



REQUEST FOR PROPOSAL & QUALIFICATIONS ENVIRONMENTAL CONSULTING SERVICES

City of Memphis and Shelby County
Community Redevelopment Agency

850 N. Manassas St
Memphis, TN 38107

901-435-6992

www.cramemphis.org



NOTICE TO PROPOSERS

CITY OF MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY NOTICE TO PROPOSERS

NOTICE IS HEREBY GIVEN that the City of Memphis and Shelby County Community Redevelopment Agency will receive **Proposal Packets** electronically, until **4:00 PM on TUESDAY, December 12th, 2023** for:

Community Redevelopment Agency - Environmental Consulting Services

All proposal packets shall be submitted via email to:

Emma Turri at emma.turri@cramemphis.org

with copy to Vivian Ekstrom Vivian.ekstrom@cramemphis.org

The City of Memphis and Shelby County Community Redevelopment Agency (CRA) has issued this Request for Proposal & Qualifications (hereinafter, "RFPO") with the sole purpose and intent of obtaining proposal packets from interested and qualified environmental professionals offering to provide **ENVIRONMENTAL CONSULTING SERVICES** for the CRA in accordance with the terms, conditions, and specifications stated herein.

Experience shall include, but not be limited to the following: Conducting Phase I & Phase II ESAs, Preparation of QAPPs, ACM & LBP screening, Remediation planning, Site Inventory Updates and Prioritization, Coordination with TDEC and registration in DOR VOAP, Preparation of ABCAs, and Participation in Community Outreach including engagement meetings.

An **informational meeting** will be held **virtually and in-person** at the CRA office, located at 850 N. Manassas St, Memphis, TN 38107, at 3:00pm CST on **TUESDAY, November 28th, 2023**. It is recommended that all proposers RSVP to Emma Turri emma.turri@cramemphis.org in order to attend the meeting in person or virtually. Proposers participating in the meeting remotely must request virtual access at least two days in advance of the meeting.

Proposal packets submitted as provided herein shall be opened and reviewed privately by the CRA after **4:00 PM on TUESDAY, December 12th, 2023**. Packets received after the deadline set for receipt shall not be considered.

The CRA shall reserve the right to interview any of the proposers and to reject all proposal packets if said body deems it necessary in the best interest of the citizens of the City of Memphis and Shelby County.

The CRA is committed to providing equal access to its programs, funding, employment, services, and activities and complies with all applicable Federal and state civil rights laws and enabling regulations. The CRA does not discriminate on the basis of race, color, national origin, religion, sex, familial status, age, disability or any other protected class in admission to its programs, funding, employment, services, or activities; in access to them; in the provision of benefits, or in any aspect of operations.

For further information, contact CRA at (901) 435-6992. The individual responsible for coordinating this RFPO is EMMA TURRI, COMMUNITY BUILDER: PROJECT MANAGER.

Emma.turri@cramemphis.org

RFPO may be obtained from the Project Manager or online at:

<http://www.cramemphis.org/brownfields>

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SCOPE OF WORK

INTRODUCTION

The United States Environmental Protection Agency (EPA) has awarded the City of Memphis and Shelby County Community Redevelopment Agency (CRA) a Brownfield Coalition Assessment Grant for environmental investigation and remedial planning activities. As such, CRA will use EPA grant funding (FAIN 4B-02D64223) to conduct assessments of contaminated or potentially contaminated properties ("Brownfields") in Memphis, TN. Priority sites have been identified and are located in four (4) target areas roughly aligning with the four (4) Tax Increment Financing (TIF) districts administered by the CRA.

The Grant Activities are separated into and will be performed as below:

- 1.) Site selection, inventory preparation, and determination of assessment needs within target areas proposed in CRA's workplan;
- 2.) Community Outreach to educate residents and build consensus;
- 3.) Site assessment and testing noting existing environmental contaminants and possible remediation strategies; and
- 4.) Preparation of written reports regarding environmental characterizations and site based remediation plans.

OVERVIEW

CRA will use EPA grant funding to conduct assessments of contaminated or potentially contaminated properties ("Brownfields") within the boundaries of designated target areas. The CRA is seeking documentation of proposals from experienced environmental consulting firms and/or engineering firms to assist the CRA in the assessment of the four (4) target areas. The purpose of this RFPO is to solicit the information needed for CRA to select a pool of Qualified Environmental Professionals (QEP) to provide environmental consulting services. The CRA intends to award contracts to three to five (3-5) firms. The selected firms will assist by providing project management, community outreach services, assist in preparing an inventory of potential Brownfields sites, conducting Phase I & Phase II assessments on priority sites, submitting monthly updates in the form of written reports to the CRA team to be used in preparing quarterly reports to the EPA, and developing clean-up plans. For consideration, submissions for this project must contain evidence of the proposer's experience and abilities as a QEP and other disciplines directly related to the proposed service.

The firms selected through the qualification process will bid tasks based on a request from the CRA. The assignment of work to a firm will be based primarily on price, but other criteria may be considered such as a firm's experience with a site, or the capacity to accomplish a task in regard to availability and current workload.

It is expected that selected firms will attend meetings and communicate regularly with CRA staff, the Memphis Brownfield Coalition, the EPA Region 4 Project Officer, TDEC representatives, and a Grant Management consultant (procured separately by the CRA).

The work to be performed under this contract shall be commenced by the successful firm(s) after all executed contract documents have been submitted for each unique scope of work, and after being notified to proceed by CRA.

SCOPE OF WORK

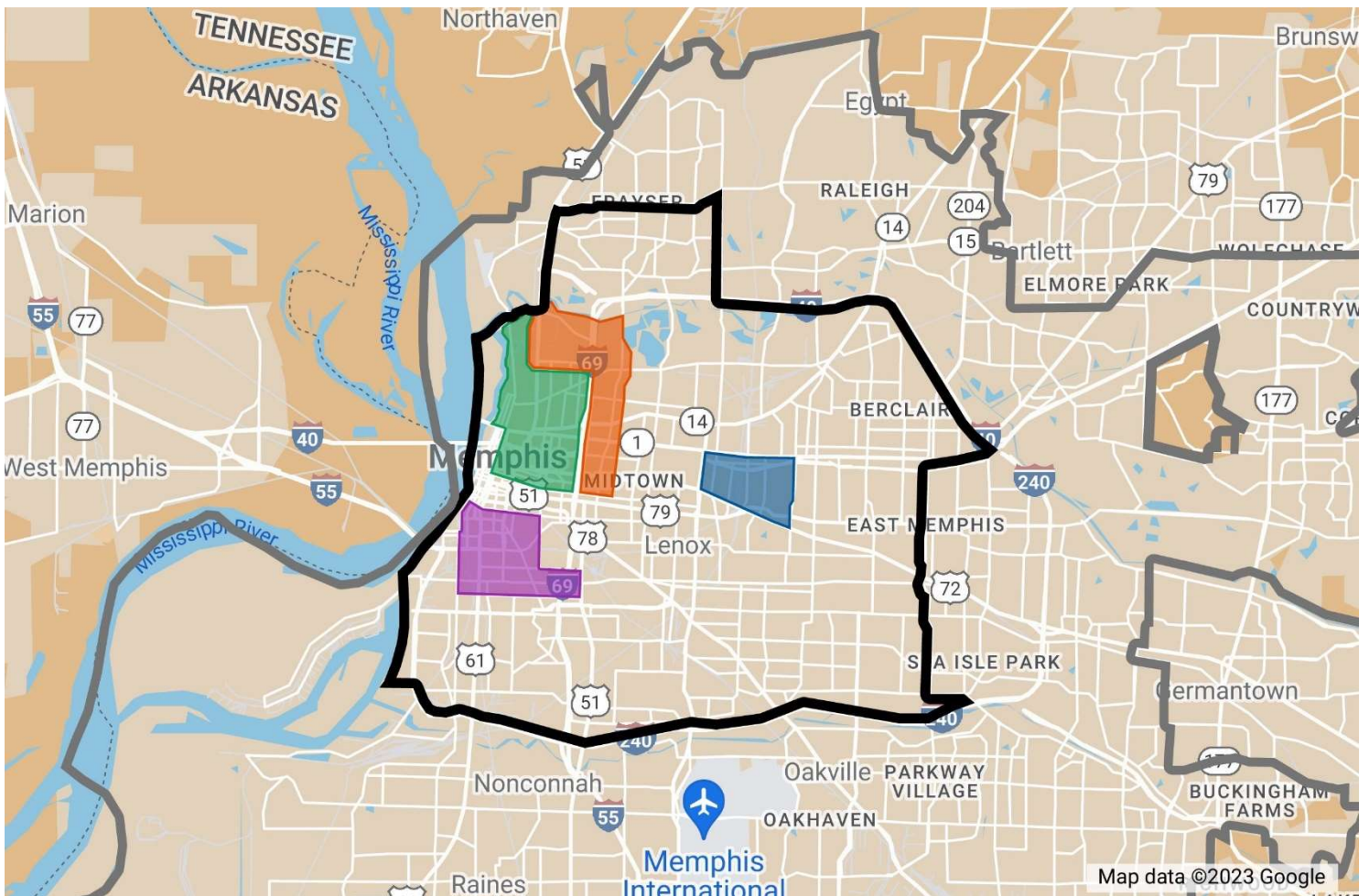
GRANT IMPLEMENTATION PERIOD

The grant implementation period is approximately July 1, 2023 to September 30, 2027.

TARGET AREAS

The four target areas are listed below, and a map has been included for reference.

- Uptown Redevelopment Area / Green
- Klondike & North Memphis Industrial Area / Orange
- Binghampton / Blue
- Soulsville & South City / Purple



SCOPE OF WORK

PRIORITY SITES

The goals of the project are to conduct Environmental Site Assessment (ESA) activities at priority sites from the CRA's grant workplan. Asbestos and Lead Based paint screening may be included in Phase II ESA budgets dependent on extent of sampling required for demolition or renovation of existing structures. Additional sites may be added to the list for assessment if funding, time, and EPA eligibility parameters allow.

Location	Concerns
Jackson Ave Corridor West	Initial hazard assessment comprised of Sanborn review flagged potential for contamination based on historic use of properties
N Second Street Corridor	Initial hazard assessment comprised of Sanborn review flagged potential for contamination based on historic use of properties
Chelsea/Thomas Intersection	Likely that several parcels still contain USTs
Jackson Ave Corridor East	Initial reports indicate contamination and possible USTs on several parcels in the 1200-1300 blocks
2690 Yale Ave	Chlorinated solvents and Gasoline constituents detected
NE Corner of Johnson/Tillman	Cypress creek runs behind it and has served as receiving water for chemical manufacturer's waste in the past
620 South Lauderdale St	Chlorinated solvents detected

SCOPE OF WORK

COMMUNITY OUTREACH & ENGAGEMENT

The four (4) target areas are each served by a Community Liaison nominated by the Memphis Brownfield Coalition to represent and engage with the target area in which he or she resides. Each target area also has a Brownfield Coordinator from the partner organization or agency that applied with the CRA for this grant. Those agencies are Klondike Smokey City Community Development Corporation, Binghampton Development Corporation, and Soulsville Foundation. The CRA will ask the selected firms to utilize innovative approaches to collaborate with the Brownfield Liaisons, Coordinators, and community residents in this endeavor.

Quarterly meetings are planned for the Memphis Brownfield Coalition **Advisory Council**. The CRA will ask a representative of each contracted firm to attend the meetings to present project updates and to be available for questions. The Memphis Brownfield Coalition **Steering Committee** meets twice per quarter. The CRA will ask a representative of each contracted firm to be in attendance on an as needed basis, determined by the assessment work being conducted at the time of a scheduled meeting.

Examples of past community outreach efforts such as environmental workforce development, entry-level job training, and workshops to promote enhanced community environmental awareness are strongly encouraged in this response. Depending on the needs of the neighborhood surrounding a site, community meetings may require translation services or sign language interpretation services. Please include any past experience in coordinating these services or how the firm would potentially address needs of a community with Limited English Proficiency or Hearing/Vision Impairments.

Additionally, this grant allows for development of an Environmental Justice (EJ) curriculum to be piloted through STAX Academy and/or the Soulsville Charter School. The CRA may ask the selected firms to participate in reviewing and contributing to the writing of the curriculum. The CRA may also request the firms to engage with students during implementation of the pilot curriculum.

