

Grant No:

Date: **Vote Date**

Grantee:

Grant Amount:

**GRANT AGREEMENT**  
(School Water Improvement Grants)

This Grant Agreement (this “Agreement”) is entered into by and between the Massachusetts Clean Water Trust (together with its successors and assigns, the “Trust”), an instrumentality of The Commonwealth of Massachusetts (the “Commonwealth”) and the grantee listed above, a political subdivision or public instrumentality (together with its successors and assigns, the “Grantee”).

WHEREAS, in accordance with the Enabling Act and Section 94 of Chapter 142 of the Acts of 2019, the Trust is administering a School Water Improvement Grants program (“SWIG”) to assist early education facilities, childcare centers and public schools with deleading projects by providing funds for the procurement and installation of point-of-use filtered bottle filling stations (“POU Filling Stations”), as further described herein;

WHEREAS, the Grantee submitted an application to receive a grant under SWIG (the “Application”) and was awarded an amount as set forth in Schedule A hereto pursuant to an Award Letter dated **Vote Date** (the “Award Letter”);

WHEREAS, the Trust is willing to extend financial assistance in the form of a grant (the “Grant”) to the Grantee on the terms and conditions stated herein; and

WHEREAS, the Grantee is willing to accept the Grant and its obligations hereunder to complete the Project on the terms stated herein.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties agree and bind themselves as follows:

**ARTICLE I - REPRESENTATIONS OF THE GRANTEE**

Recognizing that the Trust is relying hereon, the Grantee represents, as of the date of this Agreement, as follows:

- (a) *Organization; Power, Etc.* The Grantee is a Local Governmental Unit or other Eligible Borrower (each as defined in the Enabling Act) with full legal right and authority to authorize, execute, and deliver this Agreement, to receive the Grant, to undertake and implement the Project and to carry out and consummate all transactions contemplated by the foregoing;
- (b) *Authority.* The Grantee has duly and validly authorized the execution and delivery of this Agreement, and all approvals, consents, and other governmental or corporate proceedings necessary for the execution and delivery of the foregoing or required to make this Agreement the legally binding obligation of the Grantee that it purports to be, in accordance with its terms, have been obtained or made.

- (c) *No Litigation.* No action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, other than as disclosed to the Trust, is pending or, to the knowledge of the Authorized Officers of the Grantee (as identified on Schedule A) executing this Agreement, threatened (1) seeking to restrain or enjoin the execution and delivery of this Agreement, or the undertaking of the Project or (2) contesting or affecting the validity of this Agreement; and neither the corporate existence of the Grantee nor the title to office of any Authorized Officer of the Grantee executing this Agreement, is being contested.
- (d) *No Conflicts.* The authorization, execution and delivery of this Agreement, and performance thereof, will not constitute a breach of, or a default under, any law, ordinance, resolution, agreement, indenture or other instrument to which the Grantee is a party or by which it or any of its properties is bound.
- (e) *Binding Agreement.* This Agreement is, or when executed and delivered will be, the legal, valid, and binding obligation of the Grantee, enforceable in accordance with its terms, subject only to limitations on enforceability imposed in equity or by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally.
- (f) *Information Submitted.* All information, reports, and other documents and data submitted to the Trust in connection with this Agreement (including without limitation, the Application) were, at the time the same were furnished, and are, as of the date hereof, complete and correct in all material respects.
- (g) *Ratification.* By executing this Agreement, the Grantee affirms and ratifies all statements, representations and written documents that it has submitted to the Trust in connection with this Agreement (including, without limitation, the Application).

## **ARTICLE II - THE GRANT**

### **II.1 Grant Amount and Expiration Date**

- (a) *Grant Amount.* The Trust agrees to make and the Grantee agrees to accept, on the terms and conditions stated in this Agreement, a Grant, in the maximum amount specified on Schedule B hereto.
- (b) *Expiration Date.* The Grantee shall comply with all obligations detailed in Article II by no later than 365 days after the execution of this Agreement (the "Expiration Date"); provided that the Trust, in its sole discretion, may approve extensions of the Expiration Date.

