

**RESOLUTION 2010-44**

**A RESOLUTION TO APPROVE THE AWARD OF THE ENVIRONMENTAL PROTECTION AGENCY (EPA) CONGRESSIONALLY MANDATED PROJECTS GRANT XP-95411710-0 (COF CONTRACT NO 2010-0075) AND DESIGNATING THE CITY ENGINEER AS THE CITY'S AUTHORIZING REPRESENTATIVE.**

**WHEREAS**, the Board of Mayor and Alderman (BOMA) of the City of Franklin, Tennessee has identified the need to complete an improvement project on Liberty Creek in the vicinity of the intersection of Daniels Drive and Old Liberty Pike; and

**WHEREAS**, the Board of Mayor and Alderman approved the application to the Environmental Protection Agency (EPA) of June 30, 2008 for assistance in the funding of the Liberty Creek Watershed Improvements (Project) construction; and

**WHEREAS**, EPA has approved the application and is awarding the amount of \$120,200.00 (cost share of 43.68% of the Project's construction estimate); and

**WHEREAS**, the Board of Mayor and Aldermen has carefully evaluated the Project, prioritized the Project as number 2 in the approved FY 2010-2014 Stormwater Capital Investment Program (CIP) to be funded from the Stormwater Reserve Fund; and

**WHEREAS**, the Stormwater Reserve Fund has the available funds to complete the Project.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE**, that the Environmental Protection Agency (EPA) Congressionally Mandated Projects Grant XP-95411710-0 (COF Contract No 2010-0075) is hereby approved and that City Engineer David Parker is hereby designated as the authorized representative of the City of Franklin, Tennessee with respect to completing all documentation with respect to the EPA Grant XP-95411710-0. Upon completion of any documentation, the City Engineer shall report such action to the Board of Mayor and Aldermen at their next scheduled meeting.

**IT IS SO RESOLVED AND DONE** on this 8<sup>th</sup> day of June 2010.

**ATTEST:**

**CITY OF FRANKLIN, TENNESSE**

**By:** \_\_\_\_\_

**ERIC S. STUCKEY**  
City Administrator

**By:** \_\_\_\_\_

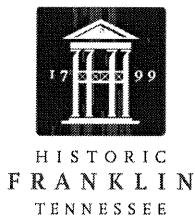
**JOHN C. SCHROER**  
Mayor

**Approved as to Form**

**By:** \_\_\_\_\_

**Shauna R. Billingsley**  
City Attorney





## MEMORANDUM

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May 27, 2010

**TO:** Board of Mayor and Aldermen

**FROM:** David Parker, City Engineer/CIP Executive  
Eric Stuckey, City Administrator

**SUBJECT:** **Resolution 2010-44, Authorizing acceptance of an EPA grant**

### **Purpose**

The purpose of this memo is to provide the Board of Mayor and Aldermen (BOMA) with the information necessary to consider approval of Resolution 2010-44.

### **Background**

After receiving and accepting the dedication of some property on Daniels Drive several years ago, the BOMA at the recommendation of staff decided to use the property for a stormwater improvement to Liberty Creek that passes through the property. This improvement has been designed and is to create a biofilter swale, install a new 72-inch box culvert under Daniels Drive and to perform stream bank stabilization. In order to help fund this project, the City applied for and has received a Congressionally Mandated Grant through the Environmental Protection Agency (EPA). This grant is in the amount of \$120,200. The remaining funding (Local) is to be from the City's Stormwater Reserve Fund. During the development of the project and application to EPA for funding assistance, City Engineer David Parker has been designated at the City's authorized representative.

On May 21, 2010, City Engineer David Parker received the formal Notice of Award of the EPA Grant XP-95411710-0 that was mailed May 18, 2010. EPA has set a turn-around time for executing and returning to them the Affirmation of Award of 21 days which means that the City needs to have this Award approved at the next available BOMA meeting (June 8, 2010). This type quick turn-around is typical of EPA. Therefore, In order to maintain consistency and quick response to EPA in regards to this project, the proposed resolution is including the formal designation of the City Engineer as the City's authorizing representative.

