

**USEPA BROWNFIELD SITE CHARACTERIZATION AND ASSESSMENT PROGRAM  
ENVIRONMENTAL SERVICES AGREEMENT**

THIS BROWNFIELD SITE CHARACTERIZATION AND ASSESSMENT PROGRAM ENVIRONMENTAL SERVICES AGREEMENT ("Agreement"), made and entered into this 1st day of October 2012 (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"), pursuant to the authority of Contracts and Purchasing Board Approval No. CPB2011-244 and Partners Environmental Consulting Inc. ("Consultant"), an Ohio Limited Liability Corporation with principal offices located at 31100 Solon Road, Suite G, Solon, Ohio 44139 for services at the Facility (as defined below).

**WITNESSETH:**

**WHEREAS**, the County currently manages and administers an environmental assessment program, known as the USEPA Brownfield Site Characterization and 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, Act includes all subsequent amendments thereto and all regulations promulgated thereunder)); and

**WHEREAS**, under the Act, the County is the lead agency in the award of a Brownfields Hazardous/Petroleum Substances Assessment Cooperative Agreement Coalition grant by the USEPA (the "Grant"); and

**WHEREAS**, the County has both Grant monies and General Fund Economic Development monies available for the Program; and

**WHEREAS**, in order that the County may fulfill its responsibilities under the Grant, and 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 grant monies to the Consultant for purposes of conducting the Services (as defined below) with respect to the real property located at Existing Parking and Roadway Area Mayfield Road and East 117<sup>th</sup> Street, Cleveland, Ohio 44106 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

**WHEREAS**, pursuant to §9.04 of the Ohio Revised Code, the Consultant has represented and the County has determined that the Consultant has no unresolved findings for recovery against it.

**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. **Purpose of Services.** The Consultant acknowledges that the purpose of the Services to be provided pursuant to this Agreement are 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.

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. **Scope of Services.** Consultant shall perform the Services in accordance with this Agreement, including the General Terms and Conditions attached hereto as Exhibit D, and the Proposal. Consultant acknowledges that Phase II service will commence ONLY upon approval of the SAP work plan by the County or US EPA, as applicable, 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. In the event of a conflict between the terms of the Proposal, the terms the Services, and/or the terms of this Agreement, the County shall, in its sole discretion, determine whether the terms of the Proposal, the Services, or this Agreement shall control.

4. **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 \$33,580.00.

B. Compensation for Phase II Services, if any, shall be documented in accordance with paragraph 3 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.

**5. Time of Performance.**

A. 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 6, below.

B. Notwithstanding anything contained herein to the contrary, this Agreement shall end and be of no further force and effect on and after March 30, 2013 unless extended by a written amendment to this Agreement executed by the Consultant and the County.

**6. 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.

**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 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. Both parties agree to meet on one occasion after such notice is given to discuss the reason for such suspension or termination. 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 Partners Environmental Consulting Inc. 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.

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 Two Million Dollars (\$2,000,000) 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 and any consents, approvals or instructions which may be required of the County under this Agreement may be given only by the County Administrator or Deputy Administrator. All other notices or other communications required or permitted hereunder may be given by an authorized representative of the County.

15. **Confidentiality.** 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.

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 8, 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 contract for environmental assessment services, 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.

**PARTNERS ENVIRONMENTAL CONSULTING INC**

BY: 

Dan B. Brown, President

**Cuyahoga County Executive**

Edward FitzGerald, County Executive



2012-10-04 16:32:04

BY: \_\_\_\_\_

Edward FitzGerald



## **EXHIBIT A**

### **DESCRIPTION OF FACILITY**

The Intesa Lot 45 Site ("Facility") is located at located at North Side of Mayfield Road and East 117<sup>th</sup> Street, Cleveland Ohio 44106.

Also known as Lot 45.

All Parcels are owned through University Circle Inc. land holdings.

These Parcels are:

120-29-012

120-29-013

120-29-014

120-29-040

120-29-041

120-29-042

120-29-043

120-29-044

120-29-045

120-29-046

The project is bounded by Cleveland Institute of Art Property (McCullough Center) to the North, Various Commercial/ Multi-Story Apartment Complexes along Euclid Avenue to the West Cleveland Institute of Art Vacant Properties to the East, and Mayfield Road to the South.

The property is currently utilized as surface parking and roadway.

The Facility is zoned for \_charitable exemptions land uses.