### **II.2 Project**

- (a) *Grant Purpose.* The Grant has been made solely to finance the procurement and installation of POU Filling Stations, as further described on Schedule B (the "Project"). The Grantee is awarded \$3,000 per eligible fixture as set forth on Schedule A and shall be required to procure and install POU Filling Stations in the minimum number per

school as set forth in Schedule A; provided that the Grantee may be permitted to allot the Grant funds as necessary to meet such requirement.

- (b) *Project Schedule.* The Grant will be disbursed in full by the Trust upon satisfaction of the conditions set forth in Article II hereof.
- (c) *Technical Requirements.* The Grantee shall comply with the technical requirements set forth in Exhibit A hereto with respect to the Project. Grantee is required to procure fixtures necessary for the Project through FAC100: Building Maintenance Repair and Operations Project Materials and Supplies statewide contract and advised for the installation to use the TRD01: Tradesperson Installation, Repair, and Maintenance Services statewide contract.
- (d) *Close Out Provisions.* Upon completion of the Project and no later than the Expiration Date, the Grantee shall submit to the Trustee the close out certification attached hereto as Exhibit B.

### **II.3 Grant Award Package**

In connection with the execution and delivery of this Agreement, each of the following conditions shall be satisfied (all documents, certificates and other evidence of such conditions are to be satisfactory to the Trust in its discretion).

- (a) *Executed Grant Agreement.* The Trust shall receive a duly executed original of this Agreement.
- (b) *Completed Grant Questionnaire.* The Trust shall receive a duly executed Grant Questionnaire. The Grant Questionnaire shall be supplied by the Trust with this Agreement to collect necessary financial information for the purpose of grant disbursement.
- (c) *Expiration of Offer.* The Grant, and the obligation of the Trust to disburse the Grant, or any portion thereof, shall expire ninety (90) days from the date of the executed Award Letter. No portion of the Grant will be disbursed by the Trust after this Expiration of Offer. The Trust, in its sole discretion, may approve extensions of the Expiration of the Offer.

## **ARTICLE III - AFFIRMATIVE COVENANTS**

### **III.1 Use of Disbursements and Application of Grantee Contributions**

The Grantee shall expend the Grant funds only for eligible costs of the Project as described in Article II. The Trust shall have no obligation to disburse or expend any amounts for the Project in excess of the Grant.

### **III.2 Additional Project Funding**

The Grantee shall ensure that adequate funding is in place to complete the Project and will obtain loans or funds or receive binding commitments for supplemental funding in an amount needed to ensure completion of the Project.

## **ARTICLE IV - TERMINATION AND REMEDIES**

### **IV.1 Termination of the Grant by the Trust**

- (a) *Termination of the Grant by the Trust.* The Trust, in its sole discretion, may terminate this Agreement:
  - (i) if the Grantee has breached any provision of this Agreement or has failed to strictly comply with any applicable state or federal regulation applicable to the Project and/or the Grant; or
  - (ii) if the Grantee has failed to strictly comply with the requirements for installation detailed herein as Exhibit C; and/or failed to comply with the requirements for operation and maintenance detailed herein as Exhibit D; or
  - (iii) if the Grantee has failed to complete post-installation testing and sampling and/or consumer notifications as detailed in Exhibit C; or
  - (iv) if any representation or warranty made by the Grantee in the Application, any request for disbursement, this Agreement, any certification, or other supporting documentation thereunder shall prove to have been incorrect in any material respect at the time made.
- (b) *Notice of Termination.* The Trust shall provide the Grantee with written notice of termination of the Grant, setting forth the reason(s) for termination. The termination of the Grant and this Agreement shall be effective as of the date such notice of termination is sent by the Trust.
- (c) *Effect of Termination.* Upon termination of this Agreement, the Grantee shall reimburse the Trust for all disbursements of the Grant on a schedule to be negotiated in good faith between the Trust and the Grantee, but in no event more than three (3) years from the date of such termination.

