

**AGREEMENT
BETWEEN
CUYAHOGA COUNTY, OHIO
AND
HZW Environmental Consultants LLC
FOR
ENVIRONMENTAL SERVICES**

THIS AGREEMENT ("Agreement"), made and entered into this 1st day of July 2013 (the "Effective Date") by and between the County of Cuyahoga, Ohio (the "County"), a county and political subdivision of the state of Ohio, on behalf of the Department of Development ("DOD"), and HZW Environmental Consultants LLC ("Consultant"), an Ohio, Limited Liability Corporation with principal offices located at 6105 Heisley Road, Mentor, Ohio 44060.

W I T N E S S E T H:

WHEREAS, the County currently manages and administers an environmental assessment program (the "Program"); and

WHEREAS, the purpose of the Program is to inventory, characterize, and assess parcels of real property throughout the County of Cuyahoga, Ohio which qualify as a "brownfield site" under the Comprehensive Environmental Response Compensation, and Liability Act of 1980, 42 U.S.C. Chapter 103 ("CERCLA"), as amended by the Small Business Liability Relief and Brownfields Revitalization Act, Public Law 107-118 (the "Act"; for purposes of this Agreement, including all subsequent amendments thereto and all regulations promulgated thereunder); and

WHEREAS, in order to accomplish its responsibilities in connection with the Program, the County requires the assistance of one or more environmental consultants; and

WHEREAS, the County is empowered by the constitution and laws of the state of Ohio and the Act to engage consultants for purposes of conducting the Services (as defined below) with respect to the real property located at 15619-15621 Waterloo Road Cleveland, Ohio 44110 and more particularly described or shown on Exhibit A attached hereto and made a part hereof (the "Facility"); and

WHEREAS, the Consultant previously responded to a request for qualifications issued by the County and in such responses represented that it possesses the relevant professional experience, competence and knowledge, as required under the laws of the state of Ohio and the Act, to render the services to be provided under this Agreement, and desires to render such services to the County with respect to the Facility; and

WHEREAS, the County has requested a scope of services to be provided with respect to the Facility, a copy of which is attached hereto as Exhibit B (the "Services"), and Consultant has provided and the County has accepted a proposal to perform the Services, a copy of which is attached as Exhibit C (the "Proposal"); and

NOW, THEREFORE, in consideration of the premises, covenants, and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and the Consultant, agree as follows:

1. Scope of Services.

A. The Consultant agrees to inventory, characterize, and assess the Facility in accordance with the Act, and to investigate, determine and analyze reasonably identifiable risks inherent in the existence of hazardous materials or wastes, petroleum products, toxic chemicals or substances, pollutants or contaminants, or any other material, chemical, waste, or substance, in any of their various forms ("hazardous substances"), which, in the Reasonable Judgment of the Consultant (as defined below), could give rise to liability or responsibility under any federal, state or local laws, statutes, regulations, ordinances, protocols, guidance or standards or under common law ("environmental laws"), including without limitation, the presence of hazardous substances in the soil, groundwater, or air associated with the Facility. For purposes of this Agreement, "Reasonable Judgment" means such skill, care and judgment normally exercised by recognized professional firms performing services of a similar nature in the State of Ohio in accordance with the laws of the State of Ohio and the Act.

B. Consultant shall perform the Services in accordance with the terms of this Agreement, the Requested Services, the Proposal, and the General Terms and Conditions, attached and incorporated herein as Exhibits B, C and D, respectively. Consultant acknowledges that Phase II service will commence ONLY upon approval by the County, and County has issued an authorization to proceed. County reserves the right, in its sole discretion, to terminate this Agreement upon completion of the Phase I Services. The terms and conditions in this Agreement shall prevail over any inconsistent terms in the Requested Services, General Terms and Conditions or the Proposal. Should any conflict exist between the Proposal and the Requested Services, the Requested Services shall govern.

2. Quality of Services.

A. The Consultant shall provide and direct any and all qualified personnel necessary to perform the Services required pursuant to the express and implied terms and conditions of this Agreement, with a degree of skill, care and judgment normally exercised by recognized professional firms performing services of a similar nature in the State of Ohio.

B. The Consultant shall assign the personnel identified in the Proposal to perform the Services, and shall not remove or replace those individuals without the prior written approval of the County, which approval shall not be unreasonably denied or withheld; the County's decision with respect to such removal or replacement shall be given in a timely manner so as not to delay Consultant's completion of the Services by the Completion Date. The Consultant represents and warrants that the identified personnel will be under the supervision or responsible charge of a person meeting the definition of environmental professional as defined in the Act and any current or proposed regulations thereunder.

C. Consultant represents that it has developed a generic Quality Assurance Project Plan ("QAPP") meeting the requirements in "Quality Assurance Guidance for Conducting Brownfields Site Assessment", as outlined by current U.S. EPA guideline for Cuyahoga County Department of Developments Community Assessment Program. This generic QAPP will be submitted and approved by USEPA, Region V for approval prior to conducting any and all Phase II Environmental Assessment work for Cuyahoga County Department of Development. Consultant acknowledges and agrees it shall not receive compensation for any associated work in regards to the creation, preparation, and approval of the generic QAPP. Consultant shall customize its generic QAPP to create a site-specific Sampling and Analysis (SAP) workplan for the Facility, which includes Phase II environmental investigation for the Cuyahoga County Department of Development. Costs to customize the QAPP to the Facility shall be compensated under this Agreement.

