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Secretary for
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Department of Toxic Substances Control

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Gavin Newsom
Governor

OFFICE OF BROWNFIELDS

Department of Toxic Substances Control · Cleanup In Vulnerable Communities Initiative

Site Name:
Address:

Grantee/Applicant:

Name:
Organization:
Address:

Grant No. **[Autogenerate “ECRG-2021-XXXX” when DTSC approves Grant Application]**

Equitable Community Revitalization Grant Agreement

This Equitable Community Revitalization Grant Agreement (AGREEMENT) is entered into by and between **[grantee name]** (GRANTEE) and the Department of Toxic Substances Control (DTSC) (together the PARTIES).

RECITALS

WHEREAS,

- A. Senate Bill 158 (2021) authorizes DTSC to implement a new grant program to investigate and clean up contaminated properties in communities overburdened by pollution.
- B. Pursuant to Senate Bill 158, DTSC established the Equitable Community Revitalization Grant (ECRG), which provides financial assistance to communities via reimbursable grants to investigate and clean up brownfields through a competitive process.

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[GRANTEE's Name]

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- C. GRANTEE has submitted the application attached hereto as Exhibit A [upload] (ECRG Application) to DTSC for an ECRG in connection with certain property, or group of properties, commonly known as [site name(s)], in [city/town], California (Site). The Site is [The Sites are (for CWA)] depicted in the Site Map and Site Diagram [Site Maps and Site Diagrams (if needed for CWA)] in Exhibit B [upload] and Exhibit C [upload], respectively, and incorporated herein by reference.
- D. GRANTEE has provided documentation indicating that GRANTEE [is the owner of the Site] or [has written consent from the Site owner for GRANTEE to access the Site for the purposes of conducting ECRG Activities, which agreement is attached hereto as Exhibit D].
- E. The CalEnviroScreen percentile score to the Site is [insert]. GRANTEE proposes to [Proposed Reuse]. [Describe what will improve and future use and benefits to the vulnerable community].
- F. GRANTEE is willing to undertake the Proposed Reuse and requests DTSC provide ECRG funding to finance all, or a portion of: [a Community-wide Assessment, Site-specific Environmental Investigation, or Site-specific Environmental Cleanup] activities up to [\$].
- G. GRANTEE prepared a Scope of ECRG Activities attached hereto as Exhibit E [upload].
- H. GRANTEE prepared a ECRG Activities Budget Detail Table outlining activities to be completed within two (2) years from execution date of this AGREEMENT, attached hereto as Exhibit F [upload].
- I. GRANTEE provided a copy of the regulatory oversight agreement or application for oversight with a regulatory oversight agency [upload], attached hereto as Exhibit G [name State or local agency] to provide [Site-specific Environmental Investigation or Site-specific Environmental Cleanup oversight]. Regulatory oversight for Community-wide Assessment Grants is not required (but is still considered an allowable cost).
- J. DTSC determined that the ECRG Application is complete and that GRANTEE and the Site meet the eligibility requirements to receive the ECRG.

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NOW, THEREFORE, in consideration of the terms, conditions, recitals, and covenants contained herein, the PARTIES agree as follows:

- I. The term of this ECRG shall be a period of twenty-four months (24) months from AGREEMENT execution date, unless DTSC extends this AGREEMENT in writing.
- II. DTSC will allocate up to [\$] to GRANTEE to complete the ECRG Activities within the specified two-year timeframe.
- III. GRANTEE will carry out the ECRG Activities in accordance with all applicable State and local laws.

1. FUND CONDITIONS

- 1.1 GRANTEE understands and agrees that all ECRG funds DTSC, provided via the reimbursement process, shall be used solely for the ECRG Activities to address hazardous substances within the Site as depicted in Exhibit C.
- 1.2 GRANTEE further understands and agrees that the receipt of any ECRG funds and all work performed on the Site using ECRG funds are conditioned upon GRANTEE's full compliance with this AGREEMENT and the regulatory oversight agency.
- 1.3 GRANTEE agrees to document and keep separate all expenditures of the ECRG funds within the approved ECRG Activities Budget Detail Table. GRANTEE shall not exceed any of the costs shown in the approved ECRG Activities Budget. It is the responsibility of GRANTEE to pay any cost of the ECRG Activities that exceeds the ECRG allocated amount.
- 1.4 DTSC will disburse the approved amount to GRANTEE, subject to the availability of funds through normal DTSC reimbursement processes. Notwithstanding any other provision of this AGREEMENT, no disbursement shall be required at any time or in any manner which is in violation of, or in conflict with, federal or state laws, rules, or regulations.

