

GREAT LAKES LEGACY ACT PROJECT AGREEMENT
BETWEEN
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
MINNESOTA POLLUTION CONTROL AGENCY,
WISCONSIN DEPARTMENT OF NATURAL RESOURCES AND
VIACOMCBS
FOR
REMEDIAL ACTION
OF
MUNGER LANDING

The United States Environmental Protection Agency (U.S. EPA), represented by the Great Lakes National Program Office (GLNPO), ViacomCBS, Minnesota Pollution Control Agency (MPCA) and Wisconsin Department of Natural Resources (WDNR) (the Non-Federal Sponsors) are entering into this Project Agreement (Agreement) for the Remedial Action of Munger Landing as more fully described in this Agreement (the Project).

The Project, as defined in Paragraph 1.h of this Agreement, is a qualified project under the Great Lakes Legacy Act (GLLA), codified as amended at 33 U.S.C. § 1268(c)(11). Munger Landing is part of the St. Louis River Area of Concern, and the Project is to be carried out within the St. Louis River Area of Concern, which is wholly or partially within the United States. The Project will complete the remediation of approximately 38 acres of the Munger Landing Site to address approximately 100,000 cubic yards of contaminated sediment through a dredge removal and residual cover. This Project is based upon remedial investigations and a focused feasibility study, an evaluation of remedial alternatives, and a remedial design that is being developed by U.S. EPA, MPCA, WDNR and the US Army Corps of Engineers which should be completed in January 2022. MPCA submitted an application to GLNPO for Munger Landing Sediment Remediation on August 10, 2021. The Project is described more completely in the attached Statement of Work.

Section 118(c)(11) of the Clean Water Act codifies the Great Lakes Legacy Act (GLLA), 33 U.S.C. § 1268(c)(11), and authorizes GLNPO to monitor and evaluate, remediate, or prevent further or renewed contamination of sediment in Areas of Concern. Under Section 118(c)(11)(D)(iii), 33 U.S.C. § 1268(c)(11)(D)(iii), the Non-Federal Sponsor must enter into a written project agreement under which it agrees to carry out its responsibilities and requirements for the Project. Section 118(c)(11)(E), 33 U.S.C. § 1268(c)(11)(E), specifies the non-Federal share of the cost of a project carried out under the GLLA, including, but not limited to: the value and types of any in-kind contribution of material or services that are integral to the Project and are to be provided by the Non-Federal Sponsors; limitations on the credit for any such in-kind contributions provided by the Non-Federal Sponsors and the Non-Federal Sponsors responsibility for 100% of the cost of long-term operation and maintenance of the Project.

This Agreement under the GLLA to remediate contaminated sediments will facilitate removing Beneficial Use Impairments and delisting an Area of Concern. This work supports Objective 1.2 of U.S. EPA's Strategic Plan for 2018-2022 to provide for clean and safe water by sustainably managing the GLLA program to support aquatic ecosystems and recreational, economic, and subsistence activities. In addition, the work under this Agreement supports the following two Measures of Progress from the Great Lakes Restoration Initiative Action Plan III: Areas of Concern where all management actions necessary for delisting have been implemented; and Beneficial Use Impairments removed in Areas of Concern.

The Estimated Total Project Costs of the Project is \$41,265,000. The Non-Federal Sponsors' share of the costs of the Project is 40%, and GLNPO's share of the costs of the Project is 60%.

GLNPO and the Non-Federal Sponsors have the authority and capability to perform as set forth in this Agreement and intend to cooperate in cost-sharing and financing of the Project according to the terms of this Agreement.

NOW, THEREFORE, GLNPO and the Non-Federal Sponsors agree as follows:

ARTICLE I - DEFINITIONS AND GENERAL PROVISIONS

1. For purposes of this Agreement:

- a. "Article" means a portion of this Agreement identified by roman numeral.
- b. "Estimated Total Project Costs" means \$41,265,000. The Estimated Total Project Costs may be increased by 5% as a contingency by the mutual agreement of GLNPO and the Non-Federal Sponsors without having to sign a modification to this Agreement.
- c. "Fiscal Year" means one fiscal year of GLNPO. The GLNPO fiscal year begins on October 1 and ends on September 30.
- d. "GLLA" means the Great Lakes Legacy Act, 33 U.S.C. § 1268(c)(11), as amended.
- e. "In-Kind Contributions" means the value, as established by GLNPO, of Project related goods and services provided by the Non-Federal Sponsors that GLNPO determines are integral to the Project, including, but not limited to: construction and operation of Project elements, airspace for the disposal of dredged sediment in an excavated material disposal facility, construction materials, equipment, design or engineering services, laboratory services and staff charges, and any credit for work the Non-Federal Sponsor ViacomCBS may have for work under the GLLA Project Agreement and its Amendment(s) between ViacomCBS and U.S EPA for Remedial Investigation of Munger Landing, as permitted by Section 118(c)(11)(E)(iii)

