



Mr. Matthew Sadowski  
City of Racine  
730 Washington Avenue  
Racine, Wisconsin 53403

May 8, 2014

**RE: Proposal to Prepare and Implement a Wisconsin Economic  
Development Corporation Site Assessment Grant for  
1505 High Street  
Racine, Wisconsin  
Symbiont Proposal No. 33427**

Dear Mr. Sadowski:

Symbiont is pleased to submit this proposal to prepare and implement a Wisconsin Economic Development Corporation (WEDC) Site Assessment Grant (SAG) for completion of a ch. NR 716 WAC Site Investigation at 1505 High Street in Racine, Wisconsin (herein referred to as the "Site" or "Property"). The purpose of the proposed scope of work is to apply for and receive grant funding for environmental site investigation activities that will address concerns related to the currently languishing property that the bank has determined unsuitable for foreclosure.

Further detail related to Site background, project understanding, and proposed scope of work, schedule and costs is provided in the following sections.

The proposed scope of work is further described in the following sections:

- Site Description and Background
- Project Understanding
- Proposed Scope of Work
- Schedule
- Budget

### **SITE DESCRIPTION AND BACKGROUND**

The Site is located at 1505 High Street in Racine, Wisconsin and consists of one parcel of land approximately 2.59 acres in size. It's owned by Racine Metals, LLC, who has gone out of business and is no longer listed in the State of Wisconsin database. The property is currently delinquent on over \$109,000 of property taxes, and the Owner is behind on payments to their bank. Racine County Economic Development Corporation (RCEDC) contacted the financial institution holding an outstanding note for the property, and the financial institution has indicated that they will not foreclose on the property due to perceived environmental contamination. The property has been vacant for over a year and is currently a source of blight to the neighborhood.

The site is located in a mixed industrial, commercial, and limited residential area. In 2013 the building located on the site was demolished by Racine Metals and the site has since been vacant.

The parcel the Site occupies is described as follows:

Street Address	Tax ID	Lot Size (acres)
1505 High Street	276 000008250003	2.589

The Site is currently unoccupied with no industrial operations occurring. Buildings at the Site were brought down in the summer of 2013, but building slabs remain on the Site. Based on a review of available historical Sanborn Fire Insurance Maps, the Belle City Basket Company operated at the site in 1908 until sometime after 1933. The 1908 Sanborn map shows what appears to be a potential tank on the southeast corner per a map label indicating "cm 40", which may coincide with the 40-gallon chemical cart noted on later maps (1950 and 1969). Additional records indicate that a 1,000 gallon paint dump underground storage tank (UST) tank was abandoned in place at the site pre-1988. The site appears to be part of the former Racine Steel Castings foundry located on the southern adjoining property in the 1950 and 1969 Sanborn maps. A butane evaporator warehouse is depicted on the southeast corner of the site in 1969. Most recently the Site was owned and operated by Racine Metals, LLC (a metal fabrication company).

### Environmental Concerns

Investigation activities, such as, Phase I and II Environmental Site Assessments (ESAs) have not been conducted for the Site. Historic activities on the Site, including the Belle City Basket Company and potential foundry operations, may have contributed to contamination the Site. Most recently, the Site was operated by Racine Metals, LLC (a steel fabrication company). Metal fabrication companies use hazardous substances (i.e., solvents) and petroleum products as part of general operations.

### SCOPE OF WORK

Based on recent correspondence with the City of Racine (City) and Karen Frost of the RCEDC, Symbiont is recommending that the City prepare an application for a WEDC SAG, as outlined in Task 1 for the scope of work detailed in this proposal. By using the SAG, the City will be able to investigate and help facilitate remediation and redevelopment of this Property.

### **Task 1 – Preparation of WEDC SAG**

Based on recent conversations with the City of Racine and RCEDC Symbiont is recommending that the City of Racine Redevelopment Authority (RDA) prepare a WEDC SAG for the scope of work detailed in this proposal. By using the SAG, the City of Racine can complete a site investigation and remedial planning for this abandoned property. Symbiont will assist with preparation of the RDA SAG application; activities will include:

- Clarifying of Site eligibility.
- Writing the narrative proposal including the project scope.
- Preparing a budget for remedial activities.
- Clarifying of liability issue.

If the SAG is awarded, the following actions will be completed:

### **Task 2 – Grant Administration**

To minimize the burden placed on the City for administer the SAG; Symbiont will assist the City by fulfilling the following applicable SAG administration requirements:

- Preparation and submittal to WEDC and WDNR of a revised work plan and a Site specific safety plan for Symbiont personnel, sub-contractors will be required to prepare a Safety Plan for their personnel based on their project approach.
- Preparation and submittal to WEDC of semi-annual and final reports and assembling all required support documentation including, but not limited to: cancelled checks, invoices and the like as may be required by WEDC. The City will provide the assessor report regarding property value for the final report).
- Submittal of the Site investigation report to the WDNR.
- Preparation and filing of any SAG contract extension requests, completion of any amendments or modifications to the SAG project contract; and compilation of necessary Symbiont documentation related to reimbursements and reports.
- Production of 1 printed copy and 1 CD of all plans and reports prepared by Symbiont for the project detail in this agreement.

Symbiont shall serve as the City's liaison for this project with the WEDC, WDNR, and any other state and federal agencies.

### **Task 3 – Phase I ESA**

Symbiont will complete a Phase I ESA of the Site in general conformance with the scope and limitations of ASTM Standard Practice E1527-13 and All Appropriate Inquiry (AAI) standard per Title 40 of the Code of Federal Regulations Part 312 (40 CFR 312). The assessment is designed to address requirements of the AAI provisions of the Comprehensive Environmental Response Compensation and Liability Act's (CERCLA) Bonafide Prospective Purchaser, Contiguous Property Owner, or Innocent Landowner defense. If modifications to the scope of services are required, please contact us to discuss proposal revisions.

The scope of work will include visual observation of the Site and surrounding properties during a Site reconnaissance, and review of available information regarding current and historical use of the Site and surrounding properties. A hard copy and an electronic copy on CD of the report will be submitted to the WDNR, WEDC, RCEDC and the City.

### **Task 4 – Sampling and Analysis Plan (SAP) and Health and Safety Plan (HASP)**

Symbiont will prepare a SAP based on the REC identified during the preparation of the Phase I ESA. The SAP will include a site specific HASP which will be adhered to by all Symbiont personnel while on the site. A copy of the SAP will be submitted to WEDC in accordance with Grant guidelines.

### **Task 5 – Site Investigation Field Work**

The final scope of work included in the site investigation will be determined after the Phase I ESA has been completed. The scope of work is estimated to include installation of up to 24 soil borings, 12 temporary wells 1 inch in diameter and 6 NR 141-compliant 2-inch monitoring wells. Field activities may be conducted in a phase approach. Soil and groundwater samples will be analyzed for Resource Conservation Recovery Act (RCRA) metals, polycyclic aromatic hydrocarbons (PAHs), Volatile organic carbons (VOCs) and or polychlorinated biphenyl (PCBs) as appropriate. Also included in this task are fees associated with profiling and disposal of non-Toxic Substance Control Act (TSCA) materials. If PCBs are detected above TSCA levels at the property Symbiont will immediately notify the City so that the remaining scope of work may be adjusted to accommodate waste disposal.

### **Task 6 – Ground Penetration Radar Survey and/or Test Pits to Locate the 1,000-Gallon "Paint Dump Tank" Registered at the Site**

Symbiont will sub-contract with a firm to conduct a ground penetrating radar (GPR) survey and test pits (if necessary) to locate the 1,000 gallon "paint dump tank" registered at the site. Symbiont will also investigate locations which, based on the GPR survey, indicate that additional tanks are present at the site.

### **Task 7 – Removal of the UST and TSSA Reporting**

Removal of the non-Petroleum Environmental Cleanup Fund Act (PECFA) eligible UST will be conducted with WEDC SAG funding. All required soil samples and paperwork will be completed to receive closure for the USTs from the governing regulatory agency (WDNR, Department of Agriculture or Department of Safety and Professional Services (DSPS)).

### **Task 8 – Sewer Investigation and Catch Basin Sampling**

Investigation of the onsite subsurface sewer and process piping system remaining on site will be included as part of Task 8. Investigation may include test pits and or submersible cameras, as appropriate and feasible. Investigation activities will include collecting samples of water, soil and sediment within the chambers to determine if they pose any threat to human health or the environment based on comparison with WAC NR 140 and NR 720

### **Task 9 – Site Investigation Report**

The site investigation report will enable the refinement of the conceptual site model including the physical subsurface conditions and contaminant sources, as well as document the location and type of building materials of environmental significance, which may require special handling or disposal procedures in preparation for building demolition or major renovation activities at the Site. The report will consist of the following key items:

- Executive summary
- General site information
- Background information
- Methods of investigation
- Results
- Conclusions and recommendations
- Visual aids (tables and figures)

- Photo documentation (appendix)
- Well and borehole documentation (appendix)
- Legal descriptions and parcel identification numbers (appendix)
- Geographic position (appendix)

The report will include laboratory analytical reports, soil boring logs, field PID data, water level data, tables summarizing analytical results for soil, groundwater, and building materials. The results of the samples will be compared to WDNR standards, maps of boring locations, and water table maps per the outline above to meet Chapter NR 716 WAC, and/or other state and federal regulatory requirements.

### **Task 10 – Remedial Actions Options Report**

Based on the results of the comprehensive site investigation and the historical investigations Symbiont will prepare a remedial action options report for the Site. The report will include, at a minimum, three remedial options, cost estimates, and implementation feasibility analysis for each option. Symbiont understands that zoning for the property is currently industrial, and the City intends to market this property for industrial purposes. Remedial action options will be based on redevelopment of the property for industrial purposes.

