<u>Request for Proposals (RFP)</u>
Rice Lake Brownfield Site Reuse Concept Planning
Wisconsin DNR – Remediation and Redevelopment Program
2025

I. Introduction

1. Project Background

The Remediation and Redevelopment Program (RR) at the Wisconsin Department of Natural Resources (DNR) is seeking proposals from qualified firms interested in providing consulting services to assist with a limited market study, community visioning, and site reuse plan for the Northwest Transport and the Johnson Truck Body properties located in Rice Lake, Wisconsin.

The Northwest Transport and the Johnson Truck Body properties (Properties) are located on the lakefront within the city of Rice Lake (City) within Barron County (County), Wisconsin. The Northwest Transport property is vacant and has known soil and groundwater contamination from years of industrial and trucking operations. This property, also known in DNR files as the Broten property, is located at 220 E. Charles Street, parcel #276500488000. The city received a Site Assessment grant in 2009 that was used to remove buildings and foundations on the property. The property is tax delinquent, and the County is prepared to foreclose on the parcel soon. The adjacent Johnson Trust Body property is an operating manufacturing facility. The City, the County, and the business owner have discussed relocating operations to allow the City and County to pursue lakefront redevelopment opportunities. The Johnson Truck Body property includes three parcels, parcel #276500482000 with address 215 E. Allen Street, parcel #276500493000 with address 205 E. Charles Street and parcel #276500484000 with the address 101 E. Allen Street. The City and the County seek to better understand what types of redevelopments would be economically feasible, given the status and location of these industrial properties.

2. Funding and Grant Objectives

The DNR has secured a FY26 Technical Assistance Grant from the U.S. Environmental Protection Agency (U.S. EPA) to assist the City and County with redevelopment planning at the Properties. The objective of the grant is to complete a limited market analysis for the immediate waterfront area, community visioning, and site reuse plan for the properties that will help identify realistic, near-term redevelopment opportunities that make sense for the community.

Local resident participation and the sharing of ideas among community members and leaders will be a top priority for the project. Interested citizens, City and County staff, and other stakeholders will be actively involved in the study and in the identification of a preferred reuse concept for the Properties. The market study should ideally specify state, federal, and other financial aid opportunities the City and County can pursue for help with cleanup and redevelopment.

II. Scope

The opportunity for meaningful engagement and input from community members on the future of the Properties is an important piece of a larger development effort in the community. This project builds on environmental work already completed at the Properties.

The selected consultant will be required to provide a site concept plan for the Properties that incorporates previously completed work, new analyses, and community engagement results – to assist the redevelopment efforts of the City and County. Specific tasks of this project include:

Task 1: Project Coordination

Project coordination will consist of working with the assigned DNR project coordinator, Michael Prager, the Rice Lake City Administrator, SJ Johnson, and the Barron County Economic Development Corporation Executive Director, Dave Armstrong. This will include regular meetings to update and review work proposed, in process and completed. A schedule of meetings and deliverables will be discussed and determined by the selected consultant, the City, County and the DNR. The selected consultant and those identified above will be known as the Project Coordination Team.

Task 2: Conduct Limited Market Study

This task should be designed to help the City and County determine the economic feasibility of possible reuses for the Properties that will meet the community's health, environmental, and economic goals. Items to be considered include:

- existing condition of the Properties and surrounding land uses
- community needs and potential new uses being considered for the Properties
- potential buyers of the Properties, if any
- consistency with existing community development plans
- opportunities and constraints
- existing level of support from City and County officials, residents, and other stakeholders
- analysis of access to labor and markets
- analysis of economic conditions in Rice Lake and surrounding area including market demand, vacancy rates and other factors, with a focus on the immediate waterfront area in which the Properties are located
- infrastructure needs
- data gaps
- historic preservation and cultural resources considerations
- financial costs and feasibility

Task 3: Community Engagement

This task should include community visioning activities designed to gather community input on possible reuses for the Properties and include at least two public meetings, ideally with virtual and in person options. DNR staff will assist with planning and coordinating public meetings. Key stakeholders and potentially interested parties should be invited to participate. Additional activities under this task **may** include:

- advertisement for meetings
- development of outreach materials
- a community needs assessment or survey
- presentations and/or meetings with elected officials
- a design charrette
- social media presence and information-sharing posts
- ads in local newspapers and direct mailings

Task 4: Site Concept Plans and Implementation Strategies

This task should include the development of at least two alternate site concept plans for presentation to the public. After considering public input and integrating it into the reuse concept plans for the Properties, the Project Coordination Team will meet to finalize findings and recommendations for presentation to the City Council, County Board, and other City and County officials. Final concept plans for the Properties should include:

- Graphic (plan and elevation) representation and a narrative of redevelopment concepts;
- Graphic representation and a narrative of needed infrastructure (including stormwater and floodplain) upgrades to support selected redevelopment concepts; and
- Narrative of implementation strategies including financial costs, feasibility, and available financial assistance tools and opportunities.

<u>Final Deliverables</u>
The final deliverables, which will be included in the DNR's report to the U.S. EPA as part of the DNR's grant closure documentation, should consist of:

- The monthly summaries of activities completed by the selected consultant and delivered to the Project Coordination Team by the 15th day of the following month for each month the project.
- Copy of all materials produced related to the project (e.g., market analysis report, community engagement materials, site concept plans, reports, presentations).

III. Schedule

Key approximate dates of the process are listed below.

Anticipated Procurement (dates may be subject to change at the discretion of the DNR.)

November 17, 2025	RFP available date
December 1, 2025	Deadline for submitting written questions
December 8, 2025	Anticipated date for DNR to provide answers to written questions
December 19, 2025 at 4:00 PM	Proposals due date
Week of January 5th, 2026	Review of proposals
By January 19, 2026	Contract begins
By August 30, 2026	Deliverables due

Grant Schedule

October 1, 2025	Grant period begins
April 1, 2026	Mid-Year Report due
September 30, 2026	Grant period ends

IV. Proposal Submittal Format

To simplify the DNR's review process and to obtain the maximum degree of comparability, proposals should be submitted in the following sequence/format. Failure to comply with these requirements may be cause for the proposal to be considered nonresponsive and not receive further consideration. Please submit via email with all documents saved as PDFs.

1. **Letter of Transmittal (maximum of 2 pages):** This letter should be signed by the proposed Project Manager and one Principal, and should state concisely, in less than two pages, the proposer's understanding of the work to be performed, and the unique abilities of the firm to perform the work most effectively for the DNR.

2. **Title Page (1 page):** The title page should state that it pertains to:

   Request for Proposal (RFP)
   Rice Lake Brownfield Site Reuse Concept Planning
   Wisconsin DNR – Remediation and Redevelopment Program
   2025

   The title page must include the name of the proposing firm, address, telephone number, name and email address of the proposed Project Manager, and the submittal date.

3. **Table of Contents:** The table of contents should identify the submittal by section, and the beginning page number of each section.

4. **Firm Profile (maximum of 2 pages):** In this section, describe, in less than two pages, the firm and the range of services that the firm provides directly related to this RFP. Emphasis should be on experience with brownfields redevelopment site planning, community engagement, and work with small communities. In addition, include specific experience working with U.S. EPA 104(k) brownfields grants. This section should directly reflect the required qualifications as listed in section VI of this RFP.

5. **Qualifications (maximum of 3 pages):** In less than three pages, describe the pertinent qualifications of the proposed project manager and the proposed project team. Two-page maximum resumes for key members of the project team, including the project manager, should be included in addition to the three pages of qualification information. Describe the experience and success of key personnel working on similar projects.

6. **References:** Include at least three client references for the firm (including individual name, telephone numbers, and email addresses) from similar projects that have been completed in the last five years.

7. **Project Understanding and Scope:** This section should provide a detailed description in both narrative and graphic form as necessary that demonstrates the firm's understanding related to the objectives of the project and outlines how the firm would propose to accomplish the tasks outlined in this RFP given the funding and time constraints.

8. **Cost Detail and Fees: The maximum available budget for this project is $20,000**
   Please provide basic fee information in a line-item format that includes:
   a. Hourly rates, by any personnel that may be working on the project including administrative staff (include name and title).
   b. Indirect or overhead fees.
   c. Travel, per diem rates; and
   d. Supply rates including printing and field supplies, and costs of advertising for public meetings.