ASSESSMENT NEEDS & STANDARDS

The firm(s) selected to provide these services will be required to assure that all Phase I ESAs completed through the grant are sufficient to provide the user confidence in having met the [All Appropriate Inquiry \(AAI\)](#) standard. The Phase I Environmental Site Assessment Process will be conducted in accordance with ASTM E1527-21, the latest ASTM practices and guidelines and abide by U.S. EPA 40 CFR Part 312. Phase II ESAs shall abide by and incorporate Standard E1903-19, as well as state and local agency requirements and will ensure a site is being adequately investigated.

Phase II Assessments will require site specific Quality Assurance Project Plans (QAPP). Sites eligible for Phase II Assessments will be entered into TDEC's Brownfield Voluntary Cleanup Oversight and Assistance Program (VOAP). Approximately four (4) sites will require an Analysis of Brownfields Cleanup Alternatives (ABCA).

SCOPE OF WORK

GRANT REPORTING

The firms selected through this RFPO will be asked to collaborate regularly with the CRA's project team during preparation of EPA quarterly reports and annual M/W/SBE reports. The firms will also be asked for assistance with completion of Property Profile Forms and data entry assistance as needed for the Assessment, Cleanup and Redevelopment Exchange System (ACRES).

MEETINGS

A representative from each selected firm will be required to attend meetings for the following purposes listed in the table below. The quantities are based on estimated needs from the cooperative agreement workplan and the grant implementation period of 4 years.

CRA/EPA Project Team	16
Advisory Council Meetings	16
Steering Committee Meetings	32
Focused Community Meetings - Site specific and focused on neighbors and interested parties to the site. Meetings will be relative to remediation planning and preparation of an ABCA.	4

SCOPE OF WORK

TASKS

The table below shows overall estimated quantities for each activity based on the CRA's grant workplan. Each firm receiving a Service Provider Agreement with the CRA will be responsible for **some** of these tasks corresponding to the work the firm is assigned.

Output	Estimate
Phase I Environmental Site Assessments completed	22
Phase II Environmental Site Assessments completed	14
Sites entered into the State VOAP	30
Quality Assurance Project Plans completed	14
Phase II Workplans completed	14
Remediation Soil Management Plans completed	6
Remediation VI Mitigation Plans completed	6
Remediation Action Workplans completed	6
Analysis of Brownfield Cleanup Alternatives (ABCA) completed	6
ACRES reporting completed	Completed quarterly for assessed sites
Site inventories completed	1
Maps, handouts, and other meeting materials	At a minimum, maps, handouts, and other materials will be prepared for every Advisory Committee meeting and community meeting. These will be prepared as needed for Steering Council meetings and any other engagements.
Environmental justice curriculum module developed	1

FEDERAL CONDITIONS

TERMS & CONDITIONS OF COOPERATIVE AGREEMENT

All firms selected will be required to comply with the terms and conditions of the CRA's Cooperative Agreement with the EPA. The Cooperative Agreement is made attachment to this RFPQ and should be reviewed carefully by the proposer.

CROSSCUTTING

The CRA must comply with federal cross-cutting requirements. These requirements include, but are not limited to, DBE requirements found at 40 CFR Part 33; OSHA Worker Health & Safety Standard 29 CFR § 1910.120; Uniform Relocation Act (40 USC § 61); National Historic Preservation Act (16 USC § 470); Endangered Species Act (P.L. 93-205); 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. For additional information on crosscutting requirements visit <https://www.epa.gov/grants/epa-subaward-cross-cutter-requirements>.

SUBMISSION REQUIREMENTS

The Proposer must display to the complete satisfaction of the CRA that it has the necessary facilities, ability, and resources to provide the services specified herein in a satisfactory manner. The submission should disclose a history of experience and references in order to satisfy the CRA in regard to the Proposer's qualifications. The CRA may make reasonable investigations deemed necessary and proper to determine the ability of the proposer to perform the work, and the proposer shall furnish to the CRA all information for this purpose that may be requested. The CRA reserves the right to reject any offer if the evidence submitted by, or investigation of, the proposer fails to satisfy the CRA that the proposer is properly qualified to carry out the obligations of the potential contract and to complete to work therein.

RESPONSE FORMAT

Cover Letter

(1 Page)

Project Team Organizational Chart (Including Sub Consultants)

(1-2 Pages)

Management Summary Narrative

(1-2 Pages)

- Identify the number of years in business, a brief historical summary of the firm, location of primary office, and information regarding the firm's mission or corporate philosophy.
- Does the firm have familiarity with Tennessee, Memphis, and/or the four (4) target areas? If so, briefly describe.
- Provide examples of experience in providing similar consulting services to governmental or non-profit entities.

Specialized Expertise of Team Members

(1 Page per Team Member/Subconsultant that will be assigned to the project)

The firm should identify the individuals who will provide the services, including resume and experience in similar work as follows:

Project Team and Previous Experience

- Identify the project manager and each team member who will work on this project.
 - Where is this individual located?
 - How long has this individual been with the firm/project team?
- Give one example of specific experience relevant to this project.
- Professional Certifications/Licenses/Memberships/Affiliations
 - Provide documentation of any pertinent certifications or affiliations for the company, sub consultants, or individuals identified as members of the project team.

SUBMISSION REQUIREMENTS

Fee Schedule

A professional fee schedule should be included and should list hourly rates for applicable professionals and technicians as well as any other general or administrative fees typically billed by the firm. The fee schedule should also state the interval at which rates are typically reviewed and/or increased and should detail any anticipated cost assumptions or qualifications. Please include in the cost schedule a typical range of costs anticipated for ASTM E1527-21 Phase I ESAs for: Gas Stations, Dry Cleaners, Auto Service facilities, or other similar brownfield sites of 0.5 acre or less.

Sample Proposal

Please provide a sample quote for an AAI compliant ASTM E1527-21 Phase I ESA on the following parcel:

**588 Chelsea St
Memphis, TN 38107**

Exceptions or Objections

Indicate any exceptions to the general terms and conditions of the RFPQ, to insurance requirements or any other requirements listed in the RFPQ. If no exceptions are indicated, it will be understood that no exceptions to these documents will be considered after the award, or if applicable, during negotiations.

PROPOSAL PACKET CHECKLIST:

- Response (Cover Letter, Org Chart, Narrative, Team Member Expertise)
- Fee Schedule
- Sample Proposal - 588 Chelsea
- General Information
- References
- Equal Business Opportunity Program & Certificate(s)
- Certificate of Non-discrimination
- Drug Free Workplace
- Signature Page

SUBMISSION FORMS

GENERAL INFORMATION

Federal Employer Identification Number: _____

Firm Name: _____

Mailing Address: _____

Primary Point of Contact (Name & Title): _____

Telephone No.: _____ Fax No.: _____

Email Address: _____

Website: _____

Type of Firm: Corporation _____ Partnership _____ Sole Proprietor _____

Years in Business: _____

If firm is a corporation, please list state in which it is incorporated: _____

If remittance address is different from the mailing address, indicate below.

Firm Name: _____

Remittance Address: _____

Submitted by: _____

Name & Title Printed: _____

Have you, at any time, failed to complete a project?

Yes No

Are there any judgments, claims or suits pending or outstanding by or against you?

Yes No

If the answer to either question is yes, submit details on a separate sheet. List all lawsuits that have been filed by or against your firm in the last five (5) years.

SUBMISSION FORMS

LIST MAJOR WORK PRESENTLY UNDER CONTRACT: (Over \$100,000)

% Completed	Project Contract	Amount
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

REFERENCES

Provide three (3) current or previous references e Scope of Work herein. If firm has worked previously or is currently working in the State of Tennessee, please include that as a reference. Include project name, contact name, email, and telephone number.

The CRA reserves the right to contact any and all references to obtain, with limitation, ratings for the following performance indicators includes:

- On a scale of 1-10, with 1 being very dissatisfied and 10 exceeding your every expectation, how satisfied were you with the firm’s performance?
- What specifically did you like about their approach?
- What do you believe were shortcomings or that they could have done better?
- Did they meet your schedule requirements?
- How were their communications? Were you always kept in the loop?
- How responsive were they in addressing problems with the project?
- How was the quality/experience/personality of their personnel? (Specifically, the project manager?)
- Would you use this firm again?

1) _____
 Firm, Agency, or Corporation Project Name

Contact Name	Phone	Email Address
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2) _____
 Firm, Agency, or Corporation Project Name

Contact Name	Phone	Email Address
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3) _____
 Firm, Agency, or Corporation Project Name

Contact Name	Phone	Email Address
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SUBMISSION FORMS

EQUAL BUSINESS OPPORTUNITY PROGRAM

This contract will be subject to the requirements of the City of Memphis and Shelby County Community Redevelopment Agency's Equal Business Opportunity ("EBO") Program. The intent of the EBO Program is to increase the participation of minority and women owned business enterprises ("M/WBE") and locally owned small businesses ("LOSB") in the CRA's purchasing activities. Toward achieving this objective, the M/WBE participation goal for solicitations is 40% combined for MBE and WBE participation and 10% LOSB participation.

**PROJECT TITLE:
COMMUNITY REDEVELOPMENT AGENCY - ENVIRONMENTAL CONSULTING SERVICES**

NAME OF PROPOSER/FIRM/COMPANY

If the proposer is a certified firm, indicate here with a check mark. The proposer must provide certification documents.

_____ MBE _____ WBE _____ SBE/LOSB

*If the proposer is not a certified firm but intends to utilize subconsultants that are MWSBE, please list that information below.

Subconsultant	M / W / SBE or LOSB	Role or Service

SUBMISSION FORMS

CERTIFICATE OF NONDISCRIMINATION

As Proposer, Consultant, Subconsultant, Contractor, or Subcontractor on Community Redevelopment Agency Service Provider Contract,

Community Redevelopment Agency - Environmental Consulting Services

The undersigned states that it does not discriminate against any subconsultant, subcontractor, employee, or applicant for employment on the grounds of race, color, national origin or sex and, if awarded a contract for this project, agrees in performance of work:

1. Not to discriminate against any subcontractor, employee, or applicant for employment on the grounds of race, color, national original or sex;
2. To maintain payrolls of employees and subcontractors employed on this contract until five (5) years after final release and final payment by the Community Redevelopment Agency;
3. To require a similar certificate to be executed by each subcontractor at the time a subcontract is executed under the contract with the requirement that such subcontractor agrees to require a similar certificate of requirement on any lower tiers of subcontracts.
4. To conform with federal law, state statutes, executive orders, and local ordinances identified and listed under Section XI "Non-Discrimination" of the Service Provider Agreement.

Name of Firm

Date

Signature

Signature

Printed or Typed Name and Title

SUBMISSION FORMS

DRUG FREE WORKPLACE

As Proposer, Consultant, Subconsultant, Contractor, or Subcontractor on Community Redevelopment Agency Service Provider Contract,

Community Redevelopment Agency - Environmental Consulting Services

The undersigned states that it acknowledges and adheres to the City of Memphis Drug Free Workplace policy and if awarded a contract for this project, agrees in performance of work:

To require drug and alcohol screening (urine testing, breath analysis, or other testing procedures) in the following situations: Pre-Employment; Department of Transportation Commercial Drivers, Reasonable Suspicion; Post Accident and Follow Up Drug Testing as part of Substance Abuse Rehabilitation.

To operate a drug free workplace program or alcohol testing program with requirements at least as stringent as the City of Memphis.

Name of Firm

Signature Date

Printed or Typed Name and Title

SUBMISSION FORMS

SIGNATURE PAGE

Pursuant to information for prospective Proposers for the project, the undersigned is submitting the information as required with the understanding that it is only to assist in determining the qualifications of the organization to perform the type and magnitude of work intended, and further, guarantee the truth and accuracy of all statements herein made.

Name

Title

Signature

Date

EVALUATION PROCESS

All proposal packets will be subject to a review and evaluation process. It is the intent of the CRA that all proposers responding to this RFPO, who meet the requirements, will be ranked in accordance with the criteria established in these documents. The CRA will consider all conforming proposal packets received in its evaluation and award process.

Proposal packets shall include all of the information solicited in this RFPO, and any additional data that the proposer deems pertinent to the understanding and evaluation of the proposal. Proposers should not withhold any information from the written response in anticipation of presenting the information orally or in a demonstration, since oral presentations or demonstrations may not be solicited. Each proposer will be ranked based on the criteria herein addressed.