### **SCHEDULE**

The grant application does not have a deadline; however, the application should be submitted before June 2014 when the fiscal year ends. Work on Task 1 (preparation of a WEDC SAG application) can begin upon notice-to-proceed and is anticipated to take 1 week to complete. Based on previous experience with the WEDC, SAG award determinations take approximately 6 to 8 weeks. Symbiont understands that completion of Tasks 2 through 10 will be dependent on award of the WEDC SAG.

### **BUDGET**

The total budget for Tasks 1-10 is estimated at \$102,000. SAGs generally require a 50% match by the City or property owner. Based on conversations with WEDC, expenditures toward the 50% of the required match would be satisfied by the forgiveness of the \$109,657 of outstanding property taxes at the site. An additional \$2,000 in funding would be provided by the City general revenue funds.

The budget table below summarizes allowances for each of the probable scope of work tasks described; however the actual scope of work and associated costs will be determined based on the results of the Phase I ESA and other in-field observations. Symbiont will work closely with the City to determine the highest and best use of grant funds throughout the project duration.

Task	SCOPE FOR WEDC GRANT	LABOR	REIMBURSABLE EXPENSES	SUBCONTRACTOR EXPENSES	TOTAL COSTS
1	Preparation of a WEDC SAG				
Subtotal			\$0	\$0	\$0
2	Grant Administration				
Subtotal		\$1,950	\$50	\$0	\$2,000
3	Phase I ESA				
Subtotal		\$3,500	\$200	\$800	\$4,500
4	Sampling and Analysis Plan and Health and Safety Plan				
Subtotal		\$2,500	\$50	\$0	\$2,550
5	Site Investigation field work - 24 soil borings to 20 feet, 12 1-inch monitoring wells; 6 2-inch monitoring wells				
Subtotal		\$16,500	\$1,500	\$22,450	\$40,450
6	GPR survey and or test pits for a 1000 gallon "paint dump tank" registered at the site				
Subtotal		\$4,000	\$500	\$5,000	\$9,500
7	Removal and TSSA reporting for 1- 1000 gallon "paint dump tank" UST				
Subtotal		\$6,500	\$500	\$5,000	\$12,000
8	Sewer investigation and catch basin sampling				
Subtotal		\$6,500	\$500	\$8,000	\$15,000
9	Site Investigation Report				
Subtotal		\$9,000	\$250	\$0	\$9,250
10	Remedial Action Options Report				
Subtotal		\$6,500	\$250	\$0	\$6,750
<b>TOTAL PROJECT COSTS</b>		<b>\$56,950</b>	<b>\$3,800</b>	<b>\$41,250</b>	<b>\$102,000</b>

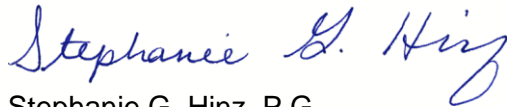
**TERMS AND CONDITIONS OF AGREEMENT**

Contract Terms and Conditions have previously been established between Symbiont and the City of Racine; a copy is attached. Please indicate your acceptance of this proposal and these Terms and Conditions by having an authorized representative sign one copy and return it to Symbiont.

Thank you for the opportunity to provide you with this proposal. Please call if you have any questions regarding this proposal or require additional information.

Sincerely,

SYMBIONT®



Stephanie G. Hinz, P.G.  
Project Manager

SYMBIONT®



Patrick W. Carnahan, P.E.  
Vice President

PROPOSAL 33427 ACCEPTED BY:

CLIENT: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

*Symbiont considers the project approach, design, pricing, data, and other business considerations contained in this proposal to be proprietary and confidential business information to be used solely for the purpose of evaluating the proposal. This document and the information contained herein shall not be used for any purpose other than as stated above and shall not be used, duplicated, or disclosed to any other party without Symbiont's prior written consent.*



**ATTACHMENT  
TERMS AND CONDITIONS**



**SYMBIONT® SCIENCE, ENGINEERING AND CONSTRUCTION, INC.  
TERMS AND CONDITIONS OF AGREEMENT**

These Terms and Conditions of Agreement and Attachments A through D form the Agreement ("Agreement") under which services are to be performed for the City of Racine 730 Washington Avenue, Racine, Wisconsin 53403 ("Client") by Symbiont Science, Engineering and Construction, Inc., 6737 West Washington Street, Suite 3440, West Allis WI 53214 ("Symbiont") under a United States Environmental Protection Agency ("USEPA")-approved Work Plan for Brownfield Site Assessment. The Contract Documents are identified in Article 26 of this Agreement.

**Article 1. Scope of Work**

The project and the scope of work to be implemented in the Agreement is defined as: (i) the approved USEPA Work Plan, which is incorporated herein as Attachment "A"; excluding Task 6: Area-wide Planning and (ii) Symbiont's Proposal No. 32646 dated December 2, 2011. The scope of work shall be completed in compliance with the USEPA Cooperative Agreement #BF-00E00909- signed and dated by the Client on October 10, 2011, which is incorporated herein as Attachment "B". Attachments "A" and "B" and items described under (i) and (ii) above shall be referred to collectively herein as the "Project". In the event of any conflicting interpretation of any function to be performed under the Project, the approved USEPA Work Plan shall control. In the event USEPA amends the Work Plan, the amendment shall automatically be made part of the Project, and the text of the amendment shall control.

It is understood that the Project implementation schedule defined herein is based, in part, on the information provided by the Client. If this information is incomplete or inaccurate, or if site conditions are encountered which materially vary from those indicated by the Client, or if the Client directs Symbiont to change the original scope of work established by the Project, and if the parties mutually agree, then a written amendment to this Agreement (Attachment C) equitably adjusting the costs and/or performance time thereunder, shall be executed by the Client and Symbiont as soon as practicable in accordance with Article 28 below. Such an amendment shall not exceed the cost that is allowable by the USEPA. In the event that the Client and Symbiont cannot agree upon the terms and conditions of such amendment, either party may terminate this Agreement immediately upon written notice to the other in accordance with Article 9, Termination.

Symbiont shall perform only the services specified in the Project, or an amendment thereto as referenced above. Services provided by Symbiont shall be subject to the provisions of this Agreement, including any supplemental conditions incorporated herein, and any written amendments as referenced above. Symbiont shall invoice its costs, and Client shall provide payment for all services provided in accordance with Article 2 below.

Future projects in which Symbiont provides services to Client shall also be subject to the provisions of this Agreement. Future projects shall be authorized by Client via a Work Order (see Article 28 below and form at Attachment D).

**Article 2. Fees, Billing and Payment**

The Project will be performed on a time-and-materials basis not to exceed Three Hundred Forty-Seven Thousand dollars (\$347,000.00). Services will be provided per the Schedule of Fees contained in Attachment "E", and general budget per USEPA conditions outlined in Attachment "B". Symbiont will obtain multiple cost estimates from subcontractors, as

appropriate for specific tasks, and will provide detailed monthly invoices for Client's review and approval. Both the City and Symbiont recognize that the work being conducted under this contract is funded utilizing a USEPA Brownfield Assessment Grant. All work completed by Symbiont will be in compliance with the terms of the City's USEPA approved Work Plan included in Attachment "B" or any USEPA approved budget/task reallocations.

Symbiont shall have the right to modify its Schedule of Fees (Attachment "E") annually on January 1, beginning with January 1, 2013, provided that such modifications are allowable under the USEPA Cooperative Agreement (Attachment "B"), and that such modifications do not affect the not-to-exceed amount approved by USEPA. Symbiont will provide the City with written notification of modified fees prior to enactment. The Client recognizes that Symbiont's fee estimate does not include potentially applicable sales and use taxes. Symbiont acknowledges that the Client is exempt from Wisconsin sales and/or use tax. Client acknowledges that Client must provide a tax exempt certificate to Symbiont as proof of exemption from Wisconsin sales and/or use taxes.

The Client recognizes that time is of the essence with respect to payment of Symbiont's invoices, and that timely payment is a material part of the consideration of this Agreement.

Invoices will be submitted by Symbiont no more frequently than monthly, and shall be due and payable within thirty (30) calendar days of the invoice date. If the Client objects to all or any portion of an invoice, the Client shall so notify Symbiont within fourteen (14) consecutive calendar days of the invoice date, identify the cause of disagreement, and pay when due that portion of the invoice, if any, not in dispute. In the event that Symbiont and the Client cannot resolve the dispute regarding invoiced amounts within thirty (30) consecutive calendar days after receipt by Symbiont of the aforementioned notice, the dispute shall be submitted to dispute resolution pursuant to Article 11, below.

The Client shall pay an additional charge of one-and-one-half (1.5) percent (or the maximum percentage allowed by law, whichever is lower) of the invoiced amount per month for any payment received by Symbiont more than thirty (30) calendar days from the date of the invoice, excepting any portion of the invoiced amount in dispute and resolved in favor of Client. Payment of invoices is in no case subject to unilateral discounting or setoffs by the Client.

Application of the percentage rate indicated above as a consequence of the Client's late payments does not constitute any willingness on Symbiont's part to finance the Client's operation and no such willingness should be inferred.

If the Client fails to pay undisputed invoiced amounts within thirty (30) calendar days of the date of the invoice, Symbiont may at any time, without waiving any other claim against the Client or the right to pursue any other remedy against the Client and without thereby incurring any liability to the Client, suspend this Agreement, as provided for in Article 8, Suspension, or terminate this Agreement, as provided for in Article 9, Termination.

