



**Restoration and Remediation Subgrant  
Policies and Procedures**  
City of Rochester Hills  
January 2024

***Introduction***

The City of Rochester Hills (the City) Restoration and Remediation Grant (the Grant) is an Assessment and Remediation Grant (the Award) provided by the Michigan Department of Environment, Great Lakes and Energy (EGLE) per PA 119 of 2023, in the not to exceed amount of \$75M. The Grant provides assistance for the extra-ordinary costs of assessing and remediating contaminated properties within specific designated areas of the City. The Grant objectives are to promote and facilitate projects that will:

1. Provide substantive improvements in reducing historical threats to public health or the environment;
2. Provide a potential beneficial effect in the area that would not have occurred without the incentives;
3. Incorporate a preference for source control, active remediation, or mitigation beyond what is required for due care obligations;
4. Be consistent with the City's intended uses as defined in the City's Master Land Use Plan, zoning requirements, and as deemed appropriate to ensure a desirable and cohesive development with the surrounding area.

The Applicant must complete the application provided by the City and be selected by the City in order to be eligible for subgrant funding. Selection does not automatically authorize the Applicant to receive reimbursement. The amount of funding is at the sole discretion of the City and will be based on the overall contribution of the project to the City.

If approved, the Applicant will be required to enter into a subgrant agreement (the Subgrant Agreement) with the City which will define the maximum not-to-exceed amount of the funding available for the project. Please note that the costs for preparation of an application are not eligible for reimbursement under the Grant.

Reimbursement for the costs of eligible activities (see below) will be based on individual Work Plans completed for each phase of the project. To be considered for reimbursement, these Work Plans must be approved by the City and by EGLE before incurring costs for eligible activities. Any proposed changes to the Work Plans or budgets must be approved in writing by the City and EGLE before being conducted, as described below. EGLE guidance for grants and loans will apply, unless specifically modified by the Grant or City policies and procedures. The City reserves the right to deny reimbursement for eligible costs not included in an approved Work Plan and for unapproved changes to Work Plans.

The approved not-to-exceed subgrant funding amount will be outlined in Exhibit C of the Subgrant Agreement. Exhibit C will include funding by task, and all subsequent Work Plans, budget request changes, reports, requests for reimbursement, and other grant documents must specifically reference and relate to those tasks. The approved subgrant funding is a not-to-exceed amount, but individual task funding allocations may be modified as described below. Task funding allocations will be based on approved Work Plans, and reimbursement will only be provided if conducted according to, and after approval of, the relevant Work Plan.

### **Grant Eligible Activities**

The eligible activities for which reimbursement is available are defined by the Award and by City and EGLE policies and procedures. All Grant Eligible Activities must be conducted after execution of a Subgrant Agreement and satisfactorily completed by July 31, 2027. All Grant Eligible Activities must be approved prior to being conducted and must:

1. Located in the designated grant areas,
2. Support the assessment and remediation of contaminated sites, and
3. Reduce public health threats from contaminated sites.

The Grant Eligible Activities are limited to the following as defined in Appendix A of the Award. Please note that Eligible Activities under the Grant are not the same as eligible activities permitted under Act 381.

- Environmental Assessments and Monitoring
- Due Care Plans
- Due Care Activities
- Response Activities
- Remedial Actions
- Removal Actions
- Removal of Unstable Soils (but not costs for replacement fill or special foundations)
- Vapor Mitigation System Design and Installation
- Providing Alternative Drinking Water Sources
- Work Plans for Grant Funded Activities
- Project Management for Grant Funded Activities
- Operation and Maintenance Plans
- Operation and Maintenance of Engineered Controls (during the Grant period only)
- Other actions necessary to protect the health, safety, welfare, the environment, or natural resources, or reduce public health threats from contaminated sites

### **Bidding and Providing Estimates**

EGLE requires that competitive bids must be obtained for all subcontractor tasks costing a total of more than \$20,000, excluding professional services. However, bidding must also be completed according to the City bidding procedures, which requires:

- All purchases for goods and services greater than \$5,000, require three competitive quotes (informal competition), excluding professional services;
- All purchases greater than \$25,000 require competitive bids, excluding professional services;

- All bidding must be open, must include specifications, and must indicate a bid closing date, and no late responses can be accepted;
- There must be three bids, or a written explanation as to why three bids could not be obtained must be provided;
- The lowest responsive and responsible bidder must be selected, or a written justification for the selection must be provided; and
- The selected bidder must meet the City insurance requirements.

Lump Sum Bids will only be considered in limited circumstances where the cost can be accurately estimated. For Lump Sum Bids, additional funding will not be approved for the activities and deliverables included in the original bid, regardless of extraordinary circumstances. Changes in scope, or additional Grant Eligible Activities will only be considered for funding if requested and approved in writing prior to conducting the activity. In those circumstances the Applicant must document why the change in scope or additional eligible activity is not included in the scope of work for the Lump Sum Bid.

