## Introduction and Definitions

The following policies were established for the Clean Ohio Revitalization Fund (Revitalization Fund) pursuant to Ohio Revised Code (O.R.C.) Section 122.657. The Clean Ohio Council (Council) duly adopted the policies. The terms defined under O.R.C. Section 122.65 or the attached definitions section apply to these policies.

### Section 1: Eligible Applicants

1.01 Eligible applicants for Clean Ohio Revitalization Fund grants and loans are: townships, municipal corporations, counties, port authorities, and conservancy districts.

1.02 Non-profit organizations, for-profit organizations, park districts, and similar park authorities are eligible Development Partners if they have entered into an agreement with an applicant identified in Policy 1.01.

1.03 Applicants identified in Policy 1.01 shall be signatories on the Revitalization Fund grant or loan agreement entered into with the Council and these entities. Parties identified in Policy 1.02 may not be signatories on the grant agreement.

1.04 Revitalization Fund grants and loans shall be disbursed by the Ohio Department of Development (Department) only to applicants identified in Policy 1.01, pursuant to a grant or loan agreement entered into between the Council and such applicants.

1.05 Entities that caused or contributed to the contamination at the property are not eligible applicants, nor may they enter into an agreement with a third party to apply on their behalf. All applicants identified in Policy 1.01 and all parties identified in Policy 1.02 must sign a “clean hands” affidavit.

### Section 2: Eligible Properties

2.01 Properties are eligible only if they meet the definition of a brownfield.

2.02 Properties are eligible only if they meet the definition of industrial, commercial property, or institutional property.

2.03 The property may contain more than one parcel, providing that the parcels are contiguous. If a project contains more than one parcel, each parcel must meet the definition of commercial, industrial, or institutional property. Parcels separated only by a street, alley or railroad track are considered contiguous.

2.04 The applicant must demonstrate that it possesses all necessary legal access to the property to complete the project. If the property or any portions of the property are subject to a lease agreement, the application must include a copy of the lease agreement or other agreement that provides the applicant with legal access to complete the project.

2.05 Multiple Revitalization Fund grant applications submitted by either the same or different applicants that are located within close proximity must demonstrate that the projects are not related. Evidence to support that projects are separate may include the following different characteristics: project inception, development partners, investors, certified professionals, type and nature of match, strategic plan and proposed end use. The Council may request additional information from the applicant to clarify the type and nature of the proposed project.

2.06 The property legal description at the time the project cleanup is completed must be identical to the property legal description identified in the application.

**Section 3: Eligible Costs**

3.01 Activities eligible for Revitalization Fund grants and loans are those that meet the definition of cleanup.

3.02 All cleanup activities (including acquisition and infrastructure) are eligible costs for projects with a known end use that are utilizing the Known End Use Track of the application.

3.03 For cleanup projects utilizing the Known End Use Track, property acquisition activities are eligible for a maximum of 33 percent of the grant request and shall not exceed the current county auditor value for the property to be purchased.

3.04 The cost of installing new infrastructure or upgrading or replacing existing infrastructure at the property is eligible for a maximum of ten percent of the grant request for cleanup projects with a known end use that are utilizing the Known End Use Track of the application.

3.05 Property acquisition and the installation of new infrastructure or upgrading or replacing existing infrastructure are not eligible costs for projects utilizing the Redevelopment Ready Track of the application.

3.06 Removal and disposal of Regulated Asbestos Containing Material (RACM) are eligible costs.

3.07 Costs for a risk assessment are eligible costs, unless a risk assessment was previously funded under the Clean Ohio Assistance Fund for all or a portion of the property.

3.08 Only to the extent that hazardous substances or petroleum exceed applicable cleanup standards identified in the application will cleanup be funded.

3.09 The cost of employing a Certified Professional is an eligible cost.

3.10 After the No Further Action letter or the applicable project completion report is submitted costs incurred responding to the Ohio EPA's comment letter are eligible costs.

3.11 If the No Further Action letter or applicable project completion report is withdrawn, any costs associated with re-issuance of the No Further Action letter or applicable project completion report are not eligible costs. Furthermore, any costs related to responding to Ohio EPA's comments to the re-issued No Further Action letter or applicable project completion report are not eligible costs.

3.12 For property that is the subject of an existing covenant not to sue, costs for additional cleanup are eligible costs. For the purposes of this Policy, the additional cleanup must result in the property's compliance with new applicable standards, which improve the applicable standards upon which the issuance of the existing covenant not to sue was based (e.g., allowing for a less restrictive land use or an alternate remedy not subject to operation or maintenance pursuant to O.A.C. Rule 3745-300-15).