During the evaluation process and at the sole discretion of the CRA, requests for clarification of one or more proposer submittals may be conducted. This request for clarification may be performed by the CRA in a written format, or through scheduled oral interviews. Such clarification request will provide proposers with an opportunity to answer any questions the CRA may have on a proposer's submittal.

EVALUATION CRITERIA

EVALUATION CRITERIA		MAXIMUM POINTS
Overall quality of Proposer's Qualifications		100
<i>Capacity, skill, and experience of firm's project team to perform the work and provide the services required</i>	50	
<i>Experience with community engagement</i>	20	
<i>Experience with federal grants, data collection, and utilization of web portals for data entry</i>	15	
<i>Experience with TDEC, DOR, and VOAP processes</i>	15	
Fee Schedule		45
Recent, current, and projected workloads of the firm		15
M / W / SBE		15
TOTAL POTENTIAL POINTS		175

SAMPLE SERVICE AGREEMENT

OPEN END AGREEMENT ENVIRONMENTAL CONSULTING SERVICES

This Agreement is made and entered into by and between [REDACTED] hereinafter referred to as "Service Provider" and the **City of Memphis and Shelby County Community Redevelopment Agency**, hereinafter referred to as "CRA".

PRELIMINARY STATEMENTS

1. CRA desires to retain the services of the Service Provider to perform the Work (defined below) and the Service Provider desires to perform the Work pursuant to the conditions hereof.
2. Service Provider has the knowledge and expertise to provide such Work.
3. The Parties desire to enter into this Agreement to set forth the terms and conditions for the payment for and performance of the Work and certain other matters described herein.

NOW, THEREFORE, in consideration of the above premises and of the covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows per CRA's Purchasing Policies and Procedures:

I. SCOPE OF SERVICES. The Services to be provided in connection with this Agreement shall include services for environmental consulting and environmental assessments of contaminated or potentially contaminated parcels within the City of Memphis. The specific scope of services will be added to this Agreement as **Task Orders** assigned by the CRA.

The Work shall be defined as the completion of individualized **Task Orders** that will provide a scope of work to be completed by task. Each Task Order will be assigned based on the nature of the work to be performed. **Exhibit A** attached hereto defines each category of service. All Task Orders shall contain the following: (1) reference to this Agreement; (2) Task Order Number; (3) Definition of service type as defined on **Exhibit A**. The Task Order shall not be altered or amended in any manner without the prior written consent of CRA, which may be withheld, conditioned, or delayed in the CRA's sole and absolute discretion.

II. TERM. This Agreement shall not be binding upon the Parties until it has been signed first by Service Provider and then by the authorized representatives of the CRA in accordance with applicable ordinances, laws and regulations. The term of this Agreement shall be one-year beginning _____, **2023** with CRA's option to renew at one-year terms.

SAMPLE SERVICE AGREEMENT

III. PAYMENT TERMS AND CONDITIONS

A. INVOICES. The Service Provider shall submit invoices to the CRA President or a designee by the CRA.

B. COMPENSATION. Unless the CRA has good faith and reasonable objections to the Service Provider's invoice(s), the CRA shall compensate the Service Provider based on invoices submitted by the Service Provider, under the fee structure based on the rates provided in the Service Provider's assigned task orders. The total sum of fees paid shall not exceed those reflected in the task orders (the "Fee") during the Agreement unless otherwise approved, or increased, by the CRA.

The CRA shall use its best efforts to remit payment based on the Service Provider's invoice within thirty (30) days after receipt of an accurate invoice and approval by the CRA. The CRA is not obligated to pay, and may withhold from payment, any amounts the CRA has in dispute with the Service Provider based on the Service Provider's non-performance, unsatisfactory performance or negligent performance of any services rendered hereunder.

C. PAYMENT DOES NOT IMPLY ACCEPTANCE OF WORK. The payment of an invoice shall not prejudice the CRA's right to object to or question any invoice or matter in relation thereto. Such payment by the CRA shall neither be construed as acceptance of the work nor as final approval of any of the costs invoiced therein, and the CRA's payment shall not relieve the Service Provider from its obligation to replace or correct any work that does not conform to this Agreement, even if the unsatisfactory character of such work may have been apparent or detected at the time such payment was made. Work, data or components that do not conform to the requirements of this Agreement shall be rejected by the CRA and replaced by the Service Provider, without delay or additional cost to the CRA. If the Service Provider receives payment from the CRA for a service or reimbursement that is later disallowed or rejected by the CRA or another governmental entity on the basis of an audit or monitoring, the Service Provider shall in good faith participate in the dispute resolution process as outlined in this Agreement to resolve the dispute.

D. FINAL CONTRACT INVOICE. The Service Provider shall submit to the CRA a final contract invoice within 30 calendar days from the termination date of the contract, for any services provided pursuant to this Agreement. The Service Provider further acknowledges and agrees the CRA will not be responsible for any Service Provider invoices, pertaining to this Agreement, submitted to the CRA after the final contract invoice. The Service Provider shall close out its accounting records at the end of the Agreement period in such a manner that reimbursable expenditures and revenue collections are not carried forward.

SAMPLE SERVICE AGREEMENT

IV. GENERAL TERMS AND CONDITIONS:

- A. ENTIRE AGREEMENT.** This Agreement and the attachments hereto constitute the full and final understanding of the Parties with respect to the subject matter hereof and supersede and replace any and all prior or contemporaneous agreements or understandings, whether written or oral, express or implied, between the Parties with respect to the subject matter of the Agreement.
- B. COUNTERPART/SIGNATURES/E-DELIVERY.** This Agreement may be executed in any number of counterparts, all of which, taken together shall constitute one original executed Agreement. A manually signed copy of this Agreement may be executed and delivered by facsimile, email or other acceptable means of electronic transmission and shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.
- C. STANDARD OF PERFORMANCE.** All services by the Service Provider shall be performed in compliance with the specified requirements, in a manner satisfactory to the CRA, and in accordance with the generally accepted business practices and procedures of the CRA and pursuant to the governing rules and regulations of the industry, based on the type of services performed hereunder.
- D. MODIFICATION AND AMENDMENT.** Any changes, modifications or amendments to this Agreement shall not be considered agreed to or binding on the other party, unless such modification(s) have been agreed to in writing and approved by the appropriate CRA officials in accordance with applicable laws and regulations.
- E. CONFIDENTIALITY.** While performing work under this Agreement, the Service Provider may gain access to proprietary and/or confidential information that, if disclosed to third parties, may be damaging to the CRA or its officials or employees. Such information shall include materials considered to be confidential information as a matter of law (e.g., personnel records), and shall also include (i) all materials in any form developed or created by the CRA related to funding and financial and business information; (ii) all information owned, possessed or used by the Service Provider, which is communicated to, learned, developed or otherwise acquired by the Service Provider in the performance of the Services for the CRA; (iii) the terms, conditions and pricing contained herein; and (iv) any other information that the Service Provider has been advised by the CRA is confidential, privileged or proprietary. Confidential information, as used in this Agreement, shall not include (i) information in the Service Provider's possession prior to disclosure by the CRA; (ii) information generally available to the public or that becomes available to the public through a source other than the CRA, or (iii) information that was rightfully obtained by the Service Provider from a third party who is under no obligation of confidentiality to the CRA with respect to such information. The Service Provider agrees that it will accept and hold confidential information obtained from the CRA in confidence at all times during and after termination of this Agreement in accordance with this Agreement and subject to the governing

SAMPLE SERVICE AGREEMENT

ethical rules of professional responsibility applicable to Service Provider's representation of CRA. The Service Provider shall neither use nor disclose or communicate such information, except as provided in this Agreement or as required by law, without the prior written permission of the CRA.

The Service Provider acknowledges and agrees that a breach by the Service Provider of this section will cause the CRA irreparable injury and damage; therefore, the Service Provider expressly agrees that the CRA shall be entitled to injunctive or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this Agreement. The Service Provider agrees that it will disclose confidential information only to those employees who have a need to know, and shall require its employees, agents, and subcontractors to comply with the requirements of this provision and the requirements of the provisions titled "Public Statements" and "Rights in Data."

F. PUBLIC STATEMENTS. The Service Provider shall not make any announcement, release any information, or authorize or participate in any interview concerning this Agreement and the Services, without first obtaining written consent from the CRA. The Service Provider shall require its employees, agents, and subcontractors to comply with the requirements of this provision. This provision shall survive the expiration or termination of this Agreement.

G. SERVICE PROVIDER'S PERSONNEL. The Service Provider certifies that it presently has adequate qualified personnel to perform all services required under this Agreement and that all work performed under this Agreement shall be supervised by the Service Provider. The Service Provider further certifies that all of its employees or subcontractors assigned to perform any work hereunder shall have such knowledge and experience as required to perform the duties assigned to them.

The Service Provider shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Agreement, all employee compensation, and benefits. The CRA shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, health, welfare and disability benefits, Federal and local taxes, or other compensation, benefits or taxes for any personnel provided on behalf of the Service Provider. In addition, the Service Provider shall be solely liable and responsible for all workers' compensation benefits to any person as a result of injuries arising from or connected with any work performed by or on behalf of the Service Provider pursuant to this Agreement.

H. INDEPENDENT RELATIONSHIP. Service Provider acknowledges that it is an independent contractor over the details and means for performing the services hereunder. Anything in this Agreement which may appear to give the CRA the right to direct the Service Provider as to the details of the performance of its obligations hereunder or to exercise a measure of control over the Service Provider is only in furtherance of the contractual relationship.

SAMPLE SERVICE AGREEMENT

It is further expressly agreed and understood by the Service Provider that neither it nor its employees or agents shall hold itself out contrary to the terms of this paragraph, and the CRA shall not be liable for any representation, act, or omission of the Service Provider contrary to the provisions hereof.

V. TERMINATION.

- A.** It shall be cause for the immediate termination of this Agreement if, after its execution, the CRA determines that either:
- 1.** The Service Provider or any of its principals, partners or corporate officers, if a corporation, including the corporation itself, has pleaded nolo contendere, or has pleaded or been found guilty of a criminal violation, whether state or federal, involving, but not limited to, governmental sales or purchases, including but not limited to the rigging of bids, price fixing, misappropriation of government funds, or any other collusive and illegal activity pertaining to bidding and governmental contracting; or
 - 2.** The Service Provider subcontracted, assigned, delegated, or transferred its rights, obligations, or interests, voluntarily or involuntarily, under this Agreement without the CRA's consent or approval; or
 - 3.** The Service Provider has filed bankruptcy, has been adjudicated bankrupt, become insolvent or made an assignment for the benefit of creditors, or a receiver, or similar officer is appointed to take charge of all or part of the Service Provider's assets; or
 - 4.** The Service Provider is no longer licensed or authorized to provide the services to be rendered hereunder.
- B.** The Service Provider and/or the CRA may terminate this agreement upon providing written notice of the Parties' intent to terminate by providing thirty (30) days written notice. The CRA shall, at the CRA's option, have the right to obtain like services elsewhere or to take over the work.
- C.** Notwithstanding the foregoing or any section herein to the contrary, the Service Provider shall not be relieved of liability to the CRA for damages sustained by the CRA by virtue of any breach of the Agreement by the Service Provider, including attorney's fees and costs incurred by CRA, and the CRA may withhold any payments to the Service Provider, for the purpose of setoff, until such time as the exact amount of damages due the CRA from the Service Provider is determined in the court of competent jurisdiction and recovered by CRA. Further, the CRA shall not be relieved of liability to the Service Provider for damages sustained by the Service Provider by virtue of any breach of the Agreement by the CRA, including attorney's fees and costs incurred by the Service Provider.
- D.** The CRA may, in its sole discretion, suspend and/or terminate this Agreement for convenience upon giving 30 days prior written notice to the Service Provider. In the event of such termination, the Service Provider shall be entitled to compensation

SAMPLE SERVICE AGREEMENT

for any satisfactory authorized work performed in accordance with the Agreement up to the termination date; but in no event shall the CRA be liable to the Service Provider for expenses incurred after the termination date, unless otherwise agreed upon by the Parties. All services completed by the Service Provider prior to the Termination Date shall be documented and all tangible work documents shall be transferred to the CRA prior to payment for services rendered, and shall become the sole property of the CRA, except to the extent such documents are deemed work-product by Service Provider and therefore, remain within the ownership and possession of Service Provider. Such termination by the CRA shall not be deemed a Breach of Contract by the CRA, and the Service Provider shall not be compensated for any anticipatory profits, or other damages of any description, that have not been earned as of the date of termination.