### **Financial Impact**

The construction estimate for this is \$275,200 with the EPA Grant funding \$120,200. The remaining funding (\$155,000.00) and any cost overruns from estimated cost is the responsibility of the City. \$325,000.00 is budgeted in the approved FY 2010-2014 Stormwater CIP for FY 2010 for improvements to the Liberty Creek Watershed.

### **Recommendation**

Staff recommends approval of Resolution 2010-44. The Liberty Creek Watershed Improvements being considered has been set as Priority #2 by BOMA for Stormwater Projects.



	<b>U.S. ENVIRONMENTAL PROTECTION AGENCY</b>  <b>Grant Agreement</b>	<b>ASSISTANCE ID NO.</b>			<b>DATE OF AWARD</b> 05/11/2010
		<b>PRG</b>	<b>DOC ID</b>	<b>AMEND#</b>	
		<b>XP - 95411710 - 0</b>			<b>MAILING DATE</b> 05/18/2010
		<b>TYPE OF ACTION</b> New			<b>ACH#</b> 40437
<b>RECIPIENT TYPE:</b> Municipal		<b>Send Payment Request to:</b> David Holroyd, Water Protection Division, (404) 562-9228			
<b>RECIPIENT:</b>		<b>PAYEE:</b>			
City of Franklin 109 3rd Ave., South Franklin, TN 37065 <b>EIN:</b> 62-6000290		109 3rd Ave., South Franklin, TN 37065			
<b>PROJECT MANAGER</b>		<b>EPA PROJECT OFFICER</b>		<b>EPA GRANT SPECIALIST</b>	
Eric Gardner 109 3rd Ave., South Franklin, TN 37065 <b>E-Mail:</b> ericg@franklin-gov.com <b>Phone:</b> 615-791-3218		MaryAnn Gerber 61 Forsyth Street Atlanta, GA 30303-8960 <b>E-Mail:</b> Gerber.MaryAnn@epa.gov <b>Phone:</b> 404-562-9462		Dionne Bounds Grants Management Office <b>E-Mail:</b> bounds.dionne@epa.gov <b>Phone:</b> 404-562-8374	
<b>PROJECT TITLE AND DESCRIPTION</b>					
Congressionally Mandated Projects  This action approves an award in the amount of \$120,200 to the City of Franklin, Tennessee to construct a biofilter swale, install a new 72-inch box culvert and perform bank stabilization activities adjacent to Liberty Creek, TN, near the intersection of Daniels Drive and Old Liberty Road in Franklin, TN. The FONSI is dated December 10, 2009. The project is located in the Harpeth River watershed, HUC 05130204.					
<b>BUDGET PERIOD</b> 07/01/2009 - 04/30/2011		<b>PROJECT PERIOD</b> 07/01/2009 - 04/30/2011		<b>TOTAL BUDGET PERIOD COST</b> \$275,200.00	
				<b>TOTAL PROJECT PERIOD COST</b> \$275,200.00	
<b>NOTICE OF AWARD</b>					
Based on your application dated 06/30/2008, including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA), hereby awards \$120,200. EPA agrees to cost-share 43.68% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$120,200. Such award may be terminated by EPA without further cause if the recipient fails to provide timely affirmation of the award by signing under the Affirmation of Award section and returning all pages of this agreement to the Grants Management Office listed below within 21 days after receipt, or any extension of time, as may be granted by EPA. This agreement is subject to applicable EPA statutory provisions. The applicable regulatory provisions are 40 CFR Chapter 1, Subchapter B, and 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>			<b>ORGANIZATION / ADDRESS</b>		
61 Forsyth Street Atlanta, GA 30303-8960			U.S. EPA, Region 4 Water Protection Division 61 Forsyth Street Atlanta, GA 30303-8960		
<b>THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY</b>					
<b>SIGNATURE OF AWARD OFFICIAL</b>		<b>TYPED NAME AND TITLE</b>		<b>DATE</b>	
Digital signature applied by EPA Award Official		Elaine Curles, Grants Management Officer		05/11/2010	
<b>AFFIRMATION OF AWARD</b>					
<b>BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION</b>					
<b>SIGNATURE</b>		<b>TYPED NAME AND TITLE</b>		<b>DATE</b>	
		David Parker, City Engineer			

# EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 120,200	\$ 120,200
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$ 155,000	\$ 155,000
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 275,200	\$ 275,200

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.202 - Congressionally Mandated Projects	Revised Continuing Appropriation Resolution (Public Law 110-5)	40 CFR PART 31

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
	1004VX0058	10	E4C	04V0QP9	201B51E	4183			120,200
									120,200

<b>Approved Budget</b>	
Program Element Classification (Construction)	Approved Allowable Budget Period Cost
1. Administration Expense	\$0
2. Preliminary Expense	\$0
3. Land Structure, Right Of Way	\$0
4. Architectural Engineering Basic Fees	\$0
5. Other Architectural Engineering Fees	\$0
6. Project Inspection Fees	\$0
7. Land Development	\$0
8. Relocation Expenses	\$0
9. Relocation Payments to Individuals & Bus.	\$0
10. Demolition and Removal	\$0
11. Construction and Project Improvement	\$275,200
12. Equipment	\$0
13. Miscellaneous	\$0
14. Total (Lines 1 thru 13)	\$275,200
15. Estimate Income	\$0
16. Net Project Amount (Line 14 minus 15)	\$275,200
17. Less: Ineligible Exclusions	\$0
18. Add: Contingencies	\$0
19. Total (Share: Recip <u>56.32%</u> Fed <u>43.68%</u> )	\$275,200
<b>20. TOTAL APPROVED ASSISTANCE AMOUNT</b>	<b>\$120,200</b>

## Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$0
2. Fringe Benefits	\$0
3. Travel	\$0
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$0
7. Construction	\$125,000
8. Other	\$0
9. Total Direct Charges	\$125,000
10. Indirect Costs: % Base	\$0
11. Total (Share: Recipient <u>100.00</u> % Federal <u>0.00</u> %.)	\$125,000
12. Total Approved Assistance Amount	\$
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$120,200
15. Total EPA Amount Awarded To Date	\$120,200



## **Administrative Conditions**

### **1. PROCUREMENT FOR ENGINEERING AND OTHER PROFESSIONAL SERVICES**

The costs of professional engineering and any other professional services contracts procured in compliance with the minimum standards for procurement under grants (see 40 CFR 31.36) are allowable costs for reimbursement with grant funds. No grant funds may be used to reimburse the federal share of any engineering or other professional services contract(s) found to be in noncompliance with the grant procurement regulations. (Note: all project expenditures are deemed to include both the federal and nonfederal shares).

The recipient agrees to conduct all procurement for engineering and other professional services in compliance with 40 CFR 31.36(b)-(k). The recipient also agrees to submit to EPA for pre-award and/or post-award review procurement documents including, but not limited to: selection procedures, requests for qualifications and/or proposals, evaluation methodology and results, memorandum of review or negotiation, cost analyses, proposed contract documents, etc.

No payments may be made under this grant until EPA has received and reviewed the procurement documents for compliance with the minimum standards for procurement.

### **2. PROCUREMENT FOR CONSTRUCTION**

The cost of construction contracts procured in compliance with the minimum standards for procurement under grants (see 40 CFR 31.36) are allowable costs for reimbursement with grant funds. No grant funds may be used to reimburse the federal share of any construction contract(s) found to be in noncompliance with the grant procurement regulations. (Note: all project expenditures are deemed to include both the federal and nonfederal shares).

The recipient agrees to conduct all procurement for construction in compliance with 40 CFR 31.36(b)-(k) and include the "EPA Supplemental General Conditions for Federally Assisted Construction Contracts" (enclosed) including Minority Business Enterprise and Women's Business Enterprise Goals in any bidding documents. The recipient also agrees to submit to EPA for pre-award and/or post award review procurement documents including, but not limited to: invitations for bids, independent cost estimates, bid documents, disadvantaged business enterprise documentation, etc.

No payments may be made under this grant until EPA has reviewed the construction procurement documents for compliance with the minimum standards for procurement.

