

**City of Rochester, New York
Department of Environmental Services
Division of Environmental Quality**

Request for Proposal

**Environmental Remediation & Cleanup Project
937-941 Genesee Street
Rochester, New York**

May 2014

The City of Rochester (City) Division of Environmental Quality (DEQ) invites you to submit a proposal to provide professional engineering and environmental remediation services for a City-owned brownfield property located at 937-941 Genesee Street, Rochester, New York (hereinafter referred to as the “Project”). A Site Location Map is included in Attachment 1 of this Request for Proposal (RFP).

Two hard copies and two electronic copies (PDF file format on CD-R) of your proposal must be delivered to the City of Rochester Division of Environmental Quality, c/o Joseph Biondolillo, Sr. Environmental Specialist, Room 300B, 30 Church Street, Rochester New York 14614 by 2:00 PM on June 30, 2014 in order to be considered eligible for selection.

1.2 Project Overview

The Project is being performed as part of the City of Rochester’s (City’s) Brownfield Cleanup Grant from the United States Environmental Protection Agency (EPA), and will be funded by the EPA and by the City. Site activities eligible for EPA cleanup grant funding generally includes remedial planning and work plan development, remedial measures and cleanup activities, restoration, performance monitoring, reports, documentation, and community involvement. The Project activities and selected Consultant are subject to the conditions in the EPA Brownfield Assessment Cooperative Agreement Administrative Conditions, a copy of which is provided in Attachment 2 of this RFP. The selected Consultant shall enter into a Professional Services Agreement (PSA) conditioned on City Council authorization. Assume the City will enter into a Stipulation Agreement with the NYSDEC for the Project. Assume that work plans, fieldwork, and reporting will be completed under the oversight of the Petroleum Spill Division of the New York State Department of Environmental Conservation (NYSDEC) Region 8. In general the NYSDEC will be responsible for review and approval of Project-related plans and reports, and separate EPA approvals are not anticipated. While an EPA mandated Quality Assurance Project Plan (QAPP) will be required for the Project, the QAPP will be part of the Corrective Action Plan and reviewed and approved by the NYSDEC.

1.2 Background

The Site consists of a 0.25± acre parcel located at 937-941 (aka 937) Genesee Street and is owned by the City (Refer to Site Location Map in Attachment 1). The Site is currently vacant and does not contain any structures or buildings. The Site does contain masonry floor slabs and foundation systems which were not removed during demolition, and two small asphalt paved areas are present on the north and eastern portions of the Site. The Site is zoned Brooks Landing Urban Renewal District (BROOKS LAN). Currently, commercial and residential parcels surround the subject property. Former commercial or industrial uses of the Site include auto repair, laundry and dry cleaning.

1.2 Previous Environmental Studies

A Phase I Environmental Site Assessment (ESA) dated September 2012 was conducted at the Site. The 2012 Phase I ESA was prepared by Stantec Consulting Services Inc. (Stantec)) on behalf of the City. Previously Stantec completed a limited Phase II ESA in 2011 and a Supplemental Phase II ESA in 2012 on behalf of the City. Consultants responding to this RFP are responsible for reviewing previous environmental reports. The 2012 Stantec Phase I ESA report identified the following recognized environmental conditions (RECs):

- 941 Genesee Street was historically used as an auto repair garage. The 1912 Sanborn map showed an auto repair shop with a detached garage on the 941 Genesee Street parcel. A permit was issued in 1938 and maintained through 1941 for a 550-gallon gasoline tank and pump, which were listed as removed in 1943. The 1918 and 1926 Plat maps showed a stone building labeled “Garage” on 941 Genesee Street, and in 1935 it was labeled “General Motor Service”. Given the potential for releases, these former auto repair uses and the former presence of a gasoline tank and pump are considered to be RECs.
- 941 Genesee Street was listed as Riverside Dry Cleaners from 1947 through 1972 and United Dry Cleaners from 1977 through 2003. The 1950 and 1971 Sanborn maps showed a dry cleaning building with a pressing section, a cleaning section, and a boiler room on the 941 Genesee Street parcel. A Permit for the Storage and Sale of Explosives and Combustibles issued by the Department Of Public Safety permit was issued to Riverside Dry Cleaners in 1947 and maintained through 1961 for 250-gallon “solvent” tank; however the permit does not specify if the solvent tank was an aboveground or below ground storage tank or specify the type of solvent (e.g., Stoddard solvent or PCE). Given the potential for releases, these former dry cleaning uses and the former presence of a solvent tank are considered to be RECs.
- Per City Department of Environmental Services (DES) discussions with other City staff who were involved in the demolition of the former Site buildings in 2009, a partially buried 55-gallon drum that was filled with stone, had no bottom and was buried in the floor at the rear of the building. This was suspected to have been a dry well structure. This area is considered to be an REC and was investigated as part of a July 2011 Phase II program performed by Stantec on the subject property.

- An approximate three foot diameter manhole is located in the western portion of the foundation slab. Upon investigation during the July 2011 Phase II ESA, the manhole was found to have a solid bottom and did not appear to have an outlet. The manhole is considered to be an REC and a sediment sample was taken from the contents of the manhole as part of the July 2011 Phase II program performed on the subject property.
- The results of the July 2011 Phase II ESA performed by Stantec indicated the presence of volatile organic compound (VOC) impacts in sediment, soil, and groundwater. VOC concentrations in soil exceeded NYSDEC Part 375 and CP-51 soil cleanup objectives (SCOs) for unrestricted use in the sample near the manhole and the sediment sample taken from the manhole. Odors, considered to be nuisance characteristics, were observed in both soil and groundwater. The analysis also indicated that soil samples contained a mix of medium weight petroleum hydrocarbon (e.g. diesel fuel), medium weight kerosene, heavy weight lube oil, and light weight mineral spirits. The sediment sample from the manhole contained medium weight kerosene and heavy weight lube oil. The lab's mineral spirits standard is a mixture of the several very similar petroleum products, one of which is Stoddard solvent. Although further distinction was not possible, Stantec concluded from the analytical results that one of the sources of the aromatic VOCs detected in the site samples is likely to have been a release of Stoddard solvent from the former dry cleaning facility. Releases from the former auto repair shop are also likely to have affected the site. Exceedances of groundwater standards for VOCs were detected in two wells, and a slight exceedance for selenium was detected in a third well. The analysis indicated that the groundwater samples contained a mixture of medium weight kerosene and medium weight diesel. The greatest contaminant concentrations were reported in the area near the manhole in the building slab. Given the significantly lower impacts in the eastern location, it appeared that the contamination was focused on the rear (western) portion of the former building near the manhole and dry well. Given the evidence of releases to soil and groundwater, the results from the July 2011 Phase II ESA are considered to be an REC. It is understood that the July 2011 Phase II ESA has been presented to the NYSDEC and spill file No. 1206397 was created.

Stantec conducted a Supplemental Phase II Environmental Site Assessment (ESA) at 937 Genesee Street (the Site) between August 20, 2012 and August 29, 2012. The purpose of the Supplemental Phase II ESA was to further investigate potential contamination from historical dry cleaners and auto repair and to further characterize the on-site horizontal and vertical extent of impacted soil and groundwater identified in Stantec's July 2011 Phase II ESA. In an effort to evaluate the potential for off-site contaminant migration two angled overburden borings (one of which was converted to an overburden well which did not yield groundwater) and eight additional vertical overburden test borings were installed. Monitoring wells were installed in five of these borings to delineate the lateral extent of on-site impacts. One bedrock well was also installed to evaluate the vertical extent of petroleum and VOC impacts. Soil and groundwater samples were collected and analyzed and the results indicate two separate areas of the Site have been impacted by petroleum releases. The lateral extent of petroleum impacts in these two areas was generally delineated. The western most impacted area is centered on B-3/MW-3 and B-6/MW-6 near the manhole and dry

well. The sources of the contamination in the western area appears to have been the past use of the site as a dry cleaner and auto repair facility including potential releases associated with the manhole and former drywell. The eastern most impacted area is centered on B-14/MW-14 and the contamination in this area may have resulted from a release associated with the on-site sewer, contamination related to the former on-site 550-gallon gasoline tank and pump, or less likely the 250-gallon solvent tank. Refer to the Stantec Phase II ESA reports for additional details.

1.3 Proposed Future Use of Site

After completing the remediation project and obtaining a No Further Action Letter and closure of the NYSDEC spill file for the Site, the City intends to sell the Site for subsequent private development. Detailed development plans for the Site have not been developed. However, potential uses of the Site should be consistent with the Brooks Landing Urban Renewal District, and may include a combination of commercial, multi-family residential or mixed-use development with parking areas.

2.0 Analysis of Brownfields Cleanup Alternatives (ABCA)

A draft Analysis of Brownfields Cleanup Alternatives (ABCA) has already been prepared by Stantec for the Project. The ABCA discussed and evaluates site characteristics, surrounding environment, land use restrictions, potential future uses, and cleanup goals for both soil and groundwater. The draft ABCA report includes:

- Information about characteristics of the Site and contamination issues (i.e., identification of type and extent of contaminants, current and future receptors and exposure pathways, sources of contamination, applicable or relevant and appropriate laws or standards, etc.);
- Information and analysis of cleanup alternatives considered for the site, including “no-action” as an alternative;
- Information about the alternatives considered including a range of proven soil and groundwater cleanup methods, presumptive remedies, the proposed cleanup (effectiveness, implementability, and the cost of the cleanup alternatives);
- Assess whether land use controls including environmental engineering controls (e.g., fencing, sub-slab vapor mitigation systems for future buildings etc.) or institutional controls will be required.