3.13 For property that is in remedial response enforcement or the subject of a remedial response investigation or cleanup order issued by the Director of Environmental Protection or by a court of competent jurisdiction under O.R.C. Chapter 3734, the costs for cleanup and remediation may be eligible costs: a) if the property is an orphan property; b) if the property is not an orphan property, but only to the extent that the cleanup costs are in addition to the requirements of the Preferred Plan or Decision Document; or c) to the extent the

cleanup costs required by the Preferred Plan or Decision Document exceed the potentially responsible parties' ability to pay.

3.14 For a property that is the subject of a solid waste permit or order or an open dumping order issued by the Director of Environmental Protection or by a court of competent jurisdiction under O.R.C. Chapter 3734, the costs for cleanup and remediation may be eligible costs: a) if the property is an orphan property; b) if the property is not an orphan property, but only to the extent that the cleanup costs are in addition to the requirements of the permit or order as determined by the Ohio Environmental Protection Agency; or c) to the extent the cleanup costs required by the permit or order exceed the potentially responsible parties' ability to pay.

3.15 For a property that is the subject of a corrective action pursuant to a hazardous waste permit or order or subject to hazardous waste closure or generator closure pursuant to a hazardous waste permit or order issued by the Director of Environmental Protection or by a court of competent jurisdiction under O.R.C. Chapter 3734, the costs for cleanup and remediation may be eligible costs: a) if the property is an orphan property; b) if the property is not an orphan property, but only to the extent that the cleanup costs are in addition to the requirements of the permit or order as determined by the Ohio Environmental Protection Agency; or c) to the extent the cleanup costs required by the permit or order exceed the owner or operator's ability to pay.

3.16 Tire removal and disposal are not eligible costs.

3.17 Removal of BUSTR (State Fire Marshal Bureau of Underground Storage Tank Regulation)-regulated underground storage tanks and remediation of petroleum leaks from such tanks are not eligible costs.

3.18 Remedies addressing methane gas are not eligible costs, except to the extent that the methane is commingled with hazardous substances and petroleum.

3.19 Removal of solid waste is not an eligible cost, except to the extent that the solid waste is commingled with hazardous substances and petroleum.

3.20 Clearance activities are not eligible costs.

3.21 The construction of new facilities on the property is not an eligible cost, except for facilities necessary for environmental cleanup (e.g., monitoring wells, engineering controls, ground water pump and treat systems, etc.).

3.22 Recipients of Revitalization Fund grants and loans may not use those funds for indirect and/or administrative costs, which include but are not limited to: application preparation, compliance with public participation requirements, legal counsel related to the application and/or project implementation, consulting fees related to compliance with applicable local, state, and federal laws, rules and policies governing the project and/or grant agreement.

3.23 Project costs defined as markup are not eligible costs. The legislation governing the Clean Ohio program instructs the Department to make payments "only to pay the costs of the actual cleanup of a brownfield," (O.R.C. 122.658 (D).

3.24 In accordance with O.R.C. Chapter 4115, prevailing wage rates may apply to all activities that are part of the cleanup's total project costs.

3.25 Costs for eligible activities will be reimbursed based upon the submission of the required documents to the Department.

**Section 4: Project Costs**

4.01 Applicants can only receive grant funds for eligible costs expended after the grant agreement has been executed.

4.02 The total project costs must be presented in the application in a unit and itemized cost form. All subcontractor costs greater than $25,000 must be accompanied by a third party cost estimate for the services that would be provided

4.03 The cost estimates must be signed by a Certified Professional for work to be completed under O.R.C. Chapter 3746, and an environmental/technical professional for work to be completed under O.R.C. Chapter 3734, and must be accompanied by a statement certifying that the cost estimates are reasonable and necessary and are no higher than for like expenditures on like projects in Ohio.

4.04 The Department retains the right to require any additional documentation in support of the reasonable and necessary cost estimates. The burden will be on the applicant to show, to the Department's satisfaction, that the above standard has been met.

4.05 Remaining grant funds cannot be disbursed after the Grant Completion Date.

**Section 5: Matching Funds**

5.01 Applicants must provide a match of at least 25 percent of the total project costs. Acceptable sources of matching funds include: local government, state government (other than funds from the Clean Ohio Brownfield funds), federal government, and by for-profit or non-profit entities.

5.02 Applicants may apply the cost of premiums for environmental insurance to their required match.

5.03 Applicants may apply the cost of clearance activities that are not eligible for Revitalization Fund grants or loans to their required match (see Policy 5.01).

5.04 Applicants may not apply the costs of activities related to preparing the project property for redevelopment to their required match with the exception of infrastructure installation, upgrade, or replacement. Activities related to preparing the project property for redevelopment include final site grading and building renovations.

5.05 The infrastructure costs applied to the required match must be for infrastructure work conducted on or at the project property.

