

File No. 181113

Committee Item No. 4

Board Item No. \_\_\_\_\_

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee

Date January 10, 2019

Board of Supervisors Meeting

Date \_\_\_\_\_

#### Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

- Public Utilities Commission Resolution
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Completed by: Linda Wong

Date January 4, 2019

Completed by: Linda Wong

Date \_\_\_\_\_

[Authorizing Grant Agreements - Public Utilities Commission Green Infrastructure Grant Program - Terms of 20 Years]

Ordinance delegating authority under Charter, Section 9.118, to the General Manager of the San Francisco Public Utilities Commission (SFPUC) to enter into grant agreements with terms of 20 years under the SFPUC’s Green Infrastructure Grant Program, subject to certain specified conditions, as defined herein.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font. **Additions to Codes** are in *single-underline italics Times New Roman font*. **Deletions to Codes** are in *strikethrough italics Times New Roman font*. **Board amendment additions** are in double-underlined Arial font. **Board amendment deletions** are in ~~Arial font~~. **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Background.

(a) San Francisco has a combined sewer system that collects and treats both wastewater and stormwater in the same network of pipes. The San Francisco Public Utilities Commission (“SFPUC” or “Commission”) has a multi-faceted program to maximize the detention and retention of stormwater.

(b) Green infrastructure uses vegetation, soils, and other elements and practices that mimic nature to soak up and store stormwater. Green infrastructure is a cost-effective, resilient approach for managing wet weather impacts that provides many benefits. Green infrastructure reduces and treats stormwater at its source while delivering environmental, social, and economic benefits.

(c) The SFPUC desires to encourage owners of parcels containing large impervious areas – such as concrete parking lots and asphalt covered playgrounds – to install Green

1 infrastructure projects on their parcels that will reduce the amount of stormwater runoff  
2 entering the SFPUC's sewer system, and thereby improve system performance.

3 (d) Towards that end, at a public hearing on November 13, 2018, the Commission, by  
4 its Resolution No. 18-0189, approved the SFPUC Green Infrastructure Grant Program  
5 Guidelines, a copy of which is on file with the Clerk of the Board of Supervisors in File No.  
6 181113. The Resolution authorizes the SFPUC General Manager to award grants to  
7 property owners to construct green infrastructure projects on their parcels such as permeable  
8 pavement, rain gardens/bioretention, impervious surface removal, and vegetated roofs.  
9 Under the Grant Program Guidelines, grantees must meet the following six eligibility criteria:

10 1. Project Size: The proposed project must manage stormwater runoff from  
11 a minimum of 0.5 acres of impervious surface.

12 2. Project Location: The proposed project must be located on a parcel  
13 connected to a SFPUC-owned and operated sewer system service area.

14 3. Performance: The proposed project must capture runoff from the 90th  
15 percentile 24-hour storm, equivalent to 0.75-inch total depth. The 90th percentile 24-hour  
16 storm represents an amount of precipitation that 90% of all rainfall events do not exceed, as  
17 compared to the historical period of record.

18 4. Grant Team Experience: The grant team must include the property  
19 owner, an identified grant or project manager, and a licensed engineer or landscape architect  
20 registered in the State of California. The proposed project team must collectively demonstrate  
21 a history of successful project implementation and have experience designing, constructing,  
22 and/or maintaining green infrastructure.

23 5. Concept Design: The applicant must submit a conceptual design plan  
24 drawing approximately equivalent to a 10% level of design that satisfies specific criteria set  
25 forth in the Grant Program guidelines.

1           6.       At Least Two Co-Benefit Opportunities: Green infrastructure projects  
2 provide a variety of co-benefit opportunities in addition to reducing the amount of stormwater  
3 runoff that enters the SFPUC sewer system. Projects are required to demonstrate at least  
4 two of the following co-benefits: location within or serving an Environmental Justice Area or  
5 Disadvantaged Community, as designated by the SFPUC; provide public access to the project  
6 site to promote awareness of and education about the importance of stormwater  
7 management; groundwater recharge through infiltration of stormwater in the Westside  
8 Groundwater Basin; non-potable water reuse of retained stormwater for other applications,  
9 such as irrigation; the incorporation of education and/or curriculum opportunities into the  
10 project that explain how green infrastructure assets work and their impact on watersheds and  
11 the SFPUC's sewer system; providing job training opportunities in the green infrastructure  
12 sector; and/or integration of biodiversity and native habitat into the project's design, such as  
13 native pollinator gardens.

14           (e)       Under the Grant Program Guidelines, grantees may receive up to \$765,000 per  
15 impervious acre of property, or fraction thereof, for which stormwater is managed by the green  
16 infrastructure project, for up to a maximum amount of \$2,000,000 per grant.

17           (f)       To receive funding under the Green Infrastructure Grant Program, a grantee  
18 must enter into a Stormwater Management Agreement ("Grant Agreement"), a template of  
19 which is on file with the Clerk of the Board of Supervisors in File No. 181113. SFPUC has  
20 determined that the useful life of the type of green infrastructure projects that are eligible for  
21 funding under the Grant Program is at least 20 years. Ongoing, proper maintenance of green  
22 infrastructure projects is critical for these projects to function properly and benefit the SFPUC  
23 sewer system for the useful life of these assets. Accordingly, the Grant Agreement requires  
24 that the Grantee maintain the green infrastructure project for the 20-year term of the  
25 agreement, authorizes the SFPUC to conduct periodic inspections of the Grantee's

1 construction, operation, and maintenance of the project, and provides the SFPUC with  
2 remedies against the Grantee in the event that the Grantee fails to maintain the project for the  
3 20-year term. The Grant Agreement also requires the Grantee to execute and record against  
4 the property a deed restriction that serves to notify future owners that the 20-year  
5 maintenance obligation runs with the land.

6 (g) In approving the Grant Program, the Commission delegated authority to the  
7 SFPUC General Manager to negotiate, award, and execute Grant Agreements with a term of  
8 20 years and recommended that the Board of Supervisors adopt an ordinance delegating its  
9 authority under Charter Section 9.118 to the SFPUC General Manager to execute the Grant  
10 Agreements for a term in excess of 10 years.


11  
12 Section 2. Delegation of Authority Under Charter Section 9.118 to SFPUC General  
13 Manager.

14 Pursuant to its authority under Charter Section 9.118, the Board of Supervisors  
15 delegates to the SFPUC General Manager authority to enter into Grant Agreements under the  
16 Green Infrastructure Grant Program referenced in Section 1 of this ordinance, in substantially  
17 the same form as on file with the Clerk of the Board of Supervisors in File No. 181113, for a  
18 term in excess of 10 years, so long as the term does not exceed 20 years. The Board of  
19 Supervisors further authorizes the SFPUC General Manager to enter into any amendments or  
20 modifications to the Grant Agreements that do not extend the terms of the agreements  
21 beyond 20 years, and that the SFPUC General Manager determines, in consultation with the  
22 City Attorney, are in the best interest of the City, do not materially decrease the City's rights or  
23 materially increase the obligations or liabilities of the City, are necessary or advisable to  
24 effectuate the purposes and intent of the Grant Program, and are in compliance with all  
25 applicable laws, including the City Charter.

1 Section 3. Effective Date. This ordinance shall become effective 30 days after  
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
4 of Supervisors overrides the Mayor's veto of the ordinance.

5  
6 APPROVED AS TO FORM:  
7 DENNIS J. HERRERA, City Attorney

8 By:

  
9 JONATHAN P. KNAPP  
Deputy City Attorney

10 n:\legana\as2018\1900149\01318980.docx

|   |   |
|---|---|
| <b>Item 4</b><br><b>File 18-1113</b>  | <b>Department:</b><br>Public Utilities Commission (PUC) |
| <b>EXECUTIVE SUMMARY</b>  |   |
| <b>Legislative Objectives</b>   |   |
| <p>The proposed ordinance delegates authority to the San Francisco Public Utilities Commission (SFPUC) General Manager to enter into grant agreements with terms of 20 years, without further Board of Supervisors approval, under SFPUC's Green Infrastructure Grant Program.</p>  |   |
| <b>Key Points</b>   |   |
| <ul style="list-style-type: none"> <li>• San Francisco has a combined sewer system that collects and treats both wastewater and stormwater in the same network of sewer lines and wastewater treatment facilities. SFPUC's green infrastructure program is intended to reduce the amount of stormwater runoff entering SFPUC's combined sewer system in order to improve system performance. The green infrastructure program consists of capital projects, grants to property owners, regulation, and technical assistance.</li> <li>• SFPUC's Green Infrastructure Grant Program awards grants to public and private property owners to design and build green infrastructure that reduces stormwater runoff. Property owners may receive up to \$765,000 per impervious acre of property managed, or fraction thereof, up to a maximum amount of \$2,000,000 per grant. Area that is "managed" is defined as impervious area that is draining to a designed green infrastructure facility.</li> <li>• The proposed ordinance delegates authority to the SFPUC General Manager to enter into grant agreements with property owners that have a term in excess of 10 years but not to exceed 20 years, without further Board of Supervisors approval.</li> </ul> |   |
| <b>Fiscal Impact</b>  |   |
| <ul style="list-style-type: none"> <li>• SFPUC allocated \$3 million in Sewer System Improvement Program (SSIP) funding for FY 2018-19 and \$5 million in SSIP funding for FY 2019-20 to the Green Infrastructure Grant Program, totaling \$8 million over two years. The first two years are the pilot phase for the program. If demand demonstrated in the first two years exceeds the program budget, SFPUC would consider allocating additional funding in subsequent budget cycles, subject to Board of Supervisors approval.</li> </ul>   |   |
| <b>Policy Consideration</b>   |   |
| <ul style="list-style-type: none"> <li>• The proposed ordinance delegates the Board of Supervisors' authority to enter into agreements with terms in excess of 10 years to the SFPUC General Manager. In November 2018, the SFPUC Commission delegated its authority to the General Manager to negotiate, award, and execute grant agreements in substantially the same form as the draft grant agreement on file with the Clerk of the Board. Therefore, the agreements would not be visible to the public prior to SFPUC entering into the agreements.</li> </ul>   |   |
| <b>Recommendation</b>   |   |
| <ul style="list-style-type: none"> <li>• Approval of the proposed ordinance is a policy matter for the Board of Supervisors because the proposed ordinance waives the Board of Supervisors authority under Charter Section 9.118, authorizing the SFPUC to enter into contracts with an expected term of 10 years or more without further Board of Supervisors approval.</li> </ul>   |   |

## MANDATE STATEMENT

Section 9.118(b) of the City's Charter requires approval by the Board of Supervisors for contracts with an expected term longer than ten years or requiring expenditures of \$10 million or more.

## BACKGROUND

San Francisco has a combined sewer system that collects and treats both wastewater and stormwater in the same network of sewer lines and wastewater treatment facilities. Green infrastructure uses vegetation, soils, and other elements and practices such as permeable pavement to absorb stormwater and reduce the impact of stormwater on the combined sewer system.

### SFPUC's Citywide Green Infrastructure Program

The San Francisco Public Utilities Commission's (SFPUC) green infrastructure program is intended to reduce the amount of stormwater runoff entering SFPUC's combined sewer system in order to improve system performance. The green infrastructure program consists of capital projects, grants to property owners, regulation, and technical assistance.