3. Compensation.

A. In consideration of Consultant's faithful performance of the Services, as directed by the County, Consultant shall receive compensation in an amount not to exceed \$18,496.00.

B. Compensation for Phase II Services, if any, shall be documented in accordance with paragraph 1 above, and shall be computed for each quarter of an hour incurred in connection with the Phase II Services at the hourly rates set forth in Section I of the rate schedule ("Rate Schedule") entitled "Fees for Professional Services of the General Terms and Conditions," attached hereto including all present, state, federal and local sales, use, excise, business and occupation and transportation taxes. Phase II Services, such as sub-surface investigation or other Services which may become necessary due to unforeseen circumstances shall only be performed by the Consultant upon prior written approval of the County, and at the rates set forth under Section I of the Rate Schedule plus reimbursable expenses calculated in accordance with Section II of the Rate Schedule.

C. In the event that Consultant encounters issues which would require additional time or expense, Consultant shall immediately notify the County and shall not proceed until the County has approved such additional time or expenses in writing.

D. Invoices. Detail on all invoices to County will follow the format specified in the budget attached to the Proposal. All invoices shall include copies of all subcontractor invoices. Markup on subcontractor costs in excess of 5% will be disallowed.

4. Term and Time of Performance.

A. The term of this Agreement shall begin on the Effective Date and shall expire, unless sooner terminated under the terms of this Agreement or extended by a written Amendment to this Agreement, on December 28, 2013.

B. The Consultant will initiate the Services within one week of receipt of a written authorization to proceed from DOD. Upon completion of the Services, Consultant shall provide the County with a written report or reports, as described in the Section 5, below.

5. **Report.** Any reports prepared by Consultant pursuant to the Agreement shall first be prepared and submitted, with all supporting information, to the County in draft form for initial review; the County reserves the right to request that such draft report and supporting information be submitted in electronic (e.g., Word or Adobe Acrobat) and/or non-electronic form. All final reports will be delivered to the county and/or designated recipients in format specified by county on a project by project basis. Not to exceed three electronic versions and one possible non-electronic (paper version) per report.

6. **Intellectual Property Rights.** All reports, documents, drawings, drafts, notes and /or other deliverables produced in response to this Agreement will be the sole property of Cuyahoga County and shall be delivered to the Cuyahoga County at the conclusion of the project. Consultant agrees that any and all works of authorship created or products developed by Consultant under this Agreement, either individually or jointly with others, in the course of the rendition of the services contemplated herein, shall be the exclusive property of Cuyahoga County.

7. **Termination.** Either the County or the Consultant may suspend the performance by the Consultant of all or any part of the Services to be provided under this Agreement or terminate for convenience all or any part of this Agreement, in either case, by written notice sent by certified mail, return receipt requested to a non-terminating party. Such suspension or termination shall be effective two (2) business days after receipt of the written notice. In the event of termination, the Consultant shall be entitled to compensation, for work completed up to the date of termination, in accordance with Section I of the Rate Schedule, together with its reimbursable expenses calculated as provided in Section II of the Rate Schedule and shall submit a final invoice to the County within thirty (30) days after the effective date of such termination. Upon request by the County, the Consultant will promptly furnish the County with a written report based upon the data and information collected by the Consultant as of the date of termination of this Agreement, the cost of which shall be paid for in accordance with Section I of the Rate Schedule.

8. **Representations and Warranties.** The Consultant represents and warrants that:

A. The Consultant shall have obtained and shall maintain any and all licenses and permits required by environmental laws for the performance of its Services pursuant to this Agreement;

B. The Consultant shall comply with all applicable environmental laws in performing the Services hereunder, and shall comply with directives of governmental agencies and the County relating to safety, security, traffic or other like matters relating to the Facility; and

C. The Consultant's professional Services will be performed, its findings obtained and its recommendations prepared in accordance with generally and currently accepted scientific and engineering principles and practices and in accordance with industry standards of care exercised by recognized HzW Environmental Consultants LLC performing Services in Ohio, as established at the time the Services hereunder are to be performed.

9. **Indemnity.** The Consultant shall defend, hold harmless and indemnify the County from and against all claims, actions, suits, liabilities, damages and expenses (including attorney's fees) for personal injury (including death), property damage or other claims and liabilities arising out of, related to, or in connection with the Consultant's Services pursuant to this Agreement, including any Services performed by any subcontractor or agent of the Consultant, excepting only such claims, actions, suits, liabilities, damages and expenses arising directly out of the County's willful misconduct or gross negligence.

Consultant acknowledges that as an Ohio political subdivision, the County is prohibited by law from agreeing to indemnify any person or entity, and agrees that no provision of this Contract or any other contract or agreement between Consultant and the County may be interpreted to obligate the County to indemnify or defend Consultant or any other party.

10. **Insurance.** Consultant agrees to maintain at all times during the life of this Agreement worker's compensation, commercial general liability, comprehensive business automobile, professional liability (in particular covering errors and omissions), and umbrella liability insurances. Commercial General Liability, Contractors Pollution Legal Liability & Professional Liability, (in particular covering errors and omissions), shall be in an amount not less than Five Million Dollars (\$5,000,000) while the comprehensive business automobile, and umbrella liability insurances shall be in an amount not less than One Million Dollars (\$1,000,000).

