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|  | U.S. ENVIRONMENTAL PROTECTION AGENCY Assistance Amendment | GRANT NUMBER (FAIN): 00F30401 | DATE OF AWARD 05/24/2017 |
| | | MODIFICATION NUMBER: 4 | MAILING DATE 05/24/2017 |
| | | PROGRAM CODE: XP | ACH# 66904 |
| | | TYPE OF ACTION No Cost Amendment | |
| RECIPIENT TYPE: County | | Send Payment Request to: Las Vegas Finance Center | |
| RECIPIENT: Fort Bend County 301 Jackson Street Richmond, TX 77469 EIN: 74-6001969 | | PAYEE: Fort Bend County 301 Jackson Street Richmond, TX 77469 | |
| PROJECT MANAGER Ann Werlein 301 Jackson Street Richmond, TX 77469 E-Mail: werleann@co.fort-bend.tx.us Phone: 281-341-8634 | EPA PROJECT OFFICER Dena Hurst 1445 Ross Avenue, Suite 1200, 6WQ-AP Dallas, TX 75202-2733 E-Mail: Hurst.Dena@epamail.epa.gov Phone: 214-665-7283 | EPA GRANT SPECIALIST Lisa Kapsh Grant Programs Section, 6MD-CG E-Mail: Kapsh.Lisa@epa.gov Phone: 214-665-7335 | |
| PROJECT TITLE AND EXPLANATION OF CHANGES Freshwater Supply District #1, City of Arcola This is a No Cost Amendment for extension of time through 12/31/2017, at no additional cost to the government. | | | |
| BUDGET PERIOD 03/03/2011 - 12/31/2017 | PROJECT PERIOD 03/03/2011 - 12/31/2017 | TOTAL BUDGET PERIOD COST \$869,091.00 | TOTAL PROJECT PERIOD COST \$869,091.00 |
| NOTICE OF AWARD | | | |
| Based on your Application dated 12/21/2010 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$0. EPA agrees to cost-share <u>55.00%</u> of all approved budget period costs incurred, up to and not exceeding total federal funding of \$478,000. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments. | | | |
| ISSUING OFFICE (GRANTS MANAGEMENT OFFICE) | | AWARD APPROVAL OFFICE | |
| ORGANIZATION / ADDRESS Grant Programs Section, 6MD-CG 1445 Ross Avenue, Suite 1200 Dallas, TX 75202-2733 | | ORGANIZATION / ADDRESS U.S. EPA, Region 6 Water Quality Protection Division (6WQ) 1445 Ross Avenue, Suite 1200 Dallas, TX 75202-2733 | |
| THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY | | | |
| Digital signature applied by EPA Award Official Lisa Kapsh - Grant Management Specialist | | | DATE 05/24/2017 |

EPA Funding Information

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| FUNDS | FORMER AWARD | THIS ACTION | AMENDED TOTAL |
|-------------------------------|--------------|-------------|---------------|
| EPA Amount This Action | \$ 478,000 | \$ 0 | \$ 478,000 |
| EPA In-Kind Amount | \$ 0 | \$ | \$ 0 |
| Unexpended Prior Year Balance | \$ 0 | \$ | \$ 0 |
| Other Federal Funds | \$ 0 | \$ | \$ 0 |
| Recipient Contribution | \$ 0 | \$ | \$ 0 |
| State Contribution | \$ 0 | \$ | \$ 0 |
| Local Contribution | \$ 391,091 | \$ | \$ 391,091 |
| Other Contribution | \$ 0 | \$ | \$ 0 |
| Allowable Project Cost | \$ 869,091 | \$ 0 | \$ 869,091 |

| Assistance Program (CFDA) | Statutory Authority | Regulatory Authority |
|--------------------------------------------|-----------------------------------------|----------------------|
| 66.202 - Congressionally Mandated Projects | Consolidated Appropriations Act 2008 | 40 CFR PART 31 |

