

REQUEST FOR PROPOSALS

FOR

QUALIFIED ENVIRONMENTAL PROFESSIONAL (QEP) FOR THE BROWNFIELD REVOLVING LOAN FUND PROGRAM

FC-8791



ATLANTA, GEORGIA

TIM KEANE
Commissioner

Department of Planning and Community Development

**ADAM L. SMITH, ESQ., CPPO, CPPB, CPPM, CPP,
CIPC, CISCC, CIGPM, CPPC**
Chief Procurement Officer
Department of Procurement

**FC-8791, Qualified Environmental Professional (QEP) for the Brownfield
Revolving Loan Fund Program**

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CITY OF ATLANTA

Kasim Reed
Mayor

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DEPARTMENT OF PROCUREMENT
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CIPC, CISCC, CIGPM, CPPC
Chief Procurement Officer
asmith@atlantaga.gov

May 9, 2016

ATTENTION INTERESTED PROPONENTS:

Your firm is hereby invited to submit to the City of Atlanta (the “City”), Department of Procurement (“DOP”), a proposal for **FC-8791, Qualified Environmental Professional (“QEP”) for the Brownfield Revolving Loan Fund Program**. The City’s DOP, on behalf of the Department of Planning and Community Development (“DPCD”), is seeking proposals for professional environmental consulting services from qualified firms or individuals to provide a QEP to perform duties as required by the Environmental Protection Agency (“EPA”) Revolving Loan Fund (“RLF”) terms and conditions and the RLF Cooperative Agreement Work Plan.

A **Pre-Proposal Conference** will be held on **Tuesday, May 17, 2016, at 11:00 A.M. EDT**, at the DOP’s Conference Room in Suite 1900. The purpose of the Pre-Proposal Conference is to provide Proponents with detailed information regarding the project and to address questions and concerns. There will be representatives from the DPCD, the Ethics Office, the Office of Contract Compliance and Risk Management available at the conference to discuss this project and to answer any questions. Attendance at the Pre-Proposal Conference is **strongly** encouraged for each Proponent desiring to submit a proposal.

Proponents will be allowed to ask questions during the Pre-Proposal Conference. However, please note that oral answers to questions during the Pre-Proposal Conference on May 17, 2016, are **not** authoritative. The last date to submit questions in writing is **Friday, May 20, 2016, by 2:00 P.M., EDT**. Questions may be sent via email to LaVern F. Tate, Esq. at lftate@atlantaga.gov or facsimile at 404-589-5857.

Your response to this Request For Proposals will be received by designated staff of the Department of Procurement at City Hall South, 55 Trinity Avenue, S.W., Suite 1900, Atlanta, Georgia 30303, **no later than 2:00 P.M., EDT, Thursday, June 2, 2016.**

****ABSOLUTELY NO PROPOSALS WILL BE ACCEPTED AFTER 2:00 P.M.****

The name of the Proponent will be publicly read at 2:01 P.M., EDT on the respective due date in the Department of Procurement, City Hall South, 55 Trinity Avenue, S.W., Suite 1900, Atlanta, Georgia 30303.



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This RFP is being made available by electronic means. If accepted by such means, then the Proponent acknowledges and accepts full responsibility to insure that no changes are made to the Proposal. In the event of conflict between a version of the Proposal in the Proponent's possession and the version maintained by DOP, the version maintained by the DOP shall govern.

The Proposal document may also be obtained from the Department of Procurement's Plan Room, City Hall South, 55 Trinity Avenue, S.W., Suite 1900, Atlanta, Georgia 30303, at a cost of **\$100.00** per package, beginning on May 9, 2016.

You are required to email and confirm receipt of your business name, contact person, address, phone number, fax number and the project number to the DOP's Plan Room at dop@atlantaga.gov, to be placed on the Plan Holders List. Failure to do so will prevent you from receiving any addenda that are issued and may deem you non-responsive. Any questions regarding the procedures for purchasing a copy of the document or obtaining a copy of the Plan Holder's list should be directed to the Plan Room at (404) 330-6204.

All questions and inquiries concerning this project should be directed in writing to LaVern F. Tate, Esq., Contracting Officer, Department of Procurement, 55 Trinity Avenue, S.W., City Hall South, Suite 1900, Atlanta, Georgia 30303 or questions may be e-mailed to lftate@atlantaga.gov.

The City reserves the right to cancel any and all solicitations and to accept or reject, in whole or in part, any and all proposals when it is for good cause and in its best interest.

Thank you for your interest in doing business with the City.

Sincerely,



Adam L. Smith

ALS/lft



PART 1

INSTRUCTIONS TO PROPONENTS

Part 1; Information and Instructions to Proponents

- 1. Services Being Procured:** This Request for Proposals (“**RFP**”) from qualified proponents (“**Proponent**” or “**Proponents**”) by the City of Atlanta (the “**City**”), on behalf of its Department of Planning and Community Development (“**DPCD**”), is for professional environmental consulting services from qualified firms or individuals to provide Qualified Environmental Professional (QEP) to perform duties as required by the Environmental Protection Agency (EPA) Revolving Loan Fund (RLF) terms and conditions and the RLF Cooperative Agreement Work Plan.
- 2. Scope of Services:** A more detailed Scope of Services (“**SOS**”) sought in this procurement is set forth in Exhibit A– Scope of Services attached to the Services Agreement (“**Services Agreement**”); Contract No. **FC-8791; Qualified Environmental Professional (QEP) for the Brownfield Revolving Loan Fund Program (RLFP)**, included in this RFP at Part 5.¹
- 3. Method of Source Selection:** This procurement is being conducted in accordance with all applicable provisions of the City’s Code of Ordinances, including its Procurement and Real Estate Code and the particular method of source selection for the services sought in this RFP is Code Section 2-1189; Competitive Sealed Proposals. By submitting a Proposal concerning this procurement, a Proponent acknowledges that it is familiar with all laws applicable to this procurement, including, but not limited to, the City’s Code of Ordinances and Charter, which laws are incorporated into this RFP by reference.
- 4. Minimum Qualification; Authority to Transact Business in Georgia:**
 - 4.1. Each Proponent must submit with its Proposal documentation that demonstrates it is duly authorized to conduct business in the State of Georgia.
 - 4.2. Each Proponent must be able to demonstrate a minimum of ten (10) years of experience in providing professional services of the same size and scope.
 - 4.3. Each Proponent is required to comply with the City of Atlanta’s Equal Business Opportunity (EBO) and Equal Employment Opportunity (EEO) Program requirements in Appendix A.
- 5. No Offer by City; Firm Offer by Proponent:** This procurement does not constitute an offer by City to enter into an agreement and cannot be accepted by any Proponent to form an agreement. This procurement is only an invitation for offers from interested Proponents and no offer shall bind City. A Proponent’s offer is a firm offer and may not be withdrawn except under the rules specified in City’s Code of Ordinances and other applicable law.
- 6. Proposal Deadline:** Your response to this RFP must be received by the City’s Department of Procurement, 55 Trinity Avenue, S.W., City Hall South, Suite 1900, Atlanta, Georgia 30303-0307, **no later than 2:00 P.M. EDT** (as verified by the Bureau of National Standards) on **Thursday, June 2, 2016**. Any Proposal received after this time will not be considered and will be rejected and returned.

¹ All capitalized terms contained in the Services Agreement are incorporated into this RFP.

- 7. Pre-Proposal Conference:** Each Proponent is highly encouraged to attend the Pre-Proposal Conference scheduled for **Tuesday, May 17, 2016, at 11:00 A.M. EDT**, in the Department of Procurement's Bid Room, Suite 1900. Each Proponent must be fully informed regarding all existing and expected conditions and matters which might affect the cost or performance of the Services. Any failure to fully investigate the job requirements shall not relieve any Proponent from the responsibility of evaluating the difficulty or cost of successfully performing the Services properly. Please note that this is in accordance with and in addition to any requirements as defined and available under the performance bond as enumerated in Paragraph 11 and Appendix B.
- 8. Procurement Questions; Prohibited Contacts:** Any questions regarding this RFP should be submitted in writing to the City's contact person, LaVern F. Tate, Esq., Contracting Officer, Department of Procurement, 55 Trinity Avenue, SW, Suite 1900, Atlanta, Georgia 30303-0307, by fax (404) 589-5857 or e-mail lf Tate@atlantaga.gov on or before **Friday, May 20, 2016, 2:00 P.M. EDT**. Questions received after the designated period may not be considered. Any response made by the City will be provided in writing to all Proponents by addendum. It is the responsibility of each Proponent to obtain a copy of any addendum issued for this procurement by monitoring the City's website at <http://www.atlantaga.gov/procurement> and its Department of Procurement's Plan Room which is open during posted business hours, Suite 1900, 1st Floor, 55 Trinity Avenue, S.W., City Hall South, Atlanta, Georgia 30303. No Proponent may rely on any verbal response to any question submitted concerning this RFP. All Proponents and representatives of any Proponent are strictly prohibited from contacting any other City employees or any third-party representatives of the City on any matter having to do with this RFP. All communications by any Proponent concerning this RFP must be made to the City's contact person, or any other City representatives designated by the Chief Procurement Officer in writing.
- 9. Proposal Guarantee (NOT APPLICABLE):**
- 9.1. Each Proponent is required to furnish a Proposal Guarantee in the amount of Five Percent (5%) of Proponent's proposal amount. At the option of the Proponent, the Proposal Guaranty may be a certified check payable to the order of City or a Proposal Bond in a form acceptable to the City. A surety executing a Proposal Bond must meet the requirements set forth in Appendix B Insurance and Bonding Requirements attached to the Services Agreement included in this RFP. The Proposal Guarantee may be provided from either Proponent Joint Venture member(s) or entity(s).
- 9.2. Each Proponent agrees that, if it is awarded the Agreement and fails to execute it and provide all other documents required to consummate the transaction within the time specified within the Notice of Award, the City will retain the Proposal Guarantee as liquidated damages and not as a penalty.
- 10. Ownership of Proposals:** Each Proposal submitted to the City will become the property of the City, without compensation to a Proponent, for the City's use, in its discretion.

- 11. Georgia Open Records Act:** Information provided to the City is subject to disclosure under the Georgia Open Records Act (“**GORA**”). Pursuant to O.C.G.A. § 50-18-72(a)(34), “[a]n entity submitting records containing trade secrets that wishes to keep such records confidential under this paragraph shall submit and attach to the records an affidavit affirmatively declaring that specific information in the records constitute trade secrets pursuant to Article 27 of Chapter 1 of Title 10 [O.C.G.A. § 10-1-760 et seq.]”
- 12. Insurance and/or Bonding Requirements:** The Insurance and/or Bonding requirements for any Agreement that may be awarded pursuant to this RFP are set forth in Appendix B, Insurance and Bonding Requirements attached to the Services Agreement included in this RFP.
- 13. Applicable City OCC Programs:** The City’s Office of Contract Compliance (“**OCC**”) Programs applicable to this procurement are set forth in Appendix A, Office of Contract Compliance Submittals, attached to the Services Agreement included in this RFP. By submitting a Proposal in response to this procurement, each Proponent agrees to comply with such applicable OCC Programs.
- 14. Evaluation of Financial Information:** The City’s evaluation of financial information concerning a Proponent and its consideration of such information in determining whether a Proponent is responsive and responsible may involve a review of several items of information required to be included in a Proposal. The City will review the information included in **Form 3; Proponent Financial Disclosure** attached to this RFP and any additional information required on that form to be included in a Proposal. Further, if this RFP requires the provision of a Payment Bond and/or Performance Bond if an Agreement is awarded, the City will review the information included in **Form 4.2; Certification of Bonding Ability and Form 4.1; Certification of Insurance Ability**, indicating that the financial capacity of the Proponent is such that the insurer(s)/surety(ies) is/are willing to issue insurance and Payment and Performance Bonds for the Proponent if an Agreement is awarded to it. Further, if this RFP requires a successful Proponent that is awarded an Agreement pursuant to this procurement to post some other type of performance guarantee (e.g. letter of credit, guaranty agreement, etc.), a Proponent must submit with its Proposal a notarized letter from an appropriate financial institution (e.g. bank) indicating that it is willing to issue such performance guarantee for the Proponent if an Agreement is awarded to it.
- 15. Special Rules Applicable to Evaluation of Proposals:** A Proponent may be required to submit, in writing, the names and addresses of any proposed subcontractors that may be listed in the Proposal and to submit other material information relative to proposed subcontractors. The City reserves the right to disapprove any proposed subcontractors whose technical or financial ability or resources or whose experience are deemed inadequate.
- 16. Examination of Proposal Documents:**
- 16.1 Each Proponent is responsible for examining, with appropriate care, the complete RFP and all Addenda and for informing itself with respect to all conditions which might in any way affect the cost or the performance of any Services. Failure to do so

will be at the sole risk of the Proponent, who is deemed to have included all costs for performance of the Services in its Proposal.

- 16.2 Each Proponent shall promptly notify the City in writing should the Proponent find discrepancies, errors, ambiguities or omissions in the Proposal Documents, or should their intent or meaning appear unclear or ambiguous, or should any other question arise relative to the RFP. Replies to such notices may be made in the form of an addendum to the RFP, which will be issued simultaneously to all potential Proponents who have obtained the RFP from City.
- 16.3 The City may, in accordance with applicable law, by addendum, modify any provision or part of the RFP at any time prior to the Proposal due date and time. The Proponent shall not rely on oral clarifications to the RFP unless they are confirmed in writing by the City in an issued addendum.
- 16.4 Each Proponent must confirm Addenda have been received and acknowledge receipt by executing **Form 5; Acknowledgment of Addenda** attached to this RFP at Part 4. A notarized JV members' authorized representative's signature should appear on Form 5 in the Non-corporate signature block.

17. Oral Presentations and Demonstrations: All responsive Proponents may be required to make an oral presentation of their Proposal to the City's Evaluation Committee. The Key Personnel (or some group thereof) as identified in the Proponent's proposal must be active participants in the oral presentation. The Proponent's presentation should focus on an understanding of the Scope of Services. The City will notify responsive proponents of the date, time and location for the presentation, and will supply an agenda or topics for discussion.

18. Cancellation of Solicitation: This solicitation may be cancelled in accordance with the City's Code of Ordinances.

19. Award of Agreement; Execution: If the City awards an Agreement pursuant to this procurement, the City will prepare and forward to the successful Proponent an Agreement for execution substantially in the form included in this RFP.

20. Illegal Immigration Reform and Enforcement Act: This RFP is subject to the Illegal Immigration Reform and Enforcement Act of 2011 ("**IIREA**" or "**the Act**"). IIREA was formerly known as the Georgia Security and Immigration Compliance Act or GSCIA. Pursuant to the Act, the Proponent must provide with its Proposal proof of its registration with and continuing and future participation in the E-Verify Program established by the United States Department of Homeland Security. A completed Contractor Affidavit (**Form 1**), set forth in Part 4; Illegal Immigration Reform and Enforcement Act Forms, must be submitted on the top of Volume II of the Proposal at the time of submission, prior to the time for opening the Proposal. Under state law, the City cannot consider any Proposal which does not include completed forms. Where the business structure of a Proponent is such that Proponent is required to obtain an Employer Identification Number (EIN) from the Internal

Revenue Service, Proponent must complete the Contractor Affidavit (**Form 1**) on behalf of, and provide a Federal Work Authorization User ID Number issued to, the Proponent itself. Where the business structure of a Proponent does not require it to obtain an EIN, each entity comprising Proponent must submit a separate Contractor Affidavit (**Form 1**). It is not the intent of this notice to provide detailed information or legal advice concerning the Act. All Proponents intending to do business with the City are responsible for independently apprising themselves of and complying with the requirements of the Act and assessing its effect on City procurements and their participation in those procurements. For additional information on the E-Verify program or to enroll in the program, go to: <https://e-verify.uscis.gov/enroll>. Additional information on completing and submitting the Contractor Affidavit (**Form 1**) precedes the Affidavit. Each JV member entity or partner is required to execute Form 1, IIREA.

21. Multiple Awards: The City reserves, at its sole discretion, the option to award to multiple Proponents. The award(s) will be based on the SOS in its entirety or by components. Multiple awards may be made on the total SOS or components of the SOS.

PART 2

CONTENTS OF PROPOSALS AND REQUIRED SUBMITTALS

Part 2
Contents of Proposals/Required Submittals

1. **General Contents of Proposals:** A Proponent must submit a complete Proposal in response to this RFP in the format specified in this RFP; no other format will be considered. A Proposal will consist of two (2) separate documents:
 - 1.1. Informational Proposal; and
 - 1.2. Cost Proposal (Form provided by City at Part 5; Contract Services Agreement; Exhibit A.1-Cost Proposal). Exhibit A.1-Cost Proposal will become part of the Professional Services Agreement attached to this RFP, if an Agreement is awarded pursuant to this procurement.
2. **Informational Proposal:** An Informational Proposal is comprised of 2 sources of information:
 - 2.1. Volume I, information drafted and provided by a Proponent; and
 - 2.2. Volume II, information provided by a Proponent on forms provided by the City (or required to be created by a Proponent) in this RFP.

The Informational Proposals must be tabbed as indicated to reflect the sections listed in the Outline below.

3. **Information Required to Be Included in Informational Proposal:**
 - 3.1. Summary: The following is a summary of information required to be contained in an Informational Proposal:
 - 3.1.1. Information Drafted and Provided By a Proponent: This information should be included in **Volume I** of the Proposal:
 - 3.1.1.1. Executive Summary;
 - 3.1.1.2. Team Organization;
 - 3.1.1.3. Experience and Qualifications of Key Personnel;
 - 3.1.1.4. Overall Experience, Qualifications and Performance on Similar Projects; and
 - 3.1.1.5. Project Approach and Management Plan.
 - 3.1.2. Information Provided by a Proponent on Forms Provided by the City: This information should be included in **Volume II** of the Proposal:
 - 3.1.2.1. Forms attached to this RFP at Part 4: This information should be included in **Volume II** of the Proposal:
 - 3.1.2.1.1. Form 1; Georgia Illegal Immigration Reform and Enforcement Act (IIREA) Form;
 - 3.1.2.1.2. Form 2; Contractor Disclosure Form and Questionnaire;
 - 3.1.2.1.3. Form 3; Proponent Financial Disclosure;
 - 3.1.2.1.4. Form 4.1; Certification of Insurance Ability;
 - 3.1.2.1.5. Form 4.2; **N/A**
 - 3.1.2.1.6. Form 5; Acknowledgment of Addenda;

- 3.1.2.1.7. Form 6; Proponent Contact Directory;
- 3.1.2.1.8. Form 7; Reference List;
- 3.1.2.1.9. Form 8; N/A
- 3.1.2.1.10. Form 9; Required Submittal Checklist; and
- 3.1.2.1.11. Authority to transact business in the State of Georgia.

NOTE: Every space on every form must be completed. If the form requires a Notary, please comply. Failure to complete each form as required may deem you non-responsive. If there are any questions regarding any form, it is strongly recommended that you submit your question(s) to the Contracting Officer listed in the RFP prior to the deadline for submitting questions.

3.1.2.2. Forms attached to Services Agreement attached to this RFP at Part 5:

- 3.1.2.2.1. Exhibit A.1-Cost Proposal (**This should be included in a separate sealed envelope and labeled “Cost Proposal”**); and
- 3.1.2.2.2. Appendix A; City’s OCC Programs; Office of Contract Compliance Submittals.

3.2. Information Requirements Details: The following is a more detailed summary of the requirements of certain portions of the Informational Proposal. Each Outlined Item should be included in your Proposals and tabbed as indicated:

3.2.1. Executive Summary (Tab in Volume I)

3.2.1.1. Cover Letter: The executive summary must include a letter with the Proponent’s name, address, telephone number and fax number, signed by a person authorized to act on behalf of the Proponent. The letter should also include the name, title, address, e-mail address, telephone number and fax number of the person signing the letter and the name, title, address, e-mail address, telephone number and fax number of one (1) contact person to whom all future correspondence and/or communications may be directed by the City concerning this procurement, if that person is different from the person executing the letter. The letter should also designate the type of business entity that proposes to enter into a Contract with the City and the identity of any other business entities that will comprise the Proponent and include a brief history of the Proponent and statement of the Proponent’s approach to providing the services solicited in this RFP.

3.2.1.2. Detailed Executive Summary: The purpose of the Detailed Executive Summary is to provide an overview of the Proponent's qualifications to accomplish the project. At a minimum, the Detailed Executive Summary must contain the following information:

3.2.1.2.1. Complete legal name of the Proponent and the name of the legal entities that comprise the Proponent. The Proponent must provide the domicile where each entity comprising it is organized, including entity name, brief history of the entity, contact name, address, phone number, and facsimile number, as well as the legal structure of the entity and a listing of major satellite offices;

3.2.1.2.2. The general and specific capabilities and experience of the Proponent's Team. Each Proponent must identify examples where team members have worked together to complete a project. Discuss how the team was formed and how the team will function as an integrated unit in providing services to the City;

3.2.1.2.3. A description of the Proponent's plan for complying with the City's EBO goals. This section should include detailed information regarding the essential subcontractors/ sub consultants the Proponent intends to use and should indicate the roles and responsibilities these firms will be assigned. Each Proponent must provide a letter from each essential subcontractor/sub consultant indicating that the firm concurs with the role and responsibility Proponent has described; and

3.2.1.2.4. Litigation Disclosure Statement. A declarative statement as to whether the Proponent or any member of the Proponent's team has an open dispute with the City or is involved in any litigation associated with work in progress or completed work in either the private or public sector during the past five (5) years.

3.2.1.2.5. Summary of Approach. Provide information on the proposed approach to providing services that meet the scope of services.

3.2.2. Team Organization (Tab in Volume I):

The Proponent's Team Organization Section of the Proposal should introduce the proposed Proponent's team by:

3.2.2.1. providing the Proponent's Management Organizational Chart both graphically and in narrative format. The Organizational chart and narrative should provide a description of the Proponent's views on how it will organizationally provide the Services, as well as depict the relationship of its key personnel roles to that of the Project Manager and other key members of the management team;

- 3.2.2.2. providing a descriptive of how this organizational structure will facilitate managing the Services requested and how an efficient flow of information will be realized from the organizational structure;
 - 3.2.2.3. providing the names of proposed employees and/or subcontractors for each function, a brief description of their experience and their responsibilities;
 - 3.2.2.4. providing an experience matrix for the Proponent and proposed Subconsultants with the following: Community Involvement; Brownfield Cleanup Planning, Monitoring and Implementation of Brownfield Cleanup tasks; Environmental Site Assessments; compliance with and federal requirements related to the Davis Bacon Act, Endangered Species Act (ESA) and National Historic Preservation Act (NHPA), and EPA Brownfield grants. This matrix should describe exactly the type of work each Key team member has performed within the past ten (10) years on projects of comparable scope and nature to this project; and
 - 3.2.2.5. providing the percent availability and percent commitment of Key team members to the project during the various stages of the project.
- 3.2.3. **Overall Experience and Qualifications of Key Personnel (Tab in Volume I):**
- 3.2.3.1. Identify and provide resumes for the individuals that the Proponent will use as Key Personnel. Key Personnel may include but not be limited to the following:
 - 3.2.3.1.1. Project Manager – Minimum of ten (10) years of experience working in Brownfields;
 - 3.2.3.1.2. Lead Technical Staff – Minimum of ten (10) years of experience working in Brownfields;
 - 3.2.3.1.3. Lead Community Engagement – Minimum of ten (10) years of experience; and
 - 3.2.3.1.4. Labor Coordinator with Davis-Bacon Act of 1931 Compliance Experience – Minimum five (5) years of experience.
 - 3.2.3.2. Resumes should be organized as follows:
 - 3.2.3.2.1. Name and Title;
 - 3.2.3.2.2. Professional Background;
 - 3.2.3.2.3. Current and Past Relevant Employment;
 - 3.2.3.2.4. Education;
 - 3.2.3.2.5. Certifications;
 - 3.2.3.2.6. List of (4) relevant projects, including:
 - 3.2.3.2.6.1. client name;
 - 3.2.3.2.6.2. project description;
 - 3.2.3.2.6.3. project value;
 - 3.2.3.2.6.4. role of the individual;
 - 3.2.3.2.6.5. the original contract schedule to start and complete the project; and
 - 3.2.3.2.6.6. the actual start and completion dates of the project.

3.2.3.3. Submission of these names constitutes a commitment to use these individuals if the Proponent is selected, and changes may be made only with the prior written consent of the City. In the event there is a need to replace key team members during the course of the project, Proponent must describe its back-up personnel plan.

3.2.4. Overall Experience, Qualifications and Performance on Similar Projects (Tab in Volume I):

3.2.4.1. Proponents should detail their relevant experience, qualifications, performance, and capabilities for performing the services outlined in the Exhibit A, Scope of Services inclusive of the Appendix G Checklist Attachment from the Revolving Loan Fund (RLF) Administrative Manual, December 2008.

3.2.4.2. A detailed history for Proponent's and subconsultants' work performing the services outlined in the Scope of Services, including:

3.2.4.2.1. Managing EPA Grants and complying with federal requirements (such as the ESA, Davis-Bacon Act of 1931, and NHPA) or other similar grants;

3.2.4.2.2. Managing Brownfields Projects - to include Environmental Site Assessments, brownfields cleanup planning, preparing required documents (QAPP, ABCA), conducting cleanups and reporting, working with the GA EPD Brownfield program;

3.2.4.2.3. Conducting community engagement and outreach initiatives for similar projects;

3.2.4.2.4. Working as a Qualified Environmental Professional for a Brownfield Revolving Loan Fund;

3.2.4.2.5. Identify EPA brownfields projects completed in Region;

3.2.4.2.4 Provide a statement of project objectives as interpreted by your firm; and

3.2.4.2.5 For each Resume provided, each Proponent must provide a minimum of two (2), one (1) to two (2) page letters of recommendation from clients for whom that individual has held a similar role in the past eight (8) years. The letter must state at a minimum:

3.2.4.2.5.1 Contact name, position, address, phone number, email address;

3.2.4.2.5.2 Name of the project, and the project location;

3.2.4.2.5.3 Description of the project;

3.2.4.2.5.4 Dates of the project milestones, including the date of completion; and

3.2.4.2.5.5 Original contract amount and actual sum paid. Explain the reason for any significant

differences. Include a back-up personnel plan.

3.2.5 Project Approach and Management Plan (Tab in Volume I): Based on the Proponent's Organizational structure, describe how the Proponent will manage the Services to ensure cost-effective well-designed and implemented plan, specifically addressing the following:

3.2.5.1 Proponent's approach to team leadership;

3.2.5.2 How the Proponent will:

3.2.5.2.1 ensure proper communications among pertinent project team members;

3.2.5.2.2 assure the City that the Scope of Services will be kept within any established time and budget constraints;

3.2.5.2.3 establish and maintain the necessary cooperative relationships;

3.2.5.2.4 coordinate all necessary project activities within that team relationship and coordinate with the City;

3.2.5.2.5 assure the City that each individual task will be kept within any established time and budget constraint;

3.2.5.2.6 identify the tools that are intended to be used to manage these project elements;

3.2.5.2.7 proponent's proposed method to:

A. Identify and resolve issues during the project duration and

B. Make critical decisions; and

3.2.5.2.8 describe the management process the Proponent will implement to ensure all work and services performed are to the highest quality. The approach should include a description of the Proponent's process as it pertains to research and data gathering, approaches, techniques and procedures used to ensure accurate and comprehensive sets of deliverables;

3.2.5.2.9 the Technical Approach should respond to the Scope of Services of this RFP. Proponents should submit a well-developed technical approach, incorporating quality control/quality assurance, attention to detail, and communication/coordination processes. For each Task, describe how the requirements and objectives will be met; and

3.2.5.2.10 all proposals must be comprehensive and include a detailed and complete project timeline to go along with their narrative.

4. **Cost Proposal.** Each Proponent must submit a Cost Proposal using the form provided by the City at Part 5; Services Agreement; Exhibit A.1-Cost Proposal, and the proposal should be the cost for each type of service. The Cost Proposal must support the Scope of

Services contained in the RFP and fully encompass all activities in the Proponent's Proposal. The Cost Proposal shall serve as the baseline for final fee negotiation with the City. **Submit one (1) original, marked "Original" and seven (7) copies in a separate envelope.**

5. **Submission of Proposals:**

5.1 A Proposal must be submitted in sealed envelope(s) or package(s) and the outside of the envelope(s) or package(s) must clearly identify the name of the project: **FC-8791, Qualified Environmental Professional for the Brownfield Revolving Loan Fund** and the time and date specified for receipt. The name and address of the Proponent must also be clearly printed on the outside envelope or package. All Proposals must be submitted to:

**Adam L. Smith, Esq., CPPO, CPPB, CPPM, CPP,
CIPC, CISCC, CIGPM, CPPC
Chief Procurement Officer
Department of Procurement
55 Trinity Avenue, S.W.
City Hall South, Suite 1900
Atlanta, Georgia 30303-0307**

5.2 A Proponent is required to submit one (1) original, marked "Original" and seven (7) copies of its Informational Proposal. Each Informational Proposal must be submitted on 8½" x 11" single-sided, double-spaced, typed pages, using 12-point font size and such pages must be inserted in a standard three-hole ring binder. Each Informational Proposal must contain an index and separate sections for the information requirements set forth in this RFP, as well as for the forms required to be submitted.

In addition to the hard copy submission, each Proponent must submit two (2) digital versions of its Proposal in Adobe Portable Document Format (PDF) on compact disk (CDs). CD One (1) version should be a duplicate of the hard copy of the Proposal with no deviations in order or layout of the hard copy proposal. CD Two (2) version should be a redacted version of the hard copy Proposal. Please refer to the Georgia Open Records Acts (O.C.G.A. § 50-18-72) for information not subject to public disclosure.

The City assumes no liability for differences in information contained in the Proponent's printed Proposal and that contained on the CDs. In the event of a discrepancy, the City will rely upon the information contained in the Proponent's printed material (Hard Copy). Each CD should be labeled with the Project Number, Project Name, and the CD Number.

- 5.3 A Proponent is required to submit, in a separate, sealed envelope, clearly marked “Cost Proposal”, one (1) original, marked “Original” and seven (7) copies of its Cost Proposal with its Information Proposal.

6. **Responsiveness and responsibility for each Proponent can be observed as the following:**

- A. The responsiveness of a Proponent is determined by, but not limited to, the following:
1. A timely and effective delivery of all services, materials, documents, and/or other information required by the City;
 2. The completeness of all material, documents and/or information required by the City; and
 3. The notification of the City of methods, services, supplies and/or equipment that could reduce cost or increase quality.
- B. The responsibility of a Proponent is determined by, but not limited to, the following:
1. The ability, capacity and skill of the Proponent to perform the Agreement or provide the Work required;
 2. The capability of the Proponent to perform the Agreement or provide the Work promptly, or within the time specified without delay or interference;
 3. The character, integrity, reputation, judgment, experience and efficiency of the Proponent;
 4. The quality of performance of previous contracts or work;
 5. The previous existing compliance by the Proponent with laws and ordinances relating to the Agreement or Work;
 6. The sufficiency of the financial resources and ability of the Proponent to perform Agreement for providing the Work;
 7. The quality, availability and adaptability of the supplies or contractual Work to the particular use required; and
 8. The successful Proponent shall assume full responsibility for the conduct of his agents and/or employees during the time such agents or employees are on the premises for the purpose of performing the Work herein specified.

7. **The City will carefully evaluate the responsiveness and responsibility of each Proponent.** The selection criteria shall include but not be limited to, those factors contained in subsection 2-1188(k) of the City of Atlanta Code of Ordinances; and the following (the responsibility is solely on the Proponent to adhere to all evaluation factors as outlined in the City of Atlanta Code of Ordinances).

PART 3

EVALUATION OF PROPOSALS

Part 3; Evaluation of Proposals

All Proposals will be evaluated in accordance with the City's Code of Ordinances and the criteria specified on the Percentage Evaluation Form and considering the information required to be submitted in each Proposal. An Evaluation Committee will review the Proposals in accordance with this RFP.

All Proposals will be evaluated using the following Evaluation Form:

Relative Weight	GRADED ITEM	
	CATEGORIES	SCORE
5%	Executive Summary	
15%	Team Organization	
15%	Experience and Qualifications of Key Personnel; Overall Experience and Performance on Similar Projects	
30%	Project Approach and Management Plan	
10%	Cost Proposal	
15%	Office of Contract Compliance Programs	
10%	Financial Capability	
100%	TOTAL SCORE	

PART 4

REQUIRED SUBMITTALS FORMS

PART 4: REQUIRED SUBMITTAL FORMS

All Respondents, including, but not limited to, corporate entities, limited liability companies, joint ventures, or partnerships, that submit a Proposal or Bid in response to this solicitation must fill out all forms in their entirety, and all forms must be signed, notarized or sealed with the corporate seal (if applicable), as required per each form's instructions.

If Respondent intends to be named as a Prime Contractor(s) with the City, then Respondent must fill out all the forms listed in this solicitation document; otherwise, Respondent may be deemed non-responsive.

Required Submittal (FORM 1)

Illegal Immigration Reform and Enforcement Act Forms (Page 1 of 3)

INSTRUCTIONS TO PROPONENTS:

All Proponents must comply with the Illegal Immigration Reform and Enforcement Act of 2011, O.G.G.A § 13-10-90, et seq. (IIREA). IIREA was formerly known as the Georgia Security and Immigration Compliance Act or GSICA. Proponents must familiarize themselves with IIREA and are solely responsible for ensuring compliance. Proponents must not rely on these instructions for that purpose. They are offered only as a convenience to assist Proponents in complying with the requirements of the City's procurement process and the terms of this RFP.

1. The attached Contractor Affidavit must be filled out COMPLETELY and submitted with the Proposal prior to Proposal due date.
2. The Contractor Affidavit must contain an active Federal Work Authorization Program (E-Verify) User ID Number and Date of Registration.
3. Where the business structure of a Proponent is such that Proponent is required to obtain an Employer Identification Number (EIN) from the Internal Revenue Service, Proponent must complete the Contractor Affidavit on behalf of, and provide a Federal Work Authorization User ID Number issued to, the Proponent itself. Where the business structure of a Proponent does not require it to obtain an EIN, each entity comprising Proponent must submit a separate Contractor Affidavit.

Example 1, ABC, Inc. and XYZ, Inc. form and submit a Proposal as Happy Day, LLC. Happy Day, LLC must enroll in the E-verify program and submit a single Contractor Affidavit in the name of Happy Day, LLC which includes the Federal Work Authorization User ID Number issued to Happy Day, LLC.

Example 2, ABC, Inc. and XYZ, Inc. execute a joint venture agreement and submit a Proposal under the name Happy Day, JV. If, based on the nature of the JV agreement, Happy Day, JV. is not required to obtain an Employer Identification Number from the IRS, the Proposal submitted by Happy Day, JV must include both a Contractor Affidavit for ABC, Inc. and a Contractor Affidavit for XYZ, Inc.

4. All Contractor Affidavits must be executed by an authorized representative of the entity named in the Affidavit.
5. All Contractor Affidavits must be duly notarized.
6. All Contractor Affidavits must be submitted with the Proponent's Response to the RFP.
7. Subcontractor and sub-subcontractor affidavits are not required at the time of proposal submission, but will be required at contract execution or in accordance with the timelines set forth in IIREA.

Required Submittal (FORM 1)

Illegal Immigration Reform and Enforcement Act Forms (Page 2 of 3)

Contractor Affidavit under O.C.G.A. § 13-10-91(b)(1)

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of the City of Atlanta has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Contractor: _____

Name of Project: FC-8791, QEP for the Brownfield Revolving Loan Program

Name of Public Employer: City of Atlanta

I hereby declare under penalty of perjury that the forgoing is true and correct.

Executed on _____, _____, 20__ in _____ (city), _____ (state)

Signature of Authorized Officer or Agent

Printed name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE
ME ON THIS THE ____, DAY OF _____, 20____

NOTARY PUBLIC
My Commission Expires: _____

Required Submittal (FORM 1)

Illegal Immigration Reform and Enforcement Act Forms (Page 3 of 3)

Subcontractor Affidavit under O.C.G.A. § 13-10-91(b)(3)

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with (_____ (name of contractor)) on behalf of the City of Atlanta has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91(b). Additionally, the undersigned subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five business days of receipt. If the undersigned subcontractor receives notice of receipt of an affidavit from any sub-subcontractor that has contracted with a sub-subcontractor to forward, within five business days of receipt, a copy of such notice to the contractor. Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Subcontractor: _____

Name of Project: FC-8791, QEP for the Brownfield Revolving Loan Program

Name of Public Employer: City of Atlanta

I hereby declare under penalty of perjury that the forgoing is true and correct.

Executed on _____, _____, 20__ in _____ (city), _____ (state)

Signature of Authorized Officer or Agent

Printed name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE
ME ON THIS THE ____, DAY OF _____, 20_____

NOTARY PUBLIC
My Commission Expires: _____

Required Submittal (FORM 2)
Contractor Disclosure Affidavit (Page 1 of 7)

DEFINITIONS FOR THE PURPOSES OF THIS DISCLOSURE AFFIDAVIT

“Affiliate”	Any legal entity that, directly or indirectly through one of more intermediate legal entities, controls, is controlled by or is under common control with the Respondent or a member of Respondent.
“Contractor”	Any person or entity having a contract with the city.
“Control”	The controlling entity: (i) possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the controlled entity, whether through the ownership of voting securities or by contract or otherwise; or (ii) has direct or indirect ownership in the aggregate of fifty one (51%) or more of any class of voting or equity interests in the controlled entity.
“Respondent”	Any individual or entity that submits a proposal in response to a solicitation. If the Respondent is an individual, then that individual must complete and sign this Disclosure Affidavit where indicated. If the Respondent is an entity, then an authorized representative of that entity must complete and sign this Disclosure Affidavit where indicated. If the Respondent is a newly formed entity (formed within the last three years), then an authorized representative of that entity must complete and sign this Disclosure Affidavit where indicated, and each of the members or owners of the entity must also complete and sign separate Disclosure Affidavits where indicated.

Instructions: Provide the following information for the entity or individual completing this Statement (the “Individual/Entity”).

A. Basic Information:

1. Name of Individual/Entity responding to this solicitation:
2. Name of the authorized representative for the responding Entity:

B. Individual/Entity Information:

1. Principal Office Address:
2. Telephone and Facsimile Numbers:
3. E-Mail Address:
4. Name and title of Contact Person for the Individual/Entity:
5. Is the individual/Entity authorized to transact business in the state of Georgia?

Yes (Attach Certificate of Authority to transact business in Georgia from Georgia Secretary of State.)

No

Required Submittal (FORM 2)
Contractor Disclosure Affidavit (Page 2 of 7)

C. Questionnaire

If you answer "YES" to any of the questions below, please indicate the name(s) of the person(s), the nature, and the status and/or outcome of the information, indictment, conviction, termination, claim or litigation, the name of the court and the file or reference number of the case, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your Proposal.

 START HERE 

1. Please describe the general development of the Respondent's business during the past ten (10) years, or such shorter period of time that the Respondent has been in business. **[Use a separate sheet, if necessary].**

2. Are there any lawsuits, administrative actions or litigation to which Respondent is currently a party or has been a party (either as a plaintiff or defendant) during the past ten (10) years based upon fraud, theft, breach of contract, misrepresentation, safety, wrongful death or other similar conduct? **YES NO**

3. If "yes" to question number 2, were any of the parties to the suit a bonding company, insurance company, an owner, or otherwise? If so, attach a sheet listing all parties and indicate the type of company involved. **YES NO N/A**

4. Has the Respondent been charged with a criminal offense within the last ten (10) years? **YES NO**

5. Has the Respondent received any citations or notices of violation from any government agency in connection with any of Respondent's work during the past ten (10) years (including OSHA violations)? Describe any citation or notices of violation which Respondent received. **YES NO**

6. Please state whether any of the following events have occurred in the last ten (10) years with respect to the Respondent. If any answer is yes, explain fully the circumstances surrounding the subject matter of the affirmative answer:

(a) Whether Respondent, or Affiliate currently or previously associated with Respondent, has ever filed a petition in bankruptcy, taken any actions with respect to insolvency, reorganization, receivership, moratorium or assignment for the benefit of creditors, or otherwise sought relief from creditors? **YES NO**

(b) Whether Respondent was subject of any order, judgment or decree not subsequently reversed, suspended or vacated by any court permanently enjoining Respondent from engaging in any type of business practice? **YES NO**

(c) Whether Respondent was the subject of any civil or criminal proceeding in which there was a final adjudication adverse to Respondent which directly arose from activities conducted by Respondent. **YES NO**

Required Submittal (FORM 2)
Contractor Disclosure Affidavit (Page 3 of 7)

7. Has any employee, agent or representative of Respondent who is or will be directly involved in the project, in the last ten (10) years:
- (a) directly or indirectly, had a business relationship with the City? **YES** **NO**
- (b) directly or indirectly, received revenues from the City? **YES** **NO**
- (c) directly or indirectly, received revenues from conducting business on City property or pursuant to any contract with the City? **YES** **NO**
8. Whether any employee, agent, or representative of Respondent who is or will be directly involved in the project has or had within the last ten (10) years a direct or indirect business relationship with any elected or appointed City official or with any City employee? **YES** **NO**
9. Whether Respondent has provided employment or compensation to any third party intermediary, agent, or lobbyist to directly or indirectly communicate with any City official or employee, or municipal official or employee in connection with any transaction or investment involving your firm and the City? **YES** **NO**
10. Whether Respondent, or any agent, officer, director, or employee of your organization has solicited or made a contribution to any City official or member, or to the political party or political action committee within the previous five (5) years? **YES** **NO**
11. Has the Respondent or any agent, officer, director, or employee been terminated, suspended, or debarred (for cause or otherwise) from any work being performed for the City or any other Federal, State or Local Government? **YES** **NO**
12. Has the Respondent, member of Respondent's team or officer of any of them (with respect to any matter involving the business practice or activities of his or her employer been notified within the five (5) years preceding the date of this offer that any of them are the target of a criminal investigation, grand jury investigation, or civil enforcement proceeding? **YES** **NO**
13. Please identify any Personal or Financial Relationships that may give rise to a conflict of interest as defined below [*Please be advised that you may be ineligible for award of contract if you have a personal or financial relationship that constitutes a conflict of interest that cannot be avoided*]:
- (a) Personal relationships: executives, board members and partners in firms submitting offers must disclose familial relationships with employees, officers and elected officials of the City of Atlanta. Familial relationships shall include spouse, domestic partner registered under section 94-133, mother, father, sister, brother, and natural or adopted children of an official or employee. **YES** **NO**
- (b) Financial relationships: Respondent must disclose any interest held with a City employee or official, or family members of a City employee or official, which may yield, directly or indirectly, a monetary or other material benefit to the Respondent or the Respondent's family members. Please describe: **YES** **NO**

Required Submittal (FORM 2)
Contractor Disclosure Affidavit (Page 4 of 7)

D. REPRESENTATIONS

Anti-Lobbying Provision. All respondents, including agents, employees, representatives, lobbyists, attorneys and proposed partner(s), subcontractor(s) or joint venturer(s), will refrain, under penalty of the respondent's disqualification, from direct or indirect contact for the purpose of influencing the selection or creating bias in the selection process with any person who may play a part in the selection process.

Certification of Independent Price Determination/Non-Collusion. Collusion and other anticompetitive practices among Proponents are prohibited by city, state and federal laws. All Respondents shall identify a person having authority to sign for the Respondent who shall certify, in writing, as follows:

“I certify that this bid proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting an bid or offer for the same supplies, labor, services, construction, materials or equipment to be furnished or professional or consultant services, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of city, state and federal law and can result in fines, prison sentences, and civil damages awards. By signing this document, I agree to abide by all conditions of this solicitation and offer and certify that I am authorized to sign for this Respondent.”

Certify Satisfaction of all Underlying Obligations. (If Applicable) If a Contract is awarded through this solicitation, then such Contractor should know that before final payment is made to a Contractor by the City, the Contractor shall certify to the City in writing, in a form satisfactory to the City, that all subcontractors, materialmen suppliers and similar firms or persons involved in the City contract have been paid in full at the time of final payment to the Contractor by the City or will be paid in full utilizing the monies constituting final payment to the Contractor.

Confidentiality . Details of the proposals will not be discussed with other respondents during the selection process. Respondent should be aware, however, that all proposals and information submitted therein may become subject to public inspection following award of the contract. Each respondent should consider this possibility and, where trade secrets or other proprietary information may be involved, may choose to provide in lieu of such proprietary information, an explanation as to why such information is not provided in its proposal. However, the respondent may be required to submit such required information before further consideration.

Equal Employment Opportunity (EEO) Provision. All bidders or Proponents will be required to comply with sections 2-1200 and 2-1414 of the City of Atlanta Code of Ordinances, as follows: During the performance of the agreement, the Contractor agrees as follows:

- a. The Contractor shall not discriminate against any employee, or applicant for employment, because of race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, disability, or political affiliation. As used here, the words "shall not discriminate" shall mean and include without limitation the following:

Required Submittal (FORM 2)
Contractor Disclosure Affidavit (Page 5 of 7)

Recruited, whether by advertising or other means; compensated, whether in the form of rates of pay, or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; demoted; downgraded; transferred; laid off; and terminated.

The Contractor agrees to and shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officers setting forth the provisions of the EEO clause.

- b. The Contractor shall, in all solicitations or advertisements for employees, placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, disability, or political affiliation.
- c. The Contractor shall send to each labor union or representative of workers with which the Contractor may have a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the Contractor's commitments under the equal employment opportunity program of the City of Atlanta and under the Code of Ordinances and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor shall register all workers in the skilled trades who are below the journeyman level with the U.S. Bureau of Apprenticeship and Training.
- d. The Contractor shall furnish all information and reports required by the contract compliance officer pursuant to the Code of Ordinances, and shall permit access to the books, records, and accounts of the Contractor during normal business hours by the contract compliance officer for the purpose of investigation so as to ascertain compliance with the program.
- e. The Contractor shall take such action with respect to any subcontractor as the city may direct as a means of enforcing the provisions of paragraphs (a) through (h) herein, including penalties and sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in or is threatened with litigation as a result of such direction by the city, the city will enter into such litigation as is necessary to protect the interest of the city and to effectuate the equal employment opportunity program of the city; and, in the case of contracts receiving federal assistance, the Contractor or the city may request the United States to enter into such litigation to protect the interests of the United States.
- f. The Contractor and its subcontractors, if any, shall file compliance reports at reasonable times and intervals with the city in the form and to the extent prescribed by the contract compliance officer. Compliance reports filed at such times directed shall contain information as to employment practices, policies, programs and statistics of the Contractor and its subcontractors.

