

CITY OF WHEELING



9/16
CITY COUNTY BUILDING, 1500 CHAPLINE STREET
WHEELING, WEST VIRGINIA 26003

Glenn F. Elliott, Jr.
Mayor

A RESOLUTION OF CITY COUNCIL TO AUTHORIZE THE CITY MANAGER AND CITY CLERK TO EXECUTE AND SEAL ALL NECESSARY CLOSING DOCUMENTS AS REQUIRED BY THE WV DEP FOR THE CITY OF WHEELING BROWNFIELD REVOLVING LOAN FUND CONCERNING REMEDIATION OF 58 19TH ST

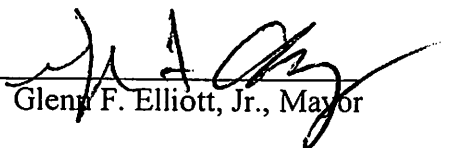
WHEREAS, the City Council to authorize the City Manager and City Clerk to execute and seal all necessary Closing Documents as required by the WV DEP for the City of Wheeling Brownfield Revolving Loan Fund, concerning remediation of 58 19th St; and

WHEREAS, the documents are on file in the Office of the City Clerk.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHEELING, THAT:

The City Manager and the City Clerk are authorized to execute and seal any and all closing documents as attached and incorporated herein by the WV DEP for the City of Wheeling Brownfield Revolving Loan Fund, concerning remediation of 58 19th St.

ADOPTED this 3rd of May, 2022


Glenn F. Elliott, Jr., Mayor

DUAL AUTHORIZING REPRESENTATIVE RESOLUTION

At the Council meeting of the The City of Wheeling held on
regularly scheduled or special Government Entity

May 3, 2022, Robert Herron, has been duly authorized to act
Newly Authorized Person

on and sign on behalf of the City of Wheeling any and all federal and state actions
Government Entity

as they relate to planning, design, cleanup and/or remediation of the Wheeling-Penn
Closure Site
description of project

In addition, William Lanham, has been duly authorized to act on and sign
Secondary Authorized Person

on behalf of the City of Wheeling in the absence of the authorized representative
Government Entity

named above for a period not to exceed 48 months.
length of time in months

This motion being duly presented and seconded, has been adopted by a majority
quorum or majority

vote and therefore Robert Herron or William Lanham may sign all such
Newly Authorized Person Secondary Authorized Person

documents relative to the above-described remediation project on behalf of the City of Wheeling.
Government Entity

Newly Authorized Representative

RH 5-3-2022
Signature Date
City Manager
Title

Secondary Authorized Representative

William D. Lanham 5/3/22
Signature Date
Assistant City Manager
Title

ATTESTED BY:

[Seal]

Bela S. Della City Clerk
Signature Date

(Attach copy of minutes from meeting.)

Ordinance No. 15699

Introduced April 5, 2022

2/1

AN ORDINANCE OF THE COUNCIL OF THE CITY OF WHEELING AUTHORIZING AND APPROVING THE REMEDIATION PROJECT AND THE FINANCING OF A PORTION OF THE COST THEREOF THROUGH A LOAN, EVIDENCED BY A PROMISSORY NOTE MADE PAYABLE TO THE WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$192,010; APPROVING, RATIFYING AND CONFIRMING A FUNDING AGREEMENT BY AND BETWEEN THE CITY OF WHEELING AND THE DEPARTMENT OF ENVIRONMENTAL PROTECTION RELATED TO SUCH PROMISSORY NOTE; AUTHORIZING A PLEDGE OF THE RESTRICTED CAPITAL IMPROVEMENT PROJECT FUND REVENUES IN AN AMOUNT NOT TO EXCEED \$192,010, TO PROVIDE SECURITY FOR SUCH PROMISSORY NOTE; AUTHORIZING REIMBURSEMENT OF CAPITAL EXPENDITURES PREVIOUSLY SPENT; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO SUCH PROJECT AND SUCH PROMISSORY NOTE; AND MAKING OTHER PROVISIONS AS TO THE PROMISSORY NOTE AND LOAN.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEELING, WEST VIRGINIA:

WHEREAS, the Council (the "Governing Body") of The City of Wheeling, West Virginia (the "City"), is empowered and authorized to acquire, establish, construct, equip, improve, finance and conduct environmental cleanup and remediation of properties located in the vicinity of 19th and Jacob Streets in Wheeling, West Virginia (hereinafter the "Remediation Project"); and

WHEREAS, the Governmental Body finds it necessary and desirable and in the best interests of the City and the citizens of Ohio County and West Virginia, to pursue financing for a portion of the costs of the Remediation Project; and

WHEREAS, the Governmental Body has submitted a Brownfields Revolving Loan Fund Application to the West Virginia Department of Environmental Protection ("DEP") in order to obtain a loan ("Loan"), which indebtedness shall be evidenced by a promissory note in the principal amount not to exceed \$192,010 to finance a portion of the Remediation Project ("Note"); and

WHEREAS, the Governmental Body desires to pledge the dedicated revenue in the Restricted Capital Improvement Project Funds as collateral for the loan to secure the DEP; and

WHEREAS, the Governmental Body desires to authorize the City Manager to carry out and coordinate the terms of the Funding Agreement, which is attached and incorporated herein, so that the Remediation Project site may be cleaned up and remediated for the health, safety, and welfare of the citizens of Wheeling, West Virginia in accordance with the intent of the Governmental Body and this Ordinance which will provide the City Manager the authority to

negotiate and coordinate the execution of such Funding Agreement and any and all other necessary agreements and documents so that it serves the best intentions of the Governmental Body and the City, including, but not limited to, appropriate environmental cleanup and remediation documentation, and note repayments.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHEELING, WEST VIRGINIA:

Section 1. Pursuant to Chapter 8, Article 11 and Chapter 22, Article 22 of the Code of West Virginia, 1931, as amended ("Act"), this Ordinance is adopted and the Remediation Project relating to the environmental cleanup and remediation of properties located in the vicinity of 19th and Jacob Streets in Wheeling, West Virginia, which is expected to cost approximately \$639,829, is hereby authorized and approved, and any actions taken in connection therewith prior to the date hereof or hereforth are hereby ratified, confirmed and approved.

Section 2. The Governmental Body hereby ratifies, approves and accepts the Funding Agreement, including all schedules and exhibits attached thereto, a copy of which is incorporated herein by reference, and the execution and delivery of the Funding Agreement by the Mayor and Clerk, and the performance of the obligations contained therein, on behalf of the Governmental Body, are hereby authorized, directed, ratified and approved. The Governmental Body hereby affirms all covenants and representations made in the Funding Agreement and in the application to the DEP. The Funding Agreement, attached as Exhibit A, and incorporated herein by reference, is hereby approved.

Section 3. The Note, to be executed by the City Manager and Mayor, and made payable to the DEP is hereby authorized and ordered to be issued to cover the indebtedness of the Loan, in the principal not to exceed \$192,020. The exact principal amounts, dates, maturity dates, interest rates, payment schedules, and other terms of the Note should be established by a supplemental resolution.

Section 4. The Governmental Body hereby pledges the Restricted Capital Improvement Project Fund as collateral for the Loan.

Section 5. The City Manager is hereby authorized to coordinate as necessary and carry out the terms of the Funding Agreement deemed to be in the best interest of the Governing Body and the City and to coordinate with the DEP the execution of such Funding Agreement and any and all other documents as shall be necessary to effectuate the intention of the parties in accordance with such terms and conditions as included in said Funding Agreement and any and all others that may be necessary to further the goals of the Governing Body and the City regarding environmental Remediation Project which contributes to the development of said property.

Section 6. The City Manager, Mayor and Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Note.

Section 7. The Remediation Project and the financing thereof with proceeds of the Loan and Note are in the public interest, serve a public purpose of the Governmental Body and will promote the health, welfare and safety of the residents of the City.

Section 8. The Governmental Body hereby finds and determines that all formal actions relative to the enactment of this Ordinance were taken at meetings of the Governmental Body open to the public, in full compliance with all applicable legal requirements.

Section 9. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

Section 10. This Ordinance shall become effective following enactment and the public hearing.

First Reading:

April 5, 2022

Second Reading and Adoption:

April 19, 2022

Effective following Third Reading

and Public Hearing:

May 3, 2022

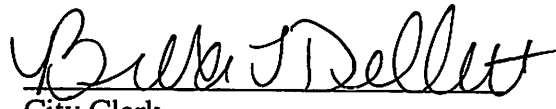
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CERTIFICATION

Certified a true copy of an Ordinance duly adopted by the Council of The City of
Wheeling on the 3 day of May, 2022.

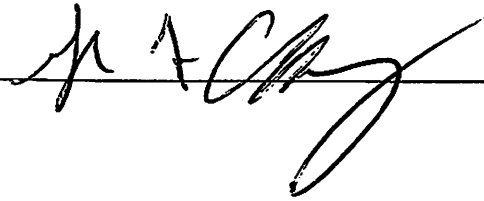
Dated: 5/3/22, 2022.

[SEAL]


City Clerk

THE CITY OF WHEELING, WEST VIRGINIA

Mayor

A handwritten signature in black ink, appearing to read "M. A. C. J.", is written over a horizontal line. The signature is stylized and cursive.