   To fairly compare proposals, in addition to basic fee information, all firms should also submit cost proposals in task format as shown below:

Task	**Estimated Cost**
Task 1. Project Coordination	
Task 2. Conduct Market Study	
Task 3. Community Engagement	

Task 4. Site Concept Plans and Implementation Strategies	
Total	

Quotation of fees and compensation shall remain firm for a period of at least two months (2) from the submission of the proposal. The DNR reserves the right to negotiate fees with the selected firm prior to execution of a contract. If the DNR and selected firm cannot agree, the DNR may choose to select another firm. **Firms are encouraged to propose innovative techniques and concepts for accomplishing the goals of this RFP to maximize use of the limited budget.**

9. **Project Timeline:** The consultant shall provide a schedule for the work tasks and deliverables set forth in this RFP. The project must be completed and billed no later than August 30, 2026. Please include a statement of the firm's ability to begin the project in January 2026 and the capacity of the firm with respect to other projects that are under contract that may affect the timely completion of the work outlines in this RFP. The anticipated project timeline is below:

Anticipated Project Schedule

January 19, 2026	Contract period begins
By end of February 2026	Convene initial public meeting
By end of March 2026	Begin development of concept plans
By end of May 2026	Host public open house to gather feedback on site concepts
By end of July 2026	Present final concept plans to Common Council
By August 30, 2026	Provide copies of all final deliverables to Project Coordination Team and billing to DNR

10. **Federal Requirements:** State the firm's status as a Disadvantaged Business Enterprise (DBE) or non-DBE. If claiming DBE status, include a valid certification with the RFP response.

V. Proposal Submittal Requirements

Electronic submittals are required. Firms must submit their proposals in accordance with the following requirements:

1. The proposal document must be signed by an officer of the firm who is authorized to legally bind the firm.

2. Firms may submit their proposals any time prior to the closing date and time. **Proposals must be received no later than 4:00 P.M. (CST) on December 19, 2025, by Micheal Prager at Micheal.Prager@wisconsin.gov.**

3. Proposals may not be more than 10MB in size.

VI. Contractor Qualifications and Award Criteria

The contractor selected for this project must have proven experience in brownfields redevelopment planning. Proposals will be screened to ensure that they have met the minimum requirements of the proposal format as outlined in section V. A selection committee of DNR personnel will review remaining qualifying proposals. The following criteria are among those that will be used to evaluate qualifying proposals:

1. The firm and proposed project team's level of professional competence and proven track record of:
   - brownfields reuse planning;
   - conducting community engagement activities; and
   - developing redevelopment strategies and recommendations.

2. The quality of the proposal based on the:
   - demonstrated understanding of the project's overall objectives;
   - proposed activities and schedule to complete the goals of the project;
   - demonstrated expertise in completing similar projects; and
   - level of interest.

3. Proposed fee schedule in relationship to the services offered.

As part of the DNR's evaluation above, the DNR will consider the criteria set forth in Wis. Admin. Code §§ NR 734.15(5) and NR 734.17, including: (1) the adequacy of the proposal submitted under Wis. Admin. Code § NR 734.15(5); (2) past performance on similar projects; (3) experience and expertise necessary for this specific project; (4) availability of qualified environmental staff, as required by Wis. Admin. Code ch. NR 712; (5) the consultant's geographic proximity to the site; and (6) status as an Minority Business Enterprise (MBE) or Disabled Veteran Owned Business (DVB).

After evaluation of proposal, the DNR may choose to invite two to three top-ranked firms to a virtual or in person interview. The purpose of the interview is to gather additional information to evaluate firms on their abilities to provide the services requested by this RFP, and to discuss the firm's proposed approach to interacting with the DNR and City while providing those services. Firms must be available, in person or virtually, for these follow-up interviews at the DNR's or City's facilities on specific dates and times. If interviews are held, both the original submitted proposal and the results of the interviews may be used to evaluate firms.

Unless the DNR exercises its right to make no selection as provided in Wis. Stat. § 23.41(5) the DNR will select the Consultant whose proposal scores the highest total points, as determined by the DNR for the Consultant under this section.

VII. Contract Requirements

The selected consultant will be provided with a copy of the DNR's standard Professional Services Contract as shown in Attachment I, and the EPA Grant Terms and Conditions as shown in Attachment II. If the firm cannot agree with the DNR's contract provisions or the EPA Terms and Conditions, the DNR may choose to select another consultant. The DNR will not negotiate contract language.

1. **Contract Award and Effective Date:** The effective date of the contract shall be the date indicated in the period of agreement section of each executed contract and shall run for one year from that date. Contractual commitments are contingent upon the availability of funds, and the requirements of the site. All contracts are subject to the approval of the DNR's legal counsel, and the DNR Secretary's office prior to execution. Once awarded, the contract will be the final expression of the agreement between the parties and may not be altered, changed or amended except by mutual agreement, in writing.

2. **Eligible Program Costs:** The firms that submit their qualifications to the DNR under this RFP do so recognizing the following specific contract requirements:

A. **Administrative Costs:** Eligible programmatic costs include costs for contractual support if those costs are ***reasonable and allocable*** to tasks specified in an approved scope of work for carrying out the activities. The contractor's indirect costs that are otherwise reasonable (i.e., 10% or less based on the DNR's preference) and normally charged to cost reimbursement contracts allowable under this funding source.

B. **Copyrighted Material:** No documents or information that is developed and paid for under this contract for the DNR may be copyrighted by any environmental consultant. The copyrighted materials conditions in Attachment I and II also apply.

C. **Utilization of Small, Minority and Women's Business Enterprises:** The selected consultant shall make every effort to award a minimum of 5% of the work to minority business enterprises. The selected consultant will be required to submit a report to the DNR which will identify the minority business enterprises to whom the work was awarded and the value of said work. A current list of minority business enterprises may be obtained from the State of Wisconsin Department of Administration Minority (MBE) and Disabled Veteran Owned Business (DVB) Certification Program.

Minority Business Certification Program
101 E Wilson St, 6th Floor
PO Box 7970
Madison, WI 53707
Tel: (608) 267-9550
Email: SupplierDiversity@wi.gov

Minority Business Enterprise (MBE) means: "a sole proprietorship, partnership, joint venture, or corporation which is certified by the Wisconsin Department of Development to be 51% owned, controlled and actively managed by a Black, Hispanic, American Indian, Eskimo, Aleut, Native Hawaiian, Asian Indian, or a person of Asian-Pacific origin. The business must also be currently performing a useful business function."

VIII. Other

1. **Rejection:** The DNR reserves the right to reject any and all proposals, to waive any informality in the proposals that are received, to accept or reject any or all items in the proposal, and to award a contract to a firm in whole or in part. Moreover, the DNR reserves the right to make no selection if the proposals are deemed to be outside the fiscal constraint or not in the best interests of the DNR.

2. **RFP Questions:** The deadline for submitting written questions regarding this RFP is no later than December 1, 2025. Questions are to be submitted to Micheal Prager via e-mail at Micheal.Prager@wisconsin.gov. Questions submitted by telephone will not be accepted. Answers to the written questions submitted will be posted by December 8, 2025. **Questions submitted after the December 1, 2025, deadline will not be considered (no exceptions).** It is the responsibility of the respondent, to ensure that all information requested has been included in the proposal. Respondents are specifically directed not to contact any DNR staff for questions, meetings, conferences or technical discussions that are related to this RFP, except as outlined above. Unauthorized contact with any DNR personnel will be cause for rejection of the proposal.

3. **Incurred Costs:** Those vendors submitting proposals do so entirely at their own expense. There is

no expressed or implied obligation by the DNR to reimburse any individual or firm for any costs incurred in preparing or submitting responses, for providing additional information when requested by the DNR, or for attending and/or participating in any follow-up interviews and negotiation sessions.

4. **Confidential Matters: Vendor Data:** If any information submitted in the proposal is considered confidential or proprietary, the respondent must identify this information by completing and including the Designation of Confidential and Proprietary Information with their proposal, in accordance with statutory requirements.

