

US EPA ARCHIVE DOCUMENT

SITE AND BORROWER ELIGIBILITY

EXAMPLE 3

On behalf of Top Notch Grantee, the Cooperative Agreement Recipient (CAR), we are pleased to present the site eligibility and borrower eligibility determination for the subject property located and 123 Secondary Street in East Bend, MI

1. Identify the proposed borrower. Include the organizational name and address.

The proposed borrower is: East Bend, MI, 400 Main Street, East Bend, MI

2. Identify (a) whether this site is contaminated by petroleum or hazardous substances; (b) the operational history and current use(s) of the site; (c) how the site became contaminated; and 4) the nature and extent of contamination.

- (a) The site is contaminated with hazardous substances
- (b) The property was developed in 1911 with a temple. The building consists of multiple levels with a full basement and totals approximately 21,350 square feet. Since construction, the building has been used as a temple/church or meeting place for fraternal organizations. In addition, office space in the building has been leased to a variety of organizations. No other uses of the building or property have been identified, The property has been vacant since the City of East Bend purchased the property on June 28, 2007.
- (c) The site became contaminated with asbestos containing materials (ACM) during building construction and subsequent building improvement activities.
- (d) Contamination at the property (ACM) was identified in the basement of the building during a July 25, 2007 Suspected Asbestos Containing Material Survey. Identified ACM consists of:
 - (1) large diameter (6 to 12-inch) pipe and fitting insulation in the old boiler room and restrooms;
 - (2) ceiling fiber board in the old boiler room;
 - (3) 9-inch by 9-inch floor tile in the basement; and
 - (4) a safe located in the basement. Other suspect materials sampled as part of the Survey were not asbestos containing.

3. Affirm that the site is (a) not listed or proposed for listing on the National Priorities List; (b) not subject to unilateral administrative orders, court orders, administrative order on consent, or judicial consent decrees issued to or entered into by parties under CERCLA; and (c) not subject to the jurisdiction, custody, or control of the United States government, (Note: Land held in trust by the United States government for an Indian tribe is eligible for brownfield funding.)

- (a) Affirmed
- (b) Affirmed
- (c) Affirmed

4. **Affirm that the site: (a) is not subject to a planned or ongoing CERCLA removal action; (b) is not subject to a unilateral administrative order, a court order, an administrative order on consent, or judicial consent decree or to which a permit has been issued by the United States or an authorized state under RCRA, FWPCA, TSCA or SDWA; (c) does not contain facilities that are subject to RCRA correction action (Section 3004(u) or 3008(h)) to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures; (d) is not a land disposal unit that has submitted a RCRA closure notification or that is subject to closure requirements specified in a closure plan or permit; (e) is not a property where there has been a release of PCBs and all or part of the property is subject to TSCA remediation; and (e) is not a property that includes facilities receiving monies for cleanup from the LUST trust fund. If the site is subject to any of the above conditions, EPA must approve a Property-Specific Determination in order for the site to be eligible for brownfield funding. Contact your Project Officer for additional information and instruction.**

Affirmed for (a) through (e)

5. **(1) Identify known ongoing or anticipated environmental enforcement actions related to the brownfield site for which funding is sought (2) Describe any inquiries or orders from federal, state or local government entities that the CAR is aware of regarding the responsibility of any party, including the proposed borrower/subgrantee, for the contamination at the site.**

None identified during the assessment process for either (1) or (2)

6. **If the proposed borrower does not own the site, affirm that the proposed borrower did not: (a) arrange for the disposal of hazardous substances at the site; (b) transport hazardous substances to the site; and (c) cause or contribute to any releases of hazardous substances at the site. (d) Describe the proposed borrower's relationship with the owner of the site and the owner's role in the work to be performed. Indicated how the proposed borrower will gain access to the site.**

The City of East Bend, as the proposed borrower, owns the site.

7. **If the proposed borrower owns the site or will acquire the site prior to cleanup, respond to the following. Describe: (a) how the proposed borrower acquired or will acquire ownership (e.g., by negotiated purchase from a private individual, by purchase or transfer from another governmental unit, by foreclosure of real property taxes, by eminent domain, or other (describe); (b) the date the proposed borrower acquired or will acquire the property; (c) the name of the party from whom the proposed borrower acquired or will acquire ownership; (d) all familial, contractual, corporate or financial relationships or affiliations the proposed borrower has or had with all prior owners or operators (or other potentially responsible parties) of the property); (e) and whether the proposed borrower is potentially liable under Section 107 of CERCLA and if not, why not.**

(a) The City of East Bend purchased the property from a private entity.

(b) The City took possession of the site on June 28, 2007.