Required Submittal (FORM 2)
Contractor Disclosure Affidavit (Page 6 of 7)

- g. The Contractor shall include the provisions of paragraphs (a) through (h) of this equal employment opportunity clause in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor.
- h. A finding, as hereinafter provided, that a refusal by the Contractor or subcontractor to comply with any portion of this program, as herein provided and described, may subject the offending party to any or all of the following penalties:
 - (1) Withholding from the Contractor in violation all future payments under the involved contract until it is determined that the Contractor or subcontractor is in compliance with the provisions of the contract;
 - (2) Refusal of all future bids for any contract with the City of Atlanta or any of its departments or divisions until such time as the Contractor or subcontractor demonstrates that there has been established and there shall be carried out all of the provisions of the program as provided in the Code of Ordinances;
 - (3) Cancellation of the public contract;
 - (4) In a case in which there is substantial or material violation of the compliance procedure herein set forth or as may be provided for by the contract, appropriate proceedings may be brought to enforce those provisions, including the enjoining, within applicable law, of Contractors, subcontractors or other organizations, individuals or groups who prevent or seek to prevent directly or indirectly compliance with the policy as herein provided.

Prohibition on Kickbacks or Gratuities/Non-Gratuity. The undersigned acknowledges the following prohibitions on kickbacks and gratuities:

- a. It is unethical for any person to offer, give or agree to give any employee or former employee a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefor.
- b. It is unethical for any employee or former employee to solicit, demand, accept or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefor.
- c. It is also unethical for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

Required Submittal (FORM 2)
Contractor Disclosure Affidavit (Page 7 of 7)

Declaration

Under penalty of perjury, I declare that I have examined this Disclosure Affidavit and Questionnaire and all attachments to it, if applicable, and, to the best of my knowledge and belief all statements contained herein and in any attachments, if applicable, are true, correct and complete.

I certify that this offer is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting an offer for the same supplies, services, construction, or professional or consultant services, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of city, state and federal law and can result in fines, prison sentences, and civil damages awards. I agree to abide by all conditions of this solicitation and offer and certify that I am authorized to sign for this Respondent.

Sign here if you are an individual:

Printed Name: _____

Signature: _____

Date: _____, 20__

Subscribed and sworn to or affirmed by _____ **(name) this** ____ **day of** _____, 20__.

Notary Public of _____ (state)
My commission expires: _____

Sign here if you are an authorized representative of a responding entity or partnership:

Printed Name of Entity or Partnership: _____

Signature of authorized representative: _____

Title: _____

Date: _____, 20__

Subscribed and sworn to or affirmed by _____ **(name), as the**

(title) of _____ **(entity or partnership name)**
this ____ **day of** _____, 20__.

Notary Public of _____ (state)
My commission expires: _____

Required Submittal (FORM 3)

Proponent Financial Disclosure (Page 1 of 5)

Instructions: It is necessary for the City to evaluate, verify, and understand the Proponent's financial capability and stability to undertake and perform the Services contemplated in this Solicitation. To accomplish this task, the Proponent must provide accurate and legible financial disclosures to the City as requested below.

A "Proponent" is an individual, entity or partnership submitting a proposal or Proposal in response to a Solicitation.

1. If the Proponent is an individual, financial disclosures for that individual must be provided.
2. If the Proponent is an entity or partnership, financial disclosures for that entity or partnership must be provided.
3. If the Proponent is a newly formed entity or partnership (formed within the last three years), financial disclosures for that entity or partnership must be provided together with full financial disclosure from the entity's or partnership's owners. Financial Disclosure includes a full response to all questions and requests for documentation listed in this Form.

For example, if the Proponent is a newly formed entity (formed within the last three years) made up of two separate entities (e.g., a majority interest owner and a minority interest owner), then financial disclosure is required from the Proponent entity, and financial disclosure is also required from each of the two owners (majority entity owner and minority entity owner) as well.

The Proponent (and its owners, if applicable) must submit hard copies of all financial disclosures in response to this Form.

Required Submittal (FORM 3)

Proponent Financial Disclosure (Page 2 of 5)

Part A - General Information:

Name of the Proponent: _____

Name of individual, entity or
partnership completing this Form: _____

Relationship of individual, entity
or partnership completing this Form
to the Proponent: _____

Contact information of individual,
entity or partnership completing
this Form: _____

Address _____

Phone Number(s) _____

Email: _____

Required Submittal (FORM 3)

Proponent Financial Disclosure (Page 3 of 5)

Part B: Financial Information:

1. The Proponent, and its owners, if applicable, should demonstrate its financial capability and stability by selecting and providing documentation from one of the following three groups of requests (see below). Please circle which group, (a), (b), or (c), is selected and provide the supporting documentation with the proposal/Proposal.
 - (a) Financial statements for the three (3) most recent consecutive fiscal years, audited by a Certified Public Accountant (“CPA”), including:
 - (i) Income Statement;
 - (ii) Balance Sheet; and
 - (iii) Statement of Cash Flows.
 - (b) Financial statements for the three (3) most recent consecutive fiscal years, either reviewed or compiled by a Certified Public Accountant (“CPA”), including:
 - (i) Income Statement;
 - (ii) Balance Sheet; and
 - (iii) Satisfactory proof of Proponent’s ability to obtain a Performance Bond for the amount described in Appendix B, if applicable.
 - (c) Unaudited, self-prepared financial statements for the three (3) most recent consecutive fiscal years, including:
 - (i) Income Statement;
 - (ii) Balance Sheet;
 - (iii) Satisfactory proof of Proponent’s ability to obtain a Performance Bond for the amount described in Appendix B, if applicable;
 - (iv) Two (2) banks or other institutional lenders’ references; and
 - (v) Dunn and Bradstreet report for the last two (2) years.

Required Submittal (FORM 3)

Proponent Financial Disclosure (Page 4 of 5)

2. Fill in the blanks below to provide a summary of all of the Proponent's assets and liabilities for the three (3) most recent years (calculated from the date of the end of the fiscal year).

ALL FIGURES BELOW MUST BE REPRESENTED IN U.S. CURRENCY (\$).

Standard currency of Proponent's Financial Statements: _____

The exchange rate used: _____ = US \$ _____

Most recent three (3) years

	<u>Year: 2013</u> (Thousands)	<u>Year: 2014</u> (Thousands)	<u>Year: 2015</u> (Thousands)
Current Assets	\$.....	\$.....	\$.....
Current Liabilities	\$.....	\$.....	\$.....
Property & Equip.	\$.....	\$.....	\$.....
Working Capital	\$.....	\$.....	\$.....
Sales/ Revenue	\$.....	\$.....	\$.....
Total Assets	\$.....	\$.....	\$.....
Total Liabilities	\$.....	\$.....	\$.....
Interest Charges	\$.....	\$.....	\$.....
Net Income	\$.....	\$.....	\$.....
Net-Worth	\$.....	\$.....	\$.....

3. Do you plan to use or require an open line of credit for the project? Yes or No.

If yes, the Proponent must provide the source of the line of credit on bank letterhead for the bank providing the line of credit. The bank contact information must include: contact name, title, address, telephone, fax and e-mail address.

Required Submittal (FORM 3)

Proponent Financial Disclosure (Page 5 of 5)

Declaration

Under penalty of perjury, I declare that I have examined this Affidavit Disclosure form and all attachments to it, if applicable, and, to the best of my knowledge and belief, and all statements contained in it and all attachments, if applicable, are true, correct and complete.

Whether you are an individual executing this form or you are an authorized representative of an entity executing this form, the person signing below must sign or affirm in the presence of a Notary Public. The Notary Public's signature and seal must be provided, together with the date of the notarial act.

Sign here if you are an individual:

Printed Name: _____

Signature: _____

Date: _____, 20____

Subscribed and sworn to or affirmed by _____ (name) this _____ day of _____, 20____.

Notary Public of _____ (state)

My commission expires: _____

Sign here if you are an authorized representative of a responding entity:

Printed Name of Entity: _____

Signature of authorized representative: _____

Title: _____

Date: _____, 20____.

Subscribed and sworn to or affirmed by _____ (name), as the _____ (title) of _____ (entity name) this _____ day of _____, 20____.

Notary Public of _____ (state)

My commission expires: _____

Required Submittal (FORM 4.1)

Certification of Insurance Ability Instructions:

Proponents **MUST** submit a **completed copy of this form executed by their insurance company**. Failure to submit completed form will result in the Proponent being deemed non-responsive.

I, _____ [*insert an individual's name*], on behalf of _____ [*insert insurance company full name*], a _____ [*insert type of entity LLC, LLP, corporation, etc.*](“**Insurer**”), hereby represent and certify each of the following to the City of Atlanta, a municipal corporation of the State of Georgia (“**City**”) on this _____ day of _____, 20____ [*insert date*]:

- (a) Insurer is licensed by the Insurance and Safety Fire Commissioner of the State of Georgia to transact insurance business in the State of Georgia;
- (b) Insurer has reviewed the Agreement attached to the solicitation for Project Number FC-8791, OEP for the Brownfield Revolving Loan Program, (“**Project**”) and its corresponding **Appendix B for Insurance and Bonding Requirements**;
- (c) Insurer certifies that if, as of the date written above, _____ (“**Proponent**”) was selected as the successful Proponent for the Project, Insurer would provide insurance to Proponent for this Project in accordance with the terms set forth in the corresponding **Appendix B for Insurance Requirements**; and

PLEASE NOTE: If this Form 4.1 is executed by an Attorney-in-Fact, then Insurer must attach a copy of a duly executed Power-of-Authority evidencing such authority in addition to correctly completing this Form 4.1. If Proponent is unable to provide City with insurance that comply with the terms of the corresponding Appendix for Insurance Requirements within ten (10) days of receiving notice of intent to award the Project from the City, the City may, in its sole discretion, retain Proponent’s security submitted with its offer and/or disqualify Proponent from further consideration for the award of the Agreement.

By executing this certification, Insurer represents that all of the information provided by Insurer herein is true and correct as of the date set forth above.

Insurer: [*insert company name on line provided below*]

Authorized Signatory

By: _____

Corporate Secretary/Assistant Secretary
(Seal)

Print Name: _____

Title: _____

Required Submittal (FORM 5)

Acknowledgment of Addenda

Proponents should sign below and return this form with their Proposal(s) to the Department of Procurement, 55 Trinity Avenue, City Hall South, Suite 1900, Atlanta, Georgia 30303, as acknowledgment of receipt of certain Addenda.

This is to acknowledge receipt of the following **Addenda** for FC-8791, QEP for the Brownfield Revolving Loan Program _____:

1. _____;
2. _____;
3. _____; and
4. _____.

Dated the _____ day of _____, 20__.

Corporate Proponent:
[Insert Corporate Name]

By: _____

Print Name: _____

Title: _____

Corporate Secretary/Assistant
Secretary (Seal)

Non-Corporate Proponent:
[Insert Proponent Name]

By: _____

Print Name: _____

Title: _____

Notary Public (Seal)
My Commission Expires: _____

Required Submittal (FORM 6)

Proponent Contact Directory¹

NAME	POSITION/TITLE	MAILING ADDRESS	OFFICE PHONE	CELL PHONE	EMAIL ADDRESS AND FAX NUMBER

¹ The purpose of the Proponent Contact Directory is to provide the City with a centralized, easily identified source of important contacts and other information regarding each of the business entities constituting a Proponent. This Proponent Contact Directory should include the names, positions/titles, firms, mailing addresses, phone and fax numbers and e-mail addresses for each of the following as it pertains to each of the firms in a Proponent's team:

1. At least two (2) individuals, one primary the other(s) secondary, authorized to represent the firm for purposes of this RFP; and
2. Proponent Service Provider Key Personnel (as appropriate) listed in the Services Agreement included in this RFP at Part 5.

Required Submittal (FORM 7)

Reference List

Each Proponent must provide a list of at least three (3) references using the below-referenced format. The City is interested in reviewing references that are able to attest to a Proponent's performance ability and credibility in a particular industry or trade.

Proponent's Name: _____

Reference: Name
 Address
 City, State, Zip
 Phone
 Fax

Project Title:

Contact Person: _____
Direct Telephone: _____
Email Address: _____

Date(s) of Project: _____

Description of Services:

Total Amount of Contract Including Change Orders:

Proponent's Role and Responsibilities:

Current Completion Status:

(Use the Same Format to Provide the Additional References)

Required Submittal (FORM 9)

Required Submittal Checklist

The following submittals shall be completed and submitted with each Proposal see table below **“Required Proposal Submittal Check Sheet.”** Please verify that these submittals are in the envelope before it is sealed. *Disclaimer:* It is each Proponents sole responsibility to ensure that their proposal to the City is inclusive of all required submittal documents outlined on the below-referenced checklist; as well as within other parts of the solicitation document.

Submit one (1) Original Proposal, signed and dated, and seven (7) complete copies of the Original Proposal including all required attachments.

In addition to the hard copy submissions, each Proponent shall submit two (2) digital versions of its Proposal Submission in Adobe Portable Document Format (“PDF”) on compact disk (CDs). CD One (1) version should be a duplicate of the hard copy of the Proposal with no deviations in order or layout of the hard copy proposal. CD Two (2) version should be a redacted version of the hard copy Proposal Submission. Please refer to the Georgia Open Records Acts (O.C.G.A. § 50-18-72) for information not subject to public disclosure.

The City assumes no liability for differences in information contained in the Proponent’s printed Proposal Submission and that contained on the CDs. In the event of a discrepancy, the City will rely upon the information contained in the Proponent’s printed material (Hard Copy). Each CD should be labeled with the Project Number, Project Name, and the CD Number.

	Required Proposal Submittal Check Sheet	Check <input type="checkbox"/>
1	Volume I – Informational Proposal: <ul style="list-style-type: none"> <input type="checkbox"/> Executive Summary <input type="checkbox"/> Team Organization <input type="checkbox"/> Experience and Qualifications of Key Personnel <input type="checkbox"/> Overall Experience, Qualifications and Performance on Similar Projects <input type="checkbox"/> Project Approach and Management Plan 	
2	Volume II - Office of Contract Compliance (Appendix A Required Submittals Forms 1-3, Letter of Intent, and Diversity Firm Termination/Substitution Acknowledgement Form)	
3	Volume II – All Required Procurement Documents (if any of the required submittal documents are not submitted or incomplete within your Proposal submittal package, your firm may be deemed non-responsive). <u>Required Submittals include but are not limited to:</u> <ul style="list-style-type: none"> <input type="checkbox"/> Form 1; Illegal Immigration Reform and Enforcement Act <input type="checkbox"/> Form 2; Contractor Disclosure Form <input type="checkbox"/> Form 3; Proponent Financial Disclosure <input type="checkbox"/> Form 4.1; Certification of Insurance Ability <input type="checkbox"/> Form 4.2; N/A <input type="checkbox"/> Form 5; Acknowledgement of Addenda <input type="checkbox"/> Form 6; Proponent Contact Directory <input type="checkbox"/> Form 7; Reference List <input type="checkbox"/> Form 8; N/A <input type="checkbox"/> Form 9; Required Submittal Checklist <input type="checkbox"/> Statement of Qualifications <input type="checkbox"/> Authority to Transact Business in the State of Georgia 	
3A	Separate Sealed Envelope <input type="checkbox"/> Cost Proposal	
4	Proponent’s Official Company Name: Company Physical Address:	
5	President/Vice President/Owner Name: Title: _____ Office Telephone Number: _____ Direct Cell Telephone Number: _____ Email Address: _____	
6	Primary Point-of-Contact Concerning RFP: _____ Title: _____ Office Telephone Number: _____ Direct Cell Telephone Number: _____ Email Address: _____	

PART 5

DRAFT SERVICES AGREEMENT

SERVICES AGREEMENT; CONTRACT NO. FC-8791

**Qualified Environmental Professional (QEP) for the Brownfield Revolving Loan Fund
Program**

This Services Agreement (“Agreement”) is entered into and effective as of _____ (the “Effective Date”) between the City of Atlanta (“City”) and the service provider (“Service Provider”) set forth below.

Contract Name: Qualified Environmental Professional (QEP) for the Brownfield Revolving Loan Fund Program	Contract No. FC-8791
Service Provider	City of Atlanta
Name:	Using Agency: Department of Planning and Community Development
Address:	Address:
Phone:	Phone:
Fax:	Fax:
Authorized Representative:	Authorized Representative:

1. Background.

1.1 City desires to obtain from Service Provider the services (“Services”) described generally on **Exhibit A** attached.

1.2 The total not to exceed compensation amount payable by City during the initial term of this Agreement is (“Maximum Payment Amount”). More detailed terms concerning compensation payable under this Agreement are set forth on **Exhibit A**.

2. Term.

2.1 Initial Term. The initial term of this Agreement will be for five (5) years. This Agreement shall commence on the Effective Date and end on [_____]. The initial term of the Agreement and any renewal term(s) are collectively referred to as the “Term”.

2.2 Renewal Terms. City shall have the right in its sole discretion to renew this Agreement for two (2) additional one (1) year terms according to the following procedure:

2.2.1 If City desires to exercise an option to renew, it will submit legislation authorizing such renewal for consideration by City’s Council and Mayor prior to the expiration of the prior Term. The legislation will establish that the date of such renewal will be the day immediately following the expiration day of the prior Term;

2.2.2 If such legislation is enacted, within five (5) days of such enactment, City will notify Service Provider of such renewal, at which time Service Provider shall be bound to

provide Services during such renewal Term, without the need for the Parties to execute any further documents evidencing such renewal, it being acknowledged by Service Provider that its initial execution of this Agreement is deemed its agreement to continue to provide Services during any renewal Term.

3. Interpretation.

3.1 All capitalized terms used in this Agreement shall have the meanings ascribed to them in the Contract Documents and on **Exhibit B** attached hereto.

3.2 If there is a conflict between any of the Contract Documents, precedence shall be given in the following order:¹

1. Agreement
2. Exhibit A – Services and Additional Compensation Terms
3. Exhibit B - Definitions
4. Exhibit D - City Security Policies
5. Exhibit E - Dispute Resolution Procedures
6. Appendix A - Office of Contract Compliance Requirements
7. Appendix B - Insurance and Bonding Requirements
8. Additional Contract Documents

4. Authorization. If applicable, this Agreement is authorized by legislation adopted by City which is attached as **Exhibit C**.

5. Services.

5.1 Description of Services. Service Provider agrees to provide to City the Services per this Agreement. Exhibit A sets forth the following: (a) the period of time during which the Services will be provided; (b) a description of the Services to be provided; (c) the amounts payable and payment schedule for the Services; and (d) any additional provisions applicable to the Services. If any services to be performed are not specifically included on Exhibit A, but are reasonably necessary to accomplish the purpose of this Agreement, they will be deemed to be implied in the scope of the Services to the same extent as if specifically described on **Exhibit A**.

5.2 Resources. Unless otherwise expressly provided in this Agreement, all equipment, software, Facilities and Service Provider Personnel required for the proper performance of Services shall be furnished by and be under the control of Service Provider. Service Provider shall be responsible, at its sole cost, for procuring and using such resources in proper and qualified and high quality working and performing order.

¹ For purposes of this provision, authorized changes to an item listed in the order of precedence pursuant to a Change Document take precedence over the particular item changed.

5.3 Change Documents.

5.3.1 This section will govern changes to the Agreement, whether such changes involve an increase in the Maximum Payment Amount or not. Changes in the Services or other aspects of this Agreement shall be made by written document (“Change Document” or “Unilateral Change Document”).² All changes shall be implemented pursuant to this subsection (the “Change Document Procedures”) and any Applicable Law.

5.3.2 Potential Change Documents that may be issued concerning this Agreement include, but are not limited to:

(a) Change Documents to the Agreement involving an increase to the Maximum Payment Amount executed between City and Service Provider which may or may not require legislative approval under Code Section 2-1292;

(b) Change Documents to the Agreement involving no increase to the Maximum Payment Amount, changes in the value of the Charges or changes in the terms or amounts of compensation under the Maximum Payment Amount executed between City and Service Provider pursuant to Code Section 2-1292(d); and

(c) Unilateral Change Documents to the Agreement issued by City pursuant to Code Section 2-1292(d) involving no increase to the Maximum Payment Amount, changes in the value of the Charges or changes in the terms or amounts of compensation under the Maximum Payment Amount.

Change Documents that do not involve an increase in the Maximum Payment Amount will be executed pursuant to Code Section 2-1292(d) either bilaterally or unilaterally by City.

5.3.3 City may propose a change in the Services or other aspects of this Agreement by delivering written notice to Service Provider describing the requested change (“Change Request”). Within ten (10) days of receipt of City’s Change Request, Service Provider shall evaluate it and submit a written response (“Proposed Change Document”). A Change Request which involves the reduction of Services shall be effective upon written notice to Service Provider.

5.3.4 Service Provider may, without receiving any Change Request, on its own submit a Proposed Change Document describing its own proposed requested change to the Agreement.

5.3.5 Each Proposed Change Document shall include the applicable schedule for implementing the proposed change, any applicable changes to the Charges (either increased

² Change Documents may assume numerous multiple forms and titles depending on the nature of the change involved (e.g. Change Order, Unilateral Change Order, Amendment, Contract Modification, Renewal, etc.).

or decreased) and all other information applicable to the proposed change. Each Proposed Change Document shall constitute an offer by Service Provider and shall be irrevocable for a period of sixty (60) days. City shall review and may provide Service Provider with comments regarding a Proposed Change Document, and Service Provider shall respond to such comments, if any. A Proposed Change Document from Service Provider will become effective only when executed by an authorized representative of City.

5.3.6 City may propose any changes to the Agreement, including, but not limited to, changes that it contends do not involve an increase to the Maximum Payment Amount, a change in the Charges or changes in the terms or amounts of compensation under the Maximum Payment Amount, and Service Provider shall, in good faith, evaluate such proposed Change Request. If City and Service Provider are able to reach agreement on such Change Request, each will execute a Change Document concerning such Change Request pursuant to Code Section 2-1292(d). Nothing in this Agreement shall, in the event of disagreement between City and Service Provider concerning a proposed Change Request, or otherwise, prohibit City from issuing a Unilateral Change Document to Service Provider, pursuant to Code Section 2-1292(d), and City and Service Provider agree to resolve their dispute pursuant to the Dispute Resolution Procedures set forth in **Exhibit E**. During the pendency of such dispute, Service Provider shall continue to perform the Services, as changed by such Unilateral Change Document.

5.4 Suspension of Services. City may, by written notice to Service Provider, suspend at any time the performance of any or all of the Services to be performed under this Agreement. Upon receipt of a suspension notice, Service Provider must, unless the notice requires otherwise, (a) immediately discontinue suspended Services on the date and to the extent specified in the notice; (b) place no further orders or subcontracts for materials, services or facilities with respect to suspended Services, other than to the extent required in the notice; and (c) take any other reasonable steps to minimize costs associated with the suspension.

6. Service Provider's Obligations.

6.1 Service Provider Personnel. Service Provider shall be responsible, at its own cost, for all recruiting, hiring, training, educating and orienting of all Service Provider Personnel, all of whom shall be fully qualified and shall be authorized under Applicable Law to perform the Services.

6.2 Service Provider Authorized Representative. Service Provider designates the Service Provider Authorized Representative named on page 1 of this Agreement ("Service Provider Authorized Representative") and, such Person shall: (a) be a project executive and employee within Service Provider's organization, with the information, authority and resources available to properly coordinate Service Provider's responsibilities under this Agreement; (b) serve as primary interface and the single-point of communication for the provision of Services by Service Provider; (c) have day-to-day responsibility and authority to address issues relating to the Services; and (d) devote adequate time and efforts to managing and coordinating the Services.

6.3 Qualifications. Upon City's reasonable request, Service Provider will make available to City all relevant records of the education, training, experience, qualifications, work history and performance of Service Provider Personnel.

6.4 Removal of Personnel Assigned to City Contract. Within a reasonable period, but not later than seven (7) days after Service Provider's receipt of notice from City that the continued assignment to the City Contract of any Service Provider Personnel is not in the best interests of City, Service Provider shall remove such Service Provider Personnel from City's Contract. Service Provider will not be required to terminate the employment of such individual. Service Provider will assume all costs associated with the replacement of any Service Provider Personnel. In addition, Service Provider agrees to remove from City's Contract any Service Provider Personnel who has engaged in willful misconduct or has committed a material breach of this Agreement immediately after Service Provider becomes aware of such misconduct or breach.

6.5 Subcontracting. Unless specifically authorized in this Agreement, Service Provider will not enter into any agreement with or delegate or subcontract any Services to any Third Party without the prior written approval of City, which City may withhold in its sole discretion. If Service Provider subcontracts any of the Services (after having first obtained City's prior written approval, in its sole discretion), Service Provider shall: (i) be responsible for the performance of Services by the subcontractors; (ii) remain City's sole point of contact for the Services; and (iii) be responsible for the payment to any subcontractors.

6.6 Key Service Provider Personnel and Key Subcontractors.

6.6.1 The following Persons are identified by Service Provider as Key Service Provider Personnel under this Agreement:

(a)

6.6.2 The following Persons are identified by Service Provider as Key Subcontractors under this Agreement:

(a)

6.6.3 Service Provider shall not transfer, reassign or replace any Service Provider Key Personnel or Key Subcontractor, except as a result of retirement, voluntary resignation, involuntary termination for cause in Service Provider's sole discretion, illness, disability or death, during the term of this Agreement without prior written approval from City.

6.7 Conflicts of Interest. Service Provider shall immediately notify City in writing, specifically disclosing any and all potential or actual conflicts of interests, which arise or may arise during the execution of its work in the fulfillment of the requirements of the Agreement. City shall make a written determination as to whether a conflict of interest actually exists and the actions to be taken to resolve the conflict of interest.

6.8 Commercial Activities. Neither Service Provider nor any Service Provider Personnel shall establish any commercial activity, issue concessions, or permits of any kind to third Parties for establishing any activities on City property.

7. City's Authorized Representative.

7.1 Designation and Authority. City designates the City Authorized Representative named on page 1 of this Agreement (the "City Authorized Representative") who shall: (a) serve as primary interface and the single-point of communication for the provision of Services; (b) have day-to-day responsibility to address issues relating to this Agreement; and (c) to the extent provided under the Code, have the authority to execute any additional documents or changes on behalf of City.

7.2 City's Right to Review and Reject. Any Service or other document or item to be submitted or prepared by Service Provider hereunder shall be subject to the review of the City Authorized Representative. The City Authorized Representative may disapprove, if in the City Authorized Representative's sole opinion the Service, document or item is not in accordance with the requirements of this Agreement or sound professional service principles, or is impractical, uneconomical or unsuited in any way for the purposes for which the Service, document or item is intended. If any of the said items or any portion thereof are so disapproved, Service Provider shall revise the items until they meet the approval of the City Authorized Representative. However, Service Provider shall not be compensated under any provision of this Agreement for repeated performance of such disapproved items.

8. Payment Procedures.

8.1 General. City will not be obligated to pay Service Provider any amount in addition to the Charges for Service Provider's provision of the Services. Service Provider Personnel hourly rates, reimbursable expenses and other compensable items under this Agreement are set forth on **Exhibit A**.

8.2 Invoices. Service Provider shall prepare and submit to City invoices for payment of all Charges in accordance with **Exhibit A**. Each invoice shall be in such detail and in such format as City may reasonably require. To the extent not set forth on **Exhibit A**, Service Provider shall invoice City monthly for Services rendered.

8.3 Taxes. The Charges are inclusive of all taxes, levies, duties and assessments ("Taxes") of every nature due in connection with Service Provider's performance of the Services. Service Provider is responsible for payment of such Taxes to the appropriate governmental authority. If Service Provider is refunded any Tax payments made relating to the Services, Service Provider shall remit the amount of such refund to City within forty-five (45) days of receipt of the refund.

8.4 Payment. City shall endeavor to pay all undisputed Charges within thirty (30) days of the date of the receipt by City of a properly rendered and delivered invoice. Notwithstanding the forgoing, unless otherwise provided on **Exhibit A**, all undisputed Charges on an invoice properly rendered and delivered shall be payable within forty-five (45) days of the date of receipt by City.

8.5 Disputed Charges. If City in good faith disputes any portion of an invoice, City may withhold such disputed amount and notify Service Provider in writing of the basis for any dispute within thirty (30) days of the later of: (a) receipt of the invoice; or (b) discovery of the basis for any such dispute. City and Service Provider agree to use all reasonable commercial efforts to resolve any disputed amount in any invoice within thirty (30) days of the date City notifies Service Provider of the disputed amount.

8.6 No Acceptance of Nonconforming Work. No payment of any invoice or any partial or entire use of the Services by City constitutes acceptance of any Services.

8.7 Payment of Other Persons. Prior to the issuance of final payment from City, Service Provider shall certify to City in writing, in a form satisfactory to City, that all subcontractors, materialmen, suppliers and similar firms or persons engaged by Service Provider in connection with this Agreement have been paid in full or will be paid in full utilizing the monies constituting final payment to Service Provider.

9. Service Provider Representations and Warranties. As of the Effective Date and continuing throughout the Term, Service Provider warrants to City that:

9.1 Authority. Service Provider is duly incorporated or formed, validly existing and is in good standing under the laws of the state in which it is incorporated or formed, and is in good standing in each other jurisdiction where the failure to be in good standing would have a material adverse affect on its business or its ability to perform its obligations under this Agreement. Service Provider has all necessary power and authority to enter into and perform its obligations under this Agreement, and the execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorized by all necessary actions on its part. This Agreement constitutes a legal, valid and binding obligation of Service Provider, enforceable against it in accordance with its terms. No action, suit or proceeding in which Service Provider is a party that may restrain or question this Agreement or the provision of Services by Service Provider is pending or threatened.

9.2 Standards. The Services will be performed in a workmanlike manner in accordance with the standards imposed by Applicable Law and the practices and standards used in well managed operations performing services similar to the Services.

9.3 Conformity. The development, creation, delivery, provision, implementation, testing, maintenance and support of all Services shall conform in all material respects to the description of such Services in the Contract Documents.

10. Compliance with Laws.

10.1 General. Service Provider and its subcontractors will perform the Services in compliance with all Applicable Laws.

10.2 City's Socio-Economic Programs. Service Provider shall comply with Appendix A and any applicable City socio-economic programs, including, but not limited to, City's EBO and EEO Programs, and requirements set forth in the Code in the performance of the Services.

10.3 Consents, Licenses and Permits. Service Provider will be responsible for, and the Charges shall include the cost of, obtaining, maintaining and complying with, and paying all fees and taxes associated with, all applicable licenses, authorizations, consents, approvals and permits required of Service Provider in performing Services and complying with this Agreement.

11. Confidential Information.

11.1 General. Each Party agrees to preserve as strictly confidential all Confidential Information of the other Party for two (2) years following the expiration or termination of this Agreement; provided, however, that each Party's obligations for the other Party's Confidential Information that constitutes trade secrets pursuant to Applicable Laws will continue for so long as such Confidential Information continues to constitute a trade secret under Applicable Law. Any Confidential Information that may be deemed Sensitive Security Information by the Department of Homeland Security or any other similar Confidential Information related to security will be considered trade secrets. Upon request by City, Service Provider will return any trade secrets to City. Each Party agrees to hold the Confidential Information of the other in trust and confidence and will not disclose it to any Person, or use it (directly or indirectly) for its own benefit or the benefit of any other Person other than in the performance of its obligations under this Agreement.

11.2 Disclosure of Confidential Information or Information Other Party Deems to be Confidential Information. Each Party will be entitled to disclose any Confidential Information if compelled to do so pursuant to: (i) a subpoena; (ii) judicial or administrative order; or (iii) any other requirement imposed upon it by Applicable Law. Prior to making such a disclosure, to the extent allowed pursuant to Applicable Law, each Party shall provide the other with thirty six (36) hours prior notice by facsimile of its intent to disclose, describing the content of the information to be disclosed and providing a copy of the pleading, instrument, document, communication or other written item compelling disclosure or, if not in writing, a detailed description of the nature of the communication compelling disclosure with the name, address, phone number and facsimile number of the Person requesting disclosure. Should the non-disclosing Party contest the disclosure, it must: a) seek a protective order preventing such disclosure; or b) intervene in such action compelling disclosure, as appropriate. This Section shall be applicable to information that one Party deems to be Confidential Information but the other Party does not.

12. Work Product.

12.1 Except as otherwise expressly provided in this Agreement, all reports, information, data, specifications, computer programs, technical reports, operating manuals and similar work or other documents, all deliverables, and other work product prepared or authored by Provider or any of its contractors exclusively for the City under this Agreement, and all intellectual property rights associated with the foregoing items (collectively, the "Work Product") shall be and remain the sole and exclusive property of the City. Any of Provider's or its contractors' works of authorship comprised within the Work Product (whether created alone or in concert with City or Third Party) shall be deemed to be "works made for hire" and made in the course of services rendered and, whether pursuant to the provisions of Section 101 of the U.S. Copyright Act or other Applicable Law, such Work Product shall belong exclusively to City. Provider and its contractors grant the City a non-exclusive, perpetual, worldwide, fully

paid up, royalty-free license to all Work Product not exclusively developed for City under this Agreement.

12.2 If any of the Work Product is determined not to be a work made for hire, Service Provider assigns to City, worldwide and in perpetuity, all rights, including proprietary rights, copyrights, and related rights, and all extensions and renewals of those rights, in the Work Product. If Service Provider has any rights to the Work Product that cannot be assigned to City, Service Provider unconditionally and irrevocably waives the enforcement of such rights and irrevocably grants to City during the term of such rights an exclusive, irrevocable, perpetual, transferable, worldwide, fully paid and royalty-free license, with rights to sublicense through multiple levels of sublicensees, to reproduce, make, have made, create derivative works of, distribute, publicly perform and publicly display by all means, now known or later developed, such rights.

12.3 City shall have the sole and exclusive right to apply for, obtain, register, hold and renew, in its own name or for its own benefit, all patents, copyrights, applications and registrations, renewals and continuations and all other appropriate protection.

12.4 To the extent exclusive title or complete and exclusive ownership rights in any Work Product created by Service Provider Personnel may not originally vest in City by operation of Applicable Law, Service Provider shall, immediately upon request, unconditionally and irrevocably assign, transfer and convey to City all rights, title and interest in the Work Product.

12.5 Without any additional cost to City, Service Provider Personnel shall promptly give City all reasonable assistance and execute all documents City may reasonably request to enable City to perfect, preserve, enforce, register and record its rights in all Work Product. Service Provider irrevocably designates City as Service Provider's agent and attorney-in-fact to execute, deliver and file, if necessary, any documents necessary to give effect to the provisions of this Section and to take all actions necessary, in Service Provider's name, with the same force and effect as if performed by Service Provider.

13. Audit and Inspection Rights.

13.1 General.

13.1.1 Service Provider will provide to City, and any Person designated by City, access to Service Provider Personnel and to Service Provider owned Facilities for the purpose of performing audits and inspections of Service Provider, Service Provider Personnel and/or any of the relevant information relating to the Services and this Agreement. Such audits, inspections and access may be conducted to: (a) verify the accuracy of Charges and invoices; (b) examine Service Provider's performance of the Services; (c) monitor compliance with the terms of this Agreement; and (d) any other matters reasonably requested by City. Service Provider shall provide full cooperation to City and its designated Persons in connection with audit functions and examinations by regulatory authorities.

13.1.2 All audits and inspections will be conducted during normal business hours (except with respect to Services that are performed during off-hours).

13.1.3 Service Provider shall promptly respond to and rectify the deficiencies identified in and implement changes suggested by any audit or inspection report.

13.1.4 If any audit or inspection of Charges or Services reveals that City has overpaid any amounts to Service Provider, Service Provider shall promptly refund such overpayment and Service Provider shall also pay to City interest on the overpayment amount at the rate of one-half percent (0.5%) per month (or such maximum rate permissible by Applicable Law, if lower) from the date the overpayment was made until the date the overpayment is refunded to City by Service Provider.

13.2 Records Retention. Until the later of: (a) six (6) years after expiration or termination of this Agreement; (b) the date that all pending matters relating to this Agreement (e.g., disputes) are closed or resolved by the Parties; or (c) the date such retention is no longer required to meet City's records retention policy or any record retention policy imposed by Applicable Law, if more stringent than City's policy, Service Provider will maintain and provide access upon request to the records, data, documents and other information required to fully and completely enable City to enforce its audit rights under this Agreement.

14. Indemnification by Service Provider.

14.1 General Indemnity. Service Provider shall indemnify and hold City, its agencies and its and their respective officers, directors, employees, advisors, and agents, successors and permitted assigns, harmless from any losses, liabilities, damages, demands and claims, and all related costs (including reasonable legal fees and costs of investigation, litigation, settlement, judgment, interest and penalties) arising from claims or actions based upon:

- (a) Service Provider's or Service Provider Personnel's performance, non-performance or breach of this Agreement;
- (b) compensation or benefits of any kind, by or on behalf of Service Provider Personnel, or any subcontractor, claiming an employment or other relationship with Service Provider or such subcontractor (or claiming that this Agreement creates an inherent, statutory or implied employment relationship with City or arising in any other manner out of this Agreement or the provision of Services by such Service Provider Personnel or subcontractor);
- (c) any actual, alleged, threatened or potential violation of any Applicable Laws by Service Provider or Service Provider Personnel, to the extent such claim is based on the act or omission of Service Provider or Service Provider Personnel, excluding acts or omissions by or at the direction of City;
- (d) death of or injury to any individual caused, in whole or in part, by the tortious conduct of Service Provider or any Person acting for, in the name of, at the direction or supervision of or on behalf of Service Provider; and
- (e) damage to, or loss or destruction of, any real or tangible personal property caused, in whole or in part, by the tortious conduct of Service Provider

or any Person acting for, in the name of, at the direction or supervision of or on behalf of Service Provider.

14.2 Intellectual Property Indemnification by Service Provider. Service Provider shall indemnify and hold City Indemnitees, harmless from and against any losses, liabilities, damages, demands and claims, and all related costs (including reasonable legal fees and costs of investigation, litigation, settlement, judgment, interest and penalties) arising from claims or actions based upon any of the materials and methodologies used by Service Provider (or any Service Provider agent, contractor, subcontractor or representative), or City's use thereof (or access or other rights thereto) in connection with the Services infringes or misappropriates the Intellectual Property Rights of a Third Party. If any materials or methodologies provided by Service Provider hereunder is held to constitute, or in Service Provider's reasonable judgment is likely to constitute, an infringement or misappropriation, Service Provider will in addition to its indemnity obligations, at its expense and option, and after consultation with City regarding City's preference in such event, either: (A) procure the right for City Indemnitees to continue using such materials or methodologies; (B) replace such materials or methodologies with a non-infringing equivalent, provided that such replacement does not result in a degradation of the functionality, performance or quality of the Services; (C) modify such materials or methodologies, or have such materials or methodologies modified, to make them non-infringing, provided that such modification does not result in a degradation of the functionality, performance or quality of the materials or methodologies; or (D) create a feasible workaround that would not have any adverse impact on City.

15. Limitation of Liability.

15.1 General. THE MAXIMUM AGGREGATE LIABILITY OF CITY HEREUNDER IS LIMITED TO THE TOTAL OF ALL CHARGES ACTUALLY PAID DURING THE CURRENT YEAR UNDER THE AGREEMENT. EXCEPT FOR PROVIDER'S INDEMNITY OBLIGATIONS SET FORTH IN THE SECTION ENTITLED "INDEMNIFICATION BY SERVICE PROVIDER" AND WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY PROVIDER, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES (OR ANY COMPARABLE CATEGORY OR FORM OF SUCH DAMAGES, HOWSOEVER CHARACTERIZED IN ANY JURISDICTION), ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OR NONPERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE, AND EVEN IF FORESEEABLE OR IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

15.2 Exceptions to Limitations. The limitations set forth in the immediate subsection shall not apply to: (a) personal injury, wrongful death or tangible property damage; or (b) any claim involving a violation of any Applicable Law concerning homeland security, terrorist activity or security sensitive information, regardless of the manner in which such damages are characterized.

16. Insurance and Bonding Requirements. Service Provider shall comply with the insurance set forth on **Appendix B**.

17. Force Majeure. Neither Party will be liable for default or delay in the performance of its obligations under this Agreement to the extent such default or delay is caused by a Force Majeure Event. Upon the occurrence of a Force Majeure Event, the non-performing Party will be excused from performance or observance of affected obligations for as long as: (a) the Force Majeure Event continues; and (b) the Party continues to attempt to recommence performance or observance to the extent commercially reasonable without delay. If any Force Majeure Event continues for thirty (30) consecutive days, City may, at its option during such continuation, terminate this Agreement, in whole or in part, without penalty or further obligation or liability of City.

18. Termination.

18.1 Termination by City for Cause. City may at its option, by giving written notice to Service Provider, terminate this Agreement:

(a) for a material breach of the Contract Documents by Service Provider that is not cured by Service Provider within seven (7) days of the date on which City provides written notice of such breach;

(b) immediately for a material breach of the Contract Documents by Service Provider that is not reasonably curable within seven (7) days;

(c) immediately upon written notice for numerous breaches of the Contract Documents by Service Provider that collectively constitute a material breach or reasonable grounds for insecurity concerning Service Provider's performance; or

(d) immediately for engaging in behavior that is dishonest, fraudulent or constitutes a conflict of interest with Service Provider's obligations under this Agreement or is in violation of any City Ethics Ordinances.

18.2 Re-procurement Costs. In addition to all other rights and remedies City may have, if this Agreement is terminated by City pursuant to the above subsection entitled "**Termination by City for Cause**", Service Provider will be liable for all costs in excess of the Charges for all terminated Services reasonably and necessarily incurred by City in the completion of the Services, including the cost of administration of any agreement awarded to other Persons for completion. If City improperly terminates this Agreement for cause, the termination for cause will be considered a termination for convenience in accordance with the provisions of the **Section entitled "Termination by City for Convenience"**.

18.3 Termination by City for Insolvency. City may terminate this Agreement immediately by delivering written notice of such termination to Service Provider if Service Provider: (a) becomes insolvent, as that term may be defined under Applicable Law, or is unable to meet its debts as they mature; (b) files a voluntary petition in bankruptcy or seeks reorganization or to effect a plan or other arrangement with creditors; (c) is adjudicated bankrupt or makes an assignment for the benefit of its creditors generally; (d) fails to deny or contest the

material allegations of an involuntary petition filed against it pursuant to any Applicable Law relating to bankruptcy, arrangement or reorganization, which is not dismissed within sixty (60) days; or (e) applies for or consents to the appointment of any receiver for all or any portion of its property.

18.4 Termination by City for Convenience. At any time during the Term of this Agreement, City may terminate this Agreement for convenience upon fourteen (14) days written notice of such termination. Upon a termination for convenience, Service Provider waives any claims for damages, including loss of anticipated profits. As Service Provider's sole remedy and City's sole liability, City will pay Charges for the Services properly performed prior to the notice of termination, plus all reasonable costs for Services performed after the termination, as specified in such notice, and reasonable administrative costs of settling and paying claims arising out of the termination of Services under purchase orders or subcontracts except to the extent any products under such purchase orders or subcontracts can be used by Service Provider in its business within the thirty (30) days following termination. If requested, Service Provider shall substantiate such costs with proof satisfactory to City.

18.5 Termination for Lack of Appropriations. If, during the Term of this Agreement, legislation establishing a Maximum Payment Amount for the following year is not enacted, this Agreement will terminate in its entirety on the last day of the annual term for which a Maximum Payment Amount has been legislatively authorized.

18.6 Effect of Termination. Unless otherwise provided herein, termination of this Agreement, in whole or in part and for any reason, shall not affect: (a) any liabilities or obligations of either Party arising before such termination or out of the events causing such termination; or (b) any remedies to which a Party may be entitled under this Agreement, at law or in equity. Upon termination of this Agreement, Service Provider shall immediately: (i) discontinue Services on the date and to the extent specified in the notice and place no further purchase orders or subcontracts to the extent that they relate to the performance of the terminated Services; (ii) inventory, maintain and turn over to City all work product, licenses, equipment, materials, plant, tools, and property furnished by Service Provider or provided by City for performance of the terminated Services; (iii) promptly obtain cancellation, upon terms satisfactory to City, of all purchase orders, subcontracts, rentals or any other agreements existing for performance of the terminated Services, or assign those agreements, as directed by City; (iv) comply with all other reasonable requests from City regarding the terminated Services; and (v) continue to perform in accordance with all of the terms and conditions of this Agreement any portion of the Services that are not terminated.

19. Dispute Resolution.

19.1 All disputes under the Contract Documents or concerning Services shall be resolved under this **Section** and **Exhibit E**. Both Parties shall continue performing under this Agreement while the Parties are seeking to resolve any such dispute unless, during that time, this Agreement is terminated or expires. A dispute over payment will not be deemed to preclude performance by Service Provider.

19.2 Applicable Law. The Contract Documents shall be governed by and construed in accordance with the substantive laws of the State of Georgia without regard to its choice of law principles.

19.3 Jurisdiction and Venue. The Parties hereby submit and consent to the exclusive jurisdiction of the state courts of Fulton County, Georgia or in the United States District Court for the Northern District of Georgia and irrevocably agree that all actions or proceedings relating to this Agreement will be litigated in such courts, and each of the Parties waives any objection which it may have based on improper venue or forum non conveniens to the conduct of any such action or proceeding in such court.

20. General

20.1 Notices. Any notice under this Agreement shall be in writing and sent to the respective Party at the address on page 1 of this Agreement, or, if applicable, to the City's Department of Procurement at 55 Trinity Avenue, Suite 1900, Atlanta, Georgia, 30303, and shall be deemed delivered: (a) when delivered by hand or courier or by overnight delivery with signature receipt required; (b) when sent by confirmed facsimile with a copy sent by another means specified in this **Section**; or (c) three (3) days after the date of mailing by United States certified mail, return receipt requested, postage prepaid. Any Party may change its address for communications by notice in accordance with this Section.

20.2 Waiver. Any waiver by the Parties or failure to enforce their rights under this Agreement shall be deemed applicable only to the specific matter and shall not be deemed a waiver or failure to enforce any other rights under this Agreement, and this Agreement shall continue in full force and effect as though such previous waiver or failure to enforce any rights had not occurred. No supplement, modification, amendment or waiver of this Agreement will be binding on City unless executed in writing by the City Authorized Representative.

20.3 Assignment. Neither this Agreement, nor any rights or obligations under it, are assignable in any manner without the prior written consent of the other Party and any attempt to do so without such written consent shall be void ab initio.