5. **Assignment:** The respondent may not reassign any portion of the work that is accepted as a result of this RFP, without prior written consent from the DNR.

Attachment I

Contract Number ___________________________

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
Madison, Wisconsin

THIS AGREEMENT is made and entered into by and between the State of Wisconsin, hereinafter called the "State", by its Department of Natural Resources, hereinafter called the "Department", executing this Agreement, and INSERT NAME OF CONSULTANT HERE, hereinafter called the "Consultant", for the work included in the Consultant's Proposal based on the Department's Scope of Work, both specified in Section 34 of the General Terms and Conditions below. Costs for the work shall be reimbursed in accordance with the attached proposal up to a maximum agreed amount NOT TO EXCEED $INSERT DOLLAR AMOUNT IN NUMBERS HERE (INSERT DOLLAR AMOUNT IN WORDS HERE Dollars).

WITNESSETH

WHEREAS, the Department proposes development of a project, hereinafter named the "Project", which is described as follows: INSERT DESCRIPTION OF PROJECT HERE.

WHEREAS, the Department deems it advisable to engage the services of a Consultant to furnish professional services in connection with the Project.

WHEREAS, the Department has authority as provided in Section 23.41 of the Wisconsin Statutes to engage such services.

WHEREAS, the Consultant has signified its willingness to furnish services for the Department.

NOW THEREFORE, in consideration of these premises and their mutual and dependent agreements, the parties hereto agree as set forth in the following pages which are annexed hereto and made a part hereof. (Pages 1 to INSERT LAST PAGE OF CONDITIONS HERE, inclusive.)

IN WITNESS WHEREOF, the Department and the Consultant have executed this AGREEMENT.

INSERT NAME OF CONSULTANT HERE

By_____________________________________

Title ___________________________________

Date ___________________________________

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By_____________________________________
Christine Sieger, Program Director, Remediation and Redevelopment

Date ___________________________________

GENERAL TERMS AND CONDITIONS

* * * * * *

THE CONSULTANT shall provide professional services for the Project in accordance with the terms and conditions of this Agreement.

1. AFFIRMATIVE ACTION. If the amount of this Agreement is $25,000 or more, the Consultant agrees to submit a written affirmative action plan to the Department within 15 business days after the Agreement commences if an acceptable plan is not already on file with the State of Wisconsin. (Consultants with an annual work force of fewer than 25 employees are exempted from this requirement.) Failure to comply with the conditions of this clause may result in the Consultant being declared an "ineligible" contractor, termination of the Agreement, or withholding of payment

2. ANTITRUST ASSIGNMENT. The Consultant and the Department recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the Department. Therefore, the Consultant hereby assigns to the Department any and all claims for such overcharges as to goods, materials or services purchased in connection with this Agreement.

3. APPLICABLE LAW. This Agreement shall be governed by the laws of the State of Wisconsin. The Consultant shall at all times comply with all federal, state and local laws, ordinances and regulations in effect during the period of this Agreement.

4. APPROVALS OR INSPECTIONS. None of the approvals or inspections performed by the Department shall be construed or implied to relieve the Consultant from any duty or responsibility it has for its professional performance, unless the Department formally assumes such responsibility through a letter from the Department expressly stating that the responsibility has been assumed.

5. ASSIGNMENT. Neither this Agreement nor any right or duty in whole or in part by the Consultant under this Agreement may be assigned, delegated or subcontracted without the written consent of the Department.

6. CANCELLATION; TERMINATION.

A. The Department reserves the right to cancel this Agreement in whole or in part, without penalty, due to non-appropriation of funds or for the failure of the Consultant to comply with terms, conditions, or specifications of this Agreement.

B. The Department may terminate this Agreement for any reason at any time upon not less than 10 days' written notice to the Consultant.

C. In the event of termination, the Department shall pay the Consultant for that portion of the work satisfactorily performed prior to the date of termination.

D. If this Agreement is canceled or terminated by the Department for reasons other than the failure of the Consultant to comply with terms, conditions or specifications of this Agreement, the Consultant shall also be entitled to reasonable cancellation or termination costs relating to costs incurred by the Consultant for commitments which had become firm prior to the cancellation or termination.

E. Upon cancellation or termination under PARAGRAPH A. or B., above, the Consultant shall promptly discontinue all affected work (unless the notice of termination directs otherwise), and deliver or otherwise make available to the Department all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the Consultant in performing this Agreement, whether completed or in progress.

7. CHANGE ORDERS

A. A change order is a written order to the Consultant signed by the Department, issued after the execution of this Agreement, authorizing a change in the work or an adjustment in the Contract Sum or the Contract Time. Change Orders may be initiated by either party at any time.

B. Changes in work shall be within the general scope of the Agreement, consisting of additions, deletions or other revisions; the Contract Sum and the Contract Time being adjusted accordingly. Complete documentation of additional work, cost changes, and contract time shall be provided to the Department by the Consultant.

C. No adjustments to the Contract Sum or the Contract Time may be made for any changes performed by the Consultant that have not been ordered by the Department.

8. DEDUCTION FOR UNCORRECTED WORK. If the Department deems it expedient to accept defective work or work not performed in accordance with the Agreement, the difference in value, together with a fair allowance for the damages, may be deducted from the payments that are owed to the Consultant under this Agreement.

9. DELIVERABLES. Deliverables are defined as those items included in the Agreement's time schedule.

10. DISCLOSURE. If a state public official (as defined under Section 19.42, Wisconsin Statutes), a member of a state public official's immediate family, or any organization in which a state public official or a member of the official's immediate family owns or controls a 10% interest, is a party to this Agreement, and if this Agreement involves payment of more than $3,000 within a 12 month period, this Agreement is voidable by the State unless appropriate disclosure is made according to Section 19.45(6), Wisconsin. Statutes, before signing the Agreement. Disclosures shall be made to the State of Wisconsin Ethics Board, 44 E. Mifflin Street, Suite 601, Madison, Wisconsin 53703 (Telephone 608 266-8123).

11. DISPUTE RESOLUTION. In the event that a dispute arises between the Department's project manager and the Consultant's project manager, either party may request a conference between the Department's Director of the Bureau for Remediation and Redevelopment and the Consultant's project manager's supervisor (or designee) to resolve the dispute.

12. ENTIRE AGREEMENT; AMENDMENTS. This Agreement, together with the specifications in the proposal and referenced parts and attachments, shall constitute the entire agreement and previous communications or agreements pertaining to the subject matter of this Agreement are hereby superseded. Any contractual revisions including cost adjustments and time extensions may be made only by a written amendment to this Agreement, signed by both parties prior to the ending date of this Agreement.

13. EXTRA WORK AND SPECIAL CASES. If the Department desires to have the Consultant perform work or render services in connection with the project, other than provided for by the expressed intent of this Agreement, this will be considered as Extra Work, subject to a change order, or extension to this Agreement, setting forth the nature and scope thereof and the compensation therefore as determined by mutual agreement between the parties. Work under a change order or extension may not proceed unless and until it is authorized by the Department.

14. FORCE MAJEURE

A. The Consultant shall cause all of its work to be performed within the time limits set forth in this Agreement unless performance is delayed by events that constitute a force majeure. For purposes of this Agreement, a "force majeure" is an event which is not foreseeable, is beyond the control of the Consultant and delays performance of any obligations required by this Agreement, including, but not limited to, delays caused by the Department, delays in obtaining property access or delays in obtaining any necessary permit or license after a complete application is made.

B. The Consultant shall notify the Department in writing no later than 5 calendar days after the discovery of any event which the Consultant contends is a force majeure. Such notification shall describe the anticipated length of the delay, the cause or causes of the delay, the measures taken and to be taken by the Consultant to minimize the delay, and the timetable by which these measures will be implemented. The Consultant shall have the burden of demonstrating that the event is a force majeure. The Department shall promptly provide the Consultant with a written decision as to whether and why the event does or does not constitute a force majeure after receiving notification from the Consultant. If the Consultant does not agree with the findings of the Department project management staff, then a conference with the Department's Director of the Bureau for Remediation and Redevelopment will be arranged with the Consultant to resolve the force majeure issue.