(c) The City purchased the site from the Church of Few Miracles

(d) The City has no familial, contractual, corporate or financial relationships or affiliations with any prior owners or operators

(e) The City conducted a Phase I Environmental Assessment (ESA) in accordance with Standards and Practices for All Appropriate Inquiries [(AAI), 40 CFR Part 312) and (2) guidelines established by the American Society for Testing and Materials (ASTM) in the *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process/Designation E 1527-05* (ASTM Standard Practice E 1527-05) to satisfy environmental due diligence requirements to qualify as a bona fide prospective purchaser under CERCLA. This Phase I was completed on July 15, 2007, after the property was purchased by the City, and confirmed that the City is not a potentially responsible party. The City has never been an owner, operator, generator or transporter of hazardous substances as those terms are defined under CERCLA. Recognized environmental conditions were identified during the completion of the Phase 1 ESA. The site conditions have not changed since the completion of the Phase I.

8. **(a) Identify whether all disposal of hazardous substances at the site occurred before the proposed borrower acquired (or will acquire) the property and whether the proposed borrower caused or contributed to any release of hazardous substances at the disposal of hazardous at the site. (b) Affirm that the proposed borrower has not, at any time, arranged for the disposal of hazardous substances at the site or transported hazardous substances at the site. (c) If the proposed borrower has ever owned the site before, what CERCLA Section 107 liability defense does the proposed borrower have for that period of ownership at the site?**

(a) All disposal/handling of hazardous substances at the site occurred before the City of Wyandotte acquired the property. The City did not cause or contribute to any release of hazardous substances at the site.

(b) Affirmed

(c) The City has not previously owned the site.

9. **Describe any inquiry by the proposed borrower or others into the previous ownership, uses of the property, and environmental conditions conducted prior to taking ownership. Please include in the description: the types of assessments performed, the dates of each assessment, and the entity for which they were performed (state whether the assessment was performed specifically for the proposed borrower, or if not, the name of the party that had the assessment performed and the party's relationship to the proposed borrower); and who performed the assessments and identify his/her qualifications to perform such work.**

We Do Assessments, Inc. conducted a Phase I ESA on July 15, 2007 on behalf of the City of East Bend. Mr. Qualified Assessment Doer, a State of Michigan professional engineer, prepared the

Phase I ESA. We Do Assessments conducted a Suspected Asbestos Containing Material Survey on July 25, 2007. Mr. Qualified Asbestos Surveyor, a Michigan Certified Asbestos Inspector, conducted the survey. The survey identified the following asbestos containing materials located in the basement of the building: (1) large diameter (6-12-inch) pipe and fitting insulation in the old boiler room and restrooms (approximately 300 lineal feet, 50 fittings, and 6 square feet of debris), (2) ceiling fiber board in the old boiler room (approximately 350 square feet), (3) 9-inch by 9-inch brown floor tile (approximately 240 square feet), and (4) a safe in the basement. We Do Assessments, Inc. concluded that assuming the building will be renovated; the pipe and fitting insulation, ceiling fiber board, and safe will need to be abated by an accredited and licensed asbestos abatement contractor.

The City of East Bend does not have any familial, contractual, corporate or financial relationships or affiliations with the entity for whom these assessments were prepared. Copies of all reports are on file with the City and are available for review upon request.

- 10. Describe all uses to which the property has been put since the proposed borrower acquired ownership (or the uses that you anticipate once the proposed borrower acquires the property) through the present, including any uses by entities other than the proposed borrower. Please provide a timeline with the names of all current and prior users during the time of the proposed borrower's ownership; the dates of all uses; the details of each use, including the rights or other reason pursuant to which the use was claimed or taken ; and the proposed borrower's relationship to the current and prior users.**

The site has been vacant since the City of East Bend took ownership.

- 11. Describe the specific appropriate care that the proposed borrower exercised (or if the proposed borrower has yet to acquire the property, that the proposed borrower will exercise upon acquiring the property) with respect to hazardous substances found at the property by taking reasonable steps to: stop any continuing releases; prevent any threatened future release; prevent or limit exposure to any previously released hazardous substance.**

The City of East Bend is in the initial stages of the planned rehabilitation of the property, which will include the abatement of identified asbestos containing material in the building. The building is currently vacant and the City's Public Works and Police Departments regularly monitor the site for security and upkeep.

- 12. Please affirm the proposed borrower's commitment to: comply with all land use restrictions and institutional controls; assist and cooperate with those performign the cleanup and to provide access to the property; comply with all information requests and administrative subpoena that have been or may be legally issued in connection with the property; and provide all legally required notices.**

Affirmed