**Work Plans**

Work Plans must first be submitted to the City Grant Coordinator. Work Plans will require detailed sub-task descriptions and budgets. Work plans will generally be in the format of an Act 381 Work Plan. In cases where the Applicant is also requesting brownfield tax increment financing (TIF) under Act 381, the subgrant funded tasks must be included in the Brownfield Plan and Act 381 Work Plan, and the costs for reimbursement under the subgrant must be specifically excluded from TIF reimbursement under those plans. When a subgrant request is included in an Act 381 Work Plan, the City Grant Coordinator must review and approve the Act 381 Work Plan prior to submittal to the Rochester Hills Brownfield Redevelopment Authority or EGLE. Approval by EGLE of an Act 381 Work Plan will be considered approval of a subgrant Work Plan, but City approval of a Brownfield Plan will not be considered approval of a subgrant Work Plan. Activities that are not approved by EGLE in a 381 Work Plan may still be eligible for grant funding, however a separate Work Plan must be approved for those activities.

Pre-approved reimbursable costs for preparation of work plans are limited to \$1,000 each for assessment work plans and \$2,500 each for all other work plans. Costs above these pre-approved amounts must be approved by the City and EGLE prior to submitting the work plan for review, or will not be reimbursed.

**Task Budget Changes**

Changes to a task budget must be submitted to and approved by both the City and EGLE. Task budget changes do not include use of contingency, are limited to reallocation between task budgets, and must have a net zero effect on the total approved grant funding (excluding contingency). Please note that the approval process is different for the City and EGLE, and based on the amount requested.

To be considered eligible by the City, changes in a task budget greater than 20% of that task budget (including the sum of all changes to that task budget) must be requested and approved in a written Work Plan prior to conducting the activity, except in the case of Unanticipated Response Activities (as defined below). Approval of the change in budget is at the sole

discretion of the City and the request for the change may be denied, approved in full, or partially approved based on their review. However, the change in task budget will not be considered if the total change in all task budgets requires use of contingency, unless use of the contingency was previously approved as described below.

To be considered eligible by EGLE, a net change of all task budget increases greater than 20% of the total subgrant funding must be requested and approved in writing prior to conducting the activity, except in the case of Unanticipated Response Activities (as defined below).

For changes in a task budget where the sum of all increases to that task budget is less than 20%, the adjustment must be discussed with, and approved by, the City and EGLE prior to being incurred, with a follow-up email. In all cases, an explanation in writing of the reason for the change and the net zero impact on the grant funding (excluding contingency) must be submitted at the time of the reimbursement request. Approval of the change in budget is at the sole discretion of the City and EGLE and the request for the change may be denied, approved in full, or partially approved based on their review. However, the change in task budget will not be considered if the total change in all task budgets requires use of contingency, unless use of the contingency was previously approved as described below.

### ***Unanticipated Response Activities***

Unanticipated Response Activities are limited to Grant Eligible Activities that address unexpected conditions encountered during site work that are necessary to complete the tasks described in the Work Plan, that were not originally included in the Work Plan, and are for “evaluation, interim response, remedial action, ... providing an alternative water supply, or the taking of other actions necessary to protect the public health, safety, or welfare, or the environment or the natural resources.”<sup>1</sup>

For Unanticipated Response Activities that require immediate interim response activities, notification must be made to the City Grant Coordinator and EGLE Project Manager or EGLE Brownfield Redevelopment Coordinator. Initial notification will be either written or verbal within 24 hours of occurrence, followed up in writing within 48 hours of occurrence (written notification) indicating the nature of the activity, the reason it is grant eligible, the estimated extent of the activity (include estimates of units and time required for appropriate response), and the estimated additional cost requested. Approval of, or modification to, the requested funding amount will be provided in writing by the City Grant Coordinator immediately following initial notification.

For all other Unanticipated Response Activities, notification must be made in writing to the City Grant Coordinator and EGLE Project Manager or EGLE Brownfield Redevelopment Coordinator, prior to conducting the activity. If the activity can be completed within the approved Subgrant Agreement amount, a new or modified Work Plan must be provided for review and approval prior to conducting the activity. If the request for funding exceeds the approved Subgrant Agreement funding amount, a new Subgrant Agreement must be submitted and approved prior to conducting the activity.

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<sup>1</sup> Per Section 20101(vv) of Part 201 of Act 451

All Unanticipated Response Activity costs will be funded first from the contingency. Additional funding for Unanticipated Response Activities will depend on the remaining total Subgrant Agreement funding amount. Approval of the change in budget is at the sole discretion of the City and EGLE and the request for the change may be denied, approved in full, or partially approved based on their review.

***Use of Contingency***

Use of the contingency, other than for Unanticipated Response Activities, must be in a written Work Plan approved by both the City and EGLE prior to conducting the activity for which the contingency is being requested.

***Requests for Additional Funding***

Requests for additional grant funding above the approved amount in the Subgrant Agreement, must be submitted to the City Grant Coordinator in writing prior to conducting the activities and will be considered a new request for funding. Approval of a new request for funding will depend on remaining Grant funding and the consideration of other funding requests. Approval of a request for additional funding will be at the sole discretion of the City based on approval from EGLE.