CITY OF WHEELING



CITY COUNTY BUILDING, 1500 CHAPLINE STREET
WHEELING, WEST VIRGINIA 26003

Glenn F. Elliott, Jr.
Mayor

A RESOLUTION OF CITY COUNCIL TO APPROVE AND ADOPT
SUPPLEMENTAL RESOLUTION REQUIRED BY THE WV DEP
FOR THE CITY OF WHEELING BROWNFIELD REVOLVING
LOAN FUND CONCERNING REMEDIATION OF 58 19TH ST

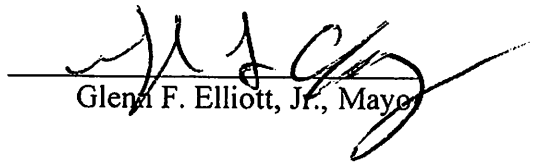
WHEREAS, the City Council to approve and adopt Supplemental Resolution required by the WV DEP for the City of Wheeling Brownfield Revolving Loan Fund, concerning remediation of 58 19th St; and

WHEREAS, the documents are on file in the Office of the City Clerk.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHEELING, THAT:

The City Manager is authorized to execute the Supplemental Resolution as attached and incorporated herein by the WV DEP for the City of Wheeling Brownfield Revolving Loan Fund, concerning remediation of 58 19th St.

ADOPTED this 3rd of May, 2022


Glenn F. Elliott, Jr., Mayor

THE CITY OF WHEELING
SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, AND OTHER TERMS OF THE PROMISSORY NOTE RELATING TO THE CITY OF WHEELING'S LOAN BETWEEN THE CITY OF WHEELING AND THE WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION; AUTHORIZING AND APPROVING THE FUNDING AGREEMENT RELATING TO SUCH LOAN; [ACCEPTING A SUBGRANT FROM THE WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION]; [AUTHORIZING THE CITY MANAGER TO COORDINATE THE EXECUTION OF ANY AND ALL AGREEMENTS AND OTHER ASSOCIATED DOCUMENTS NECESSARY TO EFFECTUATE THE TERMS OF THE AGREEMENTS AS THE GOVERNING BODY HAS INTENDED]; [AUTHORIZING REIMBURSEMENT OF CAPITAL EXPENDITURES PREVIOUSLY SPENT]; AUTHORIZING A PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE PROMISSORY NOTE.

WHEREAS, the Council ("Governing Body") of the City of Wheeling ("Recipient") has duly and officially adopted an Ordinance on May 3, 2022 ("Ordinance"), entitled:

BROWNSFIELD REVOLVING LOAD FUND - WVDEP

WHEREAS, the capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Ordinance when used herein;

WHEREAS, the Ordinance provides for a loan ("Loan") from the West Virginia Department of Environmental Protection ("DEP") to the Recipient in the principal amount not to exceed \$192,010.00, which indebtedness is to be evidenced by a promissory note ("Note") in the principal amount not to exceed \$192,010.00 and has authorized the execution and delivery of a loan funding agreement relating to the Loan and Note, including all schedules and exhibits attached thereto, by and between the Recipient and the DEP ("Funding Agreement"), all in accordance with Chapter 22, Article 22, of the Code of West Virginia, 1931, as amended ("Act"); and in the Ordinance it is provided that the exact principal amounts, dates, maturity dates, interest rates, payment schedules and other terms of the Note should be established by a supplemental resolution, and that other matters relating to the Note be herein provided for;

WHEREAS, the Funding Agreement has been presented to the Recipient at this meeting;

WHEREAS, prior to entering into the Funding Agreement with the DEP, the Governmental Body anticipates that funds may be expended for the Remediation Project, a portion of which capital expenditures may initially be paid from the Governmental Body's Restricted Capital Improvements Fund ("RCIF"); and

WHEREAS, the Governmental Body reasonably expects to reimburse its RCIF for any such pre-issuance capital expenditures, which are estimated not to exceed \$192,000.00 from the proceeds of the Note; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution ("Supplemental Resolution") be adopted, that the Funding Agreement be approved and ratified by the Recipient, that the exact principal amounts, dates, maturity dates, interest rates, payment schedules and other terms of the Note be fixed hereby in the manner stated herein, and that other matters relating to the Note be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WHEELING, WEST VIRGINIA, AS FOLLOWS:

Section 1. Pursuant to the Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued a Note of the Recipient, evidencing the indebtedness of a loan, in the original principal amount of \$192,000.00. The Note shall be dated the date of delivery, shall finally mature _____ 1, 2022, and shall bear interest at the rate of .75% per annum. The principal and interest of the Note shall be payable monthly to the West Virginia Municipal Bond Commission ("Commission"), which will make quarterly payments on March 1, June 1, September 1 and December 1 of each year to the DEP, commencing _____ 1, 2022, in the amounts as set forth in the Schedule Y attached to the Funding Agreement and incorporated in and made a part of the Note. The Recipient does hereby approve and shall pay the Administrative Fee equal to .5% of the principal amount of the Note as set forth in the "Schedule Y" attached to the Funding Agreement. The Note shall be subject to redemption upon the written consent of the DEP and otherwise in compliance with the Funding Agreement.

Section 2. All other provisions relating to the Note and the text of the Note shall be in substantially the forms provided in the Ordinance.

Section 3. The Recipient hereby ratifies, approves and accepts the Funding Agreement, including all schedules and exhibits attached thereto, a copy of which is incorporated herein by reference, and the execution and delivery of the Funding Agreement by the [President/Mayor/Chairman], and the performance of the obligations contained therein, on behalf of the Recipient, are hereby authorized, directed, ratified and approved. The Recipient hereby affirms all covenants and representations made in the Funding Agreement and in the application to the DEP. The proceeds of the Note shall be advanced from time to time as requisitioned by the Recipient, as the Remediation Project progresses.

Section 4. The Recipient hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia ("Commission"), to serve as Paying Agent for the Note under the Ordinance.

Section 5. The Recipient hereby appoints and designates J.P. Morgan Chase, West Virginia, to serve as Depository Bank.

Section 6. The City Manager and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Note hereby and by the Ordinance approved and provided for, to the end that the Note may be delivered to the DEP pursuant to the Funding Agreement on or about Friday, May 26, 2022.

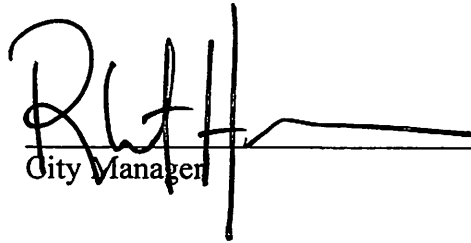
Section 7. The Remediation Project and the financing thereof with proceeds of the Note are in the public interest, serve a public purpose of the Recipient and will promote the health, welfare and safety of the residents of the Recipient in Ohio County, West Virginia.

Section 8. The Recipient hereby approves and accepts all contracts relating to the Remediation Project.

Section 9. The Recipient hereby authorizes the sweeping of its revenue account by the Municipal Bond Commission each month for the payment on the Note.

Section 10. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 3 day of May, 2022.

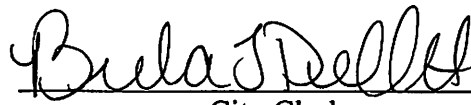

City Manager

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the
City of Wheeling on the 3 day of May, 2022.

Dated this 3 day of May, 2022.

[SEAL}



City Clerk

BROWNFIELDS REVOLVING FUND
FUNDING AGREEMENT

THIS BROWNFIELDS REVOLVING FUND FUNDING AGREEMENT (this "Agreement"), made and entered into in several counterparts, by and among the WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION (the "DEP"), and the Funding Recipient designated below (the "Funding Recipient").

THE CITY OF WHEELING
(Project # 21019)
(Funding Recipient)

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of Chapter 22, Article 22 of the Code of West Virginia, 1931, as amended ("Act"), the State of West Virginia ("State") has established a state brownfields revolving fund program ("Program") to direct the distribution of loans and subgrants pursuant to the Act;

WHEREAS, under the Act, the Legislature has established a permanent perpetual fund known as the "West Virginia Brownfields Revolving Fund" ("Fund");

WHEREAS, DEP is the recipient of funds from the Fund and the Program and is authorized to make certain loans and subgrants from the Fund to eligible entities;

WHEREAS, the Fund is to be used to undertake cleanup of brownfields sites by making low interest loans and subgrants to parties willing to undertake cleanup of these sites;

WHEREAS, the Funding Recipient is the owner of real property located in Wheeling, West Virginia (the "Property"), which property is more particularly described in Exhibit 1, attached hereto;

WHEREAS, the Funding Recipient intends to undertake a cleanup of the Property (the "Project") by implementing a Voluntary Remediation Work Plan ("Plan") approved by the DEP;

WHEREAS, the Funding Recipient has made application for a loan and subgrant from the Fund to provide a portion of the financing for the Project, and said application has been approved by DEP;

WHEREAS, DEP has agreed, subject to satisfaction of all the conditions set forth in this Agreement, to loan to the Funding Recipient certain of the Funds in the amount of \$192,010 ("Loan Funds") and to subgrant to the Funding Recipient certain of the Funds in the amount of

\$192,010 ("Subgrant Funds," collectively, "Loan and Subgrant Funds") which will be used by the Funding Recipient for a portion of the remediation of the Property ("Remediation Work");

WHEREAS, the Funding Recipient has funds available to make the twenty percent (20%) of eligible Project costs contribution;

WHEREAS, the collateral for the Loan Agreement shall be a pledge of dedicated revenues in Ordinance; and

WHEREAS, a claim has not been asserted against the Funding Recipient for liability under Section 107 of the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") with respect to the Property.