Each of the Insurance Policies shall state that the issuing company thereof shall have no right of recovery or subrogation against the County or its agents, directors, officers, employees, representatives or insurers, and that the County shall in no way be held responsible for the payment or satisfaction of any deductible thereunder.

Consultant shall name the County and its employees as an additional insured on each of the Insurance Policies, up to the amounts specified herein, and shall furnish the County with Certificates of Insurance stating to that effect.

Should any one of the Insurance Policies terminate or be cancelled, refused, or for any other reason no longer be of effect, the Consultant and Insurance Carrier shall immediately furnish written notice to the County of the fact. At such time such notice is received by the County, this Agreement shall be held null and void and no longer enforceable or of effect; provided, however, that if the Consultant is able to obtain coverage from another insurer within five (5) business days of the loss of coverage, this Agreement shall continue to be in full force and effect and shall remain binding on the parties hereto.

All Insurance Policies required hereunder shall cover and include the specific work contemplated by the terms hereof. If such policies do not cover such work, then Consultant shall not be in conformity with the terms hereof, unless Consultant obtains written permission from the County to not be in conformity with such terms

11. **Independent Contractor.** The Consultant is acting and shall perform its Services under this Agreement as an independent contractor. Nothing contained in this Agreement or in the relationship between the County and the Consultant shall be deemed to constitute a partnership, joint venture, or any other relationship among them, and the Consultant's authority is strictly limited to performing the Services set forth herein in accordance

with the terms and conditions hereof. The Consultant shall have no authority to execute any contracts, subcontracts or agreements for or on behalf of the County, nor to assume or create any obligation or liability or make any representation, covenant, agreement or warranty, express or implied, on the County or the County's behalf, or to bind the County in any manner whatsoever, without, in each case, written consent, approval, or instructions having been given or provided by the County. Any and all subcontracts shall be submitted to and approved by the County prior to execution and delivery.

12. **Audits.** The Consultant by his, her or its acceptance of the monies granted hereunder agrees to cooperate in all regards with any audit of the Grants and distributions therefrom, where such audit is performed by any governmental entity or agency duly authorized and empowered to undertake such audit by the Act, whether such entity or agency be from the County of Cuyahoga, State of Ohio or Federal Government (the "Auditor"). Consultant agrees to present information in such format as reasonably requested by the Auditor, and to comply in all regards with all requirements and procedures as may be reasonably formulated by the Auditor from time to time.

13. **Assignment, Transfer or Delegation.** Neither this Agreement nor any of the rights, interests or obligations of the Consultant hereunder may be assigned, transferred or delegated in whole or in part by the Consultant without the prior written consent of the County, which consent may be denied, withheld or granted in the sole discretion of the County.

14. **Notices: Entire Agreement.** Any notice or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given if and when personally delivered or on the second business day after being deposited in United States registered or certified mail, postage prepaid, and addressed to the County or the Consultant, as the case may be, at the address set forth on the signature page of this Agreement or to such other address as the County or the Consultant may have designated in accordance herewith. The terms and conditions of this Agreement, including all exhibits and the Rate Schedule attached hereto, constitute the final written expression of the agreement between the parties and are a complete and exclusive statement of the terms and conditions of this Agreement and may not be amended except in a writing signed by the parties hereto. Any amendments or modifications to this Agreement shall be valid only when executed by the parties in a written instrument with the same formality as this Agreement. Any consents, approvals or instructions which may be required of the County under this Agreement may be given only by the County Development Director or the Deputy Development Director. All other notices or other communications required or permitted hereunder may be given by an authorized representative of the County.

15. **Confidentiality & Public Records.** The Consultant, its officers, agents and employees shall perform the Services in a discrete, confidential manner and shall not disclose any information or materials and reports gathered pursuant to this Agreement, or discuss such information or materials with anyone, other than authorized County representatives, without the prior written permission of the County; provided, however, that the Consultant is expressly authorized and permitted to disclose, where relevant, any such information or materials to any third parties who are required under the terms of this Agreement to be contacted by Consultant in connection with its Services hereunder or who may be entitled to such information as a matter of

law or pursuant to court order. All such information, materials and reports shall belong to the County.

Notwithstanding the foregoing, Consultant acknowledges that County is a political subdivision in the State of Ohio and as such is subject the Ohio Revised Code and other law related to the keeping and access to Public Records, including any and all applicable Sunshine Laws, open meeting requirements, and retention schedules effecting any and all manner of communication with the County and any and all documents in any format or media.

16. Governing Law & Forum. This Agreement shall be governed by the laws of the State of Ohio. Any suit, action, or proceeding brought under this Contract shall be in a state or federal court of competent jurisdiction located in Cleveland, Ohio, and the parties agree to the exclusive jurisdiction and venue of such court to resolve same.

17. Applicable Ordinances: This Agreement shall be subject to all applicable County ordinances, including, but not limited to: i) the Cuyahoga County Ethics Ordinance, ii) the Cuyahoga County Inspector General Ordinance, and iii) the Cuyahoga County Board of Control, Contracting and Purchasing Ordinance (the "County Ordinances"). Consultant shall comply with all County Ordinances as an integral part of this Agreement. . Copies of all County Ordinances are available on the County Council's web site at <http://council.cuyahogacounty.us/>.