- E. Upon request, Service Provider shall deliver to the CRA all hard copy and electronic files owned by CRA and maintained by Service Provider on behalf of the CRA within thirty (30) days of termination of this Agreement. Upon reasonable request, the CRA reserves the right to obtain such information prior to the termination of this Agreement.

VI. COMPENSATION FOR CORRECTIONS. No compensation shall be due or payable to the Service Provider pursuant to this Agreement for any of the services performed by the Service Provider in connection with the CRA effecting corrections to the services when such corrections are required as a direct result of negligence by the Service Provider to properly fulfill any of its obligations herein.

VII. REMEDIES CUMULATIVE. All remedies available to the CRA provided herein are cumulative and shall be in addition to all other rights and remedies provided by law. The termination, expiration, or suspension of this Agreement shall not limit the CRA from pursuing other remedies available at law or in equity.

VIII. SUBCONTRACTING, ASSIGNMENT or TRANSFER. Except as provided in CRA assigned **Task Orders** the Service Provider shall not subcontract to any other contractor, assign, delegate, or transfer all or part of its rights, responsibilities, or interest under this Agreement without the prior written consent of the CRA. Any purported assignment, transfer, or delegation in violation of this Section shall be voidable by the CRA. No subcontracting, assignment, delegation, or transfer shall relieve the Service Provider from performance of its duties hereunder; neither shall the CRA be responsible for the fulfillment of the Service Provider's obligations to its transferors or subcontractors. Upon request of the CRA, the subcontracting, assigning, delegating, or transferring party shall provide all documents evidencing the transfer.

IX. CONFLICT OF INTEREST. Neither party shall engage in any conduct or activity in the performance of this Agreement that constitutes a conflict of interest under applicable federal, state or local laws, rules and regulations.

The Service Provider covenants that it has no public or private interest, and shall not acquire, any interest, directly or indirectly, which would conflict in any manner with the performance required under this Agreement. The Service Provider warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer

SAMPLE SERVICE AGREEMENT

or employee of the CRA as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor Service Provider to the Service Provider in connection with any work contemplated or performed relative to this Agreement. For breach or violation of this provision, the CRA shall have the right to recover or withhold the full amount of such gratuities.

X. GENERAL COMPLIANCE WITH LAWS. The Service Provider certifies that it is qualified or will take steps necessary to qualify to do business in the State of Tennessee and that it shall take such action as, from time to time, may be necessary to remain so qualified and shall obtain, at its own expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Agreement. Such permits and licenses shall be made available to the CRA, upon request.

The Service Provider is assumed to be familiar with and shall comply with all applicable federal, state, and local laws, ordinances, and regulations in performing any of its obligations under this Agreement, including but not limited to the Fair Labor Standards Act, Occupational Safety and Health Administration (OSHA), and the Americans with Disabilities Act (ADA). The Service Provider shall promptly notify the CRA of any conflict discovered between this Agreement and any applicable laws, rules, regulations, and/or permits and licenses, and await resolution of the conflict.

XI. NON-DISCRIMINATION. The Service Provider hereby agrees to comply with Title VI and Title VII of the Civil Rights Act of 1964 and all other federal, state or local laws prohibiting discrimination, which provide in whole or in part, that no person shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this Agreement or in the Service Provider 's employment practices on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, State or statutory law.

XII. SEVERABILITY. If any terms or provisions of this Agreement are held to be illegal, invalid or unenforceable as a matter of law, such provision shall be fully severable, and the remaining provisions of this Agreement shall remain in full force and effect and continue to be binding and shall not be affected by such provision or by its severance here from. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a legal, valid and enforceable provision as similar in terms to such unlawful, invalid or unenforceable provision as may be possible.

XIII. SUBJECT TO FUNDING. This Agreement is subject to availability of funds by the CRA. In the event sufficient funds for this Agreement are not available for any of its fiscal period during the term hereof, then the CRA shall immediately terminate this Agreement upon written notice to the Service Provider. In the event of such termination, the Service Provider shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the termination date. Such termination by the CRA shall not be deemed a Breach of Contract by the CRA, and the Service Provider shall have no right to any actual, general, specific, incidental, consequential, or any other damages whatsoever of any description or amount.

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XIV. CONTRACTING WITH DISADVANTAGED BUSINESS ENTERPRISES (DBE) The Service Provider shall take action to ensure that Disadvantaged Business Enterprises including Minority-owned (MBE), Woman-owned (WBE), Small Business (SBE), and Locally Owned Small Business (LOSB), which have been certified by the City, County, or other applicable entity, are utilized when possible as sources of supplies, equipment, construction, and services. Service Provider shall seek to maintain the percentages of participation by SBE/LOSB's and M/WBES's committed to in the Scope of Work provided in CRA assigned Task Orders.

XV. PUBLIC RECORDS. Notwithstanding anything to the contrary contained herein or within any other document supplied to the CRA by the Service Provider, the Service Provider understands and acknowledges that the CRA is a governmental entity subject to the State of Tennessee Public Records Act.

XVI. ORGANIZATION STATUS AND AUTHORITY. The Service Provider represents and warrants that it is a corporation, limited liability company, partnership, or other entity duly organized, validly existing and in good standing under the laws of the state of Tennessee; it has the power and authority to own its properties and assets and is duly qualified to carry on its business in every jurisdiction wherein such qualification is necessary. The execution, delivery and performance of this Agreement by the Service Provider has been duly authorized by all requisite action and will not violate any provision of law. Each person executing this Agreement represents that: he/she is lawfully authorized to sign the Agreement on behalf of the party he/she represents, and execution of the Agreement was duly and regularly authorized by the party's governing body.

XVII. RECORDS AND AUDITS. The Service Provider shall make and keep as the same accrue, full and complete books, documents, accounting records and other evidence, that specifically relate to this Agreement. Any audit, inspection, or interview pursuant to this section shall be limited to books, records, and factual matters pertaining solely to the engagement of Service Provider by the CRA and the services provided pursuant to any engagement subject to this Agreement. The Service Provider shall retain such records, and shall make such records available to the CRA, upon reasonable request, during the term of this Agreement, and for a minimum period of three (3) full years after completion of the contract obligations or from the date of final payment under this Agreement, whichever is later. In the event any litigation, claim or audit is instituted prior to the expiration of the required three-year retention period, such records shall be retained until such litigation, claim or audit finding has been resolved. Copies of said records shall be furnished to the CRA upon request.

XVIII. DISPUTE RESOLUTION. In the event of any dispute(s), controversy, or claim arising out of or relating to this Agreement or the breach thereof, the Parties agree that they shall first use their best efforts in an attempt to settle the dispute through negotiations involving themselves or their representatives as they each deem appropriate.

Solely with respect to any dispute or disagreement pertaining to fees and billings, a dispute concerning a question of fact in connection with fees and billings between the Service Provider and the CRA shall be referred via mediation with a mediator agreed upon by both the Parties.

SAMPLE SERVICE AGREEMENT

XIX. FORCE MAJEURE. Service Provider shall not be deemed in default hereunder, or be responsible for any delay, interruption, or cessation in the performance of its obligations under this Agreement where such failure of performance is the result of any force majeure event, including, but not limited to, acts of God, riots, wars, strikes, epidemics, acts, governmental authorities or acts of nature or other similar cause.

XX. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors, and assigns.

XXI. NOTICES. All notices and other communications required or permitted to be given hereunder shall be written and hand delivered with signed receipt; delivered by facsimile; delivered by a nationally recognized overnight courier; or mailed via certified U.S. mail, postage prepaid and return receipt requested. All notices shall be deemed received and effectively given as follows: (i) if by hand delivery, on the date of delivery; (ii) if by fax, on the day the fax transmission is received at the receiving location and receipt is telephonically by the sender; (iii) if by delivery via U.S. mail, on the date of receipt appearing on a return receipt card; or (iv) if by overnight courier, on the date receipt is by such courier service.

All notices must be addressed to the respective party at the following addresses or to such other person or address as either party may designate in writing and deliver as provided herein:

To the CRA:

City of Memphis and Shelby County Community Redevelopment Agency
850 N. Manassas
Memphis, TN 38107

To the **Service Provider:**

[Insert Address]

XXII. CRA LIABILITY. The CRA shall have no liability except as specifically provided in this Agreement.

XXIII. INDEMNIFICATION. The Service Provider shall indemnify, defend, save and hold harmless the CRA, its elected and appointed officials, officers, agents and employees from and against any and all suits, claims, liabilities, damages (consequential or otherwise), or losses brought for bodily injury or damage to property (including attorneys' fees) that arise or are alleged to have arisen as a result of any conduct, whether actions or omissions; whether intentional, unintentional, or negligent; whether legal or illegal; or otherwise that occur in connection with or in breach of this Agreement or in the performance of the services required hereunder, by the Service Provider, its subcontractors, agents or employees, excepting those losses or damages directly caused solely by the acts, errors, or omissions of the CRA or any of its officers, agents or employees. This indemnification shall survive the expiration or termination of this Agreement. The Service Provider

SAMPLE SERVICE AGREEMENT

expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Service Provider shall in no way limit the Service Provider's responsibility to indemnify, defend, save, and hold harmless the CRA or its elected or appointed officials, officers, employees, agents, assigns, and instrumentalities as herein required.

The CRA reserves the right to appoint its own counsel to represent the CRA interests regarding any matter defended hereunder. The Service Provider acknowledges that the CRA has no obligation to provide legal counsel or defense to the Service Provider, its employees, or subcontractors in the event that a suit, claim or action of any character is brought by any person not a party to this agreement against the Service Provider as a result of or relating to obligations under this agreement. The CRA shall have no obligation for the payment of any judgments, or the settlement of any claims asserted against the Service Provider or its subcontractors or employees as a result of or relating to the Service Provider's obligations hereunder.

The Service Provider shall immediately notify the CRA; 850 N Manassas St, Memphis, TN 38107, of any claim or suit made or filed against the Service Provider or its subcontractors regarding any matter resulting from or relating to the Service Provider's obligations under this Agreement and agrees to cooperate, assist, and consult with the CRA in the defense or investigation thereof.

XXIV. INSURANCE.

- A.** The Service Provider shall not commence any work under this agreement until it has obtained all insurance required hereunder. Contemporaneous with the execution of this Agreement Service Provider shall furnish the CRA a Certificate of Insurance attested by a duly authorized representative of the insurance carrier evidencing that the insurance required hereunder is in effect and name the CRA, City of Memphis and Shelby County, their officials, agents, employees, and representatives as additional insured. All insurance companies must be acceptable to the CRA of Memphis and licensed in the State of Tennessee.
- B.** If any of the insurance requirements are non-renewed at the expiration dates of any policy, payment to the Service Provider may be withheld until those requirements have been met, or at the option of the CRA, the CRA may pay the renewal premiums and withhold such payments from any monies due the Service Provider.
- C.** The Service Provider shall maintain, at its expense, at minimum, the following insurance coverage during the life of the Agreement covering bodily injury and property damage as provided in Section E of this section.
- D.** Each certificate or policy shall require and state in writing the following clauses:
"Thirty (30) days prior to cancellation or material change in the policy, notice thereof shall be given to the CRA" by registered mail, return receipt requested to the following address:

City of Memphis and Shelby County Community Redevelopment Agency
850 N. Manassas St
Memphis, TN 38107

SAMPLE SERVICE AGREEMENT

E. General Liability, Workers Compensation and Employers Liability

- i. General Liability
 1. General Aggregate \$2,000,000.00
 2. Product, Completed Operations Aggregate \$2,000,000.00
 3. Personal injury \$1,000,000.00
 4. Each Occurrence \$1,000,000.00
 5. Fire Legal Liability Damage \$100,000.00
 6. Medical Expense \$10,000.00
- ii. Automobile Liability
 1. Combined Single Limit \$1,000,000.00
- iii. Excess Liability
 1. Each Occurrence \$1,000,000.00
 2. Aggregate \$2,000,000.00
 3. Disease, Policy Limit \$500,000.00
 4. Disease, Each Employee \$100,000.00

XXV. GOVERNING LAW, JURISDICTION AND VENUE. The terms and conditions of this Agreement shall be construed in accordance with and governed by the laws of the State of Tennessee. All actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation, and enforcement of this Agreement shall be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, without regard to conflicts of laws principles. In accordance herewith, the Parties to this Agreement submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee. The prevailing party in any litigation arising hereunder shall be entitled to reasonable attorney's fees and costs.

