

GRANT AGREEMENT

ABANDONED GAS STATION CLEANUP GRANT PROGRAM

Grantee							
Grantee:	City of Bexley			Grant Control No.:	SS17-26387		
Street Address:	2242 East Main Street						
City:	Bexley	State:	OH	Zip:	43209	County:	Franklin
Project							
Project Name:	Former Bexley Sunoco						
Street Address:	2106 East Main Street						
City:	Bexley	State:	OH	Zip:	43209	County:	Franklin
Effective Date:	January 23, 2017		Project Completion Date:		January 23, 2019		
Maximum Grant Amount:	\$500,000		Project Type:		Competitive Cleanup and Remediation		
Project Manager							
Name:	Kathy Rose			Title:	Director of Building and Zoning		
Street Address:	2242 East Main Street						
City:	Bexley	State:	OH	Zip:	43209		
Telephone:	614-559-4240	Fax:		E-Mail:	KRose@Bexley.org		

This Grant Agreement (the "Agreement") is made and entered into between the **Ohio Development Services Agency**, ("**Grantor**") and **Grantee** to set forth the terms and conditions upon which Grantor will provide financial assistance to Grantee and Grantee will use the financial assistance to undertake and complete eligible activities within the Project Area ("**Project**"). This Agreement incorporates by reference the Grantee's Application and the following exhibits:

Exhibit 1: Scope of Work and Project Budget

Exhibit 2: Abandoned Gas Station Cleanup Grant Program Operational Guidelines

Exhibit 3: Disbursement Request Procedure Manual

1. Project Funding.

(a) State Grant. Grantor hereby grants to Grantee, funds in an amount equal to the lesser of the maximum grant amount set forth above and the actual total costs of the Project as outlined in Exhibit 1 (the "**Grant Funds**").

(b) Purpose. The Grant Funds may be used for the sole and express purpose of undertaking and completing the Project. Grantee shall undertake and complete the Project substantially as described in Exhibit 1. Grantee may not use the Grant Funds for any purpose other than for eligible costs of the Project as expressly contemplated in Exhibit 1.

2. Payment and Accounting of Grant Funds

(a) Payment Requests. Grantee shall submit to the Grantor for review and approval requests for payment detailing expenditures which have then been incurred by Grantee from the Effective Date through the Project Completion Date as set forth on page one of this Agreement and in accordance with Exhibit 1. Grantor shall use the forms and follow the directions as listed in Exhibit 3, Disbursement Request Form and Instructions. Grantor shall be the sole evaluator of the adequacy of payment requests. All expenses to be paid or reimbursed with Grant

Funds shall be supported by contracts, invoices, vouchers, paid receipts and other documentation as appropriate to evidence the costs incurred by Grantee for Project activities as described in Exhibit 1. Grantee shall submit to Grantor such documentation as necessary to substantiate a payment request. In the event of a complete or partial denial of a payment request, Grantor shall notify Grantee in writing and include a statement of specific reasons for such denial, and Grantee shall have an opportunity to re-submit the request for payment with additional information responsive to the reason for denial. Grantor shall use reasonable efforts to issue a notice of denial, in whole or in part, and/or initiate a voucher for payment within 30 days after receipt of a payment request from Grantee. Grantor shall withhold ten percent (10%) of Grant Funds until Grantor receives and accepts the Applicable Cleanup Standard report.

(b) Accounting of Grant Funds. Grant Funds and any and all interest income therefrom shall be deposited and maintained in a separate account upon the books and records of Grantee (the "**Account**"). Grantee shall keep all records of the Account in a manner consistent with generally accepted accounting principles. All disbursements from the Account shall be for obligations incurred in the performance of this Agreement and shall be supported by contracts, invoices, vouchers, paid receipts, pay stubs, signed time sheets, and other data, as appropriate, evidencing the necessity of such expenditure. If Grantee fails to comply with this requirement, Grantor may withhold payment of Grant Funds until such compliance is demonstrated.

(c) Permissible Expenses. If "travel expenses," as defined in Ohio Administrative Code Section 126-1-02, are a cost of the Project eligible for reimbursement with Grant Funds, Grantee shall be reimbursed for those permissible travel expenses in amounts in accordance with Ohio Administrative Code Section 126-1-02, as updated from time to time (the "Expense Rule"). Grantee agrees that it shall not be reimbursed and Grantor shall not pay any items that are deemed to be "non-reimbursable travel expenses" under the Expense Rule.

(d) Budget Amendment. A budget amendment is required when Grantee desires to reallocate to or from any line item in the approved Project budget more than ten percent (10%) of the line item amount or \$10,000, whichever is greater. Reallocation of less than ten percent (10%) or \$10,000 to or from a line item requires written notification from the Grantee to Grantor. Additionally, a budget amendment is required when adding Grant Funds to a new budget line item.

3. Grant Funds Not Expended. If the Grant Funds are not expended by Grantee in accordance with the terms and conditions of this Agreement or within the Term of the Agreement, set forth in Section 4 of this Agreement, the award of the Grant Funds shall cease and Grantor shall have no further obligation to disburse the Grant Funds. Grantor shall also have no obligation to disburse any amount of the Grant Funds that exceeds the eligible costs of the Project actually incurred by Grantee or for costs that fail to meet the eligibility guidelines outlined in the Program Guidelines. If Grant Funds have been paid to Grantee and Grantor determines that Grantee has not performed in accordance with the terms and conditions of this Agreement, Grantee shall return such improperly expended Grant Funds within 30 days after demand by Grantor. In the event that the Project is not completed in accordance with Exhibit 1 by the Project Completion Date (as such date may be extended as provided in Section 4(b)) and/or is affirmatively abandoned by Grantee, all Grant Funds paid by Grantor to Grantee under this Agreement shall be refunded to Grantor by Grantee within 30 days after the Project Completion Date or abandonment has occurred.