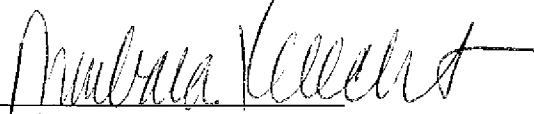
18. Force Majeure. The time for performance or observance of any of the covenants and agreements to be performed or observed by Consultants under this Agreement shall be extended for delays caused by Force Majeure. For the purposes hereof, the term Force Majeure shall mean and include: (i) delays in the performance of the work by reasons for strikes, lockouts, accidents, acts of God or other causes beyond the Consultant's reasonable control, (ii) the failure by the County to furnish necessary information required under this Agreement, (iii) the failure by the County to approve or disapprove the Consultant's work as and when required under this Agreement, (iv) delays resulting from late, slow or faulty performance by the County, other contractors or consultants of the County, or by government agencies whose performance of work is precedent to or concurrent with the performance of the Consultant's work under this Agreement.

19. Disputes. Any dispute between Consultant and the County arising out of or relating to this Agreement, except for disputes relating to right of either party to terminate this Agreement in accordance with Article 7, shall be subject to mediation as an express condition precedent to the institution of any legal or equitable proceedings by either the Consultant or the County. The parties shall endeavor to resolve any such dispute through mediation conducted pursuant to the Construction Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party and with the American Arbitration Association. The prevailing party shall be entitled to reimbursement of the mediator's fee and the filing fees paid by such party. In addition, all costs and expenses incurred by either party in connection with the mediation shall be borne and paid by the unsuccessful party. The mediation shall be held in the County of Cuyahoga (in a place selected by County), unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

20. **Electronic Signature.** By entering into this Agreement, I agree on behalf of the contracting business entity, its officers, employees, subcontractors, subgrantees, agents or assigns, to conduct this transaction by electronic means by agreeing that all documents requiring county signatures may be executed by electronic means, and that the electronic signatures affixed by the County to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document. I also agree on behalf of the aforementioned entities and persons, to be bound by the provisions of Chapters 304 and 1306 of the Ohio Revised Code as they pertain to electronic transactions, and to comply with electronic signature policy of Cuyahoga County.

IN WITNESS WHEREOF, the parties have hereto executed this Agreement as of the Effective Date.

HzW Environmental Consultants LLC

BY: 
Barbara Knecht

Cuyahoga County Executive

Edward FitzGerald, County Executive

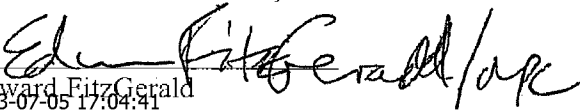
BY: 
Edward FitzGerald
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EXHIBIT A

DESCRIPTION OF FACILITY

The Waterloo Bank Building Site ("Facility") is located at located at 15619-21 Waterloo Road, Cleveland, Ohio 44110.

The Facility is located at Parcel 113-16-029 in Cleveland, Ohio.

The Facility is bounded by East 156th Street Properties to the East, and Waterloo Road to the South.

The Facility consists of a former bank/office building.

The Facility is zoned for full service bank uses.

The one parcel encompasses approximately 0.42 acres.

EXHIBIT B

REQUESTED SERVICES LIST

1. Phase I Property Assessment(s) as:
☐ ASTM E1527-05 "Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process" meeting the requirements for "all appropriate inquiries" under the Act and any regulations promulgated thereunder, 40 C.F.R. Part 312; or
☐ Ohio EPA Voluntary Action Program Phase I Property Assessment in accordance with Ohio Revised Code § 3746.04 (B)(3) and Ohio Administrative Code §3745-300-06, including a VAP Eligibility Analysis in accordance with Ohio Administrative Code §3745-300-02; provided however, such preliminary assessment of the Facility shall meet and be performed in accordance with the criteria and requirements set forth in Title II, Subtitle A, Section 223 (2) (B) of the Act [42 U.S.C. 9601 (35)] or any current or proposed regulations promulgated thereunder.
2. ___ Regulatory File Review, as requested.
3. ☒ Ohio EPA Voluntary Action Program Phase II Property Assessment under O.R.C. 3746.04 (B)(4) and AS MORE CLEARLY DESCRIBED IN ATTACHED PROPOSAL (Exhibit C).
4. ___ Site-specific Sampling and Analysis Plan meeting the requirements set forth in the generic Quality Assurance Project Plan, and under O.R.C. 3746.04(B)(4) and O.A.C. 3745-300-07 for VAP; and under 40 C.F.R. 31.45, and EPA DQO and QA/QC Guidance Documents for Non-VAP
5. ___ Bureau of Underground Storage Tank Regulations Closure Assessment and/or 3-Tier Evaluation under O.A.C. 1301:7-19-12 and -13.
6. ☒ Asbestos Survey under O.R.C. 3710; O.A.C 3745-20-02 – O.A.C. 3745-20-04; 40 C.F.R. 763.86 or equivalent; 40 C.F.R. 61 subpart M.
7. ___ Lead Paint Inspection (to determine the presence of lead-based paint) under O.R.C. 3742.
8. ___ Risk Assessment and Report for Voluntary Action Program projects conducted in accordance with O.R.C. 3746 and O.A.C. 3745-300-08 (Generic) and/or O.A.C. 3745-300-09 (Site-Specific), or for leaking USTs regulated by BUSTR conducted in accordance with BUSTR's Site Feature Scoring System (Generic) or 4-Tier (Site-Specific) risk assessment documents.
9. ___ Remedial Action Plan and Operation and Maintenance Plan under O.R.C. 3746 and O.A.C. 3745300-15 for Voluntary Action Program projects, or O.A.C. 1301:7-9-13 for leaking USTs regulated by BUSTR.
10. ___ Urban Setting Designation and/or Groundwater Feasibility Study conducted in accordance with O.R.C. 3746 and O.A.C. 3745-300-10(D).