SIGNATURES FOLLOW ON NEXT PAGE

SAMPLE SERVICE AGREEMENT

IN WITNESS WHEREOF, the Parties, by and through their duly authorized representatives, have executed this Agreement.

SERVICE PROVIDER

**CITY OF MEMPHIS AND
SHELBY COUNTY
COMMUNITY
REDEVELOPMENT AGENCY**

By: _____

**McKinley Martin, Jr.
Chairman**

Title: _____

SAMPLE

Exhibit A

Definitions

“Environmental Site Assessment (ESA),” is defined as service activities that include performance of Phase I and Phase II’s done to the current American Society for Testing and Materials (ASTM) standard. These can also include non-scope services such as ACM & LBP surveys. These activities can take place on parcels owned by CRA or with permission of a property owner, within the City of Memphis, and in accordance with approved activities in the CRA’s workplan and Cooperative Agreement with the EPA.
All services referenced as “ESA,” shall be tasked by parcel(s).

“Quality Assurance Project Plans (QAPP),” is defined as service activities that include writing and preparation of either a Generic or Site Specific QAPP for collecting, identifying, and evaluating data in addition to developing sampling plans, and other information for a brownfield. QAPP tasks also include the activities of submission, review, and revisions in coordination with the TDEC Brownfield Coordinator and EPA Project Officer.
All services referenced as “QAPP,” shall be tasked by site and/or area.

“Voluntary Cleanup Oversight and Assistance Program (VOAP) Enrollment” is defined as service activities including but not limited to writing and preparation of site characterization documentation for enrollment in the Tennessee Department of Environment & Conservation (TDEC) VOAP. Additionally, services may include the activities of document submission, review, and coordination with the TDEC Brownfield Coordinator and EPA Project Officer.
All services referenced as “VOAP Enrollment,” shall be tasked by site.

“Remediation Plans,” is defined as service activities that can include but are not limited to writing and preparation of Remedial Action Workplans, Soil Management Plans, and Vapor Intrusion plans for sites potentially needing remedial activities.
All services referenced as “Remediation Plans,” shall be tasked by site.

“Analysis of Brownfield Cleanup Alternatives (ABCA),” is defined as writing and preparation of an ABCA that considers site characteristics, the surrounding environment, land use restrictions, potential future uses, and cleanup goals to develop an analysis of cleanup alternatives based on effectiveness, ability to be implemented, and cost.
All services referenced as “ABCA,” shall be tasked by site.

“Meeting” is defined as service activities that include attending and/or presenting at a Steering Committee, Advisory Council, Community Meeting, or other meetings as appropriate.
All services referenced as “Meeting,” shall be tasked by type and date.

“Other General Services,” is defined as service activities that do not fall specifically into any other defined category but are assigned by task order and the performance of said service will be conducted in accordance with approved activities in the CRA’s workplan and Cooperative Agreement with the EPA.
All services referenced as “Other General Services,” shall be tasked by site.

TIMELINE & CONTACT INFORMATION

TIMELINE

It is expected that the proposal services will be executed by the end of November 2023.

- RFPQ Issued: November 9th, 2023
- Informational Meeting: November 28th, 2023 3:00pm CST
- RFPQ Responses Due: Tuesday, December 12th, 2023 @ 4:00pm CST
- Notification of Consideration: Tuesday, December 19th, 2023

The CRA reserves the right to make adjustments as needed to the above schedule. The CRA also reserves the right to postpone or cancel the solicitation. The CRA also reserves the right to further engage a subset of responders for further details of their qualifications through additional rounds of the RFPQ process and potentially during interviews or requests for additional clarifying information in order to determine the best submissions. The CRA's funding proposed for this potential contract is projected to be EPA funding. As such, the CRA will, to the best of its ability, attain the goals set in EPA's program guidelines and seek to help achieve the objectives outlined in the [Justice 40 Initiative](#).

CONTACT INFORMATION

CITY OF MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY


850 N MANASSAS ST
MEMPHIS, TN 38107
901.435.6992 OFFICE
www.cramemphis.org

GRANT PROJECT DIRECTOR VIVIAN EKSTROM

Vivian.ekstrom@cramemphis.org

GRANT PROJECT MANAGER EMMA TURRI

emma.turri@cramemphis.org

	U.S. ENVIRONMENTAL PROTECTION AGENCY Cooperative Agreement	GRANT NUMBER (FAIN): 02D64223 MODIFICATION NUMBER: 0 PROGRAM CODE: 4B	DATE OF AWARD 10/04/2023
		TYPE OF ACTION New	MAILING DATE 10/10/2023
		PAYMENT METHOD: ASAP	ACH# PEND
		RECIPIENT TYPE: Municipal	
RECIPIENT: City of Memphis and Shelby County Community Redevelopment Agency 850 N Manassas Memphis, TN 38107-2516 EIN: 47-1283946		PAYEE: City of Memphis and Shelby County Community Redevelopment Agency 850 North Manassas Memphis, TN 38107	
PROJECT MANAGER Emma Turri 850 North Manassas Memphis, TN 38107 Email: emma.turri@cramemphis.org Phone: 901-435-6992		EPA PROJECT OFFICER Olga Perry 61 Forsyth Street Atlanta, GA 30303-8960 Email: Perry.Olga@epa.gov Phone: 404-562-8534	
EPA GRANT SPECIALIST Leah Vasser Grants Management Section 61 Forsyth Street Atlanta, GA 30303-8960 Email: vasser.leah@epa.gov Phone: 404-562-9742			
PROJECT TITLE AND DESCRIPTION Brownfields Multipurpose, Assessment, Revolving Loan Fund, and Cleanup Cooperative Agreements See Attachment 1 for project description.			
BUDGET PERIOD 07/01/2023 - 09/30/2027	PROJECT PERIOD 07/01/2023 - 09/30/2027	TOTAL BUDGET PERIOD COST \$1,000,000.00	TOTAL PROJECT PERIOD COST \$1,000,000.00
NOTICE OF AWARD			
<p>Based on your Application dated 11/21/2022 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$1,000,000.00. EPA agrees to cost-share <u>100.00%</u> of all approved budget period costs incurred, up to and not exceeding total federal funding of \$1,000,000.00. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.</p>			
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)		AWARD APPROVAL OFFICE	
ORGANIZATION / ADDRESS U.S. EPA, Region 4 61 Forsyth Street Atlanta, GA 30303-8960		ORGANIZATION / ADDRESS U.S. EPA, Region 4, Land, Chemicals and Redevelopment Division R4 - Region 4 61 Forsyth Street Atlanta, GA 30303-8960	
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY			
Digital signature applied by EPA Award Official Shantel Shelmon - Grants Management Officer			DATE 10/04/2023

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$0	\$1,000,000	\$1,000,000
EPA In-Kind Amount	\$0	\$0	\$0
Unexpended Prior Year Balance	\$0	\$0	\$0
Other Federal Funds	\$0	\$0	\$0
Recipient Contribution	\$0	\$0	\$0
State Contribution	\$0	\$0	\$0
Local Contribution	\$0	\$0	\$0
Other Contribution	\$0	\$0	\$0
Allowable Project Cost	\$0	\$1,000,000	\$1,000,000

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.818 - Brownfields Multipurpose, Assessment, Revolving Loan Fund, and Cleanup Cooperative Agreements	CERCLA: Secs. 104(k)(2) and 104(k)(5)(e) and Infrastructure Investment and Jobs Act (IIJA) (PL 117-58)	2 CFR 200, 2 CFR 1500 and 40 CFR 33

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	2304VT3105	23	E4SD	04V8AG7	000D79X89	4114	-	-	\$1,000,000
									\$1,000,000

Budget Summary Page

Table A - Object Class Category (Non-Construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$43,500
2. Fringe Benefits	\$6,525
3. Travel	\$7,635
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$656,040
7. Construction	\$0
8. Other	\$286,300
9. Total Direct Charges	\$1,000,000
10. Indirect Costs: 0.00 % Base N/A	\$0
11. Total (Share: Recipient <u>0.00</u> % Federal <u>100.00</u> %)	\$1,000,000
12. Total Approved Assistance Amount	\$1,000,000
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$1,000,000
15. Total EPA Amount Awarded To Date	\$1,000,000

Attachment 1 - Project Description

This action approves an award in the amount of \$1,000,000 to the City of Memphis and Shelby County Community Redevelopment Agency (CMSCCRA) Tennessee. Brownfields are real property, the expansion, development or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. This agreement will provide funding under the Infrastructure Investment and Jobs Act (IIJA) for the recipient to conduct eligible assessment-related activities as authorized by CERLCA 104(k)(2). Specifically, this agreement will provide funding for the recipient to inventory, characterize, assess, and conduct cleanup planning and community involvement related activities. Additionally, the recipient will competitively procure (as needed) and direct a Qualified Environmental Professional to conduct environmental site activities. Also, the recipient will report on interim progress and final accomplishments by completing and submitting relevant portions of the Property Profile Form using the Environmental Protection Agency's Assessment, Cleanup and Redevelopment Exchange System (ACRES) database. Further, the recipient anticipates conducting 22 Phase I and 14 Phase II environmental site assessments, holding 4 community meetings, developing 6 site-specific cleanup plans/Analysis of Brownfield Cleanup Alternatives, developing 14 planning documents to initiate brownfields revitalization, and submitting 16 quarterly reports. Work conducted under this agreement will benefit the residents, business owners, and stakeholders in and near areas of Memphis, Tennessee, such as Uptown, Klondike, Binghampton, and Soulsville. The Works Inc. facilitation includes inviting and coordinating attendees, room rental, virtual conferencing setup, preparing agenda, recording minutes.

Administrative Conditions

General Terms and Conditions

The recipient agrees to comply with the current EPA general terms and conditions available at: <https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2023-or-later>

These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award.

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

A. Correspondence Condition

The terms and conditions of this agreement require the submittal of reports, specific requests for approval, or notifications to EPA. Unless otherwise noted, all such correspondence should be sent to the following email addresses:

- Federal Financial Reports (SF-425): rtpfc-grants@epa.gov
- MBE/WBE reports (EPA Form 5700-52A): R4epagrantsmbewberegarding@epa.gov and vasser.leah@epa.gov
- All other forms/certifications/assurances, Indirect Cost Rate Agreements, Requests for Extensions of the Budget and Project Period, Amendment Requests, Requests for other Prior Approvals, updates to recipient information (including email addresses, changes in contact information or changes in authorized representatives) and other notifications:

Leah Vasser, Grants Management Specialist, vasser.leah@epa.gov, (404)562-9742

Olga Perry, Project Officer, perry.olga@epa.gov, (404)562-8534

- Payment requests (if applicable):

Olga Perry, Project Officer, perry.olga@epa.gov, (404)562-8534

- Quality Assurance documents, workplan revisions, equipment lists, programmatic reports and deliverables:

Olga Perry, Project Officer, perry.olga@epa.gov, (404)562-8534

B. Pre-Award Costs

In accordance with 2 CFR 1500.9, the recipient may charge otherwise allowable pre-award costs (both Federal and non-Federal matching shares) incurred from 7/1/23 to the actual award date provided that such costs were contained in the approved application and all costs are incurred within the approved budget period.

Programmatic Conditions

FY23 Brownfields Assessment Coalition Cooperative Agreement

Infrastructure Investment and Jobs Act Funds

Terms and Conditions

Please note that these Terms and Conditions (T&Cs) apply to Brownfield Assessment Cooperative Agreements awarded under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 104(k) and the Infrastructure Investment and Jobs Act (IIJA).

I. GENERAL FEDERAL REQUIREMENTS

NOTE: For the purposes of these Terms and Conditions, the term “assessment” includes eligible activities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 104(k)(2)(A)(i) such as activities involving the inventory, characterization, assessment, and planning relating to brownfield sites as described in the EPA-approved workplan.

A. Federal Policy and Guidance

1. Cooperative Agreement Recipients: By awarding this cooperative agreement, the Environmental Protection Agency (EPA) has approved the application for the Cooperative Agreement Recipient (CAR) submitted in the Fiscal Year 2023 competition for Brownfield Assessment cooperative agreements.
2. In implementing this agreement, the CAR shall ensure that work done with cooperative agreement funds complies with the requirements of CERCLA § 104(k). The CAR shall also ensure that assessment activities supported with cooperative agreement funding comply with all applicable federal and state laws and regulations.
3. A term and condition or other legally binding provision shall be included in all subawards entered into with the funds awarded under this agreement, or when funds awarded under this agreement are used in combination with non-federal sources of funds, to ensure that the CAR complies with all applicable federal and state laws and requirements. In addition to CERCLA § 104(k), applicable federal laws and requirements include 2 CFR Part 200.

