

**Notice:** Completion of this Agreement is required to obtain a Ready for Reuse Brownfields Cleanup Loan under s. 292.72, Wis. Stats. Personally identifiable information included on this form will be used to process your application and may be made available to requests under Wisconsin's Open Records law [ss. 19.31 - 19.39, Wis. Stats.].

<b>Borrower</b>  <b>City of Madison, Wisconsin</b>	<b>Loan Number</b>  <b>RRL – 019</b>
<b>Site Name or Title and Address</b>  <b>Huxley Yards – The Victoria</b> <b>1003 Huxley Street</b> <b>Madison, WI 53704</b>	<b>Funding Category</b>  <b>Hazardous Substance and Petroleum</b>
<b>Period Covered by This Agreement</b>  <b>Fifteen months (one year and three months) starting from the date of the Department's signature of this contract.</b>	<b>Borrower's Authorized Representative</b>  <b>Mayor Satya Rhodes-Conway</b>
<b>Scope and Description of cleanup activities funded by this loan</b>  <b>1. Soil Excavation</b>  <b>2. Soil Transportation &amp; Disposal</b>  <b>3. Soils Confirmation Testing</b>  <b>4. Remediation Oversight</b>  <b>5. DNR Fees</b>	
<b>LOAN COSTS:</b>	<b>The following documents are hereby incorporated into and made part of this Agreement:</b>
<b>Loan Amount:</b> <u>          \$162,400          </u> <b>Borrower Match Amount:</b> <u>          \$35,728          </u> <b>Borrower Match %:</b> <u>          22%          </u> <b>Total Project Cost:</b> <u>          \$198,128          </u>	<ol style="list-style-type: none"> <li>1. 2024 US EPA Revolving Loan Fund Terms and Conditions</li> <li>2. Section 292.72, Wisconsin Statutes</li> <li>3. DNR-approved Remedial Action Plan (RAP)</li> <li>4. Signed application and all attachments and exhibits</li> </ol>

## I. Definitions

Hereafter, the following terms used throughout this document will meet the following definitions:

- A. LENDER or DEPARTMENT: The State of Wisconsin Department of Natural Resources
- B. BORROWER: The party receiving the loan, City of Madison.
- C. PROJECT: The project receiving the loan –remedial actions to treat/dispose of contaminated soil associated with Huxley Yards – The Victoria. The PROJECT is solely defined as the scope of work set forth in Exhibit B. Any costs for work not included in the scope of work in Exhibit B is not included in the definition of PROJECT.
- D.
- E. PROGRAM: The DEPARTMENT'S Ready for Reuse Loan and Grant Program.
- F. PROPERTY: Huxley Yards – The View, 1003 Huxley Street, Madison, WI 53704

## II. General Provisions

- A. The DEPARTMENT acts as the financial agent for the Wisconsin Brownfields Coalition, a recipient of U.S. EPA Brownfields Revolving Loan Fund Cooperative Agreement, and is authorized to make certain loans from these funds.
- B. The term of this loan shall be a period of ten years from the Loan Approval Date until the Loan End Date of December 31, 2035 with interest to be charged on the loan at a rate of zero (0) percent per annum.
- C. These funds are to be used to undertake cleanup of the PROJECT, a brownfields site with a release of a hazardous substance defined by the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), at 1003 Huxley Street. In general, the hazardous substances at the site include polycyclic aromatic hydrocarbons (PAHs) and lead.
- D. The Property is not listed, or proposed for listing on the National Priorities List of the U.S. Environmental Protection Agency (EPA).
- E. The brownfields site is owned by Roth Street I Limited Partnership with control given to Roth Street I Limited Partnership, and BORROWER has an agreement in place with the owner to complete all award-eligible activities.
- F. The BORROWER is not a generator or transporter of the contamination at the site.
- G. The PROPERTY is subject to the jurisdiction and oversight of the Wisconsin Department of Natural Resources (WDNR) Remediation and Redevelopment Program (Exhibit A: BRRTS Printout for the Property), including the ch. NR 700 rule series.
- H. This Agreement and the PROMISSORY NOTE have been duly authorized, executed and delivered, and are valid and binding agreements of BORROWER.
- I. The BORROWER is not and has never been subject to any penalties resulting from environmental non-compliance at or on the property nor is the BORROWER, or its Project contractors or subcontractors currently suspended, debarred, or otherwise declared ineligible for participation in this federal program or from the receipt of these funds.
- J. The making and performance by BORROWER of this Agreement does not violate any provision of law, or result in a breach of or constitute a default under any agreement, indenture or other instrument to which BORROWER is a party or by which BORROWER may be bound.