NOW, THEREFORE, in consideration of the covenants and promises contained herein, it is mutually agreed by and between the DEP and the Funding Recipient as follows:

A. Terms of the Loan.

1. Subject to the terms and conditions set forth in this Agreement and Schedule X attached hereto and incorporated herein, DEP agrees to make a term loan to the Funding Recipient from the Fund in the amount of One Hundred Ninety-Two Thousand and Ten Dollars (\$192,010) (the "Loan") to be used for cleanup of the Property. The term of the Loan shall be a period of seventy-five (75) months commencing on the date of the Note (the "Loan Term"). The Funding Recipient shall evidence its obligation to repay the Loan by execution of a promissory note, a copy of the form of which is attached hereto as Exhibit 2 and is hereby made a part hereof (the "Note").

2. (a) From the date of the initial disbursement of Loan Funds under the Note pursuant to Section A.4 below, the Funding Recipient shall pay interest only on the outstanding principal thereof from time to time at a rate of three-fourths of a percent (0.75%) per annum until the final disbursement of the Loan Funds is made, such payments to be made monthly to the West Virginia Municipal Bond Commission, commencing one month from the date of such initial disbursement of Loan Funds and ending with a final payment of interest due up to the date on which the final disbursement of Loan Funds is made pursuant to Section A.4 below. After such final disbursement of Loan Funds, the indebtedness evidenced by the Note shall be repaid in consecutive quarterly installments, with interest to be paid on the outstanding principal balance from time to time at a rate of three-fourths of a percent (0.75%) per annum, with payments of principal and interest amortized over the balance of the Loan Term remaining from the time of such final disbursement of Loan Funds, all as set forth in the Schedule Y attached to this Agreement and incorporated herein. The first monthly installment of principal and interest shall commence on December 1, 2024, and then continue on the same day of each succeeding quarter thereafter until the end of the Loan Term, at which time any remaining principal and accrued interest shall be due and payable in full. All payments on account of the Loan shall be applied first to accrued interest and then to the reduction of unpaid principal. Any payment due under the Note not made within ten (10) days of its due date shall be subject to a late charge equal to fifteen percent (15%) of the monthly payment due.

(b) The Loan is subject to a half a percent (0.5%) annual administrative fee ("Administrative Fee") payable to the DEP. The Administrative Fee is initially calculated using the outstanding principal amount of the Loan over its life, but repaid over the term of the Loan in equal installments as listed in Schedule Y.

3. The Note shall be secured by a pledge of a dedicated stream of revenues from the Funding Recipient's sales tax restricted capital improvement funds. The Funding Recipient hereby agrees to execute a proper instrument evidencing the Ordinance to secure the Loan.

4. The Loan Funds shall be payable to the Funding Recipient as provided in this Section 4 as reimbursement for allowable expenses incurred based upon the progress of the work and in accordance with the approved cleanup project budget ("Budget"). DEP shall disburse the proceeds of the Loan monthly upon receipt of approved requisitions and authorizing resolutions. Such disbursements to the Funding Recipient shall be made by wiring the funds to the designated account of the Funding Recipient. The entire proceeds from the Loan shall be used by the Funding Recipient only as a portion of the permanent financing for the Project.

B. Terms of the Subgrant.

1. Subject to the terms and conditions set forth in this Agreement and Schedule X, DEP agrees to subgrant to the Funding Recipient Subgrant Funds in the amount of One Hundred Ninety-Two Thousand and Ten Dollars (\$192,010) (the "Subgrant") to be used by the Funding Recipient for the Remediation Work.

2. Subgrant Funds shall be payable to the Funding Recipient as reimbursement for allowable expenses incurred by the Funding Recipient based upon the progress of the Remediation Work and in accordance with the Budget. No reimbursement shall be made to the Funding Recipient without the written approval of DEP.

C. Conditions for Closing. Subject to DEP's right to waive any or all requirements set forth in this Article C and any other information documentation or agreement reasonably required by the DEP, the closing of the Loan and Subgrant shall be conditioned upon receipt by DEP of:

1. The Funding Recipient obtaining fee simple ownership of the Property. The Funding Recipient shall not commence any Remediation Work or incur any project costs or expenses intended to be paid from the Loan or Subgrant Funds until after the Funding Recipient has obtained such ownership of the Property. Notwithstanding anything to the contrary herein, this Agreement shall be of no effect and DEP shall have no obligations hereunder unless and until the Funding Recipient obtains fee simple ownership of the Property.

2. A Final Title Opinion of the Funding Recipient's counsel stating that the Funding Recipient has fee simple ownership of the Property.

3. DEP's receipt of a property appraisal from the Funding Recipient dated no more than ninety (90) days from the date of closing, if required by DEP.

4. Written certification by an appropriate entity official satisfactory to DEP providing the resolution or other authorization for incurring the Loan and executing and delivering the Loan documents on behalf of the Funding Recipient.

5. An opinion of the Funding Recipient's counsel which confirms the lien position of DEP contemplated herein, and also addresses all other appropriate matters required of the Funding Recipient with respect to the Loan and the documentation for the Loan.

6. If securing the Loan with a Deed of Trust on property, then need a title insurance policy provided at the expense of the Funding Recipient satisfactory to DEP and its counsel.

7. Evidence of insurance coverage with limits of liability as determined by DEP. All insurance coverage required by this section shall remain in full force and effect during the term of this Agreement.

8. Certification from the West Virginia Division of Unemployment Compensation, dated within thirty (30) days of the closing, evidencing that the Funding Recipient is registered with and paying into the West Virginia Unemployment Compensation Fund.

9. Identification of the Funding Recipient's Licensed Remediation Specialist, contractor and subcontractors for the Project along with payment and performance bonds for each contract and evidence of the contractor's liability insurance, and confirmation that such contractors and subcontractors have not been debarred from Federally-funded projects.

10. DEP's receipt of Project cost breakdown based upon estimated prices supplied by the Funding Recipient.

11. Clearance letter from the West Virginia Historical Preservation Office.

12. Delivery of the Note and other Loan documents necessary to create the lien or other security for the Loan contemplated herein, including, but not limited to, the Ordinance properly executed, adopted or obtained by the Funding Recipient, and the proper filing, registration and recordation of the documents in order to secure the Loan.

13. A plan that has been approved by the DEP pursuant to the Voluntary Remediation and Redevelopment Act, W.Va. Code § 22-22-1 et. Seq., and the rule promulgated thereunder, Voluntary Remediation and Redevelopment Rule, 60 CSR 3.

14. Evidence by the Funding Recipient that no outstanding taxes, fees, charges, mortgages, liens, encumbrances or other assessments (other than Permitted Encumbrances) have been filed or are recorded against the Property.

D. Representations and Warranties of the Funding Recipient.

The Funding Recipient hereby represents and warrants the following to DEP:

1. The Funding Recipient is a duly organized and validly existing municipal corporation and political subdivision located in Ohio County of the State of West Virginia. The Funding Recipient has all power and authority necessary to operate its business as it is being conducted.

2. The Funding Recipient is a governmental entity or an entity properly registered with the appropriate agencies to do business in West Virginia and is in good standing under the laws of West Virginia. The Funding Recipient is current with all worker's compensation premiums, unemployment compensation fund contributions and all fees, taxes and assessments due to the State of West Virginia.

3. All information provided by the Funding Recipient to DEP, including, without limitation, the information provided in the Funding Recipient's application for the Loan and Subgrant, is true and correct. All financial statements furnished at any time to DEP by the Funding Recipient for the purpose of obtaining the Loan and Subgrant have been prepared on a basis consistent with past practice and fairly disclose the financial condition or results of operation of the Funding Recipient as of the date of the statement. There has been no material adverse change in the financial condition of the Funding Recipient subsequent to the date of the most recent financial statements supplied by the Funding Recipient to the DEP. The Funding Recipient has no liabilities, contingent or otherwise, involving material amounts except as disclosed in such financial statements.

4. The Funding Recipient is duly authorized by all required entity action to obtain and enter into the Loan and Subgrant and to execute, deliver and perform this Agreement and all other agreements and other documents required to be given by the Funding Recipient hereunder.

5. The Property is entirely within the State of West Virginia. The Property meets the definition of brownfield site as defined in Section 101(39) of CERCLA and the eligibility criteria set forth in the Voluntary Remediation and Redevelopment Rule (60 CSR 3 § 3.1, effective date April 1, 2018). The Property is not listed, or proposed for listing, on the National Priorities List of the U.S. Environmental Protection Agency ("EPA"). The Funding Recipient is not potentially liable under Section 107 of CERCLA for the site or it qualifies for a limitation or defense to liability under CERCLA. Loan and Subgrant Funds shall not be used to pay for cleanup activities at a site for which the Funding Recipient is potentially liable under Section 107 CERCLA. DEP's investigation of the Funding Recipient's potential CERCLA § 107 liability may include an opinion from the Funding Recipient's counsel. However, the Funding Recipient understands that the investigation and/or opinion of the Funding Recipient's counsel is not binding on the Federal Government.

6. The Funding Recipient is not a generator or transporter of the contamination on the Property. The Funding Recipient is not and has never been subject to any penalties resulting from environmental non-compliance at or on the Property nor is the Funding Recipient or the Project contractors or subcontractors currently suspended, debarred, or otherwise

declared ineligible for participation in this Federal program or from the receipt of the Loan or Subgrant Funds.

