

**CITY OF ALBANY
WATERFRONT COMMITTEE
STAFF REPORT**

**Agenda date: March 7, 2012
Prepared by: JB**

ITEM: 5-4

**SUBJECT: Report from Staff on East Bay Regional Park District Measure WW
Funding**

RECOMMENDATION

No action required. For information only.

DISCUSSION

In 2008, Alameda and Contra Costa County voters approved Measure WW, which was placed on the ballot by the Easy Bay Regional Park district (EBRPD). The measure will raise \$500 million. \$375 million (75%) of revenue will fund Regional Park acquisition and capital projects,. \$125 million (25%) of proceeds will go to cities, special park and recreation districts, etc., for local park and recreation projects. Detailed information is available on the EBRPD web site at <http://www.ebparks.org/ww>.

Of the \$375 million, \$27 million was specifically identifies for projects consistent with the Eastshore State Park General Plan, including access improvements, restore upland and wetland areas to enhance wildlife habitat, and to complete east shore segments of the Bay Trail.

Attached for Committee information is the procedural guide for the local grant program.

Procedural Guide for the LOCAL GRANT PROGRAM

Under the
East Bay Regional Park District Park Bond Extension



January 2009



Submit all grant applications, payment requests, back up documentation and project completion packages electronically by e-mail or on CD to:

Jeff Rasmussen, Grants Manager
East Bay Regional Park District
P.O. Box 5381
Oakland, CA 94605
(510) 544-2204 Telephone
(510) 569-1417 FAX
jrasmussen@ebparks.org

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I. DEFINITIONS

Capitalized words and terms, other than the first word of each sentence, appear in these guidelines. These are defined in the Definition Section below.

Unless otherwise stated, the terms used in this Procedural Guide shall have the following meanings:

Acquisition: to obtain a fee interest or lesser public access rights in real property.

Applicant: means an agency or organization requesting funding from the program.

Application: means the individual Project Application(s) and its required attachments for grants, pursuant to the enabling legislation and/or procedural guidelines.

Authorized Representative – the Applicant/Grantee’s designated position authorized in the Resolution to sign all required grant documents. The Authorized Representative may designate an alternate by informing the District in writing.

Board: means the East Bay Regional Park District Board of Directors

Bond Measure: means Measure WW, the Extension of the East Bay Regional Park District Park Bond.

Capital Project: means the acquisition of land or development activities that are fixed to the site and expected to be long lasting.

CEQA: means the California Environmental Quality Act, Public Resources Code Section 21000 et. seq.; Title 14, California Code of Regulations Section 15000 et. seq.

Master Contract: means an agreement between the District and Grantee specifying the payment of funds by the District for the performance of the Project Scope within the Project Performance Period by the Grantee.

Contract Performance Period: means date Master Contract is fully executed through December 31, 2018, the period of time that the grant funds are available, and the time in which the Project must be completed, billed and paid.

District: means the East Bay Regional Park District.

Development: means improvements to real property for parks and recreation purposes, including but not limited to construction of new facilities, renovation or additions to existing facilities or historic preservation and protection.

General Manager: means the General Manager of the East Bay Regional Park District.

Force Account: means Project work performed by a Grantee’s own work force.

Grantee: means an Applicant who has an approved Contract for grant funds.

Project: means the Acquisition, Development, enhancement, restoration or other activity to be accomplished with grant funds.

Project Grant Amount: means the amount of grant funds assigned to a specific Project.

Grants Manager: means an employee of the District, who acts as a liaison with Grantees and administers Bond Measure grants.

Project Scope: means the description of the work or activity to be accomplished listed in the Scope of Work section of the application form.

Tenure: means the Applicant owns the land or has another long-term agreement with the landowner.

II. LOCAL GRANT PROGRAM DESCRIPTION

Amount of Funds Available

\$125,000,000 has been allocated for the Local Grant program. There are no matching requirements for the Local Grant program.

Allocations

See APPENDIX L - Program Allocation by Agency for allocations.

Eligible Applicants

- Cities
- Special Park and Recreation Districts
- County Service Areas established to provide parks and recreation services
- EBRPD retains project selection authority for unincorporated areas in Alameda County and Contra Costa County. The counties will have the first opportunity to propose projects for the unincorporated areas of the county pending approval of project selection by the Board. The Board will select projects that best meets the needs of the unincorporated areas and insures equitable geographic distribution of funds. Neighboring agencies with projects that serve the unincorporated area are encouraged to work with the counties in proposing projects.
- Other government agencies with the approval of the Board

Eligible Projects

Capital Projects that will provide lands and facilities for recreational activities and services and historic preservation are eligible. Projects must be consistent with the Grantee's park and recreation element of the general plan or appropriate parks and recreation planning document. Public art projects are eligible as long as they are in or adjacent to a parks and recreation facility. The following types of Capital Projects are eligible for grant funding:

- Acquisition (fee title or permanent easement for public access projects)
 - For land acquisition project applicants must submit a copy of the land agreement and appraisal if applicable for District approval prior to acquisition.
- Development (including renovation of recreational facilities)

The following types of projects are ineligible for grant funding:

- Libraries
- Street and highway beautification
- Master Plans
- Public art not associated with a parks & recreation facility
- Maintenance Equipment Purchase (trucks, mowers, tractors, etc.)
- Non-fixed equipment (removable soccer goals, portable air conditioners, etc.)
- Recreational programming and staffing
- Normal maintenance and repairs expected to last less than 25 years. (The District shall make the final determination regarding expected project life.)

District's Administrative Costs

The District's costs of administering the Bond Act shall be paid out of the bond proceeds. These costs shall not exceed 5% of the bond proceeds.

III. IMPORTANT POINTS

- Eligible Project costs may be incurred after **execution of a Master Contract**. Reimbursement Payments may not be made until there is a fully executed Master Contract and an approved Project Application between the District and the Grantee.
- Project applications are accepted **February 1st through March 31st** each year. Applications not received or post marked by March 31st shall be reviewed for approval the following year.
- The Grantee may spend up to 20% of the Project Grant amount for pre-construction costs, including grants administration, survey, plans, permits, specifications, CEQA compliance and/or Acquisition documents.
- Grantee should follow their accounting and procurement policies and procedures. However, all construction contracts must include prevailing wage provisions.

IV. HOW TO APPLY FOR LOCAL GRANT FUNDS

How to Get a Master Contract

1. The Applicant submits a resolution authorized by their governing body. The Resolution authorizes the agency to enter into a contract with the District. It is not necessary to identify Projects in the resolution.
2. The District reviews the resolution and sends a Master Contract to the Applicant for signature.
3. The Applicant returns the signed Master Contract to the District.
4. The District returns a fully executed Master Contract to the Applicant (now Grantee).

How to Apply for a Project(s)

1. Project application will only be accepted **February 1st through March 31st** each year. Projects received or post marked after March 31st will be held for review in the following year.
2. As Projects are identified, the Grantee submits individual Project Application(s) to the District (see APPENDIX C – Project Application Form).
3. The District reviews the Application materials and sends a letter of approval to the Grantee or requests additional information.

Progress Payments

1. After the Application is approved, the Grantee may request reimbursement up to 80% of the Application amount for expenses incurred after **execution of a Master Contract**.

Project Completion

1. The Grantee completes the Project and submits the Project Completion Package to the Grants Manager (see APPENDIX J – Project Completion Package).

