SPIRIT LAKE TRIBE

Brownfields Grant Proposal for
10 Sheyenne Relocatable Homes near Fort Totten, ND on the Spirit Lake Reservation

Narrative Information Sheet

IV.D.1 Applicant Identification
   a. Spirit Lake Tribe, 816 3rd Ave N., P.O. Box 359, Fort Totten, ND 58335
   b. The Tribal Environmental Protection Administration will manage the grant.
   c. DUNS number: 060487915

IV.D.2. Funding Requested
   a. Grant Type - Brownfields Cleanup Grant - Multiple Site Cleanup
   b. Federal Funds Requested
      i. Funds Requested - $500,000
      ii. Cost Share Waiver - A Hardship Waiver is being requested for the 20% cost-share match and is documented in Attachment G.
      iii. Indicate if you are requesting a waiver of the $500,000 limit – N/A
   c. Contamination - Hazardous substances

IV.D.3. Location
   a. City: near Fort Totten, North Dakota in Benson County.
   b. Counties: The sites are located in Benson County but have a mailing address of Sheyenne, Eddy County, ND. Note that most of the Tribal members live in Benson County.
   c. State or Reservation, Tribally owned lands, tribal fee lands, etc.: The sites are located on Tribal Trust land on the Spirit Lake Reservation near Fort Totten, North Dakota.

IV.D.4. Property Information
Location of homes near Fort Totten - 35th ST NE, Sheyenne ND 58374

IV.D.5. Contacts
IV.D.5.a. Project Director
Art Carmona, Brownfields Coordinator
Joshua Tweeton, Environmental Director
Environmental Protection Administration, Brownfields Program
PO BOX 99, 816 3rd Ave N
Fort Totten, ND 58335
Phone: (701) 230-0573; Fax: (701) 766-1218
Email: epa-bmf@spiritlakenation.com; epadir@spiritlakenation.com

IV.D.5.b. Chief Executive/Highest Ranking Elected Official
Douglas Yankton, Chairman
IV.D.6. Population
According to the 2020 U.S. Census, the population of the Spirit Lake Reservation was 4,465 with 3,787 being American Indian; population of Benson County was 6,873; population of Sheyenne, ND was 212. All of the housing units are on Tribal Trust property and there is potential to affect all of the Tribal and non-Tribal population in the area.

IV.D.7. Other Factors Checklist
See Attachment B for “Other Factors Checklist” items that are applicable to this proposal including population less than 10,000; Federally Recognized Indian Tribe; leveraged funding/assistance, adjacent to a large body of water and floodplain issues; and renewable energy/energy efficient projects.

IV.D.8. Letter from the State or Tribal Environmental Authority
See Attachment C for letter from Tribal Environmental Authority acknowledging the Tribal EPA is the Tribal Environmental Authority and it supports the Tribal Brownfields Program (under its authority) in planning to conduct cleanup activities on Tribal Housing near Fort Totten, North Dakota.

IV.D. 9. Releasing Copies of Applications: N/A
November 14, 2021

Arthur Carmona
Brownfields Coordinator
Spirit Lake EPA

Dear Mr. Carmona,

As the Director of the Spirit Lake Tribe Environmental Protection Administration (SLT EPA), I am writing this letter to confirm that the SLT EPA is the Tribal Environmental Authority for the Tribe. I would like to acknowledge the SLT Brownfields Program under the SLT EPA Department is planning to conduct cleanup activities on 10 homes on the Spirit Lake Reservation including the Sheyenne Relocateable homes. The Brownfields Program is submitting a Brownfields Cleanup Grant to the US EPA to receive funding in the amount of $500,000 to conduct these cleanups. Additionally, our program would like to commit up to $60,000 from the Tribal 1% Fee (on contractors) towards the cost share.

Sincerely,

Josh Tweeten

Joshua Tweeten, Director
Spirit Lake Tribal Environmental Protection Administration
SPIRIT LAKE TRIBE
Brownfields Grant Proposal for
10 Sheyenne Relocatable Homes near Fort Totten, ND on the Spirit Lake Reservation

IV.E. Narrative/Ranking Criteria for Cleanup Grants
IV.E.1. Project Area Description and Plans for Revitalization; 1.a Target Area and Brownfields

IV.E.1.a.i Background and Description - The Spirit Lake Tribe, with a Reservation population of approximately 4,403 and 383 square miles is located in East-Central North Dakota. There are five Indian Bands, most of who reside in four community districts and five townships. The 2020 Census lists the unemployment rate for the Spirit Lake Reservation at 8.6% and the Tribal Headquarters of Fort Totten at 15.2% compared to lower rates for the State at 5.1% and the Nation at 4.6%-6.55%. This shows the employment rate on the Spirit Lake Reservation and Tribal Headquarters of Fort Totten are significantly higher than the State and Nation. The area experienced excessive flooding in the 1990 reclaiming farmland and residential areas. Devils Lake, which lies on the northern boundary of the Reservation, does not have a natural outlet and has risen over 27’ in recent decades. Wet periods and windy conditions can cause the lake can overflow and drain south and southeast across the Reservation. Other lakes and rivers on the Reservation also experience flooding. As a result, large portions of the Reservation are located in floodplain zones and have resulted in the loss of homes, land and economic opportunities. Being in a rural area of a rural state, resources are limited from Tribal and non-Tribal sources to address any issues including environmental problems. The Tribe does not have enough housing on the Reservation and is always trying to find ways to provide decent and safe units to live in. Many extended family members live together in crowded conditions and most times in substandard housing. Over 300 families are on a wait list for housing. The Tribe has low rent housing units, HUD homes, and mutual self-help homes in the four major Reservation communities.