### **3. LOBBYING AND LITIGATION - ALL RECIPIENTS**

The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The recipient shall abide by its respective OMB Circular (A-21, A-87, or A-122), which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities.

### **4. LOBBYING - ALL RECIPIENTS**

The recipient agrees to comply with Title 40 CFR Part 34, *New Restrictions on Lobbying*. The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000, and require that subrecipients submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

### **5. RECYCLING TERM AND CONDITION**

In accordance with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962) any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth. Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

In accordance with the policies set forth in EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007), the recipient agrees to use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports

prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

#### **6. EXECUTIVE ORDER 13202**

The assistance recipient agrees to comply with Executive Order 13202 (Feb. 22, 2001, 66 Fed. Reg. 11225) of February 17, 2001, entitled "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects," as amended by Executive Order 13208 (April 11, 2001, 66 Fed. Reg. 18717) of April 6, 2001, entitled "Amendment to Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects."

#### **7. HISTORIC PROPERTIES**

The recipient agrees to consult with the appropriate State Office in the identification and evaluation of any pre-1946 structures which may be impacted by scheduled project activities, or properties located adjacent to the activities areas. The recipient agrees to comply with efforts to identify, evaluate and appropriately design project activities to avoid or minimize adverse project impacts to any historic properties listed, or which satisfy the criteria for eligibility for listing (36 CFR 60.4), in the National Register of Historic Places.

#### **8. PROVISIONS**

The provisions of the "Award of Grants and Cooperative Agreements for the Special Projects and Programs Authorized by the Agency's FY 2005 Appropriations Act" dated June 6, 2005, (enclosed) is incorporated herein by reference.

#### **9. SUSPENSION AND DEBARMENT - ALL RECIPIENTS**

Recipient shall fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons)." Recipient is responsible for ensuring that any lower tier covered transaction as described in Subpart B of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information as required at 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Recipient may access the Excluded Parties List System at [www.epls.gov](http://www.epls.gov). This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

#### **10. THIRD PARTY FUNDS OR SERVICES CONDITION**

This offer is made contingent upon EPA receipt and review of evidence that firm commitments for all sources of required matching share for this EPA grant are in effect prior to advertising for bids on the project. This contingency includes third party sources where third parties are in any manner furnishing funds or services which will be used as required matching share for this EPA grant. No payments will be made by EPA under this assistance agreement until EPA has received and reviewed the requested documentation.

#### **11. EPA PARTICIPATION**

This award and the resulting ratio of funding is based on estimated costs requested in the application. EPA participation in the final total allowable program/project costs (outlays) shall not exceed the statutory limitation (55%) of total allowable program/project costs or the total funds awarded, whichever is lower.

#### **12. DRUG-FREE WORKPLACE CERTIFICATION FOR ALL EPA RECIPIENTS**

The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 40 CFR 36.200 - 36.230. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provisions set forth in Title 40 CFR 36.300.

The consequences for violating this condition are detailed under Title 40 CFR 36.510. Recipients can access the Code of Federal Regulations (CFR) Title 40 Part 36 at [http://www.access.gpo.gov/nara/cfr/waisidx\\_06/40cfr36\\_06.html](http://www.access.gpo.gov/nara/cfr/waisidx_06/40cfr36_06.html)

### **13. HOTEL-MOTEL FIRE SAFETY**

Pursuant to 40 CFR 30.18, if applicable, and 15 USC 2225a, the recipient agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.

### **14. DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONDITION FOR non-SRF RECIPIENTS**

#### **GENERAL COMPLIANCE, 40 CFR, Part 33**

The recipient agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises in procurement under assistance agreements, contained in 40 CFR, Part 33.

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

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE (MBE/WBE) participation in procurement under the financial assistance agreements.