of the GLLA, 33 U.S.C. § 1268(c)(11)(E)(iii).

f. “Non-federal proportionate share” means the ratio of the Non-Federal Sponsors total cash and in-kind contribution required according to Paragraph 4 of this Agreement to the total financial obligations for the Project, as projected by GLNPO.

g. “Paragraph” means a portion of this Agreement identified by Arabic numeral.

h. “Project” means work set forth in the Amended Statement of Work, which is attached hereto and incorporated by reference, including the sediment remediation project which will result in the dredging, dewatering and disposal of approximately 100,000 cubic yards of contaminated sediment from the St. Louis River Area of Concern, the placement of sand over approximately 38 acres of impacted sediment in the St. Louis River Area of Concern, wetland and nearshore habitat restoration within the Project area, and the installation of a sandy area.

i. “Project period” means the time from the date the original Project Agreement first becomes effective to the date that GLNPO notifies the Non-Federal Sponsors in writing of GLNPO's determination that the Project is complete and can be closed out or is otherwise terminated.

j. “Statement of Work” or “SOW” means the Statement of Work for this Project Agreement Project Implementation, “Munger Landing Sediment Remediation Project Agreement Remedial Action Saint Louis River Area of Concern, Duluth, Minnesota,” dated December 14, 2021 and attached hereto and incorporated by reference.

k. “Total Project Costs” means all costs incurred by the Non-Federal Sponsors and/or GLNPO according to this Agreement that are directly related to the work on the Project prior to any operation and maintenance costs. Subject to this Agreement, the term includes, but is not limited to: the value of the Non-Federal Sponsors’ in-kind contributions; GLNPO’s engineering and design costs during the Project; investigation costs to identify the existence and extent of hazardous substances; actual Project costs; GLNPO’s costs of contract dispute settlements or awards; and audit costs pursuant to Article IX of this Agreement. The term does not include any financial obligations for the operation and maintenance of the Project; or any costs of dispute resolution under Article VI of this Agreement. This term also does not include GLNPO’s direct labor and indirect costs because Congress has directed EPA “to exercise maximum flexibility to minimize non-Federal match requirements.” H.R. Rep. No. 112-151 at 65 (2011).

ARTICLE II - OBLIGATIONS OF GLNPO AND THE NON-FEDERAL SPONSORS

2. Subject to receiving funds appropriated by the United States Congress, GLNPO shall conduct its assigned portions of the Project by applying those procedures usually applied to Clean Water Act projects, pursuant to federal laws, regulations, and policies.

3. By signing this Agreement, each Non-Federal Sponsor certifies that its respective financial management systems meet the following standards:

a. Financial reporting. Accurate, current, and complete disclosure of the financial results of financially assisted activities is made according to the financial reporting requirements of this Agreement.

b. Accounting records. The Non-Federal Sponsor maintains record which adequately identify the source and application of funds provided for financially-assisted activities. These records contain information pertaining to authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

c. Internal control. Effective control and accountability is maintained for all Project Agreement cash, real and personal property, and other assets. The Non-Federal Sponsors adequately safeguards all such property and assures that it is used solely for authorized purposes.

d. Budget control. For each Project Agreement, the Non-Federal Sponsors compare actual expenditures or outlays with budgeted amounts. Financial information is related to performance or productivity data, including developing unit cost information whenever appropriate or specifically required in the Project Agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

e. Allowable cost. The parties agree that the regulations at 2 CFR Part 200 and the terms of this Agreement will govern in determining the reasonableness, allowability, and allocability of costs.

f. Source documentation. The Non-Federal Sponsors' accounting records are supported by such source documentation as paid bills, payrolls, time and attendance records, contract award documents, etc.