20.4 Publicity. Service Provider shall not make any public announcement, communication to the media, take any photographs or release any information concerning City, the Services or this Agreement without the prior written consent of City.

20.5 Severability. In the event that any provision of this Agreement is declared invalid, unenforceable or unlawful, such provision shall be deemed omitted and shall not affect the validity of other provisions of this Agreement.

20.6 Further Assurances. Each Party shall provide such further documents or instruments required by the other Party as may be reasonably necessary to give effect to this Agreement.

20.7 No Drafting Presumption. No presumption of any Applicable Law relating to the interpretation of contracts against the drafter shall apply to this Agreement.

20.8 Survival. Any provision of this Agreement which contemplates performance subsequent to any termination or expiration of this Agreement or which must survive in order to give effect to its meaning, shall survive the expiration or termination of this Agreement.

20.9 Independent Contractor. Service Provider is an independent contractor of City and nothing in this Agreement shall be deemed to constitute Service Provider and City as partners, joint venturers, or principal and agent, or be construed as requiring or permitting the sharing of profits or losses. Neither Party has the authority to represent or bind or create any legal obligations for or on behalf of the other Party.

20.10 Third Party Beneficiaries. This Agreement is not intended, expressly or implicitly, to confer on any other Person any rights, benefits, remedies, obligations or liabilities.

20.11 Cumulative Remedies. Except as otherwise provided herein, all rights and remedies under this Agreement are cumulative and are in addition to and not in lieu of any other remedies available under Applicable Law, in equity or otherwise.

20.12 Entire Agreement. The Contract Documents contain the entire Agreement of the Parties relating to their subject matter and supersede all previous communications, representations or agreements, oral or written, between the Parties with respect to such subject matter. This Agreement may only be amended or modified by a writing executed by each Party's authorized representative and each such writing shall be deemed to incorporate the Contract Documents, except to the extent that City is authorized under Applicable Law to issue Unilateral Change Documents. SERVICE PROVIDER MAY NOT UNILATERALLY AMEND OR MODIFY THIS AGREEMENT BY INCLUDING PROVISIONS IN ITS INVOICES, OR OTHER BUSINESS FORMS, WHICH SHALL BE DEEMED OBJECTED TO BY CITY AND OF NO FORCE OR EFFECT.

20.13 Unauthorized Goods or Services. Service Provider acknowledges that this Agreement and any changes to it by amendment, modification, change order or other similar document may have required or may require the legislative authorization of the City's Council and approval of the Mayor. Under Georgia law, Service Provider is deemed to possess knowledge concerning the City's ability to assume contractual obligations and the consequences of Service Provider's provision of goods or services to the City under an unauthorized contract, amendment, modification, change order or other similar document, including the possibility that the Service Provider may be precluded from recovering payment for such unauthorized goods or services. Accordingly, Service Provider agrees that if it provides goods or services to the City under a contract that has not received proper legislative authorization or if Service Provider provides goods or services to the City in excess of the any contractually authorized goods or services, as required by the City's Charter and Code, the City may withhold payment for any unauthorized goods or services provided by Service Provider. Service Provider assumes all risk of non-payment for the provision of any unauthorized goods or services to the City, and it waives all claims to payment or to other remedies for the provision of any unauthorized goods or services to the City, however characterized, including, without limitation, all remedies at law or equity.

The Parties hereto by authorized representatives have executed this Agreement as of the Effective Date.

[Signatures on the following page.]

DRAFT

CITY OF ATLANTA

SERVICE PROVIDER:

By: _____
Mayor

Attest:

Municipal Clerk (SEAL)

By: _____

Name Printed: _____

Title: _____

RECOMMENDED:

Chief Procurement Officer

ATTEST:

Corporate Secretary/Assistant Secretary

(Affix Seal)

Commissioner, Department of Planning
And Community Development

APPROVED AS TO FORM:

City Attorney

EXHIBIT A
SCOPE OF SERVICES

SCOPE OF SERVICES

For Qualified Environmental Professional

City of Atlanta/Invest Atlanta Brownfield Revolving Loan Fund Program

Introduction

The City of Atlanta is seeking environmental consulting services from qualified firms or individuals to provide Qualified Environmental Professional (QEP) services to coordinate, direct and oversee the brownfield cleanup activities at sites funded with the City of Atlanta/Invest Atlanta Brownfields Revolving Loan Fund (BRLF) Program and ensure compliance with US Environmental Protection Agency (EPA) and State of Georgia requirements, the EPA Revolving Loan Fund (RLF) Terms and Conditions and the RLF Cooperative Agreement Work Plan.

The selected Qualified Environmental Professional/Brownfield Site Manager (“QEP”) will serve as the technical liaison between the Invest Atlanta, City of Atlanta, the USEPA, the Georgia Environmental Protection Division (EPD) and RLF loan recipients and subgrantees. The QEP will be responsible for technical oversight of environmental cleanup related activities. The QEP will assist the City of Atlanta and Invest Atlanta in carrying out its responsibilities in the Cooperative Agreement with EPA and on a site-specific basis to ensure that RLF environmental cleanup actions are conducted in accordance with applicable laws and regulations. The QEP will also ensure that RLF funds are being spent on eligible programmatic activities. Tasks 1-5 describe the Scope of Services in more detail.

The goals of the City of Atlanta’s Brownfields Program are to improve the quality of life, revitalize neighborhoods and increase the City’s tax base by:

- Encouraging sustainable redevelopment of brownfield sites,
- Protecting human health, natural resources and the environment,
- Supporting the retention and attraction of jobs and services,
- Maximizing the effectiveness of the Brownfield Program through collaborative efforts, and
- Educating and engaging with the community about the Brownfields Program Investing EPA Brownfields grant funds in Targeted Communities

The City of Atlanta was awarded funding to establish a Brownfields Revolving Loan Fund (BRLF) by the U.S. Environmental Protection Agency (USEPA) to provide brownfield cleanup financing for eligible projects within the Atlanta city limits. The BRLF program is jointly administered with Invest Atlanta through an Intergovernmental Agreement. The Atlanta Brownfields Revolving Loan Fund (BRLF) program is designed to protect human health and the environment, spur economic revitalization projects, support property used for nonprofit purposes and the creation of greenspace in priority areas. These priority areas are: the Atlanta Beltline, Proctor Creek, Atlanta Area Wide study area, Groundwork Atlanta, Opportunity Zones and within targeted

commercial and mixed-use redevelopment corridors – DL Hollowell Pkwy, JE Boone, Jonesboro Road, Campbellton Road, and Memorial Drive and along MARTA Transit Oriented Development projects. The BRLF program will provide loans and subgrants (collectively “funds”) to support remediation required for site cleanup for sites contaminated with petroleum and hazardous substances, which then allow redevelopment projects to go forward.

Loans and grants in the BRLF will support: 1) community-based remediation projects leading to redevelopment opportunities and quality of life enhancements; 2) creation of greenspace and transit from brownfields in targeted redevelopment corridors; 3) adaptive reuse of underutilized or abandoned industrial sites; and 4) grassroots remediation projects leading to redevelopment opportunities and quality of life enhancements.

Scope of Service

Task 1 – Community Involvement

The QEP will work with Invest Atlanta and the City of Atlanta on various efforts to promote general awareness and community involvement in the Brownfield RLF program and site specific remediation.

General awareness of the BRLF Program - Activities in this task consist of providing information to be included on Invest Atlanta and City of Atlanta websites, fact sheets, loan manual, brochures and marketing materials. The QEP will make presentations and provide program information to the City of Atlanta Brownfield Stakeholder Advisory Committee, will participate in public meetings, and participate in other general marketing and community involvement activities, as needed. The QEP will assist in identifying sites and applicants eligible for RLF loan or subgrant and will provide information about the program and process to potential RLF applicants.

Site Specific Community Involvement: The QEP will work with RLF applicants to complete the requirements and steps needed to obtain a loan or subgrant. The QEP will be responsible for preparing the required Community Relations Plan (CRP) for a site prior to the cleanup and through the environmental cleanup process. This includes developing and implementing a site specific community relations plan for notifying, involving and informing the community, allowing for opportunity for comment on a proposed cleanup, preparing responses for public comment, working with EPA on their review of the CRP, and documenting changes to the cleanup plan. After the public comment period, the QEP will document, review and respond to public comments received. The QEP will work with RLF loan applicants and issue a Decision Document that selects the final cleanup action plan for each site.

The QEP will also establish an Administrative Record for each site. The Administrative Record shall include documents considered for the selection of the cleanup plan, Analysis of Brownfield Cleanup Alternatives (ABCA), site investigation reports, cleanup plan, cleanup standards,

responses to public comment and verification to show cleanup is complete. The QEP will work to ensure that administrative records of previous RLF loans are complete.

Task 2 – Cleanup Planning, Monitoring and Implementation

The QEP will coordinate, direct and oversee brownfields cleanup activities at an RLF sites and will meet and coordinate as needed with EPA and Georgia Environmental Protection Division staff throughout a remediation process. The QEP will assist with the preparation and review of loans and subgrant application and agreements and will add the environmental requirements placed on the borrower on loan documents to ensure compliance with EPA’s Revolving Loan Fund (RLF) Terms and Conditions and the RLF Cooperative Agreement Work Plan.

The QEP will review and evaluate information submitted by borrowers and sub-grantees. For each RLF loan and subgrant, the QEP will determine and document if the site meets the brownfield definition. The QEP will work with City of Atlanta, Invest Atlanta, EPA, the borrower/subgrantee to ensure that the proposed environmental cleanup activities are eligible for Brownfield RLF funds (ensuring costs are allowable under 2CFR Part 225 or Part 230). If necessary, the QEP will prepare documentation supporting and demonstrating the eligibility of sites, eligible activities, borrowers and subgrant recipients. The QEP may assist in “all appropriate inquiry” as found in section 101(35) (B) on CERCLA. The QEP will assist in determining that the borrower is not potentially liable party under Section 107 of CERCLA. The QEP may conduct limited site characterization including confirming the effectiveness of the proposed cleanup design or the effectiveness of a cleanup once an action has been completed. The QEP will work with EPA to have an approved Quality Assurance Project Plan before beginning of any verification or confirmation sampling.

Each parcel subject of an RLF loan or subgrant will be required to enroll in the State of Georgia Voluntary Brownfield Program (VBP). The QEP will work with RLF applicants to ensure their participation in the Georgia voluntary cleanup program (VCP).

The QEP will provide project updates to the Georgia DNR-Environmental Protection Division (EPD) Brownfields Program staff, as needed. The QEP will make EPD aware of all site-specific sampling activities to be initiated. In addition, the QEP will provide EPD an opportunity to review and comment on all technical reports, Quality Assurance Project Plans (QAPPs), sampling plans, analysis of brownfields cleanup alternatives (ABCA), cleanup plans and other technical reports.

The QEP will conduct the Analysis of Brownfields Cleanup Alternatives (ABCA) for each site that will receive an RLF loan in order to ensure and document that the proper type of environmental cleanup is selected to address the site. The ABCA needs to include information about the site, contamination issues, cleanup standards, applicable laws, alternatives considered, proposed cleanup and an explanation of why environmental cleanup is authorized. A comparative analysis of cleanup alternatives, including a “no action”, shall also be part of the ABCA. The

ABCA must consider effectiveness, implementability, the cost of the response and the resilience of the remedial options among other considerations. The need for land use controls (LUCs) and environmental use restrictions (EURs) after the environmental cleanup will also be part of the analysis and report. After the public comment period is complete, the QEP will issue a Decision Document that selects the final cleanup action for the site.

The QEP will work to identify and ensure that that proposed cleanup is in compliance with applicable federal and state laws including those listed in the Revolving Loan Fund Terms and Conditions, the City of Atlanta BRLF Program Guidelines and Procedures Manual (www.atlantaga.gov/brownfields) and ensure compliance with Endangered Species Act (ESA) Section 7 consultation requirements. Prior to on-site activity, the QEP will ensure consultation with EPA and the State Historic Preservation Officer to ensure compliance with the National Historic Preservation Act (NHPA).

The QEP shall ensure that the borrower carries out the RLF cleanup activities in compliance with the Decision Document, and the loan's terms and conditions. The QEP will also ensure the adequacy of each RLF cleanup as it is implemented by overseeing the borrowers and/or subgrantees activities to ensure compliance with applicable Federal and State environmental requirements. The QEP may conduct limited site characterization including confirming the effectiveness of the cleanup once an action has been completed. As needed, the QEP will also prepare site access agreements with property owners for parcels subject to a loan or subgrant.

Following the completion of each cleanup activity, QEP will prepare a Final Report indicating the actions taken, that the cleanup is complete and meets cleanup standards that were set forth in the Decision Document. The Final Report will include documentation of cleanup activities, modifications to the cleanup plan, and results of confirmation sampling; assess whether land use controls will be necessary and how these controls will be enforced, and information on any engineering or institutional controls that may have been placed on the site, resources committed and problems encountered as well as other information as required. The Final Report will be reviewed by the borrower and their QEP and placed in the project's Administrative Record. It will also be sent to EPA and EPD for approval. Final Cleanup Report will mark completion of remediation activity at the site. The QEP shall request that the Georgia EPD Brownfields Program provide a letter of concurrence that cleanup is complete and that any necessary engineering or institutional controls are in place in accordance with the cleanup plan and design. In the case that a borrower or subgrant recipient is unable or unwilling to complete a brownfields cleanup, the QEP will ensure that the site is secure (e.g. ensuring public safety and no threat to human health or the environment) and inform EPA and EPD.

Task 3 – Project Reporting

The selected consultant will complete the Project Reporting tasks and sub- tasks outlined in this section.

A. Quarterly Reporting: The QEP will assist in the preparation and submittal of quarterly

reports. Reports are due 30 days after the end of each federal fiscal quarter (quarterly performance period):

<u>Quarterly Performance Period</u>	<u>Report Due</u>
October – December	January 30
January – March	April 30
April – June	July 30
July – September	October 30

The Quarterly progress reports must include:

- A summary of approved activities performed during the reporting quarter: a summary of the performance outputs/outcomes achieved during the reporting quarter; description of problems encountered during the reporting quarter that may affect the project schedule;
- An update on project schedule and milestones;
- A list of the loans and or subgrants awarded during the reporting quarter;
- A budget recap summary table with the current approved budget, costs incurred during the reporting quarter, costs incurred to date, cost share updates and total remaining funds.

B. Annual MBE/WBE reports: The QEP will provide information, as applicable, for the annual MBE/WBE reports and SF425A Financial Forms.

C. ACRES/Property Profile Form: For each property on which a cleanup activity is completed under the RLF program, a Property Profile Form (PPF) will be generated. The PPF will be completed by the property owner in conjunction with the QEP and any other brownfield consultants. Property specific information will be submitted and regularly maintained via the on-line Assessment Cleanup Redevelopment Exchange System (ACRES) database. Information that will be reported in ACRES are property specifics, interim progress (loan signed, clean up started), environmental assessment information, cleanup funding information, final accomplishments (cleanup completed, contaminants removed, institutional controls, engineering controls. The information in the quarterly report will correlate with the information in ACRES. PPF document will become part of the Administrative Record.

D. RLF Closeout Report: The QEP will assist in preparing the Closeout Report that includes what work was completed at each site and how much funding was spent on each site, reports, cleanup reports, property profile forms, financial reports and information that documents outreach efforts. The QEP will also assist in preparing a closeout agreement. The Closeout Report will be submitted to the EPA Project Officer within 90 calendar days after the expiration or termination of the award.

E. Cooperative Agreements: The QEP will update the RLF Cooperative Agreement or grant work plan as necessary.

F. RLF Loans and Subgrant Administrative Record: For each loan or subgrant, the QEP will establish an Administrative Record containing information forming the basis for the selection of a RLF cleanup plan. The items to be included in the administrative record are listed in the Revolving Land Fund Grant Program Administrative Manual and should include any applicable federal or state law such as Davis-Bacon Act. After the RLF funded cleanup is completed, the QEP must review the report on the cleanup operation and actions taken for concurrence and submit it to EPA for approval. The QEP will review and complete as needed the Administrative Record for existing RLF loans.

G: The QEP will have regular meetings (monthly, bimonthly or as needed) with City of Atlanta, Invest Atlanta and EPA staff. The QEP will attend and prepare information as needed for Invest Atlanta/City of Atlanta BRLF Review Committee, the Invest Atlanta Loan Committee and the City of Atlanta Brownfields Advisory Committee.

Task 4: Compliance with the Davis Bacon Act of 1931

Construction, alteration and repair activity involving remediation or hazardous substances are subject to The Davis Bacon (DB) Act. All laborers and mechanics employed by contractors and subcontractors are covered by Davis Bacon requirements for all construction work performed on the site. The QEP will be responsible for obtaining DB wage determinations from the Department of Labor and ensuring borrowers and subgrantees include the correct wage determination in solicitation for competitive contracts. The QEP will review subcontracts entered into by the prime contract to verify applicable wage determinations are included. The QEP will ensure that required Contract and Subcontract provisions related to labor standard provisions, as stated in the RLF Terms and Conditions, are included in full in any contract over \$2,000.

David Bacon Compliance and verification: The QEP will work with borrowers and subgrantees to verify that contractors and subcontractors comply with DB provisions or conduct compliance verification. The QEP will periodically interview a sufficient number of employees to verify that the appropriate wage rates are being paid by contractors and subcontractors. Interviews will be recorded in Standard Form 1445. The QEP will spot check payroll data for DB compliance, as required in the RLF Terms and Conditions.

Task 5: Environmental Site Assessments

The Qualified Environmental Professional shall be able to perform the activities listed below as part of a cleanup or as a stand-alone Phase I or Phase II funded with BRLF program income. Approximately \$50,000 to \$75,000 in BRLF program income will be available for Environmental Site Assessments.

A. Site Characterization – Phase I Assessment: Phase I Assessments may be conducted with RLF program income. All Phase I ESA conducted by the consultant will meet the “All Appropriate Inquiry” standards established in the Brownfields Laws.

B. All Appropriate Inquiry (AAI) standards: EPA requires that all sites assessed with EPA Cooperative Agreement funds meet the All Appropriate Inquiry (AAI) standards established in the Brownfields Law (see Section I.V., D of the FY 2012 Brownfields Assessment Terms and Conditions). The AAI Reporting Requirements Checklist for each AAI conducted with Brownfields RLF funds may be completed by the QEP.

C. Candidate Site Eligibility: Prior to performing any Phase II related activity for sites believed to be contaminated with hazardous substances a site eligibility determination will be completed and submitted to the EPA Project Officer for approval. A petroleum site eligibility determination will be requested from Georgia EPD for sites believed to be contaminated with petroleum.

D. Site Characterization – Phase II Assessment: Phase II Assessments may be conducted with program income. Should additional, more invasive assessment efforts be necessary to properly characterize a site for cleanup and redevelopment purposes, a site specific scope of work will be developed based on several factors which may include: 1) recognized environmental conditions identified in the Phase I ESA; 2) the proposed end use of the property; 3) development and constructability issues; 4) future owner and lender concerns; 5) measuring site specific parameters useful in developing remedial strategies. When appropriate, guidance will be sought from Georgia EPD and /or US EPA Region 4. If Phase II sampling results suggest that a site cleanup is needed, additional sampling may be essential to sufficiently characterize the site to reasonably determine the costs of the cleanup. In that case, additional sampling may be performed.

a. ESA, HHPA and Clean Water Act Section 404 Permitting: information related to the location of the project; any threatened or endangered species or habitat which may be affected by the project; whether the site is considered to be of concern by the State Historic Preservation officer; and, a list of Tribes who may believe the site or project could disturb cultural resources will be submitted to the Project Officer. Any waters subject to Clean Water Act Section 404 that may be affected by the project will also be identified.

b. Health and Safety Plans (HSP): Health and safety Plans (HSP) for each site where a Phase II ESA is performed will be prepared. A copy will be placed in the Cooperative Agreement project file and submitted to the US EPA and the GA EPD for their project files.

E. Quality Assurance Project Plans (QAPPs): The consultant will prepare Quality Assurance Project Plans (QAPP) consistent with EPA Region 4 instructions. With an EPA approved QAPP,

the consultant can conduct limited site characterization including confirming the effectiveness of proposed cleanup design or effectiveness of a cleanup once an action has been completed.

In addition, a generic Quality assurance Project Plan (QAPP) for all common elements of site assessments will be developed and submitted to EPA and the GA EPD for review and approval. As sites are identified to perform Phase II ESAs, site specific Sampling and Analysis Plans (SAPs) will be developed and submitted for approval by the US EPA and GA EPD.

Respondent Qualifications

The minimum experience qualifications the Respondent are listed below.

- Project Manager shall have a minimum of ten (10) years of experience working with brownfields, EPA funded brownfield programs, brownfield cleanup design and implementation.
- The proponents should have knowledge and experience in:
 - Brownfield redevelopment work, preferably related to USEPA municipal Brownfield grant implementation,
 - Preparation of Compliance Status Reports and submittal to EPD for approval,
 - Completing and submitting All Appropriate Inquiry forms to USEPA,
 - Generation and approval of Analysis of Brownfield Cleanup Alternatives (ABCA) through the USEPA,
 - the Endangered Species Act and/or National Historic Preservation Act,
 - Cleanup design for environmental contamination and land re-use planning,
 - Developing and implementing Quality Assurance Project Plans and Health and Safety Plans,
 - Conducting confirmation sampling following contaminant remediation activities,
 - Conducting Phase I and Phase II environmental site assessments,
 - Completing and submitting required quarterly, periodic, and final reporting requirements under USEPA Brownfield grants,
 - Experience in the application and entry of properties into Georgia EPD's Voluntary Brownfield Program,
 - Drafting, filing, and implementing institutional/engineering controls on Brownfield properties,
 - Conducting community outreach and public participation activities,
 - Experience in site cleanup and contractor oversight and
 - Ensuring compliance with Davis Bacon requirements.

Attachments

The attachments listed below supplement the scope of services and should be a reference to further characterize the aptitude, duties, and job requirements for personnel enlisted to perform the Scope of Services. Relevant attachments are the following:

Attachment 1. Appendices, Revolving Loan Fund (RLF) Administrative Manual; and

Attachment 2. RLF Cooperative Agreement Work Plan; and

Attachment 3. RLF Terms and Conditions.

ATTACHMENT 1

APPENDICES, REVOLVING LOAN FUND
ADMINISTRATIVE MANUAL

Appendices • Content

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Appendix A. • *Acronyms*

AAI All Appropriate Inquiry
ABCA Analysis of Brownfields Cleanup Alternatives
ATSDR	..... Agency for Toxic Substances and Disease Registry
BEDI	..... Brownfields Economic Development Initiative (HUD)
BFPP	..... Bona Fide Prospective Purchaser
CAR	..... Cooperative Agreement Recipient
CDBG	..... Community Development Block Grants (HUD)
CERCLA	..... Comprehensive Environmental Response, Compensation, and Liability Act
CFDA	..... Catalog of Federal Domestic Assistance
CFR	..... Code of Federal Regulations
CPO	..... Contiguous Property Owner
CRP	..... Community Relations Plan
DOT	..... United States Department of Transportation
EDA	..... United States Department of Commerce, Economic Development Administration
EI	..... Environmental Insurance
EPA	..... United States Environmental Protection Agency
FAQ	..... Frequently Asked Question
FOIA	..... Freedom of Information Act
FWPCA	..... Federal Water Pollution Control Act
GAO	..... United States Government Accountability Office
GPRA	..... Government Performance and Results Act
HAZWOPER	..... Hazardous Waste Operations and Emergency Response
HUD	..... United States Department of Housing and Urban Development
IC	..... Institutional Controls
ILO	..... Innocent Landowner
LUST	..... Leaking Underground Storage Tank

APPENDIX A

- MBE** Minority Business Enterprise
- MPO** Metropolitan Planning Organization
- NCP** National Oil and Hazardous Substances Pollution Contingency Plan
- NPL** National Priorities List
- OIG** EPA's Office of Inspector General
- OMB** United States Office of Management and Budget
- OPA** Oil Pollution Act
- OSHA** Occupational Safety and Health Administration
- OSWER** Office of Solid Waste and Emergency Response
- PCBs** Polychlorinated Biphenyls
 - PO** Project Officer
 - PPF** Property Profile Form
- QAPP** Quality Assurance Project Plan
 - QEP** Qualified Environmental Professional
- RCRA** Resource Conservation and Recovery Act
 - SBA** United States Small Business Administration
 - SF** Standard Form
- SDWA** Safe Drinking Water Act
- TCSP** Transportation & Community System Preservation
- TSCA** Toxic Substances Control Act
- USACE** United States Army Corps of Engineers
 - USC** United States Code
- USDA** United States Department of Agriculture
 - VCP** Voluntary Cleanup Program
- WBE** Women's Business Enterprise

Appendix B. • *Glossary of Specialized Terms*

The following provides a glossary of terms, phrases, and titles frequently used in discussions of cleanup grants.

Administrative Record. All documents considered or relied on in selecting the response action at a cleanup grant site. The grantee is required to establish an administrative record file for each cleanup grant site.

All Appropriate Inquiry. Steps a prospective owner must take to qualify for Bona Fide Prospective Purchaser, Contiguous Property Owner, or Innocent Landowner liability protections. A property owner must perform “all appropriate inquiry” into the previous ownership and uses of property before acquisition of the property. EPA published the Final Rule for All Appropriate Inquiries (AAI) on November 1, 2005. This rule became effective on November 1, 2006. In conjunction with the development of the final rule for AAI, ASTM International updated the E1527-00 standard. The ASTM E1527-05 Phase I Environmental Site Assessment standard is consistent and compliant with EPA’s final rule, and may be used to comply with the provision of the final rule for AAI.

ASTM International Phase I assessment. Provides standards for conducting an environmental site assessment of a parcel of commercial real estate with respect to the range of contaminants within the scope of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and petroleum products. Use of this practice permits a user to satisfy one of the requirements to qualify for the innocent landowner, bona fide prospective purchaser, and contiguous property owner, defenses to CERCLA liability: that is, the practices that constitute “all appropriate inquiry into the previous ownership and uses of the facility in accordance with generally accepted good commercial or customary standards and practices” as defined in 42 USC § 9601(35)(B).

Analysis of Brownfields Cleanup Alternatives (ABCA). An analysis of cleanup alternatives the cooperative agreement recipient must conduct to choose and document the most appropriate cleanup action considering the site characteristics, surrounding environment, land-use restrictions, and potential future uses.

Automated Standard Application for Payments (ASAP). A federal payment mechanism that transfers cash to recipients of federal assistance using electronic transfers managed by the Treasury and the Federal Reserve Bank of Richmond.

Bona Fide Prospective Purchaser (BFPP). A CERCLA liability protection for property owners that have acquired property after January 11, 2002. For the specific requirements a landowner must meet in order to avail itself to this liability protection, refer to CERCLA § 101(40) and § 107(r).

Borrower: A borrower is a public or private entity that uses RLF funds for cleanup and cleanup related activities, and agrees to the terms and conditions of a loan agreement between itself and the cooperative agreement recipient. With the exception of an intra-governmental loan, the borrower cannot be the cooperative agreement recipient or an entity filling any of the RLF roles.

Brownfields. Real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. (See CERCLA § 101(39)(A)).

Brownfields Cleanup Revolving loan Fund (BCRLF). The original EPA pilot program initiated to fund cleanup and encourage redevelopment of brownfields properties. This program was amended by the January 2002 enactment of the Small Business Liability Relief and Brownfields Revitalization Act (the “Brownfields Law”), and is now called the RLF program.

Brownfields Economic Redevelopment Initiative. An organized effort, developed by EPA, to assist communities in revitalizing brownfields both environmentally and economically. The Initiative is based on the principle that a clean and healthy environment is vital to a growing and robust economy.

Brownfields Management System (BMS). The Brownfields Management System is a database that maintains records of EPA Brownfields awards nationwide. It contains quarterly data for all sites under the Brownfields Initiative.

Cleanup Action. Action associated with removing, mitigating, or preventing a release or threat of a release of a hazardous substance, pollutant, or contaminant.

Cleanup Subgrantee. Eligible governmental and nonprofit entities that receive RLF funds from the recipients as subgrants to fund eligible site cleanup activities.

Code of Federal Regulations (CFR). This document codifies all rules of the executive departments and agencies of the federal government. It is divided into 50 volumes known as titles. Title 40 of the CFR (referenced as 40 CFR) lists environmental regulations.

Community Relations Plan (CRP). Specifies the community involvement activities that the cooperative agreement recipient expects to undertake during the cleanup, based on community interviews and other relevant information, prior to completion of the ABCA or its equivalent. The cooperative agreement recipient is required to prepare a community involvement plan for EPA review.

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Commonly known as Superfund, this law was enacted by Congress on December 11, 1980. CERCLA provides broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment.

Contiguous Property Owner (CPO). A CERCLA liability protection that “protects parties that are essentially victims of pollution incidents caused by their neighbor’s actions.” Contiguous property owners must perform all appropriate inquiry prior to acquiring property. Persons who know, or have reason to know, prior to purchase, that the property is or could be contaminated, cannot qualify for the contiguous property owner liability protection. A landowner must meet the criteria set forth in CERCLA § 107(q) to qualify as a CPO. Please note that a purchaser may still qualify as a bona fide prospective purchaser.

Cooperative Agreement. An assistance agreement whereby EPA transfers money, property, services or anything of value to a state, local or tribal government, university, non-profit, or not-for-profit organization for the accomplishment of authorized activities or tasks. In the case of cleanup grants, the cooperative agreement awards federal funds according to specified standard terms and conditions, as well as any special terms and conditions, related to environmental management and cleanup requirements, reporting requirements, record keeping, etc. The EPA may be substantially involved in overseeing and monitoring the cooperative agreement.

Cooperative Agreement Recipient (CAR). Eligible entity that enters into a cooperative agreement with EPA to receive grant funding and initiate a revolving loan fund program.

Cost-Share. The requirement that cooperative agreement recipients contribute a percentage of federal award funds. In the cleanup grant program, cooperative agreement recipients must contribute 20% of the total cooperative agreement award (i.e., EPA-awarded funds) towards the cleanup grant. The cost-share contribution may be in the form of cash, labor, material, or services from non-federal sources.

Cross-cutting Federal Requirements. Those requirements which are applicable to the cleanup grant by operation of statutes, executive orders, and regulations other than CERCLA and associated administrative authorities.

Disbursement. The transfer of funds from the cooperative agreement recipient to the borrower or cleanup grantee.

Eligible Entity. CERCLA § 104(k)(1) defines an “eligible entity” as a general purpose unit of local government; a land clearance authority or other quasi-governmental entity that operates under the supervision and control of or as an agent of a general purpose unit of a local government; a government entity created by a state legislature; a regional council or group of general purpose units of local government; a redevelopment agency that is chartered or otherwise sanctioned by a state; an Indian tribe other than in Alaska; or an Alaska Native Regional Corporation and an Alaska Native Village Corporation as those terms are defined in the Alaska Native Claims Settlement Act and the Metlakatla Indian community. An eligible entity as defined above qualifies for a cleanup grant.

Fund Manager. Each cooperative agreement recipient must act as or enlist the services of a fund manager responsible for financial management of initial RLF funding as well as program income resulting from the lending of pilot funds.

Grantee. Eligible entity that enters into a cooperative agreement with EPA to receive grant funding. Also referred to as a cooperative agreement recipient (CAR).

Greenfields. Greenfields are generally parkland, undeveloped open space and agricultural lands located near the outskirts of towns, cities and larger metropolitan areas. These areas help delineate one village, city or town from another, or where development is occurring and where it is not. When they are protected, greenfields can serve to promote growth in already-developed areas and curb urban sprawl. As parks and greenways, they also provide the green infrastructure essential to livable communities.

Innocent Landowner (ILO). A CERCLA liability protection for property owners who have performed all appropriate inquiry prior to purchase and who did not know, or have reason to know, of contamination. A person must meet the criteria set forth in CERCLA § 107(b)(3) and CERCLA § 101(35) to have a viable defense as an innocent landowner.

Memorandum of Understanding (MOU). A method to express mutual commitments to work together in advancing mutual objectives. It is a vehicle for obtaining or providing other non-monetary support, including supplies, equipment, chemicals, personnel, etc.

National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The federal regulation (40 CFR Part 300) that guides the federal government's response to both oil spills and hazardous substance releases.

Non-profit Entity. For the purposes of the brownfields grant program, EPA will use the definition of non-profit organizations contained in Section 4(6) of the Federal Financial Assistance Management Improvement Act of 1999, Public Law 106-107. The term "non-profit organization" means any corporation, trust, association, cooperative, or other organization which is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; is not organized primarily for profit; and uses its net proceeds to maintain, improve, and/or expand its operations. This definition may include universities and hospitals. See OMB Circular A-122 for more information on non-profit entities.

Payment. EPA's transfer of funds to the cooperative agreement recipient.

Program Income. The gross income received by the grantee, directly generated by the cooperative agreement award or earned as a result of the cooperative agreement.

Prudent Lending Practices. The establishment of interest rates, repayment terms, and collateral requirements, as well as practices related to loan management and timing of disbursements.

Qualified Environmental Professional (QEP). The official designated to coordinate and direct cleanup actions at a cleanup site or sites. He/she helps the grantee carry out its responsibilities on a site-specific basis, and must be a qualified employee working on behalf of grantee. The QEP serves the role of the On-Scene Coordinator (OSC), as defined by the NCP, but does not have to be a government official.

Quality Assurance Project Plan (QAPP). Establishes and communicates the grantee's goals and how the brownfield site assessment will reach those goals. It should combine planning for the entire project, including management, sampling, analysis, data review/evaluation, and reporting. The most common process for developing a QAPP for your site is the data quality objectives (DQOs) process.

Recipient. See Cooperative Agreement Recipient.

Revolving Loan Fund. Financing tool that recycles funds by providing loans, receiving loan repayments, and then providing further loans. An RLF is a revolving loan fund.

Revolving Loan Fund (RLF) Grant Program. EPA grant program under the brownfields Economic Redevelopment Initiative described in this administrative manual. The program funds cleanup and encourages redevelopment of brownfields properties by offering low-interest loans and subgrants with liability protection for eligible borrowers and sites. See also Brownfields Cleanup Revolving Loan Fund.

Uniform Administrative Rules - 40 C.F.R. Parts 30 and 31. 40 C.F.R. Part 30 - This federal regulation establishes uniform administrative rules for federal grants and agreements awarded to institutions of higher education, hospitals, and non-profit organizations. These regulations will be applicable to subgrants awarded to non-profit organizations. 40 C.F.R. Part 31 - This federal regulation establishes consistency and uniformity among federal agencies in the management of grants and cooperative agreements with state, local and federally recognized Indian tribal governments. see Code of Federal Regulations (C.F.R.).

Voluntary Cleanup Program (VCP). State-operated cleanup programs focused on addressing the environmental, legal, and financial barriers that often hinder the redevelopment and reuse of contaminated properties. Cleanup grant funds may be used to clean up a site pursuant to a state VCP so long as the cleanup meets the substantive and procedural requirements of CERCLA and the NCP and all terms and conditions of the cooperative agreement are met.

Appendix C. • *Standard Forms*

The following standard forms are required for the cleanup grant and are discussed throughout this manual. They are located at the listed Internet addresses.

- **Standard Form 269** - *Financial Status Report*
<http://www.whitehouse.gov/omb/grants/sf269.pdf>

- **Standard Form 271** - *Outlay Report and Request for Reimbursement for Construction Programs*
<http://www.whitehouse.gov/omb/grants/sf271.pdf>

- **Standard Form 424** - *Application for Federal Assistance*
<http://www.whitehouse.gov/omb/grants/sf424.pdf>

- **Standard Form 424A** - *Budget Information - Non-Construction Programs*
<http://www.whitehouse.gov/omb/grants/sf424a.pdf>

- **Standard Form 424B** - *Assurances - Non-Construction Programs*
<http://www.whitehouse.gov/omb/grants/sf424b.pdf>

- **Standard Form 3881** - *ACH Vendor Payment System*
<http://pacific.fws.gov/jobs/orojitw/document/pdf/sf-forms/sf-3881.pdf>

- **EPA Form 190-F-04-001** - *US EPA Payment Request*
<http://www.epa.gov/ogd/forms/adobe/PYMTREQ.pdf>

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Appendix D. • Property Profile Form



**United States
ENVIRONMENTAL PROTECTION AGENCY
Washington, DC 20460**

Form Approved
OMB No. 2050-0192
Expires 07-31-2009

PROPERTY PROFILE FORM—Brownfields

Public reporting burden for this collection of information is estimated to average 1.25 hours per response, including the time for reviewing instructions, searching data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this collection of information, including suggestions for reducing this burden, to the Environmental Protection Agency, Office of Environmental Information, Code 2822T, Washington, DC 20460 and to the Paperwork Reduction Project, Office of Management and Budget, Washington, DC 20503. DO NOT RETURN your form to either of these addresses. Send your completed form to the address provided by the issuing office.

PART I GRANT RECIPIENT INFORMATION

- 1. Grant Recipient Name** (State/Tribe for Section 128(a) Grants; requestor/contractor for TBAs): _____
- 2. Grant Number** (contract number for TBAs): _____
- 3. Type of Brownfields Grant** (check only one box):
- Assessment Section 128(a) – State and Tribal Response Program
- Revolving Loan Fund TBA (EPA Regions Only)
- Cleanup
- 4. For Assessment, Cleanup, and Revolving Loan Fund grants, what type of funding is being used at the property?**
- Hazardous Substance Petroleum Both
- 5. Indicate if this form is the Initial or Updated Form:** Initial Form Updated Form
- 6. Date:** _____

PART II PROPERTY INFORMATION

Property Background Information

- 7. Property Name:** _____
- 8a. Street Address:** _____ **8b. City:** _____
- 8c. State:** _____ **8d. Zip Code:** _____ **9. Size (in acres):** _____
- 10. Parcel Number(s):** _____ **11b. Current Owner:** _____
- 11a. Ownership Entity:**
- Government (Tribal, State, Local) Private

Ownership & Superfund Liability (Mandatory for Cleanup and RLF Grants)

- 12a. During the life of the grant, did ownership change?** Yes No
- 12b. If "yes," did Superfund federal landowner liability protections factor into the ownership change?** Yes No Unknown

Property Geographic Information (EPA Brownfields Program, or its contractors, will provide complete latitude/longitude information if grant recipients are unable)

- 13a. Latitude** (use 00.000000 format): _____ **13b. Longitude** (use -000.000000 format): _____ **13c. Horizontal Collection Method:** _____
- 13d. Source Map Scale Number** (only if a map/photo was used): _____ **13e. Reference Point** (e.g., Center of Facility or Station): _____
- 13f. Horizontal Reference Datum** (Choose one):
- NAD27-North American Datum of 1927 WGS84-World Geodetic System of 1984
- NAD83-North American Datum of 1983

Property History Information (as available)

- 14. Property Description / History / Past Ownership:** _____
- 15. Predominant Past Use(s)** (check all that apply):
- | Type | Acreage | Type | Acreage |
|--------------------------------------|---------|-------------------------------------|---------|
| <input type="checkbox"/> Greenspace | _____ | <input type="checkbox"/> Commercial | _____ |
| <input type="checkbox"/> Residential | _____ | <input type="checkbox"/> Industrial | _____ |

PART III ENVIRONMENTAL ASSESSMENT INFORMATION (mandatory for Assessment Grants, State & Tribal Property Specific Assessments, and TBAs; as available for Cleanup and RLF grant recipients)

Table A – Environmental Assessment Activity (If there are multiple assessments, please use a separate line for each assessment)

Environmental Assessment Detail			Source of Funding (enter one source of funding per line; do not include funding received prior to the award of this EPA grant)					Name of Entity Providing Funds	Amount of Funding
Phase (Choose I, II, III)	Start Date	Completion Date	This US EPA Grant	Other Federal	State/Tribal (exclude §128(a) funds)	Local Gov't	Private/Other		
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$

16. Indicate whether cleanup is required: Yes No Unknown

Make sure to complete Part V – INSTITUTIONAL CONTROLS INFORMATION before submitting this Property Profile Form to your EPA Regional Representative

PART IV CONTAMINANTS & MEDIA AFFECTED INFORMATION (mandatory for all grant types)

Table B – Contaminants and Media Affected (check all that apply)

Contaminants			Media		
Class of Contaminant	Found	Cleaned Up	Media	Affected	Cleaned Up
Petroleum/Petroleum Products	<input type="checkbox"/>	<input type="checkbox"/>	Soil	<input type="checkbox"/>	<input type="checkbox"/>
Controlled Substances	<input type="checkbox"/>	<input type="checkbox"/>	Air	<input type="checkbox"/>	<input type="checkbox"/>
Asbestos	<input type="checkbox"/>	<input type="checkbox"/>	Surface Water	<input type="checkbox"/>	<input type="checkbox"/>
PCBs	<input type="checkbox"/>	<input type="checkbox"/>	Ground Water	<input type="checkbox"/>	<input type="checkbox"/>
VOCs	<input type="checkbox"/>	<input type="checkbox"/>	Drinking Water	<input type="checkbox"/>	<input type="checkbox"/>
Lead	<input type="checkbox"/>	<input type="checkbox"/>	Sediments	<input type="checkbox"/>	<input type="checkbox"/>
Other Metals ()	<input type="checkbox"/>	<input type="checkbox"/>	No Media Affected	<input type="checkbox"/>	
PAHs	<input type="checkbox"/>	<input type="checkbox"/>	Unknown	<input type="checkbox"/>	
Other Contaminants ()	<input type="checkbox"/>	<input type="checkbox"/>			
No Contaminants	<input type="checkbox"/>				
Unknown	<input type="checkbox"/>				

State & Tribal Brownfields/Voluntary Response Program Information

17a. State & Tribal Program Enrollment (If the property was not enrolled in a state program, check Property Not Enrolled check box):

Date of Enrollment _____ ID Number (if applicable) _____ Property Not Enrolled in a State or Tribal Program

17b. Date No Further Action/Cleanup Completion Document Issued

(If the property was not enrolled in a state or tribal program, leave blank):

Date: _____

PART V INSTITUTIONAL CONTROLS INFORMATION (mandatory for all grant types)

- 18a. Indicate whether Institutional Controls are required: Yes No
- 18b. If Institutional Controls were required, indicate the category (check all that apply):
- Proprietary Controls (e.g., easements, covenants) Governmental Controls (e.g., zoning, building codes)
- Informational Devices (e.g., state registries, deed notices) Enforcement/Permit Tools (e.g., permits, consent decrees)
- Address of Data Source (URL if available): _____
- 18c. Indicate whether Institutional Controls in place:
 Yes No Date: _____

PART VI ENVIRONMENTAL CLEANUP INFORMATION (mandatory for Cleanup and RLF Grants and State & Tribal Property Specific Cleanups; as available for Assessment Grants and TBAs)

19. Cleanup Activity Start Date: _____ 20. Cleanup Activity Completion Date: _____ 21. Acres Cleaned Up: _____
22. If EPA Brownfields funding was used, indicate the type and amount (If any non-EPA funding was used, fill out Table C):
- | | | | |
|--|--------|---|--------|
| Type | Amount | Type | Amount |
| <input type="checkbox"/> Cleanup Grant | _____ | <input type="checkbox"/> RLF Subgrant | _____ |
| <input type="checkbox"/> RLF Loan | _____ | <input type="checkbox"/> Section 128(a) State/Tribal Grants | _____ |

Table C – Environmental Cleanup Leveraged Funding Detail

Source of Funding (enter one source of funding per line; do not include funding received prior to the award of this EPA grant)				Name of Entity Providing Funds	Amount of Funding
Other Federal	State/Tribal (exclude §128(a) funds)	Local Gov't	Private/Other		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$ _____

PART VII REDEVELOPMENT AND OTHER LEVERAGED ACCOMPLISHMENTS (Mandatory for Assessment, Cleanup and RLF Grants; as available for State and Tribal Property Specific Activities and TBAs)

- Redevelopment Information**
23. Redevelopment Start Date: _____ 24. Future Use and Estimated Acreage (check all that apply):
- | | | | |
|--------------------------------------|---------|-------------------------------------|---------|
| Type | Acreage | Type | Acreage |
| <input type="checkbox"/> Greenspace | _____ | <input type="checkbox"/> Commercial | _____ |
| <input type="checkbox"/> Residential | _____ | <input type="checkbox"/> Industrial | _____ |
25. Number of Cleanup and Redevelopment Jobs Leveraged: _____ 26. Actual Acreage(s) and Type(s) of Greenspace Created: _____

Table D – Funds Used to Perform Redevelopment Activities

Source of Funding (enter one source of funding per line; do not include funding received prior to the award of this EPA grant)				Name of Entity Providing Funds	Amount of Funding
Other Federal	State/Tribal	Local Gov't	Private/Other		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$ _____

PART VIII ANECDOTAL PROPERTY INFORMATION *(as available for all grant types)*

27. **Property Highlights** _____

Property Photograph Information

28. Indicate whether photographs are available: 29. Indicate whether video is available:
 Yes No Yes No

PART IX APPROVALS

30. **Grant Recipient Project Manager**
Name (Please Print) Signature Date

31. **US EPA Regional Representative**
Name (Please Print) Signature Date

Instructions for Completing Brownfields Property Profile Form GENERAL INSTRUCTIONS

OVERVIEW:

As specified in your grant terms and conditions, all assessment, cleanup, and Revolving Loan Fund (RLF) grant recipients must report to EPA on a regular basis. This OMB and EPA approved reporting form (OMB Form 2050-0192, EPA Form 9310-3), supplements your Quarterly Reports with specific property information. Please note that, in most instances, all reported information is accessible by the public under the Freedom of Information Act (FOIA) and may be distributed by EPA to the public unless one of the FOIA exclusions is applicable.

All grant recipients must develop and regularly maintain a Brownfields Property Profile form (Property Profile) for **each property** targeted with EPA brownfields grant assistance. The Property Profile is divided into eight parts. Unless otherwise indicated, reporting in each section is mandatory for all grant recipients. Additional instructions and definitions for completing this form are provided below. Please contact your EPA Regional representative if you have any questions when completing this form.

Compared to the Quarterly Reports, each Property Profile contains information relating only to a specific property targeted by the grant recipient. Quarterly Reports should not contain property specific information except to identify area-wide/regional redevelopment projects and their relation to one or more targeted properties.