The 10 parcel encompasses approximately 2 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) & 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 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**

**Partners Environmental Proposal**

**For  
Limited Phase II Investigation Activities  
Along With A  
Required Sampling and Analysis Plan, (SAP)  
that meets the Ohio Voluntary Action Program Requirements  
for  
Mayfield Road and East 117<sup>th</sup> Street  
Cleveland, Cuyahoga County, Ohio  
Dated  
August 30, 2012**



## PARTNERS ENVIRONMENTAL

August 30, 2012

Ms. Janise Bayne  
Cuyahoga County Department of Development  
Reserve Square  
1701 East 12th Street, 1st Floor  
Cleveland, Ohio 44114

**RE: Proposal for Limited Phase II Investigation Activities Along With a Required Sampling and Analysis Plan (SAP) that Meets Ohio Voluntary Action Program Requirements  
Existing Parking and Roadway Area  
Mayfield Road and East 117<sup>th</sup> Street  
Cleveland, Cuyahoga County, Ohio**

Dear Ms. Bayne:

Partners Environmental Consulting, Inc. (Partners) is pleased to provide the Cuyahoga County Department of Development (Client) with this Proposal to conduct Limited Phase II Investigation (Phase II) Activities, along with preparing a required Sampling and Analysis Plan (SAP) that meets Ohio Voluntary Action Program requirements, at the above referenced site in Cleveland, Ohio (Property). The Property consists of 2.22 acres of land developed with a paved parking lot. The Property is comprised of all or parts of Permanent Parcel Numbers (PPNs) 120-29-040, 120-29-041, 120-29-042, 120-29-043, 120-29-044, 120-29-045, 120-29-046, 120-29-012, 120-29-013, and 120-29-014. The Phase II will be conducted in general accordance with the Ohio Voluntary Action Program (VAP) rules and the United States Environmental Protection Agency (USEPA) Brownfield Assessment fund guidelines related to the Community Assessment Initiative Grant administered by Cuyahoga County.

### BACKGROUND

Partners recently completed Phase I Environmental Site Assessment (ESA) activities at the Property, which were presented in a report titled, *Phase I Environmental Site Assessment, Existing Roadway and Parking Areas, Mayfield Road and East 117th Street, Cleveland, Ohio*, and dated June 6, 2012. Partners conducted the Phase I ESA in general accordance with the United States Environmental Protection Agency (EPA), *Standard and Practices for All Appropriate Inquiries (AAI), Final Rule (40 CFR Part 312), ASTM Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process (E 1527-05)*. During this Phase I ESA, Partners identified the following recognized environmental conditions (RECs):

#### Property

- **Gasoline Tank:** Review of Cleveland Department of Building and Housing (CDBH) files indicates one (1) permit (Permit #29160) was issued to the Col. Ref. Co. for the installation of one (1) gas tank on the Property on July 25, 1922. No additional records for the Property, (e.g., including copies of the permit or site maps indicating the location or the status of the tank, etc.) were available. There is a potential that the gas tank remains and releases associated with the gas tank (if any) have the potential to have adversely impacted the Property.
- **Historic Operations:** Review of the Sanborn maps showed that in 1926, the central portion of the Property was developed as "The Euclid Av. Lumber Co." Six (6) structures and four (4) areas labeled

Partners Environmental Consulting, Inc.

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"lumber" were present on the Property. The structures are identified as "Planing Mill, Shavings House, Offices and lumber shed". Historic operations (i.e., treatment and preservation of the lumber) at this facility may have included the use of hazardous substances and/or petroleum products, which have the potential to have adversely impacted the Property.

#### **Adjoining and Surrounding Sites**

- **Historic Manufacturing Operations and Tanks:** Review of city directories, Sanborn maps and aerial photographs indicate that the north adjoining site (11610 Euclid Avenue) was developed as an industrial facility since at least 1926 through the 1990s. This facility is located hydraulically crossgradient to downgradient in the inferred direction of groundwater flow from the Property. Historic manufacturing operations may have included the use of hazardous substances and/or petroleum products, which have the potential to adversely impact the Property. Sanborn maps identified four (4) gasoline tanks and two (2) 4,000 gallon oil tanks located in an underground paint and oil vault at the facility, approximately 75 feet to the north of the Property. CDBH and Cleveland Fire Department (CFD) records indicate the presence of gasoline tanks and Underground Storage Tanks (USTs) at the north adjoining former industrial facility since at least 1923. Information concerning the current status of the tanks is not available. Partners concluded that the USTs may remain and releases (if any) associated with the USTs have the potential to have adversely impacted the Property.