4. The Non-Federal Sponsors shall contribute a share of the Total Project Costs as follows:

a. The parties have estimated the amount of the Estimated Total Project Costs to be provided by the Non-Federal Sponsors, which may include In-Kind Contributions that are

determined to be integral to the Project. In-Kind Contributions can include, but are not limited to the following:

- (1) Lands;
- (2) Equipment;
- (3) Labor;
- (4) Airspace for the disposal of dredged sediment; and
- (5) Work or services performed by the Non-Federal Sponsors as set forth in the Statement of Work for the Project.

b. If the amount of the In-Kind Contributions which the Non-Federal Sponsors provide to the Project is less than 40% of the Total Project Costs, the Non-Federal Sponsors shall provide an additional cash contribution, pursuant to Paragraph 18, in the amount necessary to make its total contribution equal to 40% of total costs of the Project.

5. GLNPO shall perform a final accounting according to Paragraph 17 after work is completed on the Project to determine the value of the Non-Federal Sponsors' contributions under this Agreement to determine whether the Non-Federal Sponsors have met their financial obligations under GLLA.

6. The Non-Federal Sponsors shall not use federal program funds to meet any of its obligations for the Project under this Agreement.

7. The Non-Federal Sponsors certify that the Non-Federal Sponsors and, to their knowledge, any of their contractors who will execute work under this Agreement:

a. Are not presently or proposed to be debarred or suspended, declared ineligible, or voluntarily excluded from federal, state or local ("public") transactions;

b. Have not within a three year period preceding this Agreement been convicted of or had a civil judgment rendered against them for (i) fraud or commission of a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract under a public transaction, (ii) violation of federal or state antitrust laws, or (iii) embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a

public entity with commission of any of the offenses enumerated under Paragraph 7.b; and

d. Have not within the preceding three years had a public transaction terminated for cause or default.

8. The Non-Federal Sponsors will ensure that projects involving collection of environmental data (measurements or information that describe environmental processes, location, or conditions; ecological or health effects and consequences; or the performance of environmental technology) meet the American National Standard requirements and guidance for Quality Management Systems for Environmental Information and Technology Programs; ASQ/ANSI E4:2014, or most current version. "Quality System Documentation" includes a Quality Management Plan (QMP), applicable project-level quality assurance/quality control (QA/QC) documentation such as Quality Assurance Project Plan (QAPP), or other documentation which demonstrates compliance with ASQ/ANSI E4:2014. The Non-Federal Sponsors will ensure that the project follows requirements of EPA Quality Policy 2105/2106 and applicable guidance. The Non-Federal Sponsors will ensure that any primary or secondary environmental data collection supporting GLLA projects/program meet requirements as outlined in the most current version of the "GLLA QA Considerations," and follow GLLA program-specific requirements outlined in the GLLA Data Reporting Standard (DRS). Collection or use of environmental data for work within this PA shall not occur until project-specific quality documentation is approved by EPA's QA Manager or designee.

ARTICLE III – ACCESS, LANDS, EASEMENTS, AND RIGHTS-OF-WAY

9. GLNPO, after consulting with the Non-Federal Sponsors, shall determine the access, lands, easements, or rights-of-way necessary for conducting the Project, including those necessary for completion of the Project. Before construction begins, the Non-Federal Sponsor ViacomCBS and/or WDNR shall acquire all access agreements, lands, easements, or rights-of-way necessary if any for the construction, except for the access agreement with the City of Duluth, as set forth in the Statement of Work for the Project.

ARTICLE IV - PROJECT COORDINATION TEAM

10. To provide for consistent and effective communication, the Non-Federal Sponsors and GLNPO, not later than 30 business days after the effective date of this Agreement, shall appoint named senior representatives to a Project Coordination Team. The Project Coordination Team shall meet or talk regularly until the end of the Project period. GLNPO's Project Manager and a counterpart named by the Non-Federal Sponsors shall co-chair the Project Coordination Team.

11. GLNPO's Project Manager and the Non-Federal Sponsors' counterparts shall keep the Project Coordination Team informed of Project progress and significant pending issues and actions, and shall seek the views of the Project Coordination Team on matters that the Project Coordination Team generally oversees.