Exhibit C

Consultant's Proposal



HzW ENVIRONMENTAL
CONSULTANTS, LLC

June 4, 2013

Northcoast Brownfield Coalition
c/o Ms. Janise Bayne
Cuyahoga County
Department of Development
Reserve Square
1701 East 12th Street, First Floor
Cleveland, Ohio 44114

***Subject: Revised Proposal to Provide Professional Services, 15619-15621 Waterloo Road,
Cleveland, Cuyahoga County, Ohio***

Dear Ms. Bayne:

HzW Environmental Consultants, LLC (HzW) is pleased to submit for your consideration this revised proposal to provide professional services at 15619-15621 Waterloo Road, Cleveland, Cuyahoga County, Ohio (herein referred to as the "Property"). We propose to provide these professional services to the Northcoast Brownfield Coalition/Cuyahoga County, Department of Development, herein referred to as the County.

BACKGROUND

During December 2012 and January 2013, Partners Environmental Consulting, Inc. (Partners) conducted a Phase I Environmental Site Assessment (ESA) of the Property in accordance with ASTM Designation E 1527-05. According to the Partners Phase I ESA, the Property, which is "L"-shaped and approximately 0.66 acres in size, is developed with a vacant, two-story commercial building in the southern portion and asphalt parking areas. The Partners Phase I ESA indicates that the Property was residentially developed prior to 1913 with the current commercial building constructed in the southern portion between 1913 and 1926. At the time of construction, the commercial building was utilized as a bank and commercial storefront until the bank expanded occupying the first floor of the building between 1926 and 1950. Partners indicated that the first floor of the commercial building remained utilized as a bank until approximately 2008 and that various tenants have occupied the second floor since 1926. City of Cleveland Department of Building and Housing records indicated that a 1,500-gallon fuel oil underground storage tank (UST) was installed at the Property in 1926. The UST was located north of the current commercial building on the Property.

MENTOR

AKRON

EUCLID

CANTON

6105 Heisley Road, Mentor, Ohio 44060 • phone 440-357-1260 • 800-804-8484 • fax 440-357-1510

www.hzwenv.com

Based on the findings of the Phase I ESA, Partners identified the following "recognized environmental conditions" (RECs) in connection with the Property:

1. **X-Ray Machines.** Partners observed two (2) X-ray machines on the second floor of the building that were associated with a former doctor's office. Partners indicated that the second floor was formerly utilized as medical offices between 1935 and 2002 and that operation of radiological equipment by medical offices has the "potential to adversely impact the Property".
2. **Dry Cleaner.** Partners indicated that according to the 1935 city directory, the Property was utilized as a clothing cleaner facility. Partners concluded that since historic dry cleaning operations likely involved the use of hazardous substances, the former clothing cleaning facility has "the potential to adversely impact the Property".
3. **Fuel Oil UST.** City of Cleveland Department of Building and Housing records indicated that a 1,500-gallon fuel oil UST was installed on the Property in 1926. Partners indicated that "It is unknown whether this UST remains in the ground or has been removed. Based on the age of the UST, there is a potential that a release (if any) associated with this fuel oil UST has adversely impacted the Property."
4. **Dry Cleaners on Adjacent Properties.** Partners identified five (5) adjacent properties that were formerly utilized as cleaning facilities, which "likely included the use of hazardous substances...and have the potential to adversely impact the Property". These adjacent properties included the southwestern adjacent property, 15617 Waterloo Road (1930 through 1955), a site located approximately 150 southeast of the Property (15706 Waterloo Road), a site located approximately 100 feet southwest of the Property (400-406 East 156th Street), a site located 100 feet south of the Property, 15606 Waterloo Road (in 1935), and a site approximately 100 feet south of the Property, 15612 Waterloo Road (in 1974).

Based upon a review of the Partners Phase I ESA, the following scope of services was developed to provide limited further assessment of certain RECs on the Property. HzW does not propose further assessment of REC #1, the X-ray machines, contingent upon the machines being properly decommissioned and recycled. In addition, HzW believes that with the exception of one (1) adjacent property identified by Partners in REC #4 (southwestern adjacent property, 15617 Waterloo Road), assessment of the other adjacent properties identified in REC #4 will be included in assessment activities proposed to assess the RECs on the Property.

SCOPE OF SERVICES

Task 1 – City of Cleveland Fire Prevention Bureau File Review

- A. Since the Partners Phase I ESA did not include a review of City of Cleveland Fire Prevention Bureau (CFPB) records, perform a file review with the CFPB for the Property to obtain any additional information concerning the 1,500-gallon fuel oil UST and the Property.