2. The Grantee installs **Measure WW sign** at the project site (see APPENDIX K – Program Sign Requirements) for sign requirements.
3. The District performs an audit of submitted documentation for the completed Project.
4. The District conducts the final on-site Project inspection.
5. The District processes the final payment.
6. The Project(s) must be fully completed (including processing final payment) by **December 31, 2018** or funds will revert to projects at the discretion of the Park District.

V. ADMINISTRATIVE PROVISIONS

Land Tenure Requirements

For Development Projects, Applicants must provide evidence to the District that they have adequate tenure and site control of properties to be improved.

Tenure includes, but is not limited to:

- Ownership
- Lease
- Easement
- Joint powers or similar agreement

Adequate site control is considered the power or authority to manage, direct, superintend, restrict, regulate, govern, administer, oversee a plot of ground suitable or set apart for some specific recreational use. Recreation projects on school property should be available for public during priority recreation hours starting at 3:30 p.m. weekdays and all day on Saturday.

The District requires that the Grantee have authority to use the property for public recreation for **at least 25 years** of land tenure from the date of Application.

Progress Status Reports

The Grantee shall submit written Project Status Report Form to the District every six months (see APPENDIX I – Project Status Report Form). Project Status Reports are due within 30-days following June 30th and December 31st each year. The District shall withhold all payments and Application approvals until all Project Status Reports are properly submitted.

Changes to Project Scope

A Grantee wishing to change the Project Scope of an approved Project shall submit any changes to the original Project Scope in writing to the District for prior approval. The Grantee must request a change in Project Scope if the actual work or activity to be accomplished is different than that listed in the Scope of Work section of the application form or the Grantee wishes to increase the Project Grant Amount. To request a change in Project Scope the Grantee shall provide the following:

- Cover Letter
- Revised Application Form
- Revised Budget
- Revised Site Plan

A change in Project Scope is not needed for line item budget changes or project completed below requested amount.

Project Withdrawals

The Grantee may unilaterally rescind a Project at any time prior to any payment being made by the District for the Project. After Project commencement, the Project may be rescinded, modified or amended only by mutual agreement in writing between the Grantee and the District. The Grantee shall return all payments on the Project made by the District.

VI. PAYMENT PROCESS

Grant Fund Availability

Grant funds are available for eligible expenditures incurred after **execution of a Master Contract**. The Grantee must have a fully executed Master Contract and an approved Project Application prior to receiving reimbursement for eligible expenditures. The Grantee must complete all approved Projects and have final payment processed by **December 31, 2018**.

Progress Payments

After the Application is approved, the Grantee may request reimbursement for eligible expenses incurred after **execution of a Master Contract**.

Payment Request Process

Payment Type	Documentation
Progress Payment Reimbursement up to 80%	<ul style="list-style-type: none">• Payment Request Form• Project Cost Summary Forms• <u>Backup documentation (including contract documentation if applicable), see page 8</u>
Final	<ul style="list-style-type: none">• Payment Request Form• Project Cost Summary Forms• Project Certification Form• <u>Backup documentation (including final contract and acquisition documentation if applicable), see page 8</u>

Eligible Costs

- Only costs incurred during the Contract Performance Period are eligible.
- The Grantee may claim only those costs directly related to the Project. **Indirect cost rates are not eligible.**
- Other ineligible costs include: interest, food and bonuses of any kind.

ELIGIBLE COSTS CHART		
COSTS	EXPLANATION	EXAMPLES
Pre-Construction Costs (cannot exceed 20% of the total requested Project Grant Amount)		
Pre-Construction Costs	<ul style="list-style-type: none"> • Project planning, appraisals, and negotiations 	<ul style="list-style-type: none"> • CEQA • Survey • Plans and Specifications • Legal Fees & Permits • Appraisal/Title/Escrow Fees • Construction Insurance
Construction Costs		
Personnel or Employee Services	<ul style="list-style-type: none"> • Must be computed according to the Grantee's normal wage or salary scales, and on the actual time spent on Project. Indirect rates are not eligible. • Must not exceed Grantee's established rates for similar positions 	<ul style="list-style-type: none"> • Wages and benefits • Front line supervision of employees • Work performed by another agency
Construction and Construction Management	<ul style="list-style-type: none"> • All necessary construction activities • Construction support 	<ul style="list-style-type: none"> • Construction contract • Consultants • Inspection & construction management • Submittal review and resident engineering
Construction Equipment	<ul style="list-style-type: none"> • The Grantee may only charge the actual cost of the use of the equipment during the time it is being used for Project purposes. • For force account equipment, the Grantee must list Caltrans equipment codes and use Caltrans' equipment rental rates. Rates in excess of these rates are not eligible. • The purchase of equipment is <u>not</u> eligible. 	<ul style="list-style-type: none"> • Rental equipment • Equipment leased for project • In-house equipment
Fixed Equipment	<ul style="list-style-type: none"> • Equipment permanently fixed to the Project facility 	<ul style="list-style-type: none"> • Play equipment • Fixed benches • Signs/interpretive aids
Construction Supplies/Materials	<ul style="list-style-type: none"> • May be purchased for specific Project, or may be drawn from stock if claimed costs are no higher than those the Grantee would pay. 	Materials and Supplies: <ul style="list-style-type: none"> • Concrete • Lumber • Steel
Relocation Costs	<ul style="list-style-type: none"> • Costs resulting in displacement of a person/business • The Grantee shall comply with State Relocation Act 	<ul style="list-style-type: none"> • Relocation Costs
Acquisition Costs	<ul style="list-style-type: none"> • Costs of acquiring real property 	<ul style="list-style-type: none"> • Purchase price

BACK UP DOCUMENTATION

The grantee must submit the following documents if applicable with payment requests. Items in **BOLD** maybe provided with Completion Package. In addition, an audit of the project may be performed. The grantee must retain and make available all project related records for a minimum of three years following project termination or final payment of grant funds. It is the responsibility of the grantee to have these records available in a central location ready for review once an audit date and time has been confirmed.

CONSTRUCTION CONTRACTS

- _____ Summary list of bidders (including bid advertisement date and winning bid package)
- _____ Awarding by governing body (minutes of the meeting/resolution)
- _____ Contract agreement
- _____ Contract bonds (bid, performance, payment)
- _____ Contract change orders
- _____ Contractor's invoices
- _____ Payments to contractor (cancelled checks**)
- _____ Proof of electronic funds transfer
- _____ **Final Payment to contractor** (even if paid using other funding sources)
- _____ **Stop Notices** (filed by sub-contractors and release if applicable)
- _____ **Liquidated damages** (claimed against the contractor)
- _____ **Notice of Completion or Final Acceptance**

IN-HOUSE LABOR*

- _____ Payroll records from finance system

IN-HOUSE EQUIPMENT*

- _____ Daily time records identifying the project site
- _____ Caltrans Equipment Code

MINOR CONTRACTS / MATERIALS / SERVICES / EQUIPMENT RENTALS

- _____ Purchase orders/Contracts/Service Agreements
- _____ Invoices
- _____ Payments (cancelled checks**)
- _____ The purchase of art may require an art appraisal

ACQUISITION

- _____ Appraisal Report
- _____ **Final Escrow Closing Statement**
- _____ **Cancelled checks** (payment(s) to seller(s))**
- _____ **Grant deed (vested to the participant) or final order of condemnation**
- _____ **Title insurance policy (issued to participant)**

* Estimated time expended on the projects is not acceptable. Actual time records and all supporting documentation must be maintained as charges are incurred and made available for verification at the time of audit.