[illegible]

| Approved Budget | |
|-----------------------------------------------------------|----------------------------------------------|
| Program Element Classification (Construction) | Approved Allowable Budget Period Cost |
| 1. Administration Expense | \$0 |
| 2. Preliminary Expense | \$0 |
| 3. Land Structure, Right Of Way | \$0 |
| 4. Architectural Engineering Basic Fees | \$60,000 |
| 5. Other Architectural Engineering Fees | \$25,000 |
| 6. Project Inspection Fees | \$10,000 |
| 7. Land Development | \$0 |
| 8. Relocation Expenses | \$0 |
| 9. Relocation Payments to Individuals & Bus. | \$0 |
| 10. Demolition and Removal | \$0 |
| 11. Construction and Project Improvement | \$744,091 |
| 12. Equipment | \$0 |
| 13. Miscellaneous | \$30,000 |
| 14. Total (Lines 1 thru 13) | \$869,091 |
| 15. Estimate Income | \$0 |
| 16. Net Project Amount (Line 14 minus 15) | \$869,091 |
| 17. Less: Ineligible Exclusions | \$0 |
| 18. Add: Contingencies | \$0 |
| 19. Total (Share: Recip <u>45.00%</u> Fed <u>55.00%</u>) | \$869,091 |
| 20. TOTAL APPROVED ASSISTANCE AMOUNT | \$478,000 |

Administrative Conditions

EXCEPT AS PROVIDED HEREIN, ALL TERMS AND CONDITIONS OF THE BASIC ASSISTANCE AGREEMENT, INCLUDING PRIOR AMENDMENTS, REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.

General Terms and Conditions

The recipient agrees to comply with the current EPA general terms and conditions available at: <https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-april-27-2017-or-later>. These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award.

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

Texas Commission on Environmental Quality

MBE: CONSTRUCTION 7.34%; SUPPLIES 19.37%; SERVICES 12.98%; EQUIPMENT 19.57%

WBE: CONSTRUCTION 10.60%; SUPPLIES 14.15%; SERVICES 23.70%; EQUIPMENT 19.64%

A. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33.

MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E

MBE/WBE reporting is required in annual reports. Reporting is required for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the "Other" category that exceed the threshold amount of \$150,000, including amendments and/or modifications.

Based on EPA's review of the planned budget, this award meets the conditions above and is subject to the Disadvantaged Business Enterprise (DBE) Program reporting requirements. However, if recipient believes this award does not meet these conditions, it must provide [insert Regional or Headquarters point of contact] with a justification and budget detail within 21 days of the award date clearly demonstrating that, based on the planned budget, this award is not subject to the DBE reporting requirements.

The recipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" report (EPA Form 5700-52A) on an annual basis. All procurement actions are reportable, not just that portion which exceeds \$150,000.

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

The reporting requirement is based on total procurements. Recipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

MBE/WBE reports should be sent to [R6 EPA Grants Programs@epa.gov](mailto:R6_EPA_Grants_Programs@epa.gov). The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in effect, including the Good Faith Effort requirements as described in 40 CFR Part 33 Subpart C, and Fair Share Objectives negotiation as described in 40 CFR Part 33 Subpart D and explained below.

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

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

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements as described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

Accepting the Fair Share Objectives/Goals of Another Recipient

The dollar amount of this assistance agreement, or the total dollar amount of all of the recipient's financial assistance agreements in the current federal fiscal year from EPA is \$250,000, or more. The recipient accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA by the **Texas Commission on Environmental Quality** as follows:

MBE: CONSTRUCTION 7.34%; SUPPLIES 19.37%; SERVICES 12.98%; EQUIPMENT 19.57%

WBE: CONSTRUCTION 10.60%; SUPPLIES 14.15%; SERVICES 23.70%; EQUIPMENT 19.64%

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

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

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

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

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

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

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

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

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

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

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

B. Unliquidated Obligations: Pursuant to 40 CFR 31.41(b) and 31.50(b), EPA recipients shall submit an annual Federal Financial Report (SF-425) to EPA no later than 90 calendar days following the end of the reporting quarter.

The following reporting period end dates shall be used for interim reports: 3/31, 6/30, 9/30, or 12/31.

At the end of the project, the recipient must submit a final Federal Financial Report to EPA no later than 90 calendar days after the end of the project period. The form is available on the internet at <http://www2.epa.gov/financial/forms>. All FFRs must be submitted to the Las Vegas Finance Center:

US EPA, Las Vegas Finance Center
4220 S. Maryland Pkwy, Bld C, Rm 503
Las Vegas, NV 89119

or by email to: lvfc-grants@epa.gov

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

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

Programmatic Conditions

EXCEPT AS PROVIDED HEREIN, ALL TERMS AND CONDITIONS OF THE BASIC ASSISTANCE AGREEMENT, INCLUDING PRIOR AMENDMENTS, REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.