7. The Funding Recipient understands and agrees that all of the Loan and Subgrant Funds provided by DEP to the Funding Recipient shall be used by the Funding Recipient towards the remediation of the Property. No part of the proceeds of the Loan or Subgrant shall be used to conduct Phase I or Phase II Environmental Site Assessments.

8. The Funding Recipient further understands and agrees that any and all work performed on the Property for which the Loan and Subgrant Funds are used and the receipt of any Loan and Subgrant Funds under this Agreement are conditioned upon the Funding Recipient's full compliance with the terms and provisions of the Plan, the Project Documents and this Agreement.

9. To the extent allowed by law, the Funding Recipient agrees to protect, indemnify, defend and hold harmless the DEP, its officers, administrators, agents, servants, employees and all other persons or legal entities to whom DEP may be liable from, for or against any and all claims, demands, suits, losses, damages, judgments, costs and expenses, whether direct, indirect or consequential and including, but not limited to, all reasonable fees, expenses and charges of attorneys and other professionals, court costs, and other reasonable fees and expenses for bodily injury, including death, personal injury and property damage, arising out of or in connection with the performance of any work or any responsibility or obligation of the Funding Recipient as provided herein and caused in whole or in part by any act, error, or omission of the Funding Recipient, its agents, servants, employees or assigns.

10. The Funding Recipient agrees to maintain financial and programmatic records pertaining to all matters relative to this Agreement in accordance with generally accepted accounting principles and procedures and to retain all of its records and supporting documentation applicable to this Agreement for a period of ten (10) years except as follows:

a. Records that are subject to audit findings shall be retained three (3) years after such findings have been resolved.

b. All such records and supporting documents shall be made available, upon request, for inspection or audit by DEP or its representatives.

11. The Funding Recipient has satisfied the public involvement and public notification requirements of the Voluntary Remediation and Redevelopment Rule (60 CSR 3 §§ 7.1 –7.3, and 15.7, effective date April 1, 2018).

E. Covenants of the Funding Recipient.

1. The Funding Recipient shall retain ownership of the Property throughout the Agreement.

2. The Funding Recipient shall use the Loan and Subgrant Funds only for eligible activities to remediate the Property and in compliance with the requirements of CERCLA § 104(k) and applicable Federal and State laws and regulations.

3. The Funding Recipient shall ensure that the remediation protects human health and the environment.

4. The Funding Recipient shall certify that it is not currently, nor has it been, subject to any penalties resulting from environmental non-compliance at the Property.

5. The Funding Recipient shall provide DEP with quarterly reports that provide an accounting of all expenditures of the Loan and Subgrant. The quarterly reports shall include copies of all bids and contracts for all work required under the Plan. All reports and other documents shall comply with 40 CFR Part 31.

6. The Funding Recipient shall maintain records for a minimum of ten (10) years following completion of the remediation financed all or in part with the Loan and Subgrant. The Funding Recipient shall obtain written approval from DEP prior to disposing of records. The Funding Recipient shall allow access to records relating to the Loan and Subgrant supported with the Loan and Subgrant to authorized representatives of the Federal Government and DEP.

7. The Funding Recipient agrees to use best efforts to keep all expenditures from the Loan and Subgrant Funds within the approved Budget. The Funding Recipient shall not exceed any of the costs enumerated in the approved Budget without the prior written approval of DEP.

8. The Funding Recipient shall provide DEP with a copy of the Phase I and Phase II Environmental Site Assessments of the Property performed according to the All Appropriate Inquiry Rule or American Society for Testing and Materials (ASTM) standards (collectively, the "Assessment").

9. The Funding Recipient shall implement the approved Plan in accordance with the Voluntary Remediation and Redevelopment Rule and complete all requirements set forth in the Plan.

10. The Funding Recipient shall comply with all of the public involvement and public notification requirements of the Voluntary Remediation and Redevelopment Rule during the implementation of the Plan and shall change cleanup activities as necessary based on comments from the public until DEP issues a Certificate of Completion for the Property.

11. All changes or modifications to the Project or the Plan shall be approved in writing by the Funding Recipient and DEP prior to such change or modification becoming effective. All additional costs incurred as the result of any change orders shall be the responsibility of the Funding Recipient. In the event that unforeseen conditions are discovered during the project implementation, DEP reserves the right to revise the Plan.

12. DEP shall designate a Voluntary Remediation project manager who shall review and approve of the proposed remediation and coordinate the work to be performed using Loan and Subgrant Funds. DEP's Voluntary Remediation project manager will review the Funding Recipient's remedial planning, design, and engineering documents and review the remediation activities as they are on-going to ensure that the remediation is being completed in

accordance with all local, State and Federal requirements and is protective of human health and the environment.

13. The Funding Recipient, at its sole cost and expense, and from sources other than Loan or Subgrant funds, shall be responsible for obtaining all permits (unless required as a component of the remediation action), licenses, approvals, certifications and inspections required by Federal, State or local law and to maintain such permits, licenses, approvals, certifications and inspections in current status during the term of this Agreement.

14. The Funding Recipient shall prepare a Community Relations Plan ("CRP") with the assistance and cooperation of DEP. The CRP shall include the following:

a. Providing reasonable notice of, and the opportunity for public involvement and comment on, the proposed cleanup options under consideration for the site.

b. Procedures for the establishment of a local information repository at or near the Property that includes public information supplied by both the Funding Recipient and DEP related to the proposed Remediation Work. The Funding Recipient shall supply DEP with any additional information that would assist DEP in documenting the Remediation Work.

15. The Funding Recipient shall secure the services of a Licensed Remediation Specialist ("LRS"), who will prepare and review the Funding Recipient's remedial planning, design, and engineering documents and review the remediation activities as they are on-going to ensure quality and ensure that the contractor complies with contract documents. The LRS may also prepare the analysis of brownfields cleanup alternatives ("ABCA") that will include information about the Property and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed remediation. The evaluation of alternatives must include effectiveness, implementability, and the cost of the remediation proposed. The Funding Recipient shall submit copies of the draft ABCA to DEP for approval. The Funding Recipient agrees to accept advice and suggestions from DEP and to incorporate those suggestions or requests for revisions as appropriate. The Funding Recipient will also ensure that the site is enrolled in the West Virginia Voluntary Remediation Program.

16. After DEP has approved the draft ABCA, the Funding Recipient shall make the document available for review and public comment for a period of not less than thirty (30) days from the date of publication of the public notice.

17. After the public comment period, the Funding Recipient shall incorporate all appropriate comments, in the reasonable discretion of the Funding Recipient, into a final ABCA document and prepare a written response to the public comments, if appropriate.

18. After the ABCA has been finalized, the Funding Recipient shall prepare a scope of work containing detailed design and construction plans and specifications for the Remediation Work including a budget and work schedule; a health and safety plan (OSHA 1910-120 - 126) and a quality assurance project plan which sets forth the manner and method of collecting samples to assure the complete removal of all hazardous substances that are located at the Property and are to be removed as a part of the

Remediation Work (collectively, such documents are referred to as the "Project Documents") and submit same to DEP for approval.

19. Prior to the initiation of the Remediation Work, including any cleanup activities, the Funding Recipient shall provide to DEP copies of all of the state required remedial planning documents and the State's approval of those documents, if required.

20. The Funding Recipient shall commence work on the Remediation Work within 30 days from the date of execution of this Agreement and shall complete and perform all of the Remediation Work in accordance with the approved project schedule to be agreed between the parties.

21. The Funding Recipient shall carry out the Remediation Work in accordance with Section 104(k) of CERCLA, Uniform Administrative Requirements for loans and subgrants and Cooperative Agreements to States and Funding Recipients (40 CFR Part 31), and all other applicable provisions of Federal, State or local law.

22. The Funding Recipient shall carry out the Remediation Work in accordance with the Davis-Bacon Act of 1931 (CERCLA 104(g)(1), 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 Loan and Subgrant Funds. The Funding Recipient must obtain recent and applicable wage rates from the U.S. Department of Labor and incorporate them into the remediation construction contract.

23. All work of the Project performed pursuant to this Agreement and with Loan and Subgrant Funds shall be performed in a good and workmanlike manner.

24. The Funding Recipient shall notify DEP when the Remediation Work is complete. The notice shall contain certification or documentation that the Remediation Work is complete and has been performed in accordance with the terms of this Agreement and all applicable EPA guidance. This notice shall summarize the actions taken, the resources committed and the problems encountered in completion of the Remediation Work, if any, and shall be submitted to DEP for review and approval before it is finalized.

25. The Funding Recipient shall perform all of its obligations and agreements under this Agreement, the Note, the Ordinance, and any other agreements or instruments to which the Funding Recipient is a party and which relate to the Loan, Subgrant or to the Project.

26. The Funding Recipient shall erect a sign on the Property stating that the Remediation Work is being financed in part by EPA Brownfields Revolving Fund Loan and Subgrant Funds and DEP 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 Property site shall comply with all requirements of the State and local law applicable to on-premise outdoor advertising as well as 40 CFR §35.6105(a)(2)(ii).

27. The Funding Recipient shall permit DEP or its designated representative(s) to inspect and/or audit its records and books relative to this Agreement at any time during normal business

hours and under reasonable circumstances, upon reasonable notice and to copy therefrom any information that DEP desires relevant to this Agreement. DEP shall provide written notice to the Funding Recipient prior to the execution of this provision. The Funding Recipient agrees to deliver the records or have the records delivered to DEP or its designated representative at an address designated by such party. If DEP or its representative finds that the records delivered by the Funding Recipient are incomplete, the Funding Recipient agrees to pay DEP or its representative's costs to travel to the Funding Recipient's office or other location where the books or records are located to audit or retrieve the complete records.