The scope of work and fees for the SAP and Limited Phase II Investigation Activities are discussed in the following sections.

#### **SCOPE OF WORK**

##### **Task 1 – Sampling and Analysis Plan**

Prior to initiating the field portion of the Phase II Scope of Work (SOW), Partners will prepare a *Sampling and Analysis Plan* (SAP) and submit the SAP to the USEPA for approval. The SAP will present the details of the site-specific sampling activities. The SAP must be approved by the USEPA before Partners can begin our assessment activities.

To meet the VAP requirements for a Data Quality Objectives Plan (DQO Plan), Partners will follow procedures in its approved Quality Assurance Project Plan (QAPP) and the SAP. These two (2) documents, in combination, will contain the needed components of a DQO Plan.

##### **Task 2 – Limited Phase II Investigation Activities**

The following scope of work for Phase II activities is based on the Phase I conducted by Partners.

##### **Site-Specific Health and Safety Plan**

Partners will prepare a site-specific health and safety plan to be reviewed at the Property with all subcontractors prior to initiating field activities.

##### **OUPS and OGPUPS Notification and Access**

Partners will contact the Ohio Utility Protection Service (OUPS) and the Ohio Oil and Gas Producers Underground Protection Service (OGPUPS) at least 48 hours before initiating field activities. Marking or showing Partners the location of on-site utilities, which are not part of the OUPS/OGPUPS locate, is the responsibility of the Client.

Partners cannot be held liable for damage to unmarked utilities during activities conducted as part of this investigation. Partners requests that the Client, or their representative, meet with us on-site to help identify acceptable boring locations that will not impact utilities.

Our proposal assumes that the Client will provide unlimited access to the Property to conduct our field activities. Although Partners will make a reasonable attempt to restore penetrations on the Property with

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like materials, some unavoidable damage will result from our investigation and we cannot be held liable for these conditions.

#### Geoprobe™ Borings

Partners will complete up to 10 soil borings across the Property using direct push technology (Geoprobe™), to a maximum depth of 20 feet below ground surface (bgs).

Soil samples will be collected from the ground surface continuously to the terminal depth of each boring. Soil samples recovered by the Geoprobe™ will be logged by a Geologist following the Unified Soil Classification System (USCS). The soil samples will be screened for the presence of organic vapors with a photoionization detector (PID). Each sample will be split into two (2) fractions for field screening and possible laboratory analysis. The field-screening portion will be placed in a re-sealable plastic bag. After an equilibration period, these samples will be screened for organic vapors using a PID. The laboratory portion of each sample will be placed in a pre-cleaned glass sample jar, capped with a Teflon® lined lid, labeled and stored in a cooler with ice for preservation until delivery to the laboratory. Soil samples collected for Volatile Organic Compound (VOC) analysis will be collected using the Encore™ sampler.

All soil borings will be abandoned by backfilling the borings with excess soil cuttings and/or bentonite. The soil borings will be completed at the surface with like (i.e., concrete, etc.) materials.

#### Groundwater Monitoring Wells

Five (5) groundwater monitoring wells will be installed using a hollow stem auger (HSA) drill rig with 4¼-inch inside diameter (ID) augers. The groundwater monitoring wells will be positioned to assess specific areas previously identified, to provide general coverage and to evaluate hydraulic gradient at the Property. Groundwater monitoring wells will be installed to approximately 25 feet bgs.

The soil borings to be completed as permanent groundwater monitoring wells will be constructed with two (2)-inch diameter polyvinyl chloride (PVC) screen and riser pipe. The screen (10 slot) will be 10 feet long and positioned to span the groundwater interface. The annular space will be filled with sand to approximately two (2) feet above the screen slots and bentonite to the near surface. The monitoring wells will be completed at the surface with a flush-mounted steel protective casing set in a concrete pad.

The wells will be developed by bailing, and then allowed to recover a minimum of 24 hours prior to purging and sampling.

#### Soil Analyses

Select samples from the soil borings and sediment will be submitted to the laboratory based on visual observations, odors, the specific area being assessed, the depth of the zone of compliance, and/or PID readings.