As part of this Project, the Consultant shall be responsible for making any revisions to the draft ABCA to ensure that the ABCA is consistent with City and the Consultants proposed scope of remedial work. Once revised, the City will then make the revised draft ABCA available for review and public comment. The comment period will be thirty (30) days or more from the date of the notice announcing the availability of the document for public review. The Consultant will

be responsible for addressing or otherwise responding to the public comments and revising the ABCA report as necessary.

3.0 Citizen Involvement Plan (CIP) & Community Outreach

The City will develop a Citizen Involvement Plan (CIP). The Consultant will be required to review the draft CIP and assist the City with the implementation of the CIP, including notifications to the public, and attending public meetings to present and discuss the proposed Project with adjacent property owners, community groups, and other stakeholders. Other tasks include:

- Developing and distributing a cleanup newsletter to notify the local community surrounding the Site on how they will be kept informed about proposed cleanup project (assume 2 newsletters);
- The City will establish a local information repository near the Site that includes the USEPA Administrative Record and other public information and reports and will be responsible for posting the same public information on the City's website. The Consultant shall be responsible for placing providing electronic copies of all reports and other documents to the City, and for placing hard copies of all reports and other documents in the document repository.
- Providing an updated draft "Analysis of Brownfields Cleanup Alternatives" (ABCA), for review and public comments. The comment period will be thirty (30) days or more from the date of the notice announcing the availability of the document for public review;
- Addressing or otherwise responding to the public comments;

4.0 REMEDIAL PROJECT GOALS AND OBJECTIVES

A primary Project objective is to conduct a remedial program which will include a source removal program which meets NYSDEC regulatory requirements for cleanup and be are protective of human health and the environment. The Project will include the development and implementation of a Corrective Action Plan (CAP) with a primary goal to remediate volatile organic compounds, semi-VOCs, and total petroleum hydrocarbons present in on-site soil and groundwater due to historical releases of petroleum products. Since generator knowledge of specific raw products and wastes are not known, the contamination at the Site is not considered by the City to be a listed hazardous waste. However, certain waste streams generated as part of this Project will be analyzed to determine if they meet the criteria for a characteristic hazardous waste.

The remedial measures proposed must be consistent NYSDEC DER-10-, CP-51 and applicable USEPA requirements, and must also be consistent with the proposed future use of the Site. The scope of the cleanup need to be tailored to a Site-specific redevelopment plan if one is identified by the City during the course of the Project. Goals and objective of the Project include, but are not limited to:

- Complete a source removal program to remove grossly contaminated soil and other media that exceeds applicable NYSDEC soil cleanup objectives.

- Complete a source removal and other supplemental remedial measures to remediate groundwater contamination to meet groundwater standards or guidance values and to eliminate or significantly reduce the potential for contamination to leach to groundwater.
- Complete remedial measures to assist the City in obtaining a No Further Action Letter and closure of the NYSDEC spill file for the Site.
- Complete remedial measures to minimize residual contamination left in place after remediation such that the residual contamination does not present a technical or financial redevelopment penalty for future owners, tenants or developers of the Site.

As part of the Project, the Consultant will prepare a CAP detailing the remedial measures required to remediate the sources of petroleum-impacted soil, fill materials at the Site, and complete post-remediation groundwater monitoring to evaluate groundwater quality. Assume that the Consultant will be responsible for conducting one year of quarterly post-remediation groundwater monitoring for VOCs, Semi-VOCs, and TICs. After one year of quarterly groundwater monitoring, assume the City will be responsible for conducting additional groundwater monitoring events.

In addition to the general Project goals and objectives, the Project also has several specific objectives and tasks. Listed below are some of the primary objectives. The items listed below are not intended to be a complete list of tasks, and the Consultant will be directly responsible completing all aspects of the Project. For each of the objectives listed below, your proposal should provide a discussion of the major assumptions and specific tasks your firm proposes to complete in order to accomplish the Project goals and objectives.

5.0 Corrective Action Plan (CAP) and Source Removal Program

It is recommended that the Consultants utilize the existing site investigation data and information regarding Site conditions in an effort to develop an efficient and cost-effective CAP. However, if additional design-phase investigation is recommended to assist with the selection of remedial measures, include the approximate scope and cost in your proposal. However, please note that these costs are not eligible for reimbursement under the cleanup grant with EPA, and must be funded solely by the City. Details regarding CAP scope requirements are provided below in an effort to allow the Consultants to better prepare a proposal which meets the Project objectives.

The CAP must include a description of all remedial measures and corrective actions recommended to address the sources of petroleum and VOC contamination. The CAP must include a calculation of the estimated volume of petroleum-contaminated soil and fill materials present that warrant remediation. For purposes of defining the basic elements of the proposed CAP source removal program, the following information is provided regarding the two Remedial Areas of Concern (RAOC) and the partial demolition of the building slab and foundation which are subject to this RFP. Please note the information provided below is preliminary in nature, and your firm is

responsible for defining the actual scope of remedial work to be preformed, including specifying quantities of all waste streams and backfill materials in your proposal.

5.1 RAOC#1

RAOC#1 is located on the western rear portion of the Site and former building in the vicinity of the former dry cleaning operations. RAOC#1 is centered on test boring/well B-3/MW-3 and B-6/MW-6 and near the manhole and dry well. Within RAOC 1, soil with VOC impacts, elevated PID readings and odors has been reported between approximately 2 and 15 ft. below ground surface (bgs). Impacted groundwater in RAOC#1 at a depth of approximately 8.5 ft. bgs contained aromatic VOCs that exceed groundwater standards. Soil from an approximate 1,000 sq. ft. area to an estimated depth of approximately 15 ft bgs may be impacted, totaling an estimated 555 cubic yards (CY) or approximately 916 tons of soil which is anticipated to be excavated and disposed off-site as a permitted landfill. Additional clean soil will be excavated as a result of needing to safely slope the excavation sidewalls, and this material will need to be excavated and staged on-site for subsequent use as backfill. An area of asphalt from the parking area immediately north of RAOC#1 will need to be removed and disposed of offsite as well as part of the concrete slab over RAOC#1. Assume some groundwater dewatering will be required during excavation, and that some limited in-situ groundwater treatment of residual petroleum and VOC impacted groundwater will be performed while the excavations are open utilizing an oxygen release compound or similar products that promote in-situ bioremediation. The excavation will need to be backfilled with imported clean soil and compacted in one foot lifts. Assume RAOC#1 will be restored at the surface with crusher run or similar stone that is rolled or compacted in place. This portion of the Site will be used for temporary parking after completion of the Project until the point in time the Site is sold for redevelopment.

Task 5.2 RAOC#2

RAOC#2 is located on the eastern portion of the Site adjacent to Genesee Street. Within RAO# 2, soil with VOC impacts, elevated PID readings and odors are documented between approximately 4 and 16 ft. bgs. Impacted groundwater was also documented in RAOC#2 beginning at a depth of approximate 10.7 ft. bgs. Soil from an approximate 375 sq. ft. area to an estimated depth of 15 ft bgs, totaling an estimated 208 CY or approximately 343 tons of soil, is anticipated to be excavated and disposed off-site as a permitted landfill. Additional clean soil will have to be excavated as a result of needing to slope excavation sidewalls, and this material will be staged on-site for subsequent use as backfill. An area of asphalt from the paved area in RAOC#2 will need to be removed and disposed of offsite. Assume some groundwater dewatering will be required during excavation, and that some limited in-situ groundwater treatment of residual petroleum and VOC impacted groundwater will be performed while the excavations are open utilizing an oxygen release compound or similar products that promote in-situ bioremediation. The excavation will need to be backfilled with imported clean soil and compacted in one foot lifts, and RAOC#2 will be restored at the surface with two or more inches of top soil and hydroseeded.

5.3 RAOC#3

Within RAO3, one soil sample collected from 0-2 ft. bgs contained one semi-VOC (indeno(1,2,3-cd)pyrene) at 0.51 mg/kg that exceeded the NYSDEC CP-51 and Part 375 Restricted-Residential SCO for this semi-VOC (0.5 mg/kg). This sample was collected from test boring B-19 which is located at the interface of the former building and paved parking area on the northwestern portion of the site. It appears possible that this semi-VOC may be related to historic urban fill or constituents used in the manufacture of asphalt. As a result, in contrast with the draft ABCA, the City does not recommend that excavation and off-site disposal of soil impacted with low concentrations of semi-VOCs or metals which are not associated with the petroleum impacted soils present in RAO#1 and RAO#2. In recognition that some residual soil and/or groundwater contamination that may remain in place at the Site after completion of the source removal program, an Environmental Management Plan (EMP) will be developed which will provide guidance for performing monitoring, testing, characterization and management of metals, VOC, semi-VOC, and petroleum-contaminated soil, fill, and groundwater that may be encountered at the Site during future construction or redevelopment.

5.4 Demolition

The Site currently contains the floor slab and foundation system associated the former building that was demolished by the City in 2009. The total floor slab is approximately 4,200 square feet (105 ft. x 40 ft.) and estimated to be approximately 10 inches thick. As part of this task, the Consultant will retain a contractor to demolish, remove and dispose of off-site the remaining floor slabs and associated footers which were not already removed as part of RAO#1 or RAO#2. Footers present on the northern and eastern portion of the former building should be readily accessible for removal; however, footers present on the southern portion and possibly the western portion of the former building may need to remain in place due to potential for damage to adjacent properties and the off-site building located immediately south. If these footers cannot be completely removed, then assume the first two feet of footer will be removed below grade. This task will include the removal and disposal and/or recycling of shallow subsurface accessible on-site subsurface utilities and structures which are likely present beneath the building foundation such as floor drains, sumps, manholes and piping associated with the on-site drainage and sewer systems.

The Consultant shall be responsible for monitoring and evaluating the concrete slab, footers, and subsurface conditions beneath the floor slab and sub-grade utilities and structures for evidence of suspect VOC and petroleum contamination, and responsible for directing the segregation of any contaminated materials for subsequent characterization and disposal.