28. The Funding Recipient will not discriminate on the grounds of race, color, national origin, sex or disability during performance of this Agreement. In addition, the Funding Recipient will undertake good faith efforts in compliance with 40 CFR Part 33 to give opportunities for qualified Small Business Enterprises (SBE), Minority Business Enterprises (MBE) and Women-Owned Business Enterprises (WBE) and applicable ordinances of The City of Wheeling to submit proposals, bids, and provide services on contracts and subcontracts for services and supplies. The Funding Recipient shall submit a report of such efforts to DEP. Failure by the Funding Recipient to carry out these requirements is a material breach of this Agreement which may result in the termination of this Agreement or other legally available remedies. The Funding Recipient shall comply with all Federal cross-cutting requirements including, but not limited to, DBE requirements found at 40 CFR 33; OSHA Worker Health & Safety Standard 29 CFR 1910.120; the Uniform Relocation Act; National Historic Preservation Act; Endangered Species Act; and Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR 60-4; Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333) the Anti Kickback Act (40 USC 276c) and Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250.

29. The Funding Recipient shall not assign or attempt to assign directly or indirectly, any of its rights under this Agreement or under any instrument referred to herein without the prior written consent of DEP. The Funding Recipient shall not transfer or encumber all or any portion of the Property made the subject of this Agreement without the prior written consent of DEP.

30. If the Funding Recipient sells or transfers the Property prior to completion of the Project, then, the Funding Recipient shall immediately repay the entire principal balance due, together with any interest thereon accrued and unpaid, to DEP.

31. The Funding Recipient understands and agrees that any use of the Property or any activity thereon which is inconsistent with the provisions of this Agreement, the Note, the Ordinance or any other agreement or document executed in connection with the Loan and Subgrant is expressly prohibited.

32. The Funding Recipient shall not use Loan or Subgrant Funds for any of the following activities:

a. Environmental assessment activities, including Phase I and Phase II Environmental Site Assessments.

b. Monitoring and data collection necessary to apply for, or comply with, environmental permits under other Federal and State laws, unless such a permit is required as a component of the cleanup action.

c. Construction, demolition, and development activities that are not integral to the cleanup actions, and addressing public or private drinking water supplies that have deteriorated through ordinary use.

d. Job training unrelated to performing a specific cleanup at a site covered by this Agreement.

e. To pay for a penalty or fine.

f. To pay a Federal cost share requirement (for example, a cost-share required by another Federal grant) unless there is specific statutory authority.

g. To pay for a response cost at a brownfield site for which Funding Recipient is potentially liable under Section 107 of CERCLA.

h. To pay a cost of compliance with any Federal law, excluding the cost of compliance with laws applicable to the cleanup.

i. Unallowable costs (for example, lobbying and fundraising) under 2 CFR Parts 200 and 1500.

j. Administrative costs, including all indirect costs incurred by the Funding Recipient under 2 CFR 200 Subpart E. Ineligible administrative costs include costs incurred in the form of salaries, benefits, contractual costs, supplies, and data processing charges, incurred to comply with most provisions of the Uniform Administrative Requirement for Cost Principles and Audit Requirements for Federal Awards at 2 CFR 200 and 1500. Direct costs for Loan and Subgrant administration, with the exception of costs specifically identified as eligible programmatic costs are ineligible even if the Funding Recipient is required to carry out the activity under this Agreement. Costs incurred to report quarterly performance to EPA under the Loan and Subgrant are eligible.

33. The Funding Recipient shall comply with applicable EPA assistance regulations (2 CFR Parts 200 and 1500). All procurements conducted with Loan and Subgrant Funds must comply with Procurement Standards of 2 CFR 200.317 through 200.326, as applicable.

34. The Funding Recipient agrees to comply with all applicable Federal and State laws and requirements, including CERCLA § 104(k), and the applicable Federal laws and requirements including 2 CFR Parts 200 and 1500.

35. The Funding Recipient must comply with the internal control requirements specified at 2 CFR § 200.303 and is subject to the 2 CFR Part 200, Subpart E, Audit Requirements.

F. Default.

1. In the event of a default of any of the terms or conditions of this Agreement, the Note, any deed of trust, security agreement, cancellation, termination or expiration of the Letter of Credit or other document related to the security being provided for the Loan, then, the entire outstanding principal balance of the Loan, together with any interest thereon accrued and unpaid, and the entire amount of Subgrant Funds disbursed to the Funding Recipient shall become immediately due and payable without the necessity of demand from DEP. The Funding Recipient shall be deemed to be in default under this Agreement upon the occurrence of any or more of the following events (each an "Event of Default"):

a. The Funding Recipient assigns this Agreement, or any Loan or Subgrant Funds advanced hereunder or any interest herein to a third party.

b. The Property or any interest is conveyed, assigned or otherwise transferred without the prior written consent of DEP.

c. Any representation or warranty made herein or in any report, certificate, financial statement or other instrument furnished in connection with this Agreement shall prove to be false in any material respect.

d. The Funding Recipient fails to pay any principal amount, fee or interest on the indebtedness to DEP after the same shall become due and payable and such failure continues beyond thirty (30) business days.

e. The Funding Recipient defaults in the performance of any term, covenant or condition to be performed hereunder and such default is not remedied within thirty (30) days, unless a longer period of time is reasonably required to cure the default, from and after receipt of written notice by certified mail, return receipt requested, from DEP to the Funding Recipient, specifying said default, of, if such default cannot be remedied within that period and remedial effort is not commenced within that period and diligently and continuously pursued, DEP shall have the right to proceed by appropriate judicial proceedings to enforce performance or observation of the applicable provisions of this Agreement and/or terminate this Agreement and recover damages from the Funding Recipient to the extent allowed by law.

f. Any proceeding involving the Funding Recipient or the Property, commenced under any bankruptcy or reorganization arrangement, probate, insolvency, readjustment of debt, dissolution or liquidation law of the United States, or any state, but if such proceedings are instituted, no Event of Default shall be deemed to have occurred hereunder unless DEP either approves, consents to, or acquiesces in such proceedings, or such proceedings are not dismissed within sixty (60) days.

g. An order, judgment or decree is entered, without the application, approval or consent of DEP, by any court of competent jurisdiction approving the appointment of a receiver, trustee or liquidator of the Funding Recipient of all or a substantial part of its assets, and such order, judgment or decree shall continue in effect for a period of sixty (60) days.

Upon the occurrence of any one or more of the Events of Default enumerated above, all indebtedness of the Funding Recipient to DEP pursuant to the Loan, this Agreement and the Note and all amounts of Subgrant Funds disbursed to the Funding Recipient by DEP pursuant to this Agreement shall become due and payable, without presentment, demand, protest or notice of any kind to DEP, all of which are hereby expressly waived by the Funding Recipient.

2. Upon the occurrence of an event of default by the Funding Recipient, DEP may, at its option, pursue any available remedy at law or in equity or by suit, action or other proceeding to enforce or compel the performance hereunder of the duties and obligations of the Funding Recipient, as the case may be, and DEP may pursue any remedies set forth in the Note, the Ordinance and any other Loan document. No remedy conferred upon or reserved to DEP under this Agreement, the Note, the Ordinance and any other Loan document is exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to any other remedy given now or hereinafter existing at law or in equity or by statute.

G. General Provisions.

1. DEP may withhold up to ten percent (10%) of each payment requested as a retainage until the Funding Recipient has completed the Remediation Work.

2. All material changes or modification to the Remediation Work or the project documents shall be approved in writing by DEP prior to such change or modification becoming effective. All additional costs incurred, as the result of any change orders shall be the responsibility of the Funding Recipient. In the event that unforeseen conditions are discovered during the implementation of the Remediation Work, the Funding Recipient reserves the right to revise the cleanup action and the Project Documents.

3. The Funding Recipient, at its sole cost and expense, and from sources other than Loan and Subgrant Funds, shall be responsible for obtaining all permits, licenses, approvals, certifications and inspections required by Federal, State or local law and to maintain such permits, licenses, approvals, certifications and inspections in current status during the term of this Agreement.

4. Any forbearance by DEP with respect to any of the terms and conditions of this Agreement, the Note, the Ordinance, or any other Loan or Subgrant document shall in no way constitute a waiver of any of DEP's rights or privileges granted hereunder or any of the Funding Recipient's duties or obligations imposed hereunder.

5. This Agreement is not intended to create or vest any rights in any third party or to create any third party beneficiaries.

6. All amendments to this Agreement shall be in writing and signed by both parties hereto.

7. It is expressly understood that a failure or delay on the part of the Funding Recipient 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 Event of Default under this Agreement; however, the Funding Recipient shall use its best effort to ensure that the Project is completed in a reasonable time without unnecessary delay.

8. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

9. No failure of either party to exercise any power or right given it hereunder or to insist on strict compliance by the other party with its obligations hereunder, and so custom of practice of the parties at variance with the terms hereof shall constitute a waiver of the other party's right to demand at any time exact compliance with the terms hereof.

10. All warranties, representations, covenants and indemnities made by the Funding Recipient in this Agreement or in any certificate or other instrument delivered by the Funding Recipient to DEP under this Agreement shall be considered to have been relied upon by DEP and shall survive the making of the Loan and Subgrant and the delivery to DEP of the related documents, regardless of any investigation made by DEP or on its behalf. The warranties, covenants and indemnities set forth in this Agreement may be assigned or otherwise transferred by DEP to its successors and assigns and to any subsequent purchasers of all or any portion of any collateral by, through or under DEP, without notice to or the consent of the Funding Recipient.