### **Article 3. Confidentiality**

Symbiont agrees to keep confidential and to not disclose to any person or entity (other than Symbiont's employees, agents, and subcontractors, who have a need to know to carry out the purpose of this Agreement), without the prior consent of the Client, all data and information not previously known to and generated by Symbiont, or furnished to Symbiont and marked "Confidential" by the Client, in the course of Symbiont's performance hereunder. This provision shall not apply to data which were previously known to Symbiont, or which Symbiont is required by law to disclose. These provisions shall also not apply to information in whatever form that comes into the public domain through no fault of Symbiont, nor shall they be interpreted in any

way to restrict Symbiont from complying with an order to provide information or data when such order is issued by a court, administrative agency, or other authority with proper jurisdiction. Symbiont will notify the Client of such order and notify the Client, if possible, before the date of disclosure to provide the Client an opportunity to request an appropriate protective or confidentiality order to maintain the confidentiality of such information.

#### **Article 4. Independent Contractor Relationship**

The relationship between the Client and Symbiont created under this Agreement is that of principal and independent contractor. Symbiont shall serve as an independent consultant to the Client, and shall be responsible for selecting the means and methods that services will be provided under this Agreement. It is specifically understood that, irrespective of any assignability provisions, Symbiont may retain subcontractors to perform services usually and customarily performed by subcontractors. Should Symbiont determine it appropriate or necessary to rely on a subcontractor where it is not customary to do so, Symbiont shall obtain prior written approval or subsequent written confirmation from the Client.

#### **Article 5. Standard of Care**

Symbiont will perform the Services in accordance with the standards of care and diligence normally practiced by consulting firms performing services of a similar nature in the same locale.

#### **Article 6. Timeliness of Performance**

Symbiont acknowledges that timely performance of its services is an important element of this Agreement. Symbiont will put forth its best effort to complete the work according to the schedule in Attachment "A" and the Project.

If Symbiont discerns that the schedule shall not be met for any reason, it shall so notify the Client as soon as practically possible so that a mutually agreed on revised schedule can be established. Any mutually agreed upon revised schedule must also be permissible under the USEPA Cooperative Agreement (Attachment "B") or approved in writing by the USEPA.

#### **Article 7. Force Majeure**

Symbiont shall not be considered in default because of any delays in the completion of the work due to causes beyond the control and without the fault or negligence of Symbiont or its subcontractors, including but not restricted to, an act of God or of a public enemy, fire, flood, area-wide strike, freight embargo, unusually severe weather, governmental action, or supplier delay. In the event Symbiont has knowledge of any actual or potential delay, Symbiont shall notify Client in writing of such cases of delay and their probable extent and, upon such notification, Symbiont's performance obligations hereunder shall be suspended.

#### **Article 8. Suspension**

Upon fourteen (14) calendar days written notice to Symbiont, the Client may suspend Symbiont's work.

If payment of Symbiont's invoices is not maintained on a thirty (30) calendar day current basis by the Client, Symbiont may, by fourteen (14) consecutive calendar days' written notice to the Client, suspend further work until payment is restored to a current basis.

Suspension for any reason exceeding forty-five (45) calendar days shall, at Symbiont's option,

make this Agreement subject to renegotiation or termination, as provided for elsewhere in this Agreement. Any suspension shall extend the time schedule for performance in a manner that is satisfactory to both the Client and Symbiont, and Symbiont shall be compensated for services performed and charges incurred in accordance with this Agreement and prior to the suspension date, regardless of the reason for the suspension.

#### **Article 9. Termination**

The Client or Symbiont may terminate this Agreement for reasons identified elsewhere in the Agreement. Either party may also terminate this Agreement upon written notice to the other party, in the event that the other party becomes insolvent, files a petition in bankruptcy, is adjudicated bankrupt, has an assignee, referee, receiver or trustee appointed in any creditor action, has a petition in bankruptcy filed against it which is not vacated within thirty (30) calendar days or suffers any action analogous thereto.

In the event such termination becomes necessary, the party effecting termination shall so notify the other party in writing, and termination will become effective fourteen (14) calendar days after receipt of the termination notice. Irrespective of which party shall effect termination or the cause therefore, the Client shall within thirty (30) calendar days of termination remunerate Symbiont for services rendered and costs reasonably incurred, in accordance with Symbiont's fee schedule. Costs shall include those incurred up to the time of termination.

#### **Article 10. Notice to Parties**

All notices, demand or other communication hereunder shall be deemed to have been sufficiently given by any party under this Agreement when personally delivered, faxed, mailed by first class or registered or certified mail, postage prepaid and shall be made to the parties' noted below.

To Symbiont:  
Stephanie G. Hinz, P.G.  
Project Manager  
Symbiont  
6737 West Washington Street –  
Suite 3440  
West Allis, WI 53214

To the City of Racine:  
Brian O'Connell, Director of  
Department of City Development  
City of Racine  
730 Washington Street  
Racine, WI 53404

Any such notice, request, demand or other communication shall be considered given or delivered, as the case may be, on the date of transmission, or the date said notice is deposited in the U.S. mail as provided above. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, request, demand or other communication.

By giving at least five (5) calendar days prior written notice thereof, either party may from time to time change its mailing address.

The parties further agree that electronically reproduced signatures such as by facsimile transmission are valid for execution or amendment of this Agreement, and that electronic transmission and facsimile transmission are authorized forms of notice as that term is used in this Agreement.

**Article 11. Mediation**

If the parties are not able to resolve any dispute, claim or other matter, the dispute, claim or other matter shall be submitted to mediation upon the request of either party. Any mediation will be held in Milwaukee County, Wisconsin unless otherwise agreed by the parties.

Client and Symbiont agree that each party will be responsible for its own costs incurred in the mediation process including reasonable attorneys' fees. Client and Symbiont agree that they will not seek recourse against officers, employees or directors of either party.

**Article 12. Choice of Law**

This Agreement shall be governed and construed in accordance with the laws of the State of Wisconsin, without reference to conflicts of law principles. Each party hereto consents to the exclusive jurisdiction of the state and federal courts located in Milwaukee County, Wisconsin for any actions, suits or proceedings arising out of or relating to this Agreement.

**Article 13. Limitation of Liability**

The Client agrees that the limit of Symbiont's liability for it or its agents', employees' or other representatives' acts, errors, or omissions relating to or arising out of the Agreement, including without limitation, negligent acts, or omissions, shall not exceed the amount of Symbiont's insurance coverage as listed below in Article 14.

**Article 14. Insurance**

During the term of this Agreement, Symbiont shall, at Symbiont's sole cost, continually maintain the following insurance coverage during the time it is performing services hereunder.

- A. Worker's Compensation:  
of a form and in an amount as required by state law
- B. Employer's Liability:  
\$1,000,000 each accident  
\$1,000,000 disease, each employee  
\$1,000,000 disease, policy limit
- C. Commercial General Liability (bodily injury and property damage — combined single limit):  
\$1,000,000 annual aggregate
- D. Combined Errors and Omissions and Contractors Pollution Liability:  
\$1,000,000 each incident  
\$2,000,000 annual aggregate

Prior to commencing work under this Agreement, Symbiont shall provide a Certificate of Insurance evidencing coverage from an insurance company authorized to do business in Wisconsin. Said coverage or Certificate shall name the Client as an additional insured on all policies required under this Section, except Error and Omissions Liability Insurance.

**Article 15. Indemnification**

Symbiont agrees to indemnify, defend and hold harmless Client, its directors, officers, employees, agents, successors and assigns, from and against any and all claims, demands, causes of action, liability and costs which arise out of or result from any negligent act, omissions, or willful misconduct of Symbiont or Symbiont's employees, agents or subcontractors in the performance of services under this Agreement; provided, however, Symbiont will not be obligated to indemnify Client with respect to costs or damages to the extent such costs or damages are caused by or incurred as a result of negligence or intentional misconduct of Client or Client's agents or employees.

Client agrees to indemnify, defend and hold harmless Symbiont, its directors, officers, stockholders, employees, agents, successors and assigns, from and against any and all claims, demands, causes of action, liability and costs which arise out of or result from any negligent act, omissions, or willful misconduct of Client or Client's employees or agents under this Agreement; provided, however, Client will not be obligated to indemnify Symbiont with respect to costs or damages to the extent such costs or damages are caused by or incurred as a result of negligence or intentional misconduct of Symbiont or Symbiont's agents, employees, or subcontractors.

**Article 16. Review of Drawings of Contractors**

In the course of performing services under this Agreement, Symbiont may be asked to review drawings and specifications from subcontractors engaged to perform work in connection with the Project. Any such review shall be limited to a review of the general conformance with the design concept of the project and the general compliance with information given in the subcontractor's documents and as may otherwise be noted by Symbiont on such drawings and specifications. Such review shall in no way limit the liability of the subcontractor, or be deemed an indication that Symbiont has accepted or approved the drawings and specifications in any manner.

**Article 17. Ownership and Use of Documents and Concepts**

Client acknowledges that Symbiont reports, drawings, boring logs, field data, field notes, laboratory test data, calculations, estimates, and other similar documents ("Records") are instruments of professional services, not products.

Symbiont will retain these Records for a period of three (3) years following completion of this project. During this period, Symbiont will reasonably make available these records to the Client. Symbiont may charge a reasonable fee in addition to its professional fees for retrieving or copying paper records.

Symbiont is not responsible for damages arising out of the use by the Client, or the Client's agents of any Symbiont data or report for any purpose other than its original purpose as defined in the Project.

While Client agrees that any patentable or copyrightable concepts developed by Symbiont as a result of this Agreement shall remain the sole and exclusive property of Symbiont, Client shall retain a right, without the right to grant sublicenses under any patents or copyrights of Symbiont, to use any information or recommendations generated by Symbiont during the performance of this Agreement. Client shall have the right to assign such right to any party who buys from Client the assets of Client relating to the information or recommendations generated by Symbiont under this Agreement. Nothing in this Article 17 shall restrict Symbiont from using any

methods, techniques, or concepts developed by it under this Agreement for its benefit or the benefit of any third party.