4. Agreement Deadlines and Term

(a) Term of Agreement. This Agreement shall be in effect from the Effective Date through the Project Completion Date as set forth on page one of this Agreement, unless it is terminated earlier as provided in Section 13 (c) (collectively, the "**Term**"). The Project must be completed and all required deliverables shall be received by Grantor before or on the Project Completion Date. Notwithstanding the above, Grantee acknowledges that the Term extends beyond the Project Completion Date for purposes of reporting by Grantee and monitoring by Grantor of the results of the award of Grant Funds.

(b) Modification to Term of Agreement. If it is anticipated that Grantee will not have completed the Project by the Project Completion Date, Grantee must request an extension of time not less than 60 days prior to the

Project Completion Date, unless otherwise agreed to by the Grantor. It will be within the sole discretion of Grantor whether or not to grant such extension of time.

5. Non-Discrimination.

(a) Minority Hiring Goal. Grantee shall make a good faith effort to employ minority persons in the completion and operation of the Project in the same percentage as the average percentage of minority persons who reside in the county in which the Project is located and any contiguous Ohio counties.

(b) Equal Employment Opportunity. Grantee shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, age, military status or ancestry. Grantee shall ensure that applicants for employment are considered for employment, and that employees are treated during employment, without regard to their race, religion, color, sex, national origin, disability, age, military status or ancestry. Grantee will incorporate the requirements of this paragraph in all of its contracts for any of the work undertaken on the Project (other than subcontracts for standard commercial supplies or raw materials), and Grantee will require all of its contractors for any part of such work to incorporate such requirements in all subcontracts for such work.

6. Project Manager. Grantee hereby designates the officer or employee of Grantee identified on the first page of this Agreement to serve as Project Manager. Grantee shall notify the Grantor promptly in writing of any change of the person designated to serve as Project Manager.

7. Securing Contractor(s).

(a) Qualified Personnel. Grantee agrees to secure qualified personnel and/or contractors to complete eligible activities of the Project. Grantee agrees to comply with all applicable laws governing the selection of qualified personnel and/or contractors under this Agreement.

(b) Binding Provisions. Where performance of eligible activities of the Project is carried out by qualified personnel and/or contractors Grantee shall make the provisions of this Agreement binding on such qualified personnel and/or contractors. Notwithstanding any delegation of activities to a Grantee shall not be relieved of any legal responsibility for compliance with requirements of the Agreement.

(c) Procurement. Grantee shall procure goods and services (other than environmental professional services) for which reimbursement is requested from the Grant Funds through a competitive procurement process if the aggregate cost of such goods or services is equal to or greater than \$50,000.00. Where the procurement of such goods or services is conducted pursuant to a procurement process required or allowed by the Ohio Revised Code for a municipality, county or port authority, such procurement process is deemed to satisfy the requirements of this paragraph. Where the procurement of such goods or services is not subject to a procurement process required or allowed by the Ohio Revised Code, Grantee agrees that the procurement of such goods or services shall follow the procedures outlined in Ohio Revised Code Chapter 153.

(d) Environmental Professional Services. Grantee shall procure environmental professional services for which reimbursement is requested from the Grant Funds through a qualification-based process where the aggregate cost of such environmental professional services is equal to or greater than \$50,000.00. Where the procurement of such environmental professional services is not subject to a procurement process required or allowed by the Ohio Revised Code, Grantee may employ the procedures outlined in Ohio Revised Code Chapter 153 as a safe harbor.

8. Other Grantee Requirements.

(a) Liability Insurance. Grantee shall obtain and maintain for itself, and ensure that others engaged in the Project obtain and maintain, comprehensive general liability insurance with a minimum of \$1,000,000 combined single limit for claims that may arise from their operations related to this Agreement. Evidence of insurance sent to the Grantor shall contain a clause to the effect that cancellations, reductions, or restrictions shall not be made

without 30 days prior written notice to Grantor. Grantee shall provide Grantor an annual update of the required insurance coverage for each calendar year of the Project prior to the Project Completion Date. The cost of liability insurance required by Grantor is not an eligible cost that may be paid or reimbursed with Grant Funds.

9. Reporting.

(a) Progress Reports. Grantee shall provide Progress Reports to the Grantor with any payment request. The Progress Report shall include a description of all work completed, beginning and end dates of work completed, proposed tasks and objectives for continued completion of the Project, and any recent significant events.

(b) Final Progress Report. Grantee shall submit a final progress report, on or before the Project Completion Date, setting forth the total expenditure of the Grant Funds, the total actual cost of the Project, a written summary of all work completed and Project benefits (the “**Final Progress Report**”). The Final Progress Report shall be signed and certified by the Project Manager.

10. Grantee Deliverables. Grantee shall provide or cause to be provided to Grantor each of the documents identified in this section.

(a) All payment requests for Grant Funds as described in Section 2 of this Agreement. No Grant Funds shall be paid to Grantee until Grantor receives the items described in Exhibit 3.

(b) Progress Reports and a Final Progress Report for Project as required by Section 9 of this Agreement.

(c) Applicable Cleanup Standards Reports.

(i) If the environmental professional determines that the cleanup or remediation does not comply with Applicable Cleanup Standards, the environmental professional shall send the Grantee and the Grantor written notice of such fact prior to the Project Completion Date.