** Front and back if copied.

APPENDIX A – Sample Resolution

The resolution may be modified but it must contain all of the District's language.

**EAST BAY REGIONAL PARK DISTRICT
MEASURE WW LOCAL GRANT PROGRAM**

Resolution No: _____

RESOLUTION OF THE _____
(Title of Governing Body)

**AUTHORIZATION TO APPLY FOR LOCAL GRANT FUNDS FROM THE EAST BAY
REGIONAL PARK DISTRICT UNDER MEASURE WW PARK BOND EXTENSION**

WHEREAS, the people of the East Bay Regional Park District have enacted the Measure WW Park Bond Extension which provides funds for the acquisition and development of neighborhood, community, regional parks and recreation lands and facilities; and

WHEREAS, the East Bay Regional Park District Board of Directors has the responsibility for the administration of the grant program, setting up necessary procedures; and

WHEREAS, said procedures require the Applicant's Governing Body to certify by resolution the approval of the Applicant to apply for the Local Grant allocation of funds, and

WHEREAS, the Applicant will enter into a Contract with the East Bay Regional Park District;

NOW, THEREFORE, BE IT RESOLVED that the _____ hereby:
(Applicant's Governing Body)

1. Approves the execution of a grant contract in the amount of \$ _____ from the Local Grant Program under the East Bay Regional Park District Measure WW Park Bond Extension; and
2. Certifies that the Applicant has or will have sufficient funds to operate and maintain the Project(s); and
3. Certifies that the Applicant has reviewed, understands and agrees to the General Provisions contained in the Contract shown in the Procedural Guide; and
4. Appoints the (designated position) _____ as agent to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of Project(s).

Approved and Adopted on the _____ day of _____, 20__.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by _____ following a roll call vote:

(Applicant's Governing Body)

For
Against
Abstain
Absent

(Clerk)

APPENDIX B – Sample Master Contract

Please use most recent form by following the link below:

<http://www.ebparks.org/ww>

**EAST BAY REGIONAL PARK DISTRICT
MEASURE WW PARK BOND EXTENSION
MASTER CONTRACT - LOCAL GRANT PROGRAM**

MASTER CONTRACT No.: _____

GRANTEE _____

THE PROJECT PERFORMANCE PERIOD is from the date this agreement is signed below by the District through December 31, 2018

The Grantee agrees to the terms and conditions of this Contract, and the East Bay Regional Park District, acting through its Board of Directors pursuant to the Measure WW Park Bond Extension, agrees to fund the total Project Grant Amount indicated.

**THESE FUNDS ARE FOR THE ACQUISITION AND DEVELOPMENT OF
NEIGHBORHOOD, COMMUNITY, AND REGIONAL PARKS AND RECREATION LANDS
AND FACILITIES.**

The General Provisions, Local Grant Procedural Guide, Forms and individual Project Applications are attached hereto and made a part of and incorporated into the Contract.

The District anticipates that WW Parks Bonds in the amount of \$ _____ will be issued for project.

Grantee

EAST BAY REGIONAL PARK DISTRICT

By _____
(Signature of Authorized Representative)

By _____
(Signature of Authorized Representative)

(Print Name of Authorized Representative)

(Print Name of Authorized Representative)

Title _____

Title _____

Date _____

Date _____

EAST BAY REGIONAL PARK DISTRICT

**MEASURE WW PARK BOND EXTENSION
MASTER CONTRACT - LOCAL GRANT PROGRAM**

MASTER CONTRACT No.: _____

GRANTEE _____

Authorized Representative – the Applicant/Grantee’s designated position authorized in the Resolution to sign all required grant documents. The Authorized Representative may designate an alternate by informing the District in writing.

The Authorized Representative (Print Name & Title) _____ hereby designates the following alternates:

_____	_____	_____
Name / Title	E-mail Address	Phone
_____	_____	_____
Name / Title	E-mail Address	Phone
_____	_____	_____
Name / Title	E-mail Address	Phone
_____	_____	_____
Name / Title	E-mail Address	Phone

General Provisions

A. Definitions

1. The term "Measure" as used herein refers to the revenue generated from the sale of bonds for the Program.
2. The term "Application" as used herein refers to the individual Project Application(s) and its required attachments for grants, pursuant to the enabling legislation and/or procedural guidelines.
3. Acquisition: means to obtain fee title or permanent easement for public access rights in real property.
4. The term "District" means the East Bay Regional Park District.
5. The term "Development" means improvements to real property for parks and recreation purposes, including but not limited to construction of new facilities, renovation or additions to existing facilities or historic preservation and protection. WW Local Grant Program funds may only be used for Capital Improvement.
6. The term "Grantee" as used herein means the party described as the Grantee on page I of this Contract. The term "Project" as used herein means the project described in the Brief Description of Project on the Project Application form.

B. Project Execution

1. Subject to the availability of grant monies in the Measure, the District hereby grants to the Grantee a sum of money (grant monies) not to exceed the amount stated on page I, in consideration of, and on condition that, the sum be expended in carrying out the purposes as set forth in the Measure WW Park Bond Extension Local Grant Procedural Guide, and under the terms and conditions set forth in this Contract.

The Grantee shall assume any obligation to furnish any additional funds that may be necessary to complete the Project. Any modification or alteration in the Project as set forth in the Application on file with the District must be submitted to the District for approval.

2. The Grantee shall complete the Project in accordance within the time of Project Performance set forth on page I, and under the terms and conditions of this Contract.
3. The Grantee shall certify its compliance as lead agency with the California Environmental Quality Act (Public Resources Code, Section 21000, et. seq., Title 14, California Code of Regulations, Section 15000 et. seq.).
4. The Grantee shall comply with all applicable current laws and regulations effecting Development Projects, including, but not limited to, legal requirements for construction Contracts, building codes, health and safety codes, and laws and codes pertaining to individuals with disabilities.

5. The Grantee shall permit periodic site visits, including a final inspection upon Project completion by the District, to determine if Development work is in accordance with the approved Project Scope.
6. Prior to the commencement of any work, the Grantee agrees to submit any significant deviation from the original scope of work in writing to the District.
7. If the Project includes Acquisition of real property, the Grantee agrees to comply with all applicable state and local laws or ordinances effecting relocation and real property acquisition.
8. The Grantee shall provide public access to Project facilities commensurate with the intent of the Project.
9. Grantees shall have (1) fee title, (2) lease hold or (3) other interest to the Project lands and demonstrate to the satisfaction of the District that the proposed Project will provide public benefits that are commensurate with the type and duration of the interest in land that is held by the Grantee, as determined by the District.
10. The Grantee shall maintain and operate the property for a period that is commensurate with the type of Project and the proportion of District funds allocated to the capital costs of the Project. With the approval of the District, the Grantee, or the Grantee's successor in interest in the property, may transfer the responsibility to maintain and operate the property in accordance with this section. The Grantee shall use the property only for the purposes for which the grant was made and shall make no other use, sale or other disposition of the property, except as authorized by specific action of the District Board of Directors. The agreements specified in this section shall not prevent the transfer of the property from the Grantee to a public agency, if the successor public agency assumes the obligations imposed by those agreements. If the use of the property or portion of the property is changed to a use that is not for parks and recreation, or if the property is sold or otherwise disposed of, an amount equal to (1) the amount of the grant, (2) the fair market value of the real property, or (3) the proceeds from the sale or other disposition, whichever is greater, shall be used by the Grantee for a parks and recreation capital purpose, pursuant to agreement with the District as specified in this section, or shall be reimbursed to the District and be available for appropriation by the District Board of Directors only for an authorized purpose.
11. The Grantee shall post and maintain a funding acknowledgement sign at the Project site for three years following receipt of final payment for the project.