## **ARTICLE V - MISCELLANEOUS**

### **V.1 Notices**

All notices, requests and other communications provided for herein including, without limitation, any modifications of, or waivers, requests or consents under, this Agreement shall be given or made in writing and delivered to the intended recipient at the "Address for Notices" specified in Schedule A; or, as to any party, at such other address as shall be designated by such party in a notice to each other party.

Receipt of all such communications shall be deemed to have occurred when personally delivered or, in the case of a mailed notice, upon receipt, in each case given or addressed as provided for herein.

**V.2 No Waiver**

No failure or forbearance on the part of the Trust to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof nor shall any single or partial exercise by the Trust of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. Conditions, covenants, duties and obligations contained in this Agreement may be waived only by written agreement between the parties.

**V.3 Governing Law**

This Agreement shall be construed under, and governed by, the laws of the Commonwealth. The Grantee agrees to bring any federal or state legal proceedings arising under this Agreement in which the Trust is a party in a court of competent jurisdiction within the Commonwealth. This section shall not be construed to limit any other legal rights of the parties.

**V.4 Successors and Assigns**

This Agreement shall be binding upon and inure to the benefit of the Grantee and the Trust and their respective successors and assigns, except that the Grantee may not assign or transfer its rights or obligations hereunder without the prior written consent of the Trust.

**V.5 Complete Agreement; Waivers and Amendments**

All conditions, covenants, duties and obligations contained in the Agreement may be amended only through a written amendment signed by the Grantee and the Trust unless otherwise specified in this Agreement. The parties understand and agree that this Agreement supersedes all other verbal and written agreements and negotiations by the parties regarding the matters contained herein.

**V.6 Headings**

The headings and sub-headings contained in the titling of this Agreement are intended to be used for convenience only and do not constitute part of this Agreement.

**V.7 Severability**

If any term, provision or condition, or any part thereof, of this Agreement shall for any reason be found or held invalid or unenforceable by any governmental agency or court of competent jurisdiction, such invalidity or unenforceability shall not affect the remainder of such term, provision or condition nor any other term, provision or condition, and this Agreement shall survive and be construed as if such invalid or unenforceable term, provision or condition had not been contained therein.

**V.8 Schedules, Exhibits and Attachments; Counterparts**

Each Schedule and Exhibit and each other attachment hereto and referred to herein is an integral part of this Agreement. Moreover, this Agreement may be executed in several counterparts, each of which shall be deemed to be an original. Counterparts may be delivered via facsimile, electronic mail

(including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000 and related state law) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

**V.9 No Third Party Beneficiary**

This Agreement is exclusively between the Trust and the Grantee, and does not nor is intended to create any privity of contract with any other party not a party hereto, nor to imply a contract in law or fact. The Trust is not obligated to disburse grant funds on any contract, or otherwise, between the Grantee and any other party, nor intends to assume, at any time, direct obligations for payment for work, goods, or other performance under such contracts. The obligation to pay any amounts due under such contracts is solely the responsibility of the Grantee. Nothing herein, express or implied, is intended to, or shall confer upon, any other person any right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement between the Trust and the Grantee.

**V.10 Term**

This Agreement shall remain in effect until one of the following events has occurred:

- (a) The Grantee and the Trust replace this Agreement with another written agreement;
- (b) All of the Grantee's obligations under this Agreement have been discharged, including, without limitation, any obligation to reimburse the Trust for disbursements of the Grant;  
or
- (c) This Agreement has been terminated pursuant to the provisions of Article IV - hereof.

*[Remainder of page intentionally left blank; signature page follows.]*

**IN WITNESS WHEREOF**, the parties hereto have caused this Grant Agreement to be duly executed as of the day and year first above written.