(ii) If the environmental professional prepares a no further action letter, closure certification report, construction completion report, or any other documentation that demonstrates that the Project complies with Applicable Cleanup Standards, Grantee shall send a copy of such documentation to Grantor.

(iii) Grantee shall provide all letters, reports, and other documentation referred to in this Section 10 (c) to the Director of the Ohio EPA, the Division of State Fire Marshal’s Bureau of Underground Storage Tank Regulations, and to Grantor not later than the Project Completion Date.

11. Records Maintenance and Access.

(a) Maintenance of Records. Grantee shall establish and maintain for at least three years after the Project Completion Date or any earlier termination date its records regarding this Agreement, the Grant Funds and Project, including, but not limited to, financial reports and all other information pertaining to Grantee’s performance of its obligations under this Agreement. If any audit, dispute, or litigation is then pending, however, Grantee shall maintain such records as may be relevant to such matter until it is finally resolved.

(b) Inspection and Copying. At any time during normal business hours and upon not less than 24 hours prior written notice, Grantee shall make available, and shall cause Property Owner to make available, to Grantor, its agents or other appropriate State agencies or officials all books and records regarding this Agreement, the Grant Funds and the Project which are in the possession or control of Grantee or Property Owner, as the case may be. Grantor, its agents and other appropriate State agencies and officials may review, audit and make copies of such books and records. Grantor or the other inspecting agency or official shall use reasonable efforts to conduct its inspection of books and records in such a manner as not to interfere unreasonably with the normal business operations of Grantee or Property Owner. Grantee or Property Owner shall, at its own cost and expense, segregate records to be made available for inspection pursuant to this section from Grantee’s or Property Owner’s other records of operation. Grantee also authorizes, and shall cause Property Owner to authorize, Grantor to

inspect the personnel records and corporate financial statements of Grantee or Property Owner, respectively, including tax records and other similar information not open to public inspection. This inspection right does not require Grantee or Property Owner to waive any protections afforded by the attorney-client privilege or work product doctrine.

12. Adherence to State and Federal Laws and Regulations.

(a) **General.** Grantee shall comply with all applicable federal, State, and local laws in the performance of Grantee's obligations under this Agreement, the completion of the Project and the operation of the Project as long as Grantee has any obligation to Grantor under this Agreement. Without limiting the generality of such obligation, Grantee shall pay or cause to be paid all unemployment compensation, insurance premiums, workers' compensation premiums, income tax withholding, social security withhold, and any and all other taxes or payroll deductions required for all employees engaged by Grantee in connection with the Project, and Grantee shall comply with all applicable environmental, zoning, planning, wage, and building laws and regulations.

(b) **Ethics.** In accordance with Executive Order 2011-03K, Grantee, by its signature on this document, certifies: (1) it has reviewed and understands the Ohio ethics and conflict of interest laws including, without limitation, Ohio Revised Code §§ 102.01 et seq., §§ 2921.01, 2921.42, 2921.421, and 2921.43, and §§ 3517.13(I) and (J), and (2) will take no action inconsistent with those laws and the order, as any of them may be amended or supplemented from time to time. Grantee understands that failure to comply with the Ohio ethics and conflict of interest laws, is in itself, grounds for termination of this Agreement and the grant of funds made pursuant to this Agreement and may result in the loss of other contracts or grants with the State of Ohio.

(c) **Conflict of Interest.** No personnel of Grantee, contractor of Grantee or personnel of any such contractor, and no public official who exercises any functions or responsibilities in connection with the review or approval of any work completed under this Agreement, shall, prior to the completion of such work, voluntarily or involuntarily acquire any personal interest, direct or indirect in the Project, or which is incompatible or in conflict with the discharge or fulfillment of his or her functions or responsibilities with respect to the completion of the work contemplated under this Agreement. Any such person who, prior to or after the execution of this Agreement, acquires any personal interest, involuntarily or voluntarily, shall immediately disclose his interest to Grantor in writing. Thereafter, such person shall not participate in any action affecting the work under this Agreement unless Grantor determines that, in light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest. Grant Funds cannot be used to contract with a property owner or anyone with an interest in the property directly or indirectly including as an officer, director, or employee of the property owner or any contingent interest.

(d) **Outstanding Liabilities.** Grantee represents and warrants to Grantor that Grantee does not owe: (1) any delinquent taxes to the State; (2) any amount to the State or a State agency for the administration or enforcement of any environmental laws of the State; and (3) any other amount to the State, a State agency or a Political Subdivision of the State that are past due, whether or not the amounts owed are being contested in a court of law. If Grantee owes any outstanding liability or liabilities, as described above in this Section 13 (d), or if Grantee is aware or becomes aware of any outstanding liability or liabilities owed by a Property Owner or any affiliate entities of a Property Owner at any point during the Term of this Agreement, Grantee shall immediately disclose to Grantor such liability or liabilities. Grantor shall not terminate this Agreement based solely on an outstanding liability or liabilities disclosed in accordance with the Section unless such liability or liabilities has or have a material impact on Grantee's or the Property Owner's ability to perform any or all duties or obligations of Grantee under this Agreement or of Property Owner under any related agreement. This Section is not intended to require a Grantee or a Property Owner to waive any rights it may have to contest a claimed obligation or to pay, under protest or otherwise, a claimed obligation which is contested until the validity of the claimed obligation has been finally determined.