#### Capital Projects:

As part of the Sewer System Improvement Program (SSIP), SFPUC is near completion of eight green infrastructure projects, one in each of the city's watersheds. The eight demonstration projects are part of a pilot program, known as the Early Implementation Projects, for evaluating the performance of various technologies in removing stormwater from the City's combined sewer system. The eight Early Implementation Projects constructed 49 acres of green infrastructure projects, with a total budget of approximately \$57 million.

The eight Early Implementation Projects include:

1. Mission & Valencia Green Gateway Project, which is a joint project of SFPUC, Planning Department, and Public Works. The project installed rain gardens along Valencia Streets and Mission Streets near Cesar Chavez.
2. Wiggle Neighborhood Green Corridor, which is a joint project of SFPUC, Municipal Transportation Agency, and Public Works. The project installed bicycle and pedestrian improvements as well as rain gardens and permeable pavement in the Lower Haight and Alamo Square neighborhoods.
3. Chinatown Spofford Living Alley, which is a joint project of SFPUC and Public Works. The project consists of flow-through planters, decorative concrete pavers, and pedestrian improvements in the Chinatown alley between Washington Street and Clay Street (parallel to Stockton Street and Waverly Place).
4. Sunset Boulevard Greenway, which is a project of SFPUC, consisting of rain gardens and along 15-blocks of the western median of Sunset Boulevard, between Irving Street and Sloat Boulevard.



5. Holloway Green Street, which is a joint project of SFPUC and the Planning Department. This project includes permeable pavement and rain gardens along Holloway Avenue between Lee Avenue and Ashton Avenue.
6. Upper Yosemite Creek Daylighting, which is a joint project of SFPUC and the Recreation and Park Department. This project will daylight the historic Yosemite Creek to manage stormwater runoff from McLaren Park.
7. Visitacion Valley Green Nodes, which is a joint project of SFPUC, the Recreation and Park Department, and Public Works. This project includes rain gardens at two locations: Sunnydale Avenue mini-plaza at Rutland Street, and Leland Avenue tiered rain garden (adjacent to Visitacion Avenue and Hahn Street).
8. Baker Beach Green Street, which is a project of SFPUC and partially funded by the State Water Resources Control Board from Proposition 50 funds.<sup>1</sup> The project includes installation of green infrastructure at two locations: Sea Cliff Avenue and 25<sup>th</sup> Avenue, and El Camino Del Mar adjacent to the Lincoln Park Golf Course.

#### Grants:

The proposed Green Infrastructure Grant Program will provide grants to public and private property owner to build and maintain green infrastructure on their property to reduce stormwater runoff.

#### Regulation:

SFPUC currently administers the Stormwater Management Ordinance, which requires all new and redevelopment projects to manage stormwater onsite if the projects create and/or replace 5,000 square feet or more of impervious surface in separate and combined sewer areas, or 2,500 square feet or more of impervious surface in separate sewer areas. The Board of Supervisors approved the original ordinance in 2010 and the updated ordinance in 2016 (Ordinance No. 64-16), requiring property owners to maintain the stormwater management facilities in perpetuity.<sup>2</sup>

#### Technical Assistance:

SFPUC provides training, and other technical assistance to green infrastructure planning, design, construction, inspection and maintenance.

### **DETAILS OF PROPOSED LEGISLATION**

The proposed ordinance delegates authority to the SFPUC General Manager to enter into grant agreements with terms of 20 years, without further Board of Supervisors approval, under SFPUC's Green Infrastructure Grant Program.

<sup>1</sup> Proposition 50 was approved by California voters in 2002 to fund water security, clean drinking water, and coastal and beach protection projects.

<sup>2</sup> The 2016 ordinance amended the 2010 ordinance to comply the California's municipal stormwater permit requirements.

### Green Infrastructure Grant Program

SFPUC's Green Infrastructure Grant Program awards grants to public and private property owners to design and build green infrastructure that reduces stormwater runoff. Property owners may receive up to \$765,000 per impervious acre of property managed, or fraction thereof, up to a maximum amount of \$2,000,000 per grant. Area that is "managed" is defined as impervious area that is draining to a designed green infrastructure facility.

To receive funding, the property owner must enter into a 20-year stormwater management agreement with SFPUC. SFPUC has determined that the useful life of the type of green infrastructure projects eligible for funding under the grant program is at least 20 years, and ongoing maintenance of green infrastructure projects is necessary for the project to function properly and benefit the SFPUC sewer system.

Under the proposed ordinance, property owners must meet the following eligibility criteria to receive grant funding:

- **Size:** The proposed project must manage stormwater runoff from a minimum of 0.5 acre of impervious surface.
- **Location:** The proposed project must be located on a parcel connected to the SFPUC-owned and operated sewer system.
- **Performance:** The proposed project must capture runoff from the 90<sup>th</sup> percentile 24-hour storm, equivalent to 0.75-inch total depth.
- **Grant Team Experience:** The grant team must include the property owner, an identified grant or project manager, and a licensed engineer or landscape architect registered in the State of California. The grant team must collectively demonstrate a history of successful project implementation and have experience designing, constructing, and/or maintaining green infrastructure.
- **Concept Design:** The applicant must submit a conceptual design plan drawing equivalent to a 10 percent level of design that satisfies criteria set forth in the grant program guidelines.
- **Co-Benefit Opportunities:** The proposed project must demonstrate at least two of the following co-benefits:
  - 1) location within or serving an Environmental Justice Area or Disadvantaged Community, as designated by SFPUC;
  - 2) provide public access to the project site to promote awareness of and education about the importance of stormwater management;
  - 3) groundwater recharge through infiltration of stormwater above the Westside Groundwater Basin;
  - 4) non-potable water reuse of retained stormwater for other applications, such as irrigation;

- 5) the incorporation of education and/or curriculum opportunities that explain how green infrastructure assets work and their impact on watersheds and the SFPUC's sewer system;
- 6) providing job training opportunities in the green infrastructure sector; and/or
- 7) integration of biodiversity and native habitat into the project's design, such as native pollinator gardens.

The proposed ordinance delegates authority to the SFPUC General Manager to enter into grant agreements with property owners that have a term in excess of 10 years but not to exceed 20 years, without further Board of Supervisors approval. The proposed ordinance further authorizes the SFPUC General Manager to enter into amendments or modifications to the grant agreements that do not extend the terms of the agreements beyond 20 years.

### FISCAL IMPACT

SFPUC allocated \$3,000,000 in SSIP funding for FY 2018-19 and \$5,000,000 in SSIP funding for FY 2019-20 for the Green Infrastructure Grant Program. According to Ms. Sarah Bloom, Watershed Planner at SFPUC, the first two years are the pilot phase for the program. If demand demonstrated in the first two years exceeds the program budget, SFPUC would consider allocating additional funding in subsequent budget cycles. Grant applications will be accepted on a rolling basis until each fiscal year's funding is spent. Although demand for the grant program is not yet known, there are approximately 1,892 parcels citywide that have more than 0.5 acre of impervious surface and would potentially be eligible for the program.

According to Ms. Bloom, SFPUC anticipates that additional staff will be needed to administer the program and conduct inspections of the green infrastructure projects over the 20-year maintenance term; however, staff would be hired to support multiple green infrastructure programs, not just the Green Infrastructure Grant Program. Currently, the SFPUC is using a combination of in-house staff and consultant support to administer the program. SFPUC does not know at this time how many additional staff would be needed in the future or what proportion of their time would be dedicated to Green Infrastructure Grant Program activities. The addition of new staff in the SFPUC budget is subject to Board of Supervisors appropriation approval.

If SFPUC determines that a project has not met the stormwater performance goals, SFPUC may demand the return of a prorated amount of grant funds under the proposed grant agreement.

As grantees may receive up to \$765,000 per impervious acre managed by a green infrastructure project, the \$8,000,000 grant allocation could manage stormwater on up to approximately 10.5 acres of impervious surface throughout the city. The Green Infrastructure Grant Program is potentially more cost effective per acre of impervious surface managed than the Green Infrastructure Early Implementation Projects, which manages 49 acres of impervious surface at a total cost of approximately \$57,000,000, or a cost of approximately \$1,163,265 per acre of impervious surface.

**POLICY CONSIDERATION****Delegation of Contracting Authority to SFPUC General Manager**

The proposed ordinance delegates the Board of Supervisors' authority to enter into agreements with terms in excess of 10 years to the SFPUC General Manager. In November 2018, the SFPUC Commission delegated its authority to the General Manager to negotiate, award, and execute grant agreements in substantially the same form as the draft grant agreement on file with the Clerk of the Board. Therefore, the grant agreements would not be visible to the public prior to SFPUC entering into the agreements.

According to Ms. Bloom, SFPUC is seeking the delegated authority to enter into the grant agreements under the Green Infrastructure Grant Program in order to (1) ensure the performance and maintenance of the green infrastructure assets for the duration of their useful life, which is considered to be 20 years; and (2) allow for administrative efficiency in delivering the program so that approvals of individual grant agreements will not be needed.

**RECOMMENDATION**

Approval of the proposed ordinance is a policy matter for the Board of Supervisors because the proposed ordinance waives the Board of Supervisors authority under Charter Section 9.118, authorizing the SFPUC to enter into contracts with an expected term of 10 years or more without further Board of Supervisors approval.

**LEGISLATIVE DIGEST**

[Authorizing Grant Agreements - Public Utilities Commission Green Infrastructure Grant Program - Terms of 20 Years]

**Ordinance delegating authority under Charter, Section 9.118, to the General Manager of the San Francisco Public Utilities Commission (SFPUC) to enter into grant agreements with terms of 20 years under the SFPUC's Green Infrastructure Grant Program, subject to certain specified conditions, as defined herein.**

Existing Law

Section 9.118(b) of the Charter requires Board of Supervisors approval for agreements having a term in excess of ten years. From time to time, the Board has, by ordinance, delegated its authority under this Charter provision to approve certain types of agreements.

Amendments to Current Law

In this uncodified ordinance, the Board of Supervisors would delegate to the General Manager of the SFPUC authority to enter into certain grant agreements with a 20-year term without seeking Board approval. The delegation would apply only to grants awarded in conformance with the requirements of SFPUC's Green Infrastructure Grant Program Guidelines (Grant Program), which the SFPUC approved at a public hearing on November 13, 2018 by Commission Resolution No. 18-0189.

Under the Grant Program, SFPUC may award grants of up to \$2 million each to owners of San Francisco properties with large impervious areas to construct green infrastructure projects on their parcels that use vegetation, soils, and other elements and practices that mimic nature to soak up and store stormwater. Examples of such projects include the installation of permeable pavement, rain gardens/bioretention, impervious surface removal, and vegetated roofs. Under the Grant Program, grants may be awarded only to owners of properties at least 0.5 acres in size and the proposed green infrastructure project must capture runoff from the 90th percentile 24-hour storm, equivalent to 0.75-inch total depth. The 90th percentile 24-hour storm represents an amount of precipitation that 90% of all rainfall events do not exceed, as compared to the historical period of record. Grantees must also satisfy additional eligibility criteria specified in Commission Resolution No. 18-0189. The Grant Agreement requires that the Grantee maintain the green infrastructure project for the 20-year term of the agreement, authorizes the SFPUC to conduct periodic inspections of the Grantee's construction, operation, and maintenance of the project, and provides the SFPUC with remedies against the Grantee in the event that the Grantee fails to maintain the project for the 20-year term.