Leveraged Accomplishments Note: Several pieces of information in the Property Profile refer to "leveraged" activities or accomplishments. Typically, these leveraged activities and accomplishments are natural results/outcomes of the EPA funded activities (e.g., cleanup jobs/funding at a property assessed with EPA brownfields assessment grant funding; reuse jobs/funding at a property cleaned up with EPA brownfields cleanup or RLF grant funding). To be reportable, there must be a demonstrable link or connection between the EPA funded activity and the leveraged activity/funding/accomplishment. Usually, activities/funding/accomplishments that occur prior to award of the EPA grant should not be reported as leveraged since the activity predates the award. In addition, the leveraged activity/funding/accomplishment should be reported only when actually manifested (i.e., projected numbers and other data, including expected jobs or uncommitted funding, should not be reported).

WHEN TO SUBMIT:

Original Property Profiles. Grant recipients must create a Property Profile when the grant recipient targets a property for EPA brownfields grant funded activities.

- For assessment grants, this will typically mean when assessment or planning activities are initiated at the property using the grant funds.
- For cleanup and RLF grants, this will typically mean when cleanup activities are initiated at the property using the grant funds.
- For RLF grants, this may also mean when a subgrant or loan package is completed for a specific property.

Updated Property Profiles. Property Profiles must be updated as activities (e.g., assessment, cleanup, redevelopment) and accomplishments (e.g., cleanup completed, redevelopment underway, significant leveraged funding committed) dictate and then submitted along with the next required Quarterly Report. For example, a Property Profile should be updated upon: completion of a Phase II assessment; receipt of a no cleanup action document or determination; completion of cleanup activity; and/or initiation/completion of the planned redevelopment project. In addition, a Property Profile should be updated as the property background information changes or if there are other anecdotal information and successes that the grant recipient wants to share with EPA. Grant recipients should also revise and submit updated Property Profiles for all targeted properties when the grant is being closed-out.

To WHOM TO SUBMIT:

Grant recipients must submit the Property Profile forms to their EPA Regional Representative identified in the terms and conditions of the cooperative agreement and the EPA Headquarters Data Manager.

How TO SUBMIT:

EPA is undertaking a two-phased process to facilitate electronic reporting and information dissemination system to facilitate future grant recipient reporting. In the first phase, EPA will prepare electronic versions of this and other required reporting forms for the grant recipients to complete and submit via e-mail. In the second phase, EPA will develop a web-based database that will allow entry of the information directly by the grant recipient or the Region. As needed, EPA will continue to provide contractor data entry and quality assurance support. Electronic reporting is optional; hard copy reports always will be acceptable.

DETAILED INSTRUCTIONS

For Completing Each Item on Form

PART I – GRANT RECIPIENT INFORMATION

(mandatory for all grant recipients)

- 1. Grant Recipient Name.** Enter the grant name. Use the official name of the grant recipient as provided in the cooperative agreement, unless otherwise directed by the EPA Regional Representative.
- 2. Grant Number.** Enter the grant number. Use the number of the grant as provided in the cooperative agreement.

PART II - PROPERTY INFORMATION

(mandatory for all grant recipients)

- 3. Property Background Information.** Provide basic background information about the targeted property. To a large extent, much of this information is historical (e.g., name, street address, lat/long, size, description/history) and should be provided in the original version of the Property Profile, with updates only as necessitated by changed circumstances.

For purposes of grant recipient reporting, a “property” is defined as a contiguous piece of land under unitary ownership, at the time it first benefits from EPA brownfields grant funded activities. A property may contain several smaller components, parcels, or areas; all reporting, unless otherwise indicated, should be provided for the property as a whole.

- 3a. Current Owner.** Enter the name of the owner of the targeted property. If the ownership changes during the term of the grant, provide the new owner’s name.
- 3b. Property Name.** Enter the name of the property. The property name should include the primary reference to the property, as well as any aliases. If multiple names are listed, indicate the primary name first followed by any aliases (separated by commas).
- 3c. Street Address.** Enter the address of the property. The street address provided should

reflect the primary entrance to the property. If no street address is available, please report the names of the streets for the intersection closest to the primary property entrance.

3d. City. Enter the name of the city in which the property is located.

3e. State. Enter the two-letter abbreviation for the name of the state in which the property is located.

3f. Zip Code. Enter the zip code (with plus four code, if available) for the property.

3g. Size. Enter the number of acres contained within the property's boundary. Acreage for the entire property, not just the potentially contaminated portions, should be provided.

4. Property Geographic Information. The grant recipient must provide latitude and longitude (lat/long) information for the property. The coordinates should be taken at the primary entrance to the property (i.e., at the street address listed in 3c). The five required lat/long data elements are described below (4a-4d). EPA Headquarters, or its contractors, will provide latitude /longitude and parcel number information if grant recipients are unable. Additional guidance regarding EPA's Data Standards for geographic information can be found at <http://www.epa.gov/edr> and is also available from your EPA Regional Representative.

4a. Latitude. Enter the latitude coordinate for the property's primary entrance. Please indicate, in degrees and decimal degrees (up to a maximum of six decimal positions), the measure of the angular distance on a meridian north or south of the equator. Where degrees latitude are less than 10, leading zeros should be given (e.g., 09 degrees latitude). Latitude measures should be preceded by a plus (+) symbol for points on or north of the equator and a minus (-) symbol for points south of the equator.

4b. Longitude. Enter the longitude coordinate for the property's primary entrance. Please indicate, in degrees and decimal degrees (up to a maximum of six decimal positions), the measure of the angular distance on the meridian east or west of the prime meridian. Where degrees longitude are less than 100, leading zero(s) should be given (e.g., 006 or 089 degrees longitude). Longitude should always be preceded by a minus (-) symbol for points west of the prime meridian and a plus (+) symbol for points on or east of the prime meridian.

4c. Horizontal Collection Method. Enter the method used to determine the latitude and longitude coordinates.

4d. Source Map Scale Number (only if a map/photo was used). Unless a Global Positioning System (GPS) was used to determine the coordinates, please indicate the scale of the map/photo used to determine the latitude and longitude coordinates (i.e., the number that represents the proportional distance on the ground for one unit of measure on the map or photo).

4e. Reference Point. Enter the reference point. If the latitude/longitude coordinates were not taken at the primary entrance to the property, please indicate the place for which the coordinates were established.

4f. Parcel Number(s). Enter the universal identification number for the property (i.e., parcel number). Please list all applicable parcel numbers for the property. If multiple parcel numbers are listed, indicate the primary parcel number first (i.e., that which encompasses the primary entrance for the property), followed by any other parcel numbers (separated by commas).

5. Property History Information (optional). Provide a brief narrative description about the property by providing information about the history of the property including past owners and past uses leading to any real or perceived environmental contamination.

5a. Property Description/History/Past Ownership. Provide a brief narrative description about the property by providing information about the history of the property including past owners and past uses leading to any real or perceived environmental contamination. Please indicate the specific past use(s) (e.g., textile mill, automotive manufacturing plant, shopping center) as well as the general category of the past use(s) (e.g., industrial, commercial, residential, recreational, public purpose use, mixed-use).

5b. Current Uses(s). Provide a brief narrative description about the current use(s), zoning, and/or ownership of the property. If the property is not currently in active use (e.g., abandoned, idled), please indicate. Please also indicate the specific current use(s) (e.g., textile mill, automotive manufacturing plant, shopping center) as well as the general category of the current use(s) (e.g., industrial, commercial, residential, recreational, public purpose use, mixed-use).

PART III - ENVIRONMENTAL ASSESSMENT INFORMATION

(mandatory for assessment grant recipients only; optional for cleanup and RLF grant recipients)

6. Environmental Assessment Activity Information. In this section, the grant recipient should provide information relating to: (A) assessment activities conducted or leveraged by the EPA grant; and (B) basic information (e.g., contamination, media impacted) discovered during the assessment activity. Any assessment information provided by cleanup and RLF grant recipients should be limited to “leveraged” assessment activities (i.e., where the designation of the EPA cleanup/RLF grant award facilitated the assessment assistance/funding for the property). Use the following format when entering the date: mm/dd/yyyy.

6a. Phase I Report Completion Date(s). Enter the date(s) on which any Phase I reports (e.g., preliminary assessment, all appropriate inquiry) were completed. A Phase I report is final when an environmental professional or state official has prepared an environmental assessment report in accordance with the all appropriate inquiry standard set forth in the Brownfields Law (CERCLA Section 101(35)), that has been accepted by the grant recipient. If multiple Phase I reports are completed for the property during the term of the grant, list them all (separate by commas).

6b. Phase II Report Completion date(s). Enter the date(s) on which any Phase II reports (e.g., supplement assessment, site investigation) were completed. A Phase II report is final when an environmental professional or state official has prepared an environmental assessment report that has been accepted by the grant recipient. If multiple Phase II reports are completed for the property during the term of the grant, list them all (separate by commas).

6c. Phase III Report Completion Date(s). Enter the date(s) on which any Phase III reports (e.g., cleanup planning) were completed. A Phase III report is final when an environmental professional or state official has prepared an environmental assessment report that has been accepted by the grant recipient. If multiple Phase III reports are completed for the property during the term of the grant, list them all (separate by commas).

7. Environmental Assessment Findings. Provide information relating to the results from the environmental assessment activities performed at the property, including information on the types of contaminants found, the media impacted, and whether cleanup activities will be required. Update this section as additional information becomes available.

7a. Classes of Contaminants Found. Indicate which categories of contaminants have been identified through the assessment activities. Mark the boxes for each and every class of contaminants that have been detected. The eight specific classes listed are defined below. To the extent available, the Chemical Abstract Services (CAS) numbers are also provided below. If contaminants are identified that do not fall into one or more of these classes, please indicate “other” and provide a brief description the contaminant(s) identified during the assessment activities. Please consult with your EPA Regional Representative if you need additional assistance in classifying the contaminants at your targeted properties.

- **Petroleum/Petroleum Products** (CAS Number: 8002-05-9)

Petroleum is defined under CERCLA as “crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).” (40 USC Section 9601).

Please note that the Brownfields Law restricts eligibility for EPA brownfields funding to petroleum contaminated properties that EPA or the state determines: (1) are of “relatively low risk” compared with other “petroleum-only” sites in the state; and (2) for which there is no viable responsible party and will be assessed, investigated, or cleaned up by a person that is not potentially liable for cleaning up the site. In addition, petroleum-contaminated properties must not be subject to a corrective action order under a Resource Conservation and Recovery Act (RCRA) Section 9003(h) order.

- **Controlled Substances** (CAS Number: None)

The Brownfields Law refers to Section 102 of the Controlled Substances Act (21 USC Section 802) to define a “controlled substance” as “a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of this title (21 USC Section 812). The term does not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in subtitle E of the Internal Revenue Code of 1954 (26 USC Section 5001 et seq.).”

Please note that properties eligible for brownfields funding include real property, including residential property, that is contaminated by a controlled substance. For example, properties eligible for brownfields funding may include private residences, formerly used for the manufacture and/or distribution of methamphetamines or other illegal drugs where there is a presence or potential presence of controlled substances or pollutants, contaminants, or hazardous substances (e.g., red phosphorous, kerosene, acids).

- **Asbestos** (CAS Number: 1332-21-4)

EPA’s Substance Registry System defines asbestos as “a grayish, noncombustible fibrous material. It consists primarily of impure magnesium silicate minerals.” The Agency for

Toxic Substances and Disease Registry further defines asbestos as “a group of six different fibrous minerals (amosite, chrysotile, crocidolite, and the fibrous varieties of tremolite, actinolite, and anthophyllite) that occur naturally in the environment.”

- **PCBs** (CAS Number: 1336-36-3)

The regulations issued under the Toxic Substances Control Act (TSCA, 15 USC 2601 et seq.), 40 CFR Section 461.3, define polychlorinated biphenyls or PCB and PCBs as “any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances which contains such substance.”

Please note that the Brownfields Law excludes from funding eligibility portions of facilities where there has been a release of PCBs that are subject to remediation under TSCA.

- **VOCs** (CAS Number: None)

Organic compounds are chemicals composed of carbon. Volatile organic compounds (VOCs) produce vapors readily. At room temperature and normal atmospheric pressure, vapors escape easily from volatile liquid chemicals. Volatile organic compounds include a variety of chemicals such as gasoline, benzene, toluene, xylene, formaldehyde, tetrachloroethylene, and perchloroethylene.

- **Lead** (CAS Number: 7439-92-1)

The Agency for Toxic Substances and Disease Registry defines lead as “a naturally occurring bluish-gray metal found in small amounts in the earth’s crust.”

- **Other Metals** (CAS Number: None)

A metal is an element characterized by a tendency to give up electrons and by good thermal and electrical conductivity. These chemical elements cannot be broken down by any chemical or biological process and includes elements such as arsenic, mercury, cadmium, and chromium.

- **PAHs** (CAS Number: 1340489-29-2)

The Agency for Toxic Substances and Disease Registry defines polycyclic aromatic hydrocarbons (PAHs) as “a group of over 100 different chemicals that are formed during the incomplete burning of coal, oil and gas, garbage, or other organic substances like tobacco or charbroiled meat. PAHs are usually found as a mixture containing two or more of these compounds, such as soot. Some PAHs are manufactured. These pure PAHs usually exist as colorless, white, or pale yellow-green solids. PAHs are found in coal tar, crude oil, creosote, and roofing tar, but a few are used in medicines or to make dyes, plastics, and pesticides.”

7b. Media Affected. Indicate which types of media (i.e., soil, air, surface water, ground water, drinking water, sediments) are impacted by the identified contaminants. Mark the boxes for each and every media impacted at levels that are actionable under state, tribal, and/or federal standards. To the extent that the future reuse plans impact whether the contamination in the media is actionable, consider providing a brief description in Part VII. If the assessment activity is preliminary in nature and does not report potential affects by media, mark the “unknown” box. When the media affected become known, please update this section.

7c. Cleanup Required. Indicate whether cleanup is required as soon as sufficient assessment has been conducted to make a determination. An “environmental cleanup” is defined as any cleanup that is required at a property as a result of contamination by any hazardous substance, petroleum product, controlled substance, or solid waste at levels that pose a threat to human health and the environment. The “no cleanup required” determination is generally made by the grant recipient or property owner—typically made in conjunction with state voluntary response officials and/or certified environmental professionals following an environmental assessment of the property—to indicate that the property does not have any contaminants at levels that pose a threat to human health or the environment. A grant recipient may not know whether a cleanup is required if additional assessment work is required or where the cleanup level is dependent on the future use and the future use has not been determined. In these instances, indicate “unknown” and update this section when a determination is made. A no cleanup determination may include situations where a cleanup does not occur but use of either engineering controls (e.g., capping) or institutional controls (e.g., land use restrictions) assures any residual contamination left on the property does not pose a threat to human health or the environment.

8. Environmental Assessment Funding Information. In Table A, describe all funds used to perform assessment activities at the property during the term of the grant. Indicate the amount of funding provided by each listed source. Add additional rows to the table if needed. Assessment activities conducted and funded prior to the awarding of the grant typically should not be provided (i.e., pre-award activities are not considered leveraged and should not be reported). Supplemental narrative information about the funding may be further described in Part VII (e.g., describe use of innovative funding sources, use of loans and/or insurance mechanisms to facilitate assessment).

8a. U.S. EPA— Brownfields Assessment Grant. For assessment grant recipients, indicate the amount of grant funds used to perform assessments at the property. For cleanup and RLF grant recipients, provide the amount of any assessment activity funded by an EPA brownfields assessment grant (optional; if provided, also provide the assessment grant number).

8b. Other Federal Funding. Indicate the source(s) and amount(s) of other federal funds used to perform assessment activities at the property (e.g., HUD CBDG - \$100,000, HUD BEDI - \$25,000).

8c. State/Tribal Funding. Indicate the source(s) and amount(s) of any state or tribal funds used to perform assessment activities at the property (e.g., state brownfields assessment grant - \$100,000, state economic development grant - \$25,000).

8d. Local Funding. Indicate the source(s) and amount(s) of any local public funds used to perform assessment activities at the property (e.g., local bond/tax increment financing - \$100,000).

8e. Private Funding. Indicate the source(s) and amount(s) of any private funds used to perform assessment activities at the property (e.g., company XYZ - \$100,000, developer ABC - \$25,000).

8f. Other Funding. Indicate the source(s) and amount(s) of any other funds used to perform assessment activities at the property (e.g., non-profit MNO - \$100,000).

PART IV - ENVIRONMENTAL CLEANUP INFORMATION

(mandatory for cleanup and RLF grant recipients only; optional for assessment grant recipients)

9. Cleanup Activity Information. In this section, the grant recipient should provide information relating to: (A) cleanup activities conducted or leveraged by the EPA grant; and (B) basic information relating to the cleanup activity and results. This section is mandatory for cleanup and RLF grants. For assessment grant recipients, cleanup activities must be reported only if the cleanup activity is undertaken at a property that has been assessed under the assessment grant, directly or through leveraging, during the term of the assessment grant.

9a. Cleanup Completion Date. Enter the date that cleanup activities at the property were completed. Use the following format when entering the date: mm/dd/yyyy. Cleanup activities are considered complete when the property is made available for reuse. This typically occurs when one of the following conditions applies:

- (1) a “clean” or “no further action” letter (or its equivalent) has been issued by the state or tribe under its voluntary response program (or its equivalent) for the cleanup activities at the property; or
- (2) the grant recipient or property owner, upon the recommendation of an environmental professional, has determined and documented that on-property work is finished and any needed institutional or engineering controls are in place and functional. Ongoing operation and maintenance activities or monitoring may continue after a cleanup completion designation has been made.

9b. Institutional Controls Required. Indicate whether institutional controls are required as part of the cleanup or containment activity to help minimize the potential for exposure to contamination and/or restrict land or resource use.

9c. Category of Institutional Controls Required. Indicate which category(ies) of institutional controls are required. Mark the boxes for each and every category of institutional control that is required. Although the definitions of institutional controls vary across localities and states, there are four general categories: proprietary controls (e.g., easements, covenants); governmental controls (e.g., zoning, building codes, drilling permit requirements); enforcement/permit tools (e.g., orders, permits, consent decrees); and informational devices (e.g., state registries, deed notices, advisories). Provide the address where information about the institutional control (e.g., specific type of control) can be found; if the information is available on-line, provide the world wide web address or URL. For additional information on institutional controls, please refer to EPA guidance [the current February 2003 draft guidance is entitled “Institutional Controls: A Guide to Implementing, Monitoring and Enforcing Institutional Controls at Superfund, Brownfields, Federal Facility, UST and RCRA Corrective Action Cleanups,” “Institutional Controls: A Citizen’s Guide to Understanding at Superfund, Brownfields, Federal Facilities, Underground Storage Tank, and Resource Conservation and Recovery Act Cleanups” (EPA 540-R-04-003, February 2005), or “Institutional Controls: A Site Manager’s Guide to Identifying, Evaluating, and Selecting Institutional Controls at Superfund and RCRA Corrective Action Cleanups” (EPA 540-F-00-005, September 2000)] or contact your EPA Project Officer.

10. Cleanup Results. Provide information relating to the results from the environmental cleanup activities performed at the property, including information on the types of contaminants addressed, the media addressed, and the acres cleaned up. Update this section as additional information becomes available.

10a. Classes of Contaminants Removed/Addressed. Indicate which categories of contaminants have been removed or otherwise addressed (e.g., treated on the property or treated/disposed at another location) in compliance with the applicable state, tribal, or federal standards. Mark the boxes for each and every class of contaminants that have been removed/addressed. Definitions for these contaminant classes are provided above in Part III (Environmental Assessment Findings).

10b. Media Addressed. Indicate which types of media (i.e., soil, air, surface water, ground water, drinking water, sediments) have been addressed as a result of the cleanup activities. Mark the boxes for each and every media addressed.

10c. Acres Cleaned Up. Enter the number of acres that have been cleaned up. Provide only the acreage for the portion of the property that has been addressed by environmental cleanup activities. Property is considered cleaned up when it is made available for reuse as a result of the environmental cleanup activity. A more detailed description of cleanup completion is provided previously in this Part IV (Cleanup Completion Date).

11. Environmental Cleanup Funding Information. In Table B, describe all funds used to perform environmental cleanup activities at the property during the term of the grant. Indicate the amount of funding provided by each listed source. Add additional rows to the table if needed. Cleanup activities conducted and funded prior to the awarding of the grant should typically not be provided (i.e., pre-award activities are not considered leveraged and should not be reported). Funding for activities used to prepare the property for redevelopment (e.g., demolition, site clearing) should be reported in Part V (Table C). Supplemental narrative information about the cleanup funding may be further described in Part VII (e.g., describe use of innovative funding sources, use of loans and/or insurance mechanisms to facilitate cleanup).

11a. U.S. EPA—Brownfields Cleanup Grant. For cleanup grant recipients, indicate the amount of grant funds used to perform environmental cleanup activities at the property.

11b. U.S. EPA—Brownfields RLF Loan. For RLF grant recipients, indicate the amount of the loan used to perform environmental cleanup activities at the property. Also indicate the name of the borrower. Loan amounts should be reported when the loan is issued to the borrower (i.e., when the loan document is signed and legally binding).

11c. U.S. EPA—Brownfields RLF Subgrant. For RLF grant recipients, indicate the amount of the subgrant used to perform environmental cleanup activities at the property. Also indicate the name of the subgrantee. Subgrant amounts should be reported when the subgrant is awarded (i.e., when the subgrant is signed and legally binding).

11d. Other Federal Funding. Indicate the source(s) and amount(s) of other federal funds used to perform environmental cleanup activities at the property (e.g., HUD CBDG - \$100,000, HUD BEDI - \$25,000).

11e. State/Tribal Funding. Indicate the source(s) and amount(s) of any state or tribal funds used to perform environmental cleanup activities at the property (e.g., state brownfields cleanup grant - \$100,000, state economic development grant - \$25,000).

11f. Local Funding. Indicate the source(s) and amount(s) of any local public funds used to perform environmental cleanup activities at the property (e.g., local bond/tax increment financing - \$100,000).

11g. Private Funding. Indicate the source(s) and amount(s) of any private funds used to perform environmental cleanup activities at the property (e.g., company XYZ - \$100,000, developer ABC - \$25,000).

11h. Other Funding. Indicate the source(s) and amount(s) of any other funds used to perform environmental cleanup activities at the property (e.g., non-profit MNO - \$100,000).

PART V - REDEVELOPMENT AND OTHER LEVERAGED ACCOMPLISHMENTS

(mandatory for all grant recipients)

In this section, provide information relating to redevelopment activities and other non-assessment/cleanup accomplishments leveraged by the EPA grant and basic information relating to the leveraged activities. The term “leveraged” refers to those non-EPA brownfields grant funds and activities that have some link or nexus to the efforts of an EPA grant-funded activity, or where the EPA grant-funded activity was a catalyst for the leveraged accomplishments. This section is mandatory for all grant recipients where targeted properties undergo subsequent redevelopment activities, but should only be updated when real accomplishments are realized (e.g., anticipated leveraged funding should not be reported until it is committed to the property). This Part should be updated by all grant recipients as redevelopment activities are undertaken or leveraged funds are committed for the property during the term of the grant.

12. Redevelopment Information. Provide information relating to redevelopment activities leveraged by the EPA grant.

12a. Redevelopment Underway. Indicate whether redevelopment activities have been initiated at the property. If redevelopment activities have begun, indicate the date on which the activities started. Use the following format when entering the date: mm/dd/yyyy. The start date can be triggered by a variety of events (e.g., infrastructure preparation, property preparation, groundbreaking ceremony). Conceivably, the redevelopment start date can precede the date of the completion of a cleanup when various portions of the property are undergoing simultaneous cleanup and redevelopment activities. However, environmental cleanup activities necessary to prepare the property for redevelopment should not be considered a trigger for the redevelopment start date.

12b. Acres of Green Space Created. Enter the number of acres that have been newly created or made available as green space (i.e., acres of green space created). Provide only the acreage for the portion of the property that constitutes green space. Green space typically refers to vegetated or water-covered space that is in a natural or unbuilt condition, meaning not covered with buildings, roads, or other paved areas, thus providing environmental, recreational, and other benefits (e.g., parks, wildlife refuges, nature trails).

13. Jobs Information. Provide information relating to the jobs leveraged by the EPA grant at the targeted property.

13a. Number of Cleanup and Redevelopment Jobs Leveraged. Enter the total number of all jobs leveraged during the term of the grant at the property. The number listed should include jobs of a short-term nature (i.e., with a duration of less than one year) typically leveraged during the assessment, cleanup, and construction stage; and jobs of a long-term nature that typically occur as a result of the new or enhanced reuse at the property (i.e., with a duration of more than one year). Only actual jobs should be reported; planned or expected jobs should not be reported until they are realized.

14. Redevelopment Funding Information. In Table C, describe all funds linked and leveraged by the grant to support additional, related activities at the property. Indicate the amount of funding provided by each listed source. Add additional rows to the table if needed. Only funding committed to the property should be reported; anticipated funding should not be reported until it is committed. Supplemental narrative information about the leveraged redevelopment funding may be further described in Part VII (e.g., describe innovative funding sources/uses, additional details on what each funding source was used for).

Redevelopment may include non-commercial reuses (e.g., parks, wildlife refuges, nature trails, and green spaces, non-profit community health care facility) as well as commercial or industrial uses (e.g., the expansion or remodeling of an existing manufacturing facility, the construction of a new retail space) and residential and public purpose uses (e.g., courthouse, public health clinic). Redevelopment activities conducted and funded prior to the awarding of the grant should not be provided (i.e., pre-award activities are not considered leveraged and should not be reported). Leveraged funds may be used to support allowable activities (e.g., inventory, assessment, cleanup) as captured in the previous sections (Tables A and B, respectively) and activities that cannot be funded by the EPA grant (e.g., demolition, site preparation, redevelopment construction, transportation improvements) that should be reported in this section.

To the extent that funding for program/grant-level activities and/or redevelopment activities have been leveraged but cannot be discretely allocated to one or more targeted properties, the leveraged funding should only be described in the Quarterly Report (i.e., not in the Property Profile). In addition to describing the amount leveraged, use the Quarterly Report to identify the type of activity funded, funding source, and which specific properties or areas (if any) benefit from the funding.

14a. Federal Funding. Indicate the source(s) and amount(s) of federal funds used to perform redevelopment activities at the property (e.g., HUD CBDG - \$100,000, EDA Public Works grant - \$25,000).

14b. State/Tribal Funding. Indicate the source(s) and amount(s) of any state or tribal funds used to perform redevelopment activities at the property (e.g., state brownfields grant - \$100,000, state economic development grant - \$25,000).

14c. Local Funding. Indicate the source(s) and amount(s) of any local public funds used to perform redevelopment activities at the property (e.g., local bond/tax increment financing - \$100,000).

14d. Private Funding. Indicate the source(s) and amount(s) of any private funds used to perform redevelopment activities at the property (e.g., company XYZ - \$100,000, developer ABC - \$25,000).

14e. Other Funding. Indicate the source(s) and amount(s) of any other funds used to perform redevelopment activities at the property (e.g., non-profit MNO - \$100,000).

PART VI - PROPERTY OWNERSHIP INFORMATION

(mandatory for cleanup and RLF grant recipients only; optional for assessment grant recipients)

15. Ownership Change. Indicate whether, during the term of the grant, ownership for the property has changed. For reporting purposes, a property “ownership change” is defined as a property transaction that, a transaction involving entering into a long-term lease (e.g., 99 years) should be considered as a property ownership change (i.e., the landlord would be considered the seller and the tenant would be considered the buyer).

16. Superfund Federal Landowner Liability Protection Factor. For any ownership changes during the term of the grant, indicate whether the bona fide prospective purchaser (BFPP) liability protection, provided in the Brownfields Amendments to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), was a factor in the property transfer. Check the “unknown” box, if you do not know whether the BFPP liability protection had an impact on the property transfer.

PART VII - ANECDOTAL PROPERTY INFORMATION

(optional reporting for all grant recipients)

17. Property Highlights. Briefly describe other, anecdotal information about the property. Information relating to the grant award criteria (e.g., community need, sustainable reuse/brownfields prevention, reduction of environmental threats, use of existing infrastructure, community involvement) should be highlighted as much as possible. The grant recipient may also want to highlight any innovative or unique issues, activities, technologies, or approaches; any disenfranchised or sensitive populations impacted; planned or actual reuse(s); and/or any other significant accomplishments or upcoming events, such as groundbreaking or ribbon cutting ceremonies, associated with the targeted property.

In addition, the grant recipient should provide information relating to any allowable, but non-assessment/cleanup activities (e.g., health monitoring studies, insurance) funded and/or leveraged through the grant at the targeted property. Any such activities that are not linked directly to a single property should be described in the Quarterly Report.

EPA will use this additional information for use in its evaluation of the success of the grant and for its use in developing communications materials to promote the brownfields program and grants.

18. Property Photography Information. Provide information on the availability of photographs or video footage depicting pre-grant property conditions, grant funded activities, redevelopment activities, and/or the property after redevelopment construction has been completed. As with the

anecdotal narrative, EPA will use any photographs to illustrate the progress and successes of each grant recipient in regional and national communications materials.

18a. Photographs Available. Indicate whether still photographs depicting the property have been taken and are available.

18b. Video Available. Indicate whether video footage depicting the property has been taken and is available.

PART VIII - APPROVALS

(mandatory for all grant recipients)

19. Grant Recipient Project Manager. Type or print the name of the grant recipient project manager. The project manager must also sign and date the completed Property Profile form before submission.

20. U.S. EPA Regional Representative. Type or print the name of the EPA Regional Representative. The EPA representative should also sign and date the reviewed Property Profile form.

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Appendix E. • *Other Relevant Documents*

U.S. Environmental Protection Agency “COMMON ELEMENTS” GUIDANCE REFERENCE SHEET

INTRODUCTION

This reference sheet highlights the main points made in EPA’s March 6, 2003 guidance entitled “*Interim Guidance Regarding Criteria Landowners Must Meet in Order to Qualify for the Bona Fide Prospective Purchaser, Contiguous Property Owner, or Innocent Landowner Limitations on CERCLA Liability “Common Elements”*”, available at:

<http://www.epa.gov/compliance/resources/policies/cleanup/superfund/common-elem-guide.pdf>

The "Common Elements" are the statutory threshold criteria and ongoing obligations landowners must meet to qualify as a:

- ▶ bona fide prospective purchaser,
- ▶ contiguous property owner, or
- ▶ innocent landowner.

The 2002 Brownfields Amendments to the Superfund law provide conditional CERCLA liability protection to landowners who qualify as bona fide prospective purchasers, contiguous property owners or innocent landowners. For purposes of EPA’s “Common Elements” Guidance and this reference sheet, “innocent landowner” refers only to unknowing purchasers as defined in CERCLA § 101(35)(A)(i).

Who are Bona Fide Prospective Purchasers (BFPPs)?

- ▶ Persons who meet the CERCLA § 101(40) criteria and the CERCLA § 107(r) criteria.
- ▶ Purchasers who buy property after January 11, 2002.
- ▶ BFPPs must perform all appropriate inquiry prior to purchase and may buy *knowing, or having reason to know*, of contamination on the property.

Who are Contiguous Property Owners (CPOs)?

- ▶ Persons who meet the CERCLA § 107(q)(1)(A) criteria.
- ▶ Owners of property that is *not* the source of the contamination. Such property is “contiguous” to, or otherwise similarly situated to, a facility that is the source of contamination found on their property.
- ▶ CPOs must perform all appropriate inquiry prior to purchase and buy *without*

knowing, or having reason to know, of contamination on the property.

Who are Innocent Landowners (ILOs)?

- ▶ Persons who meet the CERCLA § 107(b)(3) criteria (including due care) and the CERCLA § 101(35) criteria.
- ▶ ILO’s must perform all appropriate inquiry prior to purchase and must buy *without knowing, or having reason to know, of contamination on the property.*

THE COMMON ELEMENTS

A person asserting BFPP, CPO or ILO status has to prove that it meets the applicable criteria.

THRESHOLD CRITERIA

To qualify as a BFPP, CPO, or ILO, a person must perform “all appropriate inquiry” before buying the property.

BFPPs and CPOs must *also* demonstrate that they are not potentially liable nor “affiliated” with any other person who is potentially liable for response costs at the property.

All Appropriate Inquiry

BFPPs, CPOs, and ILOs must perform “all appropriate inquiry” into the previous ownership and uses of property before buying the property.

BFPPs may buy property with knowledge of contamination and maintain their protection from liability. The CPO and ILO liability protections, in contrast, do *not* apply if the purchaser knew, or had reason to know, of contamination prior to purchase.

EPA will publish regulations and guidance on the all appropriate inquiry standard in the future. For property purchased before May 1997, statutory factors are to be applied. CERCLA § 101(35)(B)(iv)(I). For property purchased after May 1997 and until EPA promulgates a regulation establishing the all appropriate inquiry standard, an ASTM Phase I report may satisfy the standard. CERCLA § 101(35)(B)(iv)(II). EPA is to promulgate a regulation establishing the all appropriate inquiry standard by 2004. CERCLA § 101(35)(B)(ii), (iii).

<p><i>Common Elements of the Brownfields Amendments Landowner Provisions</i></p> <hr/> <p><i>Threshold Criteria:</i></p> <ul style="list-style-type: none"> – all appropriate inquiry – no affiliation with a liable party <p><i>Continuing Obligations:</i></p> <ul style="list-style-type: none"> – compliance with land use restrictions and institutional controls – taking reasonable steps with respect to hazardous substances on property – cooperation, assistance and access – compliance with information requests and administrative subpoenas – providing legally required notices
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Affiliation

BFPPs or CPOs must not be potentially liable or affiliated with any other person who is potentially liable for the site response costs. “Affiliated with” includes direct and indirect familial relationships and many contractual, corporate, and financial relationships.

ILOs cannot have a contractual relationship with a liable party.

CONTINUING OBLIGATIONS CRITERIA

To maintain liability protection, landowners must meet the following continuing obligations during their property ownership.

Compliance with Land Use Restrictions and Institutional Controls

BFPPs, CPOs and ILO’s must:

- ▶ be in compliance with any land use restrictions established or relied on in connection with the response action;
- ▶ not impede the effectiveness or integrity of any institutional control employed in connection with a response action.

EPA believes the Brownfields Amendments require BFPPs, CPOs and ILOs to:

- ▶ comply with land use restrictions and implement institutional controls even if the restrictions/controls were not in place at the time of purchase; and
- ▶ comply with land use restrictions relied on in connection with the response action even if restrictions haven’t been implemented through an enforceable institutional control.

Reasonable Steps

BFPPs, CPOs and ILO’s are required to take reasonable steps to:

- ▶ Stop continuing releases;
- ▶ Prevent threatened future releases; and
- ▶ Prevent or limit human, environmental, or natural resource exposure to earlier hazardous substance releases.

The reasonable steps requirement balances Congress’ objectives of protecting certain landowners from CERCLA liability, and protecting human health and the environment.

As a general matter, EPA does not believe Congress intended BFPPs, CPOs and ILOs to have the same types of response obligations that CERCLA liable parties have (e.g., removal of contaminated soil, extraction and treatment of contaminated groundwater). The required reasonable steps relate only to responding to contamination for which the BFPP, CPO, or ILO is

not responsible. Activities on the property after purchase resulting in *new contamination* can give rise to full CERCLA liability. See Attachment B to EPA's guidance for more on reasonable steps in a "question and answer" format.

EPA may provide a comfort/status letter suggesting reasonable steps at a specific site. EPA intends to limit these letters to sites where EPA has sufficient information to form a basis for suggesting reasonable steps (e.g., the site is on the National Priorities List or EPA has conducted or is conducting a removal action on the site). Providing such a letter is a matter of Regional discretion. See Attachment C to EPA's guidance for a sample "reasonable steps" comfort/status letter.

Cooperation, Assistance, and Access

BFPPs, CPOs and ILOs must provide full cooperation, assistance, and access to persons authorized to conduct response actions or natural resource restoration, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action or natural resource restoration.

Compliance with Information Requests and Administrative Subpoenas

BFPPs and CPOs must comply with CERCLA information requests and administrative subpoenas.

Provision of Legally Required Notices

BFPPs and CPOs must provide legally required notices related to the discovery or release of hazardous substances at the facility.

"Legally required notices" may include those required under federal, state, and local laws. Examples of federal notice requirements include: CERCLA § 103 (notification requirements regarding released substances); EPCRA § 304 ("emergency notification"); and RCRA § 9002 (underground storage tanks notification provisions).

<i>Summary: Common Element among the Brownfields Amendments Landowner Provisions</i>	Bona Fide Prospective Purchaser	Contiguous Property Owner	Section 101 (35)(A)(i) Innocent Landowner
All appropriate inquiry	X	X	X
No affiliation demonstration	X	X	*
Compliance with land use restrictions and institutional controls	X	X	X
Taking reasonable steps	X	X	X
Cooperation, assistance, access	X	X	X
Compliance with information requests and administrative subpoenas	X	X	**
Providing legally required notices	X	X	***

- * Although the innocent landowner provision does not contain this “affiliation” language, in order to meet the statutory criteria of the innocent landowner liability protection, a person must establish by a preponderance of the evidence that the act or omission that caused the release or threat of release of hazardous substances and the resulting damages were caused by a third party with whom the person does not have an employment, agency, or contractual relationship. CERCLA § 107(b)(3). Contractual relationship is defined in section 101(35)(A).
- ** Compliance with information requests and administrative subpoenas is not specified as a statutory criterion for achieving and maintaining the section 101(35)(A)(i) innocent landowner liability protection. However, CERCLA requires compliance with administrative subpoenas from all persons, and timely, accurate, and complete responses from all recipients of EPA information requests.
- *** Provision of legally required notices is not specified as a statutory criterion for achieving and maintaining the section 101(35)(A)(i) innocent landowner liability protection. These landowners may, however, have independent notice obligations under federal, state and local laws.

QUESTIONS

Questions regarding this reference sheet or EPA’s Common Elements Guidance should be directed to Cate Tierney in OSRE’s Regional Support Division (202-564-4254, Tierney.Cate@EPA.gov), Greg Madden in OSRE’s Policy & Program Evaluation Division (202-564-4229, Madden.Gregory@EPA.gov) or to the Landowner Liability Protection Subgroup contacts listed by Region below.

Landowner Liability Protection Subgroup Regional Contacts

Region 1:	Joanna Jerison	617-918-1781
Region 2:	Michael Mintzer Paul Simon	212-637-3168 212-637-3152
Region 3:	Joe Donovan Leo Mullin Heather Gray Torres	215-814-2483 215-814-3172 215-814-2696
Region 4:	Kathleen Wright	404-562-9574
Region 5:	Peter Felitti Thomas Krueger Larry Kyte	312-886-5114 312-886-0562 312-886-4245
Region 6:	Mark Peycke	214-665-2135
Region 7:	Denise Roberts	913-551-7559
Region 8:	Suzanne Bohan Matthew Cohn Nancy Mangone	303-312-6925 303-312-6853 303-312-6903
Region 9:	Bill Keener	415-972-3940
Region 10:	Cyndy Mackey	206-553-2569

This reference sheet is intended for employees of EPA and the Department of Justice and it creates no substantive rights for any persons. It is not a regulation and does not impose legal obligations. This reference sheet provides some highlights of EPA’s “Interim Guidance Regarding Criteria Landowners Must Meet in Order to Qualify for the Bona Fide Prospective Purchaser, Contiguous Property Owner, or Innocent Landowner Limitations on CERCLA Liability” (“Common Elements”). It is not intended as a substitute for reading the statute or the guidance itself.

Appendix E. • *Prohibitions on Use of Funds*

Please note: This information is from Appendix 2 of the EPA document, *2006 Proposal Guidelines for Brownfield Assessment, Revolving Loan Fund, and Cleanup Grants*.

Grant funds may not be used for the payment of:

- A penalty or fine.
- A federal cost-share requirement (for example, a cost share required by other federal funds).
- An administrative cost (see below).
- A response cost at a brownfield site for which the recipient of the grant or loan is potentially liable under CERCLA §107.
- A cost of compliance with any federal law, excluding the cost of compliance with laws applicable to the cleanup.
- Unallowable costs (e.g., lobbying and fund raising) under OMB Circulars A-21, A-87, or A-122, as applicable.

Administrative Cost Prohibition

The Brownfields Law prohibits the use of any “part of a grant or loan” for the payment of an administrative cost. In implementing this prohibition, EPA has made a distinction between prohibited administrative costs and eligible programmatic costs.

- A. **Administrative Costs.** Prohibited administrative costs are direct costs, including those in the form of salaries, benefits, contractual costs, supplies, and data processing charges, incurred to comply with most provisions of the *Uniform Administrative Requirements for Grants* contained in 40 CFR Part 30 or 40 CFR Part 31. Direct costs for grant administration are ineligible even if the grantee or subgrantee is required to carry out the activity under the grant agreement.
Prohibited administrative costs also are all indirect costs under OMB Circulars A-21, A-87, and A-122, and Subpart 31.2 of the *Federal Acquisition Regulation*.
- B. **Statutory Exclusions.** The administrative cost prohibition does not apply to direct costs for:
 1. Investigation and identification of the extent of contamination;
 2. Design and performance of a response action; or
 3. Monitoring of a natural resource.
- C. **Programmatic Costs.** EPA has determined that the administrative cost prohibition does not apply to “programmatic” costs, i.e., costs for activities that are integral to achieving the purpose of the grant, even if EPA considered the costs to be “administrative” under the prior brownfields program. For example, the

prohibition does not apply, under a revolving loan fund grant, to costs incurred in making loans (such as the costs of loan processing, legal fees, and professional services) or overseeing the borrower's activities to ensure compliance with relevant and appropriate requirements of the National Contingency Plan (see 40 CFR §300.700 et seq.). These costs are programmatic, not administrative. Direct costs, as defined in the applicable OMB Cost Principle Circular, for the following programmatic activities are not subject to the administrative cost prohibition:

1. In the case of grants for site characterization and assessment, expenses for inventorying, characterizing, assessing, and conducting planning related to brownfield sites.
2. In the case of grants for capitalization of revolving loan funds:
 - (a) expenses for making and managing loans;
 - (b) expenses, including financial management expenses, for operating the revolving fund; and (c) expenses for making and managing subgrants under CERCLA §104(k)(3)(B)(ii).
3. In the case of grants for direct use by eligible entities and nonprofit organizations in remediation of brownfield sites under CERCLA §104(k)(3)(A)(ii), expenses for site remediation activities.
4. In the case of grants for implementation of brownfields programs under CERCLA §104(k)(6), expenses for providing training, research, and technical assistance.
5. Costs incurred for complying with procurement provisions of 40 CFR Part 30 and 31 are considered eligible programmatic costs only if the procurement contract is for services or products that are direct costs for performing activities specified above in Section B, "Statutory Exclusions," or Section C, "Programmatic Costs."
6. Costs for performance and financial reporting required under 40 CFR 30.51 and 30.52, and 40 CFR 31.40 and 31.41 are eligible programmatic costs. Performance and financial reporting are essential programmatic tools for both the recipient and EPA to ensure that grants are carried out in accordance with statutory and regulatory requirements.

Eligible programmatic costs can include expenses for travel, training, equipment, supplies, reference materials, and contractual support if those costs are reasonable and allocable to tasks specified in a grantee's approved scope of work for carrying out the activities described in Section B, "Statutory Exclusions," or Section C, "Programmatic Costs."³ Eligible programmatic costs may be used to help meet the RLF capitalization grant and direct cleanup grant recipients' 20 percent cost share. Prohibited administrative costs may not be used to meet recipients' cost share.

Appendix F. • *Cleanup Tools*

Analysis of Brownfields Cleanup Alternatives

EPA's Road Map to Understanding Innovative Technology Options (or alternatives) for Brownfields Investigation and Cleanup, which is now in its Third Edition and is available both online (<http://www.clu-in.org/products/roadmap/>).

The Center for Public Environmental Oversight (CPEO) has a database for assessment of appropriate remediation alternatives called Tech Tree. Tech Tree is available at: <http://www.cpeo.org/tree.html>.

To help communities understand how to analyze brownfields cleanup alternatives, EPA has published a document, *Summary of the Triad Approach*, that analyzes the Triad approach to decision-making for hazardous waste sites and managing decision uncertainty. The Triad refers to its three primary components: systematic planning, dynamic work strategies, and real-time measurement systems.

See: <http://www.triadcentral.org/ref/doc/triadsummary.pdf>

On September 1, the EPA Technology Innovation Office announced the release of the *Remediation Technology Cost Compendium – Year 2000* (EPA 542-R-01-009). This new report provides a summary and analysis of historical cost information for six commonly-applied remediation technologies to clean up contaminated soil and groundwater. The report can be accessed at: <http://www.clu-in.org/techdrct/techpubs.asp>.

Community Involvement

All environmental cleanups require a site-specific community relations plan (CRP). EPA has published a Community Involvement Toolkit that covers how to develop a CRP that gives the public an opportunity for meaningful input regarding site cleanup and future site land use. The Community Involvement Toolkit is available at: <http://www.epa.gov/superfund/tools/index.htm>

EPA has published a guidance on Community Involvement and ICs because community knowledge and input is important to assure that the community knows where the ICs are, that the ICs remain in place, and that the IC not be breached by land use that is inconsistent with IC restrictions. The Community Involvement IC guidance,

Institutional Controls: A Citizen's Guide to Superfund, Brownfields, Federal Facilities, Underground Storage Tank, and Resource Conservation and Recovery Act Cleanups at:

<http://epa.gov/superfund/action/ic/guide/citguide.pdf>

Community Visioning and Understanding Future Land Use

Community Visioning is a part of the Community Involvement process; it allows the community to envision the type of redevelopment or reuse that they agree upon for the site. A guide for how to conduct community visioning is at:

<http://www.epa.gov/superfund/tools/pdfs/9comvis.pdf>

Brownfields projects must clean up sites in accordance with community redevelopment goals. Such goals may include cost-effectiveness, timeliness, and avoidance of adverse effects on structures on the site and on neighboring communities, as well as redevelopment of the land in a way that benefits communities and local economies. For more information on community redevelopment goals, see the *Road Map to Understanding Innovative Technology Options for Brownfields Investigation and Cleanup, Third Edition*, at: <http://www.clu-in.org/products/roadmap/>

Conducting Environmental Cleanup

To direct attention to the mechanisms and needs required for effective remediation, the Association for State and Territorial Solid Waste Management Officials (ASTSWMO) published a *Survey of State Brownfields Programs* and the *Compendium of State/Territorial Brownfields Program Funding Activities*, which details how States and Territories use funding from EPA for Brownfields programs. The Compendium is available to the public through ASTSWMO's web page at:

<http://www.astswmo.org/New%20Draft%20Website%20-%20June%2016,%202005/Archive/bookshelf.htm>

EPA recommends that decision makers at brownfields sites acquire technical and legal assistance to fully understand the complexities of cleaning up a contaminated site. Depending on the complexity of a particular site, decision makers may request the assistance of environmental consultants, cleanup contractors, technology vendors, or staff of analytical laboratories in performing the many activities required to clean up sites. Some states may require the participation of certified or licensed professionals to help guide the cleanup process. To obtain services a request for proposals (RFP) is often used as the procurement mechanism. Selection criteria outlined in the RFP

should include credentials and demonstrated experience of the individuals or firm in developing valid options for using streamlined strategies and innovative technologies at brownfields sites and successfully implementing the selected option. For more information on selection criteria and evaluating proposals see EPA's *Brownfields Technology Primer: Requesting and Evaluating Proposals that Encourage Innovative Technologies for Investigation and Cleanup*. The Primer is available at: <http://www.brownfieldstsc.org/pdfs/rfpfinal.pdf>

Meeting All Applicable Federal and State Laws

Brownfields must comply with either all applicable General Industry standards (29 CFR 1910) or all applicable Construction standards (29 CFR 1926), depending on work operations at the site. In addition, if a site is determined to be a "hazardous waste site," that site must comply with the Hazardous Waste Operations and Emergency Response (HAZWOPER) Standard. Specific standards for construction and general industries, as well as references related to Occupational Safety and Health Administration (OSHA) enforcement policy such as preambles, directives, and interpretation letters are available at: http://www.epa.gov/brownfields/tools/tti_pub_hlt.htm.