2. CONTRACTING

- 2.1 If GRANTEE contracts for services to be reimbursed by the ECRG, those contracts shall generally be procured through a competitive process. GRANTEE shall make available to DTSC, upon request, records of procurement to demonstrate that contract pricing represents reasonable market rates.

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- 2.2 GRANTEE will undertake good faith efforts to contract for services and supplies with qualified Small Business Enterprises (SBEs), Disabled Veteran Enterprises (DVEs), and other disadvantaged and underrepresented group owned business enterprises.

3. EQUITABLE DEVELOPMENT GRANT COMMITMENTS

- 3.1 GRANTEE agrees to promote equitable development in one or more of the following ways:
 - 3.1.1 Advance economic opportunity – Promote local entrepreneurs, enhance community-serving establishments and increase quality living wage jobs for local people.
 - 3.1.2 Prevent displacement – Promote policies and actions that allow anyone who wants to live in a community to do so, especially current residents, and discourage displacement of viable small businesses that serve community needs.
 - 3.1.3 Promote broader mobility and connectivity - Prioritize an effective and affordable public transportation network that supports transit-dependent communities and provides equitable access to core services and amenities, including employment, education, and health and social services.
 - 3.1.4 Develop healthy and safe communities – Create built environments that enhance community health through public amenities (schools, parks, open spaces, complete streets, health care, and other services), access to affordable healthy food, improved air quality, and safe and inviting environments.
 - 3.1.5 Promote environmental justice – Eliminate disproportionate environmental burdens and ensure an equitable share of environmental benefits for existing communities. Secure resources to mitigate and reverse the effects of environmental hazards past and present.
- 3.2 GRANTEE made the following measurable and quantifiable commitments in the Application, hereto attached as Exhibit H [upload Grant Commitments].

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4. SITE ACCESS

- 4.1 GRANTEE shall ensure DTSC's employees, contractors, and consultants have access to the Site at all reasonable times for the duration of AGREEMENT. Nothing in this AGREEMENT is intended or shall be construed to limit in any way the right of entry or inspection that DTSC or any other agency may otherwise have by operation of law.
- 4.2 GRANTEE shall allow DTSC to take photographs of the Site, including activities at the Site, whenever DTSC accesses the Site pursuant to this AGREEMENT.

5. PUBLIC ENGAGEMENT

- 5.1 GRANTEE shall ensure that all ongoing and/or planned community engagement requirements are implemented in a timely manner. This includes public notifications and opportunities for public involvement on the ECRG Activities and the Proposed Reuse.
- 5.2 Upon request by DTSC, GRANTEE shall provide DTSC with copies of all community engagement activity related documents.

6. INVOICES

- 6.1 GRANTEE shall submit invoice reimbursement packages, or invoice batches through the DTSC Fluxx Portal.
- 6.2 Due to administrative costs required to process and reimburse invoices, Invoice reimbursement packages shall be submitted immediately whereupon the total \$15,000 minimum per package/batch is reached (unless otherwise directed by DTSC), with the exception of the Final Invoice.
- 6.3 The Final Invoice may be submitted upon completion of ECRG Activities, when no more costs will be incurred, but no later than 26 months from the date of ECRG Grant award, or as otherwise directed by DTSC.
- 6.4 Invoice reimbursement requests must contain at least the information in substance and form of Exhibit I [Summary of Costs Form] attached hereto and the appropriate invoices specific to the approved ECRG Activities and Budget Detail Table.

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- 6.5 GRANTEE's reimbursement requests for ECRG project management costs, if approved, should also be presented to DTSC as an invoice following the format described in Exhibit I.
- 6.6 Reimbursement requests shall include invoices supporting ECRG Activities specified in the Scope of ECRG Activities and associated Budget Detail Table.
- 6.7 DTSC will process reimbursement payments for acceptable invoices submitted through Fluxx.
- 6.8 GRANTEE shall ensure that none of the costs DTSC reimburses via the ECRG Grant are reimbursed by another source of public funding (e.g., DTSC's Revolving Loan Fund Program or Site Cleanup Subaccount Program).