5.06 Infrastructure work applied to the required match that was not conducted prior to the submission of the application must be completed before the Grant Completion Date.

5.07 Applicants may not apply the costs to prepare the application to their required match.

5.08 All matching funds for activities included in the total project cost may be subject to Ohio prevailing wage rates in accordance with O.R.C. Chapter 4115.

5.09 In accordance with O.R.C. Section 122.658 (B), applicants may not apply costs for eligible activities at the property which occurred more than two years prior to the submission of the application to the Council or which will be expended after the grant term.

5.10 Applicant(s) may apply in-kind labor and materials that were or will be contributed by the applicant(s) to their required match. Development Partners and/or End Users may not provide in-kind contributions. In-kind contributions may only be provided by the Applicant(s) under the following conditions:

A) The in-kind contribution is necessary and reasonable to accomplish the scope of work;

B) The in-kind contribution is an eligible cost;

C) The in-kind contribution of services is adequately documented. Adequate documentation of in-kind services includes, at a minimum:
- Name, address, phone number, and occupation of person;
- The date and actual time that the services were provided;
- The specific type of service provided;
- The rate of pay for the service (based on the service provided, not the individual's rate of pay in his/her profession);
- A signature and date line for the person attesting to the validity and accuracy of the invoice.

D) The in-kind contribution of goods is adequately documented. Adequate documentation of in-kind goods includes, at a minimum:
- Name, address, and phone number of the person or entity that is making the contribution;
- The date of the contribution;
- A detailed description of the contribution, including the number of units, the price per unit, and extended price. The price per unit should be the fair market value of the item on the date of the contribution.
- A signature and date line for the person or representative of the entity making the contribution attesting to the validity and accuracy of the contributed items.

E) The in-kind contribution did not occur more than two years prior to the submission of the application to the Council or which will be expended after the grant term.

**Section 6: Financing**

6.01 The Council may award up to 80 percent of the allocation subject to availability of bond funds. If the full allocation available is not awarded, the balance may be carried forward to the next calendar year and added to that year's 80 percent allocation.

6.02 The Council may not award more than 75 percent of the estimated total project costs to the applicant in the form of a grant and/or loan. If at the conclusion of the project, financial accounting indicates that the actual cost is less than the estimated, the applicant shall refund to the Revitalization Fund the amount necessary to maintain funding percentages in the grant or loan agreement.

6.03 The maximum grant or loan to any one project utilizing the Known End Use Track of the application shall not exceed $3 million. The maximum grant or loan to any one project utilizing the Redevelopment Ready Track of the application shall not exceed $2 million.

6.04 No more than 15 percent of the amount allocated each year to the Revitalization Fund shall be used in the form of loans. Loans will be made in accordance with O.R.C. Section 122.657(H). Prior to the Clean Ohio Council approving any such loan, the terms of the agreement must receive written consent from the Ohio Treasurer's Office that the loan will not violate the terms of the Chapter 151 Bond Notes.

**Section 7: Application Contents**

7.01 The application must contain a certified resolution or ordinance approving the application from any or all legislative authority of the municipal corporation in which the property is located. The resolution or ordinance must contain, at a minimum, the location and address of the property and a description of the proposed use of the property at the conclusion of the project.

7.02 The application must contain either the Known End Use Track, the Redevelopment Ready Track, <u>or Sustainable Reinvestment Pilot Track</u> portion of the application. An application containing both Tracks of the application will not be accepted.

7.03 For properties subject to O.R.C. Chapter 3746, the Voluntary Action Program and applicable rules, the application must include the following for the entire property:

A) A completed application;

B) Copy of a Voluntary Action Program-compliant Phase I property assessment;

C) Certified copy of portions of a Voluntary Action Program-compliant Phase II property assessment that complies with the requirements of O.R.C. Chapter 3746 and rules adopted thereunder, and that the contamination at the property in a manner sufficient to support and justify the selection and cost estimation of a remedy that will result in the property complying with applicable cleanup standards upon implementation; and

D) An affidavit signed by a Certified Professional who attests that the submitted Phase I and Phase II property assessment reports comply with all of the above criteria of this policy.

A copy of the Phase I and portions of the Phase II property assessment reports prepared in accordance with this Policy must be included with the application at the time a copy of the application is provided to the public library.

7.04 In addition to the required documents in Policy 7.03, an application for cleanup projects under O.R.C. Chapter 3746 that rely on an Urban Setting Designation or a variance under O.R.C. Chapter 3746, and applicable rules adopted thereunder, shall include a copy of the approved Urban Setting Designation or variance at the time a copy of the application is provided to the public library.