12. Until Project completion, the Project Coordination Team shall generally oversee the Project including, but not necessarily limited to, matters related to: design; plans and specifications; scheduling; real property, relocation, and removal requirements; real property acquisition; contract costs; the application of and compliance with the Davis-Bacon Act, Contract Work Hours and Safety Standards Act and the Copeland Anti-Kickback Act for relocations; GLNPO's cost projections; final inspection of the entire Project or functional portions of the Project; preparation of the management plan for proposed dredged or excavated material disposal; and other Project-related matters. The Project Coordination Team also shall generally oversee the coordination of Project schedules.

13. The Project Coordination Team may make recommendations to the Project Managers on Project-related matters that the Project Coordination Team generally oversees, including suggestions to avoid potential sources of dispute. GLNPO and the Non-Federal Sponsors in good faith shall consider the recommendations of the Project Coordination Team. GLNPO and the Non-Federal Sponsors may accept or reject, in whole or in part, the Project Coordination Team's recommendations.

ARTICLE V - METHOD OF PAYMENT

14. As of the effective date of this Agreement, the Estimated Total Project Costs are \$41,265,000 and the Non-Federal Sponsors' contribution required under Paragraph 4 is projected at \$16,506,000. The Non-Federal Sponsor ViacomCBS' cost share is projected at \$14,030,100, the Non-Federal Sponsor MPCA's cost share is projected at \$2,145,780, and the Non-Federal Sponsor WDNR's cost share is projected at \$330,120. These amounts are subject to adjustment by GLNPO and are not to be construed as the total financial responsibilities of GLNPO and the Non-Federal Sponsors if a modification to this Agreement is signed by GLNPO and the Non-Federal Sponsors that increases the Estimated Total Project Costs.

15. In providing its required share of the Total Project Costs required by Paragraph 4, the Non-Federal Sponsors shall provide in-kind contributions and cash payments to the Project according to the provisions of this Paragraph.

a. Where a Non-Federal Sponsor is meeting its cost share requirements through in-kind contributions, that Non-Federal Sponsor shall submit detailed documentation of the work it performs under this Project. The Non-Federal Sponsors shall provide GLNPO with quarterly reports beginning with the first full three-month period after the effective date of this Agreement. The quarterly report is due 60 days after the end of the quarter. The quarterly report shall, at a

minimum, include the time period for which costs were incurred, total amount of costs incurred, a summary of work accomplished by the Non-Federal Sponsors in the previous quarter on each element of the Project, and a breakout of costs incurred to date in a tabular format. This report shall also include detailed documentation and certification of the Non-Federal Sponsors' in-kind costs incurred to meet its cost share requirement. The type of records that the Non-Federal Sponsors must submit include, but are not limited to, payroll records to support staff time, a calculated indirect cost rate to document indirect costs, travel vouchers and receipts, invoices that support contractor costs, and proof of payment documentation (such as SAP screen shots and/or Oracle payment history reports). If an entity other than the Non-Federal Sponsor is submitting documentation of in-kind costs incurred to satisfy any portion of the Non-Federal Sponsors' cost share requirement, then the certification shall be signed and submitted by the entity that incurred those costs.

The Non-Federal Sponsors or other entity submitting documentation of in-kind costs incurred to satisfy any portion of the Non-Federal Sponsors' cost share requirement shall sign and submit the following certification with each quarterly report:

I, [insert name of person], [insert name of company/organization] certify that I reviewed all the cost documentation of costs that are being claimed for the in-kind cost share of the [insert name] GLLA project. I verified the work prior to paying these costs. I have also verified that these costs have been paid.

I certify under penalty of law that I have examined and am familiar with the documents and information which support the statements made in this certification. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to 18 U.S.C. §§ 1001 and 1341.

Upon execution of the Project Agreement, the GLNPO Project Manager will provide the Non-Federal Sponsors with guidance concerning documentation of in-kind costs. If the Non-Federal Sponsors fail to submit a quarterly report, GLNPO may send the Non-Federal Sponsors written notice and a request to submit the report. The Non-Federal Sponsor shall submit the quarterly report within 60 days of receiving the written notice from GLNPO. If the Non-Federal Sponsors fail to submit the quarterly report within 60 days following the written notice and request, GLNPO may disallow those in-kind costs incurred by the Non-Federal Sponsor during that three-month period and GLNPO may not count such costs toward the Non-Federal Sponsor's cost share requirement.