Background Information

San Francisco has a combined sewer system that collects and treats both wastewater and stormwater in the same network of pipes. The SFPUC desires to encourage owners of parcels containing large impervious areas – such as concrete parking lots and asphalt covered playgrounds – to install green infrastructure projects on their parcels to reduce the amount of stormwater runoff that enters the SFPUC’s sewer system, and thereby improve system performance.

Ongoing, proper maintenance of green infrastructure projects is critical for these projects to function properly and benefit the SFPUC sewer system for the useful life of these assets. The SFPUC has determined that the useful life of the type of green infrastructure projects that are eligible for funding under the Grant Program is at least 20 years.

n:\egana\as2018\1900082\01301646.docx

# Green Infrastructure Grant Program

## Program Guidelines

(October 2018)



Services of the San Francisco Public Utilities Commission

### Grant Program Overview

The San Francisco Public Utilities Commission's (SFPUC) Green Infrastructure Grant Program (Grant Program) is designed to encourage San Francisco property owners to design, build, and maintain performance-based green stormwater infrastructure (Green Infrastructure or GI) projects, including but not limited to: permeable pavement, bioretention, rainwater harvesting, and rain gardens, and vegetated roofs. The goal of this program is to reduce the amount of stormwater runoff entering SFPUC's sewer system, thereby improving system performance.

To receive funding under the Grant Program, an applicant must satisfy the Grant Program's Eligibility Criteria, as set forth below.

The SFPUC will determine the dollar amount of each grant award by the amount of impervious acreage the proposed project can manage using green infrastructure (*i.e.*, the amount of impervious surface that drains stormwater runoff during storms to green infrastructure, or "impervious acres managed"). Individual grant awards are capped at a *maximum* of \$765,000 per impervious acre managed, up to a maximum of \$2,000,000 per grant.

The SFPUC will accept applications and award grants on a first come, first serve rolling basis. Grant applications will be reviewed in the order in which they are received, and will be awarded based on whether the applicant satisfies all of the eligibility criteria set forth in Step 1 below, subject to availability of funds and all City budgetary requirements.

Applicants that have been awarded grant funds (Grantees) will be required to enter into a 20-year Stormwater Management Agreement with the SFPUC. The Stormwater Management Agreement requires the Grantee/property owner to maintain the project for the 20-year term and authorizes the SFPUC to periodically inspect the project.

The purpose of the Grant Program is to fund stormwater retrofits (meaning, construction of GI projects on existing properties). Parcels undergoing new development and redevelopment that trigger<sup>1</sup> the Stormwater Management Ordinance, San Francisco Public Works Code, Article 4.2, *et seq.*, are not eligible for grant funds. Participation in this grant program does not prohibit participation in other SFPUC programs.

The following resources are available on the SFPUC website to help support the development of a successful grant application:

- [Stormwater Management Requirements and Design Guidelines](#)
- [BMP Fact Sheets](#)
- [Green Infrastructure Typical Details and Specifications](#)

<sup>1</sup> New development and redevelopment projects that create and/or replace: (1)  $\geq 5,000$  square feet of impervious surface in separate and combined sewer areas; or (2)  $\geq 2,500$  square feet of impervious surface in separate sewer areas trigger the Stormwater Management Ordinance.

- [Vegetation Palette for Bioretention BMPs](#)
- [Green Infrastructure Construction Guidebook](#)
- [Green Infrastructure Maintenance Guidebook](#)
- [SFPUC Rainwater Harvesting Manual](#)

For additional information or assistance, please contact the SFPUC Grant Administrator at: XXXXXXXXXXXX@swater.org or call 415-XXX-XXXX.

## I. *Eligibility Criteria*

### Eligibility Criteria

Prior to applying to the Green Infrastructure Grant Program, you must determine whether your project is eligible for the Grant Program. Projects that meet all of the following six criteria are eligible for funding under the Grant Program:

1. **Project Size:** The proposed project must manage stormwater runoff from a minimum of 0.5 acres of impervious surface. The total area of impervious surfaces does not need to be contiguous and can be comprised of several smaller impervious drainage areas totaling 0.5 acres.
2. **Project Location:** The proposed project site must connect to a SFPUC-owned and operated sewer system service area. The project may be located in either the combined sewer system area or municipal separate storm sewer system area.
3. **Performance:** The project's proposed Green Infrastructure features must capture the 90<sup>th</sup> percentile 24-hour storm, equivalent to 0.75-inch depth. The 90<sup>th</sup> percentile 24-hour storm represents an amount of precipitation that 90% of all rainfall events for the historical period of record do not exceed.
4. **Grant Team Experience:** The grant team must include the property owner, an identified grant or project manager, and a licensed engineer or landscape architect registered in the State of California. The engineer or landscape architect that designed your project must be identified in the Project Application Form. Your proposed project team must collectively demonstrate a history of successful project implementation and have previous experience designing, constructing, and/or maintaining green infrastructure.
5. **Concept Design:** You must submit a conceptual design plan drawing approximately equivalent to a 10% level of design. As you are developing your concept design, use the Stormwater Performance Calculator in the application to demonstrate that your design meets the minimum performance criteria.

The concept design must identify the following information:

- Existing conditions
  - Property and easement boundaries
  - Road labels
  - Contours
  - Vicinity map including minor watershed(s)
  - Utilities, e.g., water lines, electric lines
  - North arrow and scale
  - Existing impervious areas, e.g., roof, pavement, driveway



- Existing stormwater infrastructure (including existing connections to the sewer system) and drainage management areas for those connections
- Existing trees (drip line and trunk diameter)
- Proposed Site Plan (at a scale no greater than 1"=20'-0")
  - Project boundary
  - Grading contours
  - Changes to land cover including impervious surfaces
  - Stormwater management practices (BMPs)
    - Facility type and sizing information, e.g., footprint (sf), depth, volume
    - Corresponding drainage management area to each BMP. Each DMA should include the portion of the project site that drains to a single BMP (or group of hydraulically connected BMPs) and the area of the BMP itself, or the portion of the project site that drains directly to the sewer system. Label the size of each DMA (square feet).
    - BMP conveyance items, e.g., overflow, underdrain, outlet control structures
    - Show each proposed pervious and impervious surface type (including stormwater BMPs) with a distinct hatching type. Label all BMPs with an ID number (e.g. for vegetated roof, VR-01, VR-02, etc.). Use the same BMP ID number in the Maintenance and Inspection Schedules.
  - Proposed conveyance (*i.e.*, connections to BMPs and connections to existing conveyance systems or sewers) and site drainage features (e.g., drains, downspouts, and flow direction arrows)
    - Include within the site plan all necessary information to clearly demonstrate the stormwater path of travel. For example, include roof slope break lines, area and roof drains, and downspouts; pipes from drains to BMPs and from BMPs to sewer connections; underdrains and overflows associated with BMPs; and pipes from uncaptured areas to sewer connections. Provide flow direction arrows for sheet flow and pipe flow.

**6. At Least Two Co-Benefit Opportunities:** Applicants are required to demonstrate that the proposed project will have at least two (2) of the identified co-benefits listed below. GI projects provide a variety of co-benefit opportunities in addition to reducing the amount of stormwater runoff that enters the SFPUC's sewer system. The co-benefits of your project will depend on your priorities and your project design. Evaluating how your project can achieve some of the co-benefits listed below is an important step in the application process.

| Co-Benefit   | Definition   |
|--|--|
| Location within or serving Environmental Justice Area or Disadvantaged Community | <p>The SFPUC is committed to the goals of environmental justice to lessen disproportionate environmental impacts on communities in all SFPUC service areas and to ensure that public benefits are shared across all communities. To help address social and environmental issues, the SFPUC has adopted <u>Environmental Justice</u> and <u>Community Benefits</u> policies.</p> <p>To qualify for this co-benefit, projects must meet one of the following criteria:</p> <ol style="list-style-type: none"> <li>1. Projects that are located within an Environmental Justice Area (EJ) or Disadvantaged Community (DC) in San Francisco qualify for this co-benefit. To determine if your project falls in</li> </ol> |

|   |   |
|---|---|
|   | <p>one of these areas, please refer to the following map: <a href="#">link to map</a></p> <p>2. Alternatively, facilities that serve Disadvantaged Communities or Environmental Justice Areas qualify for this co-benefit. Project sites not within a specified EJ or DC must:</p> <ul style="list-style-type: none"> <li>• Provide free or reduced lunch to greater than 50% of students/attendees.</li> <li>• Provide meaningful access to and engagement with the project to an organization that serves a specified community within an EJ or DC area.</li> </ul>                               |
| Public Access Opportunities               | <p>Green infrastructure projects that are open to the public promote awareness of and education about the importance of stormwater management in San Francisco. They also provide community gathering spaces and support neighborhood beautification.</p> <p>To select this co-benefit as one of the two required for grant fund eligibility, the project site must be in a publicly accessible space. If a project site is only open to the public during specific times of the day (e.g., after school programs, etc.) it must be open for a minimum of 2 hours per day.</p>                      |
| Groundwater Recharge                      | <p>Groundwater recharge may be attained through the planned infiltration of stormwater in the Westside Groundwater Basin.</p> <p>To select this co-benefit as one of the two required for grant fund eligibility, the project must be located above the Westside Groundwater Basin (<a href="#">link to map</a>) and manage at least 0.25 acres of impervious surface with an infiltration-based BMP.</p>   |
| Non-Potable Water Reuse                   | <p>Rainwater and stormwater can be collected, treated, and used to satisfy non-potable water demands. For example, a rainwater harvesting system can provide treated non-potable water for landscape irrigation and/or toilet flushing at your site.</p> <p>To select this co-benefit as one of the two required for grant fund eligibility, the project must design and implement an onsite non-potable water reuse system with a storage capacity of at least 6,000 gallons.</p>  |
| Education and/or Curriculum Opportunities | <p>Projects that provide detailed educational signage and/or opportunities to integrate curriculum will qualify for this co-benefit. Integrated curriculum could include lesson plans that incorporate learning related to specific project elements, detailed signage that explains how Green Infrastructure works to reduce stormwater runoff into the sewer system, etc.</p> <p>To qualify for this co-benefit, projects must incorporate educational signage or curriculum relating to the function of green infrastructure assets and their impact on broader watershed and sewer systems.</p> |
| Job Training Opportunities                | <p>Providing jobs and job training in the green stormwater infrastructure sector is an important part of successfully implementing green infrastructure in San Francisco. As part of the Community Benefits policy, the SFPUC is committed to providing</p>   |

|                                      |  |
|--------------------------------------|--|
|                                      | <p>workforce development opportunities for residents of San Francisco.</p> <p>To select this co-benefit as one of the two required for grant fund eligibility, projects must agree to serve as a training site for trainees learning about the design, construction, maintenance or monitoring of green infrastructure. To achieve this, the site must be open and accessible to trainees and their instructors for a minimum of 16 hours per year (during business hours).</p>  |
| Increase Biodiversity/Native Habitat | <p>San Francisco has adopted citywide biodiversity goals to restore and maintain diverse native habitats in the city. Projects that prioritize creating habitat can qualify for this co-benefit. Biodiversity and wildlife habitat can be prioritized through the project's landscape planting plan and integrated into the design through features such as native pollinator gardens.</p> <p>To select this co-benefit as one of the two required for grant fund eligibility, projects must identify one (1) or more native species that the project is designed for, provide a plant palette selected to attract that species, and provides at least 500 square feet of vegetation using the proposed plant palette.</p> |

## II. Application Process

### Step 1: Schedule a Pre-Application Meeting

Before submitting your application, the grant or project manager must schedule a pre-application meeting. The purpose of the pre-application meeting is to ensure that your project meets all of the minimum requirements before you submit an application and to discuss your project's proposed stormwater management concepts. We highly suggest that you download and review the grant application as well as the Stormwater Management Agreement prior to attending a pre-application meeting to help ensure that all of your questions can be answered!