7.05 If the applicant is participating in the Voluntary Action Program Memorandum of Agreement Track, the application must include an approval letter from the Ohio Environmental Protection Agency for the Remedial Action Work Plan for the property at the time the application is placed in a public library.

7.06 For property that is the subject of an existing covenant not to sue, the application must include, in addition to that required by Policy 7.04, an amended Phase I property assessment as required by O.A.C. Rule 3745-300-07(D)(1)(a)(ii), and specific language in the Phase II property assessment that demonstrates the remedy meets the criteria of Policy 3.08.

7.07 For cleanup projects where Regulated Asbestos Containing Materials will be removed and disposed, the application must include an Asbestos Inspection Report at the time a copy of the application is provided to the public library. The Asbestos Inspection Report must be conducted by a professional who is certified by the Ohio Department of Health, and contain the following components: 1) identification of material, including locations and quantity; 2) square footage or linear feet of material; 3) sampling that demonstrates Regulated Asbestos Containing Materials greater than 1 percent; 4) description of current condition; and, 5) explanation of any planned demolition.

7.09 An application for cleanup projects subject to solid waste closure requirements under O.R.C. Chapter 3734 shall include:

- Completed application
- Copy of the approval letter by the Director of Environmental Protection for the solid waste closure plan that complies with applicable rules adopted under O.R.C. Chapter 3734.
- Detailed cost estimates on a per unit basis associated with the scope of work.
- The application must identify the portions of the closure for which the applicant is seeking funding. If funded, the applicant must implement the closure plan in accordance with the plan.

7.10 An application for cleanup projects subject to hazardous waste closure requirements under O.R.C. Chapter 3734, and applying for closure funding shall include:

- Completed application
- A cleanup plan that includes an assessment of each hazardous waste unit, completed in accordance with Chapter 3 of the Ohio Environmental Protection Agency "Closure Plan Review Guidance". The cleanup plan must be designated to achieve the objectives of a closure by removal or a risk-based closure as described in the Closure Plan Review Guidance.
- A copy of an itemized closure cost estimate developed pursuant to O.A.C. Rule 3745-66-42.
- If funded, the applicant must prepare, submit for approval by the director of environmental protection, and implement a closure plan that is consistent with O.A.C. Chapter 3745-66. and Closure Plan Review Guidance.
- If an applicant has a closure plan previously approved by the director of environmental protection, the approved closure plan must be included with the application. If funded, the applicant must implement the applicable portions of the approved closure plan in accordance with applicable rules adopted under O.R.C. Chapter 3734 and applicable Ohio Environmental Protection Agency guidance.

7.11 An application for cleanup projects subject to generator closure requirements under O.A.C. Rule 3745-52-34 and Chapter 3745-66 shall include:

- Completed application
- A cleanup plan for each generator accumulation area which should be sufficient to support and justify the selection of a closure that is consistent with Section 1.1 of the Closure Plan Review Guidance.
- If funded, the application must implement the closure in accordance with O.A.C. Rule 3745-52-34 and Section 1.10 of the Closure Plan Review Guidance.

7.12 For property in remedial response enforcement or the subject of a remedial response investigation or cleanup order issued by the Director of Environmental Protection or a court of competent jurisdiction under ORC Chapter 3734, the applicant must include with the application: a) the remedy proposed in a Preferred Plan, or selected in a Decision Document, signed by the Director of Environmental Protection; or b) the remedy ordered by the court. The final Preferred Plan, Decision Document, or court order must be included with the application at the time a copy of the application is provided to the public library.

**Section 8: Application Process**

8.01 The Department, on behalf of the Council, will establish deadlines for each funding round, hereby referred to as the Schedule, including the date by which applications must be received by the Ohio Public Works Commission District Integrating Committees (Integrating Committees), and the date by which prioritized applications must be received by the Council.

8.02 The applicants will submit to the public library either the Known End Use Track, the Redevelopment Ready Track or the Sustainable Reinvestment Pilot Track portion of the application for the project property. The cleanup Track cannot be changed after submission to the public library.

8.03 All applicants are required to hold a Project Resource and Advisory Meeting that includes a visit to the project property with the Department and the Ohio Environmental Protection Agency prior to the submission of the application to the library. Applicants must complete a registration form for the meeting at http://clean.ohio.gov/BrownfieldRevitalization/SiteVisits.htm.