IV.E.1.a.ii Description of the Brownfield Site(s) - Based upon the recent Phase II Environmental Site Assessments completed in 2021, contaminants of concern at the sites are Asbestos Contaminated Materials (ACMs), Lead-Based Paint, Mercury switches, mold, animal wastes, guano and Arsenic in soils. The homes were built between mid-1940 through mid-1960s. In 2004, they were transferred from Minot Air Force Base to the Tribe through the Operation Walking Shield Program, which was authorized funding in August 2001 under HUD to manage and coordinate the relocation of approximately 258 houses from the Base to five Indian reservations in three states. The Spirit Lake Tribe received 86 of the relocatable units. Many of these home sites are continually subject to vandalisms, salvaging, illegal drug activities and pose environmental and health threats to children, squatters and others who frequents the area. (See IV.E.3.3a and Attachment F. for details on the Phase II Environmental Site Assessments)

IV.E.1.b Revitalization of Target Area
b.i Reuse Strategy & Alignment with Revitalization Plans - The Tribe plans to renovate the ten homes for future housing after they have been abated. This plan follows with the Spirit Lake
*Tribe Strategic Plan*, which is to address the housing problem on the Reservation as stated in the Comprehensive Housing Plan section of the of the document. Funding from HUD helps the Tribe in striving to improve housing for Tribal Reservation residents. The Tribe and several other communities are partners with the Turtle Mountain Band of Chippewa Indians under a 2017 HUD Promise Zone Designation, which provides funding for economic development, small business and job creation, early childhood education, reducing violent crime, promoting quality healthcare and wellness and improving community infrastructure and strategic land use. Additionally, in 2012 HUD awarded funding to the Spirit Lake Tribe to rehabilitate a hundred low-rent and mutual help homes managed by the Spirit Lake Tribal Housing Corporation and in 2016 awarded funding through HUD’s *Indian Community Development Block Grant (ICDBG) Program* for housing construction and infrastructure projects to help provide affordable and decent housing. The Tribe will also utilize Tribal Planning to seek funding opportunities.

**IV.E.1.b.ii Outcomes and Benefits of Reuse Strategy** - Cleaning up, removing and/or remediating the sites will remove health and environmental hazards and allow the sites to be used as a safe home for families. Currently the occupied units where the contaminants are known/present are being inhabited daily due to no other housing options; these families are expected to quarantine during the current COVID-19 pandemic with these hazardous contaminants present. This is very important considering there are over 300 families on a wait list for housing. The cleaned-up sites would not require any reuse restrictions Institutional Controls. Costs would be saved by utilizing existing infrastructure of water and sewer lines, electricity, roads, etc. Jobs will be increased during the cleanup and renovation of these homes. Because most of the sites are located near the Tribal Administrative buildings, residents can save time and resources in seeking assistance from Tribal services. Finally, remediating the buildings eliminates the problem of using the structures to conduct illegal activities such as related to meth labs, other drug activities and becoming attractive nuisances for salvaging, vandalizing, and vagrant and animal habitats.

**IV.E.1.c Strategy for Leveraging Resources; 1.c.i Resources Needed for Site Reuse** - The Tribe will commit $10,000 per home to renovate each structure after the abatement process takes place. The new structures may need assistance with obtaining permits, constructing or updating foundations, driveways, septic systems and/or hooking up to utilities. Tribal Utilities, Tribal Housing, Roads and Indian Health Service regularly budget funds for new or updating utilities and would systematically provide services to remediated structures. Tribal Housing also budgets for new housing and obtained funding from HUD in 2012 and 2016. The Tribe will continually utilize Tribal Planning to seek funding opportunities. The Tribe was recently granted a Promise Zone status which they will also take advantage while seeking for funding and grants.

**IV.E.1.c.ii Use of Existing Infrastructure** - The Tribe will take advantage of the current infrastructure that is already in-place, including sewer, water and electric. Current roads and sidewalks are also reusable, though may need to be upgraded as part of regular Tribal Roads maintenance program. Tribal Water Resources and Utilities will also work with Indian Health Services to make all needed updates to the current infrastructure (water, sewer system, power) that is already at these sites. The Tribe plans to make the homes more energy efficient after they are cleaned up. This plan follows with the *Spirit Lake Tribe Strategic Plan*, which addresses the
housing problem on the Reservation as stated in the Comprehensive Housing Plan section. In the past and according to current procedures, Tribal Roads establishes/develops foundations for new homes to be built any necessary updates to the landscaping and roads. The Tribe typically commits funding to develop engineering and architectural planning for each new home sit.

IV.E. 2. Community Need and Community Engagement; 2.a Community Need
2.a.i. The Community's Need for Funding - With already limited funding and resources, high poverty and unemployment rates, low incomes and 300 families waiting for a home to live in, the Cleanup Grant would enable families to benefit from safer living conditions as the contaminated homes are renovated and made more energy efficient. Currently the occupied units where the contaminants are known/present are being inhabited daily due to no other housing options; these families are expected to quarantine during the current COVID-19 pandemic with these hazardous contaminants present. The Reservation's economy has suffered by the isolation from population centers. Privately owned businesses and jobs on the Reservation are few and has engendered poverty and alcohol abuse among many members. There have been economic cutbacks, decreasing the amount of awarded grant dollars each year and reduces the ability of Tribal Programs to implement economic development projects. Extensive flooding that started in the 1990's and the 27' rise of Devil's Lake has resulted in the loss of Reservation land and roads limiting access to Tribal services and businesses. This affects residents and tourism and attendance at the Tribal Casino enterprise resulting in economic losses and reduction of jobs. It is a continual process for the USCOE to conduct and repair roads which serve as berms holding back the waters of Devils Lake from further flooding the Reservation. Some roads are under water and have been closed permanently. Additionally, the Tribe has experienced many Federally declared disasters and emergencies, which compelled the Tribe to commit funding and address rather than apply toward environmental cleanups. Declarations for flooding and severe storms from 2009 – 2017 and many more Declarations and Emergencies going back to 1957. Also, in 2015, 2016 and 2012, the USDA declared the Spirit Lake Reservation Counties, agriculture disasters due to drought, freeze, frost, lightening, hail, wind, and/or insect conditions.