(e) **Kickbacks.** Grantee represents and warrants to Grantor that Grantee has not provided, attempted to provide, offered to provide, solicited, accepted, or attempted to accept any kickback, and Grantee covenants and agrees that Grantee, its employees and agents shall not provide, attempt to provide, offer to provide, solicit,

accept, or attempt to accept any kickbacks during the Term of this Agreement; and Grantee has not knowingly included, directly or indirectly, the amount of any kickback in the estimated cost of this Project nor will knowingly include, directly or indirectly, the amount of any kickback into any request for reimbursement. Grantee will incorporate the requirements of this paragraph in all of its respective contracts or agreements with Property Owner, including any legal affiliate of Property Owner, contractor(s), and subcontractor(s), and Grantee will require Property Owner to incorporate such requirements in all subcontracts for work performed in furtherance of this Agreement.

(f) Falsification of Information. Grantee represents and warrants to Grantor that Grantee has made no false statements to Grantor or any of its employees or agents in the process of obtaining the award of Grant Funds. Grantee acknowledges that any person who knowingly makes a false statement to obtain an award of financial assistance may be required under Ohio Revised Code § 9.66(C) to repay such financial assistance and shall be ineligible for any future economic development assistance from the State, any State agency or a Political Subdivision. In addition, any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code § 2921.13(F) (1).

(g) Public Records. Grantee acknowledges that this Agreement and other records in the possession or control of Grantee regarding the Project are public records under Ohio Revised Code § 149.43 and may be open to public inspection unless a legal exemption applies.

13. Default and Remedies.

(a) Default. Grantee shall be in default of this Agreement if Grantee fails to perform any of its obligations under this Agreement and such failure to perform continues uncured for more than 30 days after written notice (a “**Default Notice**”) from Grantor. During the 30 day cure period, Grantee shall incur only those obligations or expenditures pre-approved by Grantor that are necessary to enable Grantee to continue its operations and achieve compliance with the terms and conditions of this Agreement. Grantee shall also be in default of this Agreement if Grantee is in default of any other agreement between Grantor and/or the Director of Grantor and Grantee and such default continues beyond any applicable period of cure or grace.

(b) Remedies. Following a default by Grantee, Grantor may exercise one or more of the following remedies:

(i) Discontinue Disbursements. If the Grant Funds have not been fully disbursed, Grantor may terminate any and all of Grantor’s obligations under this Agreement, including the obligation to make further disbursements of Grant Funds.

(ii) Demand Repayment of Grant Funds. Under the circumstances described in Section 3 of this Agreement, Grantor may demand repayment of Grant Funds. Grantee shall not be required to refund Grant Funds in an amount that exceeds the Grant Funds disbursed to Grantee.

(iii) Other Legal Remedies. Pursue any other legal or equitable remedies Grantor may have under this Agreement or applicable law.

(c) Early Termination. Grantor may also terminate this Agreement if Grantee (i) defaults under another Agreement between the Grantor and Grantee, (ii) admits Grantee’s inability to pay its debts as such debts become due, (iii) Grantee commences a voluntary bankruptcy, (iv) an involuntary bankruptcy action occurs against Grantee which remains undismissed or unstayed for 60 days, (v) Grantee fails to meet the minimum funding requirements under the Employee Retirement Income Security Act or other such employee benefits plan, or (vi) Grantor has reason to believe Grantee has terminated the Project. The events permitting early termination by Grantor shall be considered a default by Grantee and subject to the remedies available under paragraph (b) of this Section 13.

(d) Remedies Cumulative. No remedy provided to Grantor under this agreement or otherwise by law or in equity is exclusive of any other available remedy. No delay or omission by Grantor in exercising any right or power accruing upon any default shall impair any such right or power or be construed as a waiver, and each such

right or power may be exercised from time to time as often as may be deemed by Grantor to be expedient.

(e) Effects of Termination. Within 60 days after termination of this Agreement following any default, Grantee shall provide Grantor with a Final Progress Report, as detailed in Section 9 (b). This reporting obligation shall survive the termination of the Agreement.

(f) Grantor's Expenses. Grantee shall reimburse Grantor for all expenses, including, without limitation, reasonable attorneys' fees, in connection with the enforcement of this Agreement.

14. Liability. Grantee agrees to be liable for the negligent acts or negligent omissions of Grantee, its employees, agents and contractors. Grantee shall defend itself and pay any judgments and costs arising out of such negligent acts or omissions. Nothing in this Agreement shall impute or transfer any such liability to Grantor.

15. Certification of Funds. None of the rights, duties and obligations of the parties under this Agreement shall be binding on either party until all statutory provisions of the Ohio Revised Code including, without limitation, Section 126.07, have been complied with, and until such time as all funds have been made available and are forthcoming from the appropriate State agencies.

16. Notice. Any notice or report required or permitted to be given under this Agreement shall be deemed to have been sufficiently given for all purposes if mailed by first class certified or registered mail or sent by commercial delivery to the following addresses of the parties or to such other address as either party may hereafter furnish by written notice to the other party.

If to Grantor:

Ohio Development Services Agency
77 South High Street, 26th Floor
P.O. Box 1001
Columbus, Ohio 43216-1001
Attn: Abandoned Gas Station Cleanup Grant
Program, Office of Community Assistance
Fax No.: (614) 466-4053

If to Grantee:

To Project Manager
and Address as set forth on Page 1

With copy to Chief Legal Counsel at same address.

17. Miscellaneous.

(a) Governing Law. This Agreement shall be governed by the laws of the State of Ohio as to all matters including, but not limited to, its validity, construction, effect and performance.