#### **Article 18. Buried Utilities**

In those situations where Symbiont performs subsurface exploration, Symbiont will contact the utility locating entity known as the Diggers Hotline: Wisconsin's One Call Center. Symbiont hereby advises the Client that some private property utility locations and privately installed man-made objects are not identified or located by Diggers Hotline. The Client, to the extent of its knowledge, will furnish to Symbiont information identifying the type and location of utilities and other man-made objects beneath the surface of a specific site, or, in the alternative, will assist Symbiont in identifying private parties that might have information regarding the location of private party underground utilities and man-made objects. Symbiont will take reasonable precautions to avoid damaging these utilities or objects. Prior to penetrating the site's surface, Symbiont will furnish Client a plan indicating the locations intended for penetration. Symbiont will not be responsible for damages due to contact with unidentified subsurface utilities or objects.

#### **Article 19. Extent of Study**

Client recognizes that actual environmental conditions may vary from conditions encountered at locations where Symbiont makes visual observations, obtains samples, or performs other explorations as part of its services under this Agreement. Symbiont's failure to discover potential environmental contamination or other environmental conditions through appropriate techniques and through use of procedures consistent with standard of care referenced in Article 5 does not guarantee the absence of environmental contamination or other environmental conditions at a specific site.

#### **Article 20. Hazardous Substances**

For purposes of this Article 20 only, the term "Owner" shall be defined as a property owner of record, or a third party with equitable interest in a parcel of land such as a vendee authorized under a Land Contract, a lessee under a lease, or any other owner authorized to approve access and work under this Project by virtue of a recorded conveyance instrument, only if the Client has a written agreement with the Owner which includes a provision substantially similar to this Article 20, and a copy of such written agreement is provided to Symbiont. Symbiont will not conduct work on a particular site unless and until a "generator" is identified, in writing, who has agreed to accept return of samples containing hazardous substances or wastes and who has agreed to sign waste manifests under terms and conditions substantially similar to this Article 20.

In the event that services performed under this Agreement involve hazardous substances, as defined in 40 CFR Part 302, including hazardous waste, whether or not such involvement was known or contemplated at the time this Agreement was made or when services performed by Symbiont commenced under this Agreement, the following additional terms and conditions shall apply to this Agreement.

Any and all samples collected or received by Symbiont or its subcontractors on behalf of Client or an Owner which contain hazardous substances including hazardous waste will be, after completion of testing, either returned to the Client or Owner, or using a manifest signed by the Client or Owner as a generator, be transported to a location selected by the Client or Owner for final disposal. The Client shall pay all costs associated with the testing, storage, transport, and disposal of all such samples, unless the Owner has agreed in writing to pay such costs. The



Client agrees and recognizes that Symbiont is acting as a bailee, and at no time assumes title to any such samples or substances.

Symbiont warrants that when making hazardous waste determinations on behalf of Client or Owner, Symbiont will use the standard of care and diligence normally practiced by consulting firms performing similar services in the same locale. Symbiont, if requested by Client or Owner, will gather bids from various hazardous waste transporters and/or treatment, storage or disposal facilities ("TSDFs") that are appropriately licensed or permitted by state, federal and/or local authorities to accept the waste generated. Client acknowledges that although Symbiont may gather bids from various hazardous waste transporters or TSDFs on behalf of the Client or Owner, that Client or Owner has ultimately selected such transporter or TSDF. Client understands that Symbiont has not conducted regulatory compliance audits on such transporters or TSDFs nor does Symbiont make any other warranties or representations other than expressly written in this paragraph related to such transporters or TSDFs. Client acknowledges that Symbiont at no time assumes title to waste generated from any facility or site.

Client acknowledges that Symbiont has no responsibility as an operator, arranger, generator, treater, storer, transporter, or disposer of hazardous substances found or identified in conjunction with work performed hereunder.

#### **Article 21. Third Party Rights**

Except as specifically stated hereunder, this Agreement does not create any rights or benefits to parties other than Client and Symbiont. The services provided by Symbiont hereunder are for the Client only.

#### **Article 22. Assignment**

Neither party to this Agreement shall assign its duties and obligations hereunder without the prior written consent of the other party except as provided in Article 4.

#### **Article 23. Lien Notice**

Symbiont hereby notifies Client that persons or companies furnishing labor or materials for construction on Client's or on Owner's land may have lien rights pursuant to Wis. Stat. § 779.01 – 779.17. Symbiont agrees to cooperate with the Client and Owners to see that all potential lien claimants at any particular site are duly paid.

If the project site is in a state other than Wisconsin, Symbiont and its subcontractors may also have lien rights on Client's land and building if not paid.

If Client has paid Symbiont in accordance with the terms of this Agreement, then Symbiont agrees to indemnify and hold Client and Owners harmless from liens filed by Symbiont's subcontractors.

#### **Article 24. Waiver**

No waiver by Symbiont of any term or condition set forth herein or the breach by the Client of any such term or condition, whether by conduct or otherwise, in any one or more instances, shall be deemed or construed as a further or continuing waiver of any such term, condition or breach or a waiver of any other term, condition or breach.

No waiver by the Client of any term or condition set forth herein or the breach by Symbiont of any such term or condition, whether by conduct or otherwise, in any one or more instances, shall be deemed or construed as a further or continuing waiver of any such term, condition or breach or a waiver of any other term, condition or breach.

#### **Article 25. Headings**

The subject headings in this Agreement are for convenience only and are not determinative of the substance of the subject clause.

#### **Article 26. Entire Agreement**

The parties agree that this Agreement and the Project as defined in Article 1 represent the sole and entire agreement of the parties with respect to the Project. If additional documents are to be incorporated into this Agreement, such documents must be itemized by written amendment to this Agreement.

#### **Article 27. Severability**

If any provision or part of a provision of this Agreement is declared to be invalid by any tribunal of competent jurisdiction, such part shall be deemed automatically adjusted, if possible, to conform to the requirements for validity, but if such adjustment is not possible, it shall be deemed deleted from this Agreement as though it had never been included herein. In either case, the balance of any such provision and of this Agreement shall remain in full force and effect.

#### **Article 28. Contract Amendments and Application of Terms and Conditions for Future Projects**

Any amendments to this Agreement shall be executed by means of a written contract amendment (Attachment C), signed by the Client and Symbiont. Changes to the Agreement will not become effective until the contract amendment has been signed by both parties. The contract amendment will document the specific changes to the Agreement along with any resulting adjustment in scope of work, cost and/or schedule.

This Agreement may be applied to future projects between the Parties by referencing the title of this Agreement and the date of the last signature to this Agreement in the Work Order (see form at Attachment D) or contract documents associated with the scope of work for such project(s).

#### **Article 29. Antidiscrimination, Equal Employment, Affirmative Action, Drug Free Workplace**

Symbiont agrees that it will comply with all federal and Wisconsin civil rights laws. Symbiont represents that it is an equal opportunity employer operating under an Affirmative Action Plan. Symbiont represents that it is compliant with the Drug Free Workplace Act. Symbiont agrees that it will not discriminate against any employee or applicant for services or employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, sexual preference, disability, age, or veteran's status with regard to, but not limited to the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; lay-offs or terminations; rates of pay or other forms of compensation, or selection for training.

**Article 30. Contracting with Small Business and Minority Firms, Women's Business Enterprises**

Symbiont agrees to take affirmative steps to ensure that disadvantaged businesses are utilized when possible as sources of supplies, equipment, and services. Symbiont, with the assistance of the Client's Department of City Development, will ensure, to the fullest extent possible, that at least the USEPA "fair share" objectives for subcontracts under this Agreement are made available to organizations owned or controlled by socially and economically disadvantaged individuals, women and historically black colleges and universities. Pursuant to the USEPA Cooperative Agreement (Attachment B), the applicable "fair share" goals are three percent (3%) Minority Business Enterprise and twelve percent (12%) Women Business Enterprise, Symbiont agrees to support the U.S. EPA's small, small/rural, minority, and women's business enterprise contract procurement program with respect to those businesses' participation in subcontracts.

**Article 31. Contracting Debarment and Suspension**

Symbiont shall fully comply with Subpart C of 40 CFR part 32, entitled "Responsibilities of Participants Regarding Transactions." Symbiont is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 40 CFR Part 32, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Symbiont shall require the inclusion of a similar term or condition in any subsequent lower tier covered transactions. The Excluded Parties List System may be accessed at <http://epls.arnet.gov>.

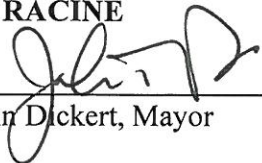
**Article 32. Binding Effect**

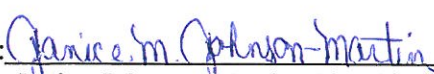
All provisions, covenants, terms and conditions of the Agreement apply to bind the parties and their legal heirs, representatives, successors and assigns.

**Article 33. Effective Date.** This Agreement shall be dated, effective and binding as of the date of the last execution hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.


**CITY OF RACINE**

By:  4-20-12 (date)  
John Dickert, Mayor

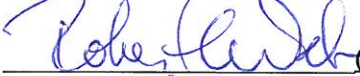
Attest:  5-1-2012 (date)  
Janice Johnson-Martin, City Clerk

**COUNTERSIGNED FOR CITY OF RACINE:**

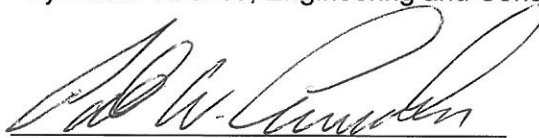
Provision has been made to pay the liabilities that will accrue under this Agreement.