IV.E.2.a.ii Threats to Sensitive Populations

(1) Health or Welfare of Sensitive Populations - Many reservation homes are crowded (1 person or more per 100 sq. ft. of home) and are occupied by our sensitive population (children and elders) living their daily lives in unhealthy environmental conditions created by mold, lead, asbestos, pest, and inadequate weatherization. Living in these crowded, contaminated conditions is not safe in normal circumstances but with the COVID-19 pandemic it adds another level of danger to families and the community. Additionally, many of the housing units are modular structures having a limited life span, being difficult to maintain and creating waste disposal issues when cleaned up and demolished. This situation is increasingly putting our populace and environment at higher risk, with escalating healthcare implications. The Spirit Lake Tribe is in a constant reactive mode rather, and often finds itself stressed with little to no funds available to maintain or address these issues. Examples include recent mid-winter abandonment of an alternative school building in Fort Totten, children and families forced to stay in condemned homes because they have no place to go, and food pantries in our communities that are infested with mold, asbestos, and lead, among other contaminants.
(2) Greater Than Normal Incidence of Disease and Adverse Health Conditions - Spirit Lake Reservation population is in the target area and has suffered greater than normal incidents of disease or conditions including cancer, asthma, and birth defects. These above normal health concerns have been recognized by HUD in its designation of the Tribe as part of the 2017 Promise Zone providing funding to enhance public health and healthy homes and increase economic activity among other goals. Abandoned buildings are attractive nuisances for youth, drug/alcohol consumption, meth labs and salvagers; increasing the potential to come into contact with asbestos, lead, hazardous substances, pollutants and contaminants. According to the Center for Disease Control (CDC), direct contact and ingestion of asbestos, a known carcinogen, can cause lung cancer and mesothelioma, a form of neoplasm of the lining of the chest and abdominal cavities. Cancer of the larynx has also been associated with exposure to asbestos. CDC further states that hazards related to breathing or eating lead-based paint dust in adults this may include difficulties in pregnancy, other reproductive problems, high blood pressure, nerve disorders, memory and concentration problems, muscle and joint pain and digestive problems. In children and babies, lead levels are more dangerous and include damage to the brain and nervous system, behavioral, learning and hearing problems, slowed growth, and headaches.

(3) Disproportionately Impacted Populations - The 2020 Census lists the unemployment rate for the Spirit Lake Reservation at 8.6% and the Tribal Headquarters of Fort Totten at 15.2% compared to lower rates for the State at 5.1% and the Nation at 4.6%-6.5%. The 2020 Census lists Per Capita income for the Tribal Headquarters community of Fort Totten at $6,795. Note Benson County was more than triple at $21,707; and the State and Nation are even higher at $61,530 and $36,672-$47,675 respectively. The 2020 Census and ND State University show the Poverty Rate to be much higher for the Tribal Communities versus the State and Nation. (Spirit Lake Reservation rate is 45.99%; Ft. Totten Tribal Headquarters Community rate is 66.39%; Benson County rate is 33.3% versus State rate at 10.6% and National rate at 11.4%). Low incomes are reflective in that many Tribal families struggle to get by and find it difficult to live in affordable housing. Over 300 families are on a wait list for housing resulting in extended family members live together in crowded conditions and many times in substandard housing. All of these statistics suggests unemployment and underemployment are typical of the Reservation. Being in a rural area of a rural state, resources are limited from Tribal and non-Tribal sources to address any issues including environmental problems. Environmental Justice issues are increasing as the Tribes and State of North Dakota are expected to have impacts associated with the expansion of oil and gas exploration and production in ND. These actions can have serious impacts with environmental, economical, societal, and cultural implications. (Please see Demographics Chart in the Hardship Waiver in Attachment G)

IV.E.2.b Community Engagement – The Brownfields Community Involvement Plan will be updated by the Brownfields Coordinator and Environmental Director for involving the targeted community and stakeholders. We provide information on our projects at the monthly General Assembly Meetings, which is an established procedure for informing and seeking input from the public and Tribal Administration and representatives. We typically post Public Notices at various community bulletin boards and publish information in Newsletters. Our Tribal Radio Station invites speakers to discuss current issues and take questions from callers. Elders opinions and ideas are solicited on projects at the bi-monthly Elder’s Meetings.
**IV.E.2.b.i Project Partners** - In addition to the partners listed in the Table below, the following Tribal Council/District Representatives, who were elected to support their respective Districts, are in support of being a partner and helping achieve the grant activities: Lisa Georgeson (Woodlake Representative); Kim Three Irons (Fort Totten Representative); Rena Lohnes (St. Michaels Representative); Waynita Chaske (Crow Hill Representative).

**IV.E.2.b.ii Project Partner Roles**

<table>
<thead>
<tr>
<th>Partner</th>
<th>Point of contact</th>
<th>Specific role in the project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tribal Planning</td>
<td>Ila McKay 701-766-1700</td>
<td>Reviews &amp; Submits Grant – Offer expertise on land use planning, coordination and approval processes for cleanups and reuse</td>
</tr>
<tr>
<td>Tribal Realty</td>
<td>Joanne Smith 701-230-4504</td>
<td>Land Status/Reuse of Lands – Official record keeper of Tribal Lands inventory, land transactions, land records, ICs.</td>
</tr>
<tr>
<td>Refuse Control</td>
<td>Duane Jackson Jr. 701-766-1267</td>
<td>Cost Share for Refuse Services – Cost share of $40,000 cost-share for equipment, O&amp;M, reduction of tipping fee, clean fill dirt.</td>
</tr>
<tr>
<td>Services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tribal EPA 1%</td>
<td>Joshua Tweeton 701-230-0798</td>
<td>Cost Share/Labor for Demo – From Tribal 1% Fee on contractors - $60,000</td>
</tr>
<tr>
<td>Disposal Fee</td>
<td></td>
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<tr>
<td>Tribal Roads</td>
<td>Clarence Greene 701-766-1297</td>
<td>Equipment for Demo</td>
</tr>
<tr>
<td>Water Resource/Sioux Utilities</td>
<td>Robert Thompson 701-766-1209</td>
<td>Oversight on demolition and utility work</td>
</tr>
<tr>
<td>Spirit Lake Housing Corporation</td>
<td>Anthony Longie 701-766-4131</td>
<td>Help identify and use existing infrastructure and work towards more energy efficient homes.</td>
</tr>
<tr>
<td>Elders Board of Directors</td>
<td>Philip G. Longie 701-766-2364</td>
<td>Will share knowledge, years of experience and wisdom for better balance with nature and continued respect for Mother Earth.</td>
</tr>
<tr>
<td>St. Michael Catholic Church</td>
<td>Fr. Paul Schuster, Pastor 701-766-4151</td>
<td>Church has a vested interest in welfare of Community members especially children and sick persons</td>
</tr>
</tbody>
</table>