Soil samples will be submitted for analytical testing to an Ohio Environmental Protection Agency (Ohio EPA) VAP Certified Laboratory (CL). The data will be evaluated through comparison to appropriate VAP standards. Soil samples will be submitted for laboratory analyses of some or all of the following parameters:

- Volatile Organic Compounds (VOCs) by USEPA Method 8260;
- Polynuclear Aromatic Hydrocarbons (PAHs) by USEPA Method 8270;
- Resource Conservation and Recovery Act (RCRA) 8 Metals by USEPA Methods 6010 and 7471; and
- Pesticides by USEPA Method 8081.

Each sample will be labeled, logged on a chain of custody and placed in a cooler with ice for transport to the laboratory. Each sample will be analyzed by the laboratory on normal (7-10 days) turnaround.

August 30, 2012

In accordance with Ohio VAP and USEPA requirements, Quality Assurance/Quality Control (QA/QC) samples will be collected during soil sampling activities and submitted for the appropriate analysis. QA/QC samples will include a trip blank, field blank, equipment blank, and a duplicate sample.

#### Groundwater Sampling and Analyses

Each groundwater monitoring well will be sampled using low-flow sampling methods. Low-flow purging and sampling will be accomplished using a pneumatically controlled bladder pump with the pump intake set in the approximate center of the submerged well screen interval to limit the disturbance of the sediments that may accumulate at the bottom of the well. A flow-through-cell water quality meter (such as the Horiba-U52) will be used to measure the temperature, pH, specific conductivity, and dissolved oxygen of the water approximately every three (3) to five (5) minutes while purging. Once the parameters measured stabilize, groundwater samples will be collected.

Prior to purging, the static water level in each well will be measured using an interface probe to determine depth to groundwater and as a check for the presence of a light non-aqueous phase liquids (LNAPL) and dense non-aqueous phase liquids (DNAPL). Purge volumes and the color, odor, and turbidity of each well will be noted on a Groundwater Sampling Log.

Groundwater from the five (5) monitoring wells will be collected and submitted for laboratory analyses of the following parameters:

- VOCs by USEPA Method 8260;
- PAHs by USEPA Method 8270; and
- RCRA 8 Metals by USEPA Methods 6010 and 7471.

Each sample will be labeled, logged on a chain of custody and placed in a cooler with ice for transport to the VAP-certified laboratory.

In accordance with Ohio VAP and USEPA requirements, QA/QC samples will be collected during groundwater sampling activities and submitted for the appropriate analysis. QA/QC samples will include one (1) trip blank, one (1) field blank, one (1) equipment blank, and one (1) duplicate sample.

#### Investigation Derived Waste

All investigation derived waste (IDW) (i.e., field screened soil, excess soil cuttings not returned to the appropriate borehole, purge and decontamination water) generated during soil and groundwater sampling activities will be containerized in Department of Transportation (DOT) approved 55-gallon drums. It is estimated that 10 drums will be required for this project. The drums will be properly labeled and temporarily staged in an area designated by the Client. The wastes will be characterized for disposal based on the data collected during this investigation. Additionally, our proposal is based on all waste being characterized as non-hazardous material. Additional costs may be incurred if the wastes are required to be disposed as hazardous.

#### Limited Phase II Investigation Report

Partners will prepare a report that documents the methods employed, the findings of the Phase II and an evaluation of the analytical results relative to pertinent comparison standards. Supporting documentation will also be provided, including boring/well logs, analytical results, etc.

#### **LIMITATIONS**

The Limited Phase II Investigation is designed to identify potential COCs located at the Property. The results may show that further assessment is needed. Partners offers no assurances that all chemicals of concern have been identified or quantified or that the investigation will delineate the extent of contamination. Additional investigation may be necessary.

Well abandonment costs are not included in this proposal.

August 30, 2012

## FEES

Partners is prepared to undertake this project for the fees described below. The fees are presented on a (time and material – not to exceed (T&M-NTE) basis. Our proposal is valid for 30 days and is based on conducting all of these tasks together. The following is our cost estimate for completing the work described above:

### Grant Funded Activities

Task 1- Preparation of SAP ..... \$ 2,750

### Task 2-Limited Phase II Investigation

#### Field Work

Phase II Investigation (Partners' Professional Services) ..\$ 7,105

Equipment..... \$ 1,355

#### Subcontractor Fees

Drilling Contractor..... \$ 6,210

Geoprobe™ Contractor..... \$ 1,725

Laboratory..... \$ 5,520

IDW Disposal..... \$ 2,300

Reporting..... \$ 6,615

**Total** ..... **\$ 33,580**

The proposed prices are based on conditions as currently envisioned and will not be altered without your prior consent. This price assumes that routine (Level D) health and safety equipment will be sufficient for on-site activities, and additional levels of protection will not be necessary. If conditions are encountered which require an alteration to the scope of work or associated costs, we will notify you immediately.