Please note that the subcontractor costs associated with the partial demolition may be funded by City Neighborhood and Development Department (NBD), and as such subcontractor costs to complete the demolition and disposal/recycling of construction and demolition debris waste stream should be clearly identified in your cost proposal. The cost for demolition will be included in the same professional services agreement between the City and the selected Consultant for this Project; however, the selected Consultant will be required to invoice the City for the subcontractor costs associated with demolition on a separate invoice.

5.5 General CAP Requirements

The CAP and all remedial work completed should conform to NYSDEC DER-10 requirements and guidelines. The CAP must also include drawings showing the proposed limits of contaminated removal, sidewall benching, proposed removal of any floor slabs, foundations, utilities, pavement, soil, fill materials or other media which may require special handling or disposal during the source removal phase of the Project. The CAP work plan must include a description of all proposed tasks, including mobilization, site preparation, waste characterization and profiling, remedial tasks and remedial measures, figures and drawings, equipment and construction specifications, and estimated material and equipment quantities. In your proposal provide a description of the source removal program to be implemented by the Consultant to address petroleum-contaminated soil and fill materials, and your proposed plan to address the management and disposal of petroleum-contaminated groundwater which encountered during the source removal. In your proposal, provide information on the proposed excavation plan you intend to implement taking into account that some contamination at depth may extent to the limits of the Site's property lines. As a result, the excavation plan should provide information regarding proposed methods to safely remove contamination at depth near property lines. Specify which existing monitoring wells will be decommissioned as part of the source removal. Include a Project Schedule with your proposal.

In your proposal, specify the criteria to be used to determine the extent of the source removal, and should be based in part on analytical results and PID readings, as well as the potential for petroleum-contaminated materials to create nuisance odors or result in vapor intrusion for on-site or off-site properties. Your proposal should include a brief discussion of your proposed confirmatory sampling program including comparison of confirmatory soil sampling results to CP-51 and applicable Part 375 SCOs. Your proposal must include information regarding backfilling and compaction specifications. If your proposal assumes the remediation of groundwater via oxygen release compounds or similar products, provide specific details in your proposal.

Your proposal must identify the estimated quantity and volume of all waste streams anticipated to be generated during the Project, including contaminated soil, fill, concrete, asphalt, other solid waste (manhole, drains, piping, etc.) and groundwater. All proposed disposal facilities must be identified. At this time, the Consultant should assume that petroleum-contaminated soil and fill materials excavated or disturbed during the source removal phase of the Project will not be treated on-site, and must be transported and disposed of at permitted off-site disposal facilities.

After completion of the source removal, your proposal should provide information regarding the installation of a monitoring well network at the Site to evaluate groundwater quality at the Site. Your proposal must identify the number of well to be decommissioned prior to initiating remediation or the partial demolition and also the number of new replacement monitoring wells and their proposed construction details.

For purposed of preparing your proposal, assume a community air monitoring plan (CAMP), a

dust and vapor suppression plan, and a health and safety plan (H&SP) will be prepared as part of the CAP. The Consultant must prepare a CAP which will be submitted to the City in draft for review. After the City's comments regarding the draft CAP have been addressed, the CAP must be submitted to the NYSDEC, the Monroe County Department of Health, and/or the New York State Department of Health (NYSDOH) for their review and comment. USEPA may request copies of the CAP and related documents. The Consultant will be responsible for addressing all regulatory agency comments, and assist the City in obtaining approval of the CAP in writing from the NYSDEC.

The Consultant will implement the CAP once it has been approved and provide comprehensive project oversight of all aspects and phases of the Project. The Consultant will be responsible for retaining and direct payment of costs incurred by all subcontractors, including contractors, laboratories, disposal facilities, etc. The Consultant is responsible for completing the work in a safe manner and properly securing the Site including the perimeter of all excavations.

6.0 Post-Source Removal Groundwater Monitoring

After completion of the source removal phase of the Project, the Consultant will be responsible for completing the first round of quarterly groundwater sampling at the Site. Future quarterly sampling events will be performed by the City. At a minimum, the groundwater analytical program should include the following parameters:

- VOCs and TICs
- Total Petroleum Hydrocarbons
- Dissolved Oxygen
- Oxygen Reduction Potential

In addition, each well must be monitored for the presence of light non-aqueous phase liquids (LNAPL) and static water level measurements must be obtained. Each well must be surveyed, and a groundwater potentiometric contour map must be generated for each groundwater monitoring event. All well and sample locations must be reported using US State Plain 1983 (New York Western Zone) coordinate system.

7.0 Remedial Construction / Closure Report

As part of the Project, the Consultant shall complete a remedial construction / closure report that includes a summary of all remedial work performed, field documentation, scaled drawings showing the actual limits of excavation(s), analytical sampling documentation, disposal documentation, and photographs of the work performed.

8.0 GIS Database

The Consultant will be responsible for creating a GIS spatial database of relevant previous environmental, infrastructure and historical information (e.g., former buildings, drains, manholes,

previous soil and groundwater sample locations, etc.) and supplement the database with new sample locations, monitoring wells, excavation footprints, confirmatory samples, and other data collected as part of the Project. All GIS data will be reported using US State Plain 1983 (New York Western Zone) coordinate system and transmitted to the City on a periodic basis.

9.0 Environmental Management Plan

Assuming that residual soil and/or groundwater contamination remains in place at the Site after completion of the source removal program, a separate environmental management plan (EMP) will be prepared by the Consultant, reviewed by the City, revised and submitted to the NYSDEC for review and comment. At a minimum the EMP must conform to NYSDEC Soil and Groundwater Management Plan Criteria.

10.0 USEPA ACRES Database

The Assessment, Cleanup and Redevelopment Exchange System (ACRES) is an USEPA online database for Brownfields Grantees to electronically submit data directly to EPA. ACRES allows Cooperative Agreement Recipients such as the City the ability to collaborate with our Consultants to enter the Property Profile Form (PPF) data for project sites. Instead of the City having to enter all PPF data, the City start a work package, enter the data which we have readily accessible, and then forward the work package to another ACRES user on the Project team to complete the outstanding fields in the database. Once your collaborators finish filling out the remaining data, the City review and submit the work package to our EPA Project Officer. As part of this task, the Consultant will login to ACRES, create an account, enter applicable information and then notify the City project manager. Consultants fee estimate should anticipate periodic updates to the ACRES database equivalent to approximately 1 hour per month for the duration of the Project terminating upon completion of the EMP.

12.0 Meetings

The following assumptions meetings should be built into the technical and fee estimate proposal for each site:

- Attendance at two neighborhood meetings
- Attendance at one coordination meetings with the NYSDEC
- Attendance at six coordination meetings with City DEQ

13.0 Technical Proposal - Requirements and Guidance

For purposes completing your proposal, assume that the NYSDEC will require the City to enter into a Stipulation Agreement for this project. The City does not anticipate requiring professional services from the selected consultant to complete of the Stipulation Agreement.

An environmental investigation documenting the subsurface conditions at the Site has already been completed. Consultants should utilize the existing information regarding Site conditions in an effort to develop an efficient and cost effective technical approach and proposal. Electronic copies of the Phase I ESA report, the Phase II ESA reports, and the draft ABCA are available on the City DEQ website.

You must identify the tasks that are proposed to meet each of the Project objectives. A brief description of the approach for each task must be included. Present the overall rationale for the scope of services that you are proposing to meet each objective. Identify aspects of your proposed scope of service and approach that may require extra negotiation with the NYSDEC as well as how your proposal will result in schedule, cost and data efficiencies. Laboratory analytical testing must be performed at a laboratory with current ELAP certification from the NYS Department of Health.

Include a project schedule for each site that indicates the length of time estimated to complete each project task identified in your proposal. The draft CAP must be ready for submission to the City within 60 business days from authorization to proceed, and remedial fieldwork activities are to be initiated within 30 business days of approval of the CAP by the NYSDEC

14.0 Project Deliverables

Assume that it will be necessary for you to prepare the following deliverables:

- Site profile forms required by EPA (submitted via EPA ACRES database)
- Draft and Final ABCA
- Draft and Final CAP, including a CAMP, H&SP, and a Quality Assurance Project Plan
- Draft and Final Remedial Construction / Closure Report
- Draft and Final Environmental Management
- Post-Source Removal Groundwater Sampling Report (one sampling event)
- GIS Database

15.0. Qualifications and Experience

Provide a description of your firm's experience with:

1. The number of environmental petroleum cleanup projects completed by your firm over the last three years in NYSDEC Region 8 which have resulted in the excavation of approximately 1,000 tons or more of petroleum-contaminated soil. Please specify how many of these cleanup projects have been completed in the City of Rochester, and specify the NYSDEC Region 8 project manager for each project.
2. The number of projects completed by your firm over the last three years utilizing in-situ groundwater remediation treatment systems, including but not limited to accelerated in-situ

biodegradation such as Regenesis Oxygen Release Compounds (ORC), or the Matrix Environmental Technologies' oxygen generation and injection system. Please specify how many of these projects have been completed in NYSDEC Region 8 and in the City of Rochester.

3. Your firm's experience with completing USEPA funded brownfield investigation or cleanup projects over the last ten years.

Include a project organization chart indicating the relationships of project team members, including proposed sub-consultants and subcontractors. The names of the proposed task leaders must be included with the technical proposal, and your proposal must identify what specific tasks the sub-consultants will perform. Resumes of individuals that will work directly on the project including, but not limited to, the Project Manager, Health and Safety Officer and all task leaders must be included. Documentation of required health and safety training for all site workers will be required in the HASP. Qualifications for proposed subconsultants and subcontractors must also be provided.