b. Where the Non-Federal Sponsor is meeting its cost share requirements through cash payments/contributions, the Non-Federal Sponsors shall pay in the manner outlined in Paragraph 18, below:

i. The Non-Federal Sponsor MPCA shall make a payment of \$1,072,890 within 30 days of an invoice provided to them by the EPA.

ii. The Non-Federal Sponsor MPCA shall make a payment of \$858,312 within 30 days of an invoice provided to them by the EPA after the contract has been awarded.

iii. The Non-Federal Sponsor MPCA shall make a payment of the balance of their cost share within 30 days of an invoice provided to them by the EPA once the project has been 90% completed.

iv. The Non-Federal Sponsor WDNR shall make a payment of \$152,560 within 30 days of an invoice provided to them by the EPA.

v. The Non-Federal Sponsor WDNR shall make a payment of \$122,048 within 30 days of an invoice provided to them by the EPA after the contract has been awarded.

vi. The Non-Federal Sponsor WDNR shall make a payment of the balance of their cost share within 30 days of an invoice provided to them by the EPA once the project has been 90% completed.

vii. The Non-Federal Sponsor ViacomCBS shall make a payment of \$7,015,050 within 30 days of an invoice provided to them by the EPA.

viii. The Non-Federal Sponsor ViacomCBS shall make a payment of \$5,722,550 within 30 days of an invoice provided to them by the EPA in January 2023.

ix. The Non-Federal Sponsor ViacomCBS shall make a payment of the balance of their cost share within 30 days of an invoice provided to them by the EPA once the project has been 90% completed.

The Non-Federal Sponsor ViacomCBS anticipates it may satisfy the balance of its cost-share through the credit ViacomCBS may have for work under the GLLA Project Agreement and its Amendment(s) between ViacomCBS and U.S EPA for Remedial Investigation of Munger Landing, as permitted by Section 118(c)(11)(E)(iii) of the GLLA, 33 U.S.C. § 1268(c)(11)(E)(iii).

16. If at any time GLNPO determines that an increase in the Estimated Total Project Costs is necessary to complete the Project and additional funds or in-kind contributions will be needed from the Non-Federal Sponsors to cover the non-federal proportionate share of the

increased Estimated Total Project Costs, GLNPO shall notify the Non-Federal Sponsors in writing of the additional funds required and shall explain why they are required. If the parties sign a modification to this Agreement to increase the Estimated Total Project Costs the Non-Federal Sponsors, within 90 calendar days from receipt of the notice, shall pay the additional cash contribution in the manner described in Paragraph 18, below, or shall make the additional in-kind contributions available, in the manner described in Paragraph 15, required to meet the non-federal proportionate share. GLNPO may continue project expenditures with or without a modification to this Agreement if the Director of GLNPO determines in writing that project expenditures must proceed to demobilize personnel and equipment for the orderly wind down of the Project to comply with law or to protect human life or property

17. Upon completion of the Project or termination of this Agreement before Project completion and upon resolution of all relevant proceedings, claims, and appeals, GLNPO shall conduct a final accounting, based primarily on the information provided by the Non-Federal Sponsor under Paragraph 15 or at the request of the GLNPO Program Manager, and give the Non-Federal Sponsors the final accounting results. GLNPO may perform an interim accounting on its own or if requested by the Non-Federal Sponsors.

a. GLNPO's final accounting shall determine the Total Project Cost, each party's total contribution toward the Project, and measure that contribution against each party's required share for the Project.

b. If the final accounting shows that the Non-Federal Sponsors' total contribution is less than its required share of the Total Project Costs, the Non-Federal Sponsors shall, within 90 calendar days after receipt of written notice, pay the amount necessary to meet its required share by delivering a check payable in the manner described in Paragraph 18, below.

c. In the event the final accounting shows that the Non-Federal Sponsors total contributions exceed the required 40% of the Total Project Costs under paragraph 4, GLNPO will refund the amount of the cash payment(s) that exceed the required nonfederal contribution.

18. In the event that the Non-Federal Sponsors have not provided enough funding to meet their required proportionate share of Total Project Costs, GLNPO will provide the Non-Federal Sponsors with an invoice for the balance required and the Non-Federal Sponsors shall submit a check, made payable to the order of the "Treasurer, United States of America," to the address specified on the invoice. The check shall contain a notation referencing a Budget Organization account number that GLNPO shall provide after this Agreement is executed. In the case of an Electronic Fund Transfer (EFT), the Non-Federal Sponsors shall contact EPA to obtain the appropriate instructions on payment submittal.