11. All notices, requests, instructions or other documents to be given hereunder to either party by the other shall either be done through electronic mail or in writing and delivered personally or sent by certified or registered mail, postage prepaid, to the addresses set forth in this Agreement. Any such notice, request, instruction or other document shall be conclusively deemed to have been received and be effective on the date on which personally delivered or, if sent by certified or registered mail, on the day mailed to the parties as follows:

TO DEP:

WV Department of Environmental Protection
Brownfields Revolving Fund
601 57th Street SE
Charleston, WV 25304
Attn: Director

TO FUNDING RECIPIENT:

The City of Wheeling
1500 Chapline Street
Wheeling, WV 26003
Attn: City Manager

or to such other address as a party may subsequently specify in writing to the other party.

12. 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.

13. If any provision or item of this Agreement is held invalid, such invalidity shall not affect other provisions or items of this Agreement that can be given effect without the invalid provisions or items, and to this end, the provisions of this Agreement are hereby declared severable.

14. 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.

15. The Funding Recipient agrees to pay upon demand all of the reasonable and necessary expenses incurred by DEP in connection with this Agreement and all other Loan or Subgrant documents or in connection with the Loan and Subgrant made pursuant to this Agreement, including, but not limited to, reasonable attorneys' fees. DEP may retain someone else to help collect the Loan and Subgrant and to enforce this Agreement, and the Funding Recipient shall pay for those costs and services. This includes, the reasonable attorneys' fees and legal expenses of DEP, whether or not there is a lawsuit, including reasonable attorneys' fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. The Funding Recipient also shall pay any court costs, in addition to all other sums provided by law.

16. The parties acknowledge their mutual intention that this Agreement include any and all requirements and provisions necessary and appropriate under rules, regulations and guidelines of EPA for a loan of Loan Funds and a subgrant of Subgrant Funds. To the extent any such requirements or provisions may be omitted or missing from this Agreement, such requirements and provisions shall be deemed included herein and the parties expressly agree to amend and modify this Agreement to expressly include and incorporate such requirements and provisions.

17. The forum having proper jurisdiction and venue to adjudicate any claim, dispute or default which may arise out of the terms and conditions of this Agreement, any of the documents related to this Agreement or the performance of the transactions contemplated hereby shall be the Circuit Court of Kanawha County, West Virginia or the United States District Court for the Southern District of West Virginia. The parties expressly submit and irrevocably consent to such jurisdiction and venue and specifically waive any and all rights they may have to contest such jurisdiction or venue of the above-mentioned forums and to demand any other forums; provided, however, that nothing in this section shall affect the right of DEP to serve process in any manner permitted by law or limit any right that DEP may have to enforce in any lawful manner a judgment obtained in one jurisdiction in any other jurisdiction.

18. The Funding Recipient has provided the DEP the verification required by (d)(2)(A) of Chapter 12, Article 4, Section 14 of the West Virginia Code (the "Reporting Act") in Exhibit 3. The Funding Recipient shall and hereby agrees and covenants to comply with the audit and/or agreed upon procedure requirement of the Reporting Act, Legislative Rule Title 148, Section 18 and State Auditor and Chief Inspector guidance. The Funding Recipient shall and agrees to file with the DEP the reports and sworn statements required by (b)(3) of the Reporting

Act within two years of the end of each fiscal year in which disbursements are made under this Agreement. The reports shall be made by an independent certified public accountant at the sole cost of the Funding Recipient. NOTICE: DEP is required to report the failure to timely file the reports and sworn statement of expenditures to the West Virginia Legislative Auditor. DEP shall maintain copies of the reports and sworn statements and shall make them available for public inspection.

19. This Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia.

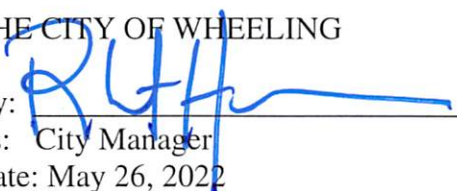
IN WITNESS HEREOF, the parties hereto have caused this Agreement to be executed in the name and on behalf of each of them (acting individually or by their respective officers or appropriate legal representatives, as the case may be, hereunto duly authorized) as of the day and year first written above.

[Remainder of page intentionally left blank]

BF-1
(05/21)

IN WITNESS WHEREOF, the parties hereto have caused this Funding Agreement to be executed by the respective duly authorized officers as of the date executed below by the DEP.

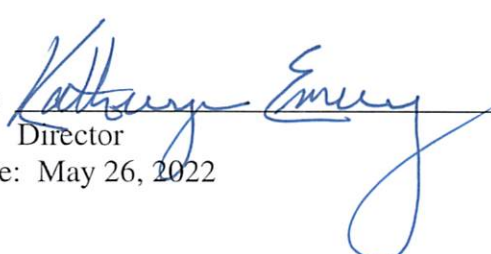
THE CITY OF WHEELING

By: 
Its: City Manager
Date: May 26, 2022




Its: Clerk

WEST VIRGINIA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

By: 
Its: Director
Date: May 26, 2022

BF-1
(05/21)

EXHIBIT 1
PROPERTY DESCRIPTION

Penn-Wheeling Closure, Wheeling, Ohio County, West Virginia

**EXHIBIT 3
STATE GRANT AWARD
VERIFICATION
(Project # 21019)**

Under penalty of law for false swearing (WV Code §61-5-3), the undersigned Robert Herron, an authorized representative of The City of Wheeling, certifies that by signing this sworn statement, The City of Wheeling, and all related parties have filed all reports and sworn statements of expenditure for state grants received as required by West Virginia Code Chapter 12, Article 4, Section 14.

Witness my signature this 3rd day of may, 2022.

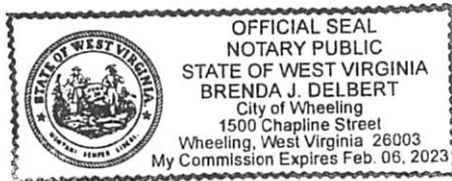
By: [Signature]
Print Name Robert Herron
Print Title City manager

STATE OF WEST VIRGINIA
COUNTY OF Ohio

The foregoing instrument was subscribed and sworn to me by Robert Herron
on this 3 day of may, 2022.

My commission expires: 2/6/2023

[SEAL]



[Signature]
NOTARY PUBLIC

**SCHEDULE X
DESCRIPTION OF FUNDING**

A. Loan

Principal Amount of Loan	\$192,010.00
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The Loan shall bear interest at a rate of 0.75% per annum. Interest only is payable quarterly commencing September 1, 2022 to and including September 1, 2024 on the amounts advanced hereafter. Commencing December 1, 2024 principal of and interest on the Loan is payable quarterly, with 0.5% administrative fee. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

The Funding Recipient shall submit its payments monthly to West Virginia Municipal Bond Commission who shall pay the DEP quarterly.

The Funding Recipient may prepay the Loan in full at any time at the price of par upon 30 days' written notice to DEP. The Funding Recipient shall request approval from DEP in writing of any proposed debt which will be issued by the Funding Recipient on a parity with Loan which request must be filed at least 60 days prior to the intended date of issuance.

B. Subgrant

Principal Amount of Subgrant	\$192,010.00
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SCHEDULE Y DEBT SERVICE SCHEDULE

Net Debt Service City of Wheeling BRF \$192,010 0.75% Interest Rate 0.50% Administrative Fee					
Date	Principal	Interest	Total Debt Service	Admin Fee	Net Debt Service
12/1/2024	11,833	360.02	12,193.02	64.05	12,257.07
3/1/2025	11,855	337.83	12,192.83	64.05	12,256.88
6/1/2025	11,877	315.60	12,192.60	64.05	12,256.65
9/1/2025	11,899	293.33	12,192.33	64.05	12,256.38
12/1/2025	11,922	271.02	12,193.02	64.05	12,257.07
3/1/2026	11,944	248.67	12,192.67	64.05	12,256.72
6/1/2026	11,967	226.28	12,193.28	64.05	12,257.33
9/1/2026	11,989	203.84	12,192.84	64.05	12,256.89
12/1/2026	12,011	181.36	12,192.36	64.05	12,256.41
3/1/2027	12,034	158.84	12,192.84	64.05	12,256.89
6/1/2027	12,057	136.27	12,193.27	64.05	12,257.32
9/1/2027	12,079	113.67	12,192.67	64.05	12,256.72
12/1/2027	12,102	91.02	12,193.02	64.05	12,257.07
3/1/2028	12,124	68.33	12,192.33	64.05	12,256.38
6/1/2028	12,147	45.59	12,192.59	64.05	12,256.64
9/1/2028	12,170	22.82	12,192.82	64.10	12,256.92
	192,010	3,074.49	195,084.49	1,024.85	196,109.34

Quarterly administration fee is calculated
based on 0.50% of the loan payments and will
be \$64.05, with a final payment of \$64.10, to
total \$1,024.85.