7. REPORTING

- 7.1 GRANTEE must submit quarterly reports on or before April 30, July 31, October 30, and January 31 within the term of the ECRG Grant.
- 7.2 Quarterly reports should follow the format DTSC provides, which may generally include ECRG Activity status and progress toward the Proposed Reuse, any hurdles that may affect the ECRG Activities or the Proposed Reuse, expended ECRG Grant funds for the quarter, and amount of ECRG Grant funds that are anticipated to be requested for reimbursement in the next quarter.
- 7.3 All work on the ECRG Activities performed pursuant to this AGREEMENT and with ECRG Grant funds shall be performed in a manner that meets or exceeds industry standards.

8. PERMITS AND LICENSES

- 8.1 GRANTEE, at its sole cost and expense, and from sources other than the ECRG Grant funds, shall be responsible for obtaining all professional, and equipment qualifications necessary to be qualified to perform this work under federal, state and local law, including permits, licenses, approvals, certifications, and inspections. GRANTEE shall ensure that all such qualifications are maintained in good standing during the term of this ECRG Grant.

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- 8.2 GRANTEE represents that none of the contractors or subcontractors undertaking the ECRG Activities is currently suspended, debarred, or otherwise declared ineligible to receive proceeds of the ECRG Grant funds.

9. PREVAILING WAGES

- 9.1 GRANTEE must carry out the ECRG Activities in accordance with State prevailing wages for all contracts and subcontracts and costs that will be reimbursed by ECRG Grant funds pursuant to California Labor Code Section 1720 *et seq.*

10. EQUAL EMPLOYMENT

- 10.1 GRANTEE shall comply with all State and Federal Equal Employment Opportunity laws.

11. ADA COMPLIANCE

- 11.1 GRANTEE will assure the State that it complies with the American with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA (42 U.S.C. § 12101 *et seq.*).

12. GRANT CLOSEOUT

- 12.1 GRANTEE shall provide DTSC with a Grant Closeout Notice to notify DTSC when the ECRG Activities have been completed, and no later than the last day of the two-year period covered under the grant award.
- 12.2 Within 60 days of submitting the Grant Closeout Notice, GRANTEE shall submit a closeout report, in the format DTSC provides, to summarize all actions taken, the resources committed, and any significant problems completing the ECRG Activities. The closeout report shall document that the ECRG Activities were performed in accordance with this AGREEMENT and regulatory agency oversight agreement. Closeout report shall include before and after photos of the site.
- 12.3 GRANTEE shall submit a Reuse and Grant Commitments letter report within 60 days following the completion of the Proposed Reuse. The report shall describe the Site's new use, document performance of the Grant Commitments and include before and after photos of the Site.

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13. NOTIFICATIONS

- 13.1 All notices, requests, instructions, or other documents to be provided hereunder to either party by the other shall be in writing and addressed to the following contacts.

To DTSC:

DTSC ECRG Grant Contact	DTSC ECRG Project Manager
Name, Title:	Name, Title:
Address:	Address:
City, Zip:	City, Zip:
Phone:	Phone:
Fax:	Fax:
Email:	Email:

To GRANTEE:

GRANTEE Organization Main Contact	GRANTEE ECRG Project Manager
Name, Title:	Name, Title:
	Organization:
Address:	Address:
City, Zip:	City, Zip:
Phone:	Phone:
Fax:	Fax:
Email:	Email:

- 13.2 GRANTEE shall not transfer ownership of the Site during the term of this AGREEMENT without DTSC's prior written approval. GRANTEE shall provide at least 60-days advance notice in writing to DTSC of any prospective change in GRANTEE's title, name, partnership, or ownership along with sufficient documentation to allow DTSC to review the changes and determine if GRANTEE will continue to meet ECRG eligibility requirements.

14. WAIVER

- 14.1 Any forbearance DTSC issues with respect to any provision in this AGREEMENT shall in no way constitute DTSC's waiver of any rights or privileges granted hereunder.

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- 14.2 No failure to exercise any power or right provided hereunder, or to insist on strict compliance with its obligations hereunder, shall constitute a waiver of right to DTSC's demand at any time exact compliance with the terms hereof.