Invoicing will be prepared as the project proceeds, generally on a monthly basis. Partial invoices will be provided at the completion of the draft SAP report, completion of the field activities, and upon delivery of the draft Phase II Investigation report. Payment is due within 30 days of invoicing. Partners reserves the right to recover attorneys and other reasonable fees associated with the collection of past due balances.

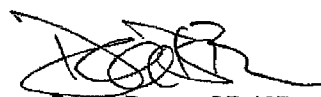
## CLOSING

We appreciate this opportunity to be of service, and look forward to a successful completion of this project. Please indicate your authorization to proceed by signing in the space provided and returning this letter to us by fax or mail or by providing another appropriate contract vehicle. If you have any questions or comments, or if we can be of any further service, please do not hesitate to contact our office.

Sincerely,

**Partners Environmental Consulting, Inc.**

  
Rick D. Vince  
Project Manager

  
Dan B Brown, CP-127  
President

cc: Mr. Jeffrey Epstein



**Cuyahoga County Community Assessment Initiative  
Addendum to Consultant Proposal**

1. The following chart lists personnel who will or may be assigned to perform the Services provided for in this proposal.

<u>Name</u>	<u>Title</u>	<u>Responsibilities</u>
John Garvey	Director of Brownfield and Remediation Services	Senior Project Manager/Oversight
Rick Vince	Environmental Scientist	Project Manager/Oversight
John Masterson	Senior Project Manager	Oversight
Tom Weir	Senior Environmental Scientist	Field Technician/Reporting
Valerie Weir	Senior Hydrogeologist	Risk Assessor/Reporting
Chris Butcher/James Bell	Geologist	CADD/Technical Support
Cheryl Tynes/Pam Zakrzewski	Administrator	Technical Support

2. The following GENERAL TERMS AND CONDITIONS must be submitted with each proposal. (Please add or delete titles as needed for this project).

**Fees for Professional Services**

Director	\$ 110/hour-\$175/hour	Technician	\$50/hour-\$75/hour
Senior Project Manager/ Engineer/Certified Professional	\$85/hour-\$125/hour	Geologist/Scientist/Engineer	\$65/hour-\$85/hour
Project Manager	\$65/hour-\$85/hour	Certified Industrial Hygienist	\$85/hour-\$125/hour
Senior Environmental Scientist	\$85/hour-\$125/hour	CADD Operator	\$50/hour-\$75/hour
		Clerical	\$40hour-\$50/hour

3. Please submit EPA FORM 6100-4 (DBE Subcontractor Utilization Form) with all proposals (If you are not using a sub contractor at this time please note N/A on form)

*H:\Brownfield\Assessment Program\Environmental Consultants\Proposal  
Addendum\_ Required Items need from consultants.doc*

[illegible]

DBE Percentages	%/Total	\$ Amount
WBE Contractor	161	5,520.00
WBE Contractor		

## **Exhibit D**

### **GENERAL TERMS AND CONDITIONS**

#### **I. Fees for Professional Services**

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The fees for professional services will include all amounts as specified in the August 30<sup>th</sup>, 2012 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**

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The sum of \$33,580.00 for the scope of services set forth by Partners Environmental Consulting Inc. in the 8/30/2012 document "Proposal for Limited Phase II Investigation Activities along with a required Sampling and Analysis Plan (SAP) that meets the Ohio Voluntary Action Program Requirements for Existing Parking and Roadway Area Mayfield Road and East 117<sup>th</sup> Street Cleveland, Cuyahoga County, Ohio" submitted by Partners Environmental Consulting Inc., to the County will be the maximum amount of compensation payable to the Consultant for expenses incurred.

#### **III. Invoices and Payments**

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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 on-half percent per month (or the maximum percentage allowed by law, whichever is the lesser). Payment shall be made to the Consultant, as follows: "Partners Environmental Consulting Inc. 31100 Solon Road, Suite G, and Solon, Ohio 44139". 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, and contractor's pollution legal 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	\$ 2million
Automobile Liability Insurance	\$ 1 million
Contractors Pollution Legal Liability Insurance	\$ 2 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.