- K. This Agreement has been duly authorized, executed and delivered, and is a valid and binding agreement. This Agreement and all covenants, agreements, representations and warranties made herein shall survive the execution of this Agreement and shall continue in full force and effect so long as the loan is outstanding and unpaid.
- L. If any provision or item of this Agreement is held invalid, such invalidity shall not affect other provisions or items of this Agreement which can be given effect without the invalid provisions or items, and to this end, the provisions of this Agreement are hereby declared severable.
- M. Except for any exhibits, attachments, plats or other documents as may be affixed hereto, made a part hereof, and properly identified herewith, this Agreement constitutes the entire contract between the parties, and shall not be otherwise affected by any other purported undertaking, whether written or oral.
- N. If the BORROWER owns the property, the BORROWER acquired the property after the time of disposal or placement of hazardous substances and has not caused, contributed to, permitted, or exacerbated the release of a hazardous substance on, or emanating from that property.
- O. If the BORROWER is the current owner of the site, the BORROWER is not a potentially responsible party under Section 107 of CERCLA, 42 U.S.C. Section 9607. The BORROWER is a bona fide prospective purchaser under Section 101(40) of CERCLA, 42 U.S.C. 9601(40). The DEPARTMENT has documented the BORROWER'S liability exemption in a memo dated April 11, 2025, which was sent to US EPA.
- P. The BORROWER, through the Contractor, has performed or obtained copies of all Phase I and Phase II Environmental Assessments of the Property performed according to the American Society for Testing and Materials (ASTM) standards, or equivalent assessment procedures in conformance with the Wisconsin Department of Natural Resources which verifies the presence of hazardous substances or petroleum products present in the soil, sediments and/or groundwater of the property. The BORROWER shall be responsible for the payment of all costs and expenses related to the Assessment. The BORROWER agrees that grant funds shall not be used for the payment of any cost or expense related to the Assessment. The Assessment shall include, but is not limited to site background, the threat posed to by the contaminant to public health, welfare and the environment and all past enforcement activities conducted by any governmental agency, and the site testing results.
- Q. The DEPARTMENT and the BORROWER mutually agree to perform this Agreement in accordance with local, state and federal laws, the Wisconsin Ready for Reuse Brownfields Loan & Grant Program and with the project description, application, terms, conditions, plans, specifications, estimates, procedures, maps and assurances attached hereto and made a part hereof. In general, the work to be done at the site includes management of contaminated soil to include excavation, transport and disposal.
- R. The BORROWER is an independent contractor for all purposes, not an employee or agent of the DEPARTMENT.
- S. This Agreement, together with any referenced parts and attachments, shall constitute the entire Agreement and previous communications or agreements pertaining to the subject matter of this Agreement are hereby superseded. Any revisions, including cost adjustments, must be made by an amendment to this Agreement or other written documentation, prior to the end date of the Agreement.
- T. Any cost adjustments must be made by a written amendment to this Agreement, signed by both parties, prior to the expenditure of funds or the termination date of the Agreement. Adjustments for time of performance or scope of work may be granted to the BORROWER by the DEPARTMENT in writing without the requirements of the BORROWER'S signature.
- U. The BORROWER may decline this offer of financial assistance in writing at any time prior to the start of the PROJECT and before expending any funds. After the PROJECT has been started or funds expended, this Agreement may be terminated, modified, or amended consistent with the provisions of this agreement.

- V. Failure by the BORROWER to comply with the terms of this Agreement shall not cause the suspension of all obligations of the DEPARTMENT hereunder if, in the judgment of the Secretary of the DEPARTMENT, such failure was due to no fault of the BORROWER. In such cases, any amount required to settle at minimum costs any irrevocable obligations properly incurred shall be eligible for assistance under this Agreement, at the DEPARTMENT'S discretion.