***Requests for Reimbursement***

Requests for reimbursement of approved Grant Eligible Activities can be submitted to the City, once per calendar quarter. The Applicant is responsible for providing copies of all supporting reports and site data, and for keeping detailed records of all eligible expenses, including purchase orders, invoices, waiver of liens, contracts, load and landfill tickets, and records of payment, and for providing these to the City. To be considered in the quarterly request, documents must be provided based on the schedule below. Late requests for reimbursement may be delayed to the following quarter. Final reimbursement will be based on the records provided and the City’s and EGLE’s review and acceptance of those records. The City is not responsible for incomplete or inaccurate records.

| <u>Schedule for Requests for Reimbursement</u> |                     |                            |
|--|---------------------|----------------------------|
| <u>Period</u>                                  | <u>Submittal</u>    | <u>Last Submittal Date</u> |
| October 1 to December 31                       | Request             | January 15                 |
| January 1 to March 31                          | Request             | April 15                   |
| April 1 to June 30                             | Request             | July 15                    |
| July 1 to September 30                         | Estimate or Request | October 1                  |

All requests for reimbursement must be submitted first to the City Grant Contractor in the format described in the Subgrant Agreement. Requests will be reviewed by the City and EGLE for eligibility, applicability, reasonableness, approved budget, correct format and supporting documentation.

Ten percent of the approved subgrant amount will be withheld at the end of the project until a project review is completed and a closeout report is submitted to, and approved by, EGLE.

***Contact Information***

All notifications, requests and submittals must be provided to the following:

City Grant Coordinator

Sara Roediger  
City of Rochester Hills Planning and Economic Development Department  
248.841.2573  
roedigers@rochesterhills.org

City Grant Contractor

Thomas Wackerman  
ASTI Environmental  
810.599.5463  
twacker@asti-env.com

EGLE Project Manager

Colleen McLean  
Brownfield Assessment and Redevelopment Section  
Michigan Department of Environment, Great Lakes and Energy  
586.554.6489  
Mcleanc1@michigan.gov

EGLE Brownfield Redevelopment Coordinator

Michelle Bakun  
Brownfield Assessment and Redevelopment Section  
Michigan Department of Environment, Great Lakes and Energy  
586.233.3408  
bakunm@michigan.gov

**Attachment A**  
**Applicable Definitions**  
Restoration and Remediation Grant Policies and Procedures  
City of Rochester Hills  
January 2024

The following citations are based on definitions from the Natural Resources and Environmental Protection Act, 1994 PA 451. However, definitions have been edited to limit them to the Grant Eligible Activities defined in the Grant.

Due Care Activities

"Due care activities" means those response activities identified as part of a brownfield plan that are necessary to allow the owner or operator of an eligible property in the plan to comply with the requirements of section 20107a or 21304c of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a and 324.21304c.

A person who owns or operates property that he or she has knowledge is a facility shall do all of the following with respect to hazardous substances at the facility:

- (a) Undertake measures as are necessary to prevent exacerbation.
- (b) Exercise due care by undertaking response activity necessary to mitigate unacceptable exposure to hazardous substances, mitigate fire and explosion hazards due to hazardous substances, and allow for the intended use of the facility in a manner that protects the public health and safety.
- (c) Take reasonable precautions against the reasonably foreseeable acts or omissions of a third party and the consequences that foreseeably could result from those acts or omissions.
- (d) Provide reasonable cooperation, assistance, and access to the persons that are authorized to conduct response activities at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response activity at the facility. Nothing in this subdivision shall be interpreted to provide any right of access not expressly authorized by law, including access authorized pursuant to a warrant or a court order, or to preclude access allowed pursuant to a voluntary agreement.
- (e) Comply with any land use or resource use restrictions established or relied on in connection with the response activities at the facility.
- (f) Not impede the effectiveness or integrity of any land use or resource use restriction employed at the facility in connection with response activities.

## Response Activities

"Response activity" means evaluation, interim response activity, remedial action, providing an alternative water supply, or the taking of other actions necessary to protect the public health, safety, or welfare, or the environment or the natural resources.

"Interim response activity" means the cleanup or removal of a released hazardous substance or the taking of other actions, prior to the implementation of a remedial action, as may be necessary to prevent, minimize, or mitigate injury to the public health, safety, or welfare, or to the environment. Interim response activity also includes, but is not limited to, measures to limit access, replacement of water supplies. In addition, interim response activity means the taking of other actions as may be necessary to prevent, minimize, or mitigate a threatened release.

## Remedial Actions

"Remedial action" includes, but is not limited to, cleanup, removal, containment, isolation, destruction, or treatment of a hazardous substance released or threatened to be released into the environment, monitoring, maintenance, or the taking of other actions that may be necessary to prevent, minimize, or mitigate injury to the public health, safety, or welfare, or to the environment.