CITY OF WHEELING



CITY COUNTY BLDG., 1500 CHAPLINE STREET
WHEELING, WEST VIRGINIA 26003

THE CITY OF WHEELING, WV
BROWNFIELDS REVOLVING LOAN FUND
CPA CERTIFICATE

Wheeling, West Virginia

West Virginia Department of Environmental Protection
Charleston, West Virginia

Jackson Kelly PLLC
Charleston, WV

Ladies and Gentlemen:

In my official capacity as the City Auditor/Finance Director I have reviewed the projected revenues of the City of Wheeling's Restricted Capital Improvement Fund, and it is my opinion that such dedicated revenues are sufficient for payment of the principal of and interest due on the City of Wheeling's promissory note, which evidences the indebtedness on the loan between the City of Wheeling and the West Virginia Department of Environmental Protection ("DEP") in the original principal amount of \$192,010.00, issued simultaneously herewith and all other obligations secured by or payable from revenues of the Restricted Capital Improvement fund on a parity with the Note.

Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Ordinance authorizing the Note.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Seth McIntyre", is written over a horizontal line.

Seth McIntyre
City of Wheeling
Auditor/Finance Director

CITY OF WHEELING
BROWNFIELDS REVOLVING LOAN FUND

CERTIFICATE OF CONSULTING LICENSED REMEDIATION SPECIALIST

I, Lydia M. Work, Licensed Remediation Specialist, West Virginia License No. 148, of Environmental Standards, Inc., Wheeling, West Virginia, hereby certify as follows:

1. My firm is remediation specialist for the cleanup and remediation (the "Remediation Project") to the Property of The City of Wheeling (the "Recipient"), to be undertaken primarily in Ohio County, West Virginia, which cleanup and remediation is being financed by the Loan from the DEP (the "Loan"), which indebtedness is to be evidenced by a promissory note (the "Note"). All capitalized words used herein and not defined herein shall have the same meaning set forth in the Ordinance adopted by the Recipient on May 3, 2022, and the Funding Agreement by and between the Recipient and the DEP, dated May 26, 2022 (the "Funding Agreement").

2. The Recipient is issuing the Note as evidence of the indebtedness on the Loan for the purposes of paying the costs of the Remediation Project.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Remediation Project; (ii) the Recipient has received bids for the cleanup and remediation of the Remediation Project which are in an amount and otherwise compatible with the plan of financing set forth in Schedule B attached hereto as Exhibit A, and in reliance upon the opinion of Rosemary Humway-Warmuth, that all successful bidders have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iii) the successful bidders received any and all addenda to the original bid documents; (iv) the bid documents relating to the Remediation Project reflect the Remediation Project as approved by the DEP and the bid forms provided to the bidders contain all critical operational components of the Remediation Project; (v) the successful bids include prices for every item on such bid forms; (vi) the uniform bid procedures were followed; (vii) the Issuer has obtained all permits required by the DEP and laws of the State of West Virginia and the United States necessary for the cleanup and remediation of the Remediation Project; (viii) the net proceeds of the Note, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of cleanup and remediation of the Remediation Project approved by the DEP; (ix) the successful bidders have provided the Drug-Free Workplace Affidavit as evidence of the Vendor's compliance with the provisions of Article 1D, Chapter 21 of the West Virginia Code; (x) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project; Sources of Funds and Cost of Financing" for the Remediation Project.

[Remainder of page intentionally left blank]

WITNESS my signature on this 6th day of May 2022.

ENVIRONMENTAL STANDARDS, INC.



Lydia M. Work, LRS
West Virginia License No. 148

SCHEDULE B--TOTAL PROJECT
CITY OF WHEELING - 58 19th STREET ASBESTOS ABATEMENT/DEMOLITION
BRF - VRP PROJECT - #21019
COST OF PROJECT, SOURCES OF FUNDS AND COST OF FINANCING

A. Cost of Project		Total	DEP BRF (.75%) (.50%) (4 yrs)	DEP BRF SUB GRANT	Match/Added Funding			TOTAL
1.	Remediation							
	a. Contract 1 - Reclaim Company LLC	\$ 449,888.00	\$ 88,549.00	\$ 57,321.00	\$304,018.00			\$ 449,888.00
	b. PCB Clean Up - Six Enterprises	\$ 4,500.00			\$ 4,500.00			\$ 4,500.00
	c. Clean Earth	\$ 10,000.00			\$ 10,000.00			\$ 10,000.00
2.	Project Contingency	\$ 71,474.00		\$ 31,228.00	\$ 40,246.00			\$ 71,474.00
	Construction Subtotal	\$ 535,862.00	\$ 88,549.00	\$ 88,549.00	\$ 358,764.00			\$ 535,862.00
3.	Technical Services							
	a. Site Assessment	\$ 80,000.00			\$ 80,000.00			\$ 80,000.00
	b. Risk Assessment/Cleanup Alternatives	\$ 95,000.00	\$39,583.00	\$39,583.00	\$15,834.00			\$ 95,000.00
	c. Remedial Action Work Plan	\$ 25,000.00	\$10,416.00	\$10,416.00	\$4,168.00			\$ 25,000.00
	d. Remediation Inspection/Monitoring	\$ 65,000.00	\$27,083.00	\$27,083.00	\$10,834.00			\$ 65,000.00
	e. Other Technical Services	\$ 44,000.00	\$18,333.00	\$18,333.00	\$7,334.00			\$ 44,000.00
4.	Accounting							\$ -
5.	Administrative Expenses	\$4,675.00			\$4,675.00			\$ 4,675.00
6.	Sites and Other Lands							
	a. Sites and Lands acquisition (NFP)	\$150,000.00			\$ 150,000.00			\$ 150,000.00
	b. Legal - Right-of-Way Activities							\$ -
7.	Miscellaneous							
	a. Permit/Application Fees	\$5,000.00			\$5,000.00			\$ 5,000.00
	b. OER Review/Inspection Fees	\$19,312	\$8,046.00	\$8,046.00	\$ 3,220.00			\$ 19,312.00
	c. Other							\$ -
								\$ -
8.	Total of Lines 1 through 7	\$ 1,023,849.00	\$ 192,010.00	\$ 192,010.00	\$ 639,829.00	\$ -	\$ -	\$ 1,023,849.00
B. Sources of Funds								
9.	Match & Additional Funding	\$ 639,829.00						\$ -
10.		\$ -						\$ 639,829.00
11.	Total of Other Sources	\$ 639,829.00						\$ -
12.	Size of Issuance	\$ 384,020.00	\$ 192,010.00	\$ 192,010.00		\$ -	\$ -	\$ 639,829.00
								\$ 384,020.00

Signature of Authorized Representative

Date:

Signature of Licensed Remediation Specialist

Date: May 6, 2022

THE CITY OF WHEELING

BROWNFIELDS REVOLVING LOAN FUND

CROSS-RECEIPT FOR NOTE AND NOTE PROCEEDS

On this 26th day of May 2022, the undersigned authorized representative of the West Virginia Department of Environmental Protection (the "DEP"), for and on behalf of the DEP, and the undersigned City Manager of the [Recipient] (the "Recipient"), for and on behalf of the Recipient, hereby certify as follows:

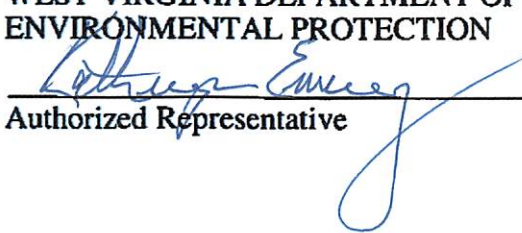
1. On the 26th day of, 2022, the DEP received the Promissory Note (the "Note"), of the Recipient, dated May 26th, 2022.

2. At the time of such receipt of the Note, the Note had been executed by the City Manager and City Clerk by their respective manual signatures, and the official seal of the Recipient had been affixed upon the Note.

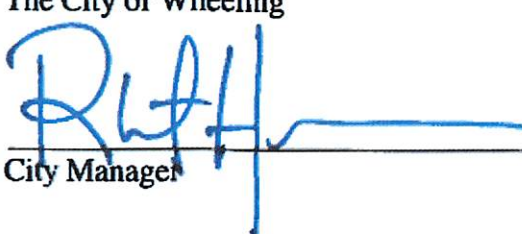
3. The Issuer has received and hereby acknowledges receipt from the DEP, as the original purchaser of the Note, of \$127,426.17, being a portion of the principal amount of the Note. The balance of the principal amount of the Note will be advanced by the DEP to the Recipient as cleanup and remediation of the Remediation Project progresses.

Dated as of the day and year first written above.