15. NONCOMPLIANCE AND TERMINATION

- 15.1 In the event GRANTEE fails to comply with any term, condition, or obligation of this AGREEMENT, GRANTEE shall be deemed in noncompliance of this AGREEMENT. Events by which GRANTEE shall be deemed to be in noncompliance include, but are not limited to, the following:

15.1.1 GRANTEE fails to timely respond to DTSC requests made in connection with this AGREEMENT;

15.1.2 GRANTEE fails to timely respond to regulatory entities providing oversight for the Site;

15.1.3 GRANTEE makes any false warranty, representation, or statement in, or in connection with, this AGREEMENT or the ECRG Application;

15.1.4 GRANTEE fails to provide complete or timely quarterly reports;

15.1.5 GRANTEE makes changes to the Proposed Reuse that cause the Site to no longer meet eligibility criteria for ECRG Grant;

15.1.6 GRANTEE fails to complete the ECRG Activities within the timeframe(s) required by this AGREEMENT;

15.1.7 GRANTEE fails to provide notification of change in partnership and Site ownership without prior notification and written consent.

- 15.2 In the event of GRANTEE noncompliance, DTSC shall provide written Notice of Noncompliance to GRANTEE. The Notice of Noncompliance shall provide a reasonable time for GRANTEE to cure, not less than 10 calendar days from the date of the notice. If GRANTEE fails to cure the noncompliance to the satisfaction of DTSC within the time period prescribed in the Notice of Noncompliance, DTSC may terminate the ECRG Grant and pursue any remedies available at law or in equity.

- 15.3 If GRANTEE is in noncompliance, DTSC may immediately withhold from GRANTEE all or any portion of the ECRG funding until such time the noncompliance is cured pursuant to this AGREEMENT.

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16. RECORD RETENTION, INSPECTION, AND DISCLOSURE

- 16.1 Within ten days of request by DTSC, GRANTEE shall provide DTSC with copies of Proposed Reuse plans to DTSC's designated environmental project manager.
- 16.2 Within ten days of request by DTSC, GRANTEE shall provide DTSC with any documents or correspondence provided to the applicable regulatory oversight agency.
- 16.3 GRANTEE shall keep any applicable electronic data management system (e.g., EnviroStor or GeoTracker) up to date and in compliance with all electronic reporting requirements.
- 16.4 GRANTEE agrees to maintain financial and programmatic records pertaining to all matters relative to this ECRG Grant in accordance with generally accepted accounting principles and procedures. All such records and supporting documents shall be made available, upon request, for inspection or audit by DTSC or its representatives. GRANTEE shall retain all its records and supporting documentation applicable to this ECRG Grant for a period of five (5) years, after completion of ECRG Activities, except records that are subject to audit findings, which shall be retained an additional three (3) years after such findings have been resolved, if three years would extend retention past the initial five-year period.
- 16.5 GRANTEE agrees to permit DTSC or its designated representative to inspect and/or audit its records and books relative to this ECRG Grant at any time during normal business hours and under reasonable circumstances and to copy therefrom any information that DTSC deems relevant to this ECRG Grant. DTSC shall provide written notice to GRANTEE prior to implementing this provision. GRANTEE agrees to deliver the records or have the records delivered to DTSC or its designated representative at an address designated by such party.

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- 16.6 Upon request by DTSC, GRANTEE shall provide DTSC with copies of photographs GRANTEE has in its possession of the Site and activities at the Site, as well as copies of drawings GRANTEE has in its possession in connection with the Proposed Reuse plans for the Site. GRANTEE grants DTSC the right to distribute, transmit, publish, or copy, in any medium, either in whole or in part, the photographs or drawings DTSC obtains pursuant to this AGREEMENT for any use, including, but not limited to, project documentation, public outreach, web and social media content, and marketing materials. This subsection does not apply to photos or drawings that contain confidential business information.
- 16.7 GRANTEE grants DTSC the right to distribute, transmit, publish, or copy, in any medium, either in whole or in part, narratives, descriptions, and any other information provided to DTSC by GRANTEE pursuant to or in connection with this AGREEMENT and/or ECRG Application for any use, including, but not limited to, public outreach, web and social media content, and marketing materials. This subsection does not apply to confidential business information.
- 16.8 To the extent GRANTEE submits information to DTSC under this AGREEMENT that it alleges is confidential business information, GRANTEE shall clearly identify the information as such.
- 16.9 GRANTEE agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes and other written or graphic work produced in the performance of this AGREEMENT and/or the ECRG Application shall be in the public domain to the extent to which release of such materials is required under the California Public Records Act.