C. Project Costs

- I. The District may disburse to the Grantee the grant monies as follows, but not to exceed in any event, the total Grant Amount set forth of page I of this Contract:
 - a. The Grantee may request progress payments up to a total of up to 80% of the approved Project Application amount for eligible expenditures made on the project.

- b. The remaining grant funds shall be paid up to the amount of the Application or the actual Project cost, whichever is less, on completion of the Project and receipt of a Completion Package of Project costs from the Grantee.

D. Project Administration

1. The Grantee shall submit written Project Status Reports to the District every six months. The District shall withhold all payments until all Project Status Reports are properly submitted.
2. The Grantee shall make property and facilities developed pursuant to this Contract available for inspection upon request by the District.

E. Project Termination

1. Any Grant funds that have not been expended by the Grantee prior to the end of the performance period set forth of page I of this Contract shall revert to the District and be available for Appropriation by the District Board of Directors for one or more other projects for parks and recreation purposes.
2. The Grantee may unilaterally rescind this Contract at any time prior to the commencement of a Project. After Project commencement, this Contract may be rescinded, modified or amended only by mutual agreement in writing between the Grantee and the District.
3. Failure by the Grantee to comply with the terms of this Contract or any other Contract under the Measure may be cause for suspension of all obligations of the District hereunder. However, such failure shall not be cause for the suspension of all obligations of the District hereunder if in the judgment of the District such failure was due to no fault of the Grantee. In such case, any amount required to settle at minimum cost any irrevocable obligations properly incurred shall be eligible for reimbursement under this Contract.

F. Hold Harmless

1. The Grantee shall waive all claims and recourse against the District including the right to contribution for loss or damage to persons or property arising from, growing out of or in any way connected with or incident to this Contract except claims arising from the concurrent or sole negligence of the District, its officers, agents, and employees.
2. The Grantee shall indemnify, hold harmless and defend the District, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability costs arising out of the Acquisition, Development, construction, operation or maintenance of the property described as the Project. This includes claims, demands or causes of action that arise under Government Code Section 895.2 or otherwise, except for liability arising out of the concurrent or sole negligence of the District, its officers, agents, or employees.
3. The Grantee agrees that in the event the District is named as codefendant under the provisions of Government Code Section 895 et. seq., the Grantee shall notify the District of such fact and shall represent the District in the legal action, unless the District undertakes to represent itself

as codefendant in such legal action, in which event the District shall bear its own litigation costs, expenses, and attorney's fees.

4. The Grantee and the District agree that in the event of judgment entered against the District and the Grantee because of the concurrent negligence of the District and the Grantee, their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Neither party shall request a jury apportionment.
5. The Grantee shall indemnify, hold harmless and defend the District, its officers, agents and employees against any and all claims, demands, costs, expenses or liability costs arising out of legal actions pursuant to items to which the Grantee has certified. The Grantee acknowledges that it is solely responsible for compliance with items to which it has certified.

G. Financial Records

1. The Grantee shall maintain satisfactory financial accounts, documents and records for the Project and make them available to the District for auditing at reasonable times. The Grantee also agrees to retain such financial accounts, documents and records until December 31, 2021.

The Grantee and the District agree that during regular office hours each of the parties hereto and their duly authorized representatives shall have the right to inspect and make copies of any books, records or reports of the other party pertaining to this Contract or matters related thereto. The Grantee shall maintain and make available for inspection by the District accurate records of all of its costs, disbursements and receipts with respect to its activities under this Contract.

2. The Grantee shall use a generally accepted accounting system.

H. Use of Facilities

1. The Grantee agrees that the Grantee shall use the property developed with grant monies under this Contract only for the purposes for which the District grant monies were requested and no other use of the area shall be permitted except by specific written approval by the District.
2. The Grantee shall maintain and operate the property developed for 25-years after final payment of grant funds. The Grantee shall permit periodic inspection of the project by the District during this period and may be required to submit annual project status reports if requested by the District.

I. Nondiscrimination

1. The Grantee shall not discriminate against any person on the basis of sex, race, color, national origin, age, religion, ancestry, sexual orientation, or disability in the use of any property or facility developed pursuant to this Contract.

2. The Grantee shall not discriminate against any person on the basis of residence except to the extent those reasonable differences in admission or other fees may be maintained on the basis of residence and pursuant to law.

J. Procedural Guidelines and Application Incorporation

The Project Application, Procedural Guidelines and Forms and any subsequent change or addition approved by the District is hereby incorporated in this Contract as though set forth in full in this Contract.

K. Severability

If any provision of this Contract or the application thereof is held invalid, that invalidity shall not effect other provisions of the Contract, which can be given effect without the invalid provision or application, and to this end the provisions of this Contract are severable.

APPENDIX C – Sample Project Application Form

Please use most recent form by following the link below:

<http://www.ebparks.org/ww>

**East Bay Regional Park District
MEASURE WW LOCAL GRANT PROGRAM**

Applications Accepted February and March each year.

PROJECT APPLICATION

PROJECT NAME	AMOUNT OF GRANT REQUESTED \$
	Estimated TOTAL PROJECT COST <i>(Grant and other funds)</i> \$
GRANT APPLICANT <i>(Agency and Address)</i>	PROJECT ADDRESS
	Expected Date of Completion:

Grant Applicant's Representative Authorized in Resolution

Name / Title	E-mail Address	Phone
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Person with grant administration responsibility for Project *(if different from authorized representative)*

Name / Title	E-mail Address	Phone
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Scope of Work:

<p>For Dev. Projects Land Tenure – _____ Acres</p> <p>_____ Acres owned in fee simple by Grant Applicant</p> <p>_____ Acres available under an permanent easement.</p> <p>_____ Acres available under a lease</p> <p>Other <i>(explain)</i> _____</p>	<p>For Acquisition Projects:</p> <p>_____ Acres to be acquired in fee simple. (Provide purchase agreement and appraisal for approval prior to acquisition.)</p> <p>_____ Acres to be acquired under public access easement. (Provide copy of easement for approval prior to acquisition.)</p> <p>_____ Acres acquired under other public access agreement. (Provide copy of agreement for approval prior to acquisition.)</p> <p>Other <i>(explain)</i> _____</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

I certify that the information contained in this Project application is accurate and I further certify that this Project is consistent with the park and recreation element of the applicable city or county general plan, park district and recreation plan, or appropriate recreation planning document.