Brownfields cleanups must comply with all applicable federal or state laws. Superfund cleanups must comply with all applicable or relevant and appropriate federal and state requirements (ARARs). For more information about compliance with ARARs and the difference between applicable requirements and relevant and appropriate requirements, see:

<http://www.epa.gov/superfund/contacts/sfhotline/arar.pdf> .

Ready for Reuse Determinations

EPA works with communities and other stakeholders that want to reuse Superfund sites to evaluate likely future uses so that communities to put the sites to beneficial use following the cleanup. The Ready for Reuse (RfR) Determination is emerging as a powerful new tool in this process. A RfR Determination is EPA's technical decision that a site is "ready for reuse" and will remain protective, so long as any limitations set on land use continue to be met. For more information about RfR Determinations, please see the guidance document at: <http://www.epa.gov/superfund/programs/recycle/rfr.htm>

Selecting Environmental Cleanup Technologies (Institutional Controls and Remedy Selection)

EPA has developed SMARTe, a decision support tool that will allow different reuse alternatives to be evaluated and compared. The tool is available at:

<http://linus.neptuneinc.org/smarte/chapters/home/index.xml>.

On September 1, the EPA Technology Innovation Office announced the release of the *Remediation Technology Cost Compendium – Year 2000* (EPA 542-R-01-009). This new report provides a summary and analysis of historical cost information for six commonly-applied remediation technologies to clean up contaminated soil and groundwater. The report can be accessed at:

<http://www.clu-in.org/techdrct/techpubs.asp>

EPA has published a guidance on Community Involvement and ICs because community knowledge and input is important to assure that the community knows where the ICs are, that the ICs remain in place, and that the IC not be breached by land use that is inconsistent with IC restrictions. The Community Involvement IC guidance, *Institutional Controls: A Citizen's Guide to Superfund, Brownfields, Federal Facilities, Underground Storage Tank, and Resource Conservation and Recovery Act Cleanups* at:

<http://epa.gov/superfund/action/ic/guide/citguide.pdf>

EPA prepared a Road Map to Understanding Innovative Technology Options for Brownfields Investigation and Cleanup, Third Edition (EPA 542-B-01-001) which describes the steps involved in the characterization and cleanup of brownfields sites and connects those steps with available resources.

Specific Types of Brownfields or Brownfields Issues

DOE Sites

In an effort to share lessons learned from the Department of Energy's (DOE's) site reuse initiatives, DOE's Office of Strategic Planning and Analysis published a paper (October 1998) on property reuse: Planning for the Future. The paper is intended for stakeholders who are affected by activities at DOE sites and is available at: http://64.233.161.104/search?q=cache:eOU10LJFKQwJ:www.ilga.gov/commission/lru/Eco_Devel_Guide.pdf+DOE+%22Planning+for+the+Future%22+brownfields&hl=en.

Health Issues

The Department of Health and Human Services (HHS), in collaboration with the National Association of County and City Health Officials (NACCHO) developed a set of guidelines, “Guidelines in Community Revitalization,” to discuss how to address health issues at brownfields sites. The document includes lessons learned, and evaluates successful actions that can be taken by the local health department of brownfields communities. published a handbook is available at: http://www.naccho.org/topics/environmental/documents/PACE_EH_proof.pdf .

Ports

National Oceanic and Atmospheric Administration (NOAA) created a Portfields website to provide periodic progress reports on specific projects in each of the pilots, available at <http://www.brownfields.noaa.gov/htmls/portfields/portfields.html>.

Resources

DOE’s Institute for Responsible Management (IRM) Web site at <http://www.instrm.org> is designed to link the brownfield grant recipients to brownfields resources throughout the United States and to make resources and information which IRM has developed. It contains IRM Dialogue Conference Call materials, issues of IRM’s newsletter, Brownfields Pilots’ Own Database, IRM Pilot Matrices, and special topic resource lists developed by IRM. It also provides direct links to many brownfields grant recipients web sites, to state brownfields/voluntary cleanup legislation, EPA, and brownfields-related/ federal agency web sites.

Streams

The United States Department of Agriculture (USDA), in collaboration with 15 Federal agencies, has published an extensive document, *Stream Corridor Restoration: Principles, Processes, and Practices*. It can be accessed at http://www.nrcs.usda.gov/technical/stream_restoration/.

Vapor Intrusion

EPA has published a fact sheet on Soil Vapor Intrusion. It is available at: http://www.epa.gov/brownfields/facts/vapor_intrusion.pdf

Worker Training

HHS worked with National Institute of Environmental Health Sciences (NIEHS) to provide the Brownfields Minority Worker Training Program. Training provided through the program consists of a combination of hazardous waste cleanup and construction/apprenticeship training, which promotes employment during both the cleanup and reuse phases of brownfields redevelopment. The NIEHS Worker Training Programs can be found at <http://www.niehs.nih.gov/wetp/home.htm> .

Technical Help

EPA developed the Directory of Technical Assistance for Land Revitalization, which is available on-line (<http://brownfieldstsc.org/directory/directory.cfm>) and in hard copy (EPA docket number 542-B-03-001). EPA has published a comprehensive Web page with links to many different realms of technical assistance. The Web page is at: http://www.epa.gov/brownfields/tools/tti_tech_help.htm .

The Trust for Public Land (TPL) distributes much of its brownfields information to interested parties through its website at: http://www.tpl.org/tier3_cdl.cfm?content_item_id=1344&folder_id=945. TPL also has completed a report on the benefits of greenspace, such as parks. The report, *Parks for People*, is available on TPL's web site at: http://www.tpl.org/tier2_pa.cfm?folder_id=705 .



Appendix G. • Checklist for Fund Managers & Qualified Environmental Professionals

EPA Regions must ensure that the cooperative agreement recipient recognizes its responsibility to understand and assign key roles under the RLF program. This checklist lists fund manager and qualified environmental professional responsibilities to show their parallel but interconnected roles in running a successful RLF program. In scanning these two lists, you will see that the fund manager and the qualified environmental professional have some identical responsibilities, and some responsibilities that support two aspects of the recipient's requirements. Although the fund manager and the qualified environmental professional support financial and environmental aspects of the program, respectively, they must work together and communicate frequently with each other and with the cooperative agreement recipient to ensure a smooth running program.

Fund Manager Responsibilities	Qualified Environmental Professional Responsibilities
<p>EPA Regions should ensure the RLF fund manager:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Revolves funds as much as possible to maximize the ability of the RLF to support redevelopment efforts. <input type="checkbox"/> Manages funds to reduce the amount of time between EPA's payment of funds to the recipient and their distribution to the borrower. <input type="checkbox"/> Maximizes the amount of money loaned out for cleanup purposes at all times once the money is awarded. <input type="checkbox"/> Ensures that the RLF is managed to conform with: the cooperative agreement, applicable laws and regulations, and prudent lending practices. <p>Develop Prudent Lending Practices</p> <p>EPA Regions should ensure the RLF fund manager:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Sets interest rates at less than or equal to the market interest rate, but not less than zero. <input type="checkbox"/> Develops a plan for determining repayment terms on individual loans. <input type="checkbox"/> Obtains adequate and appropriate financial security from borrowers and act diligently to protect the interests of the revolving loan fund through collection, foreclosure, or other recovery actions on defaulted loans. <p>Identify Sources of Capital</p> <p>EPA Regions should ensure the RLF fund manager:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Supplements their initial RLF capitalization funds with leveraged capital from other federal agencies; states; political subdivisions; Indian Tribes; and private parties. <input type="checkbox"/> Understands that recapitalization of their loan fund will come from loan payments, interest payments, and other loan-related charges. <p>Establish Types of Financial Assistance</p> <p>Through their RLF program, the RLF fund manager will offer the following types of financial assistance:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Direct loans (both standard and intragovernmental) <input type="checkbox"/> Loan guarantees <input type="checkbox"/> Cleanup subgrants 	<p>EPA Regions should ensure the RLF qualified environmental professional:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Coordinates and directs cleanup at RLF sites. <input type="checkbox"/> Assists and works on behalf of the recipient by carrying out site management responsibilities on a site-specific basis. <input type="checkbox"/> Understands that the recipient is legally responsible to EPA. The RLF qualified environmental professional will ensure that site cleanups are conducted in accordance with applicable laws and regulations. <p>Understand Site Eligibility Requirements</p> <ul style="list-style-type: none"> <input type="checkbox"/> RLF loan funds are being used at sites that are either: <ul style="list-style-type: none"> <input type="checkbox"/> Contaminated by a hazardous substance or pollutant; <input type="checkbox"/> Contaminated by petroleum or a petroleum product; <input type="checkbox"/> Contaminated by controlled substances; or <input type="checkbox"/> Mine-scarred lands. <input type="checkbox"/> RLF funds are NOT being used at any sites: <ul style="list-style-type: none"> <input type="checkbox"/> Listed, or proposed for listing, on the National Priorities List; <input type="checkbox"/> Subject to a unilateral administrative order, a court order, an administrative order on consent or judicial consent decree issued or entered into by parties under CERCLA; and <input type="checkbox"/> Subject to the jurisdiction, custody, or control of the U.S. government, except for land held in trust by the U.S. for an Indian tribe.



Fund Manager Responsibilities	Qualified Environmental Professional Responsibilities
<p>Meet the Cost-Share Requirement</p> <p>EPA Regions should ensure the RLF fund manager:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Contributes a 20% cost-share of the total cooperative agreement award in the form of cash, labor, materials, or services from non-federal sources. <input type="checkbox"/> Explores other public financing options such as: loans from EDA, HUD, CDBG, SBA, and others; loan guarantees; grants from HUD BEDI, HUD CDBG, DOT, TCSP, USACE and others; equity capital; tax incentive and tax-exempt financing; and tax-advantage zones. <input type="checkbox"/> Submits a letter to their EPA Brownfields Project Officer requesting a cost-share waiver if they feel the cost-share requirement would create undue hardship. The letter includes information supporting any/all of the following circumstances: <ul style="list-style-type: none"> <input type="checkbox"/> bankruptcy, receivership, or other financial distress, <input type="checkbox"/> evidence that they cannot commit funding due to a loss or diminution of sources of revenue, low per capita income, an unemployment rate above the national average, unemployment or economic adjustment problems resulting from severe short-term or long-term changes in economic conditions, or a reduced tax base due to unforeseen economic conditions; and/or <input type="checkbox"/> evidence of the presence of factors that they believe are relevant to a decision by EPA to waive the cost-share requirement. <p>Purchase Insurance</p> <p>EPA Regions should ensure the RLF fund manager:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Understands that insurance is an optional expense, but that they may use RLF funds to purchase environmental insurance if it is used to carry out cleanup activities. <p>Understand Site Eligibility Requirements</p> <ul style="list-style-type: none"> <input type="checkbox"/> RLF loan funds are being used at sites that are either: <ul style="list-style-type: none"> <input type="checkbox"/> Contaminated by a hazardous substance or pollutant; <input type="checkbox"/> Contaminated by petroleum or a petroleum product; <input type="checkbox"/> Contaminated by controlled substances; or <input type="checkbox"/> Mine-scarred lands. <input type="checkbox"/> RLF funds are NOT being used at any sites: <ul style="list-style-type: none"> <input type="checkbox"/> Listed, or proposed for listing, on the National Priorities List; <input type="checkbox"/> Subject to a unilateral administrative order, a court order, an administrative order on consent or judicial consent decree issued or entered into by parties under CERCLA; and 	<p>Understand that RLF funds must be used for eligible activities</p> <ul style="list-style-type: none"> <input type="checkbox"/> RLF funds are being spent on cleanup activities only. These actions include: <ul style="list-style-type: none"> <input type="checkbox"/> Actions associated with removing, mitigating, or preventing the release or threat of a release of a hazardous substance, pollutant, contaminant, petroleum product, or controlled substance; <input type="checkbox"/> Site monitoring activities, including sampling and analysis, that are reasonable and necessary during the cleanup process, including determination of the effectiveness of a cleanup; <input type="checkbox"/> Site assessment activities that are reasonable, necessary, and incidental to the cleanup process; or <input type="checkbox"/> Costs associated with meeting public participation, worker health and safety, and interagency coordination requirements. <input type="checkbox"/> RLF funds are NOT being used for the following activities: <ul style="list-style-type: none"> <input type="checkbox"/> Pre-cleanup environmental cleanup activities, such as site assessment, identification, and characterization; <input type="checkbox"/> Public or private drinking water supplies that have deteriorated through ordinary use; <input type="checkbox"/> A cleanup cost at a brownfields site for which the recipient of the grant or loan is potentially liable under CERCLA § 107; <input type="checkbox"/> Monitoring and data collection necessary to apply for, or comply with, environmental permits under other federal and state laws; <input type="checkbox"/> Development activities that are not removal actions; <input type="checkbox"/> Cost-sharing or matching requirement for another federal grant (absent statutory authorization); <input type="checkbox"/> Job training support; <input type="checkbox"/> Support of lobbying efforts of the cooperative agreement recipient; or <input type="checkbox"/> Administrative costs. <input type="checkbox"/> RLF funds are being spent on eligible programmatic activities such as: <ul style="list-style-type: none"> <input type="checkbox"/> Making and managing loans and/or subgrants, operating the RLF, and financial management expenses; <input type="checkbox"/> Site cleanup activities; <input type="checkbox"/> VCP or State response program fees associated with the cleanup; <input type="checkbox"/> Costs required to purchase insurance; <input type="checkbox"/> Monitoring the health of populations exposed to hazardous substances from a brownfields site; <input type="checkbox"/> Site remediation activities, as in the case of grants for direct use by eligible entities and non-profit organizations;



Fund Manager Responsibilities	Qualified Environmental Professional Responsibilities
<p><input type="checkbox"/> Subject to the jurisdiction, custody, or control of the U.S. government, except for land held in trust by the U.S. for an Indian tribe.</p> <p>Understand that RLF funds must be used for eligible activities</p> <p><input type="checkbox"/> RLF funds are being spent on cleanup activities only.</p> <p><input type="checkbox"/> RLF funds are NOT being used for the following activities:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Pre-cleanup environmental cleanup activities, such as site assessment, identification, and characterization; <input type="checkbox"/> Public or private drinking water supplies that have deteriorated through ordinary use; <input type="checkbox"/> A cleanup cost at a brownfields site for which the recipient of the grant or loan is potentially liable under CERCLA § 107; <input type="checkbox"/> Monitoring and data collection necessary to apply for, or comply with, environmental permits under other federal and state laws; <input type="checkbox"/> Development activities that are not removal actions; <input type="checkbox"/> Cost-sharing or matching requirement for another federal grant (absent statutory authorization); <input type="checkbox"/> Job training support; <input type="checkbox"/> Support of lobbying efforts of the cooperative agreement recipient; or <input type="checkbox"/> Administrative costs. <p><input type="checkbox"/> RLF funds ARE being spent on eligible programmatic activities such as:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Making and managing loans and/or subgrants, operating the RLF, and financial management expenses; <input type="checkbox"/> Site cleanup activities; <input type="checkbox"/> VCP or State response program fees associated with the cleanup; <input type="checkbox"/> Costs required to purchase insurance; <input type="checkbox"/> Monitoring the health of populations exposed to hazardous substances from a brownfields site; <input type="checkbox"/> Site remediation activities, as in the case of grants for direct use by eligible entities and non-profit organizations; <input type="checkbox"/> Performance and financial reporting required under 40 C.F.R. § 30.51 and § 30.52, and 40 C.F.R. § 31.40 and § 31.41; or <input type="checkbox"/> Travel, training, equipment, supplies, reference materials, and contractual support if those costs are reasonable and allocable to tasks specified in an approved scope of work. <p><input type="checkbox"/> RLF funds are NOT being spent on direct administrative costs such as salaries; benefits; contractual costs; supplies; or data processing charges incurred to comply with most provisions of the Uniform Administrative Requirements for Grants contained in 40 C.F.R. Part 30 or 40 C.F.R. Part 31.</p>	<p><input type="checkbox"/> Performance and financial reporting required under 40 C.F.R. § 30.51 and § 30.52, and 40 C.F.R. § 31.40 and § 31.41; or</p> <p><input type="checkbox"/> Travel, training, equipment, supplies, reference materials, and contractual support if those costs are reasonable and allocable to tasks specified in an approved scope of work.</p> <p>Establish Community Involvement</p> <p><input type="checkbox"/> All cleanup activities require a site-specific community relations plan or its equivalent that includes providing reasonable notice, opportunity for involvement, response to comments, and administrative records that are available to the public.</p> <p><input type="checkbox"/> Submit the completed CRP to EPA for review.</p> <p>Upon completing the ABCA:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Publish a notice of availability of the ABCA or its equivalent to inform the general community. <input type="checkbox"/> Provide opportunity for written and oral comments. <input type="checkbox"/> Prepare a written response to significant and appropriate comments, and document any changes made to the cleanup plan. <p>Establish an Administrative Record</p> <p><input type="checkbox"/> Include in the Administrative Record:</p> <ul style="list-style-type: none"> <input type="checkbox"/> An analysis of reasonable alternatives (as appropriate for hazardous substances or petroleum sites). <input type="checkbox"/> Site investigation reports. <input type="checkbox"/> The clean up plan. <input type="checkbox"/> Cleanup standards used. <input type="checkbox"/> Response to public comments. <input type="checkbox"/> Verification that shows that cleanups are complete.



Fund Manager Responsibilities	Qualified Environmental Professional Responsibilities
<p>Market Research: Understanding the Marketplace EPA Regions should ensure the RLF fund manager:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Identifies potential borrowers in their community. <input type="checkbox"/> Identifies potential sites (properties needing redevelopment in their community). <input type="checkbox"/> Identifies the kind of loan that will best meet their community's needs by mixing loan terms, interest rates, and repayment structures. <input type="checkbox"/> Identifies ways to position their RLF program within a redevelopment financing package. RLF fund managers should consider other public financing programs that could work in conjunction with an RLF loan and the possible issues and requirements that are associated with combining financing sources. <p>Product and Program Development: Creating an RLF That Meets Borrowers' Needs EPA Regions should ensure the RLF fund manager:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Identifies how an RLF loan can help potential borrowers and how to develop loan products to address these needs. RLF fund managers should consider reduced interest rates, flexible repayment terms, loan amounts that meet potential borrower needs, and broadly defined eligible uses. <input type="checkbox"/> Balances subgrants with loans. <input type="checkbox"/> Integrates the loan program with other services. <input type="checkbox"/> Considers ways to make the loan program simple and appealing by making the application user friendly, creating a quick loan application review process, defining requirements clearly, and allowing flexibility wherever possible. <input type="checkbox"/> Retains staff that is trained to assist the borrower, or has made arrangements for access to hands-on assistance, and has access to useful information sources such as the EPA Regional environmental clearinghouses. <p>Marketing the RLF EPA Regions should ensure the RLF fund manager:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Identifies a target audience of not only potential borrowers, but also of other stakeholders involved in the brownfields redevelopment process in their community. <input type="checkbox"/> Identifies interested potential borrowers and makes contact with them, establishes one-on-one meetings, and begins building a relationship with potential borrowers. <input type="checkbox"/> Considers types of assistance that interested borrowers could benefit from and offers this technical assistance to them. <input type="checkbox"/> Creates outreach materials (e.g., print-based and/or people-based outreach approaches) that can effectively and efficiently communicate with potential borrowers. <input type="checkbox"/> Reviews these materials for consistency, accuracy, clarity, brevity, and attractiveness. 	<p>Conduct an Analysis of Brownfields Cleanup Alternatives (ABCA)</p> <ul style="list-style-type: none"> <input type="checkbox"/> The recipient must conduct an analysis of brownfields cleanup alternatives, considering the site characteristics, surrounding environment, land-use restrictions, potential future uses, and cleanup goals. The ABCA must include: <ul style="list-style-type: none"> <input type="checkbox"/> Information about the site and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup. <input type="checkbox"/> Effectiveness, implementability, and the cost of the cleanup proposed. <input type="checkbox"/> An analysis of reasonable alternatives including no action. For cleanup of brownfields petroleum-only sites, an analysis of cleanup alternatives must include considering a range of proven cleanup methods including identification of contaminant sources, exposure pathways, and an evaluation of corrective measures. The cleanup method chosen must be based on this analysis. <input type="checkbox"/> An explanation of why the environmental cleanup is authorized. <input type="checkbox"/> An authorized representative of the recipient must sign the ABCA. <p>Meet all Other Applicable Federal or State Laws</p> <ul style="list-style-type: none"> <input type="checkbox"/> Ensure compliance with the Davis-Bacon Act of 1931. <input type="checkbox"/> Coordinate with appropriate state or tribal and local agencies and organizations. <input type="checkbox"/> Ensure compliance with other applicable federal and state laws. <input type="checkbox"/> Contact Natural Resource Trustees. <p>Complete and Document the Environmental Cleanup</p> <ul style="list-style-type: none"> <input type="checkbox"/> Assess whether land-use controls will be necessary. <input type="checkbox"/> Prepare a Final Report on the cleanup operation and actions taken, documenting: <ul style="list-style-type: none"> <input type="checkbox"/> That the situation was addressed. <input type="checkbox"/> The actions that were taken. <input type="checkbox"/> Sampling shows cleanup levels were met. <input type="checkbox"/> The resources committed. <input type="checkbox"/> Any problems encountered. <p>Crosscutters</p> <ul style="list-style-type: none"> <input type="checkbox"/> Ensure that a term and condition or other legally binding provision shall be included in all loans and subgrants entered into with the funds under this agreement, or when funds awarded under this agreement are used in combination with non-Federal sources of funds, to ensure that borrowers and subgrant recipients comply with all applicable Federal and State laws and requirements.



Fund Manager Responsibilities	Qualified Environmental Professional Responsibilities
<p><input type="checkbox"/> Established a system for tracking communications and successes of each approach.</p> <p>Develop an Approach for Selecting Borrowers and Subgrantees</p> <p><input type="checkbox"/> Develop an approach for selecting standard loan borrowers and ensure that they do not fall under any of the following restrictions:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Entities that are potentially liable under CERCLA §107. <input type="checkbox"/> Entities that are liable for cleaning up petroleum-only brownfields sites. <input type="checkbox"/> Entities that are currently suspended, debarred, or otherwise declared ineligible. <p>If a borrower asserts BFPP, CPO, or ILO limitations on liability, require the following:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The borrower has performed “all appropriate inquiry” on or before acquiring the property. <input type="checkbox"/> For BFPP or CPO, the borrower is not potentially liable or affiliated with anyone potentially liable for cleanup costs; was not potentially liable, or otherwise liable under CERCLA § 107. <input type="checkbox"/> The borrower will meet continuing obligations. <p>Develop an approach for selecting intra-governmental loan borrowers. In addition to the borrower restrictions listed under a standard loan, the fund manager must also demonstrate the following:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Establish that the borrowing entity has the legal authority to enter into a legally binding obligation to repay. <input type="checkbox"/> Ensure that there is an identifiable source of income/repayment. For example, pilot (payment in lieu of taxes) funds, proceeds from tax increment financing (TIF), or funding from the sale of the property. <input type="checkbox"/> Identify an enforcement entity who can ensure that the loan does not turn into a grant. For example, the comptroller’s office of the cooperative agreement recipient can help avoid potential conflicts of interest. <p>Develop an approach for selecting cleanup subgrantees.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Offer cleanup subgrants to non-profit organizations or other eligible entities. <input type="checkbox"/> Offer cleanup subgrants for the purpose of funding cleanup activities at eligible RLF sites owned by the eligible entity or the non-profit organization that receives the grant. <input type="checkbox"/> Understand that unlike loans, cleanup subgrants may NOT be made within the same governmental entity that receives the RLF grant (i.e., intra-governmental subgrants are not allowed under the RLF program). 	<p>Default Loan Provisions (This is only applicable if a borrower defaults on a loan)</p> <p>If the cleanup is not complete at the time of default, the qualified environmental professional is responsible for:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Documenting the cleanup that took place prior to the default; and <input type="checkbox"/> Securing the site (e.g., ensuring public safety) and informing EPA and the state. <p>Reporting and Record Keeping Responsibilities</p> <p>The recipient must:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Report quarterly to keep EPA apprised of the RLF performance. <input type="checkbox"/> Submit quarterly reports within 30 days of the end of each federal fiscal quarter. Items included in 40 C.F.R. § 31.40 must be included in quarterly reports. Examples include: <ul style="list-style-type: none"> <input type="checkbox"/> Documentation of progress at meeting the performance objectives, project narrative and project time line; <input type="checkbox"/> An update on project milestones; <input type="checkbox"/> A budget recap summary page with the following headings: Current Approved Budget; Costs Incurred this Quarter; Costs Incurred to Date; and Total Remaining Funds; and <input type="checkbox"/> If applicable, quarterly reports must specify costs incurred at petroleum-only brownfields sites. <input type="checkbox"/> Clearly identify, in quarterly reports, which activities performed during the reporting period were undertaken with EPA funds, and will relate EPA-funded activities to the objectives and milestones agreed upon in the work plan including a list of sites where cleanup (either through loans or subgrants) activities were completed.



Fund Manager Responsibilities	Qualified Environmental Professional Responsibilities
<p><input type="checkbox"/> If a subgrantee asserts BFPP, CPO, or ILO limitations on liability, require the following:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The subgrantee has performed “all appropriate inquiry” on or before acquiring the property. <input type="checkbox"/> For BFPP or CPO, the subgrantee is not potentially liable or affiliated with anyone potentially liable for cleanup costs; was not potentially liable, or otherwise liable under CERCLA § 107. <input type="checkbox"/> The subgrantee will meet continuing obligations. <p>Develop an Approach for Selecting Projects Develop a formal protocol for borrowers to demonstrate their projects’ eligibility. This protocol includes:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Descriptions of projects that will be financed, how loan monies will be used, and the qualifications of the borrower to make legitimate use of the funds. <input type="checkbox"/> Explanation of how a project would be consistent with the RLF program objectives and terms and conditions. <input type="checkbox"/> Ensure project selection criteria is consistent with federal and state requirements, the intent of the RLF program, and the cooperative agreement entered into with EPA. <p>Loan Closing and Support: Signing and Servicing Loans/Subgrants (These points are applicable once a loan or subgrant has been made)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Negotiate terms and conditions with the borrower or subgrantee. Clearly communicate the loan agreement terms and cleanup goals and requirements. <input type="checkbox"/> The terms and conditions contain loan or subgrant-specific financial requirements. <input type="checkbox"/> Communicate with the borrower and/or subgrantee to ensure the success of this redevelopment project. <input type="checkbox"/> Be aware of potential factors outside the control of the RLF program that could affect the project’s success. <input type="checkbox"/> Take measures to service the loan and ensure its success. <p>Default Loan Provisions (This is only applicable if a borrower defaults on a loan)</p> <ul style="list-style-type: none"> <input type="checkbox"/> In an effort to preclude loan defaults, place special terms and conditions in the loan agreements of borrowers deemed “high risk.” <input type="checkbox"/> If a loan default occurs, take measures to minimize unrecoverable losses to the RLF. <input type="checkbox"/> If the cleanup is not complete at the time of default, the RLF fund manager is responsible for: <ul style="list-style-type: none"> <input type="checkbox"/> Documenting the connection between the amount loaned to the borrower (or, in the case of guaranteed loans, the amount paid to the bank or other financial institution) and the cleanup that took place prior to the default; and <input type="checkbox"/> Securing the site (e.g., ensuring public safety) and informing EPA and the state. 	<p>Closeout Responsibilities</p> <ul style="list-style-type: none"> <input type="checkbox"/> All cleanups funded by and specified in the award were completed. <input type="checkbox"/> Deliver all performance and other reports to the cooperative agreement recipient to meet closeout reporting requirements (reports must be delivered to EPA within 90 days of completion of all required work), including, but not limited to: <ul style="list-style-type: none"> <input type="checkbox"/> Cleanup reports (with information on cleanup dates); <input type="checkbox"/> Invention disclosure; <input type="checkbox"/> Property inventory report including a request for instructions regarding disposition of any property purchased with cooperative agreement funds; and <input type="checkbox"/> A federally-owned property inventory report. <p style="text-align: center;">End QEP Responsibilities</p>



Fund Manager Responsibilities

Methods of Payment and Disbursement

Prior to receiving any cooperative award funds from EPA, the RLF fund manager must ensure:

- They have an accounting system adequate to identify, safeguard, and account for both RLF funds and program income;
- Lending documents are prepared; and
- Loan documents have been reviewed by legal counsel for compliance with applicable state and local laws, and with the terms and conditions of the award.

The RLF fund manager should work with their regional EPA project officer to ensure they are enrolled to receive electronic payments via either:

- the EPA-EFT payment system; or
- the Automated Standard Application for Payments (ASAP).

If the recipient chooses to receive payments via the EPA-EFT payment system, they must:

- enroll by completing the ACH Vendor/Miscellaneous Payment Enrollment Form (SF 3881), and
- once enrollment has been established, the recipient must request funds using the U.S. EPA Payment Request Form.

If the recipient chooses to receive payments via the Automated Standard Application for Payments (ASAP), they must:

- enroll to use ASAP by contacting their EPA Servicing Finance Office (SFO) for enrollment instructions (effective January 2004). If the recipient is currently enrolled to use ASAP with another agency, the recipient should contact their SFO to request funds be authorized on ASAP.

Choose one of two methods to disburse funds to borrowers:

- Actual Expense
 - Require borrowers to submit documentation of expenditures.
- Schedule
 - Agree upon a disbursement schedule with the borrower.

Using Funding and Program Income for Eligible Costs

EPA Regions should ensure the RLF fund manager:

- Replaces all program income from active RLF loans into the RLF for relending.
- Uses proceeds from the sale, collection, or liquidation of a defaulted loan, up to the amount of the unpaid principal into their RLF for relending.
- Uses at least 60 percent of RLF funds to capitalize the loan pool and associated eligible programmatic costs, and no more than 40 percent of the funds for cleanup subgrants and eligible associated programmatic costs.

Reporting and Record Keeping Responsibilities

EPA Regions should ensure the RLF fund manager:

- Reports quarterly to keep EPA apprised of the RLF performance.
- Submits quarterly reports within 30 days of the end of each federal fiscal quarter. Items included in 40 C.F.R. § 31.42 must be included in quarterly reports. Examples include:
 - Documentation of progress at meeting the performance objectives, project narrative and project time line;
 - An update on project milestones;
 - A property profile;
 - A budget recap summary page with the following headings: Current Approved Budget; Costs Incurred this Quarter; Costs Incurred to Date; and Total Remaining Funds; and
 - If applicable, quarterly reports must specify costs incurred at petroleum-only brownfields sites.
- Clearly identifies in recipient quarterly reports which activities performed during the reporting period were undertaken with EPA funds, and relate EPA-funded activities to the objectives and milestones agreed upon in the work plan including a list of sites where cleanup (either through loans or subgrants) activities were completed.

EPA Regions should ensure the RLF fund manager:

- Complies with applicable Office of Management and Budget cost principles when charging against program income.



Fund Manager Responsibilities

- Ensures that periodic audits of their programs are conducted by an outside auditor in accordance with General Accounting Office (GAO) accounting standards or generally accepted government auditing standards.
- Ensures that their borrowers and subgrantees comply with federal and state regulations, as well as the requirements of the RLF program.

Closeout Responsibilities

- All administrative actions and work required under the cooperative agreement has been completed.
- EPA deobligates all funds unused by the cooperative agreement recipient.
- The final payment of funds from EPA to the cooperative agreement recipient was received.
- All cleanups funded by and specified in the award were completed.

Obligation Schedule

EPA Regions should ensure the RLF fund manager:

- Through quarterly reports, provides evidence that they made significant progress towards loaning the amount available under the cooperative agreement.
- Requests final payment and disbursement of fund awards from EPA within 5 years of the agreement start date.
- Disburses any accrued program income before requesting final payment from EPA.

Reporting

EPA Regions should ensure the RLF fund manager:

- Delivers all financial, performance, and other reports to the cooperative agreement recipient to meet closeout reporting requirements (reports must be delivered to EPA within 90 days of completion of all required work), including, but not limited to:
 - Financial performance or progress reports;
 - Financial status report Standard Form (SF) 269;
 - Final request for payment (SF 270);
 - Invention disclosure;
 - Property inventory report including a request for instructions regarding disposition of any property purchased with cooperative agreement funds; and
 - A federally-owned property inventory report.

Unused Funds

EPA Regions should ensure the RLF fund manager:

- Returns all unused principal funds to EPA, unless those funds were pre-authorized by EPA for use in other programs.
- Returns remaining funds not obligated by the cooperative agreement recipient via a loan agreement to the EPA (this is only applicable if the cooperative agreement recipient chooses not to continue the RLF).

Making Loans Beyond the RLF Project Period (If applicable)

If the cooperative agreement recipient has chosen to continue to make RLF loans beyond the RLF program period; EPA Regions should ensure the RLF fund manager:

- Addresses eligible uses of program income, and environmental cleanup requirements in the closeout agreement; and
- Maintains records relating to the use of post-award program income.

Non-Compliance, Suspension, and Termination

EPA Regions should ensure:

- In the case of non-compliance, the cooperative agreement recipient was given a reasonable period of time in which to take the necessary corrective action to comply with the terms of the cooperative agreement.
- In the case of a temporary hold or suspension, recipients refer to 40 C.F.R. § 31.43 and speak to their RLF Coordinator.
- In the case of termination, recipients deobligate any unused cooperative agreement funds.

End Fund Manager Responsibilities

ATTACHMENT 2

REVOLVING LOAN FUND COOPERATIVE
AGREEMENT WORK PLAN

REVOLVING LOAN FUND COOPERATIVE AGREEMENT WORK PLAN

**CITY OF ATLANTA REVOLVING LOAN FUND
JUNE 21, 2012
[Revision 2-supplemental]**

**Submitted by:
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Cooperative Agreement Number: BF-95445109-0

1. COMMUNITY NEED

a. Health, Welfare and Environment

i) *Describe the effect brownfields currently have on your community*

In a city like Atlanta, encouraging the reuse of brownfield properties through planning and economic incentives is critical to promoting smart and sustainable growth within the City and metropolitan area. It is estimated that Atlanta has over 950 brownfield properties within its boundaries, ranging in size from less than one acre to more than one hundred acres. A primary focal area for the revolving loan fund is the Atlanta BeltLine, a 22-mile loop of transit that circles downtown and midtown Atlanta. Previous EPA brownfield grants identified over 140 known or suspected brownfield properties along the BeltLine. Targeted redevelopment corridors, another focus area for this project, are also areas where brownfield sites are known to play a significant role in the difficulty of corridor redevelopment (See Section 2.a. for a detailed description of these areas). Previous brownfield grants identified approximately 40 potential brownfield sites in these corridors. Each known or potential brownfield represents a piece of a neighborhood that is distressed and needs to be addressed. Brownfield impacts are felt in many ways: financially in that the City is not able to collect the full tax value of the property; socially in that a community is often defined by the presence of abandoned properties, which may serve as natural barriers between parts of the same neighborhood; and in terms of health in that the site or sites may contribute to an actual or perceived health risk for neighborhood residents; and environmentally by contributing to the detriment of adjoining sites through migration of contaminants.

ii) *Provide information describing the health and welfare of sensitive populations.*

Research has shown that there is a statistically significant relationship between increased adverse health affects and proximity to brownfield sites.¹ Many of the known and potential brownfield properties identified during previous assessment grants are located in the poorer sections of the BeltLine and targeted redevelopment corridors. Health studies indicate that poorer communities do not have the resources to access proper medical care, and any environmental health issues can disproportionately affect these poorer communities.

A health impact assessment of the BeltLine found that brownfield redevelopment can help reduce urban sprawl and lead to healthier communities by creating more greenspace and walkable areas, and can positively impact both the built and natural environments.² This same study presents data showing an association between the built environment and respiratory and cardiovascular health, fatal and non-fatal injuries, physical fitness, and mental health. Within the BeltLine, there are areas that reflect differences on a smaller scale. For example, compared to the north and northwest sections of the BeltLine, the southeast, southwest and westside areas have higher mortality rates for chronic diseases that have been linked to the lack of physical activity, among other things. Research shows that these areas of the BeltLine have a higher percentage of potentially vulnerable populations, defined in the study as low income, children and older adults, renters, and carless households. While the health impact assessment evaluated only the BeltLine

¹ Solitaire, L., and Greenberg, M. "Is the US Environmental Protection Agency Brownfield Pilot Program Environmentally Just?" *Environmental Health Perspectives* 110(S2): 249-257 (2002) in *Atlanta BeltLine Health Impact Assessment*. Center for Quality Growth and Regional Development, Georgia Institute of Technology. June 2007.

² *Atlanta BeltLine Health Impact Assessment*. Center for Quality Growth and Regional Development, Georgia Institute of Technology. June 2007.

communities in Atlanta, it is expected that communities along the targeted redevelopment corridors have a similar population constituency and are impacted by similar environmental and socio-economic conditions. This project will directly address the need for providing greater opportunities for people to become much more active by creating more parks and greenspace, providing greater access to these areas, and providing amenities that target the health and wellness of youth and senior citizens. Ultimately, these parks will be designed to become destination points for the City's, and metropolitan Atlanta's, residents.

b. Financial Need

i) Describe the economic impact of brownfields on the targeted community

Property value losses in Fulton County, which encompasses nearly all of the City of Atlanta, are estimated to be as high as \$1 billion. This was calculated for sites recorded by the USEPA and Georgia Environmental Protection Division (EPD) as having environmental contamination. This represents a significant amount of impacted property and lost tax revenue. In addition, there is tremendous pressure on the City to significantly increase infill development to accommodate a population that is moving back to the urban core. Data from the Atlanta Regional Commission shows that the City added an estimated 13,100 people from April 1, 2007 to April 1, 2008; its single largest annual gain in nearly 40 years.

Table 1 presents a statistical comparison of selected demographics of the BeltLine, Atlanta, Georgia, and the United States. On average, the BeltLine and Atlanta compare relatively favorably in many areas to both Georgia and the U.S. as a whole. However, the percentage of people living below the poverty line reflects the reality that the Coalition's target areas along the BeltLine and redevelopment corridors encompass many of Atlanta's poorer neighborhoods, where negative social and economic impacts and environmental justice concerns are the greatest, and where the benefits of economic revitalization through brownfield redevelopment would be most significantly felt. Thirty-two Renewal Community (RC) Neighborhoods are found within the BeltLine area, and work is underway to rejuvenate these areas (www.atlantarenewalcommunity.org). The level of economic distress in the RC is evidenced by a poverty rate of 38%. Over 5,000 households receive welfare assistance, which represents 65% of the total for Fulton County. There are 52,905 (77% of the total) low-income households in the RC, and the average unemployment rate is 14%.

Table 1: Statistical Comparisons

Statistical Category	BeltLine	Atlanta	Georgia	United States
Population	107,500	416,474	8,186,453	281,421,906
White (%)	45	33.2	65.1	75.1
Black (%)	45	61.4	28.7	12.3
Unemployment (%)	N/A	6.3 ¹	6.3 ¹	6.1 ²
Persons Below Poverty (%)	23 ³	24.4	13.0	12.4
Median household income	\$35,000	\$34,770	\$42,433	\$41,994
Household ownership rate (%)	34	43.7	67.5	66.2
Median value of owner-occupied homes	N/A	\$130,600	\$111,200	\$119,600

All data from 2000 U.S. Census except:

¹ Georgia Department of Labor, September 2008

² U.S. Department of Labor, September 2008

³ *Atlanta BeltLine Health Impact Assessment*. Center for Quality Growth and Regional Development, Georgia Institute of Technology. June 2007.

ii) Describe factors that limit the ability to draw on other funding sources

The City of Atlanta and its Coalition partners are fortunate in that the City's size and diversity of experience provides the ability to draw upon a number of sources for funding certain projects. In the past, the City has relied on USEPA brownfield funding to specifically target redevelopment of contaminated property on a scale that limited the extent of assistance. However, the current economic downturn has significantly impacted the City's fiscal standing, resulting in budget cuts that have limited the amount of funds allocated to redevelopment efforts. The pull-back in private sector financing has also drastically curtailed efforts to redevelop brownfield sites along the BeltLine and in redevelopment corridors. Nevertheless, the City and the Coalition realize the importance of this project to the long-term viability of the City, and are determined to continue moving forward with redevelopment efforts, recognizing that a project of the magnitude and scope proposed here will require the Coalition to draw upon a wide range of funding sources, beginning with the maximum amount provided under this grant.

The City of Atlanta currently manages two EPA brownfield assessment grants, awarded in 2006. New funds will be used to prioritize and plan for cleanup and land use along the BeltLine and targeted redevelopment corridors that show the greatest potential for greenspace creation or redevelopment in line with the Coalition's plans. Additional funding will build upon the work begun in previous grants and continue to foster and support the overall goal of redevelopment.

2. PROGRAM DESCRIPTION AND FEASIBILITY OF SUCCESS

a. Program Description

i) Describe your brownfields redevelopment program

The purpose of the Atlanta Brownfield RLF is to spur economic revitalization and the creation of greenspace along the BeltLine and within targeted commercial and mixed-use redevelopment corridors in the city. Loans and grants from the RLF will support the following types of projects: 1) community-based remediation projects leading to redevelopment opportunities and quality of life enhancements; 2) creation of greenspace and transit from brownfields along the BeltLine and targeted redevelopment corridors; 3) adaptive reuse of underutilized or abandoned industrial sites; and 4) grassroots remediation projects leading to redevelopment opportunities and quality of life enhancements. Public support of redevelopment efforts in Atlanta and state-wide is evident by the November 4, 2008 passage of a state constitutional amendment allowing tax allocation districts to be funded with school taxes. This amendment is a key element to the BeltLine redevelopment, and to redevelopment throughout the state.

The Atlanta BeltLine

The Atlanta BeltLine project is a 22-mile transit greenway circling downtown and midtown Atlanta (www.beltline.org). Over the next 25 years, the multi-billion dollar project will reuse existing railroad rights-of-way to connect over 40 economically, racially, and culturally diverse neighborhoods and the downtown district. The project proposes to assemble and organize the rail corridors and adjacent underutilized urban land for transit development that will connect Atlanta's rail transit system, generate new commercial and mixed-use residential housing to accommodate Atlanta's growth, provide low to moderate income housing with access to public transit alternatives, and create over 1,200 acres of new greenspace through a linear park alongside trails, including the creation of new parks and expansion of existing parks. The BeltLine Overlay District covers a half-mile on either side of the BeltLine right-of-way which provides design guidelines for new construction and renovations that follow smart growth principles and environmental design. It also strongly encourages attention to Leadership in Environmental and Energy Design (LEED™) certification. The Atlanta Regional Commission has included this project as one of the three highest priorities for the Metro Atlanta area. The City, under its previous brownfield assessment grants, completed a GIS mapping project of potential brownfields along the BeltLine. According to Year 2000 census data, 84,000 residents

of historically underrepresented environmental justice communities live within a half-mile radius of the proposed alignment. Over its 25-year project span, the BeltLine is expected to generate more than \$20 billion in new economic development and create approximately 30,000 new full-time jobs and 48,000 temporary construction jobs.

Targeted Redevelopment Corridors

Targeted redevelopment corridors in this project include:

- **Donald Lee Hollowell Parkway**, a state route connecting Midtown Atlanta with northwest Atlanta and Cobb County. Land use along its 6 mile length includes single family, medium density and low-density residential, low density commercial, open space and industrial uses.
- **Simpson Street**, whose predominant land use is commercial, with single family residential, medium density apartments and multi-family apartments comprising roughly one-quarter of the corridor. Approximately 11% of the land is vacant.
- **Jonesboro Road** area contains sizeable tracts of vacant lots (26% of lots in a 2006 planning study) and undeveloped land. The same 2006 study found tax delinquencies amounting to nearly \$500,000 along the corridor.
- **Campbellton Road** is an older multi-family and commercial corridor defining one of Atlanta's first-ring suburbs
- The **Stadium Neighborhoods** of Summerhill and Mechanicsville have suffered population declines since 1990, and are characterized by residents with significantly lower incomes than City residents as a whole, are dominated by single-parent households, have lower educational attainment among residents relative to Atlanta as a whole, and suffer from significant blight.
- **Memorial Drive**. A 2001 planning study describes this area: "Along its two-mile stretch, the Corridor can generally be characterized as a broad expanse of concrete, lined with abandoned factories, vacant strip shopping centers, small, low-end retailers (liquor stores, check-cashing establishments, a few restaurants), and paved parking lots."³ (More detail on all these corridors is available online at www.atlantaga.gov and www.atlantada.com/media.)

The plan, as outlined in this proposal will be administered by the Atlanta Development Authority. The Coalition will allocate up to 85% of the RLF grant towards loans and subgrants and the remainder to programmatic costs. The Coalition is committed to developing a sustainable program that encourages the development of a market for brownfield investment in Atlanta. This approach will allow the initial funds to revolve, so that subsequent loans can be partially or wholly financed through loan repayments.

ii) How the Coalition plans to function as a sustainable source of cleanup loans

Direct loans: The main loan product offered is fixed, low interest loans (between 0 – 5%). These gap loans will be made for remediation projects where the developer has 50 – 80% of the remediation funding secured.