### III. The BORROWER agrees:

1. To notify the DEPARTMENT, in writing, of acceptance of this offer by delivering to the DEPARTMENT's Ready for Reuse program manager one original loan Agreement duly signed by the authorized representative. This action must take place within 30 days of receipt of this Agreement. Once signed by all parties, the Agreement is binding.
2. And understands that all loan funds provided by LENDER shall be used solely for the PROJECT.
3. That any and all work performed on the PROPERTY for which loan funds are used and the receipt of any loan funds under this Agreement is conditioned upon the BORROWER'S full compliance with this Agreement, all project documents and attachments, and the attached US EPA Revolving Loan Fund Terms and Conditions (Exhibit E).
4. To provide a match funds, in cash or in-kind services, of at least 22% of the loan amount.
5. To make substantial progress on loan and match activities within six (6) months of the date of the DNR's signature in section VII of this Agreement. If the DEPARTMENT determines that the BORROWER has not made sufficient progress within this time frame, the DEPARTMENT may terminate this agreement. "Sufficient progress" may include, at a minimum, the completion of activities listed in Section III, Number 14(a-d).
6. To ensure interim actions are protective of public safety, welfare and human health and the environment.
7. To comply with all applicable Wisconsin Statutes and Wisconsin Administrative Codes, and federal and local laws, in fulfilling the terms of this Agreement. In particular, the BORROWER agrees to conduct environmental response actions in accordance with the NR 700 series, Wis. Adm. Code.
8. To carry out the PROJECT activities in accordance with all applicable state, local and federal laws, regulations, orders, writs, judgments, injunctions, decrees or awards, including, but not limited to, the following: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601, et seq.) (CERCLA); Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments 40 CFR Part 31; the National Oil and Hazardous Substances Contingency Plan (NCP), 40 C.F.R. Part 300; all applicable 'cross-cutting requirements', including those federal requirements agreed between the USEPA and the DEPARTMENT defined by their Cooperative Agreement No. BF-96560601 ; MBE/WBE requirements found at 40 C.F.R. 31.36(e) or 40 C.F.R. 30.44(b); OSHA Worker Health & Safety Standard 29 C.F.R. 1910.120; the Uniform Relocation Act; Historic Preservation Act; Endangered Species Act; and Permits required by Section 404 of the Clean Water Act; Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. 327-333), the Anti Kickback Act (40 U.S.C. 276c) and Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250. Failure to comply with this provision shall not be a breach of this covenant if such failure does not have, or is not reasonably expected to have a materially adverse effect on the properties, business prospects or condition (financial or otherwise) of BORROWER and BORROWER is acting in good faith and with reasonable dispatch to cure such noncompliance. This includes, but is not limited to, carrying out procurements in compliance with 40 C.F.R. Section 31.36, having a financial management system which complies with 40 C.F.R. Section 31.20, and performing audits in accordance with 40 C.F.R. Section 31.26.
9. To carry out the PROJECT in accordance with the Davis-Bacon Act of 1931 (40 U.S.C. 276a-276a-5 and 42 U.S.C. 3222). CERCLA compliance with Davis-Bacon requires payment of Federal prevailing wage rates for construction, repair or alteration work funded in whole or in part with project funds. The BORROWER must obtain recent and applicable wage rates from the U.S. Department of Labor and incorporate them into the construction contract.