Application Submitted by	Title
1/1/2009	
Date	

APPENDIX D – Application Checklist

Please use most recent form by following the link below:

<http://www.ebparks.org/ww>

**East Bay Regional Park District
MEASURE WW LOCAL GRANT PROGRAM
APPLICATION CHECKLIST**

Project Name: _____

Project Number: _____

Applicant: _____

Project Amount: _____

#	<input checked="" type="checkbox"/>	<u>Item</u>	<u>Description</u>
1	<input type="checkbox"/>	Project Application Form.	The Project Application form must be completed and signed by the Grantee's authorized representative.
2	<input type="checkbox"/>	Cost Estimate with Sources of Additional Funding	Prepare estimate that closely reflects the project documentation (i.e. bid items, staff time, purchase, materials, etc.)
3	<input type="checkbox"/>	CEQA Certification Form	At the time of Application, the Applicant must provide a <u>CEQA Certification Form</u> along with either a Notice of Exemption or Notice of Determination stamped by the county clerk.
4	<input type="checkbox"/>	Land Tenure	Provide evidence of ownership or site control. For fee title submit an assessors map and records search listing. For less than fee title provide a property map and copy of the full agreement.
5	<input type="checkbox"/>	List Leases or Agreements.	Provide a <u>list</u> of all <i>other</i> leases, agreements, etc., effecting Project lands or the operation and maintenance thereof, in addition to those relevant to land tenure (if applicable).
6	<input type="checkbox"/>	Project Location Map	Provide a map (city or county) with enough detail to allow a person unfamiliar with the area to locate the Project. On-line mapping and directions from 2950 Peralta Oaks Court, Oakland, CA 94605 could fulfill this requirement.
7	<input type="checkbox"/>	Site Plan	For Projects involving Development, provide a drawing or depiction indicating what improvements the Applicant will make, and where the improvements will be located on the property. For Projects involving Acquisition, provide an Acquisition map outlining the acreage and parcel number(s) to be acquired.
8	<input type="checkbox"/>	Photograph	Provide a photograph of the Project site.
9	<input type="checkbox"/>	List Require Permits	Provide a <u>list</u> of all required permits, if applicable. Examples include: building permit, grading permit, water quality, BCDC, Dept. of Fish & Game, etc.)

APPENDIX E – Sample Cost Estimate

Submit estimate electronically in Excel format

Please use most recent form by following the link below:

<http://www.ebparks.org/ww>

Your cost estimate should relate to bid documents and the financial accounting for your project. The sample cost estimate below is to assist you in developing a cost estimate for your Project. You may reformat and change the content as needed to accommodate each Project's scope. The items listed are illustrative only and are not intended to direct you in determining the scope of your Project, but merely to let you know the level of detail preferred.

**East Bay Regional Park District
MEASURE WW LOCAL GRANT PROGRAM
SAMPLE COST ESTIMATE**

(Line items listed are for sample purposes only. Applicant should use line items that most accurately reflect the back up documentation to be provided at close out.)

Project Name: _____

Project Number: _____

Applicant: _____

#	<u>CONSTRUCTION COSTS</u>	<u>AMOUNT</u>
1	Land Acquisition	\$
2	Bid Items (Provide separate lines for each bid item.)	\$
3	Materials	\$
4	In-house Labor	\$
5	In-house Equipment	\$
6	Rental Equipment	\$
7	Construction Support	\$
	SUBTOTAL	\$

	<u>PRE-CONSTRUCTION COSTS</u>	<u>AMOUNT</u>
8	Consultants	\$
9	In-house Staff Time	\$
10	Title & Escrow Fees	\$
11	Permit Fees	\$
	SUBTOTAL	\$

GRAND TOTAL \$

	<u>FUNDING SOURCES</u>	<u>AMOUNT</u>
Measure WW Local Grant	\$	\$
	\$	\$
	\$	\$

GRAND TOTAL \$

APPENDIX F – CEQA Certification Form

Please use most recent form by following the link below:

<http://www.ebparks.org/ww>

East Bay Regional Park District
MEASURE WW LOCAL GRANT PROGRAM
CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)
Compliance Certification Form

Applicant:

Project Name:

Project Address: _____

When was CEQA analysis completed for this project? Date: _____

What document(s) was filed for this project's CEQA analysis: (check all that apply)

- Initial Study Notice of Exemption Negative Declaration Mitigated Negative Declaration
 Environmental Impact Report Other _____

Please attach the Notice of Exemption or the Notice of Determination as appropriate stamped by the county clerk.

Lead Agency CEQA Contact Information:

Agency Name:

Contact Person

Street Address

City, State, Zip Code

Phone: _____

Email: _____

Certification:

I hereby certify that the Lead Agency listed above has determined that it has complied with the California Environmental Quality Act (CEQA) for the project identified above and that the project is described in adequate and sufficient detail to allow the project's construction or acquisition.

I certify that the CEQA analysis for this project encompasses all aspects of the work to be completed with grant funds.

Certification Submitted by

Title

Date

APPENDIX G – Payment Request Form

Submit form electronically in Excel format

Please use most recent form by following the link below:

<http://www.ebparks.org/ww>

**East Bay Regional Park District
MEASURE WW LOCAL GRANT PROGRAM**

PAYMENT REQUEST FORM

1. PROJECT TITLE	2. PROJECT NUMBER
2. APPLICANT	
4. PAYMENT REQUEST NUMBER	

5. PAYMENT INFORMATION	
<i>(Round all figures to the nearest dollar)</i>	
a. Grant Project Amount	\$ _____
b. Funds Received To Date	\$ _____
c. Available (<i>a. minus b.</i>)	\$ \$0
d. Amount of This Request	\$ <input style="width: 150px; height: 20px;" type="text"/>
e. Remaining Funds After This Payment (<i>c. minus d.</i>)	\$ \$0

6. SEND PAYMENT TO:	
AGENCY NAME	
STREET ADDRESS	
CITY/STATE/ZIP CODE	
ATTENTION	

7. I represent and warrant that I have full authority to execute this payment request on behalf of the Grantee. I declare under penalty of perjury, under the laws of the State of California, that this report, and any accompanying documents, for the above-mentioned Grant is true and correct to the best of my knowledge.

CERTIFIED AND SUBMITTED BY	TITLE	DATE
▶		

FOR EAST BAY REGIONAL PARK DISTRICT USE ONLY	
PAYMENT APPROVAL	DATE
▶	

APPENDIX H – Project Cost Summary Forms

Submit forms electronically in Excel format

Please use most recent forms by following the link below:

<http://www.ebparks.org/ww>

East Bay Regional Park District
 MEASURE WW LOCAL GRANT PROGRAM
IN-HOUSE LABOR COSTS SUMMARY FORM

Applicant: _____
 Project Name: _____

Project Amount: _____
 Project Number: _____

Include copy of staff time cards or payroll printout from finance system.

Name	Unit Performing Work	Pay Date	Purpose	Amount Construction	(20% Max.) Amount Pre- Construction
Subtotal				\$0.00	\$0.00

East Bay Regional Park District
MEASURE WW LOCAL GRANT PROGRAM

IN-HOUSE EQUIPMENT COSTS SUMMARY FORM

Project Amount: _____
Project Number: _____

Applicant: _____
Project Name: _____

Include copy of daily equipment time record with payment request.

(20% Max.)

Type of Equipment	Caltrans Code	Dates Used	Hours Used	Rate	Amount Construction	Amount Pre-Construction

Subtotal

\$0.00

\$0.00

East Bay Regional Park District
 MEASURE WW LOCAL GRANT PROGRAM
PROJECT COSTS SUMMARY FORM

Applicant: _____
 Project Number: _____

Project Amount: _____
 Project Name: _____

Include copy of all contract documentation, invoices and cancelled checks with payment request.