**IV.E.2.b.iii Incorporating Community Input** - The Brownfields Program will update its Community Involvement Plan that was established with a previous Brownfields Cleanup Grants for coordinating with the community and stakeholders. It will include a summary and status of the site, stakeholders and their roles, ways to distribute information and gather input from the Community and pertinent Tribal entities, how to provide verbal and written responses to comments, and how to document the cleanup results and maintenance of the Administrative Record. Additionally, the Tribe holds open forum sessions at the monthly General Assembly Meetings, which is an established procedure for providing information and gathering feedback.
The cleanup activities will be discussed, questions answered and citizen input sought. Our Tribal radio station invites speakers to discuss current issues and take questions from callers. Elder’s opinions and ideas are solicited on projects at the bi-monthly Elder Meetings. Public input is also received at Tribal Council Meetings from elected District representatives.

**IV.E.3 Task Descriptions, Cost Estimates, and Measuring Progress; 3.a Proposed Cleanup Plan** - EPA Region 8 utilized the in-house START contractor to conduct an ASTM or equivalent Phase II site assessments in the summer of 2021. START provided final reports for all sites and have been reviewed by US EPA. The Phase II reports have confirmed the presence of Contaminants of Concern (COCs) at all ten homes including ACM and mold in floor, wall, ceiling.

To address contamination at these sites, three different alternatives were considered. The alternatives were outlined in the Analysis of Brownfields Cleanup Alternative (ABCAs) and discussed at an advertised Public Meeting held November 23, 2021, to discuss submitting a Brownfields Cleanup Grant for the Spirit Lake Reservation Sites.

- **Alternative #1**: No action is not cost effective in removing or containing contamination.
- **Alternative #2**: Remediation and/or removal of asbestos, lead, mold and any other contamination, relocation/refurbishing of the units.
- **Alternative #3**: Complete demolition of the units, disposal of the contamination and debris wastes, and relocation/new construction of the units.

Based on Tribal government and community input during our Public Meeting held November 23, 2021, and internal government discussions with Tribal EPA, it was suggested that if awarded the grant that structures will need to be abated and remediated. It is estimated if a certified contractor were to remove all the ACM out of the 10 structures, it will cost approximately $375,000 including the 20% cost share. Also, once the structures are cleaned from contaminants the Tribe will commit $10,000 to each unit to remediate.

The recommended cleanup alternative is **Alternative #2: Remediation and/or removal of asbestos, lead, mold and any other contamination, and relocation/refurbishing of the units**. This will include abatement prior to remediation, relocation and refurbishing milestones, community outreach, protection for the environment and public health, and detailed costs. The Cleanup Plan will describe how the cleanup process will protect the workers and nearby residents. Relocation costs will help protect residents and address correct disposal procedures, so that the environment is protected. The contractor will work with the Tribal EPA and the EPA Region 8 to assure safe and required practices will be followed. We estimate the total costs of the prioritized structures to be abated and remediated; ready for reuse will be approximately $500,000.

**IV.E.3.b Description of Tasks/Activities and Outputs**

<table>
<thead>
<tr>
<th>b.i Project Implementation; ii. Anticipated Project Schedule; iii. Task/Activity Lead(s); iv. Output(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Task/Activity 1: Cleanup Planning</strong></td>
</tr>
<tr>
<td>iv. <strong>Project Implementation</strong></td>
</tr>
<tr>
<td>□ <em>Discussion of EPA-funded activities</em>: Develop and issue RFP, hire qualified environmental professional(s)/contractor(s), develop Cleanup Plan with ABCAs with partners and input from hired environmental professional(s)/contractor(s), and seek approval from EPA on QAPP and Cleanup Plan.</td>
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</tbody>
</table>
Plan will include remediation strategies, cleanup phases, closure concepts, milestones, community outreach component, protection for the environment and public health, detailed costs, and reuse options.

Non-EPA grant resources needed to carry out task/activity, if applicable: Technical assistance in developing Plan and hiring environmental professional(s)/contractor(s) will also be sought from Tribal Housing, Planning, Administration, TERO. Approval from EPA Project Manager on QAPP, Confirmation Sampling QAPP and Cleanup Plan.

**Anticipated Project Schedule:** 1 month – 8 months

**Task/Activity Lead(s):** Tribal Brownfields Coordinator and Environmental Director (develop and issue RFP, hire contractor(s), develop Cleanup Plan with ABCAs with partners and input from hired contractor(s), and seek approval from EPA on QAPP and Cleanup Plan.

**Output(s):** RFP, Contract, QAPP, Cleanup Plan with ABCAs

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**Task/Activity 2: Site Cleanup**

**Project Implementation**

- Discussion of EPA-funded activities: Site Cleanup, Recycling, Disposal, and Confirmation Sampling, Relocation and Refurbishing

- Non-EPA grant resources needed to carry out task/activity, if applicable: Technical assistance throughout cleanup will also be sought from Tribal Housing, Planning, Administration, TERO, Tribal Road, Tribal Refuse.

**Anticipated Project Schedule:** 8 months – 2 ½ years.

**Task/Activity Lead(s):** Hired Environmental Professional(s)/Contractor(s) (conduct abatement activities; recycle, transport and properly disposal of contamination and debris; and conduct confirmation sampling) and Qualified Tribal Construction Contractors. Tribal Brownfields Coordinator and Environmental Director (Oversee environmental professional(s)/contractor(s)' work).