16.0 COST PROPOSAL

Include a separate fee section in your proposal. The fee is to be based on a cost plus fixed fee contract structure. Each fee proposal must include summary table indicating:

- (1) Direct and indirect labor expenses;
- (2) The proposed fixed fee amount;
- (3) Proposed direct expenses and equipment charges; and
- (4) Proposed subcontractor expenses.

In addition please provide detail tables presenting itemized costs for 1, 3, and 4 above. The detail tables must be presented according to the same Project Tasks identified in your technical proposal. The detailed labor cost table must show estimated staff hours, rates and costs by Project tasks.

17.0 PROPOSAL EVALUATION AND RANKING

A weighted scoring form will be utilized in the evaluation and ranking of the proposals. Proposals will be evaluated by City DEQ and City NBD staff based on a combination of (1) the proposed technical approach, (2) experience, expertise, and project personnel qualifications, and (3) proposed costs. The contract for this Project will be awarded to the most responsive proposal that has the best conceptual and technical plan, and exhibits the lowest estimated costs.

The Division of Environmental Quality pursuant to City Council Resolution No. 91-25 shall when awarding professional services agreements, give preference to organizations located with the City of Rochester or Monroe County. The use of local individuals or companies as subcontractors is also encouraged.

18.0 RFP Terms and Conditions

The City has the right to amend the RFP upon notification via the City's website for this Project. Consultants are responsible for checking for any changes or amendments to the RFP prior to the RFP deadline

There is a significant amount of existing information electronically available on the City's website for this Project including copies of previous reports. As result there will not be a pre-proposal meeting at the Site.

Any questions regarding this RFP must be issued in writing via a letter addressed to the City (Joseph Biondillo) before the end of business on June 13, 2014. City responses to any Consultant questions regarding this RFP will be made publicly available for all Consultants via the City's website for this Project. Consultants are responsible for checking the City's website for this Project for any City responses to Consultant questions.

The City may request additional information from the consultant as necessary to assist the City in evaluating a proposal response to this request for professional services.

This request for professional services may be withdrawn by the City for any reason, and that the City shall have no liability for costs incurred by the consultant in developing, preparing or submitting a proposal.

The proposal and materials submitted with the proposal shall become the property of the City and will be subject to the NYS Freedom of Information Law (FOIL). Any proprietary information is submitted with the proposal must be clearly identified and a request to keep such information confidential must be submitted in writing and approved by the City Law Department.

The selection of a Consultant for this Project is within the City's sole discretion, that no reasons for rejection or acceptance of proposals will be provided. The decision to select a consultant will be based on technical proficiency, proposed scope of work, qualifications, and experience, and may not be based solely on cost.

The selected consultant will require a new Professional Services Agreement (PSA) to be executed between the City and the consultant for this project. If the PSA terms and conditions cannot be accepted by the consultant within 30 days from the date of when the PSA is provided to the consultant, the City retains the right to reject the consultant proposal and either re-issue the RFP or solicit other consultants to complete the project.

Preference for selection will be given to consultants with offices located in the City of Rochester. The use of individuals, companies, or subcontractors located in the City is also encouraged.

In accordance with the executed PSA between the City and the Consultants, the City is herein providing notice of the consultants requirement, if selected, to comply with the requirements of Section 8A 18 of the Municipal Code of the City of Rochester, known as the "Rochester Living Wage Ordinance", in the event that payments by the City to the Consultant under this program

exceed fifty thousand dollars (\$50,000) during a period of one year.

In accordance with the existing PSA between the City and the Consultant, the Consultant may be required to furnish to the City annual reports to address City of Rochester M/WBE and Living Wage requirements including a description of the Consultant's utilization of M/WBE firms by listing the firm's name, cost of work performed to date and the percent of total annual amount billed to the City that was paid to the M/WBE firms. Covered employers must provide reports of job titles, wage rates and benefits of covered employees, at the beginning and end of the agreement for single year agreements, and at the beginning, annually and at the end of multi-year agreements.

19.0 AFFIRMATIVE ACTION REQUIREMENTS

The cost proposal must include a plan of the actions that the Consultant will take to meet the Affirmative Action goals for the project. City Council Ordinance No. 94-213 establishes an M/WBE utilization goal for City architectural and engineering professional service agreements. The City M/WBE utilization goals for this contract are 2.1% for African-American, 0.6% for Hispanic, and 3.5% for Women business enterprises of the total dollar amount of the Professional Services fee. In addition, the City's cooperative agreement with the EPA requires that Consultants shall provide updated M/WBE utilization reports to the City on a periodic basis in accordance with the EPA Administrative Conditions (refer to Attachment 2). In making the proposal, assume that most tasks will be financed using USEPA funds with the exception of the partial building demolition which will be funded by the City.

Please contact me at 585-428-6649 should you have any questions. Thank you for your interest in the City of Rochester's brownfield projects.

Sincerely,

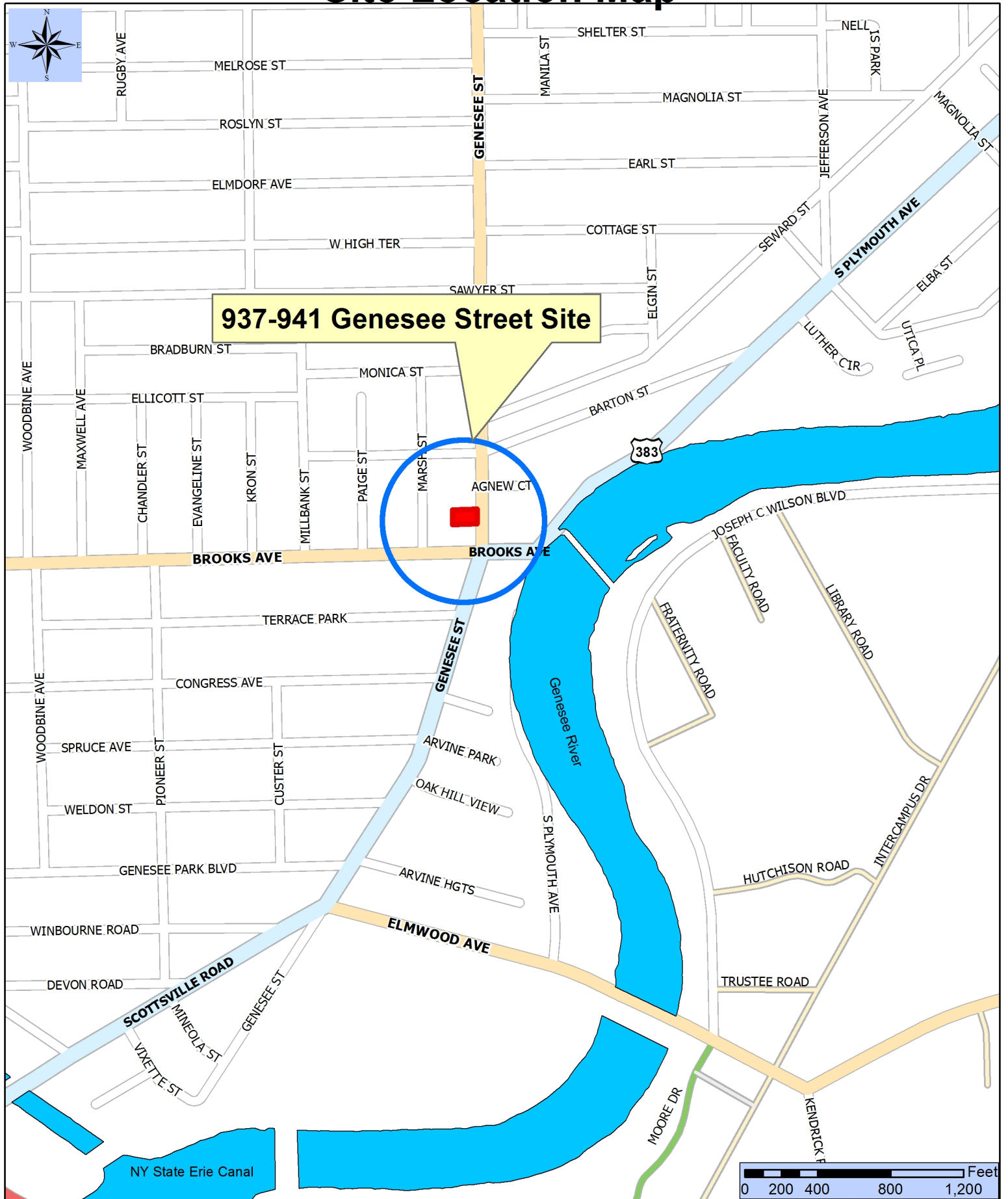
Joseph J. Biondolillo
Sr. Environmental Specialist
Division of Environmental Quality

Attachments #1 and #2

c: Mark Gregor, City of Rochester
Vicki Brawn, City of Rochester

Attachment #1

937-941 Genesee Street Site Location Map



937-941 Genesee Street Site Location Map



Attachment #2

Administrative Conditions

1. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES

GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) in procurement under assistance agreements, contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

Current Fair Share Objective/Goal

The dollar amount of this assistance agreement is \$250,000, or more; or the total dollar amount of all of the recipient's non-Technical Assistance Grants (TAG) from EPA in the current fiscal year is \$250,000, or more. The New York State Department of Environmental Conservation has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

Construction - Minority Business Enterprise (MBE) Participation Goals:

New York City	17%
Downstate *	10%
Upstate	9%

Construction - Women Business Enterprise (WBE) Participation Goals:

New York City	8%
Downstate *	6%
Upstate	5%

Non-Construction Minority and Women Business Enterprise (MBE/WBE) Participation Goals: (For all other professional and contractual services, supplies and equipment)

Combined MBE/WBE statewide	10%
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* The counties included in the downstate area are as follows: Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, and Westchester.

Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404

If the recipient has not yet negotiated its MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The recipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also

comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure Disadvantaged Business Enterprises (DBE) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- (e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
- (f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

MBE/WBE REPORTING, 40 CFR, Part 33, Sections 33.502 and 55.503

The recipient agrees to complete and submit EPA Form 5700-52A, "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" beginning with the Federal fiscal year reporting period the recipient receives the award, and continuing until the project is completed. Only procurements with certified MBE/WBEs are counted toward a recipient's MBE/WBE accomplishments.

The reports must be submitted **semiannually** for the periods ending March 31st and September 30th for:

- Recipients of financial assistance agreements that capitalize revolving loan programs (CWSRF, DWSRF, Brownfields); and
- All other recipients not identified as annual reporters (40 CFR Part 30 and/or 40 CFR Part 35, Subpart A and Subpart B recipients are annual reporters).

The reports are due within 30 days of the end of the semiannual reporting periods (April 30th and October 30th). Reports should be sent to Michele Junker, the Region 2 DBE Coordinator. Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. Your grant cannot be officially closed without all MBE/WBE reports.

EPA Form 5700-52A may be obtained from the EPA Office of Small Business Program's Home Page on the Internet at <http://www.epa.gov/osbp/grants.htm>.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

2. ADVANCE METHOD OF PAYMENT

In accordance with EPA regulations, the recipient is authorized to receive advance payments under this agreement, provided that the recipient takes action to minimize the time elapsing between the transfer of funds from EPA and the disbursement of those funds. The recipient shall request Federal payments by completing the EPA Payment Requests Form (EPA Form 190-F-04-001) and either emailing or faxing it to the Las Vegas Finance Center at LVFC-grants@epa.gov or 702-798-2423. This form can be found at www.epa.gov/ogd/forms/forms.htm. All email attachments must be sent in pdf format.

3. DRUG-FREE WORKPLACE CERTIFICATION FOR ALL EPA RECIPIENTS

The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 2 CFR Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provisions set forth in Title 2 CFR Part 1536 Subpart C.

The consequences for violating this condition are detailed under Title 2 CFR Part 1536 Subpart E. Recipients can access the Code of Federal Regulations (CFR) Title 2 Part 1536 at <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=701081165f70316effa8ebf67df73de0&rgn=div5&view=text&node=2:1.2.11.11.2&idno=2>.

4. ELECTRONIC TRANSFER OF FUNDS

The Debt Collection Improvement Act of 1996 requires that Federal payments be made by electronic funds transfer. In order to comply with the Act, a recipient must receive payments via one of two electronic mechanisms available to them:

A) Automated Standard Application for Payments (ASAP)

The ASAP system is the preferred method of payment for EPA grantees. ASAP enrollment is highly encouraged for organizations that have multiple grants/cooperative agreements and for those with a frequent need to request funds. If your organization uses multiple bank accounts for EPA grants/cooperative agreements, you must enroll in ASAP. If you are interested in requesting and receiving funds paperless and electronically via ASAP, please complete the ASAP Initiate Enrollment form located at <http://www.epa.gov/ocfo/finseervices/forms.htm> and fax it to LVFC at 702-798-2423 or email it to LVFC-grants@epa.gov.

Under this payment mechanism, the Recipient initiates, via ASAP, an electronic payment request which is approved or rejected based on the amount of available funds authorized by EPA in the Recipient's account. Approved funds are credited to the recipient organization at the financial institution identified on the recipient's ASAP enrollment application. Additional

information concerning ASAP and enrollment can be obtained by contacting the EPA Las Vegas Finance Center, at LVFC-grants@epa.gov, or (702) 798-2485, or by visiting www.fms.treas.gov/asap.

B) Electronic Funds Transfer (EFT)

Under this payment mechanism, the EPA Las Vegas Finance Center will obtain your organization's banking information from your System for Award Management (SAM) registration. Upon completion of required Regional training and receipt of the award affirmation, a Las Vegas Finance Center Representative will send you an email message with your EFT Control Number and payment information. Additional information concerning EFT can be obtained by contacting the EPA Las Vegas Finance Center at LVFC-grants@epa.gov, or (702) 798-2485, or by visiting <http://www.epa.gov/ocfo/finservices/payinfo.htm>

NOTE: If your banking information is not correct or changes at any time prior to the end of your agreement, please update your SAM registration and notify the EPA Las Vegas Finance Center as soon as possible so the new banking information can be retrieved. This is vital to ensure proper and timely deposit of funds.

In accepting this assistance agreement, the recipient agrees to draw cash only as needed for its disbursement. Failure on the part of the recipient to comply with this condition may cause the undisbursed portions of the assistance agreement to be revoked and financing method changed to a reimbursable basis.

5. FEDERAL FINANCIAL REPORTS/GRANT CLOSEOUT

A) Interim Federal Financial Reports (FFRs)

Pursuant to 40 CFR 31.41(b) and 31.50(b), EPA recipients shall submit an interim annual Federal Financial Report (SF-425) to EPA no later than 90 calendar days following the anniversary of the start date of the agreement. The FFR must be faxed to the Las Vegas Finance Office at 702-798-2423, emailed to LVFC-grants@epa.gov, or sent to the address below. A courtesy copy of the interim FFR can be submitted to the Grants and Audit Management Branch using one of the following options: email to Region2_GrantApplicationBox@epa.gov, fax to 212-637-3518 or sent to us in the mail at U.S. EPA - Region 2, 290 Broadway, 27th Floor, New York, NY 10007. All email attachments must be sent in pdf format. Documents emailed to us in any other format cannot and will not be accepted.

B) Final Federal Financial Report

At the end of the project, the recipient must submit a final Federal Financial Report to EPA no later than 90 calendar days after the end of the project period. The form is available on the internet at <http://www.epa.gov/ocfo/finservices/forms.htm>. All FFRs must be submitted to the Las Vegas Finance Center:

US EPA, Las Vegas Finance Center
4220 S. Maryland Pkwy, Bld C, Rm 503
Las Vegas, NV 89119

or by email: LVFC-grants@epa.gov or Fax to: 702-798-2423. All email attachments must be sent in pdf format.

The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement.

EPA may take enforcement actions in accordance with 40 CFR 31.43 if the recipient does not comply with this term and condition.

C) Closeout

The Administrative Closeout Phase for this grant will be initiated with the submission of a "final" FFR. At that time, the recipient must submit the following forms/reports to the EPA Region 2 Grants and Audit Management Branch, if applicable:

- Federally Owned Property Report
- An Inventory of all Property Acquired with federal funds
- Contractor's or Grantee's Invention Disclosure Report (EPA Form 3340-3)

Additionally, the recipient's Final Request for Payment should be submitted to the LVFC.

6. HOTEL-MOTEL FIRE SAFETY

Pursuant to 40 CFR 30.18, if applicable, and 15 USC 2225a, the recipient agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.

7. LOBBYING AND LITIGATION - ALL RECIPIENTS

The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The recipient shall abide by its respective OMB Circular (A-21, A-87, or A-122), which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities.

RESTRICTIONS ON LOBBYING

The recipient agrees to comply with Title 40 CFR Part 34, *New Restrictions on Lobbying*. The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000, and require that subrecipients submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

8. MANAGEMENT FEES

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

9. EXTENSION OF PROJECT/BUDGET PERIOD EXPIRATION DATE (PART 31)

If a no cost time extension is necessary to extend the period of availability of funds (budget period), the recipient must submit a written request, including a justification as to why additional time is needed and an estimated date of completion to the EPA prior to the budget/project period expiration dates. The extension request should be submitted to the EPA, Grants and Audit Management Branch using one of the following options: email to Region2_GrantApplicationBox@epa.gov, fax to 212-637-3518 or sent to us in the mail at U.S. EPA - Region 2, 290 Broadway, 27th Floor, New York, NY 10007. An interim FFR (SF-425) covering all expenditures and obligations to date, must be emailed or faxed to the Las Vegas Finance Office at LVFC-grants@epa.gov or 702-798-2423 or sent to the address below. To expedite processing of your request, please submit a courtesy copy of the interim FFR to the Grants and Audit Management Branch along with your extension request. All email attachments must be sent in pdf format. Documents emailed to us in any other format cannot and will not be accepted.

US EPA, Las Vegas Finance Center
4220 S. Maryland Pkwy, Bld C, Rm 503
Las Vegas, NV 89119

or by email: LVFC-grants@epa.gov or Fax to: 702-798-2423. All email attachments must be sent in pdf format.

10. RECYCLING AND WASTE PREVENTION

In accordance with the policies set forth in EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007) and or 40 CFR 30.16, the recipient agrees to use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

STATE AGENCIES AND POLITICAL SUBDIVISIONS:

In accordance with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962) any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth. Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

11. REIMBURSEMENT LIMITATION

EPA's financial obligations to the recipient are limited by the amount of federal funding awarded to date as shown on line 15 in its EPA approved budget. If the recipient incurs costs in anticipation of receiving additional funds from EPA, it does so at its own risk.