C. If the Department agrees that a delay is attributable to a force majeure, the time period for a performance under this Agreement shall be extended for a reasonable time period attributable to the event constituting a force majeure.

15. GUARANTEED DELIVERY. Failure of the Consultant to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the Consultant liable for all costs in excess of the Agreement price when alternate procurement is necessary. Excess costs shall include the Department's administrative costs.

16. INDEMNIFICATION; LIABILITY

A. The Consultant agrees to save, keep harmless, defend and indemnify the State, the Department and all their officers, employees and agents, against any and all liability, claims and costs for injury to or death of any person or persons, and for loss or damage to any property (state or other) caused by or arising out of any willful misconduct, negligent act, error or omission by the Consultant or any of its agents, representatives, subcontractors or employees occurring in connection with or in any way incident to or arising out of performance of this Agreement. This PARAGRAPH does not apply to liability, claims and costs to the extent that they result from the willful misconduct, negligent act, error or omission of the State, the Department or their officers, employees or agents.

B. The Department recognizes and agrees that its employees are subject to liability as provided by Sections 893.82 and 895.46, Wisconsin Statutes. Therefore, its employee will be liable for their acts under these provisions and will not be acting on behalf of or as agents of the Consultant.

C. The Consultant guarantees that the use of equipment incorporated into the Project will not infringe any United States patent, and likewise that the use of any method in conjunction with the Project will not infringe any United States patent. The Consultant agrees that it will at its own expense defend every law suit which shall be brought against the State of Wisconsin for any alleged infringement of any patent and agrees that it will pay all costs, damages, and profits recoverable in any such suit. The Department agrees to promptly notify the Consultant of any such suit and deliver all papers relating to such suit to the Consultant.

17. INDEPENDENT CONTRACTOR. The Department agrees that the Consultant shall have sole control of the method, hours worked, and time and manner of any performance under this Agreement other than as specifically provided herein. The Department reserves the right only to inspect the job site or premises for the purpose of insuring that the performance is progressing or has been completed in compliance with the Agreement. The Department takes no responsibility for supervision or direction of the performance of the Agreement to be performed by the Consultant or the Consultant's employees or agents. The Department further agrees that it will exercise no control over the selection and dismissal of the Consultant's employees or agents.

18. INSURANCE. The consultant performing services for the State of Wisconsin shall:

A. Maintain workers compensation insurance for all employees engaged in the work

B. Maintain commercial liability and property damage insurance against any claim(s) which might occur in carrying out this Agreement. Minimum coverage shall be $2,000,000 liability for bodily injury and property damage including products liability and completed operations.

C. Provide motor vehicle insurance for all owned, non-owned, and hired vehicles that are used in carrying out the Agreement. Minimum coverage shall be $2,000,000 per occurrence combined single limit for automobile liability and property damage.

D. Provide an insurance certificate indicating this coverage, counter-signed by an insurer licensed to do business in Wisconsin, covering the period of the Agreement. The insurance certificate is required to be presented prior to commencement of the Agreement.

E. The State reserves the right to require higher or lower limits where warranted.

19. INVENTIONS, PATENTS, TRADE-MARKS AND COPYRIGHTS

A. The Consultant hereby assigns to the Department the entire right, title and interest for the entire world in and to all work performed, writings, formulas, designs, models, drawings, photographs, design inventions and other inventions made, conceived or reduced to practice or authored by the Consultant or the Consultant's employees, either solely or jointly with others, while performing this Agreement or with use of information, materials or facilities of the Department received or used by the Consultant during the period in which the Consultant is retained by the Department or its successors under this Agreement or any extensions or renewals of this Agreement.

B. The Consultant shall promptly disclose to the Department all works, writings, formulas, designs, models, drawings, photographs, design inventions and other inventions made, conceived or reduced to practice or authored by the Consultant or the Consultant's employees in the course of the performance of this Agreement.

C. The Consultant shall sign, execute and acknowledge or cause to be signed, executed and acknowledged without cost, but at the expense of the Department, any and all documents and to perform such acts as may be necessary, useful or convenient for the purpose of securing to the Department or its nominees, patent, trademark or copyright protection throughout the world upon all such works, writings, formulas, designs, models, drawings, photographs, design inventions and other inventions, title to which the Department may acquire in accordance with the provisions of this SECTION.

D. The Consultant has acquired or shall acquire from each of its employees the necessary rights to all such works, writings, formulas, designs, models, drawings, photographs, design inventions and other inventions made by such employees within the scope of their employment by the Consultant in performing services under this Agreement. The Consultant shall obtain the cooperation of each such employee to secure to the Department or its nominees the rights to such works, writings, formulas, designs, models, drawings, photographs, design inventions and other inventions as the Department may acquire in accordance with the provisions of this SECTION.

20. LATE PENALTIES

A. The Consultant shall be liable for the payment of penalties to the Department of the sums set forth below for each week that the Consultant fails to submit a report or document required under this Agreement's time schedule unless the Department determines that such delay is attributable to a force majeure as defined in SECTION 14., above, or a different schedule is agreed to by the parties, in writing, before the date the report or document is due. Penalties, if applicable, shall be due and payable by the Consultant within 15 calendar days of receipt of notification from the Department assessing the penalties. These penalties shall accrue in the amount of $500 for the first week and $1,000 for each week thereafter, for each report or document which is overdue. The Department may subtract penalties which accrue under this SECTION from payments that are owed to the Consultant under this Agreement.

B. Assessment of penalties under this SECTION does not preclude the Department from pursuing any other remedies or sanctions because of the Consultant's failure to comply with any of the terms of this Agreement, including a suit to enforce the terms of this Agreement.

C. With respect to any individual failure to submit a report or document required under this Agreement's time schedule, the Department may at its sole discretion, in whole or in part, waive its right to penalties otherwise due under this SECTION.

21. NO WAIVER OF CONDITIONS. The failure of either party to insist on strict performance of this Agreement does not constitute a waiver of any of the provisions of this Agreement or a waiver of any default of the other party.

22. NONDISCRIMINATION. In connection with the performance of work under this Agreement, the Consultant agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in Section 51.01(5), Wisconsin Statutes, sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Consultant further agrees to take affirmative action to ensure equal employment opportunities. The Consultant agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the Department setting forth the provisions of this nondiscrimination clause. Failure to comply with the conditions of this clause may result in the Consultant being declared an "ineligible" contractor, termination of the Agreement, or withholding of payment.

23. OWNERSHIP OF DOCUMENTS. Upon completion of the services provided for in this Agreement, or upon payment for services as provided for in SECTION 7, all specifications, charts, sketches, drawings and other documents, whether finished or not, shall become the property of the Department.

24. OWNERSHIP OF WASTES. The Department acknowledges that the Consultant is not, by virtue of this Agreement, the owner of any waste materials generated as a result of the services performed by the Consultant under this Agreement.

25. PAYMENTS. A. The Consultant shall be paid by the Department for the completed work or services rendered under this Agreement at the price set forth elsewhere in the Agreement, and for "Extra Work", if any, at the compensation set forth in the approved orders covering the Extra Work.

B. Such payment shall be full compensation for work performed or services rendered and for all labor, material, supplies, equipment and incidentals necessary to complete the work.

26. PAYMENT TERMS AND INVOICING. A. Payment shall be considered timely if the payment is mailed, delivered, or transferred by the later of the following:

A. The date specified on a properly completed invoice for the amount specified in the order or Agreement, or

B. Within 30 days after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or Agreement or within 30 days after receipt of an improperly completed invoice or receipt and acceptance of the property or service under the order of Agreement, whichever is later if the Department does not notify the sender of receipt of an improperly completed invoice within 10 working days after it receives the invoice of the reason it is improperly completed.

27. PERIOD OF AGREEMENT. This Agreement shall commence upon its signing by both parties (including approval by the Governor of the State if required) and shall follow the schedule developed in the proposal, during which period all performance as described in this Agreement shall be fully completed to the satisfaction of the Department.

28. PROJECT MANAGEMENT. The Department's project manager for this project is Micheal Prager, located in the Department's Central Office in Madison. The Consultant has identified INSERT NAME OF CONSULTANT'S PROJECT MANAGER HERE as its project manager. If either the Consultant or the Department changes its project manager for this project, notification of this change shall be sent to the other party within 10 days of such a change with the name of the new project manager included.