#### **Accepting the Fair Share Objectives/Goals of Another Recipient**

The dollar amount of this assistance agreement is \$250,000, or more; or the total dollar amount of all of the recipient's non-TAG assistance agreements from EPA in the current fiscal year is \$250,000, or more. The recipient accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA by the State of Tennessee as follows:

MBE: CONSTRUCTION 2.60%; SUPPLIES 5.20%; SERVICES 5.20%; EQUIPMENT 5.20%  
WBE: CONSTRUCTION 2.60%; SUPPLIES 5.20%; SERVICES 5.20%; EQUIPMENT 5.20%

By signing this financial assistance agreement, the recipient is accepting the fair share objectives/goals stated above and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as the State of Tennessee.

#### **Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404**

The recipient has the option to negotiate its own MBE/WBE fair share objectives/goals. If the recipient wishes to negotiate its own MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The submission of proposed fair share goals with the supporting analysis or disparity study means that the recipient is **not** accepting the fair share objectives/goals of another recipient. The recipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

#### **SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C**

Pursuant to 40 CFR, Section 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) Require 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.

**MBE/WBE REPORTING, 40 CFR, Part 33, Sections 33.502 and 33.503**

The recipient agrees to complete and submit EPA Form 5700-52A, "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" beginning with the Federal fiscal year reporting period the recipient receives the award, and continuing until the project is completed. **Only procurements with certified MBE/WBEs are counted toward a recipient's MBE/WBE accomplishments.** The reports must be submitted **semiannually** for the periods ending March 31<sup>st</sup> and September 30<sup>th</sup> for:

Recipients of financial assistance agreements that capitalize revolving loan programs (CWSRF, DWSRF; Brownfields); and

All other recipients not identified as annual reporters (40 CFR Part 30 and 40 CFR Part 35, Subpart A and Subpart B recipients are annual reporters).

**The reports are due within 30 days of the end of the semiannual reporting periods (April 30<sup>th</sup> and October 30<sup>th</sup>).**

**Reports should be sent to:**

**U. S. Environmental Protection Agency  
Region 4, Grants Management Office  
61 Forsyth Street, SW  
Atlanta, Georgia 30303**

**Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. Your grant cannot be officially closed without all MBE/WBE reports.**

EPA Form 5700-52A may be obtained from the EPA Office of Small Business Program's Home Page on the Internet at [www.epa.gov/osbp](http://www.epa.gov/osbp).

**CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302**

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

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

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. 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, Section 33.501 (b) and (c) for specific requirements and exemptions.

**15. TRAFFICKING VICTIM PROTECTION ACT OF 2000 (TVPA) AS AMENDED (22 U.S.C. 7104(g))**

To implement requirements of Section 106 of the Trafficking Victims Protection Act of 2000, as amended, the following provisions apply to this award:

a. We, as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity: (1) is determined to have violated an applicable prohibition in the Prohibition Statement below; or (2) has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in the Prohibition Statement below through conduct that is either: (a) associated with performance under this award; or (b) imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR part 1532. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in the Prohibition Statement below.

b. Our right to terminate unilaterally that is described in paragraph a of this award term: (1) implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and (2) is in addition to all other remedies for noncompliance that are available to us under this award.

c. You must include the requirements of the Prohibition Statement below in any subaward you make to a private entity.

Prohibition Statement - You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or subawards under the award.

**16. SINGLE AUDIT ACT**

In accordance with OMB Circular A-133, which implements the single Audit Act, the recipient hereby agrees to obtain a single audit from an independent auditor if it expends \$500,000 or more in total Federal funds in any fiscal year. Within nine months after the

end of a recipient's fiscal year or 30 days after receiving the report from the auditor, the recipient shall submit a copy of the SF-SAC and a Single Audit Report Package. For fiscal periods 2002 to 2007 recipients are to submit hardcopy to the following address:

Federal Audit Clearinghouse  
1201 East 10th Street  
Jeffersonville, IN 47132

For fiscal periods 2008 and beyond the recipient MUST submit a copy of the SF-SAC and a Single Audit Report Package, using the Federal Audit Clearinghouse's Internet Data Entry System. Complete information on how to accomplish the 2008 and beyond Single Audit Submissions you will need to visit the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>

#### **17. FULLY FUNDED EARMARKS**

For fully funded agreements based on an earmark: EPA is fully funding this assistance agreement based on the terms of a congressional earmark. If future earmarks are not provided for this project and recipient, supplemental funding for this project is not guaranteed.