4. The CAR must comply with federal cross-cutting requirements. These requirements include, but are not limited to, DBE requirements found at 40 CFR Part 33; OSHA Worker Health & Safety Standard 29 CFR § 1910.120; Uniform Relocation Act (40 USC § 61); National Historic Preservation Act (16 USC § 470); Endangered Species Act (P.L. 93-205); 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. For additional information on cross-cutting requirements visit <https://www.epa.gov/grants/epa-subaward-cross-cutter-requirements>.

5. The CAR must comply with Davis-Bacon Act prevailing wage requirements and associated U.S. Department of Labor (DOL) regulations for all construction, alteration, and repair contracts and subcontracts awarded with funds provided under this agreement by operation of CERCLA § 104(g). Assessment activities generally do not involve construction, alteration, and repair within the meaning of the Davis-Bacon Act. However, the recipient must contact the EPA Project Officer if there are unique circumstances (e.g., removal of an underground storage tank or another structure and restoration of the site) that indicate that the Davis-Bacon Act applies to an activity the CAR intends to carry out with funds provided under this agreement. EPA will provide guidance on Davis-Bacon Act compliance if necessary.

6. The recipient agrees to have financial management and programmatic management systems in place to:

a. Track and report on expenditures of IIJA funds.

b. Track and report outputs and outcomes achieved with IIJA funds.

II. SITE ELIGIBILITY REQUIREMENTS

All brownfield sites that will be addressed using funds from the cooperative agreement must be located within the geographic boundary described in the scope of work for this cooperative agreement (i.e., the EPA-approved workplan).

A. Eligible Brownfield Site Determinations

1. Prior to performing site work, the CAR must provide information to the EPA Project Officer about each site that will be addressed under this cooperative agreement. The CAR may use cooperative agreement funds to prepare information that is provided to the EPA Project Officer. The information that must be provided includes whether the site meets the definition of a brownfield site as defined in CERCLA § 101(39), and whether the CAR is the potentially responsible party under CERCLA § 107, is exempt from CERCLA liability, and/or has defenses to CERCLA liability.

2. If the site is excluded from the general definition of a brownfield, but is eligible for a property-specific funding determination, then the CAR may request a property-specific funding determination from the EPA Project Officer. 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 assessing sites requiring a property-specific funding determination by EPA until the EPA Project Officer has advised the CAR that EPA has determined that the property is eligible.

3. Brownfield Sites Contaminated with Petroleum

a. For any petroleum-contaminated brownfield site that is not included in the CAR's EPA-approved workplan, the CAR shall provide sufficient documentation to EPA prior to incurring costs under this cooperative agreement which documents that:

i. the State determines there is "no viable responsible party" for the site;

ii. the State determines that the person assessing or investigating the site is a person who is not potentially liable for cleaning up the site; and

iii. 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. Please contact the EPA Project Officer for additional information.

b. Documentation must include:

i. the identity of the State program official contacted;

ii. the State official's telephone number;

iii. the date of the contact; and

iv. a summary of the discussion relating to the State's determination that there is no viable responsible party and that the person assessing or investigating 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.

c. If the State chooses not to make the determinations described in Section II.A.3. above, the CAR must contact the EPA Project Officer and provide the necessary information for EPA to make the requisite determinations.

d. EPA will make all determinations on the eligibility of petroleum-contaminated brownfield 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 necessary information for EPA to make the determinations.

III. GENERAL COOPERATIVE AGREEMENT ADMINISTRATIVE REQUIREMENTS

A. Sufficient Progress

1. This condition supplements the requirements of the Termination and Sufficient Progress Conditions in the General Terms and Conditions.

The EPA Project Officer will assess whether the recipient is making sufficient progress in implementing its cooperative agreement 18 months and 30 months from the date of award. If EPA determines that the CAR has not made sufficient progress in implementing its cooperative agreement, the CAR, if directed to do so, must implement a corrective action plan concurred on by the EPA Project Officer and approved by the Grants Management Officer or Award Official. Alternatively, EPA may terminate this agreement under 2 CFR § 200.340 for material non-compliance with its terms, or with the consent of the CAR as provided at 2 CFR § 200.340, depending on the circumstances.

Sufficient progress at 18 months is indicated when:

at least 25% of funds have been drawn down and disbursed for eligible activities;
a Memorandum of Agreement is in place;
a Qualified Environmental Professional(s) has been procured;
sites are prioritized or an inventory has been initiated (unless site prioritization or an inventory was completed prior to award);
community engagement activities have been initiated; and/or
other documented activities have occurred that demonstrate to EPA's satisfaction that the CAR will successfully perform the cooperative agreement.

Sufficient progress at 30 months is indicated when:

at least 45% of funds have been drawn down and disbursed for eligible activities;
assessments on at least three sites have been initiated; and/or
other documented activities have occurred that demonstrate to EPA's satisfaction that the CAR will successfully perform the cooperative agreement.

B. Substantial Involvement

1. The EPA Project Officer will be substantially involved in overseeing and monitoring this

cooperative agreement. Substantial involvement includes, but is not limited to:

- a. Close monitoring of the CAR's performance to verify compliance with the EPA-approved workplan and achievement of environmental results.
- b. Participation in periodic telephone conference calls to share ideas, project successes and challenges, etc., with EPA.
- c. Reviewing and commenting on quarterly and annual reports prepared under the cooperative agreement (the final decision on the content of reports rests with the recipient or subrecipients receiving pass-through awards).
- d. Verifying sites meet applicable site eligibility criteria (including property-specific funding determinations described in Section II.A.2.) and when the CAR awards a subaward for site assessment. The CAR must obtain technical assistance from the EPA Project Officer, or his/her designee, on which sites qualify as a brownfield site and determine whether the statutory prohibitions found in CERCLA § 104(k)(5)(B)(i)-(iv) apply. (Note, the prohibition does not allow a subrecipient to use EPA cooperative agreement funds to assess a site for which the subrecipient is potentially liable under CERCLA § 107.)
- e. Reviewing and approving Quality Assurance Project Plans and related documents or verifying that appropriate Quality Assurance requirements have been met where quality assurance activities are being conducted pursuant to an EPA-approved Quality Assurance Management Plan.

Substantial involvement may also include, depending on the direction of the EPA Project Officer:

- f. Collaboration during the performance of the scope of work including participation in project activities, to the extent permissible under EPA policies. Examples of collaboration include:
 - i. Consultation between EPA staff and the CAR on effective methods of carrying out the scope of work provided the CAR makes the final decision on how to perform authorized activities.

ii. Advice from EPA staff on how to access publicly available information on EPA or other federal agency websites.

iii. With the consent of the CAR, EPA staff may provide technical advice to the CAR's contractors or subrecipients provided the CAR approves any expenditures of funds necessary to follow advice from EPA staff. (The CAR remains accountable for performing contract and subaward management as specified in 2 CFR § 200.318 and 2 CFR § 200.332 as well as the terms of the EPA cooperative agreement.)

iv. EPA staff participation in meetings, webinars, and similar events upon the request of the CAR or in connection with a co-sponsorship agreement.

g. Reviewing and approving that the Analysis of Brownfield Cleanup Alternatives (ABCA), or equivalent state Brownfields program document, meets the Brownfields Program's requirements for an ABCA.

h. Reviewing proposed procurements in accordance with 2 CFR § 200.325, as well as the substantive terms of proposed contracts or subawards as appropriate. This may include reviewing requests for proposals, invitations for bid, scopes of work and/or plans and specifications for contracts over \$250,000 prior to advertising for bids.

i. Reviewing the qualifications of key personnel. (EPA does not have the authority to select employees or contractors, including consultants, employed by the CAR or subrecipients receiving pass-through awards.)

j. Reviewing information in performance reports to ensure all costs incurred by the CAR and/or its contractor(s) if needed to ensure appropriate expenditure of grant funds.

EPA may waive any of the provisions in Section III.B.1., except for property-specific funding determinations. The EPA Project Officer will provide waivers to provisions a. – e. in Section III.B.1 in writing.

2. Effects of EPA's substantial involvement include:

- 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 rights, authorities, and actions under CERCLA or any federal statute.

- b. The CAR remains responsible for ensuring that all assessments are protective of human health and the environment and comply with all applicable federal and state laws.

- c. The CAR and its subrecipients remain responsible for ensuring costs are allowable under 2 CFR Part 200, Subpart E.

C. Cooperative Agreement Recipient Roles and Responsibilities

1. The CAR is the lead of the Assessment Coalition and is accountable to EPA for proper expenditure of the funds and is the point of contact for other coalition members.
 - a. A Memorandum of Agreement documenting the coalition's site selection process must be in place prior to the expenditure of any funds that are awarded under this agreement.

 - b. The CAR shall assess a minimum of two sites in each member's (i.e., the lead member's and non-lead members') geographic boundary.

The CAR shall not add or remove coalition members without prior approval from the EPA Grants Management Officer or Award Official and must continue the partnerships with the coalition members identified in the application that was selected for funding. EPA will only approve changes to the composition of the coalition in extraordinary circumstances that substantially impair performance of the cooperative agreement.

2. All additional sites selected for eligible activities throughout the period of performance (i.e., sites that were not identified in the workplan) must be located within the geographic boundary(ies) identified by the CAR in the workplan.

Consistent with the FY23 Assessment Coalition Grant Guidelines, criteria for selecting additional

sites must at least consider whether the site is located within an underserved community^[1] in addition to considering the prioritization criteria identified in the FY23 application, the workplan, or developed during implementation of the workplan. Note, criteria developed during the implementation of the workplan must lead to the CAR addressing sites in areas with similar characteristics as the areas discussed in the FY23 application.

3. If the CAR's workplan includes eligible planning activities to prepare a brownfield site for reuse (see <https://www.epa.gov/brownfields/information-eligible-planning-activities> for eligible planning activities), the CAR must demonstrate meaningful community engagement in the reuse planning of brownfields assessed under the grant. Meaningful community engagement is demonstrated by actively including local nonprofit organizations, citizen leaders, or similar local groups/entities in brownfield reuse planning.

4. CARs, other than state entities, that procure a contractor(s) (including consultants) where the contract will be more than the micro-purchase threshold in 2 CFR § 200.320(a)(1) (\$10,000 for most CARs) must select the contractor(s) in compliance with the fair and open competition requirements in 2 CFR Part 200 and 2 CFR Part 1500. This requirement also applies to procurement processes that were completed before the award of this cooperative agreement. See the [Brownfields Grants: Guidance on Competitively Procuring a Contractor](#) for additional information.

CARs may procure multiple contractors to ensure the appropriate expertise is in place to perform work under the agreement (e.g., expertise to conduct site assessment activities vs. planning activities) and to allow the ability for work be performed concurrently at multiple sites within the defined and approved geographic boundary.

5. The CAR must acquire the services of a Qualified Environmental Professional(s) as defined in 40 CFR § 312.10, if it does not have such a professional on staff to coordinate, direct, and oversee the brownfield site assessment activities at a given site.

6. *Subawards* are defined at 2 CFR § 200.1. The CAR shall not subaward to for-profit organizations or individual consultants. The CAR must obtain commercial services and products necessary to carry out this agreement under competitive procurement procedures as described in 2 CFR §§ 200.317 through 200.327. The CAR must obtain written approval from the EPA Award Official for any subawards that are not described in the approved work plan in accordance with 2 CFR § 200.308.

In addition, EPA policy encourages awarding subawards competitively and the CAR must consider awarding subawards through competition. Recipients may consult EPA's [Subaward Policy](#) and [Best](#)

[Practice Guide for Procuring Services, Supplies, and Equipment Under EPA Assistance Agreements](#)

for additional guidance. The Best Practice Guide provides information on distinguishing between subawards and procurement contracts.

7. The CAR agrees to provide the proposed leveraged funding, including any voluntary cost-share contribution or overmatch, that is described in its workplan. If the proposed leveraging does not materialize during the period of award performance, and the CAR does not provide a satisfactory explanation, EPA may consider this factor in evaluating future applications from the CAR. In addition, if the proposed leveraging does not materialize during the period of award performance, then EPA may reconsider the legitimacy of the award. If EPA determines that the CAR knowingly or recklessly provided inaccurate information regarding the leveraged funding in its FY23 application, EPA may take action as authorized by 2 CFR Parts 200 and 1500, and/or 2 CFR Part 180 as applicable.