29. RECORDS, ACCESS. The Consultant shall, for a period of 3 years after completion and acceptance by the Department, maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices. The Consultant shall also maintain the financial information and data used in the preparation or support of the cost submission in effect on the date of execution of this Agreement and a copy of the cost summary submitted to the Department. The Department, its agents and duly-authorized representatives shall have access to such books, records, documents, and other evidence for the purpose of inspection, audit and copying. The Consultant shall provide proper facilities for such access, inspection and copying. In addition, those records which relate to any dispute, appeal or litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until 3 years after the date of resolution of such dispute, appeal, litigation, claim or exception. The Consultant shall notify the Department prior to destroying any records.

30. REJECTION OF DEFECTIVE MATERIALS. The Department may reject materials and workmanship which are defective or it may require their correction. Rejected workmanship shall be satisfactorily corrected, and rejected materials shall be removed from the Project site without charge to the Department. If the Consultant does not correct such condemned work and remove rejected materials within a reasonable time, fixed by written notice, the Department may remove them and charge the expense to the Consultant.

31. RELEASE OF INFORMATION. The Consultant may not issue press releases or provide information to any third party regarding the Project without the prior written approval of the Department.

32. REQUEST FOR PAYMENT; PROGRESS REPORTS. The Consultant shall submit invoices to the Department on a monthly basis during the progress of the work for partial payment on account, for the work completed and accepted to date. Pay request formats shall match as closely as possible to the cost proposal format. Each category from the cost proposal shall detail, by task, the hours and costs of each staff level. All invoices detailing the Consultant's work and subcontracted work shall be attached. Copies of all staff time sheets or summary time data used to invoice pay requests should be attached to the invoice. Unless the Department directs otherwise, all receipts for equipment, materials and other expenses shall be attached to the pay request. The pay request along with a monthly progress report shall be sent directly to the Department's project manager.

33. SAFETY. The Consultant shall initiate, maintain and provide coordination of safety precautions and programs in connection with its services. However, the Consultant is not responsible for the elimination or abatement of safety hazards created or otherwise resulting from work at the Project site carried on by other persons or firms directly employed by the Department as separate consultants or contractors. The Department agrees to require any such separate consultants or contractors comply with federal, state and local safety laws and regulations and to comply with all reasonable requests and directions of the Consultant for the elimination or abatement of any safety hazards at the Project site.

34. SCOPE OF SERVICES TO BE PROVIDED. Subject to the terms and conditions set forth in this Agreement, the Department engages the Consultant to furnish the services specifically described in the Consultant's Proposal entitled: INSERT TITLE OF THE PROPOSAL HERE dated INSERT DATE OF PROPOSAL HERE, based on the Department's Scope of work, entitled: INSERT TITLE OF SCOPE OF WORK HERE dated INSERT DATE OF SCOPE OF WORK HERE, and for such other tasks as may be mutually agreed upon in writing between the Consultant and the Department. The Consultant's Proposal and the Department's Scope of Work are incorporated into this Agreement by reference and are made a part of this Agreement.

35. SITE ACCESS. Unless the Scope of Work included in Exhibit "A" provides otherwise, the Department shall obtain or provide reasonable access for the Consultant to the Project site when necessary and at any reasonable time requested.

36. DATA. The Department shall attempt to provide the Consultant with all relevant data and information in its possession regarding the Project site. However, in providing such data and information, the Department assumes no responsibility for its accuracy, reliability or completeness.

37. STANDARD OF PERFORMANCE. The Consultant's services shall be performed with the usual thoroughness, skill and competence of the consulting profession, in accordance with the standard for professional services prevailing at the time those services are rendered.

38. SURVIVAL. These General Terms and Conditions shall survive the completion of the services under this Agreement and the termination of this Agreement for any cause.

39. SUCCESSORS AND ASSIGNS. The Department and the Consultant each bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of the other party with respect to all covenants of this Agreement.

40. TAX DELINQUENCY. Consultants which have a delinquent Wisconsin tax liability may have their payments offset by the State.

41. TAXES. The Department is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. However, it is exempt from payment of all federal tax and Wisconsin sales or use tax on its purchases. The State of Wisconsin has issued tax exempt number ES 40690 to the Department. The Department may be subject to other states' taxes on its purchases in that state depending on the laws of that state. Consultants performing construction activities are required to pay state use tax on the cost of materials.

42. TESTIMONY. The Consultant shall make its employees available to testify at administrative hearings and in court on behalf of the Department regarding the work conducted under this Agreement. Any costs associated with such testimony shall be billed to the Department on an itemized invoice. The hourly rates charged for testifying and for travel to and from the hearing or court proceeding may not exceed the rates listed on the Consultant's Classification Rate Schedule in effect at the time that the testimony is given.

43. TITLES. The headings or titles of SECTIONS of this Agreement are used for convenience and ease of reference and are not intended to limit the scope or intent of the SECTIONS.

44. WARRANTY. With respect to any construction work or construction activities performed under this Agreement, except where a longer warranty period is provided by the manufacturer or supplier of any equipment or materials, the Consultant warrants that for one year the work will be free from defects in material or workmanship and that all construction services and material furnished shall be in accordance with the Department's specifications or the proposal. This warranty shall survive acceptance and payment and shall not be exclusive. Manufacturers' warranties received by the Consultant which are applicable to any items furnished by the Consultant shall survive acceptance and payment, and shall run to the Department, its successors and assigns, and may not be exclusive. The Consultant shall obtain any warranties which vendors, contractors and subcontractors would give in normal commercial practice. At the Department's option, the Consultant shall either promptly repair or replace defective items and work after receipt of the Department's written notice of a defect.

- END -

Attachment II

Administrative Conditions

General Terms and Conditions

The recipient agrees to comply with the current EPA general terms and conditions available at: https://www.epa.gov/system/files/documents/2024-10/fy_2025_epa_general_terms_and_conditions_effective_october_1_2024_or_later.pdf.

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

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

A. Correspondence Condition

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

- Federal Financial Reports (SF-425): rtpfc-grants@epa.gov and **hamid.gulfishanali@epa.gov**
- All other forms/certifications/assurances, Indirect Cost Rate Agreements, Requests for Extensions of the Budget and Project Period, Amendment Requests, Requests for other Prior Approvals, updates to recipient information (including email addresses, changes in contact information or changes in authorized representatives) and other notifications: **Sarah Gruza** at Gruza.Sarah@epa.gov and **Gulfishan Hamid** at Hamid.Gulfishanali@epa.gov.
- Payment requests (if applicable): Gruza.Sarah@epa.gov
- Quality Assurance documents, workplan revisions, equipment lists, programmatic reports and deliverables: Gruza.Sarah@epa.gov**.**

Programmatic Conditions

FY25 State and Tribal Response Program Cooperative Agreement Terms and Conditions

Please note that these terms and conditions (T&Cs) apply to State and Tribal Response Program Cooperative Agreements awarded under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 128(a).

I. GENERAL FEDERAL REQUIREMENTS

A. Federal Policy and Guidance

1. Cooperative Agreement Recipients

In implementing this agreement, the Cooperative Agreement Recipient (CAR) shall ensure that work done with cooperative agreement funds complies with the requirements of CERCLA § 128(a). The CAR shall also ensure that activities supported with cooperative agreement funding comply with all applicable federal and state laws and regulations.

2. Federal Cross-Cutting Requirements

The CAR must comply with federal cross-cutting requirements including, but are not limited to, DBE requirements found at 40 CFR Part 33; OSHA Worker Health & Safety Standard 29 CFR § 1910.120; Uniform Relocation Act (40 USC § 61); National Historic Preservation Act (16 USC § 470); Endangered Species Act (P.L. 93-205); Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR § 60-4; Contract Work Hours and Safety Standards Act, as amended (40 USC §§ 327-333); the Anti-Kickback Act (40 USC § 3145); and Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250. For additional information on cross-cutting requirements visit https://www.epa.gov/grants/epa-subaward-cross-cutter-requirements.

II. RESPONSE PROGRAM REQUIREMENTS

A. Four Elements

Throughout the duration of this agreement the CAR must remain a party to the Voluntary Response Program Memorandum of Agreement with EPA, dated November 21, 2006.