8.04 All applicants will submit an application to be on the Ohio Environmental Protection Agency Brownfield Inventory prior to the submission of the application to the library. Applicants can submit a Brownfield Inventory application at http://www.epa.state.oh.us/derr/SABR/Brown/BrownDtb/browndtb.html

8.05 No later than three (3) days following submission of the application to the public library the applicant must send one (1) hard copy and one (1) disk copy of the application to each of the following agencies:

- Ohio Department of Development, Urban Development Division, 77 South High St., 26th Floor, Columbus, Ohio, 43215
- Ohio Environmental Protection Agency, Division of Emergency & Remedial Response, P.O. Box 1049, 50 W. Town St. Suite 700, Columbus Ohio, 43216-1049

8.06 As administrative support to the Council, the Department and the Ohio Environmental Protection Agency will validate and complete scoring of the applications using the criteria approved by the Council. The results along with the application summaries will be provided to Council members no later than fourteen (14) calendar days prior to the Clean Ohio Council meeting at which funding decisions are to be made. Supporting documentation (complete applications, copies of public notice, minutes of public meetings, property access documents, affidavits, etc.) will be available to Council members upon request.

8.07 The Integrating Committee or, if so authorized, its executive committee shall prioritize its applications in accordance with the consultation requirements in O.R.C. Section 122.652(B), "In prioritizing and choosing applications under this division, an integrating committee or, if required under division (C) of this Section, the executive committee of the integrating committee shall consult with local and regional economic development agencies or resources, community development agencies or organizations, local business organizations, and other appropriate entities located or operating in the geographic jurisdiction of the integrating committee."

8.08 The Integrating Committee, or if so authorized, their executive committees, shall forward to the Council no more than six (6) complete and original applications, in priority order, and shall submit with these applications a copy of the minutes of the meeting at which the priorities were assigned, and a copy of the scoring sheets for all applications received. The Department will advise the Integrating Committees if required items to be submitted by the Integrating Committee are missing or if scores have been incorrectly calculated.

8.09 If multiple applications are ranked within an Integrating Committee's District, and one or more of those applications are withdrawn prior to the Clean Ohio Council award meeting, then the lower ranked application(s) will automatically move up to the next available ranking unless otherwise noted in the prioritization letter from the Integrating Committee Chair. The final application scores presented to the Clean Ohio Council will be modified to reflect the revised rankings.

8.10 After receipt of the items in Policy 8.08, the Department, on behalf of the Council and with assistance from the Ohio Environmental Protection Agency, shall review the applications for completeness and provide applicants an opportunity to supply missing information. Applicants can submit missing information based on the written Council completeness review correspondence, provided that the missing information is received by the Council within the deadline as promulgated in the Schedule. If an application is incomplete, and the applicant does not submit the Council's requested missing information as provided by O.R.C. Section 122.653(A) within the Schedule, the Council may disqualify the application.

8.11 The Council shall review the project applications, assign discretionary points and prioritize the applications using the selection process established pursuant to O.R.C. Section 122.657(D).

8.12 The Council shall approve or disapprove project applications in accordance with O.R.C. Section 122.653(B). Grants and loans approved by the Council are contingent upon the approval of the State Controlling Board.

**Section 9: Public Participation**

9.01 No later than forty-five (45) days prior to the public meeting, the applicant must place the original application in a public library, place a notice of the public meeting in a newspaper of general circulation in the county where the brownfield is located, and post a sign at the property. The applicant must post the following information on their website or other local government websites accessible to the community: application summary, legal notice and contact information.

9.01.1 The original application shall be placed in the public library nearest to the brownfield.

9.01.2 The notice must be placed in a newspaper, which circulates in the community where the majority of the brownfield is located. The notice may appear as either a classified legal notice or as a display advertisement.

9.01.3 The notice must include, at a minimum: the date, time and location of the public meeting; amount of the request; the location of the public library where the application is available for public review; and, the intent of the applicant to apply for Revitalization Fund grants and/or loans.

9.01.4 The sign must not be less than four feet by four feet unless prohibited by local ordinance, in which case the sign must be the maximum size allowed by local ordinance.

9.01.5 The sign must include the date, time and location of the public meeting; the amount of the request; the location of the public library where the application is available for public review; the intent of the applicant to apply for Revitalization Fund grants and/or loans, contact information for the applicant; and, the website address where the application information can be accessed.

9.02 Evidence of the library receipt, the newspaper public notice, and the property sign should be faxed or emailed to the Department's Urban Development Division within three days of the newspaper notice

printing. The Department's Urban Development Division fax number is 614-466-4172 and the email address is urban@development.ohio.gov.

9.03 The applicant must conduct the public meeting so as to allow for questions from the public and for public comment.

9.04 At the public meeting, the applicant must address any written comments received during the 45-day public comment period.

9.05 The applicant must take the minutes of the meeting, including the number of individuals in attendance, and an accurate summary of the comments, questions, debate and discussion which occur at the meeting.

9.06 The following documentation must be included with the application when it is submitted to the Integrating Committee: a receipt from the public library for the application, proof and copy of newspaper publication of the notice, a photograph of the sign posted at the property, a copy of public comments received during the 45-day comment period, and minutes of the public meeting.