(b) Forum and Venue. Grantee irrevocably submits to the non-exclusive jurisdiction of any federal or State court sitting in Columbus, Ohio, in any action or proceeding arising out of or related to this Agreement, Grantee agrees that all claims in respect of such action or proceeding may be heard and determined in any such court, and Grantee irrevocably waives any objection it may now or hereafter have as to the venue of any such action or proceeding brought in such court or that such court is an inconvenient forum. Nothing in this Agreement shall limit the right of Grantor to bring any action or proceedings against Grantee in the courts of any other jurisdiction. Any actions or proceedings by Grantee against Grantor or the State involving, directly or indirectly, any matter in any way arising out of or related to this Agreement shall be brought only in a court in Columbus, Ohio.

(c) Entire Agreement. This Agreement, including its exhibits and documents incorporated into it by reference, constitutes the entire agreement and understanding of the parties with respect to its subject matter. Any prior written or verbal agreement, understanding or representation between the parties or any of their respective officers, agents, or employees is superseded and no such prior agreement, understanding or representation shall be deemed to affect or modify any of the terms or conditions of this Agreement.

- (d) Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement.
- (e) Amendments. Either party may at any time during the term of this Agreement request amendments or modifications. Requests for amendment of this Agreement shall be in writing and shall specify the requested changes and the justification for each change. The parties shall review the request for amendment taking into consideration the statutes, policies and goals of the Project. If the parties concur on changes to the terms of this Agreement, an amendment shall be written, approved, and executed in the same manner as the Agreement. All amendments requested by Grantee must be received by Grantor at least 30 days prior to any request for payment that includes the proposed change(s).
- (f) Forbearance Not a Waiver. No act of forbearance or failure to insist on the prompt performance by Grantee of its obligations under this Agreement, either express or implied, shall be construed as a waiver by Grantor of any of its rights under this Agreement or applicable law.
- (g) Pronouns. The use of any gender pronoun shall be deemed to include the other gender, and the use of any singular noun or verb shall be deemed to include the plural, and vice versa, whenever the context so requires.
- (h) Headings. Section headings contained in this Agreement are inserted for convenience only and shall not be used in construing this Agreement.
- (i) Assignment. Neither this Agreement nor any rights, duties, or obligations of Grantee pursuant to this Agreement shall be assigned by Grantee without the prior express written consent of Grantor, which shall not be unreasonably withheld. Any purported assignment not made in accordance with this paragraph shall be void.
- (j) Binding Effect. Each and all of the terms and conditions of this Agreement shall extend to and bind and inure to the benefit of Grantee, its successors and permitted assigns.
- (k) Survival. Any provision of this Agreement which, by its nature, is intended to survive the expiration or other termination of this Agreement, including, without limitation, any indemnification obligation, shall so survive and shall benefit the parties and their respective successors and permitted assigns.
- (l) Authorized Representative. The Grantee represents and warrants that the Grantee, through its authorized representative signing below, has full power and authority to execute and enter into this Grant Agreement.
- (m) Counterparts; PDF Accepted. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Copies of signatures sent by facsimile transmission or provided electronically in portable document format ("PDF") shall be deemed to be originals for purposes of execution and proof of this Agreement.

Signature: Each of the parties has caused this Grant Agreement to be executed by its authorized representatives:

Grantee:

City of Bexley

Grantor:

Ohio Development Services Agency

David Goodman
Director

By: _____

Printed Name: _____

Title: _____

Date: _____

By: _____

Printed Name: _____

Title: _____

Date: _____

Acknowledged by Property Owner:

Parkview-Main II, LLC

By: _____

Printed Name: _____

Title: _____

Date: _____

Exhibits to Grant Agreement:

Exhibit 1: Scope of Work and Project Budget

Exhibit 2: Abandoned Gas Station Cleanup Grant Program Operational Guidelines

Exhibit 3: Disbursement Request Procedure Manual

ABANDONED GAS STATION CLEANUP GRANT PROGRAM

Exhibit 1: Scope of Work and Project Budget

**City of Bexley – Former Bexley Sunoco
Project Scope**

Grantee requests up to \$500,000 in Gas Station funds to cleanup and remediation work at a former gas station located at 2106 East Main Street in the City of Bexley as described in the grantee’s application submitted on September 9, 2016.

Task 1 – Professional Services Task

- Project Management and Field Oversight

Task 2 – Cleanup and Remediation Task

- Mobilization/Demobilization
- Soil excavating and loading
- Soil transportation and off-site treatment
- Application of oxygen-releasing amendment

Submission of a BUSTR No Further Action (NFA) letter, or if an NFA is not achievable, environmental assessment reports, will serve as evidence for the completion of this project.

City of Bexley - Former Bexley Sunoco Abandoned Gas Station Clean Up Grant - Cleanup & Remediation			
Item	Grant Funds	Match Funds	Project Item Total
Professional Services (Soft Costs) Task			
Project Management and Field Oversight	\$ 37,000.00		\$ 37,000.00
Cleanup and Remediation Task			
Mobilization/Demobilization	\$ 10,000.00		\$ 10,000.00
Soil excavating and loading	\$ 50,000.00		\$ 50,000.00
Soil transportation and off-site treatment	\$ 360,000.00		\$ 360,000.00
Application of oxygen-releasing amendment	\$ 43,000.00		\$ 43,000.00
Project Totals	\$ 500,000.00	\$ -	\$ 500,000.00

ABANDONED GAS STATION CLEANUP GRANT PROGRAM

Exhibit 2: Abandoned Gas Station Cleanup Grant Program Operational Guidelines

Abandoned Gas Station Cleanup Grant Program

Operational Guidelines

Updated: July, 2016

Purpose:

The Abandoned Gas Station Cleanup Grant Program was established by the 131st General Assembly pursuant to Section 235.10 of Amended Substitute House Bill 64 for the purpose of cleanup and remediation of Class C Release¹ sites to provide for and enable the environmentally safe and productive reuse of Publicly Owned Lands as authorized by Section 20 of Article VIII of the Ohio Constitution.