To schedule a pre-application meeting, please contact the SFPUC Grant Program Administrator at [xxxxx@sfgov.org](mailto:xxxxx@sfgov.org).

*Who should attend the pre-application meeting?*

The grant project manager and lead designer(s) should attend the pre-application meeting.

*What should I bring to the pre-application meeting?*

Please bring the following items to the pre-application meeting:

Essential:

1. Confirmation that your property meets the minimum eligibility criteria
2. Visual or written summary of site stormwater opportunities (e.g., any previous soil data available, existing topography, existing vegetated areas) and constraints (e.g., known utilities, steep slopes, setbacks)
3. Photos of the site
4. Any questions you have for the SFPUC

Highly recommended:

5. Draft concept design

6. Draft project narrative
7. Draft project budget
8. Draft stormwater performance calculator
9. Draft co-benefits form
10. Draft project schedule

## Step 2: Complete Your Application

Once you have completed a pre-application meeting, you are ready to complete the grant application. The application is an Excel workbook available for download at [\(link\)](#). The workbook includes six (6) required forms that you must complete and print out (see the table below for sections of the application) in order to apply. All forms must be completed. The SFPUC will return incomplete applications to the applicant.

| Application Template              | Description   |
|-----------------------------------|---|
| Project Application Form          | This is where you provide general information about your proposed project including the location, proposed project team, and the total amount of funds that you are requesting. You must provide a project narrative that briefly describes the proposed project. This form also includes a checklist of the deliverables that you must include with your application.  |
| Project Budget Template           | The budget template is where you will describe how you propose to spend the grant funds. The budget template is divided into construction costs and non-construction costs. Your budget should be consistent with your proposed conceptual design and include contingencies that are consistent with a 10% level of design. These contingency multipliers can be reduced if your design is farther along than 10% but should not be increased without approval from the SFPUC Grant Program Administrator.  |
| Stormwater Performance Calculator | <p>The stormwater performance calculator determines the performance of the proposed BMP(s) based on their size and the impervious area draining to them. This allows you to demonstrate that your concept design meets the minimum stormwater performance requirement of capturing the 90<sup>th</sup> percentile storm from the impervious drainage areas. The inputs in this calculator include the BMP type(s), BMP footprint size, and impervious drainage management area. For rainwater harvesting cisterns re-use rates are also required.</p> <p>You must also input the predominant hydraulic soil group (HSG) type at your site, which the SFPUC uses to determine the performance of infiltrating facilities. If you do not know the soil type at your site, you can view the soil map within the calculator and select the appropriate type based on your project location.</p> <p>You must enter the stormwater service type for your site as either combined sewer system (CSS) or municipal separated storm sewer system (MS4). You can view a map of MS4 areas <a href="#">here</a>.</p> <p>To use the stormwater performance calculator you should divide your proposed project site by BMP type and account for the</p> |

|                           |  |
|---------------------------|--|
|                           | <p>impervious area draining to each type.</p> <p>The stormwater performance calculator will not show the performance output of your project until the data entered shows that you are using approved GI practices, managing at least 0.5 acres of impervious area, and capturing the 90<sup>th</sup> percentile storm from the proposed drainage areas.</p> <p>If you are having challenges completing the stormwater performance calculator, please contact the SFPUC Grant Program Administrator at <a href="mailto:xxxxx@swater.org">xxxxx@swater.org</a> for assistance.</p> |
| Co-benefits Form          | <p>This form is for you to describe the co-benefits provided by your project. You must provide a description of how your project will deliver at least two (2) co-benefits from the identified list.</p> <p>Please describe how your project will provide co-benefits using specific, measurable, and achievable design goals.</p>   |
| Project Schedule Template | <p>This template is where you will outline your proposed project schedule for major milestones. Your schedule should assume that SFPUC will take a maximum of 30-days to review each design deliverable.</p> <p>The schedule must propose starting construction of the project within 2 years after execution of the Stormwater Management Agreement.</p>  |
| Maintenance Template      | <p>This template is where you will outline the proposed maintenance activities for the proposed green infrastructure facilities. Please refer to the <a href="#">SFPUC BMP Fact Sheets</a> for recommended maintenance activities and frequencies for the proposed BMP types in your project.</p> <p>If you are proposing to use proprietary BMPs, you should refer to the manufacturer for typical inspection and maintenance activities or prepared maintenance guides.</p>  |

As part of your application, you must also submit the following two (2) attachments:

| Application Attachments         | Description   |
|---------------------------------|---|
| Grant Team Experience Narrative | The narrative should describe your project team's previous experience with delivering projects of similar scale and complexity, as specified in the Eligibility Criteria. |
| Conceptual Design               | You must submit a conceptual design plan drawing with the elements outlined in the Eligibility Criteria.  |

Complete applications for the Green Infrastructure Grant Program must be sent via e-mail to [xxxxxxx@swater.org](mailto:xxxxxxx@swater.org). You will receive a confirmation e-mail with the date and time of your

application. If you do not receive a confirmation e-mail within 5 business days, please e-mail the SFPUC Grant Administrator at XXXXXXXXXXXX@swater.org or call 415-XXX-XXXX.

For questions about the Grant Program or if you require assistance in completing the application, please e-mail the SFPUC Grant Administrator at XXXXXXXXXXXX@swater.org or call 415-XXX-XXXX.

**Access our Technical Assistance Program to help!**

Feeling overwhelmed? Our technical support team is available to help you work through your project concepts, co-benefits, and application process. Please reach out to our Technical Assistance Program at xxxx@swater.org.

### III. Important Information

#### Eligible and Ineligible Costs

**Eligible Costs:** Grant funds can be used to cover all project costs related to the construction of the proposed Green Infrastructure facility. Grant funds cannot be used to pay for non-green infrastructure project elements, such as play equipment or furnishings. No more than 20% of the grant amount (or 25% of the direct construction cost) may be used for non-construction activities.



| Eligible Costs   | Ineligible Costs   |
|--|--|
| <ul style="list-style-type: none"> <li>• Construction elements of Green Infrastructure BMPs (surface and subsurface):               <ul style="list-style-type: none"> <li>- Soil</li> <li>- Plants</li> <li>- Concrete</li> <li>- Excavation</li> <li>- Grading</li> <li>- Underdrains</li> <li>- Irrigation</li> </ul> </li> <li>• Educational signage relating to stormwater</li> <li>• Replacement in-kind, if applicable</li> <li>• Regrading of surfaces draining to BMPs</li> <li>• Impervious surface removal</li> <li>• Non-construction activities (up to 25% of direct construction cost):               <ul style="list-style-type: none"> <li>- Project management</li> <li>- Planning</li> <li>- Design</li> <li>- Geotechnical investigations</li> <li>- Structural investigations</li> <li>- Engineering surveys</li> <li>- Construction management</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• On-going maintenance (including any contractor maintenance period)</li> <li>• Non-green infrastructure components, including by not limited to:               <ul style="list-style-type: none"> <li>- Decorative items</li> <li>- Benches</li> <li>- Play equipment</li> <li>- Lighting</li> <li>- Public Amenities</li> </ul> </li> <li>• Monitoring or research</li> <li>• Land costs</li> </ul> |

**Approved Green Stormwater Infrastructure Best Management Practices (BMPs):** There are a variety of green stormwater infrastructure best management practices (or stormwater BMPs) that can help

you meet your stormwater targets. The type of stormwater BMP that is best for your project will depend on many factors, including available space, drainage area, soil type, and land use.

The stormwater BMPs you select for your project must be located and sized appropriately to capture runoff from the impervious areas on your site. Use the Stormwater Performance Calculator instructions in Step 6 below to determine minimum BMP sizing based on your project's impervious drainage areas. The following examples show some common stormwater BMPs.

**Approved Green Stormwater Infrastructure BMPs:**

| BMP   | Example  |
|---|--|
| <p><b>Bioretention/ Rain Garden:</b><br/> <i>Stormwater facilities that rely on vegetation and specially engineered soils to capture, infiltrate, transpire, and remove pollutants from runoff.</i></p> | <p><i>Downspout flowing into bioretention (1 Henry Adams, San Francisco)</i></p>  |
|   | <p><i>Streetscape bioretention (Newcomb Ave, San Francisco)</i></p>              |

**Permeable Pavement:**  
*Any porous load-bearing surface that temporarily stores rainwater prior to infiltration or drainage to a controlled outlet.*

*Permeable pavers in plaza (1 Henry Adams, San Francisco)*



*Pervious concrete in parking lot (Presidio, San Francisco)*


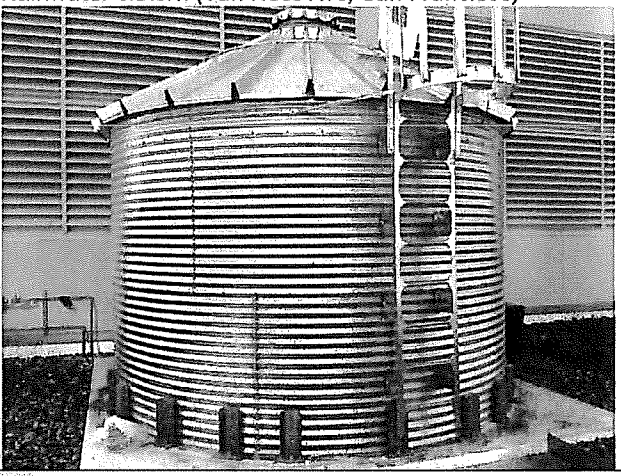


**Infiltration Trench/Gallery:**  
*An unvegetated, rock-filled trench that receives surface stormwater runoff and allows it to infiltrate.*

*Downspout flowing into infiltration trench (RL Stevenson Elementary, San Francisco)*





|  |   |
|--|---|
| <p><b>Vegetated Roof:</b><br/> <i>Roofs that are entirely or mostly covered with vegetation and soil.</i></p>                  | <p><i>Vegetated roof (Ortega Library, San Francisco)</i></p>    |
| <p><b>Rainwater Harvesting:</b><br/> <i>Cisterns that collect roof runoff and provide water for indoor or outdoor use.</i></p> | <p><i>Rainwater cistern (Van Ness Ave, San Francisco)</i></p>  |

**Grant Disbursement**

- Grant funds will be provided to the Grantee in three (3) disbursements:
- The SFPUC will disburse project non-construction costs upon the execution of the Grant Agreement and the Grantee's submission of all required funding documentation to the SFPUC (20% of total grant award).
  - The SFPUC will disburse funding for construction upon the SFPUC's approval of 100% completed design and the Grantee's recording of the Declaration of Deed Restrictions (70% of total grant award).
  - The SFPUC will disburse the final retention payment upon the SFPUC's final approval of the constructed project and the Grantee's submission of the Final Grant Report (10% of total grant award).