9.07 After submission to the public library, an application cannot be modified except to:

- Respond to the public comment process, in which case modifications must be made prior to submitting the application to the Integrating Committee and must be included in the public participation exhibits of the application;
- Perform administrative tasks such as local government approval that cannot reasonably be done prior to submission of an application to the public library but that have a schedule for accomplishing in the application and are completed and made part of the application submitted to the Integrating Committee; and (or),
- Respond in accordance with Policy 8.09.

9.08 The Integrating Committee must comply with Ohio Public Works Commission Advisory XVI, http://www.pwc.state.oh.us/SUNSHINE.LAW.htm, in conducting its meeting regarding the Revitalization Fund. The Integrating Committee will submit a copy of the publication of the notice in accordance with O.R.C. Section 164.01-04 to the Division ten (10) days prior to its meeting. The date and time of each Integrating Committee meeting will be posted on the Department's website: http://www.clean.ohio.gov

9.09 The Council will provide for public participation in addition to that prescribed in legislation, O.R.C. Section 122. 652. The Council public participation augments the opportunities available at the local and district level for the public to raise issues and concerns. The Council's public participation process is the following:

- Three weeks prior to a scheduled meeting of the Council, a copy of the agenda will be posted on-line at the Department's website: http://www.clean.ohio.gov
- The agenda will be accompanied with the contact information for the Urban Development Division ;
- There will be fourteen (14) days from the date the agenda is posted on the web page for public comments; no public comments will be accepted after the comment period. Public comments must be submitted to the Urban Development Division via e-mail at urban@development.ohio.gov or by letter to the Urban Development Division, 77 South High Street, 26th Floor, P.O. Box 1001, Columbus, Ohio 43221;
- One week prior to the Council meeting copies of all public participation materials submitted to the Urban Development Division within the 14-day comment period will be forwarded to the Council members; and
- No public comment will be taken in either verbal or written form during the business meeting of the Council unless formally requested by the Chairperson.

**Section 10: Funded Property**

10.01 Approved project applications must open a Technical Assistance (TA) account with the Ohio Environmental Protection Agency within sixty (60) days of the Council award meeting date.

10.02 Approved project applications must commence within twelve (12) months of the grant agreement effective date, unless an extension is granted by Council. Commencement includes completion of acquisition activities, award of contract for the Certified Professional, and award of contract for the demolition and/or remediation contractors.

10.03 Projects must be completed, including the issuance of the Covenant Not to Sue or Director's Determination Letter, within forty-eight (48) months of the date that the contract is executed by the Council, unless an extension is granted by the Council.

10.04 The Grant Completion Date may be extended at the request of the Ohio Environmental Protection Agency only if the Covenant-Not-To-Sue, Director's Determination Letter, or another determination that the project meets applicable standards for projects subject to ORC Chapter 3734 has not been issued.

10.05 Upon public solicitation of contractor bids for funded properties the municipality, county, park district, or port authority must notify the Urban Development Division via e-mail of the solicitation at urban@development.ohio.gov

10.06 Entities paid for with Clean Ohio Revitalization Fund grant dollars on a funded property must avoid conflicts of interest. A conflict of interest occurs when an individual or organization involved in the cleanup project has an interest that might compromise their ability to execute the project in a manner consistent with the intentions of the Clean Ohio Revitalization Fund program. A conflict of interest may exist even if no proven illegal act results from it, and will include an appearance of impropriety that undermines confidence in the individuals or organizations involved in the project. To avoid a conflict of interest and ensure that proper checks and balances exist, the following restrictions are placed on funded properties:

- The Certified Professional may not act as the developer or an investor in the development on the funded project.
- The selected environmental consulting firm or their employees may not act as the developer or an investor in the development on the funded project.
- The selected contractor or subcontractors may not act as the developer or an investor in the development on the funded project.
- The selected environmental consulting firm and the contractor or subcontractor for the funded project may not be the same firm or related firms.
- The selected environmental consulting firm may not be engaged in concurrent service agreements for the grantee and the party that caused and contributed to the contamination on the funded project

**Section 11: Sustainable Reinvestment Pilot Track**

11.01 Eligible Applicants for the Sustainable Reinvestment Pilot Track are identified in Section 1.

11.02 Eligible Property for the Sustainable Reinvestment Pilot Track is identified in Section 2.

11.03 Subject to Policies 8.07 through 8.09, Ohio Public Works Commission Integrating Committee Districts may submit no more than two projects in priority order to the Clean Ohio Council per funding round for the Sustainable Reinvestment Pilot Track. The Council shall consider second priority projects for funding only in the event funding remains after consideration of all first priority projects.