The goal of this program is to identify and address conditions that inhibit environmentally sound or economic reusability of Class C Release sites.

The Director of the Development Services Agency (Director) has established the following guidelines.

Eligible Applicants:

A Political Subdivision who owns an Eligible Property (defined below); or

A Political Subdivision applying jointly with an organization that owns an Eligible Property and has entered into a relevant agreement with that Political Subdivision.

Eligible applicants must sign an affidavit certifying they did not cause or contribute to any prior release of petroleum or other hazardous substances on the Eligible Property.

Eligible Properties:

Eligible Properties are Publicly Owned Lands with a Class C Release that are vacant or contain an abandoned structure. If additional BUSTR regulated tank(s), other than the tank(s) involved with the Class C Release, are present at the Eligible Property a certification must be included with the application that i) the eligible applicant(s) did not own or operate the tanks when in service; and ii) the tanks are empty.

Additionally, a confirmed release of petroleum must be documented at the Eligible Property. If USTs are no longer present on the site, the petroleum release must be detected above action levels to be considered eligible. Applicants must obtain an eligibility letter from BUSTR and include this in the application.

Funding will be prioritized for Eligible Properties formerly used as gas and/or service stations with the greatest potential for environmental, community, and economic impact, as determined by the application and scoring matrix. Properties should not be redeveloped into new gas or service stations.

¹ Capitalized terms have the meanings set forth in the “Definitions” attached to these guidelines.

Eligible Costs:

Property Assessment

- Up to \$100,000 in Property Assessment costs conducted in accordance with Ohio EPA VAP rules and/or the BUSTR corrective action rule on Eligible Properties and to the extent of contamination of the Eligible Property or adjacent property (with appropriate consent). Eligible Properties with additional hazardous substance or petroleum contamination not related to the Class C Release may apply. However, any Property Assessment or Remediation or Cleanup costs required above the program funding limit must be committed at the time of application. Eligible Property with contaminants not regulated by BUSTR must follow the Ohio EPA VAP provisions.
- Eligible Property Assessment costs also include:
 - Asbestos and universal waste surveys
 - Environmental professional costs including costs to prepare a Remedial Action Plan based on completed Property Assessment activities
 - For Property Assessment applications awarded *via* rounds, reimbursement of costs incurred for VAP Phase I Environmental Assessment, up to \$8,000
 - Technical assistance from the Ohio EPA, through a No Further Action (NFA) submission
 - Limited Cleanup or Remediation, including BUSTR corrective action and tank pulls, in order to achieve an NFA during the Property Assessment grant period
 - Costs associated with Demolition, limited Clearance, grading and seeding
 - Costs associated with emptying and removing USTs. If USTs are still present, they must be emptied first, prior to beginning Property Assessment activities, and USTs must be removed during the grant period.

Cleanup or Remediation

- Up to \$500,000 for Cleanup or Remediation activities conducted in accordance with Ohio EPA VAP rules and/or under BUSTR's corrective action rule on Eligible Properties and to the extent of contamination on any adjacent property (with appropriate consent), to achieve applicable cleanup standards. Eligible Properties with additional hazardous substance or petroleum contamination not related to the Class C Release may apply. However, any Property Assessment or Cleanup or Remediation costs required above the program funding limit must be committed at the time of application.
- Eligible Cleanup or Remediation costs include:
 - Asbestos, lead paint, and other hazardous substance remediation costs
 - Costs associated with Demolition, limited Clearance, grading and seeding
 - Costs associated with emptying USTs. USTs must be emptied first, prior to beginning any Cleanup or Remediation work
 - Tank pull and BUSTR corrective actions
 - Environmental professional costs (up to 15percent of Cleanup or Remediation costs)
 - Technical assistance from the Ohio EPA, through NFA submission

Ineligible costs:

- Property acquisition
- Back taxes / liens
- Construction or infrastructure costs not associated with the Cleanup or Remediation of the Eligible Property

- Any costs the Director deems ineligible
- Professional fees are not allowable costs, with the exception of environmental professional services of up to 15 percent of Cleanup or Remediation costs.

Application and Program Structure:

Application

- Application content will be determined by the Director and will be posted on the Development Services Agency’s website. Total available funding will be determined prior to each round and included in the application materials. Applications will be scored according to a matrix made available with the application. All awards will be approved by the Director and State Controlling Board.
- Funding will be prioritized for Eligible Properties formerly used as gas and/or service stations with the greatest potential for environmental, community, and economic impact, as determined by the application and scoring matrix.

Program Structure

Applications will be accepted for the following tracks:

1. Fast Track: Grant funding shall be budgeted for BUSTR Tier I or II Property Assessment activities in order to achieve a BUSTR NFA. The balance of the grant may be applied toward eligible Cleanup or Remediation costs, including asbestos abatement, Clearance, and Demolition. Should an NFA not be achieved, grantee must complete the Property Assessment then apply for cleanup funding *via* the competitive round track.

Fast Track applications of up to \$100,000 will be accepted for Eligible Properties demonstrating the following:

- A current VAP Phase I Environmental Assessment was performed.
- No known free product exists at time of application.
- No additional Identified Areas or hazardous substances/contaminants of concern other than contamination at the UST location(s), asbestos, lead-paint, or universal waste.
- All conditions or circumstances that inhibit environmentally sound or economic reuse of the Eligible Property will be addressed. Any costs above the grant amount must be committed at the time of application.
- The project meets minimum scoring criteria, as provided in the application.
- Written cost estimates demonstrating the anticipated costs based on the recommendations of the VAP Phase I Environmental Assessment and other available documentation or reasonable assumptions.