Task 2 – Geophysical Survey, Limited Phase II PA

- A. Retain the services of Grumman Exploration, Inc. to conduct a geophysical survey in the eastern portion of the Property to determine if any USTs remain on the Property. In order for the geophysical survey results to be conclusive, the parking lot should be clear of vehicles (to the extent possible). Additionally, the geophysical survey should not be conducted during precipitation events (rain or snow) or when standing water or snow is present on the ground surface.
- B. Grumman Exploration, Inc. will provide verbal findings in the field with a written report of findings prepared within two (2) to three (3) weeks of survey activities. The geophysical survey report will be included as part of HzW's final Limited Phase II PA report.

Task 3 – Soil Boring Installation, Limited Phase II PA

- A. Mark proposed soil boring locations at the Property.
- B. Contact the local utilities protection service to provide location of known underground utilities.
- C. Using hydraulic Geoprobe® direct-push drilling and sampling techniques, install three (3) soil borings the 1,500-gallon fuel oil UST location. Each soil bore will be installed to a terminal depth of 12 feet, groundwater, bedrock or probe refusal, whichever is encountered first. Soil samples will be collected at two- (2-) foot intervals from below ground surface to terminal depth. Each soil sample from the borings will be field screened for the presence of volatile organic compounds (VOCs) using a photo ionization detector (PID). The one (1) soil sample from each boring that exhibits the highest concentration of VOCs as measured on the PID or based on visual and/or olfactory observations will be selected for laboratory analysis. The selected soil samples will be submitted to an independent, Ohio Voluntary Action Program (VAP) Certified Laboratory for analysis of VOCs by EPA Method 8260, polynuclear aromatic hydrocarbons (PAHs) by EPA Method 8270 and total petroleum hydrocarbons (TPH) by EPA Method 8015 modified.
- D. Abandon all soil borings by backfilling with hydrated bentonite chips and patching with asphalt or concrete to match surrounding surfaces. The use of Geoprobe® subsurface sampling techniques will eliminate the generation of drill cuttings or other investigation-derived waste.

Task 4 – Interior and Exterior Soil Gas Sampling, Limited Phase II PA

- A. Using either a rotary hammer drill or a hydraulic Geoprobe® drilling unit, install soil gas sampling points on the interior and exterior portions of the Property. Three (3) interior sub-slab soil gas sampling points will be installed using a rotary hammer drill in the lower floor of the building. The interior sub-slab soil gas sampling points will consist of Vapor Pins™. A maximum of five (5) exterior sub-slab or subsurface soil gas sampling points will be installed along the common Property boundary with 15617 Waterloo Road using either a rotary hammer drill or a hydraulic Geoprobe® drilling unit.

- B. After allowing the soil gas sampling points to equilibrate, collect soil gas samples in accordance with methodologies outlined in the Ohio Environmental Protection Agency's (EPA's) *Sample Collection and Evaluation of Vapor Intrusion to Indoor Air* Guidance Document dated May 2010. Soil gas samples will be collected in a six (6) Liter, stainless steel Summa canister and submitted to an independent, VAP Certified Laboratory for analysis of VOCs by EPA Method TO-15.
- C. Abandon the soil gas sampling points by removing the soil gas sample points and filling the holes with concrete (interior) or granular bentonite and finished to match surrounding surfaces (exterior). HzW will not repair any interior overlying flooring materials.

Task 5 – Data Evaluation and Report Preparation, Limited Phase II PA

- A. Following receipt of laboratory analytical data for soil gas samples, evaluate the vapor intrusion risk pathway using the Johnson & Ettinger (J&E) Model for Subsurface Vapor Intrusion into Buildings in accordance with the assumptions presented in the Ohio Environmental Protection Agency's (EPA's) *Sample Collection and Evaluation of Vapor Intrusion to Indoor Air* Guidance Document dated May 2010.
- B. Prepare a Limited Phase II PA report that presents the analytical data compiled as part of the investigation as well as an evaluation of the data with respect to commercial/industrial standards. This report will include a description of the site, the methods of investigation and all analytical data, as well as an evaluation of the data as it relates to applicable standards established by state or federal regulatory agencies. All analytical reports, soil boring logs and other pertinent information will be included as appendices to this report. The Client will be provided with one (1) hard copy of the Limited Phase II PA report and one (1) copy in electronic format (Adobe Acrobat) on a compact disc.

It should be noted that the Limited Phase II will be conducted following VAP methodologies, and using VAP Certified Laboratories, and comparing findings to VAP generic direct contact standards; however, the final report will not be considered a "full VAP Phase II".

Task 6 – Asbestos Survey

In order to assist the Client in identifying asbestos-containing materials located at the Property, HzW will provide an Asbestos Hazard Evaluation Specialist, who is certified by the state of Ohio, in accordance with the Ohio Department of Health regulations, to conduct an asbestos survey. This survey will consist of the following elements:

- A. Reviewing available record drawings, previous asbestos surveys, and abatement projects to determine the bulk sampling strategy.
- B. Conducting a physical inspection of the buildings located at the Property to identify the location, quantities, and condition of building materials suspected of containing asbestos.