Check Number	Date	Recipient	Purpose	Amount Construction	(Max. 20 %) Amount Pre- Construction
Subtotal				\$0.00	\$0.00
Subtotal from Labor Costs Summary Form (if applicable)				_____	
Subtotal from Equipment Costs Summary Form (if applicable)				_____	
Total				\$0.00	\$0.00
Grand Total				\$0.00	

APPENDIX I – Project Status Report Form

Submit form electronically in Excel format

Please use most recent form by following the link below:

<http://www.ebparks.org/ww>

**East Bay Regional Park District
MEASURE WW LOCAL GRANT PROGRAM
PROJECT STATUS REPORT**

Grantee: _____
 Master Contract Number: _____
 Date Report Submitted: _____

Master Contract Amount: _____
 Ending Date:
 June 30th, report due July 31st
 December 31st, report due January 31st

#	Project Number	Project Name	Amount Construction	Amount Pre-Construction	Expected CompletionDate
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					

Subtotal	\$0.00	\$0.00
Total Grant Funded Expenditures to Date		<u>\$0.00</u>
Unexpended Grant Amount		<u>\$0.00</u>
Total Contract Amount		\$0.00

APPENDIX J – Project Completion Package

Please use most recent form by following the link below:

<http://www.ebparks.org/ww>

**East Bay Regional Park District
MEASURE WW LOCAL GRANT PROGRAM
PROJECT CERTIFICATION FORM**

Grantee: _____
Project Number: _____
Project Name: _____
Project Amount: _____

Grantee Contact (for audit purposes):
Name: _____
Address: _____

Phone: _____
E-mail: _____

Required Documentation (unless previously provided)

FOR ALL CONTRACTS

LAND ACQUISITION

- | | |
|-------------------------------------------------------------------------|-------------------------------------------------------------------------|
| <input type="checkbox"/> Summery List of Bidders | <input type="checkbox"/> Appraisal Report |
| <input type="checkbox"/> Notice of Award by Governing Body | <input type="checkbox"/> Final Escrow Closing Statement |
| <input type="checkbox"/> Contract Agreement | <input type="checkbox"/> Grant deed or final agreement |
| <input type="checkbox"/> Final payment to contractor (cancelled checks) | <input type="checkbox"/> Title insurance policy (issued to participant) |
| <input type="checkbox"/> All Change Orders | <input type="checkbox"/> Cancelled checks |
| <input type="checkbox"/> Notice of Completion or Final Acceptance | |

Submit Actual Final Budget for the Project, along with list of all additional sources of funding used on the project.

Certification:

I hereby certify that all grant funds were expended on the above named Project, that the Project is complete, and final payment has been made for all work done. I certify that no other payment was received for work funded by this grant.

Certification Submitted by

Title

Date

APPENDIX K – Program Sign Requirements



- Sign Dimensions: 24" x 16".
- The District will provide the sign to Grantees.
- All Grantees are required to post the sign at the Project site.
- The sign must be available for the final inspection of the Project.
- Sign must remain installed for three years following final grant payment of the project.
- The District may modify its sign requirements to meet certain project location needs.

APPENDIX L – Program Allocation by Agency

Please use most recent allocation by following the link below:

<http://www.ebparks.org/ww>

2008 PROPOSED MEASURE AA EXTENSION

Alameda County

2008 AA Local Grant	2008 Population	2008 Allocation	Participating Entity	Data Source
CITIES				
Alameda	75,823	\$3,465,489	Alameda	2008 DOF Estimate
Albany	16,877	\$771,363	Albany	2008 DOF Estimate
Berkeley	106,697	\$4,876,584	Berkeley	2008 DOF Estimate
Dublin	46,934	\$2,145,118	Dublin	2008 DOF Estimate
Emeryville	9,727	\$444,572	Emeryville	2008 DOF Estimate
Fremont	213,512	\$9,758,562	Fremont	2008 DOF Estimate
Newark	43,872	\$2,005,169	Newark	2008 DOF Estimate
Oakland	420,183	\$19,204,456	Oakland	2008 DOF Estimate
Piedmont	11,100	\$507,325	Piedmont	2008 DOF Estimate
Pleasanton	69,388	\$3,171,377	Pleasanton	2008 DOF Estimate
San Leandro	81,851	\$3,740,998	San Leandro	2008 DOF Estimate
Union City	73,402	\$3,354,837	Union City	2008 DOF Estimate
1,169,366		\$53,445,852	2008 DOF Estimate	

UNINCORPORATED, HARD				
Hayward	149,205	\$6,819,412	HARD	2008 DOF Estimate
Ashland*	21,576	\$986,120	HARD	2000 CDP Updated to 2008
Castro Valley*	59,448	\$2,717,064	HARD	2000 CDP Updated to 2008
Cherryland*	14,357	\$656,202	HARD	2000 CDP Updated to 2008
Fairview*	9,826	\$449,094	HARD	2000 CDP Updated to 2008
San Lorenzo*	22,722	\$1,038,530	HARD	2000 CDP Updated to 2008
Mt. Eden	881	\$40,262	HARD	HARD info updated to 2008
Subtotal	278,015	\$12,706,683		

Balance of the County	11,612	\$530,722	EBRPD	Remainder
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Unincorporated Subtotal	289,627	\$13,237,405	2008 DOF Estimate	
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Alameda Subtotal	1,458,993	\$66,683,257		
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NON-AA DISTRICT				
Livermore	83,604	\$0		2008 DOF Estimate
Other	403	\$0		Updated from 1998 AA
84,007		\$0		

Contra Costa County

2008 AA Local Grant	2008 Population	2008 Allocation	Participating Entity	Data Source
CITIES				
Antioch	100,361	\$4,586,998	Antioch	2008 DOF Estimate
Brentwood	50,614	\$2,313,312	Brentwood	2008 DOF Estimate
Clayton	10,784	\$492,883	Clayton	2008 DOF Estimate
Concord	123,776	\$5,657,180	Concord	2008 DOF Estimate
Danville	41,516	\$1,897,488	Danville	Overlapping Jurisdiction Final Allocation On Hold
El Cerrito	23,320	\$1,065,840	El Cerrito	2008 DOF Estimate
Hercules	24,324	\$1,111,728	Hercules	2008 DOF Estimate
Lafayette	23,962	\$1,095,183	Lafayette	2008 DOF Estimate
Martinez	36,144	\$1,651,961	Martinez	2008 DOF Estimate
Moraga	16,138	\$737,587	Moraga	2008 DOF Estimate
Oakley	33,210	\$1,517,862	Oakley	2008 DOF Estimate
Orinda	17,542	\$801,757	Orinda	2008 DOF Estimate
Pinole	19,193	\$877,216	Pinole	2008 DOF Estimate
Pittsburg	63,652	\$2,909,214	Pittsburg	2008 DOF Estimate
Pleasant Hill	33,377	\$1,525,495	Pleasant Hill R.P. D.	2008 DOF Estimate
Richmond	103,577	\$4,733,985	Richmond	2008 DOF Estimate
San Pablo	31,190	\$1,425,538	San Pablo	2008 DOF Estimate
San Ramon	59,002	\$2,696,685	San Ramon	2008 DOF Estimate
Walnut Creek	65,306	\$2,984,810	Walnut Creek	2008 DOF Estimate
Green Valley	1,113	\$50,870	Green Valley R.P.D.	Overlapping Jurisdiction Final Allocation On Hold
Cities Subtotal	878,101	\$40,133,590		2008 DOF Estimate