**Output(s):** Progress Reports and Final Report from Hired Professional(s)/Contractor(s), Invoices, Confirmation Sampling Results

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**Task/Activity 3: Community Involvement**

**Project Implementation**

- Discussion of EPA-funded activities: Update the Brownfields Community Involvement Plan that outlines procedures for partner’s roles, keep community informed of activities and seek input. Coordinate outreach.

- Non-EPA grant resources needed to carry out task/activity, if applicable: Seek input and coordinate with Partners on updating Plan and providing outreach.

**Anticipated Project Schedule:** 1 month – 3 years, continually

**Task/Activity Lead(s):** Tribal Brownfields Coordinator and Environmental Director

**Output(s):** Updated Brownfields Community Involvement Plan, News releases. Documentation of any concerns and responses from Community.

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**Task/Activity 4: Reporting**

**Project Implementation**

- Discussion of EPA-funded activities: Reporting – Prepare Progress, Financial Status and Final Reports and Administrative Record. Prepare Success Story. Update reporting in BIT and ACRES.

- Non-EPA grant resources needed to carry out task/activity, if applicable: Coordination with EPA Project Manager on submission and receiving comments on reports and Success Story, information entered into BIT and ACRES.

**Anticipated Project Schedule:** 3 months – 3 years, continually as due

**Task/Activity Lead(s):** Tribal Brownfields Coordinator and Environmental Director.

**Output(s):** Progress Reports, Financial Status Report, Final Report, Administrative Records, Success
IV.E.3.c Cost Estimates - Consolidate into one response (c.i. Development of Cost Estimates; c.ii. Application of Cost Estimates; c.iii. Eligibility of Cost Share Activities) - Cost estimates were derived from previous Brownfields site cleanups of similar Air Force base homes (documented in ACRES). Additionally, the Phase II Environmental Site Assessments, completed by EPAs in-house START Contractor, provided costs on the cleanups and remediation costs.

(Please note - Our US EPA Region 8 Brownfields Project Officer has verified with EPA Headquarters’ attorneys and determined that relocation costs are eligible for this cleanup under 49 CFR 24.404 of the Uniform Relocation Act. This includes if purchasing new homes for the displaced peoples is cost prohibitive, then grant funds could be used to refurbish old housing. According to 49 CFR 24.401, the maximum amount of relocation costs for housing as a last resort is $22,500.)

Tribal Refuse Services provided a Support letter committing $40,000 towards the cost-share in the form of equipment and operations & maintenance usage, and through a reduction of tipping fee at the Transfer Station and for clean fill. Additionally, The Tribal EPA Director provided a support Letter committing up to $60,000 in cost share for demolition labor from the Tribal 1% Fee on contractors.

A breakdown of estimated costs are as follows:

<table>
<thead>
<tr>
<th>Site (# of structures)</th>
<th>Cost per Structure</th>
<th>Cost Breakdown (# of staff, days, rate)</th>
<th>Cost per Site</th>
<th>Explanation of Cost Basis</th>
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<tbody>
<tr>
<td>Sheyenne Homes (10)</td>
<td>$27,500</td>
<td>4 staff, 25 weeks of work/staff, 40 hrs/week, $68.75/hr.</td>
<td>$275,000</td>
<td>Each structure adjusted based on previous grant cost $27,500</td>
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<tr>
<td>Relocation costs</td>
<td>$22,500</td>
<td>5 staff, 20 weeks of work/staff, 40 hrs/week, $56.25/hr.</td>
<td>$225,000</td>
<td>Each structure based on average house improvement costs on Spirit Lake Reservation</td>
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<td><strong>Total</strong></td>
<td><strong>$500,000</strong></td>
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Proposed Budget:

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<th>Task Categories</th>
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<th>Fringe Benefits</th>
<th>Travel</th>
<th>Equipment</th>
<th>Supplies</th>
<th>Contractual</th>
<th>Task 2 - Cleanup, Recy., Disp.,Conf. Sampling, Relocation/Refurbishing</th>
<th>Task 3 - Public Involvement</th>
<th>Task 4 - Reporting</th>
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<td>$492,000</td>
<td>$2,000</td>
<td>$500,000</td>
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<tr>
<td>Sites – Homes near Fort Totten (10)</td>
<td>$6000 (@ $600.00 per Home)</td>
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<td>Relocation/Refurbishing costs</td>
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<td>$225,000</td>
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<td><strong>Total Direct Costs</strong></td>
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<td>$2,000 $500,000</td>
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<td><strong>Total Indirect Costs</strong></td>
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**IV.E.3.d Measuring Environmental Results** - Spirit Lake EPA intends to complete its proposed Tasks within three years because 1) it has successfully and on-schedule completed many Brownfields grants including 128(a) Brownfields Tribal Response Program Grants, competitive Brownfields Assessment, Cleanup and Job Training Grants, 2) has environmentally trained and experienced staff who have issued many RFPs, written contracts, and overseen contractors, 3) works with Tribal and Federal partners who can assist, 4) has established a Community Involvement Plan, 5) consistently meets reporting requirements to Region 8 EPA and 6) has support and recognition from Tribal Administration and the public for having addressed many contaminated sites and brought them back into productive reuse. We submit Quarterly Reports to EPA that detail progress on the grant Tasks and Budget balances. Our Cleanup Grant Workplans have included Sections on Outputs and Outcomes, which help us evaluate progress and make adjustments accordingly. Also, we submit internal Tribal Reports and present the status of projects at public Tribal Council and Department Head meetings.

**IV.E.4 Programmatic Capability and Past Performance; 4.a Prog. Capability (a.i Organizational Structure; a.ii Description of Key Staff; a.iii Acquiring Additional Resources)** - The Tribal EPA has successfully maintained EPA grants for many years including GAP, Water, UST, Lead and Brownfields. We have annually been awarded 128(a) Tribal Response Program-Brownfields grants since 2002. We have also received and successfully completed grants for Brownfields Assessment (1), Brownfields Cleanup (4) and Brownfields Job Training (1). The Brownfields Coordinator and Environmental Director have received certified OSHA 40-Hour Hazwoper training and overseen or assisted with assessments and cleanup (under the Brownfields Program and other Programs). They received meth lab, asbestos, lead and solid waste trainings, and attended numerous Brownfields and environmental workshops. We coordinate with the TERO Program when issuing RFPs and selecting qualified and certified contractors to conduct assessments and cleanups. The Tribe has established procurement procedures that comply with federal guidelines and contractors are required to meet all Tribal,
EPA and other agency requirements, have appropriate insurance, and hire Tribal subcontractors and laborers certified on the TERO list. We also work with our partners including the Tribal Roads, Tribal Housing, Tribal Refuse, Tribal Water Resources/Sioux Utilities who all have experience in conducting cleanups and are of valuable assistance in maintaining continuity throughout the project and dealing with unexpected problems or personnel turnover.