12. SINGLE AUDITS

In accordance with OMB Circular A-133, which implements the Single Audit Act, the recipient hereby agrees to obtain a single audit from an independent auditor, if it expends \$500,000 or more in total Federal funds in any fiscal year. Within nine months after the end of a recipient's fiscal year or 30

days after receiving the report from the auditor, the recipient shall submit the SF-SAC and a Single Audit Report Package. The recipient **MUST** submit the SF-SAC and a Single Audit Report Package, using the Federal Audit Clearinghouse's Internet Data Entry System. Complete information on how to accomplish the single audit submissions, you will need to visit the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>

13. SUBAWARD POLICY

- a. The recipient agrees to:
 1. Establish all subaward agreements in writing;
 2. Maintain primary responsibility for ensuring successful completion of the EPA-approved project (this responsibility cannot be delegated or transferred to a subrecipient);
 3. Ensure that any subawards comply with the standards in Section 210(a)-(d) of OMB Circular A-133 and are not used to acquire commercial goods or services for the recipient;
 4. Ensure that any subawards are awarded to eligible subrecipients and that proposed subaward costs are necessary, reasonable, and allocable;
 5. Ensure that any subawards to 501(c)(4) organizations do not involve lobbying activities;
 6. Monitor the performance of their recipients and ensure that they comply with all applicable regulations, statutes, and terms and conditions which flow down in the subaward;
 7. Obtain EPA's consent before making a subaward to a foreign or international organization, or a subaward to be performed in a foreign country; and
 8. Obtain approval from EPA for any new subaward work that is not outlined in the approved work plan in accordance with 40 CFR Parts 30.25 and 31.30, as applicable.
- b. Any questions about subrecipient eligibility or other issues pertaining to subawards should be addressed to the recipient's EPA Project Officer. Additional information regarding subawards may be found at <http://www.epa.gov/ogd/guide/subaward-policy-part-2.pdf>. Guidance for distinguishing between vendor and subrecipient relationships and ensuring compliance with Section 210(a)-(d) of OMB Circular A-133 can be found at <http://www.epa.gov/ogd/guide/subawards-appendix-b.pdf> and <http://www.whitehouse.gov/omb/circulars/a133/a133.html>.
- c. The recipient is responsible for selecting its subrecipients and, if applicable, for conducting subaward competitions.

14. SUSPENSION AND DEBARMENT

Recipient shall fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons)." Recipient is responsible for ensuring that any lower tier covered transaction as described in Subpart B of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information as required at 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Recipients may access suspension and debarment information at <http://www.sam.gov>. This system allows recipients to perform searches determining whether an entity or individual is excluded from receiving Federal assistance. This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

15. TRAFFICKING IN PERSONS

a. Provisions applicable to a recipient that is a private entity

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not:
 - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - ii. Procure a commercial sex act during the period of time that the award is in effect; or
 - iii. Use forced labor in the performance of the award or subawards under the award.
2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity:
 - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either:
 - A. Associated with performance under this award; or
 - B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our Agency at 2 CFR 1532.

b. Provision applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity:

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either:
 - i. Associated with performance under this award; or
 - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR 1532

c. Provisions applicable to any recipient

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. Definitions. For purposes of this award term:

1. "Employee" means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt

bondage, or slavery.

3. "Private entity":

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

ii. Includes:

A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

B. A for-profit organization.

4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

16. DUNS AND CCR/SAM REQUIREMENTS

Central Contractor Registration/System for Award Management and Universal Identifier Requirements.

A. Requirement for Central Contractor Registration (CCR)/System for Award Management (SAM).

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the SAM until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

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B. Requirement for Data Universal Numbering System (DUNS) numbers. If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

C. Definitions. For purposes of this award term:

1. Central Contractor Registration (CCR)/System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the System for Award Management (SAM) Internet site <http://www.sam.gov>

2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).

3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:

- a. A Governmental organization, which is a State, local government, or Indian tribe;
- b. A foreign public entity;
- c. A domestic or foreign nonprofit organization;
- d. A domestic or foreign for-profit organization; and
- e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

4. Subaward:

- a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. ___210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
- c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

5. Subrecipient means an entity that:

- a. Receives a subaward from you under this award; and
- b. Is accountable to you for the use of the Federal funds provided by the subaward.

17. SUBAWARD REPORTING AND COMPENSATION

I. Reporting Subawards and Executive Compensation.

a. Reporting of first-tier subawards.

1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).
2. Where and when to report.
 - i. You must report each obligating action described in paragraph a.1. of this award term to www.fsrs.gov.
 - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
3. What to report. You must report the information about each obligating action that the submission instructions posted at www.fsrs.gov specify.

b. Reporting Total Compensation of Recipient Executives.

1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if –
 - i. the total Federal funding authorized to date under this award is \$25,000 or more;
 - ii. in the preceding fiscal year, you received—
 - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. Where and when to report. You must report executive total compensation described in paragraph b.1. of this award term:

- i. As part of your registration Central Contractor Registration/System for Award Management profile available at <http://www.sam.gov>
- ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if --

i. in the subrecipient's preceding fiscal year, the subrecipient received—

- (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and,
- (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

- i. To the recipient.
- ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions

1. If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- i. Subawards, and

- ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

1. Entity means all of the following, as defined in 2 CFR part 25:

- i. A Governmental organization, which is a State, local government, or Indian tribe;
- ii. A foreign public entity;
- iii. A domestic or foreign nonprofit organization;
- iv. A domestic or foreign for-profit organization;
- v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

2. Executive means officers, managing partners, or any other employees in management positions.

3. Subaward:

- i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. __.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
- iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. Subrecipient means an entity that:

- i. Receives a subaward from you (the recipient) under this award; and
- ii. Is accountable to you for the use of the Federal funds provided by the subaward.

5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

- i. *Salary and bonus.*
- ii. *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- iii. *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- iv. *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.
- v. *Above-market earnings on deferred compensation which is not tax-qualified.*
- vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

18. CIVIL RIGHTS OBLIGATIONS

GENERAL

This term and condition incorporates by reference the signed assurance provided by the recipient's authorized representative on: 1) EPA Form 4700-4, "Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance"; and 2) Standard Form 424B or Standard Form 424D, as applicable. These assurances and this term and condition obligate the recipient to comply fully with applicable civil rights statutes and implementing EPA regulations.

STATUTORY REQUIREMENTS

In carrying out this agreement, the recipient must comply with:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP), by entities receiving Federal financial assistance.
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities by entities receiving Federal financial assistance; and
- The Age Discrimination Act of 1975, which prohibits age discrimination by entities receiving Federal financial assistance.

If the recipient is conducting an education program under this agreement, it must also comply with:

- Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities operated by entities receiving Federal financial assistance.

If this agreement is funded with financial assistance under the Clean Water Act (CWA), the recipient must also comply with:

- Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex in CWA-funded programs or activities.

REGULATORY REQUIREMENTS

The recipient agrees to comply with all applicable EPA civil rights regulations, including:

- For Title IX obligations, 40 C.F.R. Part 5; and
- For Title VI, Section 504, Age Discrimination Act, and Section 13 obligations, 40 C.F.R. Part 7.
- As noted on the EPA Form 4700-4 signed by the recipient's authorized representative, these regulations establish specific requirements including maintaining compliance information, establishing grievance procedures, designating a Civil Rights Coordinator, and providing notices of non-discrimination.

TITLE VI – LEP, Public Participation and Affirmative Compliance Obligation

- As a recipient of EPA financial assistance, you are required by Title VI of the Civil Rights Act to provide meaningful access to LEP individuals. In implementing that requirement, the recipient agrees to use as a guide the Office of Civil Rights (OCR) document entitled "*Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.*" The guidance can be found at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2004_register&docid=fr25jn04-79.p

d

- If the recipient is administering permitting programs under this agreement, the recipient agrees to use as a guide OCR's Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs. The Guidance can be found at <http://edocket.access.gpo.gov/2006/pdf/06-2691.pdf>.
- In accepting this assistance agreement, the recipient acknowledges it has an affirmative obligation to implement effective Title VI compliance programs and ensure that its actions do not involve discriminatory treatment and do not have discriminatory effects even when facially neutral. The recipient must be prepared to demonstrate to EPA that such compliance programs exist and are being implemented or to otherwise demonstrate how it is meeting its Title VI obligations.

Programmatic Conditions

Cleanup Terms and Conditions

I. GENERAL FEDERAL REQUIREMENTS

Note: These terms and conditions contain references to EPA financial assistance regulations at 40 CFR Parts 30 and 31. 40 CFR Part 30 is applicable to non-profit and educational institution recipients and 40 CFR Part 31 is applicable to governmental recipients.

A. Federal Policy and Guidance

1.
 - a. **Cooperative Agreement Recipients:** By awarding this cooperative agreement, EPA has approved the proposal for the Cooperative Agreement Recipient (CAR) submitted in the Fiscal Year 2013 competition for Brownfields cleanup cooperative agreements.
 - b. In implementing this agreement, the CAR shall ensure that work done with cooperative agreement funds complies with the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 104(k). The CAR shall also ensure that cleanup activities supported with cooperative agreement funding comply with all applicable Federal and State laws and regulations. The CAR must ensure cleanups are protective of human health and the environment.
 - c. The CAR must consider whether they are required to conduct cleanups under a State or Tribal response program. If the CAR chooses not to participate in a State or Tribal response program, then the CAR is required to consult with the Environmental Protection Agency (EPA) to ensure the proposed cleanup is protective of human health and the environment.
 - d. A term and condition or other legally binding provision shall be included in all agreements entered into with the funds, or when funds awarded under this agreement are used in combination with non-Federal sources of funds, to ensure that recipients comply with all applicable Federal and State laws and requirements. In addition to CERCLA § 104(k), Federal applicable laws and requirements include:
 - e. Federal cross-cutting requirements including, but not limited to, MBE/WBE requirements found at 40 CFR 33; OSHA Worker Health & Safety Standard 29 CFR 1910.120; the Uniform Relocation Act; National Historic Preservation Act; Endangered Species Act; and Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment

Opportunity, and implementing regulations at 41 CFR 60-4; Contract Work Hours and Safety Standards Act, as amended (40 USC § 327-333) the Anti Kickback Act (40 USC § 276c) and Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250.

- g. The CAR must comply with Davis-Bacon Act prevailing wages for all construction, alteration and repair contracts and subcontracts awarded with EPA grant funds.
For more detailed information on complying with Davis-Bacon please see the Davis- Bacon Addendum to these terms and conditions.

B. Changes to Sites and Cleanup Methods

- 1.
 - a. The CAR must use funds provided by this agreement to clean up the brownfield site in the EPA approved work plan.
 - b. The CAR may not make substantial changes to the cleanup method described in the work plan without prior EPA approval.