8. Cybersecurity – The recipient agrees that when collecting and managing environmental data under this cooperative agreement, it will protect the data by following all applicable ‘*non-State recipients*’ cybersecurity requirements.

a. EPA must ensure that any connections between the recipient’s network or information system and EPA networks used by the recipient to transfer data under this agreement are secure. For purposes of this section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

If the recipient’s connections as defined above do not go through the Environmental Information Exchange Network or EPA’s Central Data Exchange, the recipient agrees to contact the EPA Project Officer ‘no later than 90 days after the date of this award’ and work with the designated Regional/ Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA’s regulatory programs for the submission of reporting and/or compliance data.

b. The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in Cybersecurity Section a. above if the subrecipient’s network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA’s Central Data Exchange. The recipient will be in compliance with this condition: by

including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR § 200.332(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

9. All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at www.fgdc.gov.

D. Quarterly Performance Reports

1. In accordance with EPA regulations 2 CFR Parts 200 and 1500 (specifically, 2 CFR § 200.329, *Monitoring and Reporting Program Performance*), the CAR agrees to submit quarterly performance reports to the EPA Project Officer within 30 days after each reporting period. The reporting periods are October 1 – December 31 (1st quarter); January 1 – March 31 (2nd quarter); April 1 – June 30 (3rd quarter); and July 1 – September 30 (4th quarter).

These reports shall cover work status, work progress, difficulties encountered, preliminary data results and a statement of activity anticipated during the subsequent reporting period, including a description of equipment, techniques, and materials to be used or evaluated. A discussion of expenditures and financial status for each workplan task, along with a comparison of the percentage of the project completed to the project schedule and an explanation of significant discrepancies from the EPA-approved workplan and budget shall be included in the report. The report shall also include any changes of key personnel concerned with the project that were approved by the EPA Grants Management Officer or Award Official. (Note, as provided at 2 CFR § 200.308, *Revision of budget and program*, the CAR must seek prior approval from the EPA Grants Management Officer or Award Official for a change in a key person.)

2. The CAR must submit performance reports on a quarterly basis in ACRES using the Assessment Quarterly Report function or to the EPA Project Officer. Quarterly performance reports must include:
 - a. A summary that clearly differentiates between activities completed with EPA funds provided under the Brownfield Assessment cooperative agreement and related activities completed with other sources of leveraged funding.
 - b. A summary and status 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.

- c. A comparison of actual accomplishments to the anticipated outputs/outcomes specified in the EPA-approved workplan and reasons why anticipated outputs/outcomes were not met.

- d. An update on the project schedule and milestones, including an explanation of any discrepancies from the EPA-approved workplan.

- e. A list of the properties where assessment and/or planning activities were performed and/or completed during the reporting quarter.

- f. A budget summary table with the following information: current approved project budget; EPA funds drawn down during the reporting quarter; costs drawn down to date (cumulative expenditures); program income generated and used (if applicable) (i.e., program income received and disbursed during the reporting quarter and during the entire cooperative agreement, and the amount of program income remaining); and total remaining funds. The budget summary table must include costs that are charged to the “other” budget object class category (e.g., participant support costs, subawards, etc.).

The CAR shall include an explanation of any discrepancies in the budget from the EPA-approved workplan, cost overruns or high unit costs, and other pertinent information. The CAR shall include a statement on funding transfers^[2] among direct budget categories or programs, functions and activities that occurred during the quarter and cumulatively during the period of performance.

- g. For local governments that are using cooperative agreement funds for health monitoring, the quarterly report must also include the specific budget, the quarterly expenditure, and cumulative expenditures to demonstrate that 10% of federal funding is not exceeded.

Note: Each property where assessment activities were performed and/or completed must have its corresponding information updated in ACRES (or via the Property Profile Form with prior approval from the EPA Project Officer) prior to submitting the quarterly performance report (see Section III.E. below).

3. Because the workplan and budget for this agreement include subawards, the CAR is a pass-through entity under the “Establishing and Managing Subaward” General Term and Condition of this agreement. As the pass-through entity, the CAR must report to EPA on its subaward monitoring activities under [2 CFR § 200.332\(d\)](#), including the following information on subawards as part of the CAR’s quarterly performance reporting:

- a. Summaries of results of reviews of financial and programmatic reports;
- b. Summaries of findings from site visits and/or desk reviews to ensure effective subrecipient performance;
- c. Environmental results the subrecipient achieved;
- d. Summaries of audit findings and related pass-through entity management decisions, if any; and
- e. Actions the pass-through entity has taken to correct any deficiencies such as those specified at [2 CFR § 200.332\(e\)](#), [2 CFR § 200.208](#), [Specific conditions](#), and [2 CFR § 200.339, Remedies for Noncompliance](#).

4. The CAR must maintain records that will enable it to report to EPA on the amount of funds disbursed by the CAR to assess the specific properties under this cooperative agreement.

5. In accordance with 2 CFR § 200.329(e)(1), 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 EPA-approved workplan.

E. Property Profile Submission

1. The CAR must report on interim progress (e.g., assessments started, reuse planning activities started) and any final accomplishments (e.g., assessments completed, clean up required, contaminants found, institutional controls required, engineering controls required) by completing and

submitting relevant portions of the electronic Property Profile Form using the 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. The CAR must enter any new data into ACRES prior to submitting the quarterly performance report to the EPA Project Officer. The CAR must utilize the electronic version of the Property Profile Form in ACRES unless approval is obtained from the EPA Project Officer to use the hardcopy version of the Property Profile Form or its use is included in the approved workplan.

F. Final Cooperative Agreement Performance Report with Environmental Results

1. In accordance with EPA regulations 2 CFR Parts 200 and 1500 (specifically, § 200.329, *Monitoring and Reporting Program Performance* and 2 CFR § 200.344(a), *Closeout*), the CAR agrees to submit to the EPA Project Officer within 120 days after the expiration or termination of the approved project period a final performance report on the cooperative agreement via email; unless the EPA Project Officer agrees to accept a paper copy of the report. The final performance report shall document and summarize the elements listed in Section III.D.2., as appropriate, for activities that occurred over the entire project period.

IV. FINANCIAL ADMINISTRATION REQUIREMENTS

A. Eligible Uses of the Funds for the Cooperative Agreement Recipient

1. To the extent allowable under the EPA-approved workplan, cooperative agreement funds may be used for eligible programmatic expenses to inventory, characterize, assess sites; conduct site-specific planning, general brownfield-related planning activities around one or more brownfield sites; conduct outreach and community engagement; and for reasonable participant support costs associated with one community liaison per target area identified in the selected FY23 application. Eligible programmatic expenses include activities described in Section V. of these Terms and Conditions. In addition, eligible programmatic expenses may include:

- a. Determining whether assessment activities at a particular site are authorized by CERCLA § 104(k).
- b. Ensuring that an assessment complies with applicable requirements under federal and

state laws, as required by CERCLA § 104(k).

- c. Preparing and updating an Analysis of Brownfield Cleanup Alternatives (ABCA) which will include information about the site and contamination issues, cleanup standards, applicable laws, alternatives considered, and the proposed cleanup.
- d. Preparing a Community Involvement Plan which includes reasonable notice, opportunity for public involvement and comment on the proposed cleanup, and response to comments.
- e. Developing a Quality Assurance Project Plan (QAPP) as required by 2 CFR § 1500.12. The specific requirement for a QAPP is outlined in *Implementation of Quality Assurance Requirements for Organizations Receiving EPA Financial Assistance* available at <https://www.epa.gov/grants/implementation-quality-assurance-requirements-organizations-receiving-epa-financial>.
- f. Using a portion of the cooperative agreement funds to purchase environmental insurance for the characterization or assessment of the site. [Funds shall not be used to purchase insurance intended to provide coverage for any of the ineligible uses under Section IV., *Ineligible Uses of the Funds for the Cooperative Agreement Recipient*.]
- g. Any other eligible programmatic costs, including direct costs incurred by the recipient in reporting to EPA; procuring and managing contracts; awarding, monitoring, and managing subawards to the extent required to comply with 2 CFR § 200.332 and the “Establishing and Managing Subawards” General Term and Condition; and carrying out community engagement pertaining to the assessment activities.

2. Local Governments Only – If authorized in the EPA-approved workplan and budget narrative, up to 10% of the funds awarded by this agreement may be used by the CAR itself as a programmatic cost for Brownfield Program development and implementation of monitoring health conditions and institutional controls. The health monitoring activities must be associated with brownfield sites at which at least a Phase II environmental site assessment is conducted and is contaminated with hazardous substances. The CAR must maintain records on funds that will be used to carry out this task to ensure compliance with this requirement.

3. Under CERCLA § 104(k)(5)(E), CARs and subrecipients may use up to 5% of the amount of federal funding for this cooperative agreement for administrative costs, including indirect costs under 2 CFR § 200.414. The limit on administrative costs for the CAR under this agreement is **\$50,000**. The total amount of indirect costs and any direct costs for cooperative agreement administration by the CAR paid for by EPA under the cooperative agreement shall not exceed this amount. Subrecipients may use up to 5% of the amount of Federal funds in their subawards for administrative costs. As required by 2 CFR § 200.403(d), the CAR and subrecipients must classify administrative costs as direct or indirect consistently and shall not classify the same types of costs in both categories. The term “administrative costs” does not include:

- a. Investigation and identification of the extent of contamination of a brownfield site;
- b. design and performance of a response action; or
- c. monitoring of a natural resource.

Eligible cooperative agreement and subaward administrative costs subject to the 5% limitation include direct costs for:

- a. Costs incurred to comply with the following provisions of the *Uniform Administrative Requirements for Cost Principles and Audit Requirements for Federal Awards* at 2 CFR Parts 200 and 1500 other than those identified as programmatic.
 - i. Record-keeping associated with equipment purchases required under 2 CFR § 200.313;
 - ii. Preparing revisions and changes in the budgets, scopes of work, program plans and other activities required under 2 CFR § 200.308;
 - iii. Maintaining and operating financial management systems required under 2 CFR § 200.302;
 - iv. Preparing payment requests and handling payments under 2 CFR § 200.305;

- v. Financial reporting under 2 CFR § 200.328;
 - vi. Non-federal audits required under 2 CFR Part 200, Subpart F; and
 - vii. Closeout under 2 CFR § 200.344 with the exception of preparing the recipient's final performance report. Costs for preparing this report are programmatic and are not subject to the 5% limitation on direct administrative costs.
- b. Pre-award costs for preparation of the proposal and application for this cooperative agreement (including the final workplan) or applications for subawards are not allowable as direct costs but may be included in the CAR's or subrecipient's indirect cost pool to the extent authorized by 2 CFR § 200.460.

4. If authorized in the EPA approved scope of work and budget narrative, the CAR may use a portion of the Assessment Grant for eligible participant support costs associated with one community liaison per target area who is not an employee of the CAR or the CAR's contractor(s) or subrecipient(s). Additional target areas cannot be added to the project for the purpose of using participant support costs to fund additional community liaisons. Eligible participant support costs may include reasonable stipends to compensate an individual community member's time and travel costs for participating in project-related meetings (e.g., meetings with the community, meetings held by a brownfields advisory board, etc.) and time associated with other specific tasks that are directly tied to related community engagement efforts. Stipends may only be paid for actual time spent working on tasks associated with the project and must not duplicate support provided through other Federal, state, tribal, or local programs.

A CAR that uses participant support costs must follow the process described in their EPA-approved workplan (or in a separate process approved by EPA post-award) for determining the amounts of allowable stipend(s), procedures for accounting for participant support cost payments (including receipts), and documenting that the costs are allowable and do not duplicate other support for the individual(s). Additional information on these requirements for the use of participant support costs is available in [EPA's Guidance on Participant Support Costs](#).