In order to receive any of the three (3) grant disbursements, the Grantee (or their designated subcontractor) must submit the following to the SFPUC:

- A completed W-9 IRS tax form from the designated payee.
- Insurance documentation described in the Grant Agreement.
- A City and County of San Francisco Bidder and Supplier Number. For more information on doing business with the City, please see the San Francisco Office of Contract Administration at [www.sfgsa.org](http://www.sfgsa.org).

### **Taxes and Insurance**

A grant counts as income and therefore may be taxable. It is the responsibility of the Grantee to determine whether a tax liability exists. The designated Grantee will receive a 1099-Misc tax form from the City in the February after award of the grant. By issuing a 1099-Misc, the City is fulfilling its legal obligation for tax-reporting. In order to issue a 1099-Misc, SFPUC will request relevant tax information from a designated Grantee through a W-9 IRS tax form, which must be completed and returned before a grant disbursement will be made.

The City requires evidence of insurance for all funded activities. Prior to beginning work on an activity, the Grantee must produce a Certificate of General Liability as well as proof of Worker's Compensation Insurance. The Grantee's insurance policy shall name the City and County of San Francisco, the San Francisco Public Utilities Commission, its board members and commissions, and all authorized agents and representatives, and members, directors, officers, trustees, agents and employees as additional insureds.

The Stormwater Management Agreement contains additional requirements related to taxes, insurance, and other matters.

### **Permits and Environmental Review**

All projects must comply with applicable local, state, and federal permit requirements. Funds for construction will not be issued until the project has undergone environmental review in compliance with the California Environmental Quality Act (CEQA) and San Francisco Administrative Code Chapter 31.

For information regarding permits required to construct green stormwater infrastructure, please see our Green Infrastructure Permit Process Guidebook.

## ***IV. Application Evaluation and Award***

### **How Your Application is Evaluated**

The SFPUC will determine whether the project meets all minimum eligibility requirements. Projects that do not meet the eligibility requirements will not receive grant funding.

### **Issue Reservation Letter**

Upon selection of an application, the SFPUC will issue the Grantee a Reservation Letter confirming the amount of grant funds reserved for the project. A Reservation Letter is provisional and subject to execution of the Stormwater Management Agreement and the Grantee's submission to the SFPUC of the documentation required for funding disbursements.

Specifically, the Grantee has three (3) months from the date of the Reservation Letter to execute the Stormwater Management Agreement, submit a W-9 tax form, provide a valid copy of insurance documentation, and become an approved Bidder and Supplier with the City and County of San Francisco.

If the Grantee does not complete the above requirements within three months, the SFPUC reserves the right to rescind the grant award. The Grantee may request an extension of the grant reservation. The SFPUC, in its sole discretion, may grant such a request for an extension. In order to be effective, any extension of a grant reservation by the SFPUC must be made in writing.

### Sign the Stormwater Management Agreement

The Stormwater Management Agreement has a term of twenty (20) years. The grant agreement will require the property owner to maintain the stormwater management function of the project for twenty years, which is considered the typical useful life of these assets.

In addition, property owners must record against the selected property a Declaration of Deed Restrictions notifying subsequent property owners of the obligation to maintain the project.

Templates for the Stormwater Management Agreement and the Declaration of Deed Restrictions can be found at [www.XXXXXX](http://www.XXXXXX).

## V. *Implementation*

### Design the Project

Grantees are required to submit documentation of successful completion of design milestones for review by the SFPUC via e-mail. Designs must be submitted at 35/65/95% completion (equivalent to 100% DD, 50% CD, 90% CD for architectural drawings) for review to ensure project performance. Design Submittal Checklists can be downloaded from the program website.

Final design documents (100% Construction Documents) must be submitted to the Grant Program Administrator via e-mail. The Grant Program Administrator will then issue final approval of the design to the Grantee. Once the Grant Program Administrator has issued final approval of the design, the Grantee may select a contractor.

### Find a Contractor/Bid the Project

The Grantee will be responsible for procuring a licensed contractor to complete the construction of the project. The Grantee shall ensure that all contractors and subcontractors will comply with City insurance requirements.

A list of contractors that completed SFPUC green infrastructure training is available on the SFPUC website. This resource list serves as an optional reference point for Grantees to identify experienced contractors and obtain bids for potential grant-funded projects on their private properties. Grantees may contact any contractor directly to discuss their properties, make appointments, and request references. Grantees are NOT required to work with a contractor on this list to participate in the Grant Program. Grantees may collaborate with their existing contractors. SFPUC does not endorse or otherwise recommend these particular contractors.

### Construct the Project

During construction the SFPUC reserves the right to enter the construction site and inspect the project at any time. The Grantee will be responsible for alerting the Grant Program Administrator of critical construction activities related to the installation of the stormwater management features.

Once construction is complete, the Grant Program Administrator will conduct a final walkthrough of the project to ensure that all stormwater management features were built to the plans and specifications. If the project is determined to be complete, the SFPUC Grant Program Administrator will issue a Project Completion Notification to the Grantee.

A Grantee may request to have the SFPUC amend its agreement to increase its Grant Award by up to an additional 10% of the amount of the original Grant Award to pay for unexpected costs that may

arise during bid or construction of the project. The SFPUC would approve or deny requests for such contingency funding at its sole discretion, and any such requests would be subject to the availability of funding.

#### **Submit the Final Report**

Before receiving the final grant disbursement, Grantees will be required to submit a Final Report to the SFPUC documenting all final project information. The final report must include construction as-builts, stormwater performance calculations, final construction costs, and a final maintenance checklist. The Final Report is due within 30 days of the issued Project Completion Notification. The Final Report template can be found on the program website.

## ***VI. Post-Construction***

#### **Ongoing Maintenance**

The Grantee will be responsible for all operations and maintenance of the project for the entirety of the 20-year grant term. The Grantee will be responsible for submitting annual maintenance reports to the SFPUC for the entire duration of the project.

#### **Inspection**

The SFPUC has the right to inspect the project at any time throughout the term of the Stormwater Management Agreement. If the stormwater management function of the project is found to be impaired, the SFPUC will issue a notice to perform in writing to the Grantee to complete all required maintenance activities.

#### **Removal of Declaration of Deed Restrictions (Year 20)**

Upon satisfaction of the obligation to operate and maintain the Project for twenty (20) years after the Project Completion Date, as defined in the Grant Agreement, the SFPUC will, upon request, record a release of the Declaration of Deed Restrictions in the official records of the City and County of San Francisco's office of the Assessor-Recorder.

**STORMWATER MANAGEMENT  
AGREEMENT**

Between

THE CITY AND COUNTY OF SAN FRANCISCO,  
acting through its  
PUBLIC UTILITIES COMMISSION

And

[GRANTEE NAME]

**THIS GRANT AGREEMENT** (this “Agreement”), dated for reference purposes as of \_\_\_\_\_, is made by and between \_\_\_\_\_ (“**Grantee**”) and the City and County of San Francisco, a municipal corporation (“**San Francisco**” or “**City**”), acting by and through its Public Utilities Commission (“**SFPUC**”).

**RECITALS**

This Agreement is made with reference to the following facts and objectives:

**A.** Grantee has submitted to the SFPUC Application Documents seeking a grant from the *Green Infrastructure Grant Program* for the purpose of funding the design and construction of [DESCRIPTION OF STORMWATER CONTROLS] on the property commonly known as [INSERT ADDRESS] (the “**Property**”); and

**B.** The City has reviewed and approved the Application Documents and desires to provide such a grant on the terms and conditions set forth herein:

**NOW, THEREFORE**, the SFPUC and Grantee agree as follows:

**ARTICLE 1  
DEFINITIONS**

**1.1. Specific Terms.** Unless the context otherwise requires, the following capitalized terms (whether singular or plural) shall have the meanings set forth below:

- (a) “**Application Documents**” shall mean collectively: (i) the grant application submitted by Grantee, including all exhibits, schedules, appendices and attachments thereto; (ii) all documents, correspondence and other written materials submitted in support of such grant application; and; (iii) all amendments, modifications or supplements to any of the foregoing approved in writing by the SFPUC, attached hereto as Appendix A.

- (b) **“Budget”** shall mean the budget included in the Application Documents and approved by the SFPUC, which consists of Grant Funds contributed by the SFPUC and Grantee’s contribution of funding, if any.
- (c) **“Charter”** shall mean the Charter of the City.
- (d) **“Controller”** shall mean the Controller of the City.
- (e) **“Effective Date”** is defined in Section 3.1.
- (f) **“Eligible Expenses”** shall mean those costs described under “Budget Items Eligible for Funding” in the *Green Infrastructure Grant Program Rules*.
- (g) **“Event of Default”** shall mean the failure of the Grantee to comply with any portion of this Agreement including the *Green Infrastructure Grant Program Rules*.
- (h) **“Final Report”** shall mean the final report submitted to the SFPUC Grant Manager to receive the final payment disbursement.
- (i) **“Final Walkthrough”** shall mean the final inspection of the site conducted by SFPUC Grant Manager and the Grantee.
- (j) **“Fiscal Quarter”** shall mean each period of three (3) calendar months commencing on July 1, October 1, January 1 and April 1, respectively.
- (k) **“Fiscal Year”** shall mean each period of twelve (12) calendar months commencing on July 1 and ending on June 30 during all or any portion of which this Agreement is in effect.
- (l) **“General Manager”** shall mean the General Manager of the SFPUC, or his or her delegate.
- (m) **“Grantee”** shall mean [GRANTEE NAME], the project applicant who is receiving Grant Funds for such San Francisco real property and who meets requirements listed in the *Green Infrastructure Grant Program Rules*.
- (n) **“Grantee’s Contractor”** shall mean the contractor(s) hired by Grantee to design and install the Project at the Property.
- (o) **“Grant Funds”** shall mean any and all funds allocated or disbursed to Grantee by the SFPUC under this Agreement.
- (p) **“Indemnified Parties”** shall mean: (i) City, including the SFPUC and all commissions, departments, agencies and other subdivisions of City; (ii) City’s elected officials, directors, officers, employees, agents, successors, assigns; and (iii) all persons or entities acting on behalf of any of the foregoing.
- (q) **“Project”** shall mean the design and completed construction and installation of [DESCRIPTION OF STORMWATER CONTROLS], or other activities described in the approved Application Documents.
- (r) **“Project Completion Date”** shall mean the date of the SFPUC’s third disbursement of Grant Funds, as described in Section 5.4, upon

completion of the Project, the SFPUC's issuance of the Final Walkthrough, and the Grantee's submission of the Final Report.

- (s) **"Project Year"** means each consecutive 12-month period during the Term as described in this paragraph. The first Project Year shall commence on the Project Completion Date and shall end on the day before the one-year anniversary of the Project Completion Date. A new Project Year shall commence on each successive anniversary of the Project Completion Date; however, the final Project Year shall end on the date the Term expires or terminates, whether or not consisting of twelve (12) full months.
- (t) **"Property"** is defined in Recital A above.
- (u) **"Request for Reimbursement"** shall have the meaning set forth in Section 5.3.
- (v) **"Term"** is defined in Section 3.2.
- (w) **"Green Infrastructure Grant Program Rules"** shall mean the document published by SFPUC titled *Green Infrastructure Grant Program Rules*, a copy of which is attached to this Agreement as Appendix B.