II. GENERAL COOPERATIVE AGREEMENT ADMINISTRATIVE REQUIREMENTS

A. Term of the Agreement

- 1. The term of this agreement is three years from the start date of the project and budget period, unless otherwise extended by EPA at the CAR's request.
- 2. If after 18 months from the date of award, EPA determines that the CAR has not made sufficient progress in implementing its cooperative agreement, the recipient must implement a corrective action plan approved by the EPA Project Officer or EPA may terminate this agreement for material non-compliance with its terms. For purposes of the Cleanup Grants, "sufficient progress in implementing a cooperative agreement" means that an appropriate remediation plan is in place, institutional control development, if necessary, has commenced, initial community involvement activities have taken place, relevant state or tribal pre-cleanup requirements are being addressed and a solicitation for remediation services has been issued.

B. Substantial Involvement

- 1. The U.S. EPA may be substantially involved in overseeing and monitoring this cooperative agreement.
 - a. Substantial involvement by the U.S. EPA generally includes administrative activities such as monitoring, review of project phases, and approving substantive terms included in professional services contracts.
 - b. Substantial EPA involvement may include review of financial and program performance reports and monitoring all reporting, record-keeping, and other program requirements.
 - c. EPA may waive any of the provisions in term and condition II.B.1., at its own initiative or upon request by the CAR. EPA will provide waivers in writing.
- 2. Effect of EPA's substantial involvement includes:
 - a. EPA's review of any project phase, document, or cost incurred under this cooperative agreement, will not have any effect upon CERCLA § 128 *Eligible Response Site* determinations or for rights, authorities, and actions under CERCLA or any Federal statute.

- b. The CAR remains responsible for ensuring that all cleanups are protective of human health and the environment and comply with all applicable Federal and State laws.
- c. The CAR remains responsible for ensuring costs are allowable under applicable OMB Circulars.

C. Cooperative Agreement Recipient Roles and Responsibilities

- 1. The CAR must acquire the services of a qualified environmental professional(s) to coordinate, direct, and oversee the brownfields assessment and cleanup activities at a particular site, if they do not have such a professional on staff.
- 2. The CAR is responsible for ensuring that contractors and subgrant recipients comply with the terms of their agreements with the CAR, and that agreements between the CAR and subgrant recipients and contractors are consistent with the terms and conditions of this agreement.
- 3. Subgrants are defined at 40 CFR 31.3 and 40 CFR 30.2(f). The CAR may not subgrant to for-profit organizations. The CAR must obtain commercial services and products necessary to carry out this agreement under competitive procurement procedures as described in 40 CFR 31.36 or the Procurement Standards of 40 CFR Part 30, as applicable. In addition, EPA policy encourages awarding subgrants competitively and the CAR must consider awarding subgrants through competition.

D. Quarterly Progress Reports

- 1. The CAR must submit progress report on a quarterly basis to the EPA Project Officer. (Due each January 31, April 30, July 31, and October 31 for the duration of the agreement.) Quarterly progress report must include:
 - a. Summary of approved activities performed during the reporting quarter; summary of the performance outputs/outcomes achieved during the reporting quarter; and a description of problems encountered during the reporting quarter that may affect the project schedule.
 - b. An update on project schedule and milestones.
 - c. A budget recap summary table with the following information: current approved project budget; costs incurred during the reporting quarter; costs incurred to date (cumulative expenditures); and total remaining funds.
- 2. The CAR must maintain records that will enable it to report to EPA on the amount of funds expended on the specific properties under this cooperative agreement.
- 3. In accordance with 40 CFR 31.40(d), the CAR agrees to inform EPA as soon as problems, delays, or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the approved work plan.

E. Property Profile Submission

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

approval is obtained from the regional Project Officer to utilize the Property Profile Form.

F. Final Report

1. The CAR must submit a final report at the end of the period of performance in order to finalize the closeout of the grant (due within 90 days after the end of the budget/project period). This final report must capture what work was performed at the site. It should also provide information that documents the outreach efforts done by the CAR and other activities that help explain where the funding was utilized. The Final Report must include:
 - a. Comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement workplan.
 - b. Reasons for slippage if established outputs/outcomes were not met.
 - c. Additional pertinent information, including, when appropriate, analysis and information of cost overruns.

III. FINANCIAL ADMINISTRATION REQUIREMENTS

A. Cost Share Requirement

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

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

1. To the extent allowable under the EPA-approved work plan, cooperative agreement funds may be used for programmatic expenses necessary to clean up sites. Eligible programmatic expenses include activities described in Section IV of these terms and conditions. In addition, eligible programmatic expenses may include:
 - a. Ensuring cleanup activities at a particular site are authorized by CERCLA § 104(k) and the EPA approved work plan;
 - b. Ensuring that a cleanup complies with applicable requirements under Federal and State laws, as required by CERCLA § 104(k);
 - c. Using a portion of the grant to purchase environmental insurance for the remediation of the site. Funds may not be used to purchase insurance intended to provide coverage for any of the ineligible uses under Section III.C;
 - d. Any other eligible programmatic costs including direct costs incurred by the recipient in reporting to EPA; procuring and managing contracts; awarding and managing subgrants to the extent allowable in III.C.2; and carrying out community involvement pertaining to the cleanup activities.
2. **Local Governments Only.** No more than 10% of the funds awarded by this agreement may be used by the CAR itself as a programmatic cost for brownfields program development and implementation (including monitoring of health and institutional controls) as described in Task 6 of the EPA-approved work plan. The CAR must maintain records on funds that will be used to carry out Task 6 of its EPA-approved work plan to ensure that no more than 10% of its funds are used for brownfields program development and implementation (including monitoring of health and institutional controls).

C. 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. Pre-cleanup environmental assessment activities such as site assessment, identification, and characterization with the exception of site monitoring activities that are reasonable and necessary during the cleanup process, including determination of the effectiveness of a cleanup;
 - b. Monitoring and data collection necessary to apply for, or comply with, environmental permits under other federal and state laws, unless such a permit is required as a component of the cleanup action;
 - c. Construction, demolition, and development activities that are not cleanup actions (e.g., marketing of property or construction of a new facility or addressing public or private drinking water supplies that have deteriorated through ordinary use);
 - d. Job training unrelated to performing a specific cleanup at a site covered by the grant;
 - e. To pay for a penalty or fine;
 - f. To pay a federal cost share requirement (for example, a cost-share required by another Federal grant) unless there is specific statutory authority;
 - g. To pay for a response cost at a brownfields site for which the recipient of the grant is potentially liable under CERCLA § 107;
 - h. To pay a cost of compliance with any federal law, excluding the cost of compliance with laws applicable to the cleanup; and
 - i. Unallowable costs (e.g., lobbying and fund raising) under applicable OMB Circulars.
2. Under CERCLA § 104(k)(4)(B), administrative costs are prohibited costs under this agreement. Prohibited administrative costs include all indirect costs under applicable OMB Circulars incurred by the CAR.
 - a. Ineligible administrative costs include costs incurred in the form of salaries, benefits, contractual costs, supplies, and data processing charges, incurred to comply with most provisions of the *Uniform Administrative Requirements for Grants* contained in 40 CFR Part 30 or 40 CFR Part 31. Direct costs for grant administration, with the exception of costs specifically identified as eligible programmatic costs, are ineligible even if the grant recipient is required to carry out the activity under the grant agreement. Costs incurred to report quarterly performance to EPA under the grant are eligible.
 - b. Ineligible grant administration costs include direct costs for:
 - (1) Preparation of applications for Brownfields grants;
 - (2) Record retention required under 40 CFR 30.53 and 40 CFR 31.42;
 - (3) Record-keeping associated with supplies and equipment purchases required under 40 CFR 30.33, 30.34, and 30.35 and 40 CFR 31.32 and 31.33;
 - (4) Preparing revisions and changes in the budgets, scopes of work, program plans and other activities required under 40 CFR 30.25 and 40 CFR 31.30;

(5) Maintaining and operating financial management systems required under 40 CFR 30 and 40 CFR 31;

(6) Preparing payment requests and handling payments under 40 CFR 30.22 and 40 CFR 31.21;

(7) Non-federal audits required under 40 CFR 30.26, 40 CFR 31.26, and OMB Circular A-133; and

(8) Close out under 40 CFR 30.71 and 40 CFR 31.50.

D. Grant Recipient Eligibility

1. The CAR may only clean up sites *it solely owns*. The CAR must retain ownership of the site throughout the period of performance of the grant. For the purposes of this agreement, the term "owns" means fee simple title unless EPA approves a different arrangement.

E. Obligations for Grant Recipients Asserting a Limitation on Liability from CERCLA § 107

1. EPA awarded this cooperative agreement to the CAR based on information indicating that the CAR would not use cooperative agreement funds to pay for a response cost at the site for which the CAR was potentially liable under CERCLA § 107. If the CAR is not potentially liable based on its status as either a Bona Fide Prospective Purchaser (BFPP), Contiguous Property Owner (CPO), or Innocent Land Owner (ILO), the CAR must meet certain continuing obligations in order to maintain its status. If the CAR fails to meet these obligations, EPA may disallow the costs incurred under this cooperative agreement for cleaning up the site under CERCLA § 104(k)(7)(C). These continuing obligations include:

- (1) complying with any land use restrictions established or relied on in connection with the response action at the vessel or facility and not impeding the effectiveness or integrity of institutional controls;
- (2) taking reasonable steps with respect to hazardous substance releases;
- (3) providing full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration; and
- (4) complying with information requests and administrative subpoenas and legally required notices (applies to the criteria for bona fide prospective purchasers and contiguous property owners).