10. To comply with Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR 60-4 relating to Federally-assisted construction contracts.
11. To comply with the statutes prohibiting discrimination on the grounds of race, color, national origin, sex and disability. In addition, the BORROWER will undertake good faith efforts to give opportunities for qualified Small Business Enterprises (SBE), Minority Business Enterprises (MBE) and Women-Owned Business Enterprises (WBE) to submit proposals, bids, and provide services on contracts and subcontracts for services and supplies. The BORROWER shall submit a report of such efforts.
12. The BORROWER shall be responsible for the consequences of its own acts, errors or omissions in connection with accessing the Property and taking any action thereon and those of its employees, agents, officers and representatives in connection with accessing the Property and taking any action thereon and shall be responsible for any losses, claims and liabilities that are attributable to such acts, errors or omissions.
13. To comply with all applicable local and state contract and bidding requirements.
14. To submit reports and copies of other studies, reports, contracts, or documents relating to the project in accordance with the 2024 US EPA Revolving Loan Fund Terms and Conditions (Exhibit E), including, but not limited to:
  - (a) To prepare a community relations plan for DEPARTMENT review and approval, and implement the approved community relations plan that includes providing a copy of all public mail notices and agendas of all meetings or public information hearings to the DEPARTMENT.
  - (b)
    - i. To prepare an analysis of Brownfields cleanup/interim actions alternatives' document for Department review and approval that contains information about the site and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed interim actions. The evaluation of alternatives must include effectiveness, ability to be implemented, and the cost of the interim actions proposed;
    - ii. BORROWER shall submit copies of the draft analysis of brownfields cleanup/interim actions alternatives to the DEPARTMENT for review and approval and to US EPA and the DEPARTMENT'S designated environmental project manager;
    - iii. A publicly available administrative record shall be established by the BORROWER and a newspaper notice be placed in the newspaper, in accordance with the attached terms and conditions;
    - iv. The BORROWER shall make the analysis of brownfields cleanup/interim actions alternatives document available for review and public comment in the administrative record for a period of not less than thirty (30) days from the date of publication of a public notice which announces the availability of the document for public review;
    - v. After the public comment period, the BORROWER shall respond to the specific public comments, and provide the DEPARTMENT with a copy of all comments received and the BORROWER'S responses, a copy of the newspaper notice, and documentation of any changes proposed by the BORROWER to the interim action;
    - vi. The DEPARTMENT shall incorporate all appropriate comments into a DEPARTMENT-prepared decision document, as appropriate. The final decision document is the BORROWER'S authorization to undertake the site-specific interim actions. No site work, unless authorized by the Department, shall occur prior to the date of the finalized decision document.
  - (c) To prepare remedial design and engineering documents and submit them to the DEPARTMENT for review and approval and to the DEPARTMENT'S designated project manager, if applicable, for review and comment. This may occur simultaneously with the submittal of the analysis of cleanup alternatives document.
  - (d) If confirmatory samples will be collected during cleanup activities to document the completeness of the cleanup, the BORROWER, through the Contractor, shall prepare a Quality Assurance Project Plan, or its equivalent, which sets forth the manner and method of collecting and analyzing samples and submit it to the DEPARTMENT for review and approval.
  - (e) The BORROWER is responsible for the completion of the community relations plan and the analysis of Brownfields cleanup/interim actions alternatives referenced in (a) and (b) above.

15. To reimburse the DEPARTMENT for any and all funds the DEPARTMENT deems appropriate in the event the BORROWER fails to comply with the conditions of this Agreement or project proposal as described, or fails to provide public benefits as indicated in the project application, proposal description, or this Agreement. In addition, should the BORROWER fail to comply with the conditions of this Agreement, fail to progress due to nonappropriation of funds, or fail to progress with or complete the project to the satisfaction of the DEPARTMENT, all obligations of the DEPARTMENT under this Agreement may be terminated, including further project cost payment.
16. Not to discriminate against any employee or applicant for employment because of age, race, religion, color, disability, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Stats., sexual orientation, arrest or conviction record or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the BORROWER further agrees to take affirmative action to ensure equal employment opportunities. The BORROWER agrees to post in a conspicuous place available for employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause.
17. To cooperate fully with an audit of the Loan and the Work, if so requested.
18. To document all the uses of the loan proceeds, and maintain adequate books and accounts in accordance with generally accepted accounting principles consistently applied. BORROWER shall permit any representative of LENDER, at any reasonable time, to inspect, audit and examine such books and inspect the properties of BORROWER. BORROWER shall maintain documentation on the use of the loan proceeds for a minimum of three (3) years after the completion of remediation activities supported by the loan, or for the length of the loan, whichever is greater, except that records that are subject to audit findings shall be retained three (3) years after such findings have been resolved and all such records and supporting documents shall be made available, upon request, for inspection or audit by the LENDER or its representatives.
19. To maintain documentation until the completion of any litigation, claim, negotiation, audit or other action involving those documents or for the record retention period set above, whichever is longer. BORROWER shall seek the written approval of the LENDER prior to disposing of records.
20. To notify the DEPARTMENT when the PROJECT is complete. The notice shall contain certification or documentation that the eligible activities are completed and have been performed in accordance with the terms of this Agreement. This loan closeout documentation shall summarize the actions taken, the resources committed, the problems encountered in completion of the project, if any, identify any institutional controls required, and document that the cleanup is complete and is protective of human health and the environment. This documentation shall be submitted to the DEPARTMENT designated project manager for review and comment.
21. To obtain a close out letter under ch. NR 726, Wisc. Adm. Code, or a Certificate of Completion under s. 292.15, Wis. Stats., for the Property or other approved liability assurance letter acceptable to the LENDER.
22. To erect a sign on the Project site stating that the PROJECT is being financed in part by DEPARTMENT and the Ready for Reuse Program, and providing the appropriate contacts for obtaining information on activities being conducted at the site and for reporting suspected criminal activities. The sign erected on the Project site shall comply with the requirements of 40 C.F.R. Part 35, Subpart O (35.6105(a)(2)(ii)) and all requirements of the state and local laws applicable to on-premise outdoor advertising, and be posted on the Property within 30 days of signing this Agreement. The sign shall be posted in a publicly visible location.
23. That it is expressly understood that a failure or delay on the part of the BORROWER in the performance, in whole or in part, or any of the terms of this Agreement, if such failure is attributable to an Act of God, fire, flood, riot, insurrection, embargo, emergency or governmental orders, regulations, priority, or other limitations or restrictions, or other similar unforeseen causes beyond the reasonable control of such party, the failure or delay shall not constitute a breach or default under this Agreement, however, the BORROWER shall use its best effort to insure that the PROJECT is completed in a reasonable time without unnecessary delay.