## ARTICLE 2 APPROPRIATION AND CERTIFICATION OF GRANT FUNDS; LIMITATIONS ON THE SFPUC'S OBLIGATIONS

**2.1. Risk of Non-Appropriation of Grant Funds.** This Agreement is subject to the budget and fiscal provisions of the Charter. City shall have no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. Grantee acknowledges that the SFPUC budget decisions are subject to the discretion of its Mayor and Board of Supervisors. Grantee assumes all risk of possible non-appropriation or non-certification of funds, and such assumption is part of the consideration for this Agreement.

**2.2. Certification of Controller; Guaranteed Maximum Costs.** No funds shall be available under this Agreement without prior written authorization certified by the Controller. In addition the San Francisco Administrative Code: City's obligations hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification. Except as may be provided by City ordinances governing emergency conditions, City and its employees and officers are not authorized to request or require Grantee to perform services or to provide materials, equipment and supplies that are beyond the scope of the services, materials, equipment and supplies specified in this Agreement unless this Agreement is amended in writing and approved as required by law to authorize the additional services, materials, equipment or supplies. City is not required to pay Grantee for services, materials, equipment or supplies that are provided by Grantee which are beyond the scope of the services, materials, equipment and supplies agreed upon herein and which were not approved by a written amendment to this Agreement having been lawfully executed by City. City and its employees and officers are not authorized to offer or promise to Grantee additional funding for this Agreement which would exceed the maximum amount of funding provided for herein. Additional funding for this Agreement in excess of the maximum provided herein shall require lawful approval and

certification by the Controller. City is not required to honor any offered or promised additional funding which exceeds the maximum provided in this Agreement, which requires lawful approval and certification of the Controller when the lawful approval and certification by the Controller has not been obtained. The Controller is not authorized to make payments on any agreement for which funds have not been certified as available in the budget or by supplemental appropriation.

**2.3. Automatic Termination for Non-Appropriation of Funds.** This Agreement shall automatically terminate, without penalty, liability or expense of any kind to City, at the end of any Fiscal Year if funds are not appropriated for the next succeeding Fiscal Year. If funds are appropriated for a portion of any Fiscal Year, this Agreement shall terminate, without penalty, liability or expense of any kind to City, at the end of such portion of the Fiscal Year.

**2.4. Project Approvals.** Grantee understands that the implementation of the Project shall require approvals, authorizations and permits from governmental agencies with jurisdiction over the Project which may include, without limitation, the San Francisco City Planning Commission ("City Planning"). Grantee also understands that no disbursement of funds will be made except for feasibility or planning tasks prior to completion of any environmental review necessary for the Project. Notwithstanding anything to the contrary in the Agreement, neither party is in any way limiting its discretion or the discretion of any department, board, or commission with jurisdiction over the Project, including but not limited to SFPUC and City Planning from exercising any discretion available to such department, board or commission with respect to the Project, including, but not limited to, the discretion to (i) make such modifications deemed necessary to mitigate significant environmental impacts, (ii) select other feasible alternatives to avoid such impacts, including the "No Project" alternative, (iii) balance the benefits against unavoidable significant impacts prior to taking final action if such significant impacts cannot otherwise be avoided, or (iv) determine not to proceed with the proposed Project.

**2.5. Supersedure of Conflicting Provisions.** In the event of any conflict between any of the provisions of this Article 2 and any other provision of this Agreement, the Application Documents or any other document or communication relating to this Agreement, the terms of this Article 2 shall govern.

### ARTICLE 3 TERM

**3.1. Effective Date.** This Agreement shall become effective on the date on which the last of the following occurs (the "Effective Date"): (a) this Agreement shall have been executed and delivered by the parties after receiving all approvals required by law and the parties' respective authorization protocols; and (b) the City's Controller shall have certified that funds are available under this Agreement, as set forth in Section 2.2, and the SFPUC shall have notified Grantee thereof in writing.

**3.2. Duration of Term.** The Term of this Agreement shall commence on the Effective Date, as specified in Section 3.1. The Term of this Agreement shall end twenty (20) years after the Project Completion Date, as defined in Section 1.1, at 11:59 p.m. Pacific Standard Time.



**ARTICLE 4**  
**IMPLEMENTATION OF APPROVED**  
**STORMWATER RUNOFF CONTROL PROJECT**

**4.1. Implementation of Approved Stormwater Runoff Control Project; Cooperation with Monitoring.** Grantee shall, in good faith and with diligence, implement the Project on the terms and conditions set forth in this Agreement and the *Green Infrastructure Grant Program Rules*, a copy of which is attached hereto as Appendix B and is incorporated herein by reference. Grantee shall not materially change the nature or scope of the Project during the Term of this Agreement without the prior written consent of the SFPUC. Grantee shall promptly comply with all standards, specifications and formats of the SFPUC related to evaluation, planning and monitoring of the Project and shall cooperate in good faith with the SFPUC in any evaluation, planning or monitoring activities conducted or authorized by the SFPUC.

**4.2. Grantee is an Independent Contractor.** Grantee is solely responsible for the work to design and construction the Project, including selection of any designer(s), , contractor(s), or installer(s). The Grantee understands that s/he, and any third parties involved with the work, are independent contractors and are not authorized to make any representations on behalf of the City. Should the City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Department, or any court, arbitrator or administrative authority determine that Grantee is an employee of City for purposes of collection of any employment taxes, or for any other purpose, the amounts payable under this Agreement shall be reduced by any amounts paid by the City as a result of such determination, including, if applicable, both the employee and employer portions of any tax due.

**4.3. Compliance with Other Laws and Applicable Safety and Performance Standards.** Grantee shall keep itself fully informed of City's Charter, codes, ordinances and regulations and all state, and federal laws, rules and regulations affecting the performance of this Agreement, and shall at all times comply with such Charter, codes, ordinances, and regulations, rules and laws. In addition, all work on the Project must meet all applicable safety and performance standards established by local, state, and federal laws.

**4.4. Operation and Maintenance of Project; Reports.**

(a) **Operation and Maintenance.** Grantee, by virtue of accepting Grant Funds, agrees, once the Project is completed, to continually operate and maintain the Project as outlined in the *Green Infrastructure Grant Program Rules* for the entire Term of this Agreement, as set forth in Section 3.2. If Grantee fails to continually operate and maintain the Project during the Term, as required by this Section 4.4, Grantee shall be obligated to repay the entirety of the Grant Funds to the City unless: (1) Grantee's failure to meet this obligation is due to the Project having been damaged by an event beyond the control of Grantee such as fire, explosion, earthquake, tidal waves, or floods; (2) Grantee's continued operation of the Project would violate applicable law; or, (3) the SFPUC determines, in its sole discretion, taking into consideration all relevant factors, as explained in Section 6.1(c), that a lesser amount will fully compensate the City for Grantee's default.

(b) **Reports.** Within thirty (30) days after the end of each Project Year, as defined in Section 1.1, Grantee will deliver to City the Annual Self Inspection Checklist required by the *Green Infrastructure Grant Program Rules* ("Annual Checklist"). The Annual Checklist shall identify and describe all inspections, maintenance tasks and repairs completed on the

Project during the previous Project Year and such other information and back-up documentation as may be requested by SFPUC.

#### **4.5. Agreement runs with the Land; Transfer of Property.**

(a) The covenants and agreements of the Grantee and the City contained in this Agreement shall be covenants running with the land pursuant to California Civil Code Section 1460 *et seq.*, shall bind every person having any interest in the Property and the Project, and shall be binding upon and inure to the benefit and burden of the Grantee and the City and their respective heirs, successors and assigns. Any reference to the Grantee in this Agreement shall include successor owners of all or any part of the Property, and all rights and obligations of the Grantee shall accrue to and be imposed upon any and all successor owners of the Property.

(b) Without limiting the foregoing, the Grantee further agrees whenever the Property is sold, conveyed or otherwise transferred to a person or entity (each, a "Transferee"), Grantee shall:

(i) Notify the Transferee of this Agreement, and provide to the Transferee, not later than ten (10) business days before the date of transfer, a copy of this Agreement, any modifications to this agreement executed pursuant to Section 8.10, and any other material correspondence between City and the Grantee.

(ii) Notify the City that the Property has been sold, conveyed or otherwise transferred to the Transferee(s) no later than ten (10) business days after the date of the transfer.

(iii) Grantee's failure to comply with the notifications requirements in Section 4.5(c) shall constitute an Event of Default under this Agreement in accordance with Section 6.1(c).

(c) In the event the Grantee wishes to release any portion of the Property from the terms of this Agreement, in connection with a subdivision or otherwise, then Grantee shall notify the SFPUC of the proposed release and related transaction, including such terms as are necessary to ensure that the Grantee's obligations under this Agreement will be satisfied with respect to the entire Property. Any such release will be subject to the review and written approval of the SFPUC General Manager, or his or her designee, and shall be recorded against the portion of the Property that is released.

(d) As a precondition of receiving the Second Disbursement of Grant Funds as specified in Section 5.3 of this Agreement, Grantee shall record against the Property in the official records of the City's office of the Assessor-Recorder the Declaration of Deed Restrictions attached hereto as Appendix C.

#### **4.6. Work Product.**

Grantee understands and agrees that the SFPUC has the right to review, approve, disapprove or conditionally approve, in its sole discretion, the work funded in whole or part with the Grant Funds pursuant to grant requirements and the provisions of this Agreement. Grantee has the burden of demonstrating to the SFPUC that each element of work funded in whole or part with the Grant Funds is directly and integrally related to the Project as approved by the SFPUC. The SFPUC shall have the reasonable discretion to determine whether Grantee has met this burden.

The SFPUC has the right to inspect from time to time the administration by Grantee or any of its contractors of any work, including construction, maintenance and repair work, to ensure that Grantee is performing such elements of the Project, or causing such elements of the Project to be performed, consistent with the terms and conditions of this Agreement. Grantee shall provide SFPUC with reasonable access for the purpose of conducting such inspection.

**ARTICLE 5**  
**USE AND DISBURSEMENT OF GRANT FUNDS**

**5.1. Maximum Amount of Grant Funds.** In no event shall the amount of the Grant Funds disbursed hereunder exceed [MAXIMUM AMOUNT]. A Grant awarded under this Agreement is intended to defray the costs of undertaking the Project up to the amount awarded in the Grant.

~~**5.2. Grantee Responsible for Additional Funds Necessary to Complete Project.** In the event that the Grant Funds are insufficient to complete the Project because of cost overruns, or for any other reason, the Grantee is responsible for providing any additional funds necessary to complete the Project.~~

**5.3. Use of Grant Funds.** Grantee shall use the Grant Funds only for Eligible Expenses, as defined in Section 1.1, and for no other purpose. Grantee shall expend the Grant Funds in accordance with the Budget set forth in the Grant Application and the Schedule of Values submitted by the contractor. The Grantee shall submit to the SFPUC a record of final accounting for the project in the Final Report.

**5.4. Request for Reimbursement.** Based on the Budget submitted to the SFPUC as outlined in the Application Documents, the Grantee shall submit a **Request for Reimbursement** for Eligible Expenses based on the schedule for the disbursement of Grant Funds specified in Section 5.4. All payment requests submitted to the SFPUC shall be accompanied by all necessary supporting documentation, in accordance with the *Green Infrastructure Grant Program Rules*. Any reimbursement request that is submitted and not approved shall be returned by the SFPUC to Grantee with a brief, reasonably detailed statement of the reason for the SFPUC's rejection of such reimbursement request. If any such rejection relates only to a portion of Eligible Expenses itemized in such reimbursement request, the SFPUC shall have no obligation to disburse any Grant Funds for any other Eligible Expenses itemized in such reimbursement request unless and until Grantee submits a reimbursement request that is in all respects acceptable to the SFPUC. The Grantee shall maintain records of charges incurred and reconcile those charges with SFPUC funds received. Grantee must reimburse SFPUC for any overpayment of Grant Funds within thirty (30) days after the Project Completion Date.