 (date)  
David Brown  
City Finance Director

**APPROVED AS TO FORM:**

 (date)  
Robert Weber  
City Attorney

Symbiont Science, Engineering and Construction, Inc.:

 Vice President 5-8-12  
Name: Title Date

**ATTACHMENT A**

**BROWNFIELD ASSESSMENT GRANT WORK PLAN  
HAZARDOUS SUBSTANCES AND PETROLEUM  
CITY OF RACINE, WISCONSIN**

**Brownfield Assessment Grant Work Plan  
Hazardous Substances and Petroleum  
City of Racine, Wisconsin**

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Grant Recipient: City of Racine, WI  
730 Washington Avenue  
Racine, WI 53403

Project Contact: Brian O'Connell, Director  
Department of City Development  
Telephone: 262-636-9151 Fax: 262-636-9329  
e-mail: Brian.OConnell@cityofracine.org

Project Period: October 1, 2011 – September 30, 2014

This project directly addresses Environmental Results Goal 4 (“Healthy Communities and Ecosystems”), Objective: 4.2 (“Sustain, cleanup and restore communities and the ecological systems that support them”), Sub Objective: 4.2.3 (“Assess and Cleanup Brownfields”). Specifically, the grant recipient will carry out assessment activities in order to encourage revitalization and reuse of brownfields sites. Project Period is 3 years.

CFDA: 66.818

CERCLA Authority: 104(k)(2)&(3)

DCN: STX

Budget: FY 2010-2011

Appropriation: E4S

Budget Org: 05F0AG7

Object Class: 4114

Program Results Code (PRC): Hazardous Sub 402D79 (Action Code: NY) and Petroleum 402D79EBP (Action Code: OP)

**Proposed Outputs and Outcomes:**

The primary expected output is the following: the grant funds will be used to conduct environmental assessment activities on brownfields properties with suspected or known hazardous substances and/ or petroleum contamination throughout the City. This assessment effort, when completed, will result in the preparation of a City-wide QAPP, an estimated 22 Phase I environmental site assessments. Phase II and site investigation scopes vary based on site specific conditions; therefore the City cannot anticipate the exact number of sites to be assessed. The City will ensure that the funds are utilized to maximize the information collected for each individual site and anticipate the funds will contribute to an estimated 10 Phase II site investigations. ROAR's and RAP's, also hard to anticipate the exact number to be prepared, it is anticipated they will be generated for an estimated 4 sites. Because of the dynamic nature of brownfield development, the City will not identify specific sites for the assessment funds at this time, but will view tax delinquent brownfield sites as potential assessment sites as well as other opportune brownfield redevelopment sites throughout the City of Racine. The preparation of an area-wide plan for the Root River Corridor will also be developed.

The expected outcome is that the assessment and eventual cleanup of these properties will be catalysts to redeveloping many important areas of Racine. If the assessment results show properties are clean, significant barriers to redevelopment will be removed. On the other hand, if assessment results show some properties are in fact contaminated, the City will continue assessment work to determine the extent of contamination and strategies for remediation. In both cases, uncertainty is decreased, paving the way

for the public and private sectors to work together to redevelop properties that currently suffer from underutilization and blight.

#### **I. Introduction and Environmental Results**

The United States Environmental Protection Agency (U.S. EPA) has awarded the City of Racine, WI a \$400,000 Brownfield Assessment Grant for hazardous substances and petroleum contamination for use on a community-wide basis. The goal of the assessment grant is to understand the nature of contamination at brownfield sites throughout Racine and facilitate their redevelopment.

Racine will use the community-wide \$400,000 EPA assessment funds to investigate brownfields properties throughout the city, including those that are tax delinquent. Although EPA funds cannot be used for cleanup, Racine will work to achieve eventual cleanup and redevelopment on sites where EPA assessment funds are utilized.

#### **II. Project Overview**

The U.S. EPA has awarded the City of Racine \$400,000 for the assessment of sites with hazardous substances and/or petroleum contamination. The following tasks comprise the City's Assessment Grant project:

1. Consultant Selection, Community Outreach, Workshop/Conference and Grant Reporting (Fall 2011 to Summer 2014)
2. Prioritize and Select Sites (Fall 2011 to Winter 2011)
3. QAPP Preparation and Phase I Site Investigations (Winter 2011 to Summer 2014)
4. Conduct Phase II Site Investigations (Summer 2012 to Summer 2014)
5. Remedial Action Plan and Remedial Action Options Reports (Summer 2012 to Summer 2014)
6. Area-wide Planning for the Root River Corridor (Fall 2011 to Summer 2014)

#### **III. Management and Coordination**

Racine County Economic Development Corporation (RCEDC) will be the Brownfield Project Manager for this grant. The City has had an agreement with RCEDC to perform the brownfield program management and coordination services for the City since 2003. RCEDC, a nonprofit organization serving the municipalities in the County and the County of Racine, has an established relationship with the City of Racine to administer brownfields grants and provide brownfields technical assistance to the City. The City with the support of RCEDC on an as needed basis retains the services of environmental consultants to conduct assessments, determine the need for cleanup, prepare cleanup plans and conduct cleanups at their redevelopment sites. RCEDC and the City's retained consultants will work with the Wisconsin Department of Natural Resources (WDNR) staff in overseeing the assessment activities.

#### **IV. Work to be Performed**

The schedule presented in the task tables below assumes that the cooperative agreement with the U.S. EPA will be executed by October 1, 2011.

**TASK 1 – CONSULTANT SELECTION, COMMUNITY OUTREACH, WORKSHOP/CONFERENCE, PERFORMANCE AND FINANCIAL REPORTING**

The RCEDC Brownfields Project Manager, will oversee the assessment and grant administration tasks. These tasks include selection of a consultant to conduct the assessments, managing the consultant’s assessment activities, community outreach, attending brownfields conferences and preparation of EPA required reports.

RCEDC will prepare a Request for Proposals (RFP), review responses and make a recommendation to the City to hire an environmental consultant to conduct Ph. I and Ph. II assessment activities and remedial options planning and QAPP preparation as part of the Assessment Grant.

The City’s goals will be to keep the neighborhood and local businesses informed and involved about the Assessment Grant and about redevelopment, business expansion and neighborhood improvements redevelopment activities. The RCEDC, environmental consultant, City staff, the Project Manager, RDA and/or Common Council will meet routinely with various community groups to discuss the revitalization of redevelopment areas, and hold meetings after the completion of each phase of work and will determine how to best disseminate the information to City residents and area businesses. RCEDC anticipates incurring costs associated with advertising, community group education, coordinating outreach meetings, website updates, printing and mailings and generating outreach publications such as program fact sheets to promote the Assessment Grant program.

EPA’s required reports include: quarterly reports, property profile forms submitted through EPA’s ACRES system, annual financial and semi-annual DBE reports, and all other correspondence with the EPA. Quarterly reports for quarters ending March 31, June 30, October 31, and December 31 of each year will be prepared within 30 days following the end of each quarter. The quarterly reports will describe progress on each defined task in this work plan. The quarterly reports will be accompanied by the property profile forms submitted via ACRES, as necessary due to revisions. The annual financial report will be prepared in October and the semi-annual DBE reports will be prepared in April and October of each year.

Travel costs include costs associated with the Brownfields Project Coordinator attending a brownfields workshop and/or the National Brownfields Conference. Personnel costs for RCEDC’s assistance to the City are calculated at \$40 per hour for a total of 75 hours.

<b>Task 1: Consultant Selection, Community Outreach, Workshop/Conference, Performance and Financial Reporting</b>		
Narrative: The objective of this task is to fulfill all programmatic requirements of the grant.		
<b>Activities:</b>	<b>Deliverables:</b>	<b>To be Completed by:</b>
a. Select an Environmental Consultant	Selection of one firm to perform Ph. I and Ph. II assessments, remedial Options planning and QAPP preparation	Fall 2011
b. Prepare Quarterly Reports	Quarterly Reports	Within 30 days following the end of each quarter.
c. Prepare Property Profile Forms	Property Profile Forms	Submitted with quarterly report when updates are needed.
d. Prepare Annual Financial Reports	Annual Financial Reports	October 31 of each year
e. Prepare Semi-Annual DBE Reports	Semi-Annual DBE Reports	April 30 and October 31 of each year
f. Community Outreach	Copies of important	Fall 2011- Summer 2014



<b>Task 1: Consultant Selection, Community Outreach, Workshop/Conference, Performance and Financial Reporting</b>		
Narrative: The objective of this task is to fulfill all programmatic requirements of the grant.		
<b>Activities:</b>	<b>Deliverables:</b>	<b>To be Completed by:</b>
	correspondence	
g. Workshop/Conference	Receipts of expenses	Fall 2011 – Summer 2014

**TASK 2 - PRIORITIZE AND SELECTION OF SITES and ACCESS AGREEMENTS**

In the fall of 2011, after the assessment funds become available, the first task in implementing the assessment funds will be to prioritize brownfield sites throughout the City and choose which properties will be investigated using the assessment funds. A priority will be placed on properties that are tax delinquent in addition to investigating properties that were on a previous list generated for the 2004 EPA Site Assessment Grant however; prioritization of the brownfield sites potentially impacted by hazardous substances and/or petroleum contamination remains necessary and will be completed under this task. In addition, once the brownfield sites are selected the environmental consultant will prepare eligibility requests for review and approval by the Wisconsin DNR (WDNR) and EPA prior to the initiation of assessment activities at each site.