ARTICLE VI - DISPUTE RESOLUTION

19. Unless otherwise expressly provided for in this Agreement, the dispute resolution procedures of this Article are the exclusive mechanism to resolve disputes arising under or with respect to this Agreement.

20. Any dispute which arises under or with respect to this Agreement initially shall be the subject of informal negotiations between the parties to the dispute. The period for informal negotiations shall not exceed 20 business days from the time the dispute arises, unless extended by written agreement of the parties to the dispute. The informal dispute period arises when the party not in dispute receives the other party's written notice of dispute.

21. Statements of Position.

a. If the parties cannot resolve a dispute by informal negotiations under the preceding Paragraph, the position advanced by GLNPO shall be binding unless, within 10 business days after the conclusion of the informal negotiations, the Non-Federal Sponsors invoke the formal dispute resolution procedures of this Article by serving on GLNPO a written statement of position on the matter in dispute. The statement of position shall include, but is not limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the Non-Federal Sponsors.

b. Within 30 business days after receiving the Non-Federal Sponsors' statement of position, GLNPO shall serve on the Non-Federal Sponsors its statement of position, including, but not limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by GLNPO. Within 20 business days after receiving GLNPO's statement of position, the Non-Federal Sponsors may submit a reply.

c. GLNPO shall maintain an administrative record of the dispute that contains all statements of position, including supporting documentation, submitted pursuant to this Paragraph. Where appropriate, GLNPO may allow submission of supplemental statements of position by the parties to the dispute.

d. The Director of GLNPO will issue a final administrative decision resolving the dispute based on the administrative record described above. This decision shall bind the Non-Federal Sponsors.

ARTICLE VII - OPERATION AND MAINTENANCE

22. Subject to applicable federal laws and regulations, the Non-Federal Sponsors, at no cost to GLNPO, shall operate and maintain the elements of the Project constructed pursuant to

this Agreement in a manner compatible with the authorized purposes of the Project including the operation and maintenance of the dredged sediment from the Project. The Non-Federal Sponsors shall be responsible for taking all actions necessary to undertake the operation and maintenance for the Project as set forth in the attached SOW.

23. The Non-Federal Sponsors authorize GLNPO to enter, at reasonable times and in a reasonable manner, upon property that the Non-Federal Sponsors own or control for the purpose of monitoring the effectiveness of the operation and maintenance of the Project. However, nothing in this Agreement conveys to GLNPO any interest in real property owned or controlled by the Non-Federal Sponsors.

24. The Non-Federal Sponsors authorize GLNPO or its agent to perform all activities on the lands, easements, and rights-of-way provided by the Non-Federal Sponsors to enable the disposal of dredged or excavated material that, in GLNPO's sole discretion, are necessary for operating, maintaining, or managing the disposal facilities including, but not necessarily limited to, construction, operation, and maintenance of the dredged or excavated material disposal facilities; and disposal of dredged or excavated material associated with the construction, operation, and maintenance of the Project.

ARTICLE VIII - SEVERABILITY CLAUSE

25. If a court issues an order that invalidates any provision of this Agreement, the parties shall remain bound to comply with all provisions of this Agreement not invalidated or determined to be subject to a sufficient cause defense by the court's order.

ARTICLE IX - MAINTENANCE OF RECORDS AND AUDIT

26. GLNPO and the Non-Federal Sponsors shall maintain such books, records, documents, or other evidence related to this Project and the work performed for at least five years after the completion of the Final Accounting discussed in Paragraph 17, above. To the extent permitted under applicable federal laws and regulations, GLNPO and the Non-Federal Sponsors shall each allow the others to inspect the books, records, documents, or other evidence.