11.04 Activities and associated costs for projects in the Sustainable Reinvestment Pilot Track must comply with Section 3.06 through 3.25 and the following:

- A maximum $1.5 million grant award
- For projects in the Sustainable Reinvestment Pilot track demolition, cleanup and infrastructure activities are eligible costs
- Acquisition is not an eligible cost
- A maximum of $400,000 of the total grant award may be used for eligible infrastructure activities
- A maximum 10% of the eligible infrastructure costs may be used for professional design fees (i.e. landscape architect or professional engineer)
- For the Sustainable Reinvestment Pilot track, eligible infrastructure costs include the costs for installing new infrastructure, upgrading or replacing existing infrastructure on the project property to the extent that the infrastructure meets the criteria identified in section 11.07 and serves a multi-purpose. Examples include but are not limited to the following: roadways, pathways, structures used to manage stormwater, seed and grade, signage, professional design fees, wetlands and stream restoration
- Development activities including any new construction are not eligible costs (i.e. marinas, parking garages)

11.05 Projects in the Sustainable Reinvestment Pilot Track must comply with Section 5 Matching Funds and the following:

- The following items may only be considered as matching costs: park amenities, plants, trees, landscaping, urban gardens, solar panels and components, wind turbine components, green roofs.
- Maintenance and stewardship activities are not eligible as matching costs.
- Costs identified as development activities are not eligible as matching costs.

11.06 Projects in the Sustainable Reinvestment Pilot Track under the Signature Parks, Sustainable Infrastructure and Urban Waterfronts categories must maintain the following land use restrictions:

- A minimum 80% of the total project property area must be utilized as greenspace or public space
- A maximum 20% of the total project property area may be utilized for parking
- Implementation of either an easement or deed restriction for the planned greenspace or public space is required for a minimum of 10 years following project completion
- A commitment for maintenance and stewardship of the planned greenspace or public space is required for a minimum of 10 years following project completion. A commitment must be provided in the application for funding.
- All projects in the Signature Parks or Sustainable Infrastructure category must have a minimum 1.5 acres total project property.
- All projects in the Urban Waterfronts category must have a minimum 1.0 acre total project property.

11.07 Projects in the Sustainable Reinvestment Pilot Track must maintain the following requirements concerning installation and/or repair of infrastructure and new construction:

- All infrastructure activities completed during the project must follow Sustainable Best Practices, LEED, or Green Infrastructure Guidelines. A description to which guidelines the applicant will follow must be included in the application for funding.
- The applicant or local government entity with jurisdiction over the project property must pass a resolution or ordinance to be included in the application for funding that states any new construction on the project property will follow LEED guidelines. The resolution or ordinance must be in effect for a minimum of 10 years following project completion.

## Definitions

"Ability to pay" means legal solvency or having sufficient assets to pay the costs of cleanup.

"Brownfield" means an abandoned, idled, or under-used industrial, commercial, or institutional property where expansion or redevelopment is complicated by known or potential releases of hazardous substances or petroleum as defined by O.R.C. Section 122.65(D).

"Cleanup" means any action to contain, remove, or dispose of hazardous substances or petroleum at a brownfield, including acquisition and demolition at a brownfield, and the installation or upgrade of the minimum amount of infrastructure that is necessary to make a brownfield operational for economic development.

"Clearance activities" include but are not limited to clearing and grubbing of vegetation, trees or other organic material prior to cleanup of a property.

"Covenant not to sue" or "covenant," means the final findings and orders issued by the Director of Environmental Protection pursuant to O.R.C. Section 3746.12.

"Decision Document" means the report, which evidences the Ohio Environmental Protection Agency's cleanup plan for property that is the subject of a remedial response investigation or cleanup order issued by the Director of Environmental Protection or by a court of competent jurisdiction under O.R.C. Chapter 3734. Preparation of the Decision Document takes into consideration any comments received regarding the Preferred Plan for the property.

"Funded Property" means the project property that is described in the executed Clean Ohio Revitalization Fund Grant Agreement between the grantee and the Clean Ohio Council.

"Goods" mean all labor and materials related to the demolition, cleanup, and infrastructure activities to be undertaken at the brownfield property, as part of the Clean Ohio Revitalization Fund grant, and provided by contracting entities that derive at least 51 percent of their revenues from the performance of demolition, remediation, or construction activities. Contracting entities must be solicited based upon project bid specifications and any other documents deemed appropriate by the political subdivision.

"Grant Completion Date" is the date that the Director of Ohio EPA issues a project closure document or twelve (12) months after the No Further Action Date, whichever occurs first. A "project closure document" includes a Covenant-Not-To-Sue, a Director's Determination Letter, or another determination that the project meets applicable standards for projects subject to ORC Chapter 3734.