B. Ineligible Uses of the Funds for the Cooperative Agreement Recipient

1. Cooperative agreement funds shall not be used by the CAR for any of the following activities:
 - a. Cleanup activities;
 - b. Site development activities that are not brownfield site assessment activities (e.g., marketing of property (activities or products created specifically to attract buyers or investors) or construction of a new facility);
 - c. General community visioning, area-wide zoning updates, design guideline development, master planning, green infrastructure, infrastructure service delivery, and city-wide or comprehensive planning/plan updates – these activities are all ineligible uses of grant funds if unrelated to advancing cleanup and reuse of brownfield sites or sites to be assessed. Note: for these types of activities to be an eligible use of grant funds, there must be a specific nexus between the activity and how it will help further cleanup and reuse of the priority brownfield site(s). This nexus must be clearly described in the workplan for the project;
 - d. Job training activities unrelated to performing a specific assessment at a site covered by the cooperative agreement;
 - e. To pay for a penalty or fine;
 - f. To pay a federal cost share requirement (e.g., a cost share required by another federal grant) unless there is specific statutory authority;
 - g. To pay for a response cost at a brownfield site for which the CAR or subaward recipient 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 assessment; and
 - i. Unallowable costs (e.g., lobbying and purchases of alcoholic beverages) under 2 CFR Part 200, Subpart E.

2. Cooperative agreement funds shall 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, and 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 for land held in trust by the United States government for an Indian tribe;
or
- d. A site excluded from the definition of a brownfield site for which EPA has not made a property-specific funding determination.

V. ASSESSMENT REQUIREMENTS

A. Authorized Assessment Activities

1. Prior to conducting or engaging in any on-site activity with the potential to impact historic properties (such as invasive sampling), the CAR shall consult with the EPA Project Officer regarding potential applicability of the National Historic Preservation Act (NHPA) (16 USC § 470) and, if applicable, shall assist EPA in complying with any requirements of the NHPA and implementing regulations.
2. If funds from this cooperative agreement are used to prepare an Analysis of Brownfield Cleanup Alternatives (ABCA), or equivalent state Brownfields program document, the CAR must 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, ability to implement, and the cost of the response proposed. The evaluation of alternatives must also consider the resilience of the remedial options to address potential adverse impacts caused by extreme weather events (e.g.,

sea level rise, increased frequency and intensity of flooding, 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 of, 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 cleanup method chosen must be based on this analysis.

B. Quality Assurance (QA) Requirements

1. When environmental data are collected as part of the brownfield assessment, the CAR shall comply with 2 CFR § 1500.12 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. Recipients implementing environmental programs within the scope of the assistance agreement must submit to the EPA Project Officer an approvable Quality Assurance Project Plan (QAPP) at least 30 days prior to the initiating of data collection or data compilation. The Quality Assurance Project Plan (QAPP) is the document that provides comprehensive details about the quality assurance, quality control, and technical activities that must be implemented to ensure that project objectives are met. Environmental programs include direct measurements or data generation, environmental modeling, compilation of data from literature or electronic media, and data supporting the design, construction, and operation of environmental technology.

The QAPP should be prepared in accordance with [EPA QA/R-5: EPA Requirements for Quality Assurance Project Plans](#). No environmental data collection or data compilation may occur until the QAPP is approved by the EPA Project Officer and Quality Assurance Regional Manager. Additional information on the requirements can be found at the EPA Office of Grants and Debarment website at <https://www.epa.gov/grants/implementation-quality-assurance-requirements-organizations-receiving-epa-financial>.

3. The recipient shall notify the EPA Project Officer and the EPA Quality Assurance Manager or designee (hereafter referred to as QAM) when substantive changes are needed to the QAPP. EPA may require the QAPP be updated and re-submitted for approval.
4. The recipient must review their approved QAPP at least annually. The results of the QAPP review

and any revisions must be submitted to the EPA Project Officer and the QAM at least annually and may also be submitted when changes occur (the QAM or EPA Project Officer may add additional specifications).

5. The recipient must submit a QAPP Checklist with the QAPP. The QAPP Checklist can be found online at: <https://www.epa.gov/brownfields/region-4-quality-assurance-project-plan-qapp-tool-box>.

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.

C. Public Awareness

1. The CAR agrees to clearly reference EPA investments in the project during all phases of community outreach outlined in the EPA-approved workplan which may include the development of any post-project summary or success materials that highlight achievements to which this project contributed.

a. If any documents, fact sheets, and/or web materials are developed as part of this cooperative agreement, then they shall comply with the *Acknowledgement Requirements for Non-ORD Assistance Agreements* in the General Terms and Conditions of this agreement.

b. If the EPA logo is displayed along with logos from other participating entities on websites, outreach materials, or reports, it must **not** be prominently displayed to imply that any of the recipient or subrecipient's activities are being conducted by the EPA. Instead, the EPA logo should be accompanied with a statement indicating that the Memphis and Shelby County Coalition CRA received financial support from the EPA under an Assistance Agreement per the term and condition described in Section V.C.1.a. above. More information is available at <https://www.epa.gov/stylebook/using-epa-seal-and-logo>.

c. Investing in America Emblem: The recipient will ensure that a sign is placed at construction sites supported in whole or in part by this award displaying the official Investing in America emblem and must identify the project as a “project funded by President Biden’s Bipartisan Infrastructure Law.” The sign must be placed at construction sites in an easily visible location that can be directly linked to the work taking place and must be maintained in good condition throughout the construction period.

The recipient will ensure compliance with the guidelines and design specifications provided by EPA for using the official Investing in America emblem available at <https://www.epa.gov/invest/investing-america-signage>.

d. Procuring Signs: Consistent with section 6002 of RCRA, 42 U.S.C. 6962, and 2 CFR 200.323, recipients are encouraged to use recycled or recovered materials when procuring signs. Signage costs are considered an allowable cost under this assistance agreement provided that the costs associated with signage are reasonable. Additionally, to increase public awareness of projects serving communities where English is not the predominant language, recipients are encouraged to translate the language on signs (excluding the official Investing in America emblem or EPA logo or seal) into the appropriate non-English language(s). The costs of such translation are allowable, provided the costs are reasonable.

2. The CAR agrees to notify the EPA Project Officer listed in this award document of public or media events publicizing the accomplishment of significant events related to construction and/or site reuse projects as a result of this agreement, and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days’ notice.

3. To increase public awareness of projects serving communities where English is not the predominant language, CARs are encouraged to include in their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable.

4. All public awareness activities conducted with EPA funding are subject to the provisions in the General Terms and Conditions on compliance with section 504 of the Americans with Disabilities Act.

D. All Appropriate Inquiry

1. As required by CERCLA § 104(k)(2)(B)(ii) and CERCLA § 101(35)(B), the CAR shall ensure that a Phase I site characterization and assessment carried out under this agreement will be performed in accordance with EPA's all appropriate inquiries regulation (AAI). The CAR shall utilize the practices in ASTM standard E1527-21 "*Standard Practices for Environmental Site Assessment: Phase I Environmental Site Assessment Process*" (or the latest recognized ASTM standard at the time the assessment is performed), or EPA's All Appropriate Inquiries Final Rule (40 CFR Part 312). A suggested outline for an AAI final report is provided in "*All Appropriate Inquiries Rule: Reporting Requirements and Suggestions on Report Content*" (Publication Number: EPA 560-F-23-004 (or the latest available publication)). This does not preclude the use of cooperative agreement funds for additional site characterization and assessment activities that may be necessary to characterize the environmental impacts at the site or to comply with applicable state standards.

2. AAI final reports produced with funding from this agreement must comply with 40 CFR Part 312 and must, at a minimum, include the information below. All AAI reports submitted to the EPA Project Officer as deliverables under this agreement must be accompanied by a completed "*All Appropriate Inquiries: Reporting Requirements Checklist for Assessment Grant Recipients*" (Publication Number: EPA 560-F-23-017 (or the latest available publication)) that the EPA Project Officer will provide to the recipient. The checklist is available to CARs on EPA's website at <https://www.epa.gov/brownfields/all-appropriate-inquiries-reporting-requirements-checklist-assessment-grant-recipients>. The completed checklist must include:

- a. An **opinion** as to whether the inquiry has identified conditions indicative of releases or threatened releases of hazardous substances, and as applicable, pollutants and contaminants, petroleum or petroleum products, or controlled substances, on, at, in, or to the subject property.
- b. An identification of "**significant**" **data gaps** (as defined in 40 CFR § 312.10), if any, in the information collected for the inquiry. Significant data gaps include missing or unattainable information that affects the ability of the environmental professional to identify conditions indicative of releases or threatened releases of hazardous substances, and as applicable, pollutants and contaminants, petroleum or petroleum products, or controlled substances, on, at, in, or to the subject property. The documentation of significant data gaps must include information regarding the significance of these data gaps.
- c. **Qualifications and signature** of the environmental professional(s). The environmental professional must place the following statements in the document and sign the document:

“[I, We] declare that, to the best of [my, our] professional knowledge and belief, [I, we] meet the definition of Environmental Professional as defined in 40 CFR § 312.10 of this part.”

“[I, We] have the specific qualifications based on education, training, and experience to assess a property of the nature, history, and setting of the subject property. [I, We] have developed and performed the all appropriate inquiries in conformance with the standards and practices set forth in 40 CFR Part 312.”

Note: Please use either “I/my” or “We/our.”

d. In compliance with 40 CFR § 312.31(b), the environmental professional must include in the final report an ***opinion regarding additional appropriate investigation***, if the environmental professional has such an opinion.

3. EPA may review checklists and AAI final reports for compliance with the AAI regulation documentation requirements at 40 CFR Part 312 (or comparable requirements for those using ASTM Standard 1527-21 or the latest recognized ASTM standard at the time the assessment is performed). Any deficiencies identified during an EPA review of these documents must be corrected by the recipient within 30 days of notification. Failure to correct any identified deficiencies may result in EPA disallowing the costs for the entire AAI report as authorized by 2 CFR § 200.339. If a recipient willfully fails to correct the deficiencies EPA may consider other available remedies under 2 CFR § 200.339 and 2 CFR § 200.340.

E. Completion of Assessment Activities

1. The CAR shall properly document the completion of all activities described in the EPA- approved workplan. 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 assessments are complete.

F. Inclusion of Additional Terms and Conditions

1. In accordance with 2 CFR § 200.334, the CAR shall maintain records pertaining to the cooperative agreement for a minimum of three (3) years following submission of the final financial report unless one or more of the conditions described in the regulation applies. The CAR shall provide access to records relating to assessments supported with Assessment cooperative agreement funds to

authorized representatives of the Federal government as required by 2 CFR § 200.337.

2. The CAR has an ongoing obligation to advise EPA if it assessed any penalties resulting from environmental non-compliance at sites subject to this agreement.

VI. PAYMENT AND CLOSEOUT

For the purposes of these Terms and Conditions, the following definitions apply: “payment” is EPA’s transfer of funds to the CAR; “closeout” refers to the process EPA follows to ensure that all administrative actions and work required under the cooperative agreement have been completed.

A. Payment Schedule

1. The CAR may request advance payment from EPA pursuant to 2 CFR § 200.305(b)(1) and the prompt disbursement requirements of the General Terms and Conditions of this agreement.

This requirement does not apply to states which are subject to 2 CFR § 200.305(a).

B. Schedule for Closeout

1. Closeout will be conducted in accordance with 2 CFR § 200.344. EPA will close out the award when it determines that all applicable administrative actions and all required work under the cooperative agreement have been completed.

2. The CAR, within 120 days after the expiration or termination of the cooperative agreement, must

submit all financial, performance, and other reports required as a condition of the cooperative agreement.

a. The CAR must submit the following documentation:

i. The Final Cooperative Agreement Performance Report as described in Section III.F. of these Terms and Conditions.

ii. Administrative and Financial Reports as described in the General Terms and Conditions of this agreement.

b. The CAR must ensure that all appropriate data have been entered into ACRES or all hardcopy Property Profile Forms are submitted to the EPA Project Officer.

c. As required by 2 CFR § 200.344, the CAR must immediately refund to EPA any balance of unobligated (unencumbered) advanced cash or accrued program income that is not authorized to be retained for use on other cooperative agreements.

[1] When EPA uses the term “underserved communities” it has the meaning defined in Executive Order 13985: *Advancing Racial Equity And Support For Underserved Communities Through The Federal Government*, which defines “underserved communities” as “populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life....”. As described in the Executive Order, “underserved communities” may include communities denied the consistent, fair, just, and impartial treatment of all individuals such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality. It also includes “communities environmentally overburdened,” that is, a community adversely and disproportionately affected by environmental and human health harms or risks, and “disadvantaged, communities” as referenced in Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*, and defined in Office of Management and Budget’s Memo M-21-28: Interim Implementation Guidance for the Justice40 Initiative.

[2] Per EPA’s General Term and Condition, the CAR must obtain prior approval from the EPA Grants Management Officer or Award Official for cumulative transfers of funds in excess of 10% of the total budget.