#### **18. MANAGEMENT FEES AND SIMILAR CHARGES**

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

#### **19. UNLIQUIDATED OBLIGATIONS, PART 31**

Pursuant to 40 CFR 31.41(b) and 31.50(b), EPA recipients shall submit a final Federal Financial Report (SF-425) to EPA no later than 90 calendar days after the end of the project period.

The following reporting period end dates shall be used for interim reports: 3/31, 6/30, 9/30, or 12/31. The form is available on the internet at <http://www.epa.gov/ocfo/finservices/forms.htm>. All FFRs must be submitted to the Las Vegas Finance Center: US EPA, LVFC, PO Box 98515, Las Vegas, NV 89193, or by Fax to: 702-798-2423.

At the end of the project, the recipient must submit a final Federal Financial Report to EPA no later than 90 calendar days after the end of the project period. The form is available on the internet at <http://www.epa.gov/ocfo/finservices/forms.htm>. All FFRs must be submitted to the Las Vegas Finance Center: US EPA, LVFC, PO Box 98515, Las Vegas, NV 89193, or by Fax to: 702-798-2423.

The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement.

EPA may take enforcement actions in accordance with 40 CFR 31.43 if the recipient does not comply with this term and condition.

### **Programmatic Conditions**

1. The grantee agrees to follow procedures contained in the most current edition of the EPA Region 4, A Special Appropriations Projects (SPAPs) Grant Procedures Workbook (online workbook (<http://www.epa.gov/region4/water/gtas/specialappropriations.html>)).
2. The grantee shall follow all requirements under 40 CFR § 31.36 when procuring construction contracts including: assuring full and open competition; procuring by federally approved methods; performing a cost/price analysis; and ensuring contracts include MBE/WBE requirements, bonding requirements, compliance with federal, state and local laws, inclusion of Part 31.36(i) contract provisions, and subcontractor requirements.
3. The grantee agrees to obtain EPA Project Officer review and concurrence of plans and specifications for all construction contracts prior to the advertisement for bids.
4. The grantee shall notify the EPA Project Officer of any contract awards made as part of this grant and provide a copy to EPA if so requested.
5. In consultation with the EPA Project Officer, the grantee shall conduct a pre-construction conference for each construction contract awarded as part of this grant.

6. The grantee will assure the EPA that all land, easements, and rights-of-way necessary for the construction of the project have been obtained prior to initiating construction.
7. The grantee will obtain all necessary state and local permits, including a permit to construct from the appropriate state agency, coverage under the States NPDES general permit for construction activities, and/or a Corps of Engineers Section 404 permit (if applicable), prior to initiating construction.
8. The grantee shall submit to the EPA Project Officer a quarterly progress report beginning with the award of this grant and a final report pursuant to 40 CFR § 31.40. These reports will consist of updated progress toward work objectives, problems encountered, actions taken to resolve problems and discussion of remaining tasks. This report may be as brief as one page so long as all the requested information is provided. The items listed below should be addressed, as appropriate:

Quarterly Progress Report Outline  
for  
Special Appropriations Grants

Grant Number: \_\_\_\_\_  
 Grantee Name: \_\_\_\_\_  
 Project Name: \_\_\_\_\_

Grantee's Authorized Representative: \_\_\_\_\_

- a. What work was accomplished for this reporting quarter?
  - b. What problems, if any, were encountered?
  - c. If a problem was encountered, what action was taken to correct it?
  - d. Is the project work on schedule?
    - (a) This quarter?
    - (b) For the project?
  - e. If the project is not on schedule, what is proposed for a revised schedule?
  - f. Does the new schedule require a time extension?
  - g. Is there a change in the Grantee's Authorized Representative or any of the key contacts?
9. The EPA, and its delegated representatives, shall have access to the project work site and project records at all times.
  10. The grantee has EPA approval to use of [grant funds to purchase land and/or easements] or [land as match] under this grant project. The grantee agrees to provide EPA a copy of the appraisal obtained in accordance with procedures established under 49 CFR § 24.103 and provide documentation of the required deed restriction (see condition no. 12).
  11. The purchased land parcel(s) or land parcel(s) used as match will require the following deed restriction:
 