24. And understands that any use of the Property or any activity thereon which is inconsistent with the foregoing provisions is expressly prohibited.

#### **IV. The LENDER agrees:**

1. To loan to BORROWER the sum of \$162,400 to be used for cleanup of the PROPERTY. The BORROWER shall evidence its obligation to repay the Loan Funds by execution of a GENERAL OBLIGATION PLEDGE (Exhibit F), attached hereto and made a part hereof.
2. To supply the BORROWER with all necessary state and federal reporting forms.
3. That the BORROWER shall have sole control of the method, hours worked, and time and manner of any performance under this Agreement other than as specifically provided herein. The DEPARTMENT reserves the right to inspect the job site or premises for insuring that the performance is progressing or has been completed in compliance with the Agreement. The DEPARTMENT takes no responsibility of supervision or direction of the performance of the Agreement to be performed by the BORROWER or the BORROWER'S employees or agents. The DEPARTMENT further agrees that it will exercise no control over the selection and dismissal of the BORROWER'S employees or agents.
4. That Cindy Koepke has been designated by DEPARTMENT as the RR Project Manager, who shall review and approve the proposed cleanup and coordinate the work to be performed using Ready for Reuse funds. The DEPARTMENT's Environmental Project Manager will review the BORROWER'S remedial planning, design, and engineering documents and review the cleanup activities as they are on-going to ensure that the cleanup is being completed in accordance with all local, state, and federal requirements and is protective of human health and the environment.

#### **V. Loan and General Obligation Bond Pledge Conditions**

1. The BORROWER agrees that there are no pending or threatened actions or proceedings before any court or administrative agency which may adversely affect the financial condition or operation of BORROWER other than those heretofore disclosed by BORROWER to LENDER in writing.
2. The obligations of BORROWER under this Agreement and the GENERAL OBLIGATION BOND PLEDGE will not be further subordinated in right of payment to any obligation of BORROWER, other than that which may be provided under this Agreement, unless otherwise acknowledged or agreed to by LENDER in writing.
3. The obligation of LENDER to make this loan contemplated hereunder is subject to the fulfillment of the following conditions:
  - A. All legal matters incidental to LENDER's commitment to issue the loan hereunder shall be satisfactory to counsel of LENDER, including the form, validity and enforceability of this Agreement and Exhibits hereof.
  - B. The representations and warranties contained herein shall be true on and as of the date of the signing of this Agreement with the same effect as though such representations and warranties had been made on and as of such date, and on such date no event of default as defined in Article V of the EPA RLF Cooperative Agreement "Terms and Conditions," herein EVENTS OF DEFAULT, and no condition, event or act which, with the giving of notice or the lapse of time or both, would constitute an EVENT OF DEFAULT, shall have occurred and be continuing or shall exist.
    - (1) The following shall constitute EVENTS OF DEFAULT:
      1. Default by BORROWER in any payment when due of principal or interest under the PROMISSORY NOTE.
      2. Any representation or warranty made by BORROWER hereunder or in the Loan Documents proven at any time false or misleading in any material respect.
      3. Use of the proceeds of the LOAN for a purpose other than that stated in this Loan Agreement.

- (2) **ACCELERATIONS.** If an Event of Default shall occur, any indebtedness of the BORROWER under this Agreement of the GENERAL OBLIGATION BOND PLEDGE, any term of the GENERAL OBLIGATION BOND PLEDGE to the contrary, notwithstanding, shall at LENDER'S option and without notice, become immediately due and payable without presentment, notice of demand, all of which are hereby expressly waived by BORROWER, and the obligations, if any of LENDER to permit further borrowings hereunder shall immediately cease and terminate.
4. The General Obligation Bond Pledge shall contain specific terms for the repayment of the Loan Funds
  5. Any forbearance by the LENDER with respect to any of the terms and conditions of this Agreement or the GENERAL OBLIGATION BOND PLEDGE shall in no way constitute a waiver of any of LENDER's rights or privileges granted hereunder.
  6. This Agreement and all covenants, agreements, representations and warranties made herein shall survive the execution of this Agreement and shall continue in full force and effect so long as the Loan Obligation is outstanding and unpaid.