Grants: Subgrants may be awarded to public or non-profit borrowers after consideration of the fiscal solvency of the borrower and nature of the project. The Coalition is targeting the loans and subgrants to projects in Atlanta's economic development priority areas and the BeltLine. Priority will be given to projects where brownfield remediation costs are impediments to commercial redevelopment, the provision of affordable housing, or creating new greenspace and parks.

Loan Structure: Loan agreements will be structured with enough flexibility to maximize borrower success as well as ensure the sustainability of the RLF. Loan terms, interest rates and duration will be based upon the borrower's ability to service the debt. The loans will be sized between \$20,000 and \$500,000, and repayment terms will be between 3 and 7 years.

³ *Memorial Drive, Martin Luther King, Jr. Drive Area Revitalization Study*. romm+pearsall/verge studios. October 1, 2001.

Borrower repayments are scheduled on a semi-annual basis. Deferments will be offered to borrowers with less access to capital or whose projects create significant affordable housing units or have substantial job creation potential in order to benefit economically-disadvantaged populations. Deferments will be for a maximum of two years and loan balances will be re-amortized within the remaining terms of the loan. Also, a portion of the loan may be discounted as a work completion incentive. No prepayment penalty is associated with this program. Bridge loans will also be considered, where repayment takes place at the close of construction financing or when permanent financing is secured by the project developer.

Timeline: The Coalition plans on closing two to five loans along with several subgrants each year over the 5-year grant term. Repayments will begin to flow to the Coalition in 2011 enabling the program to move toward a true revolving loan fund with an adequate capital base to independently support loans in the range of \$20,000 – \$500,000 by 2012.

Complimentary Products/Services: The Coalition will use Tax Increment Financing (TIF) and other local development tools including tax credits and abatements to support brownfield redevelopment activity. Local funds may be expended in areas surrounding brownfields for infrastructure improvements to multiply the impact of cleanup and support additional redevelopment. Incentives available to the Coalition include:

- Renewal Community tax credits for environmental remediation and the Commercial Revitalization Deduction
- Tax Increment Financing through the BeltLine Tax Allocation Districts for brownfields, incentives, workforce affordable housing incentives and infrastructure funding
- State of Georgia Brownfields Program
- City of Atlanta Greenspace Opportunity Bonds
- 501(c)3 bond financing.

The Coalition will coordinate criteria used in the selection of brownfield sites under Atlanta's two current brownfield assessment grant programs, as the RLF seeks to build upon this assessment work. Pre-qualification of sites will be coordinated by the RLF project manager. The City of Atlanta Law Department and the ADA General Counsel will work together to create guidelines and checklists for the selection of borrowers. The selection process will pre-screen for eligible sites in two steps: 1) sites already in the City's brownfield database that meet the qualifications; and 2) site presented to the RLF will go through a pre-qualification process that will determine whether a borrower meets the Brownfields Revitalization Act owner classifications. The Coalition will encourage nomination of sites from a wide variety of community representatives and organizations including citizens, NPUs, various City departments charged with acquiring property, and the various organizations discussed in Section 3 of this proposal. In marketing the RLF to potential borrowers and subgrantees, the Coalition will consider: 1) compliance with federal brownfield laws; 2) site location; 3) past and current uses of the site; 4) proposed future use of the site; 5) current property owner's disposition/willingness to sell and allow site access; 6) anticipated economic benefit to the City and community; 7) the likelihood for success encouraging additional nearby redevelopment; and 8) the likelihood of brownfield redevelopment to mitigate risk to human health and the environment.

The Coalition will select sites based on the project readiness and the level of priority locally. Applicants seeking RLF loans or grants must present a project that is ready according to the following criteria: 1) property must be owned by the borrower; 2) the property must contain either petroleum or hazardous substance contamination and/or the property must contain construction debris or discarded tires that present a public health hazard; 3) property must not be on the National Priorities List or under current federal or state enforcement action; and 4) all assessment reports (Phase I and II, and/or asbestos survey) and a remedial action plan must be completed for the property. Assessment reports must comply with ASTM E 1527-05, EPA All Appropriate Inquiry, and/or Georgia EPD guidelines.

Borrowers and subgrantees must also demonstrate that they meet the following criteria before receiving RLF loans funds or grants: 1) borrower must be in good financial standing, current on all property taxes and other obligations to the City and demonstrate ability to repay the loan and complete the project successfully; 2) subgrantee has a financial inability to complete a project on its own; 3) borrower/subgrantee is not responsible for the contamination at the property according to state and federal brownfield laws; 4) borrower/subgrantee intends to redevelop the property for a use other than the activity which caused or contributed to the contamination and/or will not re-contaminate the property once remediation is complete; 5) borrower/subgrantee has secured any additional financing required to complete the project; 6) a subgrantee must show the ability to facilitate the reuse of existing infrastructure; and 7) each project is required to complete a site eligibility form that the RLF team will develop. The form must also be accepted by the appropriate Georgia EPD unit for petroleum cleanup projects or for the hazardous cleanup projects prior to approval of an RLF loan application. Additional subgrantees may be neighborhoods that do not fall under a priority or redevelopment area designation and low income neighborhoods that have a difficult time attracting capital investments.

Promoting long-term availability of RLF funding enhances, on a community-wide basis, the number and types of sites to be remediated and promotes sustainable projects for many communities. Financially, long-term availability becomes a dependable source of funding for many communities that are doing term planning or need fund availability for short-term project gap financing.

iii) Types of applicants utilizing the RLF and marketing strategy

Types of borrowers and subgrantees eligible for the RLF include: 1) national and local developers (for profit and nonprofit); 2) nonprofits supporting greenspace and affordable housing; 3) City of Atlanta and other governmental agencies; 4) the Atlanta Housing Authority; 5) Atlanta BeltLine, Inc.; and 6) the Atlanta Development Authority and its subsidiaries.

The RLF will accept applications from any qualified applicant/organization in the City eligible to apply for RLF loans. Priority will be given to: 1) communities/neighborhoods that have developed a Master Plan or Redevelopment Plan for redevelopment/revitalization purposes; 2) potential sites for new greenspace to meet the City's objective of increasing greenspace acreage; 3) the Atlanta BeltLine Project; and 4) the Atlanta Renewal Community, a geographic area of the City containing communities that suffer from disinvestment and decline. The types of sites eligible for funding include, but are not limited to: 1) abandoned industrial sites; 2) abandoned gas stations, 3) sites where illegal dumping has occurred; 4) sites with buried construction debris and discarded tires; 5) former dry cleaners, and 6) sites in Georgia's Brownfield Program.

To market the RLF, the Coalition will develop an outreach approach that is media, person-to-person, and print-based to reach a diverse range of markets and individual borrowers. These techniques will include the following: 1) project website; 2) City of Atlanta Cable TV project announcements; 3) one-to-one marketing; 4) group seminars and workshops; 5) collaborative marketing with lenders; 6) advertising in local business journals; 7) information distribution through the City's Neighborhood Planning Units (NPU) and development agencies such as the Chamber of Commerce and Central Atlanta Progress, and 8) subgrantee and developer training.

iv) Level of commitment needed to ensure program success

The lead member of the Coalition will be the City of Atlanta. Fund management will be the responsibility of the Project Administrator in the Bureau of Planning, with the assistance of the City's Grant Accounting Division. Recordkeeping will be the responsibility of the Project Administrator. The day-to-day operational responsibilities will fall under the City's economic development agent, which is the Atlanta Development Authority. The ADA Manager of Small Business and Industrial Finance will manage daily operations through a staff person whose title will be Program Loan Manager. The ADA currently manages 2 loan fund programs and the City will modify those loan fund policy manuals to be consistent with RLF federal policy and

procedures and guidelines. Environmental cleanup and recordkeeping will be the responsibility of the environmental firm employed by the project. The firm will provide all program reports directly to the Program Administrator who provides all federal reporting as required.

ADA has significant experience with the operation and oversight of business revolving loan funds. ADA has a team dedicated to managing our existing portfolio of three revolving loan funds. The team consists of a manager, an administrative assistant, and a financial analyst. The manager has over 25 years of experience running HUD revolving loan funds and making SBA loans.

ADA has provided over \$4 million in loan funds to businesses in its role as economic development agent for the City of Atlanta. Of the loans made, approximately \$3.3 million were made to 39 businesses as part of ADA's Business Improvement Loan Fund and its Phoenix Fund, each of which is comprised of federal funds specifically targeted to businesses in low income communities that would not qualify for conventional financing without the benefit of ADA's favorable credit terms; e.g., below market interest rates and/or subordinated debt. ADA has a solid history of providing below-market interest rates products and grant funding for projects which meet established public purpose objectives. Two of its three loan funds provide small and minority/disadvantaged business financing in the form of debt with interest rates of one-half of the prime rate plus 2% (minimum 4%) to prime plus three percent. As a whole, ADA's loan default rate has been held to 2% during the investment period covered.

Task 1: Community Involvement and Outreach

The objective of this task is to gain significant input from the affected communities on the various projects being considered under the Coalition's brownfield redevelopment efforts, and to educate the public on brownfield related issues. Past efforts to engage the community through workshops, the Stakeholders Advisory Committee (SAC), the City's website (for communication and data storage and retrieval), and property notification forms have been very successful in the City's brownfield assessment grants in providing a forum for local residents to voice issues and concerns about brownfield properties in their neighborhoods. The RLF will evaluate these previous outreach efforts, and tailor where necessary to continue to provide residents with the information they will need to participate in redevelopment efforts. Additional elements are provided in Section 3 of this proposal.

Outputs: 10 public outreach/education events, in addition to posting of progress on the Coalition partners' websites.

Task 2: Fund Management

This task will be broken into two subtasks: 1) establishing the revolving loan fund; and 2) management and capitalization of the fund.

Subtask 1 involves the following activities to establish the RLF: 1) conducting market research defining the project market, developing a financial policy manual, identifying potential borrowers, using existing assessment grants to identify redevelopment sites, leveraging funds from other sources, and determining various loan structures to the project market needs; 2) product and program development through defining the program structure, determining staffing needs, developing loan products, and determining the technical services offered to the project market; 3) selling the RLF program to the public and private markets and individual borrowers by developing a broad outreach and targeted marketing campaign, identifying the target audience, developing outreach approaches to a diversified market, and direct marketing to the project market; and 4) servicing the RLF loan through development of a brochure that outlines the loan process, staff training to understand and implement the loan process, development of a loan application to meet project needs, developing a loan agreement file system to meet documentation needs, and development of loan closing procedures.

Management and capitalization of the RLF (Subtask 2) will be accomplished through: 1) application reviews of site eligibility and loan/subgrant applications, borrower financial information, remediation plans, and coordination with the Georgia Environmental Protection Division (EPD) Brownfield Program and the US Environmental Protection Agency (USEPA); 2) selection committee reviews and final approvals including final review and approval of applications for loan or subgrant funding including due diligence for site eligibility, completeness of application documentation, site visits, review of environmental reports, and Georgia EPD and USEPA cleanup plan approval; and 3) loan documentation and closing work such as preparation of agreements governing the legal and financial obligations of borrower or sub grantee for final closing of funding.

Outputs: RLF establishment, RLF management and capitalization

Task 3: Site Cleanup and Oversight

This task will consider the various remedial strategies that will maximize the effectiveness of potential cleanup/remedial options while minimizing cost and time. One of the most important components of developing remedial strategies is knowing the site's proposed end use, as this typically dictates applicable cleanup standards. When end use is known, remedial activities can be coordinated with the proposed development (grading activities, building orientation, etc.) and institutional or engineering controls can be considered, both of which will aid in minimizing the premium cost of remediation. In instances where institutional or engineering controls are implemented as part of cleanup work, a portion of the project budget (up to 10% of the project award) will be used to monitor and enforce such controls to prevent human exposures to site contaminants. Cleanup strategies will consider the contaminant(s) of concern, the extent of contamination, the impacted media, site-specific conditions, and proven as well as innovative remedial technologies. These factors and others must be considered in developing a remedial strategy that is both cost feasible and protective of human health and the environment.

Loan and subgrant recipients will be required to enroll in the State of Georgia Voluntary Brownfield Program (VBP). Additionally, prior to cleanup activities the Coalition will acquire additional technical expertise to conduct, manage, and oversee cleanup activities through a competitive bid process among qualified environmental consulting firms. Specifically, subgrant recipients will use the expertise acquired by the City and will be encouraged to seek assistance from the USEPA Region 4 to ensure cleanups are conducted properly. The Coalition feels that this programmatic element will ensure better quality control while at the same time ensuring the City's ability to monitor program activities systematically and uniformly.

Acquisition of goods and services is administered by the City's Office of Procurement which meets or exceeds all procurement standards outlined in 40 CFR 31.36. Currently, the City manages two USEPA Brownfield Assessment Grants. The technical expertise of the City's brownfield consultant for these two projects was acquired through a competitive bid process. There is a minority participation requirement set by the Office of Procurement. In addition to standard bid requirements, City Departments can use vendors that have been pre-certified under annual contract processing, allowing vendors to be pre-certified for providing specialized services.

Outputs: The Coalition will provide the impetus for cleanup of approximately 10 - 15 sites, and assist with site cleanup and land use planning on other sites as environmental assessments are completed and loans and subgrants are awarded.

Task 4: Project Implementation, Oversight, and Reporting

To provide USEPA and other stakeholders with sufficient information on the progress and success of the Coalition's brownfield redevelopment program, status/progress summary reports will be completed quarterly during the project performance period. A final report will be submitted at the conclusion of the funding period. The reports will provide a summary of the

project progress and milestones met or exceeded during the reporting period, fund expenditures, and lessons learned and their applicability during the remaining term of the project. These reports will present an opportunity to seek input and guidance from the USEPA and stakeholders on how the project is tracking and funds are administered. Throughout the project period, the Coalition will report on the leveraging successes that result from this project – not only successes in leveraging brownfield redevelopment dollars, but success evidenced by improvements in clean air, clean water, smart growth, and environmental health. Reports will be available via hard copies and electronically on the City of Atlanta Brownfields Program information repository.

Outputs: Quarterly reports and final report as required by the grant and any special reports as appropriate.

ii) Leveraging

A key component in measuring the success of EPA's brownfield assessment grant program is the ability of grant recipients to successfully leverage federal dollars with other funding sources to maximize the ability to redevelop brownfield properties. The City of Atlanta has a proven record of leveraging success, with estimated current and projected redeveloped property values for brownfield sites located in the City of over \$1 billion.⁴ The Coalition will also leverage money generated by a recent amendment to Georgia's Constitution by which Georgia's citizens approved the funding Tax Allocation Districts by school taxes. This is a significant move forward in funding the BeltLine Project.

b. Programmatic Capability

i) Current EPA Brownfields Grants

- The City of Atlanta has received three EPA brownfield grants, including an original pilot grant (1997), an EPA Hazardous Substances Assessment Grant (2005 - current) and an EPA Petroleum Assessment Grant (2005 - current). Other Coalition partners have not received an EPA Brownfield grant.
 - Funds remaining on the City's current EPA Brownfield Assessment grants total less than \$10,000 which is expected to be fully spent by the project's end date of June 30, 2009.
 - The City has reviewed its compliance with grant requirements and is making significant progress towards achieving the goals set forth in the previous agreements and workplans, and establishing platforms from which to continue addressing the brownfield redevelopment issues presented in this proposal.
 - The City has achieved success in its efforts to redevelop brownfield sites, having assessed over 40 sites and leveraged over \$1 billion dollars in grant-stimulated additional money to redevelop properties (see Leveraging above). Several of the sites assessed under previous EPA brownfield grants have been remediated and redeveloped and are contributing to the overall welfare and success of Atlanta and its citizens.
- **Staff Expertise and Qualifications or systems in place to acquire expertise** – The Coalition has in place expertise in all areas of brownfield redevelopment and loan fund management. Staff members include planners, financial experts, GIS experts, engineers, project managers, etc. Where in-house expertise does not exist, the Coalition will seek to identify outside experts to augment this expertise. The Coalition will contract with an environmental engineering and consulting company, through a fair bid process, to act as the Coalition's brownfield consultant with local, state, and national expertise to assist with this project. We seek local expertise to assist with local efforts, state expertise to assist in

⁴ Leveraged amounts are estimates based on information gathered by the City of Atlanta and the Atlanta Development Authority. Leveraging data is compiled from various sources and are best estimates. The leveraging data includes the City of Atlanta's current assessment grants (2006-2008) and sites from the City's Pilot Grant (2004). Printed in Atlanta's Quarterly Report to EPA, November 2, 2007.

navigating state brownfield programs and negotiations with the Georgia EPD, and national expertise to coordinate and liaison with EPA to understand federal requirements and to be able to work on the scale in which this project will proceed.

ADA manages two revolving loan funds that have federal funding: 1) the Business Improvement Loan Fund Program, which is made possible by the City of Atlanta through funds from the U.S. Department of Housing and Urban Development Community Development Block Grant funds, and 2) the Phoenix Fund Program funded by the Economic Development Administration of the U.S. Department of Commerce and the City of Atlanta. The Coalition plans to leverage this expertise where necessary to successfully manage EPA RLF funds.

- **Adverse audit findings** – No members of the Coalition have experienced any adverse audit findings related to previous or existing brownfield grants.

3. COMMUNITY ENGAGEMENT AND PARTNERSHIPS

a. Plan for involving the affected community

Community engagement will be iterative and continuous, building upon the outreach activities conducted during previous and current brownfield assessment grants, including community and business leader workshops on the challenges and opportunities presented by brownfield redevelopment, and fact sheets distributed to citizens through the Neighborhood Planning Units (NPU). Current educational programs focus on environmental and health threats in low-income communities, and are designed to increase public awareness and knowledge of environmental health risks, increase critical thinking, and improve problem solving skills in the areas of environmental justice, human health risks, pollution prevention, and effective decision-making. Outreach also serves to empower grassroots groups to think for themselves when faced with environmental and health threats where they live, work, and recreate. Community involvement is predicated on NPU interaction with the Coalition's brownfield team and NPU members. The site selection process encourages residents to provide information on specific sites that represent the best potential for assessment and eventual redevelopment in their neighborhoods.

Project progress will be communicated to the broader community via: 1) project website, 2) City cable television channel, 3) distribution of quarterly reports to the City's NPUs, and 4) at various public meetings/conferences that the City has held, and will continue to hold, as part of the current assessment grants. For communities directly impacted by a cleanup activity, informational meetings will be held with those neighborhoods. The Program Administrator will coordinate press releases to the Atlanta Business Chronicle and the Business Section of the Atlanta Journal-Constitution, which is the largest print media in metro Atlanta. Atlanta has experienced significant growth in the Vietnamese, Asian Indian, and Latino populations over the past several years, and for these non-indigenous populations and others that are most likely to be impacted by this project, notices in ethnic-specific newspapers, and fact sheets in appropriate language will be distributed to those associations that provide direct services to these populations.

ABI will provide community updates through various methods: 1) a Citizen Participation Advocate, whose primary responsibility is to inform the community on current issues and ensure active and meaningful participation of the community on matters related to the BeltLine; 2) quarterly community meetings to report overall status, inform the public of the most significant issues, respond to questions, and receive recommendations; 3) public engagement in regional BeltLine planning activities is organized on a continual basis as part of 5 small area focused BeltLine Study Groups; 4) on a regular basis, neighborhoods will be updated through televised briefings of the Atlanta Planning and Advisory Board, which discusses and makes recommendations to City on major issues that impact neighborhoods; 5) on a monthly basis, ABI conducts televised briefings at City Council Committee meetings; 6) monthly articles in ADA's

Pulse of Progress that is distributed to more than 9,000 subscribers; and 7) ABI, in conjunction with the BeltLine Partnership, maintains a website for BeltLine updates and announcements at www.beltline.org. This is an interactive website that engages, informs and accepts comments from the public. In addition, individuals and groups can register through the BeltLine website to receive e-mail updates.

b. Plans for developing partnerships with local/state/tribal environmental and health agencies

The City of Atlanta has a long-standing and positive relationship with local, state, and federal health agencies as part of its brownfield program. Atlanta is home to the Federal Centers for Disease Control and Prevention, the Agency for Toxic Substances Disease Registry, and world-class public health programs at Emory University's Rollins School of Public Health. Additionally, Atlanta's health department works with and regularly communicates with local county health departments. The local boards of health remain key constituents and through them the State Department of Public Health is ready and willing to lend assistance where needed.

The Coalition will continue to integrate public health programs into this project through several methods: 1) making environmental health a component of each public meeting and newsletter/communication; 2) having a public health official serve on the Coalition's Stakeholders Advisory Committee; and 3) providing access to health studies indicating relationships between brownfield redevelopment and public health. The Coalition will work to gauge the extent to which a community's residents feel their health has been compromised due to the presence of a brownfield, and make information available to City residents and others who may be interested in health studies and impacts related to brownfields. To do this, the Coalition will take advantage of the allowance to set aside up to 10% of the grant for health monitoring.

Through this grant, the Coalition will work with health care providers to identify brownfield sites that potentially impact susceptible populations such as young children who live or attend schools in close proximity to the site; elderly citizens who have been exposed to the original hazard-creating operations on the site and subsequent brownfield conditions for a sustained period of time; pregnant women and women of child-bearing age who live near brownfield sites; and mental health care facilities. Redevelopment provides an opportunity to make provisions for providing health care services related to environmental conditions, and will play a part in the selection of sites for assessment and future cleanup.

The Coalition's partners have developed successful relationships with local, state and federal environmental regulatory agencies by working on previous and current brownfield grants. This relationship will facilitate the enrollment of brownfield sites in Georgia EPD's Voluntary Brownfield Program. This program facilitates the redevelopment of brownfields through the issuance of limitation of liability agreements provided certain conditions are met. The Coalition will work with brownfield owners, developers, and the regulatory agencies to shepherd sites through this process during redevelopment.

c. Description and role of key community-based organizations

The Coalition has made a concerted effort through previous assessment grants to develop partnerships and relationships with entities that have a stake in the assessment and redevelopment of Atlanta's brownfield sites. These efforts have been largely successful in bringing diverse organizations with established ties to community stakeholder groups into the redevelopment process. Under the current Brownfield Cooperative Agreements the City administers, a Stakeholder Advisory Committee (SAC) has been formed, and the SAC will remain in place to provide continuity as the old grant transitions into the new. Because the scope of the new grant is much greater than previous grants, the Coalition will increase the size of the SAC to include members who represent the Coalition's target areas. The SAC membership comes from all sectors of the community, public and private, and includes members from the

State Environmental Protection Division, and commissioners of City departments involved in brownfield redevelopment.

Table 3: Community-Based Organizations

Organization	Description	Project Role
Atlanta Planning Advisory Board	The oversight advisory committee for all the NPUs in the city; concerns itself with city-wide issues, project, policies, etc.	Interacts with City government to provide input on government impacts on all residents
PATH Foundation	Local non-profit dedicated to developing a system of interlinking greenway trails through Metro Atlanta	Assist in planning and design of the BeltLine trail and greenway system.
Central Atlanta Progress	Private non-profit dedicated to the improvement and revitalization of downtown Atlanta	Will assist in redevelopment planning in EZ and RC neighborhoods
Atlanta BeltLine, Inc	Tasked with planning and developing the BeltLine project	Provide planning and project support to this assessment project
Sustainable Atlanta	A facilitator of sustainable organizations to plan and implement the action plan for environmental sustainability in Atlanta	Brownfield redevelopment advocacy and community education
Atlanta Renewal Community, CoRA, Inc.	Non-profit that provides seed funding for a variety of projects in low-income communities in the City	Assist with community outreach, leveraging resources, and promotion of health and quality of life
Metropolitan Atlanta Chamber of Commerce	Markets the City as a prime business attraction for new investments, and works with quality of life issues such as traffic, and air and water quality	Assist in marketing redeveloped brownfields and the attraction of new jobs to the City

4. PROGRAM BENEFITS

a. Welfare and/or Public Health

Public Welfare/Health Aggressive education and outreach programs targeting the identification of sites that may pose a risk to human health and the environment will be a cornerstone of this project. The Coalition will seek community input regarding the identification of sites from the various NPUs and City Council Representatives. The Coalition will engage a broad array of stakeholders to maximize its ability to uncover properties that may pose health hazards. In doing so, the Coalition can take steps to reduce and/or eliminate these risks from the community.

Once sites have been selected for assessment, the Coalition will use experienced and, if applicable, licensed environmental professionals for the technical aspects of the investigation phase. Assessment efforts will be coordinated with the Coalition's environmental consultant for the project, and when appropriate, will seek the advice and guidance of the Georgia EPD and/or the USEPA. This coordinated approach to assessment will ensure that the potential threats to human health and the environment are adequately addressed.

Brownfield cleanup can also remove ancillary safety and health threats posed by issues such as buildings which may be structurally unsound and unsafe to enter, storage tanks and confined

spaces that may present atmospheres immediately dangerous to life or health, fall hazards, mechanical hazards, electrical hazards, and cave-ins and trench collapses, among others. Under the current assessment grant program, the City is conducting risk assessments as part of the site selection process and redevelopment effort. The risk assessment process evaluates the potential for residents, visitors, tenants, assessment and cleanup teams, and others to be exposed to contaminants on brownfield sites.

Environmental Welfare/Health Thorough cleanup planning and implementation will reduce or eliminate potential exposures to contaminants on brownfield sites. Remediation plans for specific constituents will be based on future land use plans and guidance from the Georgia EPD. Upon source removal or capping, direct exposure to contaminants will be effectively eliminated. Furthermore, contaminant migration through soil, groundwater and surface water will be eliminated. Should impacted groundwater need addressing, the Coalition will work closely with property purchasers and the Georgia EPD and the USEPA to monitor groundwater movement and take necessary steps to facilitate remediation of any threats to drinking water. Engineering and institutional controls will be considered and implemented on a site-specific basis.

The Atlanta metropolitan area has struggled with air quality issues for many years, having been classified as non-attainment for ozone. Atlanta has made significant improvements in air quality over the past several years, and believes prioritizing investment in mobility choices can continue to improve the quality of life and overall health of its residents. The assistance this grant provides for redevelopment of brownfields creates an opportunity to remedy past unsustainable practices while at the same time ensuring that future environmental impacts will be positive by incorporating Smart Growth principles such as transit-oriented development, expanding mass transit options and opportunities for city residents and visitors, and supporting healthier lifestyles by concentrating development into live, work, and play mixed use developments.

During the course of Phase II investigations where the potential to expose the neighborhood population to contaminants due to ground disturbing activities such as sampling, the Coalition will take all necessary steps to ensure that exposures are reduced or eliminated. In advance of ground-disturbing activities, neighborhoods will be notified through NPUs and other methods outlined in the community outreach section above, so that community residents are aware of the reasons for disturbance and the precautions taken to protect the public. Precautions will include, as appropriate, the completion of Quality Assurance Project Plans, project health and safety plans, dust control measures, signs, and fences or barriers that will restrict access of unauthorized personnel.

b. Economic Benefit and/or Greenspace

i) Economic Benefits

The Coalition envisions a redevelopment assistance program where one assessment leads to property redevelopment that creates a “domino effect” that will translate into the redevelopment of other properties in the area. As a result, the benefits are immediate as well as far reaching. The Coalition’s continued ability to assess brownfield properties immediately gives the communities power in knowledge about the condition of the derelict properties in their neighborhoods. It allows for further discussion and greater stakeholder participation in community-wide redevelopment efforts. The subsequent clean-up and redevelopment offers several benefits: 1) it represents the removal of risk to communities in terms of health and disinvestment; 2) significant economic stimuli associated with redevelopment including: (a) increased tax base – brownfield redevelopment will be a catalyst for new economic development in this area, adding to the tax base for the City, and providing funds for reinvestment in the community; (b) leveraged investment – it is expected that public dollars and private investment will be brought to the City as a result of brownfield redevelopment, thereby increasing the opportunities for business development and job creation; (c) job creation – the City anticipates that new commercial and residential construction and development in the targeted areas will create thousands of jobs, providing an opportunity for inner-city residents to start new careers or

expand careers; and 3) it creates available greenspace by limiting sprawl and preserving greenfields that may have been an alternative development site. For all of our targeted communities, the creation of greenspace is a key goal. Most communities' redevelopment plans recommend that the highest and best re-use of brownfield properties is for recreational spaces. The resulting creation of greenspace from brownfields often initiates an economic revitalization in the communities. In most of these communities, special quality of life zoning regulations require increased open space provisions for new construction, leading to increased greenspace throughout the communities.

ii) Greenspace and other Non-Economic Benefits

Atlanta is one of the fastest growing urban areas in the United States, which heightens the need to preserve and create greenspace to maintain an acceptable park-to-population ratio. The Coalition and City officials are committed to creating additional greenspace acreage to propel the city into being best in class for parks and open space. In 2002, a mayoral-appointed task force recommended the City double its 3,700 acres of greenspace by 2012, and boost the City's greenspace acreage to 20% (16,000 acres) of the City's area. The challenge is the lack of "new" land to preserve for greenspace. The Coalition's strategy is to create greenspace from 'used' land, that is, brownfields. The Coalition is working closely with the Trust for Public Land, the Blank Foundation and other non-profits to identify and purchase land throughout the City for community recreation and revitalization purposes. A specific example of the City's commitment to creating "new land from old" is the Westside Reservoir Park on the west side of the BeltLine. The City purchased a gravel quarry from a private corporation, and is converting the property into the City's largest park and the quarry into a reservoir holding 2 billion gallons of water.

The City funds and coordinates community development activity with many non-profit Community Development Corporations. Although many of these CDCs have different goals and missions, the primary goal of many of these organizations is community development/revitalization. The major expense of these CDCs is land acquisition for community developments that results in new housing, new greenspace, pathways, bike trails, and new community-based retail development. Assessment of brownfield properties will help identify those properties that may be difficult to redevelop for residential or commercial use, and may more readily be utilized for non-profit purposes.

The funding of this grant will enhance the Coalition's ability to maintain brownfield redevelopment momentum generated in previous brownfield work, and identify sites that could be reclaimed for purposes leading to new economic development and vitality. This is especially relevant for distressed communities and communities facing environmental justice issues. Through its development partners the Coalition will assist CDCs in converting these idle properties to a more productive use through environmental cleanup and job creation, leading to renewed community vitality providing a spark for new economic development.

c. Environmental Benefits from Infrastructure Reuse/Sustainable Reuse

The assessment of identified brownfield sites posing a threat to human health and the environment will be conducted in conjunction with efforts to prioritize sites whose contamination will be targeted for remediation. Through education of the community, planners, developers, and other stakeholders, the project will prevent the spread of pollution, and thereby prevent potential exposure to individuals, through the cleanup of any existing contamination. This project will prevent the creation of new polluting sources by redeveloping property using environmentally friendly design/build/operate principles, ultimately tying in the reduction of resource consumption with green building and Leadership in Environmental and Energy Design (LEED™) certification. In 2003, Atlanta passed an ordinance requiring all new City-financed construction projects to be LEED™ Silver-certified or better. Strongly encouraged are construction projects incorporating energy efficient design.

As part of the redevelopment plans generated upon completion of site assessments, an analysis of a site's supporting infrastructure will be conducted, with maximum effort made to reuse infrastructure where possible. Atlanta's infrastructure is relatively young compared to cities of the Northeast and Midwest, and remains capable of serving its current residents and an influx of new residents. The Coalition recognizes the importance of maintaining infrastructure, and the City is undertaking a massive effort to upgrade storm and sanitary sewers by the year 2010, financed by a 1% sales tax. Additionally, the City's Quality of Life Bond Program has issued over \$150 million in bonds to help with infrastructure upkeep. Maintaining adequate infrastructure will help accommodate demand for in-city living, leading to a reduction of negative impacts on air quality through mass transit development and live/work/play neighborhoods and reducing stress on suburban greenfields.

As Atlanta and the metro area continue to grow, the issue of supplying quality water at sufficient quantities becomes increasingly important. By incorporating sustainable design features into redevelopment plans, the addition of 1,300 acres of interconnected greenspace, and education of the community, planners, developers, and other stakeholders the City can minimize the impacts of irrigation, stormwater runoff and non-point source pollution entering surface waters, thereby decreasing negative environmental impacts and increasing the rate of groundwater recharge. The reduction in water volume discharged to waterways will prevent unchecked stream bank erosion, prevent loss of habitat and aquatic life, and decrease potential flooding and property damage, improving the region's overall water quality.

Revitalization of an area will assist in the prevention of future brownfield areas as residents retain a sense of pride over their neighborhoods. Revitalization provides benefits conducive to generating new businesses, safer streets, and higher economic standards for the area's residents. Direct community outreach efforts will include providing information on ways a community's stakeholders can assist in the prevention of new brownfields through recycling and observing City laws and ordinances regarding proper disposal of household trash and hazardous household materials. For targeted brownfield sites, the City will engage in a series of outreach efforts aimed at informing citizens of viable, environmentally friendly businesses and redevelopment projects that can exist at a particular site.

In 2006, Mayor Franklin identified environmental sustainability as a critical factor in making Atlanta a "best in class" city. In early 2007, she created Sustainable Atlanta and charged her administration to create and foster a community dedicated to sustainability through best in class leadership, and to implement solutions and practices as they are identified. The program is aimed at making Atlanta more sustainable by improving "green" programs and policies such as water and energy conservation, reducing solid waste, reducing emissions, and improving the rates of recycling. Recommendations for sustainability include sustainable land use choices and smart growth which embraces brownfield redevelopment. Brownfield redevelopment and community involvement are critical components of the entire spectrum of the City's sustainability program, encompassed by operations policy, general education and advocacy, and land use.

The City's Sustainable Brownfield Initiative ties in directly with the Mayor of Atlanta's five economic development action goals: 1) target industries; 2) business recruitment, retention, and expansion; 3) BeltLine, downtown, and Brand Atlanta campaign; 4) economic vitality in underserved areas; and 5) increase capital available for development and business growth. The project will create public/private partnerships that improve the economic situation of communities through brownfield redevelopment. The Coalition will team with lending institutions, developers, and other vested entities to educate the community on the various options available to assist in brownfield redevelopment, while educating the partners on the opportunities that are available in the City to revitalize contaminated properties.

Key to the success of Atlanta's urban brownfield effort will be the integration of the City's MARTA public transit system into redevelopment projects. As urban areas become more

congested, gasoline costs remain unstable, and air quality declines, the availability of public transit will play an ever-increasing role in where new residents to Atlanta will choose to live and work. This project's focus on corridor redevelopment, the revitalization of the BeltLine, and other urban centers provides an opportunity to tie existing MARTA service into growth areas that can plan for transit improvements as part of redevelopment. For example, the BeltLine provides an extensive, uninterrupted rail line that rings the City and affords an opportunity to tie existing MARTA rail service into local service based upon the BeltLine rail system. There are currently five MARTA rail stops along the BeltLine and fifty-two existing MARTA bus lines that serve the BeltLine communities. Most of these transit points serve low-income communities that would benefit greatly from the greater access to jobs through a more complete transit network to move people to more parts of the City. The existing MARTA network and the proposed expansion along the BeltLine will increase the number of linkages between residential neighborhoods and the City social and economic activity centers.

No city can prosper without vibrant communities providing character and positive images to those willing to invest in a city's future. The identification and assessment of brownfield properties is the key first step in restoring hope to communities that may have once been important components in shaping a city's legacy. This project allows for the incorporation of smart growth principles into the planning process from the very beginning of redevelopment planning, thereby increasing the likelihood of success. Smart growth development, often characterized by high density, walkable mixed use projects, is well suited to urban redevelopment in cities such as Atlanta where in-town land availability is limited. The Coalition will focus on the following elements to create a positive approach for sustainable brownfield redevelopment: 1) evaluating community demographics and brownfield impacts; 2) comprehensive community planning; 3) site identification and characterization; 4) risk management and remediation; 5) site redevelopment; 6) project funding and finance; and 7) environmental justice. Project partners will incorporate smart growth principles into redevelopment efforts stemming from this proposal. Smart growth can also promote greater transportation choices as mass transit can play a larger role in moving people from place to place throughout the city.

Eleven communities within Atlanta have received funding under the Atlanta Regional Commission's Livable Cities Initiative (LCI) to promote and enhance livability and mobility for their citizens. Fundamental concepts in all LCI communities are: connecting homes, shops, and offices; emphasizing the pedestrian; improving access to transit and other transportation options, and expanding housing options. LCI projects provide an excellent opportunity to leverage dollars and tie together brownfield redevelopment with community revitalization, and such opportunities will be explored through partnerships created through this grant.

d. Plan for tracking and measuring progress

The Coalition will prepare a work plan for the five-year term of the grant that includes goals, outcomes, and metrics for tracking progress towards those goals. Each quarterly report will include tracking statistics for each project and the cumulative progress of the RLF in meeting the target goals. Particular attention will be paid to addressing the needs of economically disadvantaged communities and addressing environmental justice issues with special populations. Longer-term (beyond project end-date) anticipated outcomes will be identified to gauge resulting project benefits, and to incorporate these outcomes into future redevelopment planning among the Coalition members.

ATTACHMENT 3
REVOLVING LOAN FUND
TERMS AND CONDITIONS

**Revolving Loan Fund (RLF)
Terms and Conditions**

Please note that these Terms and Conditions apply to Brownfields RLF capitalization Grants awarded under CERCLA § 104(k) and those that chose to transition to §104(k). They do not apply to pre-FY 2003 grants subject to §104(d).

I. GENERAL FEDERAL REQUIREMENTS

A. Federal Policy and Guidance

1. Cooperative Agreement Recipients: By awarding this cooperative agreement, the U.S. Environmental Protection Agency has approved the proposal for the Cooperative Agreement Recipient (CAR) submitted in the Fiscal Year 2014 competition for Brownfields RLF cooperative agreements. However, the CAR may not expend ("draw down") funds to carry out this agreement until the EPA Project Officer approves the final work plan.
2. In implementing this agreement, the CAR shall comply with and require that work done by borrowers and subgrant recipients with cooperative agreement funds comply with the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 104(k). The CAR will ensure that cleanup activities supported with cooperative agreement funding comply with all applicable Federal and State laws and regulations. The CAR will ensure cleanups are protective of human health and the environment.
3. The CAR must consider whether it is required to have borrowers or subgrant recipients conduct cleanups under a State or Tribal response program. If the CAR chooses not to require borrowers and subgrant recipients to participate in a State or Tribal response program, then the CAR is required to consult with the EPA on each loan or subgrant to ensure the proposed cleanup is protective of human health and environment.
4. *If the CAR is not subject to a State or Tribal Response Program, then the CAR is strongly urged to consider joining such program. Regardless, the CAR is required to consult with the EPA and any applicable State/Tribal programs to ensure the proposed cleanup is protective of human health and the environment.*
5. Information submitted to EPA under this cooperative agreement may be subject to the Freedom of Information Act (FOIA). EPA recommends that recipients do not provide confidential business information ("CBI") to the Agency. However, if confidential business information is included, it will be treated in accordance with 40 Code of Federal Regulations (CFR) 2.203. Recipients must clearly indicate which portion(s) of the information submitted to EPA the recipient claims as CBI. EPA will evaluate such claims in accordance with 40 CFR Part 2. If no claim of confidentiality is made, EPA is not required to make the inquiry to the recipient otherwise required by 40 CFR 2.204(c)(2) prior to disclosure. Unless otherwise required by Federal, State, or local law, the CAR and its borrowers and subgrantees are not required to permit public access to their own records, 40 CFR 30.53; 40 CFR 31.42. See 40 CFR Part 2 for EPA's general information-disclosure procedures.

II. SITE/BORROWER/SUBGRANTEE ELIGIBILITY

A. Brownfields Site Eligibility

1. The CAR must provide information to EPA about site-specific work prior to incurring any costs under this cooperative agreement. The information that must be provided includes whether or not the site meets the definition of a brownfield site as defined in § 101(39) of CERCLA, whether the CAR is the potentially responsible party under CERCLA 107 and/or has defenses to liability.
2. If the site is excluded from the general definition of a brownfield site, but is eligible for a property-specific funding determination, then the CAR may request a property-specific funding determination. In its

request, the CAR must provide information sufficient for EPA to make a property-specific funding determination on how financial assistance will protect human health and the environment, and either promote economic development or enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for nonprofit purposes. The CAR must not incur costs for cleaning up sites requiring a property-specific funding determination by EPA until the EPA Project Officer has advised the CAR that the Agency has determined that the property is eligible.

3. For any petroleum-contaminated brownfields site, the CAR shall provide sufficient documentation to the EPA prior to incurring costs under this cooperative agreement which includes (refer to the most recent issue of EPA's *Proposal Guidelines for Brownfields Revolving Loan Fund Grants*) documenting that:
 - a. a State has determined that the petroleum site is of relatively low risk, as compared to other petroleum sites in the State;
 - b. the State determines there is "no viable responsible party" for the site;
 - c. the State determines that the person assessing, investigating, or cleaning up the site is a person who is not potentially liable for cleaning up the site; and
 - d. the site is not subject to any order issued under section 9003(h) of the Solid Waste Disposal Act.

This documentation must be prepared by the CAR or the State following contact and discussion with the appropriate state petroleum program official.

4. Documentation must include (1) the identity of the State program official contacted, (2) the State official's telephone number, (3) the date of the contact, and (4) a summary of the discussion relating to the determination that the site is of relatively low risk, that there is no viable responsible party and that the person assessing, investigating, or cleaning up the site is not potentially liable for cleaning up the site. Other documentation provided by a State to the recipient relevant to any of the determinations by the State must also be provided to the EPA Project Officer.
5. If the State chooses not to make the determinations described in 3.a. above, the CAR must contact the EPA Project Officer and provide the information necessary for EPA to make the requisite determinations.
6. EPA will make all determinations on the eligibility of petroleum-contaminated brownfields sites located on tribal lands (i.e., reservation lands or lands otherwise in Indian country, as defined at 18 U.S.C. 1151). Before incurring costs for these sites, the CAR must contact the EPA Project Officer and provide the information necessary for EPA to make the determinations described in "3" above.

B. Borrower and Subgrant Recipient Eligibility

1. The CAR may only provide cleanup subgrants to an eligible entity or nonprofit organization to clean up sites *owned* by the eligible entity or nonprofit organization at the time the subgrant is awarded. Eligible subgrant recipients include eligible entities as defined under CERCLA § 104(k)(1) and nonprofit organizations as defined in Section 4(6) of the Federal Financial Assistance Management Improvement Act of 1999. Nonprofit organizations described in Section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act of 1995 are not eligible for subgrants.
2. The subgrant recipient must retain ownership of the site throughout the period of performance of the subgrant. For the purposes of this agreement, the term "owns" means fee simple title unless EPA approves a different arrangement. **However, the CAR may not provide a subgrant to itself or another component of its own unit of government or organization.**
3. The CAR may discount loans, also referred to as the practice of forgiving a portion of loan principle. For an individual loan, the amount of principal discounted may be any percentage of the total loan amount up to 30 percent, provided that the total amount of the principal forgiven for that loan shall not exceed \$200,000. Eligible entities include those identified in CERCLA § 104(k)(1) and nonprofit organizations as defined at

Section 4(6) of the Federal Financial Assistance Management Improvement Act of 1999. **Private, for-profit entities are not eligible for discounted loans.**

4. The CAR shall not loan or subgrant funds that will be used to pay for cleanup activities at a site for which a loan or grant recipient is potentially liable under CERCLA § 107. The CAR may rely on its own investigation which can include an opinion from the subgrant recipient's or borrower's counsel. However, the CAR must advise the borrower or subgrant recipient that the investigation and/or opinion of the subgrant recipient's or borrower's counsel is not binding on the Federal Government.
5. For approved eligible petroleum-contaminated brownfields sites, the person cleaning up the site must be a person who is not potentially liable for cleaning up the site. For brownfields grant purposes, an entity generally will not be considered potentially liable for petroleum contamination if it has not dispensed or disposed of petroleum or petroleum-product at the site, has not exacerbated the contamination at the site, and taken reasonable steps with regard to the contamination at the site.
6. The CAR shall maintain sufficient documentation supporting and demonstrating the eligibility of the sites, borrowers, and subgrant recipients.
7. A borrower or subgrant recipient must submit information regarding its overall environmental compliance history including any penalties resulting from environmental non-compliance at the site subject to the loan or subgrant. The CAR, in consultation with the EPA, must consider this history in its analysis of the borrower or subgrant recipient as a cleanup and business risk.
8. An entity that is currently suspended, debarred, or otherwise declared ineligible cannot be a borrower or subgrant recipient.

C. Obligations for Grant Recipients, Borrowers, or Subgrantees Asserting a Limitation on Liability from CERCLA § 107

1. Grant recipients, borrowers, or subgrantees who are eligible, or seek to become eligible, to receive a grant, loan, or subgrant based on a liability protection from CERCLA as a: (1) bona fide prospective purchaser (BFPP), (2) contiguous property owner (CPO), or (3) innocent landowner (ILO) (known as the "landowner liability protections"), must meet certain threshold criteria and satisfy certain continuing obligations to maintain their status as an eligible grant recipient, borrower, or subgrantee. These include, but are not limited to the following:
 - a. All grant recipients, borrowers, or subgrantees asserting a BFPP, CPO or ILO limitation on liability must perform (or have already performed) "all appropriate inquiry," as found in section 101(35)(B) of CERCLA, on or before the date of acquisition of the property.
 - b. Grant recipients, borrowers, or subgrantees seeking to qualify as bona fide prospective purchasers or contiguous property owners must not be potentially liable, or affiliated with any other person that is potentially liable for response costs at the facility through:
 - (a) any direct or indirect familial relationship; or
 - (b) any contractual, corporate, or financial relationships; or
 - (c) a reorganized business entity that was potentially liable or otherwise liable under CERCLA § 107(a) as a prior owner or operator, or generator or transporter of hazardous substances to the facility.
 - c. Landowners must meet certain continuing obligations in order to achieve and maintain status as a landowner protected from CERCLA liability. These continuing obligations include:
 - i. complying with any land use restrictions established or relied on in connection with the response action at the vessel or facility and not impeding the effectiveness or integrity of institutional controls;

- ii. taking reasonable steps to stop any continuing hazardous substance releases, prevent any threatened future release, and prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance;
 - iii. providing full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration;
 - iv. complying with information requests and administrative subpoenas (applies to bona fide prospective purchasers and contiguous property owners); and
 - v. complying with legally required notices (again, applies to bona fide prospective purchasers and contiguous property owners) [see CERCLA § §101(40)(B)-(H), 107(q)(1)(A), 101(35)(A)-(B).].
- d. CERCLA requires additional obligations to maintain liability protection. These obligations are found at §§101(35), 101(40), 107(b), 107(q) and 107(r).