2. Competitive Round Track: At the Director’s direction, applications for Property Assessment and Cleanup or Remediation grants will be announced and accepted. Only one application per entity, per competitive round will be allowed.

- Property Assessments: Applicants may qualify for up to \$100,000 in environmental Property Assessment costs. Per the scoring criteria, as provided in the application, the top scoring projects will be funded, up to the available grant amount per round. Applications must demonstrate the following:
 - A current VAP Phase I Environmental Assessment was performed

- Written cost estimates demonstrating the anticipated costs based on the recommendations of the VAP Phase I Environmental Assessment and other available documentation or information.
- For projects proposing other eligible costs, such as Cleanup or Remediation and Demolition, all conditions or circumstances that preclude or inhibit environmentally sound or economic reuse of the Eligible Property will be addressed. Any costs above the grant amount must be committed at the time of application.
- Cleanup or Remediation: Applicants may qualify for up to \$500,000 in Cleanup or Remediation, Clearance, and Demolition costs. Prior Fast Track grantees may eligible for up to \$400,000. Per the scoring criteria, as provided in the application, the top scoring projects will be funded, up to the available grant amount per round. Applications must also demonstrate the following:
 - Current environmental assessments and/or corrective action assessments and Remedial Action Plan are complete. Remedial Action Plans must be approved by BUSTR, as appropriate.
 - All conditions or circumstances that inhibit environmentally sound or economic reuse of the Eligible Property will be addressed.
 - Written cost estimates demonstrating the anticipated costs for cleanup, based on the recommendations of the Remedial Action Plan. Any costs above the grant amount must be committed at the time of application.

Final deliverables for grant recipients:

Fast Track grants must be completed within one year. The final deliverables are:

- A BUSTR NFA (should an NFA not be achieved, environmental assessment reports); and
- Project Completion Reports.

Property Assessment grants awarded *via* competitive rounds must be completed within one year. The final deliverables are:

- if further remediation is needed, a BUSTR Tier I or II Report and/or an Ohio EPA VAP Phase II environmental assessment report (as applicable)
- if no further remediation is necessary, a NFA; and
- Project Completion Reports.

Cleanup or Remediation grants must be completed within two years. The final deliverables are:

- a BUSTR NFA;
- if other hazardous substances are present on the Eligible Property above actionable levels, an Ohio EPA VAP NFA; and
- Project Completion Reports.

Definitions:

BUSTR – Bureau of Underground Storage Tank Regulations.

Class C Release – a release of petroleum occurring or identified from an underground storage tank system subject to sections 3737.87 to 3737.89 of the Revised Code for which the responsible person for the release is specifically determined by the fire marshal not to be a viable person capable of undertaking or completing the corrective actions required under those sections for the release. "Class C Release" also includes any release designated as a "Class C Release" in accordance with rules adopted under section 3737.88 of the Revised Code.

Cleanup or Remediation – any action at a Class C Release site to contain, remove, or dispose of petroleum or other hazardous substances or remove underground storage tanks used to store petroleum or other hazardous substances.

Clearance – removal of vegetation, construction debris, and universal waste.

Demolition – removal of structures, pads, and associated infrastructure to the extent necessary to ready the Eligible Property for redevelopment.

Eligible Property(ies) – Publicly Owned Lands with a Class C Release that are vacant or contain an abandoned structure.

Identified Area – a location at an Eligible Property where a release of hazardous substances or petroleum has or may have occurred, as defined in Ohio Administrative Code section 3745-300-01(A).

NFA – A BUSTR No Further Action designation or an Ohio EPA No Further Action letter submitted to Ohio EPA.

Ohio EPA – Ohio Environmental Protection Agency

Political Subdivision – a county, municipal corporation, township, port authority, or a county land reutilization corporation organized under Chapter 1724. of the Revised Code².

Project Completion Reports – final documentation provided by contractors demonstrating that asbestos abatement, universal waste removal, Demolition, and Clearance activities were completed according to the grant agreement.

Property Assessment – an assessment conducted in accordance with section 3746.04 of the Revised Code or a corrective action process or source investigation process under section 1301:7-9-13 of the Ohio Administrative Code.

Property Owner – a Political Subdivision and an organization that owns Publicly Owned Lands.

Publicly Owned Lands – includes lands that are owned by an organization that has entered into a relevant agreement with a Political Subdivision.

Remedial Action Plan – the Cleanup or Remediation plan prepared by an environmental consultant in accordance with BUSTR or Ohio EPA standards.

UST – Underground Storage Tank

VAP – the Ohio EPA's Voluntary Action Program

² Per House Bill 166, county land reutilization corporations, commonly known as county land banks, are now included in the definition of Political Subdivision and are eligible for funding directly beginning September 8, 2016.

ABANDONED GAS STATION CLEANUP GRANT PROGRAM

EXHIBIT 3: Disbursement Request Procedure Manual

1.0 Policy

- 1.1 The procedures in this manual are applicable to the Abandoned Gas Station Cleanup Grant Program awards issued by the Ohio Development Services Agency (Agency). In no event shall a request for payment be submitted to obtain funds for activities until the applicable grant conditions, if any, have been satisfied. Failure to comply with this provision and the procedures as outlined in this manual, the grant agreement, or all applicable laws may result in delayed payments or the suspension of the applicable award. Such action will be rescinded upon satisfactory proof that the conditions and procedures are satisfied.
- 1.2 Payment will be made only to reimburse the Grantee (Recipient) for eligible expenses that have been completed in accordance with the approved grant agreement. Invoices are required to show itemized billing. Back up documentation for itemized costs is required.
- 1.3 Disbursements will be paid via Electronic Funds Transfer (EFT) or check.