RCEDC will begin the process to obtain access to properties while the site is being reviewed for eligibility by the Wisconsin Department of Natural Resources (WDNR) and EPA. The RCEDC on behalf of the City will negotiate an access agreement between the owner and the City prior to the completion of any assessment activities. The agreement will be designed to allow the City the ability to determine the environmental conditions of the target property and the potential for migration of groundwater contamination to or from additional properties. RCEDC's costs are estimated at \$40 per hour for a total of 75 hours. The environmental consultant is estimated at a rate of \$50 per hour for a total of 40 hours.

It is assumed that access agreements will be needed for approximately 22 sites.

<b>Task 2: Prioritization and Selection of Sites and Access Agreements</b>		
Narrative: The City will analyze properties and work with interested parties to develop a priority for environmental investigation activities.		
<b>Activities:</b>	<b>Deliverables:</b>	<b>To be Completed by:</b>
a. Analyze current inventory of brownfield sites and develop a priority for environmental investigation.	Priority List	Winter 2011
b. Submit eligibility determinations to the DNR/EPA.	Copies of important correspondence	Winter 2011
c. Negotiate access agreements with property owners.	Copies of important correspondence	Winter 2011

**TASK 3 – QAPP Preparation and Ph. I Assessments**

Prior to commencement of Ph. I activities, the RCEDC, City and selected consultant will prepare a Quality Assurance Project Plan (QAPP). This may begin with a pre-QAPP conference call with the EPA and the WDNR. The prepared QAPP will be submitted to the EPA and WDNR for approval.

The City of Racine selected environmental consultant will conduct up to 22 Ph. I's at the selected brownfield properties at an estimated cost of \$1,627 per property. RCEDC may provide research and technical assistance (coordinating inspections, monitoring that user and owner questionnaires are completed, requesting background documents and inspection reports from City departments, etc.) to the environmental consultant for the preparation of the QAPP and Phase I assessments at approximately two

hours of work for each report (an estimated cost of \$40 per hour at 50 hours total). The consultant's cost will reflect this provision of data by RCEDC.

<b>Task 3: QAPP Preparation and Ph. I Assessments</b>		
Narrative: The City will obtain eligibility approvals from EPA and DNR and obtain Phase I's in order to determine the necessity of conducting Phase II site investigation work.		
<b>Activities:</b>	<b>Deliverables:</b>	<b>To be Completed by:</b>
a. Prepare QAPP	QAPP approved by WDNR and EPA	Winter 2011 to Summer 2014
b. Consultant to conduct Ph. I assessments.	Phase I reports	Winter 2011 to Summer 2014

**TASK 4 – CONDUCT PHASE II ASSESSMENTS AND SITE INVESTIGATIONS**

Field sampling plans will be submitted to the EPA and WDNR for approval prior to conducting any field investigative work. In addition, a Health and Safety Plan (HSP), which addresses each property where Ph. II or Site Investigation work is anticipated, as a whole or individually, will be submitted to EPA and WDNR for review. Individual Ph. II and Site Investigations reports will be prepared for each site upon completion of field activities and receipt of analytical data. Grant activities under this Phase will follow the appropriate NR 700 Wisconsin Administrative Code requirements.

RCEDC will provide research and technical (coordinating inspections, monitoring that user and owner questionnaires are completed, requesting background documents and inspection reports from City departments, etc.) to the environmental consultant for the preparation of the Phase II assessments/site investigations at approximately five hours of work necessary for each report at \$40 per hour. The consultant's cost will reflect this provision of data by RCEDC. The cost to complete a Phase II/site investigation can vary greatly with the size of the property, number of environmental concerns present at the property, and type of contaminants. Therefore, the cost to complete the Phase II work given the identified variables is estimated as follows:

- Hazardous substance/co-mingled brownfields
  - <1 acre at \$16,000, 1-3 acres at \$27,000, and >3 acres at \$40,000
- Petroleum-related brownfields
  - < 1 acre at \$15,000, 1-3 acres at \$25,000, and >3 acres at \$35,000.

The City will provide the site assessment results to the community via public meetings, the City's website, and providing notices to community groups (coordinated by RCEDC as described in Ph. I). If the site assessments identify public health threats the City will contact the City Health Department to assist with public notification.

<b>Task 4: Conduct Phase II Site Investigations</b>		
Narrative: Conduct Phase II Site Investigations using the City's selected contractors.		
<b>Activities:</b>	<b>Deliverables:</b>	<b>To be Completed by:</b>
a. Contract with consultant to prepare Phase II Site Investigations	SI Reports	Summer 2012 to Summer 2014

**TASK 5 – Remedial Action Plan and Remedial Action Options Report**

Prepare Remedial Action Options Reports (ROAR) and Remedial Action Plans (RAP) for submittal to the WDNR and EPA for review and comments. Commensurate with the development of these plans, the City will hold planning meetings to strategize the most effective remedial options available while redevelopments are being planned. Costs associated with the ROAR and RAP will be allocated to the various sites based on the size of the sites and the amount of remaining funds. An estimate cost is \$3,125 per report for each property.

<b>Task 5: Remedial Action Plan and Remedial Action Options Report</b>		
Narrative: Prepare RAP's and ROAR's using the City's selected contractors.		
<b>Activities:</b>	<b>Deliverables:</b>	<b>To be Completed by:</b>
a. Contract with consultant to prepare RAP's and ROAR's	RAP's and ROAR's	Summer 2012 to Summer 2014

**TASK 6 – Area-Wide Planning for the Root River Corridor**

RCEDC will prepare a RFP, review responses and make a recommendation to hire a consultant to prepare an area-wide redevelopment plan for the Root River Corridor. RCEDC will also provide programmatic assistance, research and technical assistance to the consultant for the preparation of the area-wide plan (including: securing meeting sites, coordinating original work groups among supporters and key community groups, publicizing the community involvement meetings and providing information and background materials to the consultant). RCEDC personnel costs for this task are estimated at \$40 per hour for approximately 50 hours of work. The consultant will compile all relevant previous reports prepared for the Corridor, as well as provide community outreach including costs associated with advertising, community group education, coordinating outreach meetings, website updates, printing and mailings and generating outreach publications; consultant costs are estimated at \$20,000.

<b>Task 6: Area-wide planning</b>		
Narrative: Conduct area-wide planning activities in the Root River Corridor.		
<b>Activities:</b>	<b>Deliverables:</b>	<b>To be Completed by:</b>
a. Contract with consultant to prepare an area-wide plan.	Area-wide plan	Fall 2011 to Summer 2014

**V. Budget**

The City of Racine developed the following budget for use of the Hazardous Assessment Grant Funds.

**Hazardous Substances Assessment Grant**

Budget Categories	Project Tasks						Total
	Task 1: Consultant Selection, Outreach, Conferences, Reporting	Task 2: Prioritize Sites and Access Agreements	Task 3: QAPP Preparation and Phase I Assessments	Task 4: Phase II Assessments and Site Investigations	Task 5: Remedial Action Plan and Remedial Action Options Report	Task 6: Area-Wide Planning	
Personnel	\$1,500	\$1,500	\$1,000	\$1,000	\$0	\$1,000	\$6,000
Contractual	\$0	\$1,000	\$22,400	\$143,850	\$6,250	\$20,000	\$193,500
Travel	\$500	\$0	\$0	\$0	\$0	\$0	\$500
<b>TOTAL</b>	<b>\$2,000</b>	<b>\$2,500</b>	<b>\$23,400</b>	<b>\$14,850</b>	<b>\$6,250</b>	<b>\$21,000</b>	<b>\$200,000</b>

The budget costs were estimated according to the calculations as follows:

	<u>HOURLY</u>		<u>BUDGET</u>
	<u>WAGE</u>	<u>Hours</u>	
<b><u>Personnel Budget - \$6,000</u></b>			
RCEDC as the City's Brownfields Project Coordinator	\$ 40.00	150	\$ 6,000
<b>TOTAL PERSONNEL</b>			<b>\$ 6,000</b>

*NOTE RE: FRINGE BENEFITS: No fringe benefits are shown as the person performing the programmatic functions of the grant only receives life insurance as a fringe benefit, and as this amount- as a portion of their hourly wage in minimal- it is not broken out separately from personnel.*

**Travel Budget - \$500**

Brownfields Workshop/Conference-attended by the Brownfields Coordinator			
Registration, hotel, food (per diem) airfare, rental car or taxi (estimated)			\$ 500
<b>TOTAL TRAVEL</b>			<b>\$ 500</b>

**Contractual Budget - \$193,500**

Review/Prioritization of Sites (\$50 per hour at 20 hours)	\$ 1,000
Estimated 11 Phase I ESAs (@ \$1,627 each)	\$ 22,400
Phase II ESA/Site Investigation work at about 5 properties (@ \$28,770 per site)	\$ 143,850
Remedial Action Plan and Remedial Action Options Report (estimated 2 properties At \$3,125 per property)	\$ 6,250
Area-Wide Plan	\$ 20,000
<b>TOTAL CONTRACTUAL</b>	<b>\$193,500</b>

**HAZARDOUS TOTAL: \$200,000**

The City of Racine developed the following budget for use of the Petroleum Assessment Grant Funds.