III. GENERAL COOPERATIVE AGREEMENT ADMINISTRATIVE REQUIREMENTS

A. Term of the Agreement

1. The term of an RLF agreement is five years, unless otherwise extended by EPA at the CAR's request.
2. If after 2 years from the date of award, EPA determines that the recipient has not made sufficient progress in implementing its cooperative agreement the recipient must implement a corrective action plan approved by the EPA Project Officer or EPA may terminate this agreement for material non-compliance with its terms. Sufficient progress is indicated by the grantee having made loan(s) and/or subgrant(s), but may also be demonstrated by a combination of all the following: hiring of all key personnel, the establishment and advertisement of the RLF, and the development of one or more potential loans/subgrants.

B. Substantial Involvement

1. The EPA may be substantially involved in overseeing and monitoring this cooperative agreement.
 - a. Substantial involvement by the EPA generally includes administrative activities such as: monitoring; reviewing and approving of procedures for loan and subgrant recipient selection; review of project phases; and approving substantive terms included in professional services contracts.
 - b. Substantial EPA involvement also includes brownfields property-specific funding determinations described in Section II.A. above. The CAR may also request technical assistance from EPA to determine if sites qualify as brownfields sites and to determine whether the statutory prohibition found in section 104(k)(4)(B)(i)(IV) of CERCLA applies. This prohibition prohibits a grant or loan recipient from using grant funds to clean up a site if the recipient is potentially liable under §107 of CERCLA for that site.
 - c. Substantial EPA involvement may include reviewing financial and environmental status reports; and monitoring all reporting, record-keeping, and other program requirements.
 - d. Substantial EPA involvement may include the review of the substantive terms of RLF loans and cleanup subgrants.
 - e. EPA may waive any of the provisions in this Section III.B.1., with the exception of property-specific funding determinations. EPA will provide waivers in writing.

2. Effect of EPA's substantial involvement includes:
 - a. EPA's review of any project phase, document, or cost incurred under this cooperative agreement will not have any effect upon CERCLA § 128 *Eligible Response Site* determinations or for rights, authorities, and actions under CERCLA or any Federal statute.
 - b. The CAR remains responsible for ensuring that all cleanups are protective of human health and the environment and comply with all applicable Federal and State laws. If changes to the expected cleanup become necessary based on public comment or other reasons, the CAR must consult with EPA.
 - c. The CAR remains responsible for ensuring costs are allowable under 2 CFR Part 225 (for state, local and tribal governments) or 2 CFR Part 230 (non-profit organizations), as applicable.
3. *The CAR will provide project updates to the State Brownfields or Voluntary Cleanup Program (VCP) contact on a regular basis.*
 - a. *The CAR will make the State aware of all site-specific sampling and/or cleanup activities to be initiated (if applicable).*
 - b. *The CAR will provide the State an opportunity to review and comment on all technical reports, including Quality Assurance Project Plans (QAPPs), sampling plans, analysis of brownfields cleanup alternatives (ABCAs), cleanup plans, and other technical reports.*

C. Cooperative Agreement Recipient Roles and Responsibilities

1. The CAR is responsible for establishing an RLF team that will implement the Program and for coordinating the team's activities as outlined below.
2. The CAR must acquire the services of a qualified environmental professional(s) to coordinate, direct, and oversee the brownfields cleanup activities at a particular site, if they do not have such a professional on staff.
3. The CAR shall act as or appoint a qualified "fund manager" to carry out responsibilities that relate to financial management of the loan and/or subgrant program. However, the CAR remains accountable to EPA for the proper expenditure of cooperative agreement funds. Any funding arrangements between the CAR and the fund manager for services performed must be consistent with 40 CFR Part 31.
4. The CAR shall appoint appropriate legal counsel if counsel is not already available. Counsel should review all loan/subgrant agreements prior to execution.
5. The CAR is responsible for ensuring that borrowers and subgrant recipients comply with the terms of their agreements with the CAR, and that agreements between the CAR and borrowers and subgrant recipients are consistent with the terms and conditions of this agreement.
6. **Competency of Organizations Generating Environmental Measurement Data:** In accordance with Agency Policy Directive Number FEM-2012-02, Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements, the CAR agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable, the CAR agrees to demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. The CAR shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy is available online at http://www.epa.gov/fem/lab_comp.htm or a copy may also be requested by contacting the EPA Project Officer for this award.

D. Quarterly Progress Reports

1. The CAR must submit progress reports on a quarterly basis to the EPA Project Officer. Quarterly progress report must include:
 - a. A summary of approved activities performed during the reporting quarter; a summary of the performance outputs/outcomes achieved during the reporting quarter; and a description of problems encountered during the reporting quarter that may affect the project schedule.
 - b. An update on project schedules and milestones.
 - c. A list of the loans and/or sub-grants awarded during the reporting quarter.
 - d. A budget recap summary table with the following information: current approved project budget; costs incurred during the reporting quarter; costs incurred to date (cumulative expenditures); cost share updates; and total remaining funds.
2. The CAR must maintain records that will enable it to report to EPA on the amount of funds expended on specific properties under this cooperative agreement.
3. *Recipient quarterly reports must clearly identify which activities performed during the reporting period were undertaken with EPA funds, and must relate EPA-funded activities to the objectives and milestones agreed upon in the work plan.*
4. In accordance with 40 CFR 31.40(d), the CAR agrees to inform EPA as soon as problems, delays, or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the approved work plan.

E. Property Profile Submission

1. The CAR must report on interim progress (i.e., loan signed, cleanup started) and any final accomplishments (i.e., cleanup completed, contaminants removed, Institution Controls, Engineering Controls) by completing and submitting relevant portions of the Property Profile Form using the Brownfields Program on-line reporting system, known as Assessment, Cleanup and Redevelopment Exchange System (ACRES). The CAR must enter the data in ACRES as soon as the interim action or final accomplishment has occurred, or within 30 days after the end of each reporting quarter. EPA will provide the CAR with training prior to obtaining access to ACRES. The training is required to obtain access to ACRES. The CAR must utilize the ACRES system unless approval is obtained from the EPA Project Officer to utilize the Property Profile Form.
2. *The CAR must obtain approval from the EPA Project Officer before expending cooperative agreement funds to purchase adequate computer supplies to complete on-line reporting activities.*

F. Final Report

1. The CAR must submit a final report at the end of the period of performance in order to finalize the closeout of the grant. This final report must capture the site names, what work was done at each site and how much funding was spent at each site. It should also provide information that documents the outreach efforts done by the CAR and other activities that help explain where the funding was utilized. See Section VII for more details on final report and closeout.

IV. FINANCIAL ADMINISTRATION REQUIREMENTS

A. Cost Share Requirement

1. CERCLA § 104(k)(9)(B)(iii) requires the recipient of this cooperative agreement to pay a cost share (which may be in the form of a contribution of money, labor, material, or services from a non-federal source) of at least 20 percent (i.e., 20 percent of the total federal funds awarded). The cost share contribution must be for costs that are eligible and allowable under the cooperative agreement and must be supported by adequate documentation.

B. Eligible Uses of the Funds for the Cooperative Agreement Recipient, Borrower, and/or Subgrant Recipients

1. To the extent allowable under the EPA approved workplan, cooperative agreement funds may be used for eligible programmatic expenses to capitalize the RLF and conduct cleanups.
 - a. The CAR must maintain records that will enable it to report to EPA on the amount of costs incurred by the CAR, borrowers or subgrant recipients at brownfields sites.
 - b. At least 50% of the funds must be used by the CAR to provide loans for the cleanup of eligible brownfields sites and for eligible programmatic costs for managing the RLF. Up to 50% can be used for subgrants to clean up eligible brownfield sites under the RLF and for eligible programmatic costs for managing subgrant(s). (Note: cleanup subgrants are limited to \$200,000 per site). (Note: The CAR may request a waiver to the 50% cap on subgrant funds. Please consult with your EPA Project Officer for the waiver process.)
 - c. To determine whether a cleanup subgrant is appropriate, the CAR must consider the following as required by CERCLA §104(k)(3)(B)(c):
 - i. The extent the subgrant will facilitate the creation of, preservation of, or addition to a park, greenway, undeveloped property, recreational property, or other property used for nonprofit purposes;
 - ii. The extent the subgrant will meet the needs of a community that has the inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield site is located because of the small population or low income of the community;
 - iii. The extent the subgrant will facilitate the use or reuse of existing infrastructure; and
 - iv. The benefit of promoting the long-term availability of funds from a revolving loan fund for brownfield remediation.

The CAR must maintain sufficient records to support and document these determinations.

2. The CAR may use cooperative agreement funds to capitalize a revolving loan fund to be used for loans or subgrants for cleanup and for eligible programmatic expenses. Eligible programmatic expenses may include direct costs for:
 - a. Determining whether RLF cleanup activities at a particular site are authorized by CERCLA § 104(k);
 - b. Ensuring that a RLF cleanup complies with applicable requirements under Federal and State laws, as required by CERCLA § 104(k);
 - c. Limited site characterization including confirming the effectiveness of the proposed cleanup design or the effectiveness of a cleanup once an action has been completed;
 - d. Preparing an ABCA which will include information about the site and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup for each site as described in Section V.A.1.
 - e. Ensuring that public participation requirements are met. This includes preparing a community relations plan which will include reasonable notice, opportunity for public involvement and comment on the proposed cleanup, and response to comments;
 - f. Establishing an administrative record for each site;

- g. Developing a QAPP as required by Part 31 and Part 30 regulations. The specific requirement for a QAPP is outlined in U.S. EPA Order 53601.1, April 1984, as amended on May 5, 2000;
 - h. Ensuring the adequacy of each RLF cleanup as it is implemented, including overseeing the borrowers and/or subgrantees activities to ensure compliance with applicable Federal and State environmental requirements;
 - i. Ensuring that the site is secure if a borrower or subgrant recipient is unable or unwilling to complete a brownfields cleanup;
 - j. Using a portion of a loan or subgrant to purchase environmental insurance for the site. The loan or subgrant may not be used to purchase insurance intended to provide coverage for any of the Ineligible Uses under Section C.
 - k. Any other eligible programmatic costs including costs incurred by the recipient in making and managing a loan; obtaining financial management services; quarterly reporting to EPA; awarding and managing subgrants to the extent allowable in Section III.D.2.; and carrying out outreach pertaining to the loan and subgrant program to potential borrowers and subgrant recipients; and
 - l. Subgrantee progress reporting to the CAR is an eligible programmatic cost.
3. *Local Governments Only: If included in the EPA approved work plan, no more than 10% of the funds awarded by this agreement may be used by the CAR itself for monitoring of health and institutional controls. The CAR must maintain records on funds that will be used to carry out these tasks as identified in the work plan.*
4. If the CAR makes a subgrant to a local government that includes an amount (not to exceed 10% of the subgrant) for brownfields program development and implementation, the terms and conditions of that agreement must include a provision that ensures that the local government subgrantee maintains records adequate to ensure compliance with the limits on the amount of subgrant funds that may be expended for this purpose.

C. Ineligible Uses of the Funds for the Cooperative Agreement Recipient, Borrower, and/or Subgrant Recipients

- 1. Cooperative agreement funds shall not be used by the CAR, borrower and/or subgrant recipient for any of the following activities:
 - a. Environmental assessment activities, including Phase I and Phase II Environmental Site Assessments.
 - b. Monitoring and data collection necessary to apply for, or comply with, environmental permits under other federal and state laws, unless such a permit is required as a component of the cleanup action.
 - c. Construction, demolition, and development activities that are not integral to the cleanup actions, and addressing public or private drinking water supplies that have deteriorated through ordinary use.
 - d. Job training unrelated to performing a specific cleanup at a site covered by a loan or subgrant.
 - e. To pay for a penalty or fine.
 - f. To pay a federal cost share requirement (for example, a cost-share required by another Federal grant) unless there is specific statutory authority.
 - g. To pay for a response cost at a brownfields site for which the recipient of the grant or loan is potentially liable under CERCLA § 107.

- h. To pay a cost of compliance with any federal law, excluding the cost of compliance with laws applicable to the cleanup.
 - i. Unallowable costs (e.g., lobbying and fund raising) under 2 CFR Part 225 (for state, local and tribal governments) or 2 CFR Part 230 (non-profit organizations), as applicable..
2. Under CERCLA §104(k)(4)(B), administrative costs are prohibited costs under this agreement. Prohibited administrative costs include all indirect costs under applicable OMB Circulars incurred by the CAR and subgrantees.
- a. Ineligible administrative costs include costs incurred in the form of salaries, benefits, contractual costs, supplies, and data processing charges, incurred to comply with most provisions of the *Uniform Administrative Requirements for Grants* contained in 40 CFR Part 30 or 40 CFR part 31. Direct costs for grant and subgrant administration, with the exception of costs specifically identified as eligible programmatic costs, are ineligible even if the grantee or subgrant recipient is required to carry out the activity under the grant agreement. Costs incurred to report quarterly performance to EPA under the grant are eligible.
 - b. Ineligible grant or subgrant administration costs include direct costs for:
 - i. Preparation of applications for Brownfields grants and subgrants;
 - ii. Record retention required under 40 CFR 30.53 and 40 CFR 31.42;
 - iii. Record-keeping associated with supplies and equipment purchases required under 40 CFR 30.33, 30.34, and 30.35 and 40 CFR 31.32 and 31.33;
 - iv. Preparing revisions and changes in the budgets, scopes of work, program plans and other activities required under 40 CFR 30.25 and 40 CFR 31.30;
 - v. Maintaining and operating financial management systems required under 40 CFR 30 and 40 CFR 31;
 - vi. Preparing payment requests and handling payments under 40 CFR 30.22 and 40 CFR 31.21;
 - vii. Non-federal audits required under 40 CFR 30.26, 40 CFR 31.26, and OMB Circular A-133; and
 - viii. Close out under 40 CFR 30.71 and 40 CFR 31.50.
 - ix. Borrowers are subject to the CERCLA § 104(k)(4)(B) administrative cost prohibition requirements. The CAR must ensure that loan agreements prohibit borrowers and subgrantees from using loans financed with cooperative agreement funds for administrative costs.
 - c. Prohibited administrative costs for the borrower (including those in the form of salaries, benefits, contractual costs, supplies, and data processing charges) are those incurred for loan administration and overhead costs.
 - d. Direct costs for loan administration are ineligible even if the borrower is required to carry out the activity under the loan agreement. Ineligible loan administration costs include expenses for:
 - i. Preparation of applications for loans and loan agreements;

- ii. Preparing revisions and changes in the budget, workplans, and other documents required under the loan agreement;
 - iii. Maintaining and operating financial management and personnel systems;
 - iv. Preparing payment requests and handling payments; and
 - v. Audits.
- e. Overhead costs by the borrower that do not directly clean up brownfields site contamination or comply with laws applicable to the cleanup are ineligible administrative costs. Examples of overhead costs that would be ineligible in loans include expenses for:
- i. Salaries, benefits and other compensation for persons who are not directly engaged in the cleanup of the site (e.g., marketing and human resource personnel);
 - ii. Facility costs such as depreciation, utilities, and rent on the borrower's administrative offices; and
 - iii. Supplies and equipment not used directly for cleanup at the site.
 - iv. Costs incurred by the borrower for procurement are eligible only if the procurement contract is for services or products that are direct costs for performing the cleanup, for insurance costs, or for maintenance of institutional controls.
 - v. Direct costs by the borrower for progress reporting to the lender are eligible programmatic costs.

4. Cooperative agreement funds may not be used for any of the following properties:

- a. Facilities listed, or proposed for listing, on the National Priorities List (NPL);
- b. Facilities subject to unilateral administrative orders, court orders, administrative orders on consent or judicial consent decree issued to or entered by parties under CERCLA;
- c. Facilities that are subject to the jurisdiction, custody or control of the United States government except land held in trust by the United States government for an Indian tribe; or
- d. A site excluded from the definition of a brownfields site for which EPA has not made a property-specific funding determination.

5. The CAR must not include management fees or similar charges in excess of the direct costs or at the rate provided for by the terms of the agreement negotiated with EPA. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs that are not allowable under EPA assistance agreements. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

D. Use of Program Income

1. In accordance with 40 CFR 31.25(g)(2), the CAR is authorized to add program income to the funds awarded by the EPA and use the program income under the same terms and conditions of this agreement. Program income for the RLF shall be defined as the gross income received by the recipient, directly generated by the cooperative agreement award or earned during the period of the award. Program income shall include principal repayments, interest earned on outstanding loan principal, interest earned on accounts holding RLF

- program income not needed for immediate lending, all loan fees and loan-related charges received from borrowers and other income generated from RLF operations including proceeds from the sale, collection, or liquidations of assets acquired through defaults of loans.
2. The CAR may use program income from fees, interest payments from loans, and other forms of eligible program income to meet its cost-share. The CAR shall not use repayments of principal of loans to meet the CAR's cost-share requirement. Repayments of principal must be returned to the CAR's Brownfields cleanup revolving fund.
 3. The CAR that elects to use program income to cover all or part of an RLF's programmatic costs shall maintain adequate accounting records and source documentation to substantiate the amount and percent of program income expended for eligible RLF programmatic costs, and comply with applicable OMB cost principles when charging costs against program income. For any cost determined by the EPA to have been an ineligible use of program income, the recipient shall reimburse the RLF or the EPA. EPA will notify the recipient of the time period allowed for reimbursement.
 4. Loans or subgrants made with a combination of program income and direct funding from EPA are subject to the same terms and conditions as those applicable to this agreement. Loans and subgrants made with direct funding from EPA in combination with non Federal sources of funds are also subject to the same terms and conditions of this agreement.
 5. The CAR must obtain EPA approval of the substantive terms of loans and subgrants made entirely with program income.

E. Post Cooperative Agreement Program Income

1. After the end of the award period, the CAR shall use program income in a manner consistent with the terms and conditions of a "close out" agreement negotiated with EPA. In accordance with 40 CFR 31.42(c)(3), the CAR shall maintain appropriate records to document compliance with the requirements of the close out agreement (i.e., records relating to the use of post-award program income). EPA may request access to these records or may negotiate post-close-out reporting requirements to verify that post-award program income has been used in accordance with the terms and conditions of the close out agreement.

F. Interest-Bearing Accounts

1. The CAR must deposit advances of grant funds and program income (e.g., fees, interest payments, repayment of principal) in an interest bearing account.
2. Interest earned on advances, CARs and subgrant recipients are subject to the provisions of 40 CFR §31.21(i) and §30.22(l) relating to remitting interest on advances to EPA on a quarterly basis.
3. Interest earned on program income is considered additional program income.

V. RLF ENVIRONMENTAL REQUIREMENTS

A. Authorized RLF Cleanup Activities

1. 1. The CAR shall prepare an ABCA which will include information about the site and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup. The evaluation of alternatives must include effectiveness, implementability, and the cost of the response proposed. The evaluation of alternatives must also consider the resilience of the remedial options in light of reasonably foreseeable changing climate conditions (e.g., sea level rise, increased frequency and intensity of flooding and/or extreme weather events, etc.). The alternatives may additionally consider the degree to which they reduce greenhouse gas discharges, reduce energy use or employ alternative energy sources, reduce volume of wastewater generated/disposed, reduce volume of materials taken to landfills, and recycle and re-use materials

generated during the cleanup process to the maximum extent practicable. The evaluation will include an analysis of reasonable alternatives including no action. The clean up method chosen must be based on this analysis.

2. Prior to conducting or engaging in any on-site activity with the potential to impact historic properties (such as invasive sampling or cleanup), the grantee shall consult with EPA regarding potential applicability of the National Historic Preservation Act and, if applicable, shall assist EPA in complying with any requirements of the Act and implementing regulations.

B. Quality Assurance (QA) Requirements

1. If environmental samples are to be collected as part of the brownfields cleanup (e.g., cleanup verification sampling, post-cleanup confirmation sampling), the CAR shall comply with 40 CFR Part 31.45 (or 40 CFR Part 30.54 requirements for nonprofit organizations) requirements to develop and implement quality assurance practices sufficient to produce data adequate to meet project objectives and to minimize data loss. State law may impose additional QA requirements.
2. **QAPP:** *The CAR, or its service agent/contractor(s), must have an EPA approved QAPP in place before beginning any verification or confirmation sampling, if needed, funded wholly or in part by this agreement, that includes sampling and analysis of environmental media. The CAR should allow EPA adequate time (generally 45 days) for review and approval. The QAPP should be consistent with the EPA Region 4 "Brownfields Quality Assurance Project Plans (QAPPs) Interim Instructions: Generic QAPP and Site Specific QAPP for Brownfields Site Assessments and/or Cleanups," July 2010, and later revisions.*

C. Community Relations and Public Involvement in RLF Cleanup Activities

1. All RLF loan and subgrant cleanup activities require a site-specific community relations plan that includes providing reasonable notice, and the opportunity for public involvement and comment on the proposed cleanup options under consideration for the site.
2. The CAR agrees to clearly reference EPA investments in the project during all phases of community outreach outlined in the EPA-approved work plan, which may include the development of any post-project summary or success materials that highlight achievements to which this project contributed. Specifically:
 - a. If any document, fact sheet, and/or web material are developed as part of this cooperative agreement, then they shall include the following statement: "Though this project has been funded, wholly or in part, by EPA, the contents of this document do not necessarily reflect the views and policies of the EPA."
 - b. If a sign is developed, as part of a project funded by this cooperative agreement, then the sign shall include either a statement (e.g., this project has been funded, wholly or in part, by EPA) and/or EPA's logo acknowledging that EPA is a source of funding for the project. The EPA logo may be used on project signage when the sign can be placed in a visible location with direct linkage to site activities. Use of the EPA logo must follow the sign specifications available at: <http://www.epa.gov/oqd/tc.htm>.

D. Administrative Record

1. The CAR shall establish an administrative record that contains the documents that form the basis for the selection of a cleanup plan. Documents in the administrative record shall include the analysis of brownfield cleanup alternatives; site investigation reports; the cleanup plan; cleanup standards used; responses to public comments; and verification that shows that cleanups are complete. The CAR shall keep the administrative record available at a location convenient to the public and make it available for inspection.

E. Implementation of RLF Cleanup Activities

1. The CAR shall ensure the adequacy of each RLF cleanup in protecting human health and the environment as it is implemented. Each loan and subgrant agreement shall contain terms and conditions, subject to any required approvals by the regulatory oversight authority, that allow the CAR to change cleanup activities as necessary based on comments from the public or any new information acquired.
2. If the borrower or subgrant recipient is unable or unwilling to complete the RLF cleanup, the CAR shall ensure that the site is secure. The CAR shall notify the appropriate state agency and the U.S. EPA to ensure an orderly transition should additional activities become necessary.

F. Completion of RLF Cleanup Activities

1. The CAR shall ensure that the successful completion of an RLF cleanup is properly documented. This must be done through a final report or letter from a qualified environmental professional, or other documentation provided by a State or Tribe that shows cleanups are complete. This documentation needs to be included as part of the administrative record.
2. *For the purposes of these terms and conditions, contaminants are considered cleaned up when a "clean" or "no further action" letter (or its equivalent) has been issued by the state or tribe under its voluntary response program (or its equivalent) for cleanup activities at the property; or the [cooperative agreement] recipient or property owner, upon the recommendation of an environmental professional, has determined and documented that on-property work is finished and any needed institutional or engineering controls are in place and functional. On-going operation and maintenance activities or monitoring may continue after a "cleaned up" designation has been made.*

VI. RLF REQUIREMENTS

A. Prudent Lending and Subgranting Practices

1. The CAR is expected to establish economically sound structures and day-to-day management and processing procedures to maintain the RLF and meet long-term brownfield cleanup lending/subgranting objectives. These include establishing: underwriting principles that can include the establishment of interest rates, repayment terms, fee structure, and collateral requirements; and, lending/subgranting practices that can include loan/subgrant processing, documentation, approval, servicing, administrative procedures, collection, and recovery actions.
2. The CAR shall not incur costs under this cooperative agreement for loans, subgrants or other eligible costs until an RLF grant work plan *and RLF implementation plan, if applicable* has been submitted to and approved by U.S. EPA. *Though the workplan must identify tasks and milestones for establishing and operating the RLF, more detailed information may be submitted in supplemental documents, e.g., an "implementation plan."* The CAR shall ensure that the objectives of the workplan are met through its or the fund manager's selection and structuring of individual loans/subgrants and lending/subgranting practices. These activities shall include, but not be limited to the following:
 - a. Considering awarding subgrants on a competitive basis. If the CAR decides not to award any subgrants competitively, it must document the basis for that decision and inform EPA.
 - b. Establishing appropriate project selection criteria consistent with Federal and state requirements, the intent of the RLF program, and the cooperative agreement entered into with EPA.
 - c. Establishing threshold eligibility requirements whereby only eligible borrowers or subgrant recipients receive RLF financing.
 - d. Developing a formal protocol for potential borrowers or subgrant recipients to demonstrate eligibility, based on the procedures described in the initial RLF application proposal and cooperative agreement

application. Such a protocol shall include descriptions of projects that will be funded, how loan monies will be used, and qualifications of the borrower or subgrant recipient to make legitimate use of the funds. Additionally, CARs shall ask borrowers or subgrant recipients for an explanation of how a project, if selected, would be consistent with RLF program objectives, statutory requirements and limitations, and protect human health and the environment.

- e. Requiring that borrowers or subgrant recipients submit information describing the borrower's or subgrant recipient's environmental compliance history. The CAR shall consider this history in an analysis of the borrower or subgrant recipient as a cleanup and business risk.
- f. Establishing procedures for handling the day-to-day management and processing of loans and repayments.
- g. Establishing standardized procedures for the disbursement of funds to the borrower or subgrant recipient.

B. Inclusion of Special Terms and Conditions in RLF Loan and Subgrant Documents

1. The CAR shall ensure that the borrower or subgrant recipient meets the cleanup and other program requirements of the RLF grants by including the following special terms and conditions in RLF loan agreements and subgrant awards:
 - a. Borrowers or subgrant recipients shall use funds only for eligible activities and in compliance with the requirements of CERCLA § 104(k) and applicable Federal and State laws and regulations. See Section I.A.2.
 - b. Borrowers or subgrant recipients shall ensure that the cleanup protects human health and the environment.
 - c. Borrowers or subgrant recipients shall document how funds are used. If a loan or subgrant includes cleanup of a petroleum-contaminated brownfields site(s), the CAR shall include a term and condition requiring that the borrower or subgrant recipient maintain separate records for costs incurred at that site(s).
 - d. Borrowers or subgrant recipients shall maintain records for a minimum of three years following completion of the cleanup financed all or in part with RLF funds. Borrowers or subgrant recipients shall obtain written approval from the CAR prior to disposing of records. Cooperative agreement recipients shall also require that the borrower or subgrant recipient provide access to records relating to loans and subgrants supported with RLF funds to authorized representatives of the Federal government.
 - e. Borrowers or subgrant recipients shall certify that they are not currently, nor have they been, subject to any penalties resulting from environmental non-compliance at the site subject to the loan.
 - f. Borrowers or subgrant recipients shall certify that they are not potentially liable under § 107 of CERCLA for the site or that, if they are, they qualify for a limitation or defense to liability under CERCLA. If asserting a limitation or defense to liability, the borrower or subgrant recipient must state the basis for that assertion. When using grant funds for petroleum-contaminated brownfields sites, borrowers or subgrant recipients shall certify that they are not a viable responsible party or potentially liable for the petroleum contamination at the site. Refer to the most recent issue of EPA's *Proposal Guidelines for Brownfields Assessment, Revolving Loan Fund and Cleanup Grants* for a discussion of these terms. The CAR may consult with EPA for assistance with this matter.
 - g. Borrowers or subgrant recipients shall conduct cleanup activities as required by the CAR.

- h. Subgrant recipients shall comply with applicable EPA assistance regulations (40 CFR Part 31 for governmental entities or 40 CFR Part 30 for nonprofit organizations). All procurements conducted with subgrant funds must comply with 40 CFR Part 31.36 or 40 CFR Part 30.40-30.48, as applicable.
- i. A term and condition or other legally binding provision shall be included in all loans and subgrants entered into with the funds under this agreement, or when funds awarded under this agreement are used in combination with non-Federal sources of funds, to ensure that borrowers and subgrant recipients comply with all applicable Federal and State laws and requirements. In addition to CERCLA § 104(k), Federal applicable laws and requirements include: 40 CFR 31 and OMB Circular A-87 for governmental recipients of subgrants or 40 CFR 30 and OMB Circular A-122 for non-profit recipients of subgrants and 40 CFR 30 and OMB Circular A-21 for educational institutions that are recipients of subgrants.
- j. The CAR must comply with Davis-Bacon Act prevailing wages for all construction, alteration and repair contracts and subcontracts awarded with EPA grant funds. For more detailed information on complying with Davis-Bacon, please see the Davis- Bacon Addendum to these terms and conditions. (See attached Davis Bacon provision below.)
- k. The CAR must comply with federal cross-cutting requirements. Federal cross-cutting requirements include, but are not limited to, MBE/WBE requirements found at 40 CFR 33; OSHA Worker Health & Safety Standard 29 CFR 1910.120; the Uniform Relocation Act; National Historic Preservation Act; Endangered Species Act; and Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR 60-4; Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333) the Anti Kickback Act (40 USC 276c) and Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250.

C. Default

- 1. In the event of a loan default, the CAR shall make reasonable efforts to enforce the terms of the loan agreement including proceeding against the assets pledged as collateral to cover losses to the loan. If the cleanup is not complete at the time of default, the CAR is responsible for: (1) documenting the nexus between the amount paid to the borrower (bank or other financial institution) and the cleanup that took place prior to the default; and (2) securing the site (e.g., ensuring public safety) and informing the EPA Project Officer and the State.

D. Conflict of Interest

- 1. The CAR shall establish and enforce conflict of interest provisions that prevent the award of subgrants that create real or apparent personal conflicts of interest, or the CAR's appearance of lack of impartiality. Such situations include, but are not limited to, situations in which an employee, official, consultant, contractor, or other individual associated with the CAR (affected party) approves or administers a grant or subgrant to a subgrant recipient in which the affected party has a financial or other interest. Such a conflict of interest or appearance of lack of impartiality may arise when:
 - a. The affected party,
 - b. Any member of his immediate family,
 - c. His or her partner, or
 - d. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the subgrant recipient.

Affected employees will neither solicit nor accept gratuities, favors, or anything of monetary value from subgrant recipients. Recipients may set minimum rules where the financial interest is not substantial or

the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards of conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by affected parties.

VII. DISBURSEMENT, PAYMENT AND CLOSEOUT

For the purposes of these terms and conditions, the following definitions apply: "payment" is the U.S. EPA's transfer of funds to the CAR; the CAR incurs an "obligation" when it enters into a loan agreement with the borrower or subgrant recipient; "disbursement" is the transfer of funds from the CAR to the borrower or subgrant recipient. "Close out" refers to the process that the U.S. EPA follows to both ensure that all administrative actions and work required under the cooperative agreement have been completed, and, to establish a closeout agreement to govern the use of program income.

A. Payment Schedule

1. The CAR may request payment from EPA pursuant to 40 CFR. §31.21(c) after it incurs an obligation or has an eligible programmatic expense. EPA will make payments to the CAR on a schedule which minimizes the time elapsing between transfer of funds from EPA and disbursement by the recipient to the borrower or subgrant recipient to pay costs incurred or to meet a "progress payment" schedule. The recipient may request payments when it receives a disbursement request from a borrower or subgrant recipient based on the borrower or subgrant recipient's incurred costs under the "actual expense" method or the schedule for disbursement under the "schedule" disbursement method. The CAR shall disburse accrued program income to meet all or part of this obligation or eligible programmatic expenses prior to requesting payment from EPA. A waiver from this requirement may be granted by EPA after a written request is submitted that adequately justifies drawing down cooperative agreement funds prior to accrued program income.

B. Methods of Disbursement

1. The CAR may choose to disburse funds to the borrower by means of 'actual expense' or 'schedule.' If the schedule method is used, the recipient must ensure that the schedule is designed to reasonably approximate the borrower's incurred costs.
 - a. An 'actual expense' disbursement approach requires the borrower to submit documentation of the borrower's expenditures (e.g., invoices) to the CAR prior to requesting payment from EPA.
 - b. A 'schedule' disbursement is one in which all, or an agreed upon portion, of the obligated funds are disbursed to the borrower or subgrantee on the basis of an agreed upon schedule (e.g., progress payments) provided the schedule minimizes the time elapsing between disbursement by the CAR and the subgrant/loan recipient's payment of costs incurred in carrying out the subgrant/loan. In unusual circumstances, disbursement may occur upon execution of the loan or subgrant. The CAR shall submit documentation of disbursement schedules to EPA.
 - c. If the disbursement schedule of the loan/subgrant agreement calls for disbursement of the entire amount of the loan/subgrant upon execution, the CAR shall demonstrate to the U.S. EPA Project Officer that this method of disbursement is necessary for purposes of cleaning up the site covered by the loan/subgrant. Further, the CAR shall include an appropriate provision in the loan/subgrant agreement which ensures that the borrower/recipient uses funds promptly for costs incurred in connection with the cleanup and that interest accumulated on schedule disbursements is applied to the cleanup.
 - d. Subgrant funds must be disbursed to the subgrant recipient in accordance with 40 CFR 31.21 or 40 CFR 30.22, as applicable.

C. Schedule for Closeout

1. There are two fundamental criteria for closeout:

- a. Final payment of funds from EPA to the CAR following expiration of the terms of the agreement or expenditure of the funds awarded; and
 - b. Completion of all cleanup activities funded by the amount of the award.
2. The first criterion of cooperative agreement closeout is met when the CAR receives all payments from EPA. The second closeout criterion is met when all cleanup activities funded by the initial amount of the award are complete.
3. The CAR must negotiate a closeout agreement with EPA to govern the use of program income after closeout. Eligible uses include continuing to operate an RLF for brownfields cleanup and/or other brownfields activities.
4. The closeout agreement will require that any assessments or cleanups financed with program income be consistent with the CERCLA §107 prohibitions and site eligibility limitations for the effective period of the closeout agreement.

D. Compliance with Closeout Schedule

1. If a CAR fails to comply with the closeout schedule, any cooperative agreement funds not obligated under loan agreement to a borrower or subgrant recipient may be subject to federal recovery, and the cooperative agreement award may be amended to reflect the reduced amount of the cooperative agreement.

E. Final Requirements

1. The CAR, within 90 days after the expiration or termination of the grant, must submit all financial, performance, and other reports required as a condition of the grant.
 - a. The CAR must submit the following documentation:
 1. The Final Report as described in Section III.F.
 2. A Final Federal Financial Report (FFR - SF425) to:

U.S. EPA Las Vegas Finance Center
4220 S. Maryland Pkwy, Bldg. C., Room 503
Las Vegas, NV 89119
Fax: (702) 798-2423
<http://www.epa.gov/ocfo/finservices/payinfo.html>
 3. A Final MBE/WBE Report (EPA Form 5700-52A) to the EPA Project Officer.
 - b. The CAR must ensure that all appropriate data has been entered into ACRES or all Property Profile Forms are submitted to the EPA Project Officer.

F. Recovery of RLF Assets

1. In case of termination for cause or convenience, the CAR shall return to EPA its fair share of the value of the RLF assets consisting of cash, receivables, personal and real property, and notes or other financial instruments developed through use of the funds. EPA's fair share is the amount computed by applying the percentage of EPA participation in the total capitalization of the RLF to the current fair market value of the assets thereof. EPA also has remedies under 40 CFR 31.43 and CERCLA § 104(k) when the Agency determines that the value of such assets has been reduced by improper/illegal use of cooperative agreement funding. In such instances, the CAR may be required to compensate EPA over and above the Agency's share of the current fair market value of the assets. Nothing in this agreement limits EPA's authorities under CERCLA to recover response costs from a potentially responsible party.

G. Loan Guarantees

1. If the CAR chooses to use the RLF funds to support a loan guarantee approach, the following terms & conditions apply:
 - a. The CAR shall:
 - i. document the relationship between the expenditure of CERCLA § 104(k) funds and cleanup activities;
 - ii. maintain an escrow account expressly for the purpose of guaranteeing loans, by following the payment requirement described under the Escrow Requirements term and condition below; and
 - iii. ensure that cleanup activities guaranteed by RLF funds are carried out in accordance with CERCLA § 104(k) and applicable Federal and State laws and will protect human health and the environment.
 - b. Payment of funds to a CAR shall not be made until a guaranteed loan has been issued by a participating financial institution. Loans guaranteed with RLF funds shall be made available as needed for specified cleanup activities on an "actual expense" or "schedule" basis to the borrower or subgrant recipient (See Section on Methods of Disbursement). The CAR's escrow arrangement shall be structured to ensure that the CERCLA § 104(k) funds are properly "disbursed" by the recipient for the purposes of the assistance agreement as required by 40 CFR 31.20(b)(7) and 31.21(c). If the funds are not properly disbursed, the CERCLA § 104(k) funds that the recipient places in an escrow account will be subject to the interest recovery provisions of 40 CFR 31.21(i).
 - c. To ensure that funds transferred to the CAR are disbursements of assisted funds, the escrow account shall be structured to ensure that:
 - i. the recipient cannot retain the funds;
 - ii. the recipient does not have access to the escrow funds on demand;
 - iii. the funds remain in escrow unless there is a default of a guaranteed loan;
 - iv. the organization holding the escrow (i.e., the escrow agency), shall be a bank or similar financial institution that is independent of the recipient; and
 - v. there must be an agreement with financial institutions participating in the guaranteed loan program which documents that the financial institution has made a guaranteed loan to clean up a brownfields site in exchange for access to funds held in escrow in the event of a default by the borrower or subgrant recipient.
 - d. Federal Obligation to the Loan Guarantee Program
 - i. Any obligations that the CAR incurs for loan guarantees in excess of the amount awarded under the cooperative agreement are the CAR's responsibility. This limitation on the extent of the Federal Government's financial commitment to the CAR's loan guarantee program shall be communicated to all participating banks and borrower or subgrant recipient.
 - e. Repayment of Guaranteed Loans
 - i. Upon repayment of a guaranteed loan and release of the escrow amount by the participating financial institution, the CAR shall return the cooperative agreement funds placed in escrow to the U.S. EPA. Alternatively, the CAR may, with EPA approval,
 - 1) Guarantee additional loans under the terms and conditions of the agreement or,

- 2) amend the terms and conditions of the agreement to provide for another disposition of funds that will redirect the funds for other brownfields related activities.

Davis Bacon Term and Condition Addendum for
Revolving Loan Fund Grants to Governmental/Quasi-Governmental Organizations

DAVIS BACON PREVAILING WAGE TERM AND CONDITION

The following terms and conditions specify how Recipients will assist EPA in meeting its Davis Bacon (DB) responsibilities when DB applies to EPA awards of financial assistance under the Recovery Act or any other statute which makes DB applicable to EPA financial assistance. If a Recipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB contract provisions, or DB compliance monitoring, they should contact the regional Brownfields Coordinator or Project Officer for guidance.

1. Applicability of the Davis Bacon Prevailing Wage Requirements.

For the purposes of this term and condition, EPA has determined that all construction, alteration and repair activity involving the remediation of hazardous substances, including excavation and removal of hazardous substances, construction of caps, barriers, structures which house treatment equipment, and abatement of contamination in buildings, is subject to DB.

With regard to remediation of petroleum contamination, following consultation with the U.S. Department of Labor, EPA has determined that for remediation of petroleum contamination at brownfields sites, DB prevailing wage requirement apply when the project includes:

Installing piping to connect households or businesses to public water systems or replacing public water system supply well(s) and associated piping due to groundwater contamination,

Soil excavation/replacement when undertaken in conjunction with the installation of public water lines/wells described above, or

Soil excavation/replacement, tank removal, and restoring the area by paving or pouring concrete when the soil excavation/replacement occurs in conjunction with both tank removal and paving or concrete replacement.

In the above circumstances, all the laborers and mechanics employed by contractors and subcontractors will be covered by the DB requirements for all construction work performed on the site. Other cleanup activities at brownfields sites contaminated by petroleum such as in situ remediation, and soil excavation/replacement and tank removal when not in conjunction with paving or concrete replacement, will normally not trigger DB requirements. However, if a RLF Recipient encounters a unique situation at a site (e.g. unusually extensive excavation) that presents uncertainties regarding DB applicability, the RLF Recipient must discuss the situation with EPA before authorizing work on that site.

Note: If an RLF Recipient encounters a unique situation at a petroleum or hazardous substance site that presents uncertainties regarding DB applicability, the RLF Recipient must discuss the situation with EPA before advising a borrower or subgrantee that DB does not apply.

2. Obtaining Wage Determinations.

(a) The RLF Recipient is responsible for obtaining DB wage determinations from DOL and ensuring the borrowers and subgrantees include the correct wage determinations in solicitations for competitive contracts by way of requests for bids, proposals, quotes or other methods for soliciting contracts (solicitations), new contracts, and task orders, work assignments or similar instruments issued to existing contractors (ordering instruments).

(b) Unless otherwise instructed by EPA on a project specific basis, the RLF Recipient shall use the following DOL General Wage Classifications for the locality in which the construction activity subject to DB will take place. RLF Recipients must obtain wage determinations for specific localities at www.wdol.gov.

- (i) For solicitations, new contracts and ordering instruments for the excavation and removal of hazardous substances, construction of caps, barriers and similar activities the RLF Recipient shall use the "Heavy Construction" Classification.
- (ii) For solicitations, new contracts and ordering instruments for the construction of structures which house treatment equipment and abatement or contamination in buildings (other than residential structures less than 4 stories in height) the RLF Recipient shall use "Building Construction" classification.
- (iii) When soliciting competitive contracts or issuing ordering instruments for the abatement of contamination in residential structures less than 4 stories in height the Recipient shall use "Residential Construction" classification.
- (iv) For solicitations, new contracts and ordering instruments for soil excavation/replacement, tank removal, and restoring the area by paving or pouring concrete when the soil excavation/replacement occurs in conjunction with both tank removal and paving or concrete replacement at current or former service station sites, hospitals, fire stations, industrial or freight terminal facilities, or other sites that are associated with a facility that is not used solely for the underground storage of fuel or other contaminant the Recipient shall use the "Building Construction" classification.
- (v) For solicitations, new contracts and ordering instruments for soil excavation/replacement, tank removal, and restoring the area by paving or pouring concrete when the soil excavation/replacement occurs in conjunction with both tank removal and paving or concrete replacement at a facility that is used solely for the underground storage of fuel or other contaminant the Recipient shall use the "Heavy Construction" classification.

Recipients must discuss unique situations that may not be covered by the General Wage Classifications described above with EPA. If, based on discussions with an RLF Recipient, EPA determines that DB applies to a unique situation involving a Brownfields site contaminated with petroleum (e.g. unusually extensive excavation) the Agency will advise the Recipient which General wage determination to use based on the nature of the construction activity at the site.

(b) RLF Recipients shall include a term and condition in all loans and subgrants which ensures that the borrower or subgrantee complies with the above requirements for including wage determinations in solicitations, new contracts and ordering instruments. The RLF Recipient must ensure that prime contracts entered into by borrowers and subgrantees contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

- (i) While the borrower or subgrantee's solicitation remains open, the RLF Recipient shall require that the borrower or subgrantee monitor www.wdol.gov on a weekly basis to ensure that the wage determination contained in the solicitation remains current. The RLF Recipient shall require that the borrower or subgrantee amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the RLF Recipient may, on behalf of the borrower or subgrantee, request a finding from EPA that there is not a reasonable time to notify interested contractors of the modification of the wage determination. EPA will provide a report of the Agency's finding to the RLF Recipient.
- (ii) If the borrower or subgrantee does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless EPA, at the request of the RLF Recipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The RLF Recipient shall ensure that borrowers and subgrantees monitor www.wdol.gov on a weekly basis if the borrower or subgrantee does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current. If the applicable wage determination changes, the RLF Recipient shall provide the borrower or subgrantee with the current wage determination from www.wdol.gov.

- (iii) If the borrower or subgrantee carries out Brownfields cleanup activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the RLF Recipient shall ensure that the borrower or subgrantee inserts the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.

(c) RLF Recipients shall ensure that borrowers and subgrantees review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a borrower or subgrantee's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the borrower or subgrantee has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the RLF Recipient shall require that the borrower or subgrantee either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The RLF Recipient must ensure that the borrower or subgrantee compensates the contractor for any increases in wages resulting from the use of DOL's revised wage determination. RLF Recipients may, but are not required to, provide additional loan or subgrant funds to the borrower or subgrantee for this purpose.

3. Contract and Subcontract Provisions

(a) The RLF Recipient shall ensure that borrowers and subgrantees insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to DB, the following labor standards provisions.

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the applicable wage determination of the Secretary of Labor which the RLF Recipient obtained under the procedures specified in Item 2, above, and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. RLF Recipients shall require that the contractor and subcontractors include the name of the RLF Recipient employee or official responsible for monitoring compliance with DB on the poster.

(ii)(A) The RLF Recipient, on behalf of EPA, shall require that contracts and subcontracts entered into by borrowers and subgrantees provide that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The EPA Award Official shall approve, upon the request of the RLF Recipient an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the RLF Recipient and the borrower or subgrantee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the RLF Recipient to the EPA Award Official. The Award Official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the award official or will notify the award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, **and the RLF Recipient and borrower or subgrantee** do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the RLF Recipient shall provide a report on the disagreement which includes submissions by all interested parties to the EPA Award Official. The Award Official shall refer the questions, including the views of all interested parties and the recommendation of the award official, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Award Official or will notify the Award Official within the 30-day period that additional time is necessary. The Award Official will direct that the RLF Recipient take appropriate action to implement the Administrator's determination.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(1) Withholding. The RLF Recipient, upon written request of the Award Official or an authorized representative of the Department of Labor, shall withhold or cause the borrower or subgrantee to withhold from the contractor under the affected contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any

apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, EPA may, after written notice to the contractor, or RLF Recipient take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(2) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the borrower or subgrantee and to the RLF Recipient who will maintain the records on behalf of EPA. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the RLF Recipient for transmission to the EPA, if requested by EPA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the RLF Recipient.