Notwithstanding the CAR's continuing obligations under this agreement, the CAR is subject to the applicable liability provisions of CERCLA governing its status as a BFPP, CPO, or ILO. CERCLA requires additional obligations to maintain the liability limitations for BFPP, CPO, and ILO; the relevant provisions for these obligations include §§ 101(35), 101(40), 107(b), 107(q) and 107(r).

F. Interest-Bearing Accounts and Program Income

1. Interest earned on advances are subject to the provisions of 40 CFR §31.21(i) and §30.22(l) relating to remitting interest on advances to EPA on a quarterly basis.
2. Any program income earned by the CAR will be added to the funds EPA has committed to this agreement and used only for eligible and allowable costs under the agreement as provided in 40 CFR

30.24(b)(1) or 40 CFR 31.25(g)(2), as applicable.

IV. CLEANUP ENVIRONMENTAL REQUIREMENTS

A. Authorized Cleanup Activities

1. The CAR shall prepare an analysis of brownfields cleanup alternatives or equivalent state Brownfields program document which will include information about the site and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup. The evaluation of alternatives must include effectiveness, implementability, and the cost of the response proposed. The evaluation of alternatives must also consider the resilience of the remedial options in light of reasonably foreseeable changing climate conditions (e.g., sea level rise, increased frequency and intensity of flooding and/or extreme weather events, etc.). The alternatives may additionally consider the degree to which they reduce greenhouse gas discharges, reduce energy use or employ alternative energy sources, reduce volume of wastewater generated/disposed, reduce volume of materials taken to landfills, and recycle and re-use materials generated during the cleanup process to the maximum extent practicable. The evaluation will include an analysis of reasonable alternatives including no action. The cleanup method chosen must be based on this analysis.
2. Prior to conducting or engaging in any on-site activity with the potential to impact historic properties (such as invasive sampling or cleanup), the CAR shall consult with EPA regarding potential applicability of the National Historic Preservation Act and, if applicable, shall assist EPA in complying with any requirements of the Act and implementing regulations.

B. Quality Assurance (QA) Requirements

1. If environmental data are to be collected as part of the brownfields cleanup (e.g., cleanup verification sampling, post-cleanup confirmation sampling), the CAR shall comply with 40 CFR Part 31.45 (or 40 CFR Part 30.54 requirements for nonprofit organizations) requirements to develop and implement quality assurance practices sufficient to produce data adequate to meet project objectives and to minimize data loss. State law may impose additional QA requirements.
2. The CAR shall prepare a QA plan and submit such plan to the EPA Project Officer for approval. The PO will review the QA plan to insure that it meets programmatic needs and to insure that all of the required elements of the QA plan are included. Once approved by the PO, the QA plan is forwarded to the EPA QA staff for their review and approval. The CAR may not perform work at any site under this cooperative agreement until EPA has approved the QA plan in writing.

C. Community Relations and Public Involvement in Cleanup Activities

1. All cleanup activities require a site-specific community relations plan that includes providing reasonable notice, opportunity for involvement, response to comments, and administrative records that are available to the public.

D. Administrative Record

1. The CAR shall establish an administrative record that contains the documents that form the basis for the selection of a cleanup plan. Documents in the administrative record shall include an analysis of reasonable alternatives including no action; site investigation reports; the cleanup plan; cleanup standards used; responses to public comments; and verification that shows that cleanup is complete. The CAR shall keep the administrative record available at a location convenient to the public and make it available for inspection.

E. Implementation of Cleanup Activities

1. The CAR shall ensure the adequacy of each cleanup in protecting human health and the environment as it is implemented. If changes to the expected cleanup are necessary based on public comment or other reasons, the CAR must consult with EPA and may not make substantial changes to the cleanup method described in the work plan without prior EPA approval.
2. If the CAR is unable or unwilling to complete the cleanup, the CAR shall ensure that the site is secure. The CAR shall notify the appropriate state agency and the U.S. EPA to ensure an orderly transition should additional activities become necessary.

F. Completion of Cleanup Activities

1. The CAR shall ensure that the successful completion of a cleanup is properly documented. This must be done through a final report or letter from a qualified environmental professional, or other documentation provided by a State or Tribe that shows cleanup is complete. This documentation needs to be included as part of the administrative record.

V. OTHER CLEANUP GRANT REQUIREMENTS

A. Inclusion of Special Terms and Conditions in Cleanup Documents

1. The CAR shall meet the cleanup and other program requirements of the cleanup including:
 - a. In accordance with 40 CFR 31.42 or 40 CFR 30.53, the CAR shall maintain records for a minimum of three years following completion of the cleanup financed all or in part with cleanup grant funds. Cooperative agreement recipients shall provide access to records relating to cleanups supported with cleanup grant funds to authorized representatives of the Federal government.
 - b. The CAR has an ongoing obligation to advise EPA if assessed any penalties resulting from environmental non-compliance at the site subject to this agreement.

B. Conflict of Interest

1. The CAR shall establish and enforce conflict of interest provisions that prevent the award of subgrants that create real or apparent personal conflicts of interest or the appearance of the CAR's lack of impartiality. Such situations include, but are not limited to, situations in which an employee, official, consultant, contractor, or other individual associated with the CAR (affected party) approves or administers a subgrant to a subgrant recipient in which the affected party has a financial or other interest. Such a conflict of interest or appearance of lack of impartiality may arise when:

- (i) The affected party,
 - (ii) Any member of his immediate family,
 - (iii) His or her partner, or
 - (iv) An organization which employs, or is about to employ, any of the above,
- has a financial or other interest in the subgrant recipient.

Affected employees will neither solicit nor accept gratuities, favors, or anything of monetary value from subgrant recipients. Recipients may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards of conduct will provide for penalties, sanctions, or

other disciplinary actions for violations of such standards by affected parties.

VI. PAYMENT AND CLOSEOUT

For the purposes of these terms and conditions, the following definitions apply: "payment" is the U.S. EPA's transfer of funds to the CAR; "close out" refers to the process that the U.S. EPA follows to ensure that all administrative actions and work required under the cooperative agreement have been completed.

A. Payment Schedule

1. The CAR will be paid in advance provided it has funds management controls in place which meet the requirements of 40 CFR 30.22 or 40 CFR §31.21, as applicable.

B. Schedule for Closeout

1. Closeout will be conducted in accordance with 40 CFR 31.50 or 40 CFR 30.71 following expiration of the term of the agreement or expenditure of the funds awarded and completion of the activities described by the EPA-approved workplan.
2. The CAR, within 90 days after the expiration or termination of the grant, must submit all financial, performance, and other reports required as a condition of the grant.

a. The CAR must submit the following documentation:

1. The Final Report as described in II.F.

2. A Final Federal Financial Report (FFR - SF425). Submitted to:

US EPA, Las Vegas Finance Center
4220 S. Maryland Pkwy, Bld C, Rm 503
Las Vegas, NV 89119
<http://www.epa.gov/ocfo/finservices/payinfo.html>

or by email: LVFC-grants@epa.gov or Fax to: 702-798-2423.
All email attachments must be sent in pdf format.

3. A Final MBE/WBE Report (EPA Form 5700-52A). Submitted to the regional office.

- b. The CAR must ensure that all appropriate data has been entered into ACRES or all Property Profile Forms are submitted to the Region.
- c. The grantee must immediately refund to the Federal agency any balance of unobligated (unencumbered) cash advanced that is not authorized to be retained for use on other grants.

VII. FOOD AND REFRESHMENT

1. FOOD AND REFRESHMENTS

Unless the event(s) and all of its components (i.e., receptions, banquets and other activities that take place after normal business hours) are described in the approved workplan, the recipient agrees to obtain prior approval from EPA for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops, and outreach activities (events). The recipient must send requests for approval to the EPA Project Officer and include:

- (1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s);

- (2) A description of the purpose, agenda, location, length and timing for the event.
- (3) An estimated number of participants in the event and a description of their roles.

Recipients may address questions about whether costs for light refreshments, and meals for events are allowable to the recipient's EPA Project Officer. However, the Agency Award Official or Grant Management Officer will make final determinations on allowability. Agency policy prohibits the use of EPA funds for receptions, banquets and similar activities that take place after normal business hours unless the recipient has provided a justification that has been expressly approved by EPA's Award Official or Grants Management Officer.

Note: U.S. General Services Administration regulations define light refreshments for morning, afternoon or evening breaks to include, but not be limited to, coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips, or muffins. (41 CFR 301-74.11)

VIII. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY

Recipients and subrecipients are subject to the program accessibility provisions of Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7, which includes an obligation to provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology ("EIT"). In compliance with Section 504, EIT systems or products funded by this award must be designed to meet the diverse needs of users (e.g., U.S. public, recipient personnel) without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology. At this time, the EPA will consider a recipient's websites, interactive tools, and other EIT as being in compliance with Section 504 if such technologies meet standards established under Section 508 of the Rehabilitation Act, codified at 36 CFR Part 1194. While Section 508 does not apply directly to grant recipients, we encourage recipients to follow either the 508 guidelines or other comparable guidelines that concern accessibility to EIT for individuals with disabilities. Recipients may wish to consult the latest Section 508 guidelines issued by the US Access Board or W3C's Web Content Accessibility Guidelines (WCAG) 2.0(see <http://www.access-board.gov/sec508/guide/index.htm>).

IX. LEVERAGING

The recipient agrees to provide the proposed leveraged funding, including any voluntary cost share contribution or overmatch, that is described in its proposal dated 6/25/13. If the proposed leveraging does not materialize during the period of award performance, and the recipient does not provide a satisfactory explanation, the Agency may consider this factor in evaluating future proposals from the recipient. 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 recipient knowingly or recklessly provided inaccurate information regarding the leveraged funding the recipient described in its proposal dated 6/25/13 EPA may take action as authorized by 40 CFR Parts 30 or 31 and/or 2 CFR Part 180 as applicable.