**Petroleum Assessment Grant**

Budget Categories	Project Tasks						Total
	Task 1: Consultant Selection, Outreach, Conferences, Reporting	Task 2: Prioritize Sites and Access Agreements	Task 3: QAPP Preparation and Phase I Assessments	Task 4: Phase II Assessments and Site Investigations	Task 5: Remedial Action Plan and Remedial Action Options Report	Task 6: Area-Wide Planning	
Personnel	\$1,500	\$1,500	\$1,000	\$1,000	\$0	\$1,000	\$6,000
Contractual	\$0	\$1,000	\$22,400	\$143,850	\$6,250	\$20,000	\$193,500
Travel	\$500	\$0	\$0	\$0	\$0	\$0	\$500
<b>TOTAL</b>	<b>\$2,000</b>	<b>\$2,500</b>	<b>\$23,400</b>	<b>\$14,850</b>	<b>\$6,250</b>	<b>\$21,000</b>	<b>\$200,000</b>

The budget costs were estimated according to the calculations as follows:

	<u>HOURLY</u>		<u>BUDGET</u>
	<u>WAGE</u>	<u>Hours</u>	
<b>Personnel Budget - \$6,000</b>			
RCEDC as the City's Brownfields Project Coordinator	\$ 40.00	150	\$ 6,000
<b>TOTAL PERSONNEL</b>			<b>\$ 6,000</b>

*NOTE RE: FRINGE BENEFITS: No fringe benefits are shown as the person performing the programmatic functions of the grant only receives life insurance as a fringe benefit, and as this amount- as a portion of their hourly wage in minimal- it is not broken out separately from personnel.*

**Travel Budget - \$500**

Brownfields Workshop/Conference-attended by the Brownfields Coordinator			
Registration, hotel, food (per diem) airfare, rental car or taxi (estimated)			\$ 500
<b>TOTAL TRAVEL</b>			<b>\$ 500</b>

**Contractual Budget - \$193,500**

Review/Prioritization of Sites (\$50 per hour at 20 hours)	\$ 1,000
Estimated 11 Phase I ESAs (@ \$1,627 each)	\$ 22,400
Phase II ESA/Site Investigation work at about 5 properties (@ \$28,770 per site)	\$ 143,850
Remedial Action Plan and Remedial Action Options Report (estimated 2 properties At \$3,125 per property)	\$ 6,250
Area-Wide Plan	\$ 20,000
<b>TOTAL CONTRACTUAL</b>	<b>\$193,500</b>

**PETROLEUM TOTAL: \$200,000**

**ATTACHMENT B**  
**EPA COOPERATIVE AGREEMENT**  
**CITY OF RACINE, WISCONSIN**



**U. S. ENVIRONMENTAL PROTECTION AGENCY  
ASSISTANCE AGREEMENT NOTICE**

**RECIPIENT NAME AND ADDRESS:**

**Brian O'Connell  
City of Racine  
730 Washington Avenue, Rm. 102  
Racine, Wisconsin 53404**

**Assistance #: BF-00E00909**

<input checked="" type="checkbox"/>	<b>Notice of Award/Assistance Agreement</b>	<input type="checkbox"/>	<b>Assistance Amendment</b>
		<input type="checkbox"/>	<b>Increase</b>
		<input type="checkbox"/>	<b>Decrease</b>
		<input type="checkbox"/>	<b>Time Extension</b>
		<input type="checkbox"/>	<b>Administrative Changes</b>

Enclosed are two copies of an Assistance Agreement from the U.S. Environmental Protection Agency.

To provide your affirmation of this award, please carefully review the entire document, terms and conditions, and any applicable regulations. Please sign<sup>1</sup> and date the Affirmation of Award section on the first page and return one original copy to the following address within 21 days<sup>2</sup> of your receipt of the Assistance Agreement:

**U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 5  
ASSISTANCE SECTION  
77 WEST JACKSON BOULEVARD, MC-10J  
CHICAGO, ILLINOIS 60604**


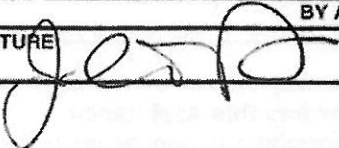
**ATTN: Michelle Becker, EPA Grant Specialist**

The other original should be retained for your official records and copies distributed within your organization as needed. Please note that funds will not be available for drawdown until we receive your countersigned affirmation of this award. If the Notice of Award includes any terms and conditions requiring signed certifications or assurances, you must return them with the signed agreement.

Please reference the EPA Assistance Number on all future correspondence regarding this Assistance Agreement. If you have any questions, you may contact the Project Officer (programmatic concerns) or the Grant Specialist (administrative concerns), as identified on page one of the Assistance Agreement.

<sup>1</sup> MUST be signed by the authorized representative as shown on the Assistance Agreement signature block or by a formally authorized delegate.  
<sup>2</sup> Failure to countersign and return within (21) days of receipt may result in withdrawal of this agreement.

U.S. Environmental Protection Agency  
Region 5  
Assistance Section

	<b>U.S. ENVIRONMENTAL PROTECTION AGENCY</b>  <b>Cooperative Agreement</b>	<b>ASSISTANCE ID NO.</b>			<b>DATE OF AWARD</b> 09/22/2011	
		<b>PRG</b>	<b>DOC ID</b>	<b>AMEND#</b>		
		<b>BF - 00E00909 - 0</b>			<b>MAILING DATE</b> 09/29/2011	
		<b>TYPE OF ACTION</b> New			<b>PAYMENT METHOD:</b> ACH# 50097	
<b>RECIPIENT TYPE:</b> Municipal		<b>Send Payment Request to:</b> Las Vegas Finance Center				
<b>RECIPIENT:</b>		<b>PAYEE:</b>				
City of Racine 730 Washington Ave., Room 102 Racine, WI 53403 EIN: 39-6005581		City of Racine 730 Washington Ave., Room 102 Racine, WI 53403				
<b>PROJECT MANAGER</b>		<b>EPA PROJECT OFFICER</b>		<b>EPA GRANT SPECIALIST</b>		
Brian O'Connell 730 Washington Ave., Room 102 Racine, WI 53403 E-Mail: brian.oconnell@cityofracine.org Phone: 262-636-9151		Kyle Rogers 77 West Jackson Blvd., SM-7J Chicago, IL 60604-3507 E-Mail: Rogers.Kyle@epa.gov Phone: 312-886-1995		Michelle Becker Assistance Section, MC-10J E-Mail: Becker.Michelle@epa.gov Phone: 312-886-3901		
<b>PROJECT TITLE AND DESCRIPTION</b>						
City of Racine The U.S. EPA has awarded the City of Racine \$200,000 for the assessment of sites with petroleum substances and \$200,000 for the assessment of sites with hazardous substances. The tasks involved include: prioritizing sites, screening sites, conducting estimated 15 phase I investigation, obtain access agreements, conduct estimated 25 phase II site assessment, and provide assessment oversight along with grant reporting.						
<b>BUDGET PERIOD</b> 08/01/2011 - 07/31/2014		<b>PROJECT PERIOD</b> 08/01/2011 - 07/31/2014		<b>TOTAL BUDGET PERIOD COST</b> \$400,000.00		
				<b>TOTAL PROJECT PERIOD COST</b> \$400,000.00		
<b>NOTICE OF AWARD</b>						
Based on your application dated 07/27/2011, including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA), hereby awards \$400,000. EPA agrees to cost-share <u>100.00%</u> of all approved budget period costs incurred, up to and not exceeding total federal funding of \$400,000. Such award may be terminated by EPA without further cause if the recipient fails to provide timely affirmation of the award by signing under the Affirmation of Award section and returning all pages of this agreement to the Grants Management Office listed below within 21 days receipt, or any extension of time, as may be granted by EPA. This agreement is subject to applicable EPA statutory provisions. The applicable regulatory provisions are 40 CFR Chapter 1, Subchapter B, and all terms and conditions of this agreement and any attachments.						
<b>ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)</b>			<b>AWARD APPROVAL OFFICE</b>			
<b>ORGANIZATION / ADDRESS</b>			<b>ORGANIZATION / ADDRESS</b>			
U.S. EPA Region 5 Mail Code MCG10J 77 West Jackson Blvd. Chicago, IL 60604-3507			U.S. EPA, Region 5 Superfund Division 77 West Jackson Blvd., S-6J Chicago, IL 60604-3507			
<b>THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY</b>						
<b>SIGNATURE OF AWARD OFFICIAL</b>		<b>TYPED NAME AND TITLE</b>		<b>DATE</b>		
Digital signature applied by EPA Award Official		Cyndy Colantoni, Associate Director for Resources Management		09/22/2011		
<b>AFFIRMATION OF AWARD</b>						
<b>BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION</b>						
<b>SIGNATURE</b>		<b>TYPED NAME AND TITLE</b>		<b>DATE</b>		
		John Dickert, Mayor		10-6-11		



Budget Summary Page: Brownfields Hazardous/Petroleum Assessment

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$12,000
2. Fringe Benefits	\$0
3. Travel	\$1,000
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$387,000
7. Construction	\$0
8. Other	\$0
9. Total Direct Charges	\$400,000
10. Indirect Costs: % Base	\$0
11. Total (Share: Recipient <u>0.00</u> % Federal <u>100.00</u> %.)	\$400,000
12. Total Approved Assistance Amount	\$400,000
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$400,000
15. Total EPA Amount Awarded To Date	\$400,000

#### **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 (MBE/WBE) participation in procurement under the financial assistance agreements.

#### **Accepting the Fair Share Objectives/Goals of Another Recipient**

The dollar amount of this assistance agreement is \$250,000, or more; or the total dollar amount of all of the recipient's non-TAG assistance agreements from EPA in the current fiscal year is \$250,000, or more. The recipient accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA by the **WISCONSIN DEPARTMENT OF NATURAL RESOURCES** as follows:

MBE: 3%  
WBE: 12%

By signing this financial assistance agreement, the recipient is accepting the fair share objectives/goals stated above and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as **WISCONSIN DEPARTMENT OF NATURAL RESOURCES**.