2.0 Disbursement Prerequisites

- 2.1 Prior to processing any disbursement request, the Agency must be in receipt of the following, as applicable:
 - 2.1.1 Copy of declarations page or certificate of insurance showing Recipient's comprehensive general liability insurance coverage.
 - 2.1.2 Proof of performance bonds and insurance (as applicable) from environmental contractors and consultants.
 - 2.1.3 Authorized Signature Card(s) containing the signatures of individuals on the Recipient's staff who are authorized to sign the Disbursement Form and Status of Funds (DFSF) report form. Only the signatures of persons authorized on current signature cards on file will be accepted. New signature cards must be submitted whenever there is a change to the persons authorized to sign the DFSF forms.
 - 2.1.4 Any other items, as described in the Grant Agreement.
- 2.2 The Recipient must have arranged for payment via check or EFT. If the Recipient does not have an existing "Authorization Agreement for Automatic Deposit of State Warrants" with the State's Office of Budget and Management, they must submit forms (OBM-5657 and OBM-4310) along with a W-9 and voided check at least 30 days prior to submitting an invoice for payment. These forms can be found on the Office of Budget and Management's website:<http://ohiosharedservices.ohio.gov/SupplierOperations/Forms.aspx>.

3.0 Disbursement Requests

- 3.1 The following documents must be included with each disbursement request:

- 3.1.1 **Disbursement Form and Status of Funds (DFSF) Report** summarizing the dollars requested for grant activities.
- 3.1.2 **Invoices** showing costs in time and materials format with back up documentation of costs included. Sufficient backup would include a quantity (e. g., number of hours; number of a particular type of lab test; number/feet of soil borings), a price per quantity, and an extension of quantity/price. Worker costs should be separated by name or title. Backup should substantiate the above by day. All expenditure occurrences must show clearly they were incurred during the period of the Grant Agreement and be in compliance with all Grant Agreement conditions.
- 3.1.3 **Contractor invoices** should include certified payrolls, truck tickets and corresponding disposal manifests for all non-C&D material, and invoices from all subcontracts. An AIA form is recommended for use as the contractor invoice. Daily work sheets from contractors can be included for clarity. A weekly summary using the attached Sample Contractor Detail Format or a similar form should precede the supporting documents for each week.
- 3.1.4 **Progress Report** covering the areas in the attached example. Please include general quantities when describing the work progress such as number of wells installed, buildings demolished, and/or soil removed. Please include total number of hours worked for this payment request.
- 3.2 The following additional document must be sent with the final disbursement request:
 - 3.2.1 Completion Notice and Final Report as described in the Grant Agreement.

Authorized Signature Card for Disbursement Form and Status of Funds Report

Project Number:

Grant Issued in Favor of (Recipient):

Issued By: The State of Ohio
 Development Services Agency
 77 S. High St., 26th Floor
 Columbus, OH 43215-6130

Typed Name, Signature and Title:

Typed Name, Signature and Title:

Typed Name, Signature and Title:

Typed Name, Signature and Title:

Note: Two Signatures are Required to Sign and Countersign a Disbursement Form and Status of Funds Report

I certify that the above signatures are of the individuals authorized to sign the Disbursement Form and Status of Funds Reports.

Date

Signature of Authorizing Official (Recipient)

**Progress Report
Sample**

Progress Report No. _____

Date: _____

Recipient: _____

Project Title: _____

Grant No. _____

I. Tasks

Describe progress on tasks including planning/remediation/demo/construction/etc.:

II. Jobs

Total work hours paid for above tasks:

Please list names of registered Minority, Women, or Disadvantaged Business Enterprise companies employed during this time:

III. Proposed Tasks/Objectives for Next Invoice

Clean Up/Remediation:

Other:

IV. Certification

I hereby certify that to the best of my knowledge the above information is true and correct.

[Authorized representative of Borrower/Grantee]

DISBURSEMENT FORM AND STATUS OF FUNDS REPORT

Ohio Development Services Agency 77 S. High St., 26th Floor Columbus, OH 43215-6130 Contact Person/Telephone Number: FTI Number:	Name and Address of Grantee:	Control Number: Draw Number: Dates For This Draw Number: From: Thru:
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Section Two: Status of Abandoned Gas Station Cleanup Grant Program Funds	State Use Only			
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%;"></td> <td style="width: 20%; text-align: center;">Agreement</td> <td style="width: 40%; text-align: center;">Expended</td> </tr> </table>		Agreement	Expended	Recd By: _____ Date: _____ Auditor Distribution Number:
	Agreement	Expended		
1. Abandoned Gas Station Cleanup Grant Total	\$ -			

Section Three: Itemization of Expenditures \$ -

Activity Name	Activity Budget	Amount of This Draw	Previous Amount Drawn	Cumulative Amount Drawn	Balance
Remediation/Clean Up	\$ -	\$ -	\$ -	\$ -	\$ -
Demolition					
Assessment					
Tank Pull					
Total of This Draw:		\$ -			

Section Four: Certification of Expenditures (Two Signatures Are Required)

I certify that this Request for Payment is in accordance with the terms and conditions of the Grant Agreement cited and is proper for payment to Grantee's depository. I also certify that the data reported above is correct and that back-up detailed documentation has been submitted.

Date:	Signature	Title
Date:	Countersignature	Title

Approved: _____ Date: _____ State Use Only (Rev. 5/16)