17. NON-DISCRIMINATION

- 17.1 During the performance of the ECRG, GRANTEE, its contractors, and subcontractors will comply with Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §11135-11139.5) prohibiting discrimination based on sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation.

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- 17.2 In compliance with Government Code section 11135, and if GRANTEE is a public entity, in compliance with Government Code sections 7290 et seq., GRANTEE agrees to make language assistance available free of charge to individuals with communication disabilities or limited proficiency in English, including interpreter services and written information in the prevalent languages in the community, in conducting public outreach and community engagement related to the ECRG Activities.

18. INDEMNIFICATION

- 18.1 GRANTEE agrees to protect, indemnify, defend and hold harmless, DTSC, its officers, administrators, agents, servants, employees and all other persons or legal entities to whom GRANTEE may be liable from, for or against any and all claims, demands, suits, losses, damages, judgments, costs and expenses, whether direct, indirect or consequential and including, but not limited to, all fees, expenses and charges of attorneys and other professionals, court costs, and other fees and expenses for bodily injury, including death, personal injury and property damage, arising out of or in connection with the performance of any work or any GRANTEE responsibility or obligation as provided herein and caused in whole or in part by any GRANTEE act, error, or omission, or GRANTEE agents, servants, employees, or assigns.

19. ASSIGNMENT

- 19.1 GRANTEE shall not assign or attempt to assign directly nor indirectly, any of its rights under this AGREEMENT or under any instrument referred to herein without DTSC's prior written consent.

20. NO THIRD PARTY RIGHTS

- 20.1 This ECRG Grant is not intended to create or vest any rights in any third party, nor to create any third-party beneficiaries.

21. NO ORAL MODIFICATION

- 21.1 The terms of this AGREEMENT may not be amended except in writing, signed by all the parties hereto.

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22. NONCOMPLIANCE STATUS

22.1 Under the laws of the State of California, GRANTEE shall not be:

- a. In violation of any order or resolution not subject to review promulgated by the California Air Resources Board or an air pollution control district;
- b. Subject to cease-and-desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or
- c. Out of compliance with any applicable laws, ordinances, regulations, orders, and permits.

23. AFFIRMATION

23.1 The GRANTEE affirms that GRANTEE did not cause nor contribute to the release or threatened release of a hazardous substance at the Site(s) and is exempt from liability for any previous contamination at the Site(s).

24. SEVERABILITY

24.1 If any provision of this AGREEMENT shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired by such holding.

25. COUNTERPARTS

25.1 This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute the same instrument.

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IN THE WITNESS WHEREOF, THE PARTIES HERETO EXECUTE THIS AGREEMENT ON THE DATE SET FORTH BELOW AND GRANTEE ACCEPTS THE AFOREMENTIONED TERMS AND CONDITIONS ELECTRONICALLY.

[INSERT GRANTEE NAME]
A [Insert Entity Type]

BY: _____
[Insert GRANTEE Signer's Name and Title]
Authorized Signatory

Date: _____

Department of Toxic Substances Control
Site Mitigation and Restoration Program

BY: _____

Date: _____

References:

- Exhibit A – Signed ECRG Application
- Exhibit B – Site Map
- Exhibit C – Site Diagram
- Exhibit D – Site Access Agreement
- Exhibit E – Scope of ECRG Activities
- Exhibit F – ECRG Activities Budget Detail Table
- Exhibit G – Regulatory Oversight Agreement
- Exhibit H – Grant Commitments
- Exhibit I – Summary of Costs Form*

Exhibit I: Summary of Costs

EXHIBIT 13

Grantee Name
Street Address
City, ST ZIP Code

Date: Month DD, YYYY

Agreement Number: ECRG-2021-XXXX
Grant Period: MM/DD/YYYY to MM/DD/YYYY

Site Name
Site Address
City, ST Zip Code

Billing Period: MM/DD/YYYY to MM/DD/YYYY

Budget Item	Budgeted Amount	Current Billing Amount	Expended To Date
TOTAL	\$ -	\$ -	\$ -

Direct questions regarding billing to: Name
XXX-XXX-XXXX Ext. XXXX
Email address

****This is a sample format to summarize invoice requests for approved ECRG activities. Submission will be done through the grant portal. Minor revisions and/or updates may be made to the sample Agreement prior to execution.***