- C. Collecting bulk samples of any building materials suspected of containing asbestos, and submitting these samples to an independent laboratory accredited under the National Institute of Standard and Technology (NIST) National Voluntary Accredited Laboratory Program (NVLAP) for confirmation of asbestos content.
- D. Upon receipt of the analytical results, HzW will prepare a letter report which will present the findings of the asbestos survey conducted at the Property and any associated recommendations. The Client will be provided with one (1) hard copy of the asbestos survey letter report and one (1) copy in electronic format (Adobe Acrobat) on a compact disc.

SCHEDULE OF COMPLETION

HzW will commence work on Tasks 1 through 6 of this project immediately upon receipt of authorization to proceed. The anticipated duration of the project is approximately 4-5 weeks from receipt of authorization to proceed.

INFORMATION/SERVICES PROVIDED BY THE COUNTY

The following information and services shall be provided to HzW by the County:

- 1. Assistance in gaining access to the Property during normal working hours, as necessary.
- 2. Any pertinent background information, documentation, and/or survey information which is available to the Client for HzW's completion of the asbestos survey.
- 3. Access to any previous asbestos surveys or reports of asbestos abatement activities conducted at the building located at the Property.

FEE AND BILLING

Attachment 1 presents the total, not-to-exceed costs for completing Tasks 1 through 6 outlined above. The hours and costs presented in Attachment 1 are the estimated hours and costs for each task. While HzW will not exceed the project total cost indicated in Attachment 1, the actual hours and costs incurred may be modified for the tasks. Invoices reflecting the hours incurred by HzW personnel and subcontractor costs incurred will be submitted to the County on a monthly basis. Invoices are due and payable twenty-five (25) days following receipt.

A list of all HzW personnel who will or may be assigned to perform the services presented in this proposal, which includes title, responsibilities and hourly rates, is presented below.

<u>Name</u>	<u>Title</u>	<u>Responsibilities</u>	<u>Hourly Rate</u>
Matt Knecht	President	Certified Professional	\$175.00/hour
Doug Wetzel	Environmental Scientist	Project Management	\$102.50/hour
Kattie Evilsizer	Environmental Scientist	CFPB File Review	\$77.50/hour
Steve Sablar	Environmental Field Tech	Phase II Field Work	\$87.50/hour
Joe Harcher	Environmental Field Tech	Phase II Field Work	\$75.00/hour
Tom Fuhrman	Environmental Field Tech	Phase II Field Work	\$67.50/hour
Mark Lendvay	CAD Technician	CADD	\$75.00/hour
JoMarie Sherman	Technical Editor	Report Review	\$110.00/hour
Joan Sablar	Senior Industrial Hygienist	Asbestos Survey Report	\$160.00/hour
Matt Fergus	Field Technician Supervisor	Asbestos Survey & Report	\$102.50/hour
Carmen Rocco III	Environmental Field Tech	Asbestos Survey	\$72.50/hour


CLOSURE

In addition to the matters set forth herein, our agreement shall include and be subject to the Standard Provisions attached hereto and hereby incorporated herein. The term "the Client" as used in the Standard Provisions shall be understood to refer to the Northcoast Brownfield Coalition/Cuyahoga County, Department of Development. The Standard Provisions shall apply to this agreement, regardless of the method of authorization. Should any terms stated in the Standard Provisions and this letter proposal conflict, the terms of the letter proposal shall take precedence.

We hope that this proposal is acceptable to the County. Please call us should you have any questions. We look forward to working with you on this project.

Sincerely,

HzW ENVIRONMENTAL CONSULTANTS, LLC


Matthew D. Knecht
President

DMW:dmw

Attachments: Attachment 1 – Proposal Budget
Attachment 2 – Principal Owners of Firm
Attachment 3 – DBE Subcontractor Utilization Form (EPA Form 6100-4)
Attachment 4 – Standard Provisions

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Exhibit D

GENERAL TERMS AND CONDITIONS

I. Fees for Professional Services

The fees for professional services will include all amounts as specified in the June 4, 2013 dated proposal for all employees/subcontractors listed on said proposal. All time including travel hours spent on the project by professional, technical, and clerical personnel will be invoiced. Unless otherwise stated, the foregoing rates shall apply to both Phase I Services and Phase II Services set forth in the Agreement to which these terms and conditions are attached, it being understood that, unless otherwise provided in the Agreement, the compensation payable to the Consultant is lesser of the actually incurred amount utilizing the foregoing rate schedule and the maximum amount set forth in the Agreement and that the Agreement does not provide for a fixed lump-sum price. If it is apparent that the maximum amount is insufficient to complete the project satisfactorily, the County will be advised as soon as practicable.

II. Reimbursable Expenses

The sum of **\$18,496.00** for the scope of services set forth by HzW Environmental Consultants LLC in the June 4, 2013 document "Revised Proposal to Provide Professional Services 15619-15621 Waterloo Road, Cleveland, Cuyahoga County, Ohio" submitted by HzW Environmental Consultants LLC, to the County will be the maximum amount of compensation payable to the Consultant for expenses incurred.