27. a. The parties agree that Non-Federal Sponsors MPCA and WDNR are responsible for complying with the Single Audit Act Amendments of 1996, 31 U.S.C. §§ 7501-7507, as implemented by Office of Management and Budget (OMB) at 2 CFR Part 200 Subpart F. The Non-Federal Sponsors shall provide to GLNPO Single Audit Act reports for each year during which work was performed under this Project Agreement within 30 days of the availability of that report. Upon request of the Non-Federal Sponsors and to the extent permitted under applicable federal laws and regulations, GLNPO shall give the Non-Federal Sponsors and

independent auditors any information necessary to enable an audit of the Non-Federal Sponsors' activities under this Agreement. The costs of any non-federal audits performed pursuant to this Paragraph before GLNPO furnishes the Non-Federal Sponsors with the results of the final accounting shall be allocated according to the provisions of 2 CFR Part 200, and the costs that are allocated to the Project shall be included in Total Project Costs and shared according to the provisions of this Agreement.

b. The parties agree that Non-Federal Sponsor ViacomCBS is responsible for complying with any auditing requirements imposed upon its organization. As part of this Project Agreement, the Non-Federal Sponsor agrees to provide GLNPO with audited financial statements for each year during which work was performed under this Project Agreement within 30 days of the availability of those statements. Upon request of the Non-Federal Sponsor and to the extent permitted under applicable federal laws and regulations, GLNPO shall give the Non-Federal Sponsor and independent auditors any information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of any non-federal audits performed pursuant to this Paragraph before GLNPO furnishes the Non-Federal Sponsor with the results of the final accounting shall be allocated according to the provisions of 2 CFR Part 200, and the costs that are allocated to the Project shall be included in Total Project Costs and shared according to the provisions of this Agreement.

28. In accordance with 31 U.S.C. § 7503, GLNPO may conduct audits in addition to any audit that the Non-Federal Sponsors already conducts. The costs of GLNPO audits performed pursuant to this Paragraph before GLNPO furnishes the Non-Federal Sponsors with the results of the final accounting shall be included in the Total Project Costs, and shared according to the provisions of this Agreement.

ARTICLE X - FEDERAL LAWS AND REGULATIONS

29. In the exercise of their respective rights and obligations under this Agreement, the Non-Federal Sponsor and GLNPO agree to comply with all applicable federal laws and regulations, including, but not limited to environmental laws such as the Endangered Species Act, 16 U.S.C §1531 *et seq.*

ARTICLE XI - RELATIONSHIP OF PARTIES

30. In the exercise of their respective rights and obligations under this Agreement, GLNPO and the Non-Federal Sponsors each act in an independent capacity, and none are considered the officer, agent, representative, or employee of the other.

31. In the exercise of their rights and obligations under this Agreement, no party shall

provide, without the consent of the other parties, any contractor with a release that waives or purports to waive any rights the other parties may have to seek relief or redress against that contractor pursuant to any cause of action that the other party may have due to a violation of the law.

ARTICLE XIII - TERMINATION OR SUSPENSION

32. If the Non-Federal Sponsors fail to fulfill their obligations under this Agreement, or if the Director of GLNPO, in his sole discretion, determines it would be impractical to continue work for any reason, but particularly if continuing the work is not expected to achieve the objectives of the Project, the Director shall terminate this Agreement or suspend future performance under this Agreement unless he determines that continuation of work on the Project is in the interest of the United States, or is necessary to satisfy agreements with any other non-federal interests in connection with the Project.

33. If GLNPO does not receive annual appropriations sufficient to meet its share of scheduled expenditures for the Project for the then-current or upcoming fiscal year, GLNPO shall notify the other parties in writing, and GLNPO may without penalty terminate this Agreement or suspend future performance under this Agreement. If GLNPO suspends future performance pursuant to this Paragraph, the suspension shall remain in effect until GLNPO receives sufficient appropriations or until GLNPO or terminates this Agreement, whichever occurs first.

34. If GLNPO terminates this Agreement pursuant to this Article, the parties shall conclude their activities relating to the Project and proceed to a final accounting pursuant to Paragraph 17.

35. Any termination of this Agreement or suspension of future performance under this Agreement shall not relieve the parties of liability for any obligation previously incurred. Interest shall accrue on any delinquent payment owed by the Non-Federal Sponsors at a rate, to be determined by the Secretary of the Treasury, equal to 150 percent of the average bond equivalent rate of the 13-week Treasury bills auctioned immediately before the payment became delinquent, or auctioned immediately before the beginning of each additional 3-month period if the period of delinquency exceeds 3 months.

ARTICLE XIV -HISTORIC PRESERVATION

36. The parties shall evaluate the Project's impact on historic property. The costs of identification, survey and evaluation of historic properties shall be included in Total Project Costs and shared according to this Agreement.