(B) Each payroll submitted to the RLF Recipient shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, EPA may, after written notice to the contractor, **Recipient, borrower or subgrantee**, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and Trainees

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe

benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this term and condition.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors), **the RLF Recipient, borrower or subgrantee and EPA**, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

4. Contract Provisions for Contracts in Excess of \$100,000

(a) Contract Work Hours and Safety Standards Act. **The RLF Recipient shall ensure that subgrantees and borrowers** insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFF 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic

in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The RLF Recipient shall upon written request from the Award Official or an authorized representative of the Department of Labor withhold or cause to be withheld by the borrower or subgrantee, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (a)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the RLF Recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the RLF Recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

Note: RLF Recipients may require that borrowers or subgrantees verify that contractors and subcontractors comply with DB provisions or conduct compliance verification itself. RLF Recipients must ensure that borrowers and subgrantees understand the compliance verification requirements and can interpret prevailing wage determinations properly before placing the responsibility for compliance verification on borrowers or subgrantees. Moreover, the RLF Recipient remains accountable to EPA for ensuring that the borrowers' and subgrantees' contractors and subcontractors comply with DB.

(a). The RLF Recipient periodically interview, or require that borrowers or subgrantees interview, a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The RLF Recipient must use Standard Form 1445 or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The RLF Recipient shall establish and follow, or ensure that borrowers or subgrantees establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, the RLF Recipient, or the borrower or subgrantee, must conduct interviews with a representative group of covered employees within two weeks of each contractor or subcontractor's submission of its initial weekly payroll data and two weeks prior to the estimated completion date for the contract or subcontract. RLF Recipients, or borrowers or subgrantees, must conduct more frequent interviews if the initial interviews or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. RLF Recipients shall immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements that it uncovers itself or that is reported to it by a borrower or subgrantee. All interviews shall be conducted in confidence.

(c). The RLF Recipient shall conduct, or require that borrowers or subgrantees periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The RLF Recipient shall establish and follow or ensure that borrowers or subgrantees follow a spot check schedule based on an assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, the RLF Recipient must spot check, or require that borrowers or subgrantees spot check, payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date of the contract or subcontract. RLF Recipients must conduct, or require that borrowers or subgrantees conduct, more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the RLF Recipient shall verify, or require that borrower or subgrantees verify, evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d). The RLF Recipient shall periodically review, or require that borrowers or subgrantees periodically review, contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) RLF Recipients must immediately report, or require that borrowers or subgrantees immediately report, potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/esa/contacts/whd/america2.htm>.

EXHIBIT A.1
COST PROPOSAL

Exhibit, A.1 Cost Proposal

FC-8791, QEP Environmental Professional (QEP) for the Brownfield Revolving Loan Fund Program

Task 1: Community Involvement and Awareness \$ _____

Task 2: Cleanup Planning and Completion \$ _____

Task 3: Project Reporting \$ _____

Task 4: Davis Bacon Compliance \$ _____

Task 5: a) Cost for Phase I ESA \$ _____

b) Cost of Phase II ESA \$ _____

Total: _____

(Task 1 + Task 2+ Task 3+Task 4 + Task 5)

Total (in words): _____

EXHIBIT B
DEFINITIONS

EXHIBIT B **DEFINITIONS**

When used in the Contract Documents, the following capitalized terms have the following meanings:

“Applicable Law(s)” means all federal, state or local statutes, laws ordinances, codes, rules, regulations, policies, standards, executive orders, consent orders, orders and guidance from regulatory agencies, judicial decrees, decisions and judgments, permits, licenses, reporting or other governmental requirements or policies of any kind by which a Party may be bound, then in effect or which come into effect during the time the Services are being performed, and any present or future amendments to those Applicable Laws, including those which specifically relate to: (a) the business of City; (b) the business of Service Provider or Service Provider’s subcontractors; (c) the Agreement and the Contract Documents; or (d) the performance of the Services under this Agreement.

“Charges” means the amounts payable by City to Service Provider under this Agreement.

“City Security Policies” means the policies set forth in **Exhibit D**.

“Code” means the Code of Ordinances for the City of Atlanta, Georgia, as amended.

“Contract Documents” include this Agreement and the exhibits and other documents attached or referenced herein as well as any authorized changes or addenda hereto.

“Facility” or “Facilities” means the physical premises, locations and operations owned or leased by a Party and from or through which Service Provider will provide any Services.

“Force Majeure Event(s)” means acts of war, domestic and/or international terrorism, civil riots or rebellions, quarantines, embargoes and other similar unusual governmental actions, extraordinary elements of nature or acts of God.

“Party” or “Parties” means City and/or Service Provider.

“Person” means individuals, partnerships, agents, associations, corporations, limited liability companies, firms or other forms of business enterprises, trustees, executors, administrators, successors, permitted assigns, legal representatives and/or other recognized legal entities.

“Service Provider Personnel” means and refers to Service Provider employees or subcontractors hired and maintained to perform Services hereunder.

“Third Party” means a Person other than the Parties.

EXHIBIT C

AUTHORIZING LEGISLATION

If applicable, legislation will be generated once an award is made.

EXHIBIT D
CITY SECURITY POLICIES

EXHIBIT D

CITY SECURITY POLICIES

SECTION 00001

PART 1 – GENERAL

SCOPE

- A. The Contractor shall be responsible for conducting all work in a safe manner and shall take reasonable precautions to ensure the safety and protection of workers, property and the general public.
- B. All Construction shall be conducted in accordance with the latest applicable requirements for part 1926 of the Occupational Safety and Health Regulations for Construction, as well as any other local, state or federal safety codes and regulations.
- C. The Contractor shall designate a trained and qualified employee who is to be responsible for ensuring that the work is performed safely and in conformance with all applicable regulations.
- D. The Contractor shall determine the safety hazards involved in prosecuting the work and the precautions necessary to conduct the work safely. If the Contractor is unsure as to any special hazards which may be unique to the various processes and facilities at the treatment plant or jobsite, it shall be the Contractor's responsibility to determine such information prior to beginning the work.

SPECIAL REQUIREMENTS – Not Used

SECTION 00002

JOB SITE SECURITY

PART 1 – GENERAL

BARRICADES, LIGHTS AND SIGNALS

- A. The Contractor shall furnish and erect such barricades, fences, lights and danger signals and shall provide such other precautionary measures for the protection of persons or property and of the work as necessary. Barricades shall be painted in a color that will be visible at night. From sunset to sunrise, the Contractor shall furnish and maintain at least one light at each barricade and sufficient numbers of barricades shall be erected to keep vehicles from being driven on or into any work under construction. All barricades must the Manual of Uniform Traffic Control Devices (MUTCD) Standards.
- B. The Contractor will be held responsible for all damage to the work due to failure of barricades, signs and lights and whenever evidence is found of such damage. The Contractor shall immediately remove the damaged portion and replace it at Contractor's cost and expense. The Contractor's responsibility for the maintenance of barricades, signs and lights shall no cease until the project has been accepted by the owner.

SECTION 00003

STORAGE AND PROTECTION

PART 1 – GENERAL

1.01 SCOPE

The work under this section includes, but is not necessarily limited to the furnishing of all labor, tools and materials necessary to properly store and protect all materials, equipment, products and the like, as necessary for the proper and complete performance of the work.

1.02 STORAGE AND PROTECTION

A. STORAGE

1. Maintain ample way for foot traffic at all times, except as otherwise approved by the city representative.
2. All property damaged by reason of storing of material shall be properly replaced at no additional cost to the city.
3. Packaged material shall be delivered in original unopened containers and so stored until ready for use.
4. All material shall meet the requirements of these specifications at the time that they are used in the work.
5. Store products in accordance with manufacturer's instructions.

B. PROTECTION

1. Use all means necessary to protect the materials, equipment and products of every section before, during and after installation and to protect the installed foreign material and damage by water, breakage, vandalism or other causes.
2. Substantially constructed weather tight storage sheds, with raised floors, shall be provided and maintained as may be required to adequately protect those materials and products stored on the site which may require protection from damage by the elements.
3. Replacements: In the event of damage, immediately make all repairs and replacements necessary for the approval of the city representative and at no additional cost to the owner.

4. Equipment and products stored outdoors shall be supported above the ground on suitable wooden blocks or braces arranged to prevent excessive deflection or bending shall be stored with one end elevated to facilitate drainage.
5. Tarps and other coverings shall be supported above the stored equipment or materials on wooden strips to provide ventilation under the cover and minimize condensation. Tarps and covers shall be arranged to prevent ponding of water.

1.03 EXTENDED STORAGE

In the event that certain items of major equipment such as air compressors, pumps, e.g., have to be stored for an extended period of time, the Contractor shall provide satisfactory long-term storage facilities which are acceptable to the Owner.

SECTION 00004

PART 1 – GENERAL

1.01 PROTECTION OF THE ENVIRONMENT

- A. The Contractor shall be responsible for taking all measures required to minimize all types of pollution associated with the undertaking of the proposed work, and shall abide by the requirements of all governmental agencies having jurisdiction over the work or Contractor's project operations.
- B. The Contractor shall protect all work including but not limited to excavation and trenches, from rain water, surface water and back-up of drains and sewers. The Contractor shall furnish all labor, pumps, shoring, enclosures and equipment necessary to protect and keep the work free of water. Completed work and stored products shall be suitably protected during unseasonable weather to allow work to proceed in a timely fashion. Work planned, or in progress, should be performed to minimize impact of adverse weather conditions.
- C. Any area used or involved in the project that is disturbed by the Contractor, shall be restored to the original or better condition, even though such area is outside the limits of that specified for grading, grassing or landscaping.

SECURITY AND SAFETY

PART 1 – GENERAL

1.01 COMPLIANCE WITH CITY’S SECURITY REQUIREMENTS

- A. Contractor must comply with City’s security requirements for all job sites and City facilities. The City shall provide copies to the Contractor.
- B. Contractor must cooperate with City on all security matters and must promptly comply with any project security arrangements established by the City.
- C. It is the Contractor’s obligations to comply with all applicable governmental requirements and regulations and to undertake reasonable actions to establish and maintain secure conditions at any jobsite.

1.02 SECURITY PROGRAM

- A. The Contractor shall comply with the site security program at all times on City facilities.
- B. The Contractor shall maintain the security program throughout the Contract duration.
- C. The Contractor and his subcontractors are wholly responsible for the security of their employees, work areas, and for all their material, equipment and tools at all times.
- D. The Contractor shall provide the owner with a list of 24-hour emergency phone numbers including chain of command.

1.03 ENTRY CONTROL

- A. The Contractor shall restrict entry of unauthorized personnel and employees and vehicles onto the Project site.
- B. The Contractor shall allow entry only to authorized persons with proper City-approved identification.

All Contractors/Subcontractors will be required to have their personnel working at these facilities photographed for an I.D. badge before they start work.

- C. The Contractor shall maintain a current Employee Log of employees performing work on site and a Visitor Log and make the log available to the City upon request. This log shall be available to the Owner upon request and submitted to the Owner as necessary.
- D. The Contractor shall require all employees performing activities on site to sign the Employee Acknowledgment of Project Site Rules Log included at the end of this Section. All employees, subcontractor employees and lower tier contractor employees will receive a new employee orientation. Signing the Employee Log by the employee is certifying that the orientation training has been received.
- E. The City has the right to refuse access to the site or request that a person or vehicle be removed from the site if found violating any of the safety, security, or conduct rules as outlined.

1.04 BARRICADES, LIGHTS AND SIGNALS

- A. The Contractor shall furnish and erect such barricades, fences, lights, danger signals and other precautionary measures for the protection of persons or property and of the work as necessary.
- B. The Contractor will be held responsible for all damage to the work and any negligence resulting in injuries due to his failure of erecting adequate barricades, signs, lights and safety provisions as required. Whenever evidence is found of such damage, the Contractor shall immediately remove the damaged portion and replace it at the Contractor's cost and expense.
- C. The Contractor's responsibility for the maintenance of barricades, signs and lights shall not cease until the City has been accepted in writing the Project.

1.05 RESTRICTIONS

The Contractor shall not allow cameras on site or photographs taken except with approval of the City.

1.06 CONTRACTOR SAFETY/HEALTH AND SECURITY PLAN

- A. Prior to the performance of any work the Contractor will comply with the specified Safety/Health and Security Plan.
 - 1. Basic pre-employment background checks for criminal convictions, veracity of previous employment and education statements, driving record and financial responsibility as applicable to the position. Record of satisfactory drug/alcohol testing for two years will be provided for those

contractor employees with CDL. Proof of citizenship or work status will be provided for each contract employee.

2. Security Education and Awareness training applicable to the job.
 3. SOPs for safeguarding City equipment, supplies and property.
 4. Certification requested under the SAFETY Act, Homeland Security Act of 2002, if applicable. Provide date and result as requested.
 5. Established process for identification of employees PFD including location. Emergency notification procedures.
 6. If applicable, procedures for entry permits and badges. Procedures for returning badges upon termination of employment.
 7. Anti-terrorism training provided to employees including the state of national alert with appropriate procedures.
 8. Emergency evacuation procedures including accounting for employees at a safe haven.
 9. Procedures for reporting post-contract criminal convictions and traffic accidents to the Contract Officer or City project manager.
 10. SOPs for protecting employees when performing required duties off-site including training for reporting accidents, calling for immediate assistance, job reporting procedures and personal duress codes or alarms.
- B. It is not the City's responsibility to verify the Contractor's safety plan for the adequacy and compliance of the plan. The plan shall provide:
1. Identify the person(s) responsible for implementation and enforcement of Safety/Health and Security rules and regulations for this contract.
 2. Generally address safe work procedures for the activities within the Contractor's scope of work.
 3. Included a new employee orientation program, which addresses job and site specific rules, regulations and hazards.
 4. Include the Contractor's Drug Free Work Place Policy including substance abuse prevention and testing program.

5. Include provisions to protect all of the Contractor's employees, other persons and organizations that may be affected by the work from injury, damage or loss.
 6. Comply with current Fed/OSHA, Safety/Health and Security Plan, facility safety program (when applicable), and locally accepted safety codes, regulations and practices.
 7. Include a site-specific emergency action and evacuation plan.
 8. Include Hazard Communication/Right To Know Program.
 9. Include security procedures for the Contractor's work, tools, and equipment.
 10. Include the capability of providing the Engineer with documentation to show compliance with their plan, plus accidents and investigation reports.
 11. Address any other contract specific requirement, including the requirements of Section 01011, Unique Requirements of these specifications.
- C. Provide a Job Safety Analysis (JSA) for the scope of work, prior to the start of work.
- D. Review of the Contractor's Safety Plan by the City shall not impose any duty or responsibility upon the City for the Contractor's performance of the work in a safe manner.
- E. The Contractor shall be fully responsible for the safety and health of its employees, its subcontractors and lower tier contractors during performance of its work.
- F. The Contractor shall provide the City with all safety reports, training records, competent person list, and accident reports prepared in compliance with Fed/OSHA and the Project Safety/Health and Security Plan as requested.

1.07 PROJECT SAFETY COORDINATOR

- A. The Contractor shall be responsible for the safety of the Contractor's and Engineer's employees, the City's personnel and all other personnel at the site of the work caused by their operations.

- B. If applicable, the Contractor shall have a Project Safety Coordinator, as required under GC-18, Paragraph F.
- C. The Project Safety Coordinator shall ensure compliance with all applicable health and safety requirements of all governing legislation.

1.08 PROJECT SAFETY/SECURITY REQUIREMENTS OF THE CONTRACTOR

- A. It is the responsibility of the Contractor to ensure that all articles of possible personal or monetary value found by Contractor's employees are turned in to the appropriate Facilities Manager.
- B. The Contractor shall be responsible for maintaining satisfactory standards of employees' competency, conduct, courtesy, appearance, honesty, and integrity, and shall be responsible for taking such disciplinary action with respect to any employee, as may be necessary.
- C. Should the Contractor dismiss employees who have been given access to City facilities while the contract is in force, the Contractor will advise the City Security office.
- D. The City may request the Contractor to immediately remove from the premises and/or dismiss any employee found unfit to perform duties due to one or more of the following reasons:
 - 1. Neglect of duty, absenteeism, security or safety problems and sleeping on the job.
 - 2. Disorderly conduct, use of abusive or offensive language, quarreling, intimidation by words or actions or fighting.
 - 3. Theft, vandalism, immoral conduct of any other criminal action.
 - 4. Selling, consuming, possessing, or being under the influence of intoxicants, alcohol, or illegal substances, which produce similar effects while on duty.
 - 5. Vehicle accident while on City property or driving City equipment. No employee, Contractor, or Subcontractor will be extended privileges to drive City equipment on City property if driving privileges have been withdrawn by the State of residence.
- E. All employees shall be required to sign in and out on a designated log sheet. All employees shall be required to sign in and out on a designated log sheet.
- F. All employees shall be required to wear at all times in an observable location, above the waist, on outer clothing, appropriate photo I. D. badges to be furnished

by the Contractor and approved by the City.

- G. Prior to the beginning of each workday, the Contractor shall file with the Department Security representative a list of all employees to be used at the work site. Employee names will be checked using this list and a State or Contractor issued photo I. D. card at the entry gates. Employees not named on the list or without appropriate identification will not be allowed entry.
- H. No one under age sixteen is permitted on the premises after normal working hours. Contractor's employees are allowed on premises only during the specified hours and only when working on this contract. No Contractor employee will be allowed on the premises when not specifically working on this contract at predetermined times and dates.

1.09 EMPLOYEE ACKNOWLEDGEMENT OF THE PROJECT SITE RULES

- A. All employees and agents of the Contractor must adhere to and abide by the contract documents and project rules.
- B. By Signing this Employee Log, I acknowledge that I understand and agree to abide by the project rules outlined below.

I further acknowledge that I have been briefed on specific hazards, hazardous substances that are on-site and the site emergency action procedure.

C. PROHIBITED ACTIVITIES:

1. Unauthorized removal or theft of CITY property
2. Violation of safety or security rules or procedures
3. Possession of firearms or lethal weapons on jobsite
4. Acts of sabotage
5. Destruction or defacing CITY property
6. Failure to use sanitary facilities
7. Failure to report accidents or job related injuries
8. Being under the apparent influence of drugs, alcohol or other intoxicants or in possession of drugs, alcohol or other intoxicants on the property
9. Wearing shorts or tennis shoes on the jobsite
10. Failure to wear a hardhat/safety glasses as required by law.
11. Gambling at any time on the project
12. Fighting, threatening behavior, or engaging in horseplay on the project
13. Smoking in unauthorized areas on the project
14. Open fire cooking or making unauthorized fires on project property
15. Selling items or raffles without authorization
16. Use of unauthorized cameras on the project

17. Use of radio or television in the construction area
18. Failure to park personal vehicle in authorized parking area
19. Failure to wear designated identification [Site Specific]
20. Failure to use designated gates
21. Use or storage of unauthorized chemicals or substances on site.

I have read, understand and agree to abide by the PROJECT SITE RULES. Furthermore, I understand failure to abide by these rules is grounds for being denied access to the project site. I have received a personal copy for my use and reference.

(END OF SECTION)

EXHIBIT E

DISPUTE RESOLUTION PROCEDURES

EXHIBIT E
DISPUTE RESOLUTION PROCEDURES

1. If Service Provider contends it is entitled to compensation or any other relief from City or if there are any disagreements over the scope of Services or proposed changes to the Services, Service Provider shall, without delay and within three (3) days of being aware of the circumstances giving rise to Service Provider's claim, provide written notice of its claim to City. If Service Provider fails to give timely notice as required by this subsection or if Service Provider commences any alleged additional work without first providing notice, Service Provider shall not be entitled to compensation or adjustment for any such work to the extent timely notice was not provided. Such notice shall include sufficient information to advise City of the circumstances giving rise to the claim, the specific contractual adjustment of relief requested and the basis for such request. Within ten (10) days of the date that Service Provider's written notice to City is required under this subsection, Service Provider shall submit a Proposed Change Document relating to the claim meeting the requirements of Subsection 5.3.2 of this Agreement.

2. The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Service Provider and City each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Services.

3. If a dispute or disagreement cannot be resolved informally Service Provider Authorized Representative and Authorized City Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Prior to any meetings between the Authorized Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

4. If City and Service Provider are still unable to resolve their dispute, each agrees to consider submitting such dispute to mediation or other acceptable form of alternate dispute resolution.

APPENDIX A
OFFICE OF CONTRACT COMPLIANCE
REQUIREMENTS



CITY OF ATLANTA

Kasim Reed
Mayor

SUITE 1700
55 TRINITY AVENUE, SW
ATLANTA, GA 30303
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OFFICE OF CONTRACT COMPLIANCE
Larry Scott
Director
lscott@atlantaga.gov

May 6, 2016

RE: Project No.: FC- 8791, Request for Proposal for Qualified Environmental Professional for the Revolving Loan Fund Program

Dear Prospective City of Atlanta Bidder:

The Office of Contract Compliance (OCC) information is an integral part of every eligible City of Atlanta bid. All Bidders are required to make efforts to ensure that businesses are not discriminated against on the basis of their race, ethnicity or gender, and to demonstrate compliance with these program requirements at or prior to the time of Bid opening, or upon request by OCC. Bidders are required to ensure that prospective subcontractors, vendors, suppliers and other potential participants are not denied opportunities to compete for work on a City contract on the basis of their race, ethnicity, or gender, and must afford all firms, including those owned by racial or ethnic minorities and women, opportunities to participate in the performance of the business of the City to the extent of their availability, capacity and willingness to compete. Please read all of the information very carefully. Pay close attention to the specific goals for minority and female business enterprise participation for this project and the EBO program reminders listed on page 6.

If you have any questions about the information included in this section of the solicitation, please contact the City of Atlanta Office of Contract Compliance at (404) 330-6010.

The City of Atlanta looks forward to the opportunity to do business with your company.

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CITY OF ATLANTA
DISADVANTAGED BUSINESS ENTERPRISE
POLICY STATEMENT

It is the policy of the City of Atlanta to promote full and equal business opportunity for all persons doing business with the City. The City must ensure that firms seeking to participate in contracting and procurement activities with the City are not prevented from doing so on the basis of the race or gender of their owners. The City is committed to ensuring that it is not a passive participant in any private scheme of discrimination. To ensure that businesses are not discriminated against with regard to prime contracting, subcontracting or other partnering opportunities with the City, the City has developed an Equal Business Opportunity (EBO) Program. It is also the policy of the City of Atlanta to actively promote equal employment opportunities for minority and female workers and prohibit discrimination based upon race, religion, color, sex, national origin, marital status, physical handicap or sexual orientation through the City's Equal Employment Opportunity (EEO) Program. The purpose of the Equal Business Opportunity and Equal Employment Opportunity Programs is to mitigate the present and ongoing effects of the past and present discrimination against women and minority owned businesses and women and minority workers so that opportunity, regardless of race or gender, will become institutionalized in the Atlanta marketplace. It is important to note that all bidders, without exception, including minority and female owned business enterprises, must comply with the City of Atlanta's EBO and EEO Program requirements. Goals for minority and female business enterprises are set for this project on page 6.

Implementation of EBO Policy

The Office of Contract Compliance will review information submitted by Bidders pertaining to efforts to promote opportunities for diverse businesses, including M/FBEs, to compete for business as subcontractors and/or Suppliers. A Bidder is eligible to be further considered for award of a City contract upon a finding by OCC that the Bidder has engaged in, and provided with its bid submission documentation of efforts to ensure that its process of soliciting, evaluating and awarding subcontracts, placing orders, and partnering with other companies has been non-discriminatory. To assist prime contractors in this effort, the Office of Contract Compliance has set forth in this solicitation document the M/FBE goals within the relevant NAICS Codes, for this Project.

For subcontracting, the Subcontractor Project Plan must include **all** subcontractors (majority and minority owned) to be utilized on the project, detail the services to be performed, the dollar value of the work to be performed by each subcontractor, and the City of Atlanta M/FBE certification number and supplier id number as applicable.

For suppliers, the Subcontractor Project Plan must include **all** subcontractors (majority and minority owned), the supplies to be provided, including the dollar value of the supplies being provided and the City of Atlanta M/FBE certification number and supplier id number as applicable.

Determination of Non-discrimination During Bid Process

No Bidder shall be awarded a contract on an Eligible Project unless the Office of Contract Compliance determines that the Bidder has satisfied the non-discrimination requirements of section 2-1448 on such Eligible Project. Accordingly, each Bidder shall submit with each Bid the following

1. Covenant of Non Discrimination. Each Bidder shall submit with her/his Bid a Covenant of Non-Discrimination which is set forth herein as Exhibit EBO1.
2. Outreach efforts documentation. Each bidder shall submit with her/his bid written documentation demonstrating the bidder's outreach efforts to identify, contact, contract with, or utilize businesses, including certified M/FBEs as subcontractors or suppliers on the contract. This information shall be set forth on Exhibit EBO2, which is included herein.
3. Subcontractor project plan. Each bidder shall submit with her/his bid a completed and signed subcontractor project plan, in a form approved and provided by the office of contract compliance, which lists the name, address, telephone number and contact person of each subcontractor or other business to be used in the contract, the NAICS Code and the type of work or service each business will perform, the dollar value of the work and the scope of work, the ownership of each business by race and gender, if applicable the AABE, APABE, FBE, certification number of each business, and any other information requested by the office of contract compliance. In order for the office of contract compliance to officially consider a firm to be an M/FBE, the M/FBE firm must be certified by or have a certification application pending with the office of contract compliance prior to the bidder's submission of the bid. The subcontractor project plan shall not be changed or altered after approval of the plan and award of the contract without the written approval of the director of the office of contract compliance. A written letter to the director of the office of contract compliance requesting approval to change the subcontractor project plan must be submitted prior to any change in the plan or termination of an M/FBE's contract.

OCC Review of Bidder Submissions

The Office of Contract Compliance shall determine whether a Bidder has satisfied the non-discrimination requirements of section 2-1448 based on its review of the Covenant of Non Discrimination, the Outreach Efforts Documentation, the Subcontractor Project Plan, and its review of other relevant facts and circumstances, including complaints received as part of the bid process. In reviewing the documents submitted by a Bidder to determine whether the Bidder has satisfied the non-discriminatory practices requirement of this section, the Office of Contract Compliance will consider, among other things, the total project dollars subcontracted to or expended for services performed by other businesses, including certified M/FBEs, whether such businesses perform Commercially Useful Functions in the work of the contract based upon standard industry trade practices, whether any amounts paid to Supplier businesses are for goods customarily and ordinarily used based upon standard industry trade practices, and the availability of certified M/FBEs within the relevant NAICS Codes for such Eligible Project.

(a) Receipt of Complaint of Discrimination in the Bid Process

The office of contract compliance shall accept complaints of alleged discrimination during the bid process regarding any participant in the bid process. Where the complaint of discrimination is specific to the procurement which is under consideration by the city, the office of contract compliance may investigate said complaint, determine its validity, and determine whether the actions complained of impact the bidder's responsiveness on the specific procurement. Allegations of discrimination based on events, incidents or occurrences which are unrelated to the specific procurement will be placed in the bidder's file maintained in the vendor relations database and handled in accordance with the procedure established in the city's vendor relations subdivision, section 2-1465, et seq.

(b) Determination of Violation of EBO Process

Where the office of contract compliance investigates a complaint of discrimination that is related to the specific bid process, the details of that investigation, including findings, shall be recorded and maintained in the vendor relations database, pursuant to section 2-1471.

(c) Office of Contract Compliance Determination of Non-Compliance

When, based upon the totality of the circumstances, the office of contract compliance determines that a bidder fails to satisfy the requirements of section 2-1448(a) of a city bid solicitation, the director of the office of contract compliance shall present a written determination of non-compliance to the Chief Procurement Officer which states the determination and lists the reasons for the determination. A bid that does not comply with the requirements set forth in section 2-1448(a) shall be deemed non-responsive and rejected.

Equal Business Opportunity Program Bid/RFP Submittals

The Office of Contract Compliance will make any determination of non-responsiveness. The covenant of non-discrimination, the outreach efforts documentation, the subcontractor project plan, and any other information required by OCC in the solicitation document pursuant to section 2-1448 must be completed in their entirety by each bidder and submitted with the other required bid documents in order for the bid to be considered as a responsive bid. Failure to timely submit these forms, fully completed, will result in the bid being considered as a non-responsive bid, and therefore, excluded from consideration.

Monitoring Of EBO Policy

Upon execution of a contract with the City of Atlanta, the successful bidder's Subcontractor Project Plan will become a part of the contract between the bidder and the City of Atlanta. The Subcontractor Project Plan will be monitored by the City of Atlanta's Office of Contract Compliance for adherence with the plan. The successful bidder will be required to provide specific EBO information on a monthly basis that demonstrates the use of subcontractors and suppliers as indicated on the Subcontractor Project Plan. The failure of the successful bidder to provide the specific EBO information by the specified date each month shall be sufficient cause for the City to withhold approval of the successful bidder's invoices for progress payments, increase the amount of the successful bidder's retainage, require joint check issuance, or evoke any other penalties as set forth in the City of Atlanta Code of Ordinances, Sections 2-1452 and 2-1456.

Implementation of EEO Policy

The City effectuates its EEO policy by adopting racial and gender work force availability for every contractor performing work for the City of Atlanta. These percentages are derived from the work force demographics set forth in the 2000 Census EEO file prepared by the United States Department of Commerce for the applicable labor pool normally utilized for the contract.

Monitoring of EEO Policy

Upon award of a contract with the City of Atlanta, the successful bidder must submit a Contract Employment Report (CER), describing the racial and gender make-up of the firm's work force. If the CER indicates that the firm's demographic composition does not meet the adopted EEO goals, the firm will be required to submit an affirmative action plan setting forth the steps to be taken to reach the adopted goals. The CER and the affirmative action plan, if necessary, will become a part of the contract between the successful bidder and the City of Atlanta. Compliance with the EEO requirements will be monitored by the Office of Contract Compliance.

Equal Business Opportunity M/FBE GOALS for this Project

Project No.: FC-8791, Request for Proposal for Qualified Environmental Professional for the Revolving Loan Fund Program

The dominant NAICS code and trade to be engaged for the above referenced solicitation is:

541611 Administrative Management & General Management Consulting Services

The EBO goals for the trade categories listed in this project are:

31.5% M/FBE

Please be reminded that no Bidder shall be awarded a contract on an Eligible Project unless the Office of Contract Compliance determines that the Bidder has satisfied the non-discrimination requirements of section 2-1448 on such Eligible Project. Details of the O.C.C. review process for determination of non-discrimination are detailed on page 2 of this document.

Equal Business Opportunity Program Reminders

1. **Certification.** It is the prime contractor's responsibility to verify that MBEs and FBEs included on the Subcontractor Project Plan are certified by the City of Atlanta's Office of Contract Compliance, or have a certification application pending with the City of Atlanta's Office of Contract Compliance.
2. **Reporting.** The successful bidder must submit monthly EBO participation reports to the Office of Contract Compliance.
3. **Subcontractor Contact Form.** It is required that bidders list and submit information on all subcontractors they solicit for quotes, all subcontractors who contact them with regard to the project, and all subcontractors they have discussions with regarding the project. Failure to provide complete information on this form will result in your bid being declared non-responsive.
4. **EBO Ordinance.** The EBO Program is governed by the provisions of the SBO/EBO Ordinance set forth in the City of Atlanta Code Division 12, section 2 - 1356 through 2 - 1480. The ordinance can be obtained from the City of Atlanta Clerk's Office at (404) 330-6032.
5. **Supplier Participation.** In order to receive full M/FBE credit, suppliers must manufacture or warehouse the materials, supplies, or equipment being supplied for use on the Eligible Project.
6. **OCC Registry of Certified Firms.** To access OCC's real time registry of vendors (certified or non-certified), visit our PRISM Compliance Management portal at: <https://pro.prismcompliance.com/default.aspx>. Next, click the drop down arrow under "Visit a Jurisdiction", select "City of Atlanta", and click "go!" Once there, you may search by Industry or Certification to obtain your desired results. You may also go to the website: www.atlantaga.gov/contractcompliance and scroll down to the section heading "Registry of Certified Firms" Click OCC's quarterly list to access the current directory of certified firms.

COVENANT OF NON-DISCRIMINATION

The undersigned understands that it is the policy of the City of Atlanta to promote full and equal business opportunity for all persons doing business with the City of Atlanta. The undersigned covenants that we have not discriminated, on the basis of race, gender or ethnicity, with regard to prime contracting, subcontracting or partnering opportunities. The undersigned further covenants that we have completed truthfully and fully the required forms EBO-2 and EBO-3. Set forth below is the signature of an officer of the bidding entity with the authority to bind the entity.

Signature of Attesting Party

Title of Attesting Party

On this ____ day of _____, 20____, before me appeared _____, the person who signed the above covenant in my presence.

Notary Public

Seal

FORM EBO-1

SUBCONTRACTOR CONTACT FORM

List *all subcontractors or suppliers* (Majority, EBO and Non-EBO Certified) that were contacted regarding this project.

Name of Sub-contractor/ Supplier	Contact Name, Address and Phone Number	City Of Atlanta Business License? (Yes or No)	Type of Work Solicited for	Business Ownership (see code below)	Certification No. and Expiration Date	Results of Contact

Name of Sub-contractor/Supplier	Contact Name, Address and Phone Number	City Of Atlanta Business License? (Yes or No)	Type of Work Solicited for	Business Ownership (see code below)	Certification No. and Expiration Date	Results of Contact

Business Ownership Code: AABE - African American Business Enterprise, HABE - Hispanic Business Enterprise, FBE - Female Business Enterprise, APABE - Asian (Pacific Islander) American Business Enterprise

Company Name: _____ Project Name: _____ FC#: _____

Printed Signature: _____ Date: _____

(Must Be Completed for Each M/FBE Firm)

LETTER OF INTENT

Disadvantage Business Enterprise

Proponent Name: _____
Address: _____
City: _____ State: _____ Zip: _____

DBE Firm: DBE Firm: _____
Address: _____
City: _____ State: _____ Zip: _____

DBE Contact Person: Name: _____ Phone: (____) _____

Expiration Date of DBE Certification: _____

DBE is performing as: Prime Concessionaire Sub concessionaire Joint Venture

Work item(s) to be performed by DBE	Description of Work Item	Dollar (\$) Value of Work and Scope of Work	Percentage (%) of Total Bid Amount
TOTAL DBE			

The proponent is committed to utilizing the above-named DBE firm for the work described above. The estimated participation is as follows:

DBE contract amount: \$ _____ Percent of total contract: _____%

AFFIRMATION:

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: _____
(Print name) (Title)

(signature) (date)

* In the event the proponent does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

**DIVERSITY FIRM TERMINATION/SUBSTITUTION
ACKNOWLEDGEMENT FORM**

As a participant in an eligible City of Atlanta (COA) diversity program contract, certain restrictions and procedures apply to the termination and substitution of a diversity certified entity by a prime concessionaire or prime contractor, as mandated by federal regulations and City ordinances. These requirements are established by 49 C.F.R. § 26.53(f), code sections 2-1356- 2-1380, and 2-1441- 2-1480 of the COA code of ordinances, as may be amended from time to time.

OCC will not allow a prime concessionaire or prime contractor to substitute or terminate a diversity program certified entity without OCC's prior written consent, which will be granted only upon a written finding of good cause. OCC requires completion of a form document to accompany the reason(s) for the request to terminate and/or substitute, which is available at:

<http://www.atlantaga.gov/modules/showdocument.aspx?documentid=491>

For ease of reference, the federal requirements are quoted below:

49 C.F.R. § 26.53(f)

- (1) (i) [OCC] must require that a prime contractor not terminate a DBE[/ACDBE] subcontractor listed in response to paragraph (b)(2) of this section (or an approved substitute DBE[/ACDBE] firm) without [OCC's] prior written consent. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE[/ACDBE] subcontractor with its own forces or those of an affiliate, a non-DBE[/ACDBE] firm, or with another DBE[/ACDBE] firm.
- (ii) [OCC] must include in each prime contract a provision stating:
 - (A) That the contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains your written consent as provided in this paragraph (f); and
 - (B) That, unless your consent is provided under this paragraph (f), the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE[/ACDBE].
- (2) [OCC] may provide such written consent only if [OCC] agree[s], for reasons stated in [OCC's] concurrence document, that the prime contractor has good cause to terminate the DBE[/ACDBE] firm.
- (3) For purposes of this paragraph, good cause includes the following circumstances:
 - (i) The listed DBE[/ACDBE] subcontractor fails or refuses to execute a written contract;
 - (ii) The listed DBE[/ACDBE] subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE[/ACDBE] subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contrac[t]or;
 - (iii) The listed DBE[/ACDBE] subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements.
 - (iv) The listed DBE[/ACDBE] subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
 - (v) The listed DBE[/ACDBE] subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law;
 - (vi) [OCC] ha[s] determined that the listed DBE[/ACDBE] subcontractor is not a responsible contractor;
 - (vii) The listed DBE[/ACDBE] subcontractor voluntarily withdraws from the project and provides to [OCC] written notice of its withdrawal;
 - (viii) The listed DBE[/ACDBE] is ineligible to receive DBE[/ACDBE] credit for the type of work required;
 - (viii) A DBE[/ACDBE] owner dies or becomes disabled with the result that the listed DBE[/ACDBE] contractor is unable to complete its work on the contract;
 - (ix) Other documented good cause that [OCC] determine[s] compels the termination of the DBE[/ACDBE] subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE[/ACDBE] it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE[/ACDBE] contractor was engaged or so that the prime contractor can substitute another DBE[/ACDBE] or non-DBE[/ACDBE] contractor after contract award.
- (4) Before transmitting to [OCC] its request to terminate and/or substitute a DBE[/ACDBE] subcontractor, the prime contractor must give notice in writing to the DBE[/ACDBE] subcontractor, with a copy to [OCC], of its intent to request to terminate and/or substitute, and the reason for the request.
- (5) The prime contractor must give the DBE[/ACDBE] five days to respond to the prime contractor's notice and advise [OCC] and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why [OCC] should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), [OCC] may provide a response period shorter than five days.
- (6) In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE[/ACDBE] firms put forward by offerors in negotiated procurements.

The undersigned acknowledges these requirements on behalf of the below-listed entity.

Prime: _____

Contract No.: _____

Signature: _____

Name: _____

Title: _____

Date: _____



First Source Jobs Program Policy Statement

It is the policy of the City of Atlanta to provide job opportunities to the residents of the City of Atlanta, whenever possible. Whereas every contract with the City of Atlanta creates a potential pool of new employment opportunities, the following program is applicable to **construction projects only** and is subject to review by AWDA on a case by case basis for applicability. Once AWDA has made the determination that the First Source Jobs Program is applicable, the successful prime contractor (and all subcontractors associated with the awarded project) is expected to work with the First Source Jobs Program to fill at least 50% of all new entry-level jobs, which arise from this project, with residents of the City of Atlanta. **AWDA has determined that the first source Jobs program is applicable for this project.** For more specific information about the First Source Jobs Program contact:

**Michael Sterling
Executive Director
First Source Jobs Program
Atlanta Workforce Development Agency
818 Pollard Boulevard
Atlanta, GA 30315
(404) 546-3000**

APPENDIX B

INSURANCE AND BONDING REQUIREMENTS

APPENDIX B

INSURANCE & BONDING REQUIREMENTS

FC-8791, Request for Proposal for Qualified Environmental Professional

A. Preamble

The following requirements apply to all work under the agreement. Compliance is required by all Contractors/Consultants. **To the extent permitted by applicable law, the City of Atlanta (“City”) reserves the right to adjust or waive any insurance or bonding requirements contained in this Appendix B and applicable to the agreement.**

1. Evidence of Insurance Required Before Work Begins

No work under the agreement may be commenced until all insurance and bonding requirements contained in this Appendix B, or required by applicable law, have been complied with and evidence of such compliance satisfactory to City as to form and content has been filed with City. Contractor/Consultant must provide City with a Certificate of Insurance that clearly and unconditionally indicates that Contractor/Consultant has complied with all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement. If the Contractor/Consultant is a joint venture, the insurance certificate should name the joint venture, rather than the joint venture partners individually, as the primary insured. In accordance with the solicitation documents applicable to the agreement at the time Contractor/Consultant submits to City its executed agreement, Contractor/Consultant must satisfy all insurance and bonding requirements required by this Appendix B and applicable by law, and provide the required written documentation to City evidencing such compliance. In the event that Contractor/Consultant does not comply with such submittal requirements within the time period established by the solicitation documents applicable to the agreement, City may, in addition to any other rights City may have under the solicitation documents applicable to the agreement or under applicable law, make a claim against any bid security provided by Contractor/Consultant.

2. Minimum Financial Security Requirements

All companies providing insurance required by this Appendix B must meet certain minimum financial security requirements. These requirements must conform to the ratings published by A.M. Best & Co. in the current Best's Key Rating Guide - Property-Casualty. The ratings for each company must be indicated on the documentation provided by Contractor/Consultant to City certifying that all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement have been unconditionally satisfied.

For all agreements, regardless of size, companies providing insurance or bonds under the agreement must meet the following requirements:

- i) Best's rating not less than A-,
- ii) Best's Financial Size Category not less than Class VII, and

- iii) Companies must be authorized to conduct and transact insurance contracts by the Insurance Commissioner, State of Georgia.
- iv) All bid, performance and payment bonds must be underwritten by a U.S. Treasury Circular 570 listed company.

If the issuing company does not meet these minimum requirements, or for any other reason is or becomes unsatisfactory to City, City will notify Contractor/Consultant in writing. Contractor/Consultant must promptly obtain a new policy or bond issued by an insurer acceptable to City and submits to City evidence of its compliance with these conditions.

Contractor/Consultant's failure to comply with all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement will not relieve Contractor/Consultant from any liability under the agreement. Contractor/Consultant's obligations to comply with all insurance and bonding requirements set forth in Appendix B and applicable to the agreement will not be construed to conflict with or limit Contractor/Consultant's/Consultant's indemnification obligations under the agreement.

3. Insurance Required for Duration of Contract

All insurance and bonds required by this Appendix B must be maintained during the entire term of the agreement, including any renewal or extension terms, and until all work has been completed to the satisfaction of City.

4. Notices of Cancellation & Renewal

Contractor/Consultant must, notify the City of Atlanta in writing at the address listed below by mail, hand-delivery or facsimile transmission, within 2 days of any notices received from any insurance carriers providing insurance coverage under this Agreement and Appendix B that concern the proposed cancellation, or termination of coverage.

Enterprise Risk Management
68 Mitchell St. Suite 9100
Atlanta, GA 30303
Facsimile No. (404) 658-7450

Confirmation of any mailed notices must be evidenced by return receipts of registered or certified mail.

Contractor/Consultant shall provide the City with evidence of required insurance prior to the commencement of this agreement, and, thereafter, with a certificate evidencing renewals or changes to required policies of insurance at least fifteen (15) days prior to the expiration of previously provided certificates.

5. Agent Acting as Authorized Representative

Each and every agent acting as Authorized Representative on behalf of a company affording coverage under this contract shall warrant when signing the Accord Certificate of Insurance that specific authorization has been granted by

the Companies for the Agent to bind coverage as required and to execute the Acord Certificates of Insurance as evidence of such coverage. City of Atlanta coverage requirements may be broader than the original policies; these requirements have been conveyed to the Companies for these terms and conditions.

In addition, each and every agent shall warrant when signing the Acord Certificate of Insurance that the Agent is licensed to do business in the State of Georgia and that the Company or Companies are currently in good standing in the State of Georgia.

6. Certificate Holder

The **City of Atlanta** must be named as certificate holder. All notices must be mailed to the attention of **Enterprise Risk Management at 68 Mitchell Street, Suite, 9100, Atlanta, Georgia 30303.**

7. Project Number & Name

The project number and name must be referenced in the description section of the insurance certificate.

8. Additional Insured Endorsements Form CG 20 26 07 04 or equivalent

The City must be covered as Additional Insured under all insurance (except worker's compensation and professional liability) required by this Appendix B and such insurance must be primary with respect to the Additional Insured. **Contractor/Consultant must submit to City an Additional Insured Endorsement evidencing City's rights as an Additional Insured for each policy of insurance under which it is required to be an additional insured pursuant to this Appendix B. Endorsement must not exclude the Additional Insured from Products - Completed Operations coverage. The City shall not have liability for any premiums charged for such coverage.**

9. Mandatory Sub-Contractor/Consultant Compliance

Contractor/Consultant must require and ensure that all subContractor/Consultants/subconsultants at all tiers to be sufficiently insured/bonded based on the scope of work performed under this agreement.

10. Self Insured Retentions, Deductibles or Similar Obligations

Any self insured retention, deductible or similar obligation will be the sole responsibility of the contractor.

A. Workers' Compensation and Employer's Liability Insurance

Contractor/Consultant must procure and maintain Workers' Compensation and Employer's Liability Insurance in the following limits to cover each employee who is or may be engaged in work under the agreement. :

Workers' Compensation. **Statutory**

Employer's Liability:

Bodily Injury by Accident/Disease **\$1,000,000 each accident**
Bodily Injury by Accident/Disease **\$1,000,000 each employee**
Bodily Injury by Accident/Disease **\$1,000,000 policy limit**

B. Commercial General Liability Insurance

Contractor/Consultant must procure and maintain Commercial General Liability Insurance on form (CG 00 00 01 or equivalent) in an amount not less than **\$1,000,000 per occurrence subject to a \$2,000,000 aggregate**. The following indicated extensions of coverage must be provided:

- Contractual Liability
- Broad Form Property Damage
- Premises Operations
- Personal Injury
- Advertising Injury
- Fire Legal Liability
- Medical Expense
- Independent Contractor/Consultants/SubContractor/Consultants
- Products – Completed Operations
- Additional Insured Endorsement* (primary& non-contributing in favor of the City of Atlanta)
- Waiver of Subrogation in favor of the City of Atlanta

C. Commercial Automobile Liability Insurance

Contractor/Consultant must procure and maintain Automobile Liability Insurance in an amount not less than **\$1,000,000** Bodily Injury and Property Damage combined single limit. The following indicated extensions of coverage must be provided:

- Owned, Non-owned & Hired Vehicles
- Waiver of Subrogation in favor of the City of Atlanta

If Contractor/Consultant does not own any automobiles in the corporate name, non-owned vehicle coverage will apply and must be endorsed on either Contractor/Consultant's personal automobile policy or the Commercial General Liability coverage required under this Appendix B.

D. Professional Liability Insurance

Contractor/Consultant shall procure and maintain during the life of this contract Professional Liability Insurance in an amount of **\$1,000,000** per occurrence and annual aggregate. The policy will fully address the Contractor/Consultant's professional services associated with the scope of work contained in this document. The policy will include at least a three year Extended Reporting Provision.

APPENDIX C
GENERAL CONDITIONS

NOT APPLICABLE

APPENDIX D
SPECIAL CONDITIONS

NOT APPLICABLE

APPENDIX E
ADDITIONAL REQUIRED SUBMITTALS

NOT APPLICABLE