IV.E.4.b Past Performance and Accomplishments; Programmatic Capability and Past Performance; 4.b.i Currently Has or Previously Received an EPA Brownfields Grant

(1) Accomplishments

- 2002 – Annually awarded 128(a) Tribal Response Program-Brownfields grants.
- 1999 – Job Training Grant – Trained a core of 15 students (and in some courses many more) in OSHA 40-hour, lead, asbestos, and mold abatement, courses, First Aid/CPR and OSHA health and safety.
- 1999 - Assessment Grant for $200,000 – Completed 11-Phase I & 9-Phase II Assessments. Coordinated with EPA R8 Emergency Response Program to conduct a $1.5 million asbestos removal at 3 sites.
- 2005 – Brownfields Cleanup grant for rolling Hills Re-locatable Houses – asbestos and lead remediated in 26 homes resulting in safe living units for families.
- 2005– Brownfields Cleanup grant for Old Fort Totten Hospital – asbestos and lead remediated and ready for reuse. Tribe trying to identify refurbishing funds.
- 2005– Brownfields Cleanup grant for St. Michaels Community Center – lead removed (and EPA ER removed Asbestos) and now being used as a Community Center.
- 2005– Brownfields Cleanup grant for Ft. Totten Community Youth center – asbestos & lead remediated, structure demolished and properly removed. Being used as parking lot for adjoining church.
- 2018 - Cleanup grant for Sheyenne Relocatable Houses – 12 houses cleaned up.
- 2020 Cleanup grant for 5 scatter sites air force base homes, Building 75, Johnson House, Employment and training building.

(2) Compliance with Grant Requirements - Under the Tribal Response Program, we have established a Public Record, through which we announce assessments and cleanups funded by the Brownfields Program. Typically, they are announced to Tribal Council and Department Head meetings, through flyers posted in public places, and the radio and newspapers. We continually make progress on the required Four Elements, including surveying the Reservation and have entered 75 sites in ACRES. We conduct public outreach by distributing environmental information at Tribal meetings, Pow Wows, schools, job fairs, on the website and through newsletters. We have conducted at least 75 assessments and 48 cleanup projects (with 128(a) funding, TBAs and grants). We received prior approval from EPA Region 8 before completing site work through Site Eligibilities or TBAs. Contractor’s Cleanup Plan are approved, and they are also required to conduct confirmation sampling after cleanups. Letters are written to Tribal Administration and pertinent Programs summarizing the cleanup and if any Institutional Controls are recommended. The Tribal Environmental Program provides oversight on contractors work and developed Solid Waste Codes. We have timely completed all quarterly and grant deliverables.
ATTACHMENT A - Threshold Criteria

III.B. Threshold Criteria for Cleanup Grants
III.B.1 Applicant Eligibility
Federally Recognized Tribe – The Spirit Lake Tribe is an eligible applicant under the category of a Federally Recognized Indian Tribe. It was established by Treaty in 1867 between the United States Government and the Sisseton Wahpeton Sioux Bands.

III.B.2 Previously Awarded Cleanup Grants
The Spirit Lake Tribe (SLT) was awarded EPA Brownfield Cleanup Grants in 2006, 2018, 2020. These include the cleanup of an Old Hospital, a Community Youth Center, the St Michael School, Employment and Training building, Building 75, and the Old Air Force Base Homes at the Rolling Hills and at Ross Acres. SLT affirms that the currently proposed sites have not received funding from any previously awarded EPA Brownfields Cleanup grants.

III.B.3 Site Ownership
The sites are owned by the Spirit Lake Tribe and are located on Tribal Trust Land on the Spirit Lake Reservation.

III.B.4 Basic Site Information

(a) Name of sites:
   Site: 10 Sheyenne Relocatable Homes on the Spirit Lake Reservation near Fort Totten, ND

(b) Address of sites:
   Site: 35th ST NE, Sheyenne ND 58374

(c) Current owner of sites: Spirit Lake Tribe

III.B.5 Status and History of Contamination at the Sites

(a) Whether these sites are contaminated by petroleum or hazardous substances: The contamination is hazardous substances.

(b) The operational history and current use(s) of the sites: The Sheyenne homes are on Tribal Trust land. Prior to that time the land was in a natural state. The houses are abandoned and/or Tribal Housing is in the process of finding places for remaining families to live with the intent of having the houses remediated in the future. The houses are from Minot Air Force Base and were previously used as family base housing. They were built between mid-1940 through mid-1960s. In 2004, they were transferred from the base to the Tribe through the Operation Walking Shield Program, which was authorized funding in August 2001 under HUD's Rural Housing and Economic Development grants to manage and coordinate the relocation of approximately 258 houses from Minot Air Force Base to five Indian reservations in three states. The Spirit Lake Tribe received 86 of the re-locatable housing units.
(c) Environmental concerns, if known, at the sites: Based upon the recent Phase II Environmental Site Assessment, Asbestos and Mold and are environmental concerns. (See III.B.7 below and Attachment F. for details on contamination from the Phase II Environmental Site Assessments.)

(d) How the sites became contaminated, and to the extent possible, describe the nature and extent of the contamination: Asbestos and lead-paint were typical building products used during the period of the houses, and it was not recognized until recent years and eventually regulated that they could become environmental and health hazards. Mold is very difficult to stop once it permeated building products. Normal deterioration has made it difficult and not cost-effective to maintain the structures. The Tribe would like to remEDIATE and/or cleanup and remove the structures and surrounding soils depending upon what would be the most effective use of the funding when bids received from contractors.