1. Public Record System

The CAR must establish a public record system pursuant to CERCLA Section 128(b)(1)(C). The public record must be maintained and updated at least annually and include the requirements listed below.

a. For sites where response actions were completed in the previous grant project year, include the following:

i. Date the response action was completed;

ii. Site name, name of owner at time of cleanup, and type of site (e.g., petroleum, methamphetamine laboratory, mine scarred lands);

iii. Location of the site (street address, latitude and longitude);

iv. Explanation of whether or not the site will be suitable for unrestricted use upon completion of the response action. If not, the public record must identify and describe the institutional control(s) in place or relied on for the remedy (e.g., deed restriction);

v. Nature of the contamination at the site (e.g., hazardous substances, contaminants, pollutants, petroleum contamination, etc.); and

vi. Size of the site in acres.

b. A list of sites planned to be addressed in the next year by the state or tribal response program including:

i. Site name, name of owner at time of cleanup, and type of site (e.g., petroleum, methamphetamine laboratory, mine scarred lands);

ii. Location of the site (street address, latitude and longitude);

iii. Explanation of whether or not the site will be suitable for unrestricted use upon completion of the response action. If not, the public record must identify and describe the institutional control(s) in place or relied on for the remedy (e.g., deed restriction);

iv. Nature of the contamination at the site (e.g., hazardous substances, contaminants, pollutants, petroleum contamination, etc.); and

v. Size of the site in acres.

c. Once a public record is established in a manner consistent with CERCLA Section 128(b)(1)(C), CARs must maintain the public record throughout the duration of this agreement.

B. Site-Specific Activities

1. Eligible Brownfield Site

Consistent with CERCLA Section 128(a)(2)(C)(iii), EPA guidance, and to the extent authorized by the scope of work for this agreement, the CAR may conduct assessments or cleanups at sites that meet the definition of a "brownfield" site as defined in CERCLA Section 101(39) in response to a request by a person who is or may be affected by a release or threatened release of a hazardous substance, pollutant, contaminant, or petroleum at a brownfield located in the community in which the person works or resides. Assessments and cleanups must comply with all applicable laws and are subject to the following restrictions:

a. Absent approval by EPA's Project Officer, no more than $250,000 per site can be funded for assessments, and no more than $250,000 per brownfield site can be funded for cleanups.

b. Absent approval by EPA's Project Officer, the CAR may not use funds awarded under this agreement to assess and/or cleanup brownfields owned by the CAR or held in trust by the United States Government for the CAR.

FOR STATE/TERRITORIAL CARs ONLY: Assessments and cleanups may not be conducted at brownfields where the CAR is a potentially responsible party (“PRP”) pursuant to CERCLA Section 107, except when the CAR acquired the property before January 11, 2002, and has not caused or contributed to a release or threatened release of a hazardous substance at the property.

2. Response Activities

Consistent with CERCLA Section 128(a)(2)(B)(ii), and to the extent authorized by the scope of work for this agreement, the CAR may use funds awarded under this agreement to complete the necessary response activities, including assessments and cleanups, if the person conducting a response action overseen by the CAR fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities. Assessments and cleanups under this provision must comply with all applicable laws and are subject to the following restrictions:

a. Absent approval by EPA's Project Officer, the CAR may not use funds awarded under this agreement to assess and cleanup sites owned by the CAR.

b. The CAR may not use funds awarded under this agreement to assess or cleanup sites for which the CAR is a potentially responsible party (pursuant to CERCLA Section 107), with the exception of sites contaminated by a controlled substance as defined in CERCLA Section 101(39)(D)(ii)(I).

4. Documentation

For the site-specific activities under paragraphs II.B.1., II.B.2. and II.B.3, the CAR must maintain documentation supporting the CAR's conclusion that the site meets the brownfield definition in CERCLA Section 101(39). For those sites which are excluded from the brownfield definition, pursuant to CERCLA Section 101(39)(B), but are eligible for a property-specific funding determination pursuant to CERCLA Section 101(39)(C), the CAR must comply with paragraph II.B.7. (Property-Specific Funding Determinations) below. NOTE: To the extent authorized in the scope of work for this agreement, the CAR may conduct oversight of cleanups at sites other than brownfields. Records must be maintained per 2 CFR 200.334.

5. Petroleum-only Site-Specific Activities

For site-specific activities at petroleum-only brownfields sites (CERCLA Section 101(39)(D)(ii)(II)), the requirements listed below apply.

a. The CAR must determine and maintain supporting documentation that:

i. There is no viable responsible party for the site;

ii. The site will not be assessed, investigated, or cleaned up by a person that is potentially liable for cleaning up the site; and

iii. The site is not subject to any order issued under Section 9003(h) of the Solid Waste Disposal

Act.

b. The supporting documentation must identify the state [OR EPA OFFICAL (FOR TRIBAL SITES)] official who made the determination, the date the CAR obtained the determination, and a summary of each conclusion.

CARs are encouraged to reach out to their EPA regional brownfields contacts with questions on petroleum brownfield site eligibility and where to get additional information. Additional resources can be found on EPA's Brownfields website, such as Community Visions for Abandoned Gas Stations and EPA's Office of Underground Storage Tank's ("OUST's") Petroleum Brownfields webpage.

6. Funding Limit for Site-Specific Activities

The amount requested for site-specific assessments and cleanups **may not exceed 75%** of the total amount of Section 128(a) funding awarded to the CAR during FY 2025. This 75% cap includes the total funding that the CAR received from both the FY25 Section 128(a) Annual Appropriation funds and FY25 Section 128(a) Infrastructure Investment and Jobs Act (IIJA) funds.

Note: Oversight of assessment and cleanup activities performed by responsible parties (other than the state or tribe) does not count toward the 75% limit. The 75% cap also does not include personnel or supplies/equipment purchased in support of site-specific work.

A CAR may submit to the EPA Project Officer a written request for a waiver to exceed the 75% of annual funding for site-specific activities. The EPA Project Officer will review the waiver request and make a recommendation to EPA's Office of Brownfields and Land Revitalization, who will determine if the requested waiver is approved. The EPA Project Officer will notify the CAR of EPA's determination.

The CAR's written waiver request submitted to the EPA Project Officer must include a brief justification describing the reason(s) for spending more than 75% of their FY25 total annual appropriation and IIJA allocation on site-specific activities and must include the following information:

- Provide the percentage of the eligible brownfield site-specific activities (assuming waiver is approved) in the CAR's total FY25 budget;
- List all site-specific activities that will be covered by this funding. If known, provide site-specific information and a description of how work on each site contributes to the establishment or enhancement of your state/tribal response program. EPA encourages states and tribes to use site-specific funding to perform assessment and cleanup activities that will expedite the reuse and redevelopment of sites, and prioritize sites based on need. Further explain how the community will be (or has been) involved in prioritization of site work and especially those sites where there is a potential or known significant environmental impact to the community;
- Explain how this shift in funding will not negatively impact the core programmatic capacity (i.e., the ability to establish/enhance the four elements of a response program) and how it will be maintained in spite of an increase in site-specific work. Grantees must demonstrate that they have adequate funding from other sources to effectively carry out work on the four elements for EPA to grant a waiver of the 75% limit on using 128(a) funds for site-specific activities;
- Describe how this shift in funding towards site-specific work is appropriate for your response program; and
- Explain whether the sites to be addressed are those for which the affected community/ies

has/have requested work be conducted.

7. Property-Specific Funding Determinations

If a CAR plans to use funds for site-specific activities at a site that is excluded from the definition of a brownfield in CERCLA Section 101(39)(A) and (B) but is eligible for a property-specific funding determination, then the CAR must provide information sufficient for EPA's Regional Approval Official, as delegated by Delegation 14-44 and 14-45, to make a property-specific funding determination. Sites eligible for property-specific funding are defined in CERCLA Section 101(39)(C). The CAR must comply with the following requirements:

a. The CAR must not incur any site-specific costs for those sites which require a property-specific funding determination under this agreement (other than those necessary to provide information to EPA) until EPA's Approval Official makes a property-specific funding determination.

b. The CAR must submit to EPA's Project Officer a written request for a property-specific funding determination. The request must include information about the site (e.g., name, location, owners) and explain how the financial assistance will:

i. Protect human health and the environment, and

ii. Either promote economic development or enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property or other property used for nonprofit purposes.