## **VI. Special Conditions**

### **1. Loan Reimbursement**

The BORROWER may request a maximum of one reimbursement payment per month and the BORROWER shall use forms provided by the DEPARTMENT (#4400-243). Such requests shall include documentation of (1) work completed; (2) eligible costs, and (3) match incurred by the BORROWER.

The BORROWER or another Local Governmental Unit must provide documentation that the match percentage indicated on the first page of this contract has been incurred by the BORROWER at each payment request. Loan payments are contingent upon review by the DEPARTMENT and may be adjusted if costs are determined to be ineligible.

The DEPARTMENT may withhold ten percent of the total loan amount stated in this contract for final payment. The final payment request shall be made on form #4400-243 provided by the Department.

The Loan Funds shall be payable to the BORROWER as reimbursement for allowable expenses incurred based upon the progress of the work and in accordance with the approved Project Budget (Exhibit B) attached hereto and made a part hereof. No reimbursement shall be made to the BORROWER without the written approval of the LENDER through the LENDER'S designated Environmental Project Manager; however, the LENDER shall not advance nor be obligated to advance any Loan Funds to the BORROWER prior to the receipt of properly executed Lien Waivers.

#### ***Final Report***

The BORROWER shall complete a Final Report on forms available from the DEPARTMENT (#4400-253) documenting the activities completed with the funds awarded under this Agreement. The BORROWER shall submit a copy of any reports funded by this loan as a component of the final report on loan activities required by the DEPARTMENT. The report shall be submitted to the DEPARTMENT along with the final request for reimbursement under this loan Agreement.

### **2. Quarterly Progress Reports**

The BORROWER shall furnish brief written progress reports on forms furnished by the DEPARTMENT to the Project Manager on a quarterly basis during the cleanup. The reports are due on April 15, July 15, October 15 and January 15 of each year.

### **3. Changes to Project Scope or Budget**



The BORROWER shall conduct all the activities listed in the "Scope and Description of Loan Activities" section of this Agreement. If the BORROWER requests a modification to the scope and description of the loan activities to be conducted, the BORROWER shall submit a request for an amendment to this Agreement in writing to the Department before the end date of this Agreement. Such a request must be submitted before any activities are conducted that are different than those listed in this Agreement. Amendments are subject to department approval and availability of funds. No additional work or expense may be undertaken until approval is received, in writing, for the scope or budget change.

If the BORROWER determines that they will not need to use the full amount of their loan award, the BORROWER shall notify the DEPARTMENT in writing as soon as possible such that excess funds may be allocated to another project.

#### **4. BORROWER In-Kind Cost Documentation**

This loan may be used to pay the actual costs to conduct the site-specific loan eligible activities, even if the work was conducted directly by the local government who received the loan. In order for in-kind costs to be reimbursed or count as matching funds, the BORROWER shall provide adequate documentation of staff time, equipment use, and other eligible costs. Any staff overtime charges must be approved by the DEPARTMENT prior to the work being conducted. The BORROWER shall make the request in writing that includes a justification as to why overtime is necessary and a private company estimate for the work. Equipment rental rates may not exceed the county machinery rates established annually by the Department of Transportation. The BORROWER shall clarify whether the BORROWER is requesting DEPARTMENT reimbursement or if the in-kind documentation is to apply to the 22% match.

#### **5. Site Access**

The BORROWER shall have legal and physical access to the site or facility to conduct all the activities described in the "Scope and Description of Loan Activities" section of this Agreement before this Agreement is executed. If circumstances change resulting in reduction of access, the BORROWER shall notify the DEPARTMENT immediately in writing.