ARTICLE XV - NOTICES

37. Unless otherwise specified here, any notice, request, demand or other communication required or permitted under this Agreement between the parties shall be in writing and addressed as follows:

to the MPCA:

Brad Leick
Project Manager
MPCA
525 Lake Avenue South
Duluth, MN 55802
(218) 302-6623
brad.leick@state.mn.us

to ViacomCBS:

Jeffrey B. Groy
Vice President, Senior Counsel/Environmental
ViacomCBS Law Department
ViacomCBS Inc.
20 Stanwix Street, 10th Floor
Pittsburgh, PA 15222
(262) 705-0579
Jeff.Groy@ViacomCBS.com

to WDNR:

Joe Graham
Contaminated Sediment Expert
WDNR
819 West Maple Street
Spooner, WI 54801-1255
(715) 292-4925
Joseph.graham@wisconsin.gov

to GLNPO:

Caitie Nigrelli
Project Manager
Great Lakes National Program Office
77 West Jackson Blvd. (G-9J)
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Meaghan Kern
Project Manager
Great Lakes National Program Office
77 West Jackson Blvd. (G-9J)
Chicago, IL 60604
(312) 353-5764
Kern.Meaghan@epa.gov

38. Any party may change its notice address provided in Paragraph 40 by written notice to the other parties.

39. The addressee shall be deemed to have received any notice given pursuant to this Agreement at the earlier of the date it is actually received, or seven calendar days after it is mailed.

ARTICLE XVI - CONFIDENTIALITY

40. To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

ARTICLE XVII - RESPONSIBLE PARTIES

41. If it is discovered through any investigation for hazardous substances or other means that CERCLA liability, or liability under any other federal or state authority, for hazardous substances addressed by the Project can be attributed to a potentially responsible party, the Non-Federal Sponsors and GLNPO shall provide prompt written notice to each other. The Non-Federal Sponsors and GLNPO shall consult according to Article IV in an effort to ensure that potentially responsible parties bear their fair share of clean up and response costs as defined in CERCLA or other federal or state law. Implementation of the Project shall not relieve any party from any liability that may arise under CERCLA or other federal or state law.

ARTICLE XVIII - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES

42. This Agreement does not create any rights, confer any benefits, or relieve any liability, for any third person not party to this Agreement.

ARTICLE XIX - NON-LIABILITY OF OFFICERS AND EMPLOYEES

43. No officer, agent, consultant, or employee of the Non-Federal Sponsors or of GLNPO, may be charged personally, or held liable, under this Agreement because of any breach, attempted breach, or alleged breach of this Agreement.

44. This Agreement will become effective on the date the GLNPO representative signs this Agreement.

ARTICLE XX - AUTHORITY OF SIGNATORY TO BIND AND AVAILABILITY OF FUNDS

45. Each undersigned representative of the Non-Federal Sponsors and GLNPO certifies that he or she is fully authorized to enter into the terms of this Agreement and to execute and legally bind such party to this Agreement.

46. Each undersigned representative of the Non-Federal Sponsors certifies that the Non-Federal Sponsor has the funds and financial capability to meet its required proportionate share of the Total Project Costs under this Agreement.

47. This Agreement may be executed in one or more counterparts and by facsimile, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

By: _____

Date: _____

Debra Shore
Regional Administrator & Great Lakes National Program Manager
US EPA Region 5

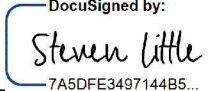
**Remedial Action of Munger Landing
Project Agreement between U.S. EPA, MPCA, WDNR and ViacomCBS**

By: Myrna Halbach Digitally signed by Myrna Halbach
Date: 2022.01.14 11:27:43 -06'00'
Myrna Halbach
Chief Financial Officer
Operations Division
Minnesota Pollution Control Agency

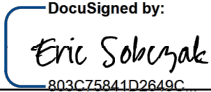
Date: _____

SWIFT: 205980
Tempo AI: 189269
Activity ID: PRO20220001

**Remedial Action of Munger Landing
Project Agreement between U.S. EPA, MPCA, WDNR and ViacomCBS**

By:  _____ Date: 1/14/2022 | 9:51 AM CST
For Preston D. Cole
DNR Secretary
Wisconsin Department of Natural Resources

**Remedial Action of Munger Landing
Project Agreement between U.S. EPA, MPCA, WDNR and ViacomCBS**

By: 
Eric Sobczak
Associate General Counsel
ViacomCBS

Date: 1/28/2022