000
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 3,000,000	\$ 3,000,000

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.126 - San Francisco Bay Water Quality Improvement Fund	Clean Water Act: Sec. 320	2 CFR 200 2 CFR 1500 and 40 CFR 33

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	2009W32027	2021	B	09L2	000BK4	4158			1,500,000
									1,500,000

## Budget Summary Page

<b>Table A - Object Class Category (Non-construction)</b>	<b>Total Approved Allowable Budget Period Cost</b>
<b>1. Personnel</b>	\$71,250
<b>2. Fringe Benefits</b>	\$40,062
<b>3. Travel</b>	\$0
<b>4. Equipment</b>	\$0
<b>5. Supplies</b>	\$0
<b>6. Contractual</b>	\$2,792,260
<b>7. Construction</b>	\$0
<b>8. Other</b>	\$89,740
<b>9. Total Direct Charges</b>	\$2,993,312
<b>10. Indirect Costs: % Base see General T/C</b>	\$6,688
<b>11. Total (Share: Recipient <u>50.00</u> % Federal <u>50.00</u> %.)</b>	\$3,000,000
<b>12. Total Approved Assistance Amount</b>	\$1,500,000
<b>13. Program Income</b>	\$0
<b>14. Total EPA Amount Awarded This Action</b>	\$1,500,000
<b>15. Total EPA Amount Awarded To Date</b>	\$1,500,000

## **Administrative Conditions**

### **General Terms and Conditions**

The recipient agrees to comply with the current EPA general terms and conditions available at: <https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2019-or-later>

These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at: <https://www.epa.gov/grants/grant-terms-and-conditions>.

### **A. Federal Financial Reporting (FFR)**

For awards with cumulative project and budget periods greater than 12 months, the recipient will submit an annual FFR (SF 425) covering the period from "project/budget period start date" to **September 30** of each calendar year to the EPA Finance Center in Research Triangle Park, NC. The FFR will be submitted electronically to [rtfpc-grants@epa.gov](mailto:rtfpc-grants@epa.gov) no later than **December 30** of the same calendar year.

### **B. Procurement**

The recipient will ensure all procurement transactions will be conducted in a manner providing full and open competition consistent with 2 CFR Part 200.319. In accordance 2 CFR Part 200.323 the grantee and subgrantee(s) must perform a cost or price analysis in connection with applicable procurement actions, including contract modifications.

*State recipients must follow procurement procedures as outlined in 2 CFR Part 200.317.*

### **C. Six Good Faith Efforts 40 CFR § 33, Subpart C /Contract Provisions /Bidders List**

Pursuant to 40 CFR § 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- (e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
- (f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

### **CONTRACT ADMINISTRATION PROVISIONS, 40 CFR § 33.302**

The recipient agrees to comply with the contract administration provisions of 40 CFR § 33.302 (a)-(d) and (i).

### **BIDDERS LIST, 40 CFR § 33.501(b) and (c)**

The recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. The recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR § 33.501 (b) and (c) for specific requirements and exemptions.

### **D. Disadvantaged Business Enterprise (DBEs) - UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES GENERAL COMPLIANCE, 40 CFR, Part 33**

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33 except as described below based upon the associated class deviation.

### **EPA MBE/WBE CERTIFICATION, 40 CFR, Part 33, Subpart B**

A class exception to the following provisions of Subpart B of 40 CFR Part 33 has been issued suspending the EPA MBE/WBE certification program: §33.204(a)(3) providing that an entity may apply to EPA MBE or WBE certification after unsuccessfully attempting to obtain certification as otherwise described in §33.204; and §33.205 through and including §33.211. The class exception was authorized pursuant to the authority in 2 CFR §1500.3(b).

### **FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D**

A class exception to the entire Subpart D of 40 CFR Part 33 has been authorized pursuant to the authority in 2 CFR §1500.3(b). Notwithstanding Subpart D of 40 CFR Part 33, recipients are not required to negotiate or apply fair share objectives in procurements under assistance agreements.

### **E. MBE/WBE Reporting**

#### **General Compliance, 40 CFR Part 33, Subpart E – Reporting Condition**

This award meets the conditions below and, henceforth, is subject to Disadvantaged Business Enterprise (DBE) Program reporting requirements based on EPA's review of the planned budget. Conversely, the recipient must submit to the [GrantsRegion9@epa.gov](mailto:GrantsRegion9@epa.gov) a justification and budget detail within 21 days of the award date demonstrating that this award is not subject to the DBE reporting requirements.

MBE/WBE reports from grantees are required annually for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the "Other" category, that exceed the Simplified Acquisition Threshold as defined by the Federal Acquisition Regulation (currently set at \$250,000), including amendments and/or modifications.

The recipient agrees to complete and submit a "MBE/WBE Utilization under Federal Grants, Cooperative agreements" report (EPA Form 5700-52A) on an annual basis. All procurement actions that are reportable, not just that portion which exceeds the Simplified Acquisition Threshold.