#### **6. Site Investigation and Remedial Action Plan**

A ch. NR 716, Wis. Adm. Code, site investigation and a ch. NR 722, Wis. Adm. Code, remedial action plan must be approved by the DEPARTMENT before the BORROWER can obtain reimbursement for this loan. If the site investigation and remedial action plan have not already been approved, the BORROWER shall submit those reports to the DEPARTMENT'S Environment Project Manager for review and approval. If a site investigation report and/or remedial action plan is not approved by the project manager and further work is necessary for the activity to satisfy the appropriate regulatory requirements, then the additional work must be conducted in order for that report or plan to be approved and eligible loan activities to be reimbursed. Costs incurred to conduct site investigation activities shall not be reimbursed by this loan. Costs to prepare the remedial action plan can be reimbursed by this loan if included in the "Scope and Definitions of Loan Activities" section of this Agreement.

#### **7. Assessment and Investigation Activities**

Lead surveys are not reimbursable under this loan.

All investigative wastes, as defined in s. NR 716.03(4), Wis. Adm. Code, will be properly stored and disposed of in accordance with applicable regulations in chs. NR 500 to 590 and chs. NR 600 to NR 690, Wis. Adm. Code. Disposition of investigative wastes by the BORROWER must occur within six (6) months of generation of wastes.

Abandonment of any wells or drillholes must be completed in accordance with s. NR 812.26 or s. NR 141.25, Wis. Adm. Code. Abandonment forms (Form 3300-005 and/or 3300-5B) must be submitted within sixty (60) days after the wells or drillholes have been abandoned. The date and recipient of the forms shall be noted in the final report.

## **8. Remedial Actions**

All remedial actions conducted as part of this loan shall follow the procedures and requirements included in s. 292.11, Wis. Stats., and ch. NR 140, Wis. Adm. Code and the NR 700 rule series. Remedial actions eligible for funding are those consistent with the definition in s. NR 700.03(48), Wis. Adm. Code, and those described in the "Scope and Definitions of Loan Activities" section of this Agreement. Nothing in this Agreement shall entitle the BORROWER or any other party involved with the project to any special rights, privileges, liability exemptions, or obligations regarding their responsibility to undertake remedial actions under s. 292.11, Wis. Stats., or any other state or federal environmental laws.

## **9. Waste Disposal**

All solid wastes generated at the Site, including contaminated soil and other solid wastes generated during response actions associated with this grant/loan, will be disposed of properly at either a ch. 289, Stats., licensed landfill or in a manner consistent with the applicable provisions of ch. NR 718, Wis. Admin. Code. In limited situations, some solid wastes managed under this Agreement may be eligible for a low hazard exemption under ch. 289, Stats. In order for the response action costs associated with a low-hazard exemption activities to be eligible for reimbursement under this Agreement, the grant/loan recipient will need to receive written, pre-approval of such response actions and costs from the Department's Brownfields and Outreach Section Manager, the RR Project Manager and the Solid Waste program.

Note: Final approval of proposed disposal option – on or off-site - will be in writing and authorized as a component of the Remedial Action Plan (RAP) approval, by the Department's Brownfields and Outreach Section Chief. This Department-written approval of the disposal location is required in advance of any disposal actions taking place. The Department reserves the right to deny payment of transportation and disposal costs if such written approval is not obtained prior to those costs being incurred.

## **10. Fees**

If the BORROWER requests the DEPARTMENT to conduct any technical reviews of reports, including the Remedial Action Plan, and other reports, letters or approvals, the review is subject to the fee schedule described in chs. NR 749 or NR 750, Wis. Adm. Code. These fees are eligible for reimbursement if incurred during the loan Agreement period.

## **11. Backfill, Capping and Cover Material**

Backfill, capping and cover material brought to the PROPERTY must be from a known source that does not contain contaminants above non-industrial soil cleanup standards established in ch. NR 720, Wis. Adm. Code. The GRANTEE or their contractor shall submit to the DEPARTMENT for approval a materials management plan that includes a sampling and analysis plan for the material prior to it being brought on to the PROPERTY. Included in the submittal for approval shall be a description of where the material will be placed on the PROPERTY in accordance with ch. NR 718, Wis. Adm. Code.

## **12. Hazardous Substances**

Hazardous substances shall be analyzed and disposed of in accordance with all applicable requirements in ch. NR 700 series, Wis. Adm. Code.

## **13. Petroleum or Hazardous Substance Storage Tank Removal**

All petroleum or hazardous substance storage tank removal(s) shall be conducted in accordance with ch. SPS 310, Wis. Adm. Code.

Any wastes generated during the removal and cleaning of the tanks shall be analyzed and managed in accordance with all applicable requirements in the ch. NR 500 and ch. NR 600 series, Wis. Adm. Code. The Borrower shall submit a copy of any report that summarizes work done with regards to petroleum or hazardous

substance storage tank removal(s) as a result of loan activities to the Department as a component of the final report.