The [County/City] of [name and state], [purchased this land with federal funds/used this land as match] under a grant from the U.S. Environmental Protection Agency (EPA), grant no. \_\_\_\_\_. The [County/City] may only use this land, delineated on the attached boundary survey, as a [project description, e.g., storm water retention project], as described in EPA grant no. \_\_\_\_\_. The [County/City] will be responsible for maintaining this deed restriction in perpetuity. In the event the [County/City] of [name and state], wishes to change the use of the land from the identified grant purpose, the [County/City] must contact the EPA, Region 4, and request written instructions for disposition pursuant to applicable EPA grant regulations.
  12. The grantee shall comply with the requirements of 49 CFR § Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, when acquiring land and/or permanent easements as part of this grant.
  13. The grantee agrees to comply with 40 CFR § 31.31, which addresses the use and disposal of real property acquired under a federal grant.
  14. The grantee has obtained EPA approval for pre-award costs occurring on or after October 1<sup>st</sup> in the year of the appropriations related to land acquisition costs including surveys, appraisals, options, associated administrative work, etc. for the project covered by this grant. The grantee agrees to submit copies of invoices, appraisals, etc. to EPA for review and approval of these pre-award costs.
  15. The grantee agrees to comply with the applicable Cross-Cutting Federal Laws and Authorities listed as an attachment to this grant award document.
  16. The grantee will submit its reimbursement request (SF271) and appropriate invoices to EPA to obtain reimbursement.

17. The grantee is encouraged to utilize environmentally preferable practices in the course of procuring goods and services under this grant. "Environmentally preferable" is defined as products or services that have a lesser or reduced effect of human health and the environment. Consideration of environmentally preferable practices should be consistent with price, performance, availability, and safety conditions. Examples include:

- General construction: Adding ranking factors or contract language for construction contracts for the contractor to: adopt practices reduce idling of construction equipment, use clean diesel fuels in construction equipment, install emissions retrofits equipment, repower construction equipment engines, etc. More information on environmentally preferable practices for construction projects can be found at: [www.epa.gov/cleandiesel/construction/strategies.htm](http://www.epa.gov/cleandiesel/construction/strategies.htm), [www.epa.gov/cleandiesel/construction/whatyoucando.htm](http://www.epa.gov/cleandiesel/construction/whatyoucando.htm), and <http://www.epa.gov/otaq/retrofit/verif-list.htm>.

- Construction of buildings: Adding ranking factors or contract language for the contractor to include green building techniques such as: designing for energy and water efficiency, using green building products, etc. More information on environmentally preferable practices for greener buildings can be found at: <http://www.epa.gov/greenbuilding> and <http://www.wbdg.org>.

- Electronics equipment: Adding ranking factors or contract language for EnergyStar® features and EPEAT-registered electronics products when procuring electronics equipment. Also consider adding factors concerning buy-back or end-of-life programs that dispose of electronics in an environmentally safe manner. More information on preferable practices for electronics equipment can be found at: <http://www.epeat.net/Companies.aspx>, <http://www.epa.gov/wastewise/pubs/wwupda14.pdf>, and <http://www.epa.gov/reg3wcmd/pdf/pcrecycling601.pdf>.

- A/E Services and Construction Services: Adding a ranking factor or contract language that gives preference to firms that have an environmental management system (EMS) in-place or a partner in EPA's Performance Track Program demonstrating their commitment to improving the environment through their place of work. More information on EMS and Performance Track can be found at: [www.epa.gov/ems](http://www.epa.gov/ems) and [www.epa.gov/performance-track](http://www.epa.gov/performance-track).

Grantees will report any environmentally preferable practices undertaken in the quarterly progress reports. The information reported will be used to track EPA's progress in reducing our environmental impacts.

18. The grantee is encouraged to improve the environmental performance of their water and wastewater facilities by developing an environmental management system (EMS). More information specific to implementing an EMS for water, wastewater, and biosolids facilities can be found at: <http://www.epa.gov/ems/initiatives/water.htm>.