When completing the annual report, recipients are instructed to check the box titled "annual:" in section 1B of the form. For the final report, recipients must check the box indicated for the "last report" of the project in section 1B of the form. Annual reports are due by October 30<sup>th</sup> of each year. Final reports are due by October 30<sup>th</sup> or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on total procurements. Recipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place

during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

MBE/WBE reports should be sent to [GrantsRegion9@epa.gov](mailto:GrantsRegion9@epa.gov) and assigned EPA Grants Specialist. The current EPA Form 5700-52A is located at <https://www.epa.gov/grants/epa-form-5700-52a-united-states-environmental-protection-agency-minority-business>.

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502.

#### **F. Non-Federal Third-Party Contributions**

This award includes **\$1,000,000** of estimated non-federal third party contributions. Third party contributions counting towards satisfying a cost sharing or matching requirement must be verifiable from the records of grantees and subgrantees. As applicable, these records must reflect how the value is placed on third party contributions. The value of third party contributions must be applicable to the period to which the cost sharing or matching requirement apply (2 CFR Part 200.306).

### **Programmatic Conditions**

**a.] REPORTING:** The recipient shall submit quarterly progress reports to the EPA Project Officer within 30 calendar days after the end of each Federal fiscal quarter (January 31, April 30, July 31, and October 31). The progress reports should include:

- a discussion of the activities conducted during the two quarters (including a comparison of actual accomplishments with the anticipated outputs and outcomes specified in the workplan),
- progress towards milestones,
- problems encountered with achieving outputs and outcomes, and their resolution,
- activities planned for the next two quarters,
- a financial accounting of costs incurred during the reporting period,
- cumulative project costs (EPA and match amounts) since the beginning of the project, by task, and
- identification of any special EPA assistance needed, and an explanation of any cost overruns. The recipient will notify the EPA Project Officer if something materially impairs their ability to complete the tasks and deliver the products, outputs and outcomes identified in the workplan.

Within 90 days of the end of the project period, the recipient must submit 1 hardcopy of the final report, documenting project activities over the entire project period and the recipient's achievements with respect to the project's purposes and objectives. The final report must also be submitted electronically (by Email) to the EPA Project Officer.

**b.] SUBAWARD REPORTING:** The recipient must report on its subaward monitoring activities under 2 CFR 200.331(d). Examples of items that must be reported if the pass-through entity has the information available are:

1. Summaries of results of reviews of financial and programmatic reports.
2. Summaries of findings from site visits and/or desk reviews to ensure effective subrecipient performance.
3. Environmental results the subrecipient achieved.
4. Summaries of audit findings and related pass-through entity management decisions.

5. Actions the pass-through entity has taken to correct deficiencies such as those specified at 2 CFR 200.331(e), 2 CFR 200.207 and the 2 CFR Part 200.338 Remedies for Noncompliance.

**c.] GRANT SOURCE RECOGNITION:** The recipient should publicly acknowledge the US EPA San Francisco Bay Water Quality Improvement Fund as the funding vehicle for the projects when the grantee is asked by public entities, federal agencies or state and local agencies about the projects and on-going results.

**d.] LAB COMPETENCY - Competency of Organizations Generating Environmental Measurement Data:**

Following EPA Policy Directive Number FEM-2012-02, recipient agrees to demonstrate competency of any laboratory carrying out any activities involving the generation of environmental data on its behalf. Laboratory competency shall be maintained for the duration of the project period of this agreement and documented during the annual reporting process. A copy of the Policy is available online at <https://www.epa.gov/measurements> .

**e.] Quality Assurance Project Plan:** In accordance with 2 CFR 1500.11, the recipient must develop and implement quality assurance and quality control procedures, specifications and documentation that are sufficient to produce data of adequate quality to meet project objectives. Recipients implementing environmental programs within the scope of the assistance agreement must submit to the EPA Project Officer an approvable Quality Assurance Project Plan (QAPP) at least 60 days prior to the initiating of data collection or data compilation. The Quality Assurance Project Plan (QAPP) is the document that provides comprehensive details about the quality assurance, quality control, and technical activities that must be implemented to ensure that project objectives are met. Environmental programs include direct measurements or data generation, environmental modeling, compilation of data from literature or electronic media, and data supporting the design, construction, and operation of environmental technology.

The QAPP should be prepared in accordance with [EPA QA/R-5: EPA Requirements for Quality Assurance Project Plans](#).

No environmental data collection or data compilation may occur until the QAPP is approved by the EPA Project Officer and Quality Assurance Regional Manager. When the recipient is delegating the responsibility for an environmental data collection or data compilation activity to another organization, the EPA Regional Quality Assurance Manager may allow the recipient to review and approve that organization's QAPP. Additional information on these requirements can be found at the EPA Office of Grants and Debarment Web Site: <https://www.epa.gov/grants/implementation-quality-assurance-requirements-organizations-receiving-epafinancial>

**f.] Cybersecurity:** (a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all State or Tribal law cybersecurity requirements as applicable.

(b)(1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure. For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring

information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer (PO) no later than 90 days after the date of this award and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

(b)(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR 200.331(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

**END OF DOCUMENT**