Any property-specific funding determination granted by EPA does not obviate the CAR's responsibility to incur only costs that meet the terms and conditions of the agreement and are allowable under 2 CFR Parts 200 and 1500 for governmental entities.

8. Institutional Controls

To the extent authorized by the scope of work for this agreement, the CAR may use funding under this agreement to maintain and monitor institutional controls.

III. Section 128(a) Technical Assistance Grants (TAG)

A. Eligible Uses of the Section 128(a) TAG Funds

To the extent identified in the approved work plan, cooperative agreement funds may be used for eligible programmatic costs for training, research, and technical assistance to facilitate the inventory of brownfield sites, site assessments, remediation of brownfield sites, community involvement, or site preparation for the specific small communities, Indian tribes, rural areas, or disadvantaged areas identified in the work plan.

Examples of eligible activities include those listed in Appendix A of the FY25 Funding Guidance for State and Tribal Response Programs and in the Section 128(a) TAG Fact Sheet.

B. Ineligible Uses of the Section 128(a) TAG Funds

Cooperative agreement funds shall not be used by the CAR or subrecipient for any of the following activities:

1. Conducting site assessments, site cleanups, response activities often associated with cleanups such as demolition or groundwater extraction, or brownfields area-wide plan implementation.

2. Marketing brownfields properties for redevelopment (e.g., activities or products created specifically to attract buyers or investors).

3. General community visioning, area-wide zoning updates, design guideline development, master planning, green infrastructure, infrastructure service delivery, and city-wide or comprehensive planning/plan updates – these activities are all ineligible uses of grant funds if unrelated to advancing cleanup and reuse of brownfields within the project area. Note: for these types of activities to be an eligible use of grant funds, there must be a specific nexus between the activity and how it will help further brownfields cleanup and reuse of the catalyst, high priority brownfield sites. This nexus must be clearly described in the grant workplan for the project.

4. Survey design, distribution or collection.

5. Site-specific reuse planning for any site that is ineligible for brownfields funding.

6. Business development planning, relocation planning for businesses.

7. Construction and land acquisition.

8. Unallowable costs (e.g., lobbying and fund raising) under 2 CFR Parts 200 and 1500.

9. Cost share any other federal funds unless there is specific statutory authority for the match (CERCLA does not provide this authority).

10. Projects or tasks that duplicate grants awarded under other EPA Brownfields grant programs described in CFDA Numbers. 66.818, “Brownfields Assessment, Revolving Loan Funds, and Cleanup Grants” and 66.815, “Environmental Workforce Development and Job Training Grant” or other federally-funded environmental training, research, or technical assistance programs in their target community or communities. Projects may, however, complement community-wide activities EPA funds under CERCLA § 104(k)(2) assessment grants.

11. Projects related to exploring, testing and implementing smart growth policies and applications unrelated to brownfields, and projects EPA funds under CFDA No. 66.611, “Environmental Policy and Innovation Grants” or through EPA Sustainable Communities technical assistance under other announcements.

12. Projects or tasks that duplicate grants awarded under EPA CERCLA 128(a) to establish or enhance State and Tribal Response Programs. Funding cannot be used to supplement funding received to provide overall support for your State or Tribal Response Program.

IV. GENERAL COOPERATIVE AGREEMENT ADMINISTRATIVE REQUIREMENTS

A. Substantial Involvement

This is a cooperative agreement that will entail substantial involvement by EPA to the extent Agency resources permit. Substantial EPA involvement includes:

1. Consultation and collaboration on technical and policy matters at the CAR's request. EPA's Project Officer or designee may provide data, advice, and information that will help the CAR carry out the agreement effectively.

2. EPA's Project Officer may review the substantive terms of professional services contracts or subawards the CAR enters into to carry out specific elements of the scope of work. Neither EPA's Project Officer nor any other EPA employee will direct, recommend, or suggest that the CAR enter into a contract or subaward with a specific entity. EPA approval is not required for contracts for supplies, equipment, information technology and other administrative support services.

3. EPA's Project Officer may review the qualifications of key staff hired by the CAR or consultants with whom the CAR contracts to carry out specific elements of the scope of work when those staff or contractors are paid by the grant funds. Neither EPA's Project Officer nor any other EPA employee will direct, recommend, or suggest that the CAR hire a particular individual or enter into a consulting contract with a specific entity.

4. Monitoring by EPA of the CAR's performance under the agreement.

5. EPA approval, prior to commencing work on a site, of each site chosen for assessment or cleanup when the proposed site is owned by or held in trust for the tribe. For proposed sites not owned by or held in trust for the tribe, the tribe must submit its documentation of decision for site eligibility to EPA's Project Officer prior to commencing work on the site.

NOTE: EPA's Project Officer may waive or modify its substantial involvement on any particular matter or classes of matters through written advice to the CAR.

B. Cooperative Agreement Recipient Roles and Responsibilities

<u>1. Cybersecurity</u>

The CAR agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.

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

If the CAR's connections, as defined above, do not go through the Environmental Information Exchange

Network or EPA's Central Data Exchange, the CAR agrees to contact the EPA Project Officer (PO) and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the CAR into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

b. The CAR agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The CAR will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the CAR under 2 CFR 200.332(e), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the CAR to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

2. Geospatial Data Standards

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

3. Public Awareness

The CAR agrees to clearly reference EPA investments in site-specific activities outlined in the CAR's EPA-approved workplan during all phases of community outreach.

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

If a sign is developed as part of a project funded by this cooperative agreement, then the sign shall include either a statement (e.g., this project has been funded, wholly or in part, by EPA) and/or EPA's logo acknowledging that EPA is a source of funding for the project. The EPA logo may be used on project signage when the sign can be placed in a visible location with a direct linkage to site activities. Use of the EPA logo must follow the sign specifications available at https://www.epa.gov/grants/epa-logo-seal-specifications-signage-produced-epa-assistance-agreement-recipients.

To obtain the appropriate EPA logo or seal graphic file, the recipient should send a request directly to the EPA Office of Public Affairs (OPA) and include the EPA Project Officer in the communication. Instructions for contacting OPA are available on the Using the EPA Seal and Logo page.

a. EPA Logo: If the EPA logo is displayed along with logos from other participating entities on websites, outreach materials, or reports, it must not be prominently displayed to imply that any of the CAR's or subrecipient's activities are being conducted by the EPA. Instead, the EPA logo must be accompanied with a statement indicating that the [Insert CAR or subrecipient name] received financial assistance from EPA for the project. The recipient will ensure compliance with the sign specifications provided by OPA available at https://www.epa.gov/grants/epa-logo-seal-specifications-signage-producedepa-assistance-agreement-recipients. As provided in the sign specifications from OPA, the EPA logo is the preferred identifier for assistance agreement projects and use of the EPA seal requires prior approval from the EPA.

b. Procuring Signs: Consistent with section 6002 of RCRA, 42 U.S.C. 6962, and 2 CFR 200.323, recipients are encouraged to use recycled or recovered materials when procuring signs. Signage costs are considered an allowable cost under this assistance agreement provided that the costs associated with signage are reasonable.

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

To increase public awareness of projects serving communities where English is not the predominant language, CARs are encouraged to include in their outreach strategies communication in non-English languages. This includes translating the language on signs (excluding the EPA logo or seal) into the appropriate non-English language(s). Translation costs for this purpose are allowable, provided the costs are reasonable.

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

C. Quality Assurance (QA) Requirements

Authority: Quality Assurance applies to all assistance agreements involving environmental information as defined in 2 C.F.R. § 1500.12 Quality Assurance.

When environmental data are collected as part of the brownfield assessment, the CAR shall comply with 2 CFR § 1500.12 requirements to develop and implement quality assurance practices sufficient to produce data adequate to meet project objectives and to minimize data loss. State law may impose additional QA requirements.

The recipient shall ensure that subawards involving environmental information issued under this agreement include appropriate quality requirements for the work. The recipient shall ensure sub-award recipients develop and implement [a] Quality Assurance (QA) planning document in accordance with this term and condition; and/or ensure sub-award recipients implement all applicable approved QA planning documents.