III.B.6 Brownfields Site Definition

The Spirit Lake Tribe affirms that the sites are: (a) not listed or proposed for listing on the National Priorities List; (b) not subject to unilateral administrative orders, court orders, administrative orders 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 Brownfields funding.)

III.B.7 Environmental Assessment Required for Cleanup Applications

EPA Region 8 utilized the in-house START contractor to conduct an ASTM or equivalent Phase II site assessments in the summer of 2021. START provided final reports for all sites and have been reviewed by US EPA. The Phase II reports have confirmed the presence of Contaminants of Concern (COCs) at the Site.
- Sites: Sheyenne Re-locatable Houses - ACM and mold has been identified throughout the houses

III.B.8 Enforcement or Other Actions

The Spirit Lake Tribe is not aware of any ongoing or anticipated enforcement actions related to the sites. Also, it is not aware of any inquiries or orders from federal, state, or local government entities that the applicant is aware of regarding the responsibility of any party (including the applicant) for the contamination or hazardous substances at the sites.

III.B.9 Sites Requiring a Property-Specific Determination

The sites do not require a property specific determination.

III.B.10 Threshold Criteria Related to CERCLA/Petroleum Liability

III.B.10.a Property Ownership Eligibility - Hazardous Substance Sites

III.B.10.a.i Exemptions to CERCLA Liability

III.B.10.a.i.1 Indian Tribes

The Spirit Lake Tribe affirms it is not potentially liable for contamination at the sites under CERCLA §107 (e.g., as a current owner or operator of a facility, an owner or operator of a
facility at the time of disposal of a hazardous substance, a party that arranged for the treatment or
disposal of hazardous substances, or a party that accepted hazardous substances for transport to
disposal or treatment facilities at the sites) because it is eligible for one of the CERCLA liability
protections or defenses. It affirms it meets the requirements of the innocent landowner defense
under (CERCLA §107(b)(3) and 101(35)(A)). It also has CERCLA liability defense in being an
Indian Tribe. The Tribe took reasonable steps with regard to the contamination at the sites
by providing maintenance. When the structures were built, asbestos building products were not
recognized as health and environmental hazards. Throughout the years, the Tribe has provided
maintenance on the structures and attempted to manage any contamination, but through normal
deterioration it is no longer cost effective and the Tribe would like to remediate and/or cleanup
and remove the structures depending upon what would be the most effective use of the funding
when bids received from contractors. The Tribe has not arranged for the disposal of hazardous
substances at the sites or transported hazardous substances to the sites.

III.B.10.a.i.2 Alaska Native Village Corporations and Alaska Native Regional Corporations
Not applicable.

III.B.10.a.i.3 Property Acquired Under Certain Circumstances by Units of State and Local
Government
The Tribe is federally recognized and has always owned the property. Federally Recognized
Indian tribes cannot be liable under the Comprehensive Environmental Response, Compensation
and Liability Act (“CERCLA”), because they are not listed in the definition of “persons” covered
by the statute. When the structures were built asbestos building products were not recognized as
health and environmental hazards. In addition, lead-based paint was known to yield a more
durable, long-lasting end product that can resist moisture, and reduce the risk of cracking and
molding. Throughout the years, the Tribe has provided maintenance on the structures and
attempted to manage any contamination, but through normal deterioration it is no longer cost
effective and the Tribe would like to remediate and/or cleanup and remove the structures
depending upon what would be the most effective use of the funding. The Tribe has not disposed
of hazardous substances at the sites or transported hazardous substances to the sites.

III.B.10.a.ii. Exceptions to Meeting the Requirement for Asserting an Affirmative Defense
to CERCLA Liability
III.B.10.a.ii.1 Publicly Owned Brownfield Sites Acquired Prior to January 11, 2002
The Tribe is federally recognized and has always owned the property. Federally Recognized
Indian tribes cannot be liable under the Comprehensive Environmental Response, Compensation
and Liability Act (“CERCLA”), because they are not listed in the definition of “persons” covered
by the statute.

III.B.10.a.iii. Landowner Protections from CERCLA Liability
III.B.10.a.iii.1 Bona Fide Prospective Purchaser Liability Protection
III.B.10.a.iii.1.a Information on the Property Acquisition
The Tribe acquired the sites under Treaty with the U.S. Government in 1867. The houses were
acquired in 2004 through the Operation Walking Shield Program, which was authorized funding
in August 2001 under HUD’s Rural Housing and Economic Development grants to manage and
coordinate the relocation of approximately 258 houses from Minot Air Force Base to five Indian reservations in three states. The Spirit Lake Tribe received 86 of the re-locatable housing units.

III.B.10.a.iii.1.b Pre-Purchase Inquiry
Pre-Purchase inquiry was not a typical process at the time the sites were acquired in 1867. Recently, the Tribe conducted updated Phase II ASTM Environmental Site Assessments as outlined in detail in above Section e (Environmental Assessment Required for Cleanup Proposals).

III.B.10.a.iii.1.c Timing and/or Contribution Toward Hazardous Substances Disposal
The Tribe has not caused or contributed to any releases of hazardous substances at the sites. When the structures were built, asbestos building products were not recognized as health and environmental hazards. In addition, lead-based paint was used because it was known to yield a more durable, long-lasting end product that can resist moisture, and reduce the risk of cracking and molding. It was not until recent years, that it became apparent and eventually regulated by Standards and Regulations that lead and asbestos could become contamination issues. The Tribe affirms it has not at any time arranged for the disposal of all hazardous substances at the sites.

III.B.10.a.iii.1.d Post-Acquisition Uses
The Spirit Lake Tribal Housing Program has been renting the houses to Tribal families. The houses are abandoned with the commitment of Tribal Council to build energy efficient housing once the contaminated houses are cleaned up.