"Industrial or commercial property" means:

(a) Any property classified by a county auditor with the following land use codes and as coded in accordance with the Ohio Administrative Code (O.A.C.) 5705-3-06, Classification of real property and coding of records:

(1) 300-399 inclusive (Industrial land and property)
(2) 400 Commercial vacant land)
(3) 410 (Motel and tourist cabins)
(4) 411 (Hotels)
(5) 412 and 413 (Nursing homes and private hospitals)
(6) 420 through 459 inclusive (Retail stores, shopping centers, restaurants, food facilities, laundries, funeral homes, medical clinics, banks, office buildings, gas stations, car washes, car dealerships, parking garages/lots)

(7) 466 (Truck/Farm equipment sales and service)
(8) 470 and 471 (Single family dwelling converted to office or retail use)
(9) 480 and 481 (Warehouses and mini warehouses)
(10) 482 and 483 (Truck terminals and bus garages & terminals)
(11) 484 (Hospitals)
(12) 490 (Marine service facilities)
(13) 496 (Marinas small boats)
(14) 497 (Auto racetracks & horse tracks)
(15) 499 (Other commercial structures)

(b) Any exempt property coded 600 through 680 inclusive (government-owned properties, properties owned by colleges, and charitable exemptions such as hospitals) that could have reasonably been coded as above in paragraph (a) but for its exempt status; or,

(c) The definition of commercial and industrial property does not include residential property. Residential property means property where the use or intended use of existing structures is exclusively as a fixed or permanent domicile. This includes both single and multi-unit structures.

"Infrastructure" means the technical structures that support a society, including but not limited to roads, bridges, water supply, sewers, power grids, and telecommunications, but excludes vertical structures, such as buildings and parking garages.

"Institutional property" means property currently or formerly owned or controlled by the state that is or was used for a public or charitable purpose. However, "institutional property" does not mean property that is or was used for educational purposes as defined in O.R.C. 122.65(J).

"Known End Use Track" means the grantee or Development Partner has a committed final user for the project property after the property is redeveloped. The known end use must be supported by a written commitment from each end user, a Dun & Bradstreet Company Business Background Report for each end user, and a business plan from each end user.

"Memorandum of Agreement" or "MOA" means the Superfund Memorandum of Agreement Brownfields and Voluntary Action Plan MOA Track entered into between the State of Ohio and the United States Environmental Protection Agency Region V on November 8, 2007.

"Orphan property" means any property for which there is no person liable for cleanup or remediation costs under 42 United States Code § 9607 who has the ability to pay those costs.

"Preferred Plan" means a document prepared by the Ohio Environmental Protection Agency which presents to the public the Ohio Environmental Protection Agency's preferred alternative for cleanup at a property subject to a remedial response investigation or cleanup order. The document includes a brief summary of the alternatives evaluated in the detailed analyses of the Feasibility Study, highlighting the key factors that lead to the identification of the preferred alternative.

"Project" means those eligible activities in the grant agreement to be completed within the timeline of the grant agreement.
"No Further Action Date" means the date on which the Director of Ohio EPA receives a copy or an original No Further Action Letter, or the necessary documentation for projects subject to O.R.C. Chapter 3734, as defined in the Grant Agreement.

"Property" means any parcel of real property, or portion of such a parcel, and any improvements to it.

"Redevelopment Ready Track" means the grantee has not declared a final user for the project property.

"Remedial Action Work Plan" means the remedial action work plan developed in accordance with the Voluntary Action Program Memorandum of Agreement Track procedures and the criteria of O.A.C. Rule 3745-300-15 for implementation of remedial activities in the Voluntary Action Program.

"Risk Assessment" means a quantification of the risk posed by exposure of a human or ecological receptor to hazardous substances or petroleum that is performed in compliance with the criteria of the applicable regulatory program to demonstrate that a property meets the applicable cleanup standards for the property (e.g., for projects subject to the Voluntary Action Program applicable standards, O.A.C. rule 3745-300-09; for projects subject to hazardous waste applicable standards, use of a risk assessment as a means to demonstrate compliance with the closure performance standard, etc.)

"Sustainable Reinvestment Pilot Track" means the grantee has categorized the final use of the property as one of the following: Signature Parks, Sustainable Infrastructure, Urban Waterfronts, or Cleanfields / Brightfields.

"Total project costs" means all dollars expended (or to be expended) at the property for eligible activities as defined by O.R.C. Section 122.658, (Policy 3) and other costs identified as match by these policies.

"Voluntary Action Program" or "VAP" means the Voluntary Action Program established within the Ohio Environmental Protection Agency under O.R.C. Chapter 3746. The rules adopted under O.R.C. Chapter 3746 are contained in O.A.C. Chapter 3745-300.