1. Quality Assurance Project Plan (QAPP) Since the CAR has not allocated any site-specific costs in their
workplan or sampling work, a QAPP will not be required.

For Reference:

- Quality Management Plan (QMP) Standard and EPA's Quality Assurance Project Plan (QAPP) Standard; contain quality specifications for EPA and non-EPA organizations and definitions applicable to these terms and conditions.
- EPA QA/G-5: *Guidance for Quality Assurance Project Plans*.
- EPA's Quality Program website has a list of QA managers, and Specifications for EPA and Non-

EPA Organizations.

- The Office of Grants and Debarment Implementation of Quality Assurance Requirements for Organizations Receiving EPA Financial Assistance.

2. Competency of Organizations Generating Environmental Measurement Data

In accordance with Agency Policy Directive Number FEM-2012-02, Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements, the CAR agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable, the CAR agrees to demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. The CAR shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy is available online at https://www.epa.gov/measurements-modeling/documents-about-measurement-competency-under-assistance-agreements or a copy may also be requested by contacting the EPA Project Officer for this award.

D. Performance Reporting Requirements

1. Program Activity Levels (PALs)

CARs must report Program Activity Levels once annually when the Section 128(a) funding request is due to the appropriate EPA Regional Officer. The PALs summarize the work from the previous federal fiscal year, therefore, a CAR's responses to the PALs questions should reflect activities for the period covering the last federal fiscal year (October 1 – September 30).

CARs are required to provide PALs information directly into EPA's Assessment, Cleanup and Redevelopment Exchange System (ACRES) database.

For detailed instructions on how to report PALs in ACRES, please see the Program Activity Levels Reporting Form Instructions at https://www.epa.gov/brownfields/acres-training-tips-and-tools**.**

For technical support, contact 703-284-8212 or email acres_help@epa.gov. For questions specific to your grant data, contact your EPA Regional Representative.

2. Semi-Annual Performance Reporting

CAR agrees to provide performance reports semi-annually. The reports will be due no later than 30 calendar days after the reporting period.

All interim and final progress reports must prominently display the following three relevant Essential Elements as reflected in the current EPA strategic plan:

- Strategic Plan Goal
- Strategic Plan Objective
- Work plan Commitments and Timeframes

a. The CAR will report on milestones, activities, and outputs achieved under this agreement. Examples of items to include:

i. The completion of significant site planning, assessment, cleanup, or redevelopment activities, including any relevant information regarding whether such activities anticipated or otherwise considered the impacts of extreme weather events and/or benefited a small community[1] and/or disadvantaged area[2].

ii. Information regarding significant outreach, meeting, or training events, including whether such outreach engaged small communities and/or disadvantaged areas.

iii. Significant updates to a website or tracking system or improvements to the process.

iv. For site-specific work, details such as where and when the activity was conducted and why, who was involved or impacted, and what was accomplished, including whether site-specific work anticipated or otherwise considered the impacts of extreme weather events and/or benefited a small community and/or disadvantaged area. The narrative may range in length between a paragraph and one page in length for a specific site. Provide before and after photos of site work and photos of events, unless the site assessment report has already been provided to EPA as a deliverable.

v. A budget summary table which may include the following information: current approved project budget; costs incurred during the reporting quarter; costs incurred to date (cumulative expenditures); and total remaining funds.

b. All CARs must report information relating to establishing and maintaining the public record and provide the date of the last update. NOTE: For this requirement, CARs can refer to their already existing public record, such as a website or other public database.

c. CARs with work plans that include funding for other site-related activities must include a description of the activities and provide the number of sites at which the activities were conducted. For example:

i. Number and frequency of oversight reviews (internal audits) of licensed site professional certified cleanups.

ii. Number and frequency of state/tribal oversight reviews (internal audits) conducted.

iii. Number of sites where staff conducted reviews (internal audits), provided technical assistance, or conducted other oversight activities.

iv. Number of staff conducting oversight reviews (internal audits), providing technical assistance, or conducting other oversight activities

3. <u>Significant Developments</u>

As required by 2 CFR 200.329(e), the CAR must inform EPA and report on significant impacts to grant-supported activities when they occur between the scheduled reporting dates. Significant developments to report may include problems or delays (such as staff vacancies or travel restrictions) as well as favorable developments or successes associated with milestones and activities as listed under section III.C.2.

above.

4. Reporting Requirements for Site Assessment and Cleanup

The CARs must report on interim progress (e.g., assessment started) and any final accomplishments (e. g., assessment completed, cleanup required, contaminants, Institutional Controls, Engineering Controls) by submitting information into the Brownfields online reporting system, known as the Assessment, Cleanup and Redevelopment Exchange System ("ACRES"). The CAR must enter this data into ACRES within 30 days of the end of the next reporting period or sooner at EPA's request. EPA will provide the CARs with training, which is required to obtain access to ACRES.

5. Updating the State Brownfields and Voluntary Response Programs Report in ACRES

State CARs must update their state response program information in ACRES at least once a year (and may update more frequently if changes in their response program warrant an additional update), so that EPA has accurate, up-to-date information to share with the public in the form of a State Brownfields and Voluntary Response Program Report. EPA expects that this annual update will occur when states are already in the ACRES database performing other required ACRES reporting, thereby reducing the administrative burden.

For detailed instructions on how to update your state brownfields information in ACRES, please see the quick reference guide at https://www.epa.gov/brownfields/brownfields-grantee-reporting-using-assessment-cleanup-and-redevelopment-exchange.

E. Program Income

In accordance with 2 CFR 1500.8, the CAR is authorized to add program income generated under this agreement to the funds committed by EPA. The CAR can use this program income to carry out activities described in the scope of work for this agreement and under the same terms and conditions of the agreement. Program income is defined generally at 2 CFR 200.1. For the purposes of this agreement, program income includes fees paid by participants in the CAR's voluntary cleanup program or other fees for services (only to the extent that these fees recover costs charged to this agreement). Costs the CAR recovers for cleanups and site assessments are program income to the same extent that the recovered costs represent costs charged to this agreement. The CAR must provide as part of its SEMI-ANNUAL AND FINAL] performance report, a description of how program income is being used. In addition, a report on the amount of program income earned during the award period must be submitted with the ANNUAL AND FINAL Federal Financial Report, Standard Form 425.

The CAR will maintain records adequate to document the extent to which transactions generate program income and the disposition of program income. As required by 2 CFR 200.305(b)(5), tribal CARs will disburse program income before requesting additional payments under this agreement. State CARs are subject to 2 CFR 200.305(a).

F. Final Report

The CAR must submit a final performance report at the end of the period of performance in order to finalize the closeout of the grant. This final report must capture the work that was performed during the period of performance, explain how the funding was utilized, and may include a summary of activities. The final report is due within 120 days of the end of the period of performance and, with approval from the EPA Project Officer, may be submitted in lieu of a final quarterly or semi-annual report.

V. PAYMENT AND CLOSEOUT

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

A. Payment Schedule

The CAR may request advance payment from EPA pursuant to 2 CFR § 200.305(b)(1) and the prompt disbursement requirements of the General Terms and Conditions of this agreement. The CAR must pay subrecipients in advance provided the subrecipient complies with the requirements of 2 CFR § 200.305 (b)(1).

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

B. Schedule for Closeout

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

The CAR, within 120 days after the expiration or termination of the cooperative agreement, must submit all financial, performance, and other reports required as a condition of the cooperative agreement.

a. The CAR must submit the following documentation:

> i. The Final Cooperative Agreement Performance Report as described in Section III.F. of these Terms and Conditions.
>
> ii. Administrative and Financial Reports as described in the General Terms and Conditions of this agreement.

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

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

[1] As defined in CERCLA 128(a)(1)(B)(iv)(II), the term “small community” means a community with a population of not more than 15,000 individuals, as determined by the latest available decennial census.

[2] As defined in CERCLA 128(a)(1)(B)(iv)(I), the term “disadvantaged area” means a community with an

annual median household income that is less than 80 percent of the statewide annual median household income, as determined by the President based on the latest available decennial census.