**5.5. Grant Fund Disbursement.** The SFPUC will provide the Grant Funds to the Grantee upon receipt of an acceptable Request for Reimbursement as follows:

(a) **First Disbursement:** SFPUC shall disburse 20% of the Grant Funds to Grantee upon execution of this Agreement.

(b) **Second Disbursement:** SFPUC shall disburse 70% of the Grant Funds upon: (i) SFPUC approval of 100% design documents; and, (ii) submission of proof that the Declaration of Deed Restrictions described in Section 4.5 has been recorded against the Property in the official records of the City's Office of the Assessor-Recorder.

(c) **Third Disbursement:** SFPUC shall disburse the remaining 10% of Grant Funds upon: (i) completion of construction of the Project and SFPUC issuance of Final Walkthrough; and, (ii) submittal of the Final Report.

**5.6. Submitting False Claims; Monetary Penalties.** Any Grantee who submits a false claim shall be liable to City for three times the amount of damages which City sustains because of

the false claim. A Grantee who submits a false claim shall also be liable to City for the costs, including attorney's fees, of a civil action brought to recover any of those penalties or damages, and may be liable to City for a civil penalty of up to ten thousand dollars (\$10,000) for each false claim. A Grantee will be deemed to have submitted a false claim to City if the Grantee (a) knowingly presents or causes to be presented to an officer or employee of City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by City; (c) conspires to defraud City by getting a false claim allowed or paid by City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to City; or (e) is a beneficiary of an inadvertent submission of a false claim to City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to City within a reasonable time after discovery of the false claim.

## **ARTICLE 6 EVENTS OF DEFAULT AND REMEDIES**

**6.1. Events of Default.** The occurrence of any one or more of the following events shall constitute an "Event of Default" under this Agreement.

(a) **False Statement.** Any statement, representation or warranty contained in this Agreement, in the Application Documents, in any Request for Reimbursement, or in any other document submitted to City by Grantee under this Agreement is found by City to be false or misleading.

(b) **Failure to Provide Insurance.** Grantee fails to provide or maintain in effect any insurance policy required by Section 8.1.

(c) **Failure to Perform Other Covenants.** Grantee fails to perform or breaches any other agreement or covenant of this Agreement to be performed or observed by Grantee as and when performance or observance is due and such failure or breach continues for a period of ten (10) days after the date on which such performance or observance is due.

**6.2. Remedies Upon Event of Default.** Upon and during the continuance of an Event of Default, City may do any of the following, individually or in combination with any other remedy:

(a) **Termination.** The City may terminate this Agreement by giving a written termination notice to Grantee. In that event, this Agreement shall terminate on the date specified in such notice.

(b) **Withholding of Grant Funds.** The City may withhold all or any portion of Grant Funds not yet disbursed hereunder, regardless of whether Grantee has previously submitted a Request for Reimbursement or whether the SFPUC has approved the disbursement of the Grant Funds requested in any Request for Reimbursement. Any Grant Funds withheld pursuant to this Section and subsequently disbursed to Grantee after cure of applicable Events of Default shall be disbursed without interest.

(c) **Return of Grant Funds.** The City may institute an action for specific performance or demand the immediate return of previously disbursed Grant Funds.

(d) **Return of Prorated Amount of Grant Funds.** The City may demand the return of less than 100% of the Grant Funds if, following completion and operation of the Project for some period of time, the City determines, at its sole discretion, that a lesser amount will fully compensate the City for Grantee's default, taking into consideration all relevant factors, including, but not limited to, the extent to which Grantee actually met the stormwater performance goals, City's costs incurred in administering the Grant and monitoring the Project, the detriment to City of not meeting the offset goals, the time value of the Grant funds, and the lost opportunity to use the funds for a successful project.

**6.3. Remedies Nonexclusive.** Each of the remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The remedies contained herein are in addition to all other remedies available to City at law or in equity, by statute, or otherwise and the exercise of any such remedy shall not preclude or in any way be deemed to waive any other remedy. Notwithstanding the foregoing, City shall first seek to enforce the remedies described in **Section 6.2**, and only if Grantee fails or refuses to satisfy such remedies, will City seek to enforce any other remedy.

## **ARTICLE 7 NOTICES AND OTHER COMMUNICATIONS**

**7.1. Requirements.** Except as otherwise expressly provided in this Agreement, any notice, consent, request, or approval given under or pursuant to this Agreement shall be effective only if in writing and given by: (a) delivery in person; (b) by sending it first-class or certified mail with a return receipt requested and postage prepaid; or, (c) via reliable commercial overnight courier with a return receipt requested. All such written communications must be addressed as set forth below, or sent to such other address(es) as either City or Grantee may designate as its new address(es) for such purposes by notice given to the other party in accordance with the provisions of this Section at least ten (10) days before the effective date of such a change. For convenience of the parties, copies of notices may also be given by e-mail to the addresses set forth herein or such other e-mail addresses as may be provided from time to time.

### CITY AND SFPUC:

To: San Francisco Public Utilities Commission  
Attn: Green Infrastructure Grant Program  
525 Golden Gate Ave.  
San Francisco, CA 94102  
E-mail: \_\_\_\_\_

and: San Francisco City Attorney's Office  
Attn: Public Utilities Team  
1390 Market Street, Suite 418  
San Francisco, CA 94102  
E-mail: Jonathan.Knapp@sfcityatty.org

GRANTEE:

To:

**7.2. Effective Date.** A properly addressed notice, consent, request, or approval transmitted by one of the methods set forth in Section 7.1 shall be deemed received upon the confirmed date of delivery, attempted delivery, or rejected delivery, whichever occurs first.

**ARTICLE 8**

**8.1. Insurance.**

(a) Without in any way limiting Grantee's liability pursuant to Section 8.2 of this Agreement, Grantee, or Grantee's Contractor, shall maintain, or cause to be maintained, during the full Term of this Agreement, *i.e.*, until the Grantee receives a Project Completion Letter from the SFPUC, the following types of insurance in the following amounts:-

(i) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 for each accident, injury, or illness; and

(ii) Commercial General Liability Insurance with limits not less than \$1,000,000 for each occurrence and \$2,000,000 general in the aggregate for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

(iii) Professional liability insurance for negligent acts, errors, or omissions with respect to professional or technical services, if any, required in the performance of this Agreement with limits not less than one million dollars (\$1,000,000) for each claim.

(b) The General Liability Insurance policy shall:

(i) Name as Additional Insured the City, its Officers, Agents, and Employees.

(ii) Provide that such policy is primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that the insurance applies separately to each insured against whom claim is made or suit is brought.

(c) All policies shall be endorsed to provide thirty (30) days advance written notice to City of reduction or nonrenewal of coverages or cancellation of coverages for any reason.

(d) Should any of the required insurance be provided under a claims-made form, Grantee shall maintain such coverage continuously throughout the Term of this Agreement and, without lapse, for a period of three (3) years beyond the expiration of this Agreement, to the effect that should occurrences during the Term of this Agreement give rise to claims made after expiration or termination of the Agreement, such claims shall be covered by such claims-made policies.

(e) Should any required insurance lapse during the Term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, as provided in Section 6.2(b), the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

(f) At the time it submits an executed Agreement to the City, Grantee shall furnish to City certificates of insurance and evidence of additional insured status with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are reasonably satisfactory to City, in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease the Grantee's liability hereunder.

**8.2. Indemnification.** Grantee shall indemnify and hold harmless City and its officers, agents and employees from, and, if requested, shall defend them from and against any and all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise) arising from or in any way connected with any: (i) injury to or death of a person, including employees of City or Grantee or Grantee's Contractor; (ii) loss of or damage to property; (iii) violation of local, state, or federal common law, statute or regulation, including, but not limited to, disability and labor laws or regulations; (iv) strict liability imposed by any law or regulation; or, (v) losses arising from Grantee or Grantee's Contractor's execution of subcontracts not in accordance with the requirements of this Agreement applicable to subcontractors; so long as such injury, violation, loss, or strict liability (as set forth in subsections (i) – (v) above) arises directly or indirectly from Grantee or Grantee's Contractor's performance of this Agreement, including, but not limited to, Grantee or Grantee's Contractor's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not the result of a contribution to or by any act of, or by any omission to perform some duty imposed by law or agreement on Grantee or Grantee's Contractor, its subcontractors or either's agent(s) or employee(s). The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's out-of-pocket costs of investigating any claims against the City.

In addition to Grantee's obligation to indemnify City, Grantee specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Grantee by City and continues at all times thereafter.

Grantee shall indemnify, defend and hold City harmless from all loss and liability, including attorney's fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons arising directly or indirectly from the receipt by City, or any of its officers or agents, of Grantee or Grantee's Contractor's Services.

**8.3. Incidental and Consequential Damages.** Losses covered under Section 8.2 shall include any and all incidental and consequential damages resulting in whole or in part from

Grantee's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights that any Indemnified Parties may have under applicable law with respect to such damages.

**8.4. Limitation on Liability of City.** SFPUC's payment obligations under this Agreement shall be limited to the Grant Funds. Notwithstanding any other provision of this Agreement, in no event shall City be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits, arising out of or in connection with this Agreement or SFPUC's performance or nonperformance of its obligations under this Agreement.

**8.5. Prohibition on Political Activity with City Funds.** In accordance with S.F. Administrative Code Chapter 12.G, no funds appropriated by the City for this Agreement may be expended for organizing, creating, funding, participating in, supporting, or attempting to influence any political campaign for a candidate or for a ballot measure. The terms of San Francisco Administrative Code Chapter 12.G are incorporated herein by this reference.

**8.6. Successors; No Third-Party Beneficiaries.** The terms of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their successors and assigns. Nothing in this Agreement, whether express or implied, shall be construed to give any person or entity (other than the parties hereto and their respective successors and assigns and, in the case of Section 8.2, any Indemnified Parties) any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenants, conditions or provisions contained herein. The terms of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their successors and assigns. Nothing in this Agreement, whether express or implied, shall be construed to give any person or entity (other than the parties hereto and their respective successors and assigns and, in the case of Section 8.2, any Indemnified Parties) any legal or equitable right, remedy or claim under or with respect to this Agreement or any covenants, conditions or provisions contained herein.

**8.7. Project Proponent to Pay All Taxes.** Grantee shall pay to the appropriate governmental authority, as and when due, any and all taxes, fees, assessments or other governmental charges, including possessory interest taxes and California sales and use taxes, levied upon or in connection with this Agreement, the work, or any of the activities contemplated by this Agreement. Nothing herein shall be construed to limit the ability of Grantee to appeal any taxes or to pay any taxes under protest.

**8.8. Consents, Approvals, Elections, and Options.** Whenever this Agreement requires or permits the giving by City or SFPUC of any consent or approval, or the making or exercise by City or SFPUC of any election, discretion or option, the General Manager of SFPUC or his or her designee, shall be authorized to provide such consent or approval, or make or exercise such election, discretion, or option, except as otherwise provided by applicable law, including City's Charter. No consent, approval, election or option shall be effective unless given in writing.