## VII. Signatures

The person signing for the BORROWER represents that they are authorized to execute this Agreement and bind the BORROWER, either by a duly adopted resolution or otherwise. The foregoing offer is hereby accepted on behalf of the BORROWER. The BORROWER promises to execute the purchases and activities funded in part by this loan in strict accordance with the terms and conditions of this Agreement.

**BORROWER  
AUTHORIZED REPRESENTATIVE**

By \_\_\_\_\_

«Rep\_FN» «Rep\_LN»  
«Rep\_Title»

\_\_\_\_\_  
(Date)

**STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES  
FOR THE SECRETARY**

By \_\_\_\_\_

*Christine Sieger, Director  
Remediation and Redevelopment Program*

\_\_\_\_\_  
(Date)

## LIST OF EXHIBITS

- A. **BRRTS Printout for the Property**
- B. **Project Budget Sheet Summary**
- C. **Loan Repayment Schedule**
- D. **Project Manager Summary Page**
- E. **US EPA Revolving Loan Fund (RLF) Terms and Conditions**
- F. **General Obligation Pledge Documentation**

**EXHIBIT A**  
**BRRTS PRINTOUT FOR THE PROPERTY**

DRAFT

**EXHIBIT B**

**PROJECT BUDGET SHEET SUMMARY**

**Name of Borrower:** City of Madison

**Name of Project:** Huxley Yards – The Victoria

**Loan Number:** RRL-019

Approved Activity Name	Eligible Costs	Matching Costs	Total Cost
Soil Excavation	\$15,000	\$3,300	\$18,300
Soil Transportation & Disposal	\$138,400	\$30,448	\$168,848
Soils Confirmation testing	\$1,200	\$264	\$1,464
Remediation Oversight	\$7,800	\$1,716	\$9,516
<b>TOTAL</b>	\$162,400	\$35,728	\$198,128

**EXHIBIT C**

**LOAN REPAYMENT SCHEDULE**

Name of Borrower: City of Madison  
Name of Project: Huxley Yards – The Victoria  
Loan Number: RRL-019

**INTEREST RATE: 0%**

<b>PAYMENT DATE</b>	<b>PRINCIPAL PAYMENT</b>
12/31/2026	\$5,000
12/31/2027	\$5,000
12/31/2028	\$5,000
12/31/2029	\$5,000
12/31/2030	\$10,000
12/31/2031	\$10,000
12/31/2032	\$10,000
12/31/2033	\$15,000
12/31/2034	\$15,000
12/31/2035	\$82,400
<b>TOTAL</b>	<b>\$162,400</b>

## EXHIBIT D

### PROJECT MANAGER SUMMARY PAGE

**Name of Borrower:** City of Madison

**Name of Project:** Huxley Yards – The Victoria

**Loan Number:** RRL-019

#### 1. PROJECT DESCRIPTION

The former Hartmeyer Property was a 29-acre parcel that has been subdivided into several parcels, and the western portion is now owned by the City of Madison for a future park. The eastern parcels are being redeveloped for multi-family housing. Lincoln Avenues Communities is currently building The Victoria apartment building on the northeast portion of the former Hartmeyer Property. The Victoria is an affordable-housing apartment building of approximately 250 units for seniors.

DNR has an open remediation case and a closed remediation case on the portion of the former Hartmeyer Property that overlaps with The View and The Victoria developments. The cases cover petroleum releases from past fuel oil storage on the property and contaminated soil from past coal storage and urban fill (brought in decades ago). DNR approved a contaminated soils management plan for both developments on October 3, 2023. DNR is working with Lincoln Avenue Communities and their consultants to ensure the redevelopment activities comply with applicable state regulations and will meet the NR 700 requirements for case closure.

#### 2. ELIGIBLE ACTIVITIES

Soil management activities as approved in the MMP including excavation and transport of contaminated materials for landfill disposal.

#### 3. INELIGIBLE ACTIVITIES

Activities not included in the October 3, 2023 Materials Management Plan approval letter. Activities related solely to development (e.g. sidewalk construction, foundations, landscaping).

#### 4. ADDITIONAL NOTES



**EXHIBIT E**

**US EPA Revolving Loan Fund (RLF) Terms and Conditions for 2024**

DRAFT

**Exhibit F**

**General Obligation Pledge Documentation**

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