**MASSACHUSETTS CLEAN WATER TRUST**

By: \_\_\_\_\_  
Executive Director

**Grantee**

By: \_\_\_\_\_  
Authorized Officers

**SCHEDULE A**

1. Grant No.:
2. Grantee:
3. Grant Amount:
4. Grant Agreement Date:
5. Expiration Date:
6. Number of total awarded fixtures in all schools/facilities:
7. Total eligible fixtures per facility within district: as set forth on Schedule B.
8. Authorized Officers:
  - a. of the Trust: Susan Perez, Executive Director
  - b. of the Grantee: **Full Name**, Superintendent
9. Addresses for Notices:
  - a. To the Trust:

Massachusetts Clean Water Trust  
One Center Plaza  
Boston, Massachusetts 02108
  - b. To the Grantee:

Grantee  
Address  
City/Town, MA Zip

**SCHEDULE B**

District Award Allocation by School

| <u>School/Facility</u> | <u>Number of Fixtures</u> | <u>Award Amount</u> |
|------------------------|---------------------------|---------------------|
|                        |                           |                     |
|                        |                           |                     |
|                        |                           |                     |
|                        |                           |                     |
|                        |                           |                     |
| <b>TOTALS:</b>         |                           |                     |

## EXHIBIT A

### Technical Requirements

- **Bottle Filling Stations, Filter Additions and Retrofit Units**, must be
  - constructed of a durable anti-microbial, anti-corrosion material or stainless steel;
  - certified to National Sanitation Foundation International (NSF) and American National Standards Institute (ANSI) standards for the number of contaminants that leach from the products into the drinking water (NSF/ANSI 61) and a maximum lead content by weight (NSF/ANSI 372);
  - contain a visible LED indicator for filter maintenance;
  - meet Americans with Disabilities Act (ADA) guidelines for reach range and wheelchair access
  
- **Filters and Replacement Filters**, must be
  - certified to NSF International /ANSI standards 42 and 53 for the removal of lead and other contaminants with documented evidence that the filters reduce lead below 1 ppb and
  - have at least a 3,000-gallon capacity.
  
- **Additional Recommendations from MassDEP:**
  - Particulate Filters. Utilizing a particulate filter in addition to the onboard filter could extend the useful life of fixtures and filters while decreasing the risk of filters being compromised by particulates.
  - Vandal-Resistant. For locations with heavy traffic or high-fixture-usage, consider the more durable construction found in vandal-resistant fixtures.
  - Filter Shut Off. MassDEP recommends the use of fixtures that will shut-off when the filter has reached the end of its service life.

**EXHIBIT B**

**Close Out Certificate**

1. Grant No.:
2. Grantee:
3. Grant Amount:
4. Grant Agreement Date:
5. Expiration Date:

The undersigned certifies that the data entered in the attached Grant Closeout Form is true and correct as of the date hereof. The Grantee further certifies that data confirming the installation of fixtures and post-installation water quality testing, for each allocated fixture, has been uploaded to the Massachusetts Department of Environmental Protection's Lead Contamination Control Act (LCCA) Program Management Tool.

The undersigned further certifies that the Grantee, and each school within its district, will comply with Operation and Maintenance (O&M) guidance as it applies to the POU Filling Stations. Such guidance is attached to the Agreement as Exhibit D.

**Grantee**

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

Authorized Officer

**EXHIBIT C**

**Installation of Point-of-Use Devices at Schools or Early Education and Care Facilities that Are Not Registered Public Water Systems**

<https://www.mass.gov/doc/installation-of-point-of-use-devices-at-schools-or-early-education-and-care-facilities-that-are/download>

**EXHIBIT D**

**Tips on O&M for POU Devices**

<https://www.mass.gov/doc/tips-on-operation-maintenance-for-point-of-use-devices/download>

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