**8.9. Sunshine Ordinance.** Grantee acknowledges and agrees that this Agreement and the Application Documents are subject to Section 67.24(e) of the San Francisco Administrative Code, which provides that contracts, including this Agreement, Grantee's bids, responses to Requests for Proposals (RFPs) and all other records of communications between City and persons or entities seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in such Section 67.24(e) (as it exists on the date hereof) requires the disclosure



of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. All information provided by Grantee that is covered by such Section 67.24(e) (as it may be amended from time to time) will be made available to the public upon request.

**8.10. Modification.** This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement.

**8.11. Entire Agreement.** This Agreement and the Application Documents set forth the entire Agreement between the parties, and supersede all other oral or written communications. If there is any conflict between the terms of this Agreement and the Application Documents, the terms of this Agreement shall govern.

**8.12. Counterparts.** This Agreement may be executed in counterparts, each of which shall be an original, but all of which together shall comprise one instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first specified herein.

**CITY:**

**GRANTEE:**

**CITY AND COUNTY OF SAN FRANCISCO,**  
a municipal corporation

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

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

**HARLAN L. KELLY, JR.**  
General Manager  
San Francisco Public Utilities Commission

APPROVED AS TO FORM:

**DENNIS J. HERRERA**  
City Attorney

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

Jonathan Knapp  
Deputy City Attorney

**APPENDIX A**  
**Grant Application**

**APPENDIX B**  
*Green Infrastructure Grant Program Rules*

**APPENDIX C**  
*Declaration of Deed Restrictions*

RECORDING REQUESTED BY:

City and County of San Francisco

WHEN RECORDED

RETURN TO:

San Francisco Public Utilities Commission Water Enterprise  
525 Golden Gate Avenue  
San Francisco, CA 94102  
Attn: Green Infrastructure Grant Program

APN (Block/Lot No.)

Address:

(Space above this line reserved for Recorder's use only)

**DECLARATION OF DEED RESTRICTIONS**

**[Property Address]**

This Declaration of Deed Restrictions ("Declaration") is entered into this DATE by and between the City and County of San Francisco (the "City"), acting by and through its Public Utilities Commission (the "SFPUC") and NAME OF GRANTEE (the "Grantee"), the owner of certain real property at STREET ADDRESS (the "Property"), described in the Legal Description (Exhibit A to this Declaration), on which the Grantee intends to design and install a stormwater control and treatment project that will reduce runoff into the City's sewer system (the "Project").

**RECITALS**

- A. [RECITAL FOR COMMISSION APPROVAL OF GRANT PROGRAM]
- B. The SFPUC is awarding a grant (the "Grant") to Grantee for the purpose of funding the design and installation of the Project. The Grant is evidenced by, among other documents, an agreement between the SFPUC and Grantee dated as of <<**INSERT EFFECTIVE DATE OF GRANT AGREEMENT**>>, as it may be amended from time to time ("Grant Agreement"). The Grant Agreement is incorporated by reference in this Declaration as though fully set forth herein. Definitions and rules of interpretation set forth in the Grant Agreement apply to this Declaration.
- C. Pursuant to the Grant Agreement, and for good and valuable consideration of the Grant Funds received, Grantee has agreed to operate and maintain the Project for twenty (20) years, which is reasonably related to the useful life of the stormwater control infrastructure installed.

## DEED RESTRICTION AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantee hereby covenants and agrees as follows:

1. Grantee shall operate and maintain the Project as outlined in the *Green Infrastructure Grant Program Rules*, attached hereto as Exhibit B, and the Grant Agreement for a period of twenty (20) years. This obligation shall commence on the Effective Date, as defined in Section 3.1 of the Grant Agreement, and end twenty (20) years after the Project Completion Date, as defined in Section 1.1 of the Grant Agreement, at 11:59 p.m. Pacific Standard Time. Grantee may take the Project out of service for brief periods necessary to conduct repairs or replacements.
2. This Declaration constitutes a covenant running with the land pursuant to California Civil Code Section 1460 *et seq.* and shall be binding on the Grantee, and their respective heirs, successors and assigns. Any reference to the Grantee in this Declaration and the Grant Agreement shall include successor owners of all or any part of the Property and all rights and obligations of the Grantee shall accrue to and be imposed upon any and all successor owners of the Property.

Without limiting the foregoing, the Grantee further agrees that whenever the Property is sold, conveyed or otherwise transferred to a person or entity (each, a "Transferee"), Grantee shall: (a) notify the Transferee of this Deed Restriction Agreement, and provide to the Transferee, not later than ten (10) business days before the date of transfer, a copy of this Deed Restriction Agreement and the Grant Agreement, and any modifications to the Grant Agreement, and any other material correspondence between City and the Grantee; and, (b) notify the City that the Property has been sold, conveyed or otherwise transferred to the Transferee(s) no later than ten (10) business days after the date of the transfer.

In the event that the Grantee wishes to release any portion of the Property from the terms of this Deed Restriction Agreement, in connection with a subdivision or otherwise, then Grantee shall notify the SFPUC of the proposed release and related transaction, including such terms as are necessary to ensure that the Grantee's obligations under this Deed Restriction Agreement and the Grant Agreement will be satisfied with respect to the entire Property. Any such release will be subject to the review and written approval of the SFPUC General Manager, or his or her designee, and shall be recorded against the portion of the Property that is released.

3. In the event that the Grantee fails to comply with its operation and maintenance obligations, as specified in Section 1 of this Deed Restriction Agreement, to the SFPUC's satisfaction, the SFPUC, at its sole option, may exercise any rights available at law or in equity, by statute, or otherwise including, but not limited to, the remedies available to the SFPUC specifically identified in the Grant Agreement upon an Event of Default. Grantee shall pay the City's costs in connection with the City's enforcement of the terms of this Deed Restriction Agreement, including, without limitation, the City's attorney's fees and costs.
4. Neither this Declaration nor this Deed Restriction Agreement shall be amended, except by written agreement signed by Grantee and the SFPUC and recorded against the Property in the official records of the City's Office of the Assessor-Recorder.

The person signing below represents that she/he has the right to make this Declaration, executed as of the date first written above

**GRANTEE:**

\_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**The Grantee's signature must be acknowledged by a notary public before recordation; add Notary Public Certification(s) and Official Notarial Seal(s).**

**EXHIBIT A**

(Legal Description of the Property)

THE FOLLOWING LAND SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, AND STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

**EXHIBIT B**  
(Green Infrastructure Grant Program Rules)

## PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 18-0189

WHEREAS, Green infrastructure protects and enhances the function of the City and County of San Francisco's combined sewer system by reducing the volume and rate of stormwater run-off into the system; and

WHEREAS, The San Francisco Public Utilities Commission (SFPUC) has a multi-faceted program to maximize the detention and retention of stormwater, including through green infrastructure; and

WHEREAS, The SFPUC has determined that a Green Infrastructure Grant Program targeting properties in San Francisco containing large impervious surfaces will deliver cost-effective stormwater management performance for SFPUC's collection system; and

WHEREAS, The SFPUC has developed eligibility criteria for the Grant Program set forth in the attached Grant Program Guidelines, including a minimum project size of 0.5 acres of impervious surface in order to ensure that projects receiving grant funding will provide significant stormwater performance; and

WHEREAS, The Grant Program Guidelines also require that grant-funded projects must manage the first 0.75 inches in rainfall depth over the drainage area, consistent with SFPUC capital projects; and

WHEREAS, The SFPUC has allocated \$3,000,000 in Sewer System Improvement Program (SSIP) funding for the Fiscal Year ending June 30, 2019, and \$5,000,000 in SSIP funding for the Fiscal Year ending June 30, 2020 to launch the Green Infrastructure Grant Program; and

WHEREAS, This action does not constitute a "Project" under California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(4) because the proposed Green Infrastructure Program creates a government funding mechanism which does not involve commitment to any specific project which may result in a physical change in the environment. Under the Green Infrastructure Grant Program Guidelines, approval of grant applications will be contingent on the proposed project's compliance with all applicable local, State, and federal permit requirements. Funds for construction will not be issued until the project has undergone environmental review in compliance with the California Environmental Quality Act (CEQA) and San Francisco Administrative Code Chapter 31; and

WHEREAS, The SFPUC has conducted stakeholder outreach to owners of parcels containing large impervious area and has found enthusiastic potential grant applicants interested in delivering these stormwater management benefits; now, therefore, be it

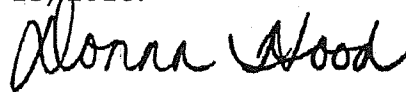
RESOLVED, The Commission hereby approves the attached Green Infrastructure Grant Program Guidelines, including the eligibility criteria set forth therein; and be it



FURTHER RESOLVED, The Commission delegates to the General Manager the authority to negotiate, award, and execute grant agreements, in substantially the same form as on file with the Commission Secretary, with a term of 20 years and a maximum grant amount of \$765,000 per impervious acre managed for up to a maximum grant amount of \$2,000,000 each, with grantees who meet the eligibility requirements under the Grant Program Guidelines, and recommends that the Board of Supervisors adopt an ordinance delegating its authority under Charter Section 9.118 to the SFPUC General Manager to execute such grant agreements for a term in excess of 10 years; and be it

FURTHER RESOLVED, That this Commission hereby authorizes the SFPUC General Manager to enter into any amendments or modifications to the grant agreements that the General Manager determines, in consultation with the City Attorney, are in the best interest of the City, do not materially decrease the City's rights or materially increase the obligations or liabilities of the City, are necessary or advisable to effectuate the purposes and intent of the grant agreements or this resolution, and are in compliance with all applicable laws, including the City Charter.

*I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of November 13, 2018.*



---

*Secretary, Public Utilities Commission*



# San Francisco Water Power Sewer

Services of the San Francisco Public Utilities Commission

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

2018 NOV 19 AM 11:25

BY JB

525 Golden Gate Avenue, 13th Floor  
San Francisco, CA 94102  
T 415.554.3155  
F 415.554.3161  
TTY 415.554.3488

**TO:** Angela Calvillo, Clerk of the Board

**FROM:** Christopher Whitmore, Policy and Government Affairs

**DATE:** November 19, 2018

**SUBJECT:** Authorizing Grant Agreements - Terms of 20 Years - Public Utilities  
Commission Green Infrastructure Grant Program

---

Attached please find an ordinance delegating authority under Charter Section 9.118 to the General Manager of the San Francisco Public Utilities Commission (SFPUC) to enter into grant agreements with terms of 20 years under the SFPUC's Green Infrastructure Grant Program, subject to certain specified conditions.

The following is a list of accompanying documents (2 sets):

1. BOS Ordinance
2. Legislative Digest
3. SFPUC Reso 18-0189
4. Grant Program Guidelines
5. Grant Agreement Template
6. Grant Agreement Declaration of Deed Restrictions

Please contact Christopher Whitmore at (415) 934-3906 if you need any additional information on these items.

**London N. Breed**  
Mayor

**Vince Courtney**  
President

**Ann Moller Caen**  
Vice President

**Francesca Vietor**  
Commissioner

**Anson Moran**  
Commissioner

**Ike Kwon**  
Commissioner

**Harlan L. Kelly, Jr.**  
General Manager

**OUR MISSION:** To provide our customers with high-quality, efficient and reliable water, power and sewer services in a manner that values environmental and community interests and sustains the resources entrusted to our care.