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

The recipient has the option to negotiate its own MBE/WBE fair share objectives/goals. If the recipient wishes to negotiate its own 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 submission of proposed fair share goals with the supporting analysis or disparity study means that the recipient is **not** accepting the fair share objectives/goals of another recipient. 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 DBEs 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

I. Central Contractor Registration and Universal Identifier Requirements.

- A. Requirement for Central Contractor Registration (CCR). 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 CCR 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.
- 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) 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 CCR Internet site (currently at <http://www.ccr.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.

7. HOTEL-MOTEL FIRE SAFETY

- 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.

## 15. 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](http://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](http://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>.)

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.

#### **16. SUSPENSION & DEBARMENT: 2 CFR PART 1532**

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.

Recipient may access the Excluded Parties List System at [www.epis.gov](http://www.epis.gov). This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

#### **17. 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

this term and condition.

## **Programmatic Conditions**

### **1. Assessment Terms and Conditions**

FY 2011 Terms and Conditions (T&Cs) apply to Brownfields Assessment Grants awarded under CERCLA 104(k).

#### **I. GENERAL FEDERAL REQUIREMENTS**

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

#### **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 2010 competition for Brownfields assessment cooperative agreements. However, the CAR may not expend ("draw down") funds to carry out this agreement until EPA's award official approves the final work plan.
- 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 assessment activities supported with cooperative agreement funding comply with all applicable Federal and State laws and regulations.
- c. The recipient agrees to comply with Executive Order 13202 (Feb. 22, 2001, 66 Fed. Reg. 11225 ) of February 17, 2001, entitled "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally-funded Construction Projects," as amended by Executive Order 13208 (April 11, 2001, 66 Fed. Reg. 18717) of April 6, 2001, entitled "Amendment to Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects.
- d. The recipient must comply with Federal cross-cutting requirements. These requirements include but are not limited to, MBE/WBE requirements found at 40 CFR Part 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.
- e. The CAR must comply with Davis-Bacon Act prevailing wage requirements and associated U.S. Department of Labor (DOL) regulations for all construction, alteration and repair contracts and subcontracts awarded with funds provided under this agreement. Activities conducted under assessment grants generally do not involve construction, alteration and repair within the meaning of the Davis-Bacon Act. The recipient must contact EPA's Project Officer if there are unique circumstances (e.g. removal of an underground storage tank or another structure and restoration of the site) which indicate that the Davis-Bacon Act applies to an activity the CAR intends to carry out with funds provided under this agreement. The Agency will provide guidance on Davis-Bacon Act compliance if necessary.

#### **B. Eligible Brownfields Site Determinations**

1. a. The CAR must provide information to EPA about site-specific work prior to incurring any costs under this cooperative agreement for sites that have not already been pre-approved in the CAR's work plan by the EPA. The information that must be provided includes whether or not the site meets the definition of a brownfield site as defined in §101(39) of CERCLA, the identity of the owner, and the date of

#### A. Authorized Assessment Activities

1. Prior to conducting or engaging in any on-site activity with the potential to impact historic properties (such as invasive sampling), the CAR shall consult with 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. When environmental samples are collected as part of the brownfields assessment, the CAR shall comply with 40 CFR Part 31.45 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.

#### C. Completion of Assessment Activities

1. The CAR shall properly document the completion of all activities described in the EPA approved work plan. This must be done through a final report or letter from a qualified environmental professional, or other documentation provided by a State or Tribe that shows assessments are complete.

#### D. All Appropriate Inquiry

1. As required by CERCLA §104(k)(2)(B)(ii) and CERCLA §101(35)(B), the CAR shall ensure that a Phase I site characterization and assessment carried out under this agreement will be performed in accordance with EPA's standard for all appropriate inquiries. The CAR shall utilize the practices in ASTM standard E1527-05 "Standard Practices for Environmental Site Assessment: Phase I Environmental Site Assessment Process," or EPA's All Appropriate Inquiries Final Rule "All Appropriate Inquiries Rule: Reporting Requirements and Suggestions on Report Content", (Publication Number: EPA 560-F-06-244). This does not preclude the use of grant funds for additional site characterization and assessment activities that may be necessary to characterize the environmental impacts at the site or to comply with applicable State standards.

All Phase I / Appropriate Inquiries (AAI) final reports produced with funding from this agreement must comply with 40 C.F.R. Part 312 and must, at a minimum, include the information below. All Phase I / AAI reports submitted to EPA Project Officers as deliverables under this agreement must be accompanied by a completed "Reporting Requirements Checklist" that EPA's Project Officer will provide to the recipient. The checklist also is available to grantees on the EPA website at [www.epa.gov/brownfields](http://www.epa.gov/brownfields).

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

it determines that all applicable administrative actions and all required work of the grant have been completed.

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:

U.S. EPA Las Vegas Finance Center  
P.O. Box 98515  
Las Vegas, NV 89193-8515  
Fax: (702) 798-2423  
<http://www.epa.gov/ocfo/finservices/payinfo.html>

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.

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.

## **2. NATIONAL HISTORIC PRESERVATION ACT**

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

## **3. ENVIRONMENTAL RESULTS - RECIPIENT PERFORMANCE REPORTING**

Performance Reports:

In accordance with 40 C.F.R. §31.40, the recipient agrees to submit performance reports that include brief information on each of the following areas: 1) a comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement workplan for the period; 2) the reasons for slippage if established outputs/outcomes were not met; and 3) additional pertinent information, including, when appropriate, analysis and information of cost overruns or high unit costs.

In accordance with 40 C.F.R. § 31.40 (d), the recipient 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 assistance agreement work plan.

## **4. FOOD & REFRESHMENTS**

Unless the event(s) are specified 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.

Note: U.S. General Services Administration regulations define light refreshments for morning, afternoon or



**ATTACHMENT C**  
**AMENDMENT FORM**

**ATTACHMENT C**  
 Amendment  
 TO SYMBIONT SCIENCE, ENGINEERING AND CONSTRUCTION, INC.  
 TERMS AND CONDITIONS OF AGREEMENT

Project Name:	
Project Number:	
Subconsultant:	
Owner:	
Site Location:	
Scope of Work:	
Compensation:	
Schedule:	
Supplemental Conditions:	Terms and Conditions are those entered into by Symbiont and the City of Racine (2012).

IN WITNESS WHEREOF, the parties have executed this Agreement including Attachment 1, which includes a description of the scope of work, schedule, method of compensation, and Supplemental Terms and Conditions of Agreement, and is incorporated by reference into these Terms and Conditions of Agreement. The effective date of this Agreement is the later of the signature dates below.

Client:

\_\_\_\_\_  
Name: Title Date

Symbiont Science, Engineering and Construction, Inc.:

\_\_\_\_\_  
Name: Title Date

**ATTACHMENT D**  
**WORK ORDER FOR NEW PROJECT FORM**

**ATTACHMENT D**  
Work Order for New Project  
TO SYMBIONT SCIENCE, ENGINEERING AND CONSTRUCTION, INC.  
TERMS AND CONDITIONS OF AGREEMENT

Project Name:	
Project Number:	
Subconsultant:	
Owner:	
Site Location:	
Scope of Work:	
Compensation:	
Schedule:	
Supplemental Conditions:	Terms and Conditions are those entered into by Symbiont and the City of Racine (2012).



IN WITNESS WHEREOF, the parties have executed this Agreement including Attachment 1, which includes a description of the scope of work, schedule, method of compensation, and Supplemental Terms and Conditions of Agreement, and is incorporated by reference into these Terms and Conditions of Agreement. The effective date of this Agreement is the later of the signature dates below.

Client:

\_\_\_\_\_  
Name: Title Date

Symbiont Science, Engineering and Construction, Inc.:

\_\_\_\_\_  
Name: Title Date

**ATTACHMENT E**  
**SYMBIONT 2012 FEE SCHEDULE**

Symbiont's labor rates and schedule of fees are provided below. If selected, these rates will remain in effect for this Contract throughout the initial three (3) year term of the Contract for all categories of staff, unless an increase in the labor rate is applicable and the Contract is modified by mutual agreement in writing.

### SYMBIONT PERSONNEL

Principal Engineer/Scientist .....	\$170.00/hour
Sr. Engineer/Scientist.....	\$150.00/hour
Sr. Project Manager .....	\$135.00/hour
Project Manager.....	\$90.00/hour
Engineer/Scientist .....	\$75.00/hour
Engineering Technicians .....	\$65.00/hour
Draftsperson/Technician.....	\$60.00/hour
Clerical.....	\$55.00/hour

### EXPENSES AND SUPPLIES

Photocopies.....	\$ .10/page
Shipping.....	Cost + 10%
Phone Charges.....	Included in Rates
Analytical laboratory tests.....	Cost + 10%
Field Equipment (gloves, tubing, sampling equipment) .....	\$50/day in field
Bailer (disposable).....	\$10.00/each
Vehicle (car).....	\$50.00/day
Vehicle (truck).....	\$75.00/day
Mileage.....	\$.60/mile

### ENVIRONMENTAL EQUIPMENT RENTAL (PERSONNEL TIME NOT INCLUDED)

Temperature, pH, conductivity meters .....	\$35.00/day
Electric water level indicator .....	\$35.00/day
Low-flow peristaltic pump .....	\$50.00/day
Data acquisition station w/transducer .....	\$125.00/day
Toxic gas detector (single gas) .....	\$40.00/day
Hydrocarbon/water interface probe.....	\$65.00/day
Photoionization detector .....	\$100.00/day
Air sample pump.....	\$25.00/day
Oxygen/Combustible Gas/H <sub>2</sub> S monitor.....	\$60.00/day
Dissolved oxygen meter .....	\$55.00/day
Turbidity meter.....	\$45.00/day