UNINCORPORATED, CSA's / CSD's / RPD's				
Alamo*	17,896	\$817,931	CC County CSA R-7A Ambrose R. P. D. /	2000 CDP Updated to 2008 Overlapping Jurisdiction
Bay Point*	24,662	\$1,127,177	CC County	Final Allocation On Hold
Clyde*	795	\$36,321	CC County CSA M-16	2000 CDP Updated to 2008
Crockett*	4,532	\$207,144	Crockett CCSD	2000 CDP Updated to 2008
Port Costa*	266	\$12,138	Crockett CCSD	2000 CDP Updated to 2008
Discovery Bay*	12,700	\$580,453	Discovery Bay CSA M-8	2000 CDP Updated to 2008
El Sobrante*	14,041	\$641,740	CC County CSA R-9	2000 CDP Updated to 2008
Kensington*	5,653	\$258,358	Kensington CSD	2000 CDP Updated to 2008
Bayview-Montalvin*	5,731	\$261,953	CC County CSA M-17	2000 CDP Updated to 2008
Tara Hills*	6,106	\$279,086	CC County CSA M-17	2000 CDP Updated to 2008
Pleasant Hill Area	4,555	\$208,171	Pleasant Hill R.P.D.	Update from 1988 AA

Rodeo*	9,984	\$456,305	CC County CSA R-10	2000 CDP Updated to 2008
Subtotal	106,920	\$4,886,778		

Balance of the County	66,653	\$3,046,374	EBRPD/CC County	Remainder
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Unincorporated Subtotal	173,573	\$7,933,152		2008 DOF Estimate
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CONTRA COSTA	1,051,674	\$48,066,743		2008 DOF Estimate
ALAMEDA COUNTY	1,458,993	\$66,683,257		2008 DOF Estimate
DISTRICT TOTAL	2,510,667	\$114,750,000		

ESTIMATED REVENUE 2008 BOND		\$125,000,000
EBRPD Admn.		\$6,250,000
Oakland Zoo		\$4,000,000
Local Grant Subtotal		\$114,750,000
	Per Capita Allocation:	\$45.70

* Census Designated Place (CDP)

Total Local Grant appropriation is set by bond extension at \$125,000,000.

East Bay Regional Park District
Measure WW Local Grant Program
Grant Guideline Clarifications for Applicant Agencies – March 2010

By resolution of the East Bay Regional Park District Board of Directors to clarify the January 2009 Measure WW Local Grant Program Guidelines, relating to District's review and approval standards for grant submittals:

The WW Local Grant Program provides bond funds to local agencies (Participating Entities) for park and recreation projects. The types of projects eligible under WW are intentionally broad and as flexible as allowed under bond requirements. Each community has its own needs and priorities for parks and recreation. The demand for different types of recreational services (leisure services) and facilities provided by communities continues to expand and change.

Consistent with the original AA Bond Ordinance, the selection of local parks and recreation projects in the WW Bond Ordinance is the responsibility of the local agency Council or Board. Projects submitted by local agencies will be accepted by the District as long as they are consistent with the guidelines and this clarification document.

The following information has been developed to augment and clarify the Local Grant Program project eligibility criteria and to provide more specific guidance on several aspects of the grant program.

- I) **Tenure** – Project Applications must demonstrate adequate site tenure consistent with the following conditions:
 - a) **Fee Title** - Projects with underlying fee title held by the Participating Entity that have not been encumbered or dedicated for some purpose incompatible with recreation meet the approval standards for the WW Local Grant Program for the purposes of land tenure.
 - b) **School District Land** – In limited circumstances, WW Local Grant projects may be constructed on school district land. To meet the approval standards for the WW Local Grant Program, Participating Entities must have a 25-year agreement and make the property available for general public recreation at a minimum after 3:30 on weekdays and all day on Saturday.
 - i) Projects that may be eligible under the above conditions include: sports fields, swimming pools and recreation centers.
 - ii) Shared Availability for Recreation - In cases where proposed projects are to be constructed on school district land with multiple funding sources, the District may consider allowing proportional public availability. Agencies must provide evidence in the application of the specific level of substantive public recreational use that will be met by their projects.
 - (I) For purposes of a proportional calculation, standard public availability of a shared facility on school property is assumed to be 30 hours per week: 4 hours per day (3:30 to 7:30) weekdays and 10 hours (9 to 7) on Saturday during the normal school year (roughly September to early June). A proportional reduction of this public use will be considered depending on

East Bay Regional Park District
Measure WW Local Grant Program
Grant Guideline Clarifications for Applicant Agencies – March 2010

the cost share of Measure WW funds to other funds. In no event can school use be more than 15 hours per week (50%) during these periods, regardless of the ratio of different project funding sources.

- c) **Subleases as Land Tenure** – Binding leases or subleases are generally acceptable ways to meet the land tenure requirement for the WW Local Grant Program. Lease and sub-lease agreements must provide the level of site control similar to fee ownership and for the duration necessary to meet the requirements of the program. All agreements pertaining to a project's land tenure must be reviewed collectively and the terms and conditions of the agreements fully disclosed. Projects with complex land tenure and/or lease or sublease situations may require additional legal review that may significantly delay the District's approval of projects.

Leases and subleases will be reviewed to insure they meet the requirements of the WW program as follows:

- (1) Leases and sub-leases must demonstrate a minimum of 25 years of term remaining after the commencement of public use.
 - (2) Leases or subleases can be revocable only by mutual consent, for primary use or cause. Failure to recover a failed project will constitute breach of the Local Grant Amendment and may require repayment of the funds to the District by the participating entity.
 - (3) Lease or sublease language must provide for the power or authority to manage, direct, superintend, restrict, regulate, govern, administer, or oversee a plot of ground suitable for the specific recreational use.
 - (4) Leases, subleases or agreements involving non-governmental organizations must contain a reversion clause in favor of the Participating Entity or other responsible governmental entity.
 - (5) All parties to the lease and/or sublease must agree to continue to operate the facility as a recreational facility consistent with each organization's mission.
- d) **Non-Profit Land Tenure** - A Participating Entity can give or be given control for construction and/or operation of a site to/from a non-profit, provided the agreement(s) contain a reversion clause that, if the non-profit fails to operate the site as required, it returns control of the site to the Participating Entity. Failure to recover a failed project will constitute breach of the Local Grant Agreement and may require repayment of the funds to the District by the Participating Entity.
- i) Examples of permissible agreements include:
 - (1) Non-profit land trusts routinely hold title to property funded by the State through the Coastal Conservancy. Conservancy agreements typically have a reversion clause that returns the property to the State if the non-profit fails to meet the obligations of the agreement.

East Bay Regional Park District
Measure WW Local Grant Program
Grant Guideline Clarifications for Applicant Agencies – March 2010

- (2) Land Trust ownership of a WW funded property was approved based on provisions that return the property to the local City or District if the trust fails.
- (3) A Participating Entity may contract with a non-profit organization for construction and/or operation of a facility provided that agreements contain reversion provisions that return the project to the Participating Entity if the non-profit fails to operate per the agreement.

2) Eligible and Ineligible Projects:

- a) **Ineligible Projects** – The following projects, project elements or expenses are not deemed to be capital park and recreation expenditures and are therefore ineligible for funding under the program:
 - i) Libraries
 - ii) School facilities not associated with a parks & recreation facility
 - iii) Street and highway beautification
 - iv) Master Plans
 - v) Public art not associated with a parks & recreation facility
 - vi) Equipment Purchases (trucks, mowers, tractors, etc.)
 - vii) Non-fixed equipment (removable soccer goals, portable air conditioners, etc.)
 - viii) Recreational programming and staffing
 - ix) Normal maintenance and repairs expected to last less than 25 years. (The District shall make the final determination regarding expected project life.)