III. Invoices and Payments

Consultant shall be paid monthly on the basis of invoices submitted. The invoices submitted will be for the portion of the agreed upon compensation earned by the Consultant during that month. Consultant shall be paid for all such invoices within thirty (30) days of submittal. In the event the County disputes any invoice or any portion thereof, the undisputed portion shall be paid to Consultant in accordance with the Agreement. Invoices not in dispute and unpaid after thirty (30) days shall accrue interest at the rate of one and one-half percent per month (or the maximum percentage allowed by law, whichever is the lesser). **Payment shall be made to the Consultant, as follows:** "HzW Environmental Consultants LLC 6105 Heisley Road, Mentor, Ohio 44060". Additional support documentation, if requested by the County shall be furnished at an additional administrative charge as required to compile the documentation.

IV. Insurance

The Consultant is covered by worker's compensation insurance, employers' liability insurance, commercial general liability insurance covering bodily injury (including death) and property damage, automobile liability insurance covering bodily injury (including death) and property damage, professional consultants liability insurance, contractor's pollution legal liability and Umbrella/Excess Liability Insurance as follows:

Worker's Compensation	Minimum Statutory Amount
Employers' Liability Insurance	Minimum Statutory Amount
Commercial General Liability Insurance	\$ 2 million
Professional Errors and Omissions Liability Insurance	\$ 5 million
Automobile Liability Insurance	\$ 1 million
Contractors Pollution Legal Liability Insurance	\$ 2 million
Umbrella/Excess Liability Insurance	\$ 5 million

Consultant shall deliver certificates evidencing such insurance coverage to the County before commencing work under this proposal. Each such policy shall provide that such coverage will not be changed or canceled without at least 30 days' prior written notice to the County. The Consultant shall require any and all of its subcontractors to procure, maintain, and pay premiums for the insurance coverage and limits of liability outlined above with respect to products, services, work and/or operations performed in connection with this Contract.

Exhibit E

Rate Schedule

ATTACHMENT 1
PROPOSAL BUDGET
15619-15621 WATERLOO ROAD, CLEVELAND, OHIO
Proposal for Cuyahoga County Assessment Project

Project Name: Waterloo Road Asbestos Survey & Limited Phase II Property Assessment			
Site Location: 15619-15621 Waterloo Road, Cleveland, Ohio			
Date of Proposal: June 3, 2013			
Task #1 - Cleveland Fire Prevention Bureau File Review			
Labor Charges by Classification	Units	Rate	Total Cost
Environmental Scientist	4	\$77.50	\$310.00
Project Manager	2	\$102.50	\$205.00
SubTotal of Task			\$515.00
Task #2 - Geophysical Survey, Limited Phase II PA			
Labor Charges by Classification	Units	Rate	Total Cost
Environmental Technician	7	\$67.50	\$472.50
SUBCONTRACTORS			
Grumman Exploration, Inc.	1		\$2,047.50*
SubTotal of Task			\$2,520.00
Task #3 - Soil Boring Installation, Limited Phase II PA			
Labor Charges by Classification	Units	Rate	Total Cost
Certified Professional	2	\$175.00	\$350.00
Project Manager	4	\$102.50	\$410.00
Environmental Technician	5	\$87.50	\$437.50
Environmental Technician	5	\$67.50	\$337.50
EXPENSES			
Geoprobe and Supplies	1	\$500.00	\$500.00
SUBCONTRACTORS			
GeoAnalytical Laboratories, Inc.			
VOCs by EPA Method 8260	3	\$115.50*	\$346.50
PAHS by EPA Method 8270	3	\$108.00*	\$324.00
TPH by EPA Method 8015 Modified	3	\$120.50*	\$361.50
SubTotal of Task			\$3,067.00
Task #4 - Interior and Exterior Soil Gas Sampling, Limited Phase II PA			
Labor Charges by Classification	Units	Rate	Total Cost
Certified Professional	2	\$175.00	\$350.00
Project Manager	4	\$102.50	\$410.00
Environmental Technician	8	\$87.50	\$700.00
Environmental Technician	8	\$67.50	\$540.00
EXPENSES			
Vapor Pin Assemblies/Supplies	8	\$50.00	\$400.00
SUBCONTRACTORS			
ESC Lab Sciences			
VOCs by EPA Method TO-15	8	\$194.25*	\$1,554.00
SubTotal of Task			\$3,954.00

**ATTACHMENT 1
PROPOSAL BUDGET
15619-15621 WATERLOO ROAD, CLEVELAND, OHIO**

Task #5 - Data Evaluation and Report Preparation, Limited Phase II PA			
Labor Charges by Classification	Units	Rate	Total Cost
Certified Professional	4	\$175.00	\$700.00
Project Manager	28	\$102.50	\$2,870.00
Senior Risk Assessor	2	\$175.00	\$350.00
CAD Technician	8	\$75.00	\$600.00
Technical Editor	1	\$110.00	\$110.00
SubTotal of Task			\$4,630.00
Task #6 - Asbestos Survey			
Labor Charges by Classification	Units	Rate	Total Cost
Senior Industrial Hygienist	8	\$160.00	\$1,280.00
Environmental Technician	16	\$72.50	\$1,160.00
Technical Editor	2	\$110.00	\$220.00
EXPENSES			
Sample Shipment	1	\$25.00	\$25.00
SUBCONTRACTORS			
IATL			
Asbestos Bulk Analysis	125	\$9.00*	\$1,125.00
SubTotal of Task			\$3,810.00
PROJECT TOTAL			\$18,496.00

DBE Percentages	%/Total	\$ Amount
MBE Contractor		
WBE Contractor		

*Subcontractor fees include 5% mark-up