III.B.10.a.iii.1.e Continuing Obligations

i) The Tribe has taken reasonable steps to:
Stop any continuing releases; Prevent any threatened future release; and Prevent or limit exposure to any previously released hazardous substance. Throughout the years, the Tribe has provided maintenance on the structures and attempted to manage any contamination, but through normal deterioration it is no longer cost effective and the Tribe would like to remediate and/or cleanup and remove the structures depending upon what would be the most effective use of the funding when bids received from contractors.

ii) The Tribe confirms its commitment to:
The Tribe confirms it will comply with all land-use restrictions and institutional controls; Assist and cooperate with those performing the cleanup and provide access to the property; Comply with all information requests and administrative subpoenas that have or may be issued in connection with the property; and Provide all legally required notices. The Brownfields Tribal Response Program has established procedures for Public Notification and documentation of Institutional Controls. The staff has received training in OSHA 40-Hour, Lead, and Asbestos Training, has conducted other environmental cleansups, will oversee the cleanup of the houses, hire a certified contractor(s) to conduct the cleanup.

III.B.10.a.iii.2 Non-Publicly Owned Sites Acquired Before January 11, 2002
Does not apply.

III.B.10.b Property Ownership Eligibility - Petroleum Sites
III.B.10.b.i Information Required for a Petroleum Site Eligibility Determination
III.B.10.b.i.1 Current and Immediate Past Owners
Does not apply.

III.B.10.b.i.2 Acquisition of Sites
Does not apply.

III.B.10.b.i.3 No Responsible Party for the Sites
Does not apply.

III.B.10.b.i.4 Cleaned Up by a Person Not Potentially Liable
Does not apply.

III.B.10.b.i.5 Judgments, Orders, or Third Party Suits
Does not apply.

III.B.10.b.i.6 Subject to RCRA
Does not apply.

III.B.10.b.i.7 Financial Viability of Responsible Parties
Does not apply.

III.B.11 Cleanup Authority and Oversight Structure
III.B.11.a Cleanup Oversight
The Tribe, being a sovereign entity, has not participated in the State Voluntary Cleanup Program. Instead, it will consult with EPA to ensure the cleanup is protective of human health and the environment. In addition to coordinating activities with EPA, the Spirit Lake Environmental Protection Administration Office has been working towards building its environmental capability. Several staff members have been trained and are certified in a number of environmental courses including OSHA 40-Hour HazWoper, asbestos, lead and other courses. Progress has been made towards establishing a Brownfields Inventory, providing oversight on several assessments and cleanups, conducting environmental outreach. When hiring contractors, Federal and Tribal procurement procedures are followed as well as the Tribal TERO procedures. Any RFPs and Agreements or Contracts are reviewed and approved by Tribal Administration before being implemented. Our past and current Brownfields procedures include using the RFP and Agreement templates that EPA Region 8 recommended, which are then filled-out and reviewed and internally approved by the Tribe. The RFP is distributed. The bids received are reviewed and rated by a panel and Agreement is written with the selected contractor. The Tribe owns the property and houses and therefore access is not a problem.

III.B.11.b Access to Adjacent Properties
The Tribe will not have an issue with access to adjacent properties because they are located on Tribal Trust Lands under the authority of the Tribe.

III.B.12 Community Notification
III.B.12.a Draft Analysis of Brownfields Cleanup Alternatives
III.B.12.b Community Notification Ad
An announcement for the Public Meeting for the proposed Cleanup Grant for the homes was placed in the Benson County Farmers Press Newspaper on November 11. The ad included the date, time and location of the meeting; a list of proposed cleanup sites; that a draft plan and
ABCAs would be discussed and available for review and comments at the meeting and also at
the Environmental Protection Administration. Contact information was provided. (See
Attachment D for a copy of the ad.)

III.B.12.c Public Meeting
The Public Meeting was held on November 23, 2021, at the Tribal Administration Building
Conference Room at 10:00 AM. At the meeting, a Sign-in sheet was distributed, the sites and
projects were discussed, and drafts of the Cleanup Grant Proposal and Analysis of Brownfields
Cleanup Alternatives (ABCAs) for each site were distributed and discussed. Based on Tribal
government and community input during our public meeting held November 23, 2021, it was
suggested that if awarded the grant, the sites will be abated, remediated, and refurbished.
(See Attachment D for information on the Public Meeting, a copy of the Sign-In Sheet and
a summary of public comments with answers.)

III.B.12.d Submission of Community Notification Documents
(See Attachment D for copies of Community Notification Documents and Attachment F for
the Analysis of Brownfields Cleanup Alternatives - ABCAs).

III.B.13 Statutory Cost Share
III.B.13.a Meet Required Cost Share
Total Cost Share is $100,000 to be contributed by the Tribal EPA 1% Fee and Tribal Refuse
Control Program, broken-down as follows:
➢ The Director of the Spirit Lake Tribe EPA has provided in a support letter, up to $60,000
from the Tribal 1% Fee (on contractors) towards the cost share.
➢ The Director of the Spirit Lake Refuse Control Program has provided the following cost
share match. The Director also states in a support letter the Tribe is requesting a Hardship
Waiver as $40,000 will be a burden on the Tribe because it takes time away from normal
everyday usage of the Refuse Control Equipment (excluding flooding emergencies which we
often have).
• Equipment usage for a 2-month period, including one Dump Truck ($3,000), five Roll
Oft’s ($16,000), one Backhoe ($4,000), and one Skid Steer ($2,000)
• Operation & Maintenance and Labor donated from the Spirit Lake Refuse Control
Program ($5,000),
• Clean Fill dirt from a source approved by the Tribal Historic Preservation Officer
(THPO) ($5,000), and
• Tipping fee reduction at Tribal transfer station for construction debris ($5,000).

III.B.13.b Hardship Waiver
Rather than meet the cost share requirements, the Spirit Lake Tribe is requesting a Hardship
waiver. The Tribe is requesting a hardship waiver because providing the 20% match will place
an undue hardship on the Tribe. The Spirit Lake Tribe resides in a historically economically
depressed region in northeast/east-central North Dakota. Being a rural area located in a rural
state, resources are limited and there are many Tribal demands competing for funding including
health care, housing, education, and jobs. Additionally, the Tribe experiences high
unemployment and poverty rates. (See Attachment G for Hardship Waiver Request.)