WEST VIRGINIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION


Authorized Representative

The City of Wheeling


City Manager

WEST VIRGINIA MUNICIPAL BOND COMMISSION**NEW ISSUE REPORT FORM**

900 Pennsylvania Avenue, Suite 1117, Charleston, WV 25302

Phone: (304) 558-3971

FAX: (304) 558-1280

mbc.wv.gov

Date of Report: May 26, 2022

ISSUE: The City of Wheeling Brownfields Revolving Fund Promissory NoteADDRESS: 1500 Chapline Street, Wheeling, WV 26003 COUNTY: OhioPURPOSE OF ISSUE: X New Money
Refunding Refunds issue(s) dated: _____ISSUE DATE: May 26, 2022 RATE: 0.75% ADMIN FEE: 0.50%ISSUE AMOUNT: \$192,0101st DEBT SERVICE DUE: December 1, 2024 1st PRINCIPAL DUE: December 1, 20241st DEBT SERVICE AMOUNT: \$12,193.02 PAYING AGENT: Municipal Bond CommissionBOND COUNSEL: Jackson Kelly PLLC
Contact Name: Samme L. Gee, Esquire
Phone: (304) 340-1318
Email: sgee@jacksonkelly.comUNDERWRITERS COUNSEL: _____
Contact Name: _____
Phone: _____
Email: _____CLOSING BANK: J.P. Morgan Chase
Contact Name: Travis Kelley
Phone: (330) 972-0338
Email: _____ESCROW TRUSTEE: _____
Contact Name: _____
Phone: _____
Email: _____KNOWLEDGEABLE ISSUER CONTACT:
Contact Name: Rosemary Humway-Warmuth
Title: City Solicitor
Phone: (304) 234-3736
Email: rhwarmuth@wheelingwv.govOTHER : WVDEP
Contact Name : John Giroir
Title : Program Manager
Phone: (304) 926-0499 ex 43836
Email: john.giroir@wv.govDEPOSITS TO MBC AT CLOSE: _____
By Wire _____
Check _____
In-house Transfer _____Accrued Interest: _____
Capitalized Interest: _____
Reserve Account: _____
Other : _____REFUNDS & TRANSFERS BY MBC AT CLOSE:
By Wire _____
Check _____
IGT _____To Escrow Trustee : _____
To Issuer: _____
To Cons. Invest Fund: _____
To Other : _____

ISSUER NUMBERS:

BANK ID NUMBER: _____

ACCOUNT NUMBER: _____

CUSIP: _____

PROGRAM NUMBER: _____

NOTES: _____

FOR MUNICIPAL BOND COMMISSION USE ONLY:

Documents Required: _____

Transfers Required: _____

CITY OF WHEELING



9/15
CITY COUNTY BUILDING, 1500 CHAPLINE STREET
WHEELING, WEST VIRGINIA 26003

Glenn F. Elliott, Jr.
Mayor

A RESOLUTION OF CITY COUNCIL TO APPROVE AND ADOPT
SWEEP RESOLUTION REQUIRED BY THE WV DEP FOR THE
CITY OF WHEELING BROWNFIELD REVOLVING LOAN FUND
CONCERNING REMEDIATION OF 58 19TH ST

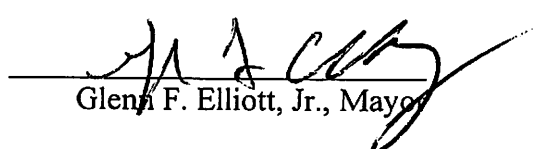
WHEREAS, the City Council to approve and adopt Sweep Resolution required by the WV DEP for the City of Wheeling Brownfield Revolving Loan Fund, concerning remediation of 58 19th St; and

WHEREAS, the documents are on file in the Office of the City Clerk.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHEELING, THAT:

The City Manager is authorized to execute the Sweep Resolution as attached and incorporated herein by the WV DEP for the City of Wheeling Brownfield Revolving Loan Fund, concerning remediation of 58 19th St.

ADOPTED this 3rd of May, 2022


Glenn F. Elliott, Jr., Mayor

SWEEP RESOLUTION

WHEREAS, the City of Wheeling (the "Recipient") is a governmental body and political subdivision of West Virginia;

WHEREAS, the Recipient has issued a promissory note, as more specifically set forth on Exhibit A, attached hereto and incorporated herein by reference (the "Note");

WHEREAS, the Recipient makes monthly debt service payments on the Note by check to the West Virginia Municipal Bond Commission (the "MBC") which in turn pays the Department of Environmental Protection (the "DEP");

WHEREAS, the MBC may accept such monthly payments by electronic funds transfer, thereby eliminating delay in payments and lost checks;

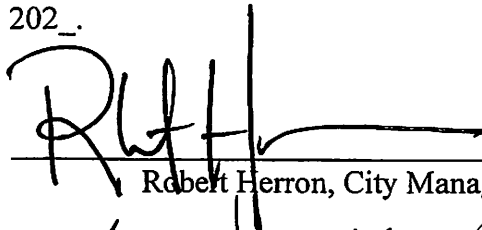
WHEREAS, pursuant to Chapter 13, Article 3, Section 5a, the MBC has established fees for its services (the "MBC Fee");

WHEREAS, the Recipient finds and determines that it is in the best interest of the Recipient, its customers and the DEP that the monthly debt service be made by electronic funds transfer with the State Treasurer **sweeping** the Recipient's account.

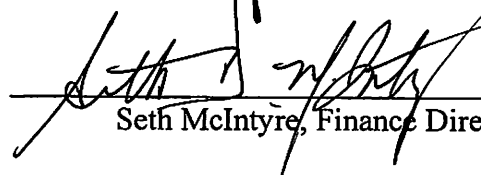
NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

- 1) The monthly debt service payments on the Note, as set forth in Exhibit A, along with the MBC Fee, shall be made to the MBC by electronic transfer by the State Treasurer from the accounts set forth in Exhibit A in such form and at such directions as are provided by the MBC.
- 2) The City Manager and City Clerk are hereby authorized to sign and execute all such documents as are necessary to facilitate the electronic transfer of the Note debt service.
- 3) This resolution shall be effective immediately upon adoption.

Adopted this 3 day of May, 2021.



Robert Herron, City Manager



Seth McIntyre, Finance Director

CITY OF WHEELING



OFFICE OF THE CITY SOLICITOR

CITY COUNTY BUILDING

1500 CHAPLINE STREET

WHEELING, WEST VIRGINIA 26003

304-234-3736

May 6, 2022

West Virginia Department of Environmental Protection
601 57th Street SE
Charleston, WV 25304

Jackson Kelly PLLC
1500 Lee Street, East, Suite 1600
Charleston, WV 25301

RE: City of Wheeling
Brownfields Revolving Loan Fund Funding Agreement

Ladies and Gentlemen:

I am counsel to the City of Wheeling in Ohio County, West Virginia (the "Recipient"). As such counsel, I have examined copies of a funding agreement for the loan (the "Loan"), dated May 26, 2022, including all schedules and exhibits attached thereto (the "Funding Agreement"), between the Recipient and the West Virginia Department of Environmental Protection (the "DEP"), a promissory note, evidencing the indebtedness on the loan (the "Note"), an Ordinance duly adopted by the Recipient on May 3, 2022, as supplemented by a Supplemental Resolution duly adopted by the Recipient on May 3, 2022 (collectively, the "Resolution") approving the Note and Funding Agreement, and other documents relating to the Note. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Funding Agreement and the Resolution when used herein.

I am of the opinion that:

1. The Recipient is a duly created and validly existing [municipal corporation,] public corporation and political subdivision of the State of West Virginia, with full power and authority to undertake the Remediation Project and to enact the Resolution, all under Chapter 8, Article 3, of the Code of West Virginia, 1931, as amended (the "Act") and other applicable provisions of law.

2. The Funding Agreement has been duly authorized, executed and delivered by the Recipient and, assuming due authorization, execution and delivery by the DEP, constitutes a valid and binding agreement of the Recipient, enforceable in accordance with its terms.

3. The Resolution has been duly adopted and enacted by the Recipient and is in full force and effect.

4. The execution and delivery of the Note and the Funding Agreement and the consummation of the transactions contemplated by the Note, the Funding Agreement and the Resolution, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Recipient, a breach or default under any Resolution, resolution, order, agreement, document or instrument to which the Recipient is a party or by which the Recipient or its properties are bound or any existing law, regulation, rule, order or decree to which the Recipient is subject.

5. The Recipient has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations necessary for the creation and existence of the Recipient, the issuance of the Note, the cleanup and remediation of the Remediation Project, including, without limitation, all requisite orders, consents, certificates and approvals from the DEP.

6. The Recipient has taken any other action required for pledge of revenues as security for the Note.

7. To the best of our knowledge, there is no litigation, action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Funding Agreement, the Note and the Resolution, the cleanup and remediation of the Remediation Project, the validity of the Note, the pledge of the RCOF Revenues for the payment of the Note.

8. All successful bidders have made the required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy. Based upon my review of the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Remediation Project, I am of the opinion that such surety bonds and policies: (1) are in compliance with the contracts; (2) are adequate in form, substance and amount to protect the various interest of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Resolution and the Funding Agreement; and (5) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

9. The contracts contain language requiring the contractors to provide affidavits from all contractors and subcontractors indicating that each contractor and subcontractor have a drug free workplace policy pursuant to Chapter 21, Article 1D of the West Virginia Code of 1931, as amended. The contractor has submitted a plan to implement the drug free workplace policy prior to the awarding of the contract pursuant to Chapter 21, Article 1D of the West Virginia Code of 1931, as amended.

West Virginia Department of Environmental Protection
Jackson Kelly PLLC
May 6, 2022
Page 3

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Sincerely,



Rosemary Humway-Warmuth
City Solicitor

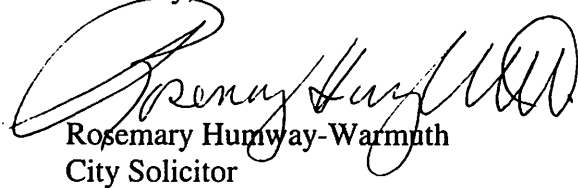
RHW:jb

5. All deeds, easements and rights of way which have been acquired to date by the Recipient have been duly recorded in the Office of the Clerk of the County Commission of Ohio County to protect the legal title to and interest of the Recipient.

6. There is no litigation pending with respect to the Remediation Project and there are no state or federal tax liens against the Recipient.

If you have any questions regarding any of the information contained in this final title opinion, please contact this office.

Sincerely,



Rosemary Humway-Warmuth
City Solicitor

RHW:jb