- b) **Community, Recreation & Senior Centers** – Community, recreation and senior Centers are eligible projects provided they engage in activities that are generally available to the public. A wide variety of activities that are consistent with the Measure WW program may take place in a community, recreation or center. Following are some examples of eligible and ineligible activities:
 - i) Types of eligible activities include, but are not limited to:
 - (1) arts and crafts
 - (2) exercise equipment and classes
 - (3) dance and theater
 - (4) counseling, health screening and information
 - (5) receptions and party rentals
 - (6) childcare, homework assistance and life enrichment classes
 - ii) Ineligible Activities include:
 - (1) Classes that are part of an organized school curriculum.
 - (2) Organized school sports programs.
 - (3) Programs that discriminate against participants as prohibited by State or Federal statute.

3) Split, Combined and Complete Projects

- a) **Scope of the Project** – Participating Entities are responsible for defining the scope of their project and the source of any additional funds used to augment

East Bay Regional Park District
Measure WW Local Grant Program
Grant Guideline Clarifications for Applicant Agencies – March 2010

WW funds on the project. The project scope and budget must be consistent. Matching funds are not required for Measure WW Local Grant Projects.

- b) **Projects with Eligible and Ineligible Elements** - WW funds cannot be used for ineligible projects or project elements. WW funds may be used in combination with other funds to complete projects with ineligible elements under the following conditions.
- i) Project applications, budgets, and reimbursement requests must clearly delineate the funding applied to each project element.
 - ii) The Participating Entity must have policies and procedures in place to account separately for eligible and ineligible elements of the project.
 - iii) Costs for the participating WW elements must be clearly identified in the project construction documentation and accounting records.
 - iv) A combined project may be constructed under a single contract.
 - v) A WW project funding one or more elements of a combined project using several funding sources will not be eligible for final reimbursement until completion of the entire project.
 - vi) A combination of eligible and ineligible elements in a WW funded project will make the project approval, close out and accounting more complex and may delay approval and/or final reimbursement for project expenses to the participating entity.

As an example, for a project such as a combined trail and street beautification project, WW funds may only be used to fund the trail elements of the project, not the street beautification portion.

- c) **Complete and Useable Projects** – Completed development projects must result in a definable capital asset that provides an identifiable public benefit. Projects that improve park land may be eligible if they result in an improvement to the public value of the property by abatement of a hazard (demolition), re-grading or landscaping the site, or performing site restoration. Park, trail or resource acquisition projects do not need to result in constructed facilities.

4) Design and Construction

- a) **Design and Construction Management** – Participating Entities can design and manage projects themselves or they can hire a consulting firm or other partner (including a non-profit) as their agent to perform design and/or construction management (including bidding and contracting) of the project. Construction management of the project must be consistent with the agency's contracting procedures including prevailing wage requirements. Design and construction management expenses are grant-eligible costs of the project.
- b) **Construction of the Project** - Participating Entities may construct projects themselves with their own forces or hire construction contractors. Participating Entity's contracting procedures and prevailing wage requirements apply.

East Bay Regional Park District
Measure WW Local Grant Program
Grant Guideline Clarifications for Applicant Agencies – March 2010

5) Public Access and Public Benefit

- a) **Public Access to Projects** – Recreation projects must generally be available to the public; however, some types of projects are not required to be open for public access as long as they result in a specific public benefit related to parks or recreation.
- i) Examples:
- (1) Park and trail land acquisitions may be completed and placed in land bank pending development of public access facilities.
 - (2) Park maintenance facilities need not be open to the public, but must be dedicated to public park facility maintenance (not school or general public works).
 - (3) Restriction of public access into historic structures, archaeological sites or resource restoration projects may be necessary for resource protection and safety reasons.
- b) **Public Use Commensurate with the Project** – Park and recreation projects do not need to be continuously open to the public, but they must be open and available for public access commensurate with the project type.
- i) Examples:
- (1) Swimming pools may only be open during spring and summer
 - (2) Recreation centers and offices may be operated on designated days and business hours, and closed to use at other times.
 - (3) Natural or cultural preservation areas may have access limited to guided tours, pathways or viewing areas.
 - (4) Resource areas, or planted landscapes may limit access to pathways or require seasonal closures for species protection.
- c) **Projects Must Remain in Service** – Participating Entities are required to maintain and operate the property only for the purposes for which the grant was made. Interest and responsibility for the property or project can be transferred to a successor with approval from the District, provided that the committed use continues.
- d) **Non-Discrimination** – Projects that provide public access must be available to the general public. Access to projects can be limited to small groups or clubs for specific purposes as long as membership is not restricted and the group does not discriminate.
- i) Examples:
- (1) Rowing centers can be limited to use by rowing club members as long as any interested member of the public can join the club. Use may be segregated by skill level, age, type of activity or ability.
 - (2) Swimming pools can offer separate classes or swim times for swimmers of various skill levels, ages, types or abilities.
 - (3) Senior centers can offer programs limited to seniors.
 - (4) Daycares can be for enrolled children of appropriate ages.

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- (5) Dining facilities may be managed by groups such as veterans organizations as long as the public can otherwise rent, use or participate in programs at the hall.
- 6) **Fees, Private Business Use, Other Uses of Funds** – Reasonable use fees may be charged and Measure WW funded projects may be operated by employees of the Participating Entity, volunteers, or non-profit organizations for park and recreation purposes provided that the operators comply with the following:
- a) **Reasonable Fees** – Fees may be charged at facilities funded with Measure WW funds as long as the facility does not make a net profit and the fees are not discriminatory. Participating Entities are prohibited from setting fees that produce profit for the entity. Examples of acceptable fees would be standard green fees at golf courses comparable to other similarly situated public golf courses, entry fees at pools and modest membership fees at community or recreation centers to offset insurance, utility, staff or similar costs of providing the service.
 - b) **Private Business Use** – Park and recreation projects rarely produce revenue above the overall capital, maintenance and operational cost of the project. Therefore, the District will find that the tax-exempt bond limitation on private business use of bond proceeds is not triggered for local agencies holding land tenure and operating public use facilities, either with direct employees or through agreement with non-profit or for-profit contractors, *provided that* participating entities or their operating partners are prohibited from charging users fees, or receiving funds from third party operators or non-profits, that would exceed the combined capital, maintenance and operational cost of the project over the life of the bond.

Examples of previously approved projects operated by others where fees are charged include: golf courses, aquatic (boating) centers, day care facilities, and swimming pools.

- c) **Loan of WW Funds to Third Parties** – Measure WW Local Grant Program funds are intended for the acquisition or construction of local public park and recreation facilities and may not be loaned by the Participating Entity and then recovered and/or re-appropriated for other uses, either directly or indirectly. Loaning the proceeds of the grants could violate the District's tax covenants contained in the bond documents. The Participating Entity's application must disclose and include all agreements, leases, sub-leases or other documentation that govern the relationship with any sub-leasee or co-participant in the project. Modifications or amendments to these agreements during the life of the project that result in repayment of funds to a Participating Entity will be deemed a default of the grant agreement and require return of the Local Grant Funds from the Participating Entity to the District.