

**ENVIRONMENTAL MITIGATION  
COMMUNITY FUND  
PROTOCOL IMPLEMENTATION PLAN ESTABLISHED AND TO BE  
IMPLEMENTED BY THE DEP AND COMMUNITY**

**A. BACKGROUND**

The \$5 million Environmental Mitigation Community Fund was created to ensure that the results of a May 24, 2023 consent order and agreement with Shell (“COA”) include an investment in Western Pennsylvania communities impacted by the violations at the Shell Facility. It is one of the largest funds in Pennsylvania history to be created from environmental enforcement settlement. A Protocol was approved by the Steering Committee on July 18, 2023 as a requirement of the COA to outline the criteria for seeking, evaluating, and supporting projects through the appropriate financial vehicle for the funds.

This Protocol Implementation Plan, and the agreement between Shell and The Pittsburgh Foundation (“TPF”) describes the composition of the Steering Committee, governs the composition of the Advisory Board, selection and distribution of awards for approved projects, and other items as so enumerated.

Shell’s role in this Implementation Plan and the Environmental Mitigation Community Fund is limited to executing the Fund Agreement with TPF and depositing the funds as required by the COA with TPF. Shell will not participate in the Implementation Plan, evaluation of proposed Community Projects, nor recommendations for awards.

**B. DEFINITIONS**

- Fund – The Environmental Mitigation Community Fund established by Paragraph 11(c) of the COA and agreement between Shell and the Trustee.
- Department or DEP – The Pennsylvania Department of Environmental Protection.
- OEJ – Office of Environmental Justice – a section of the Department of Environmental Protection.
- Steering Committee – the Steering Committee is an informal body initially consisting of 17 members representing organizations serving Beaver County and those spearheading environmental justice within DEP.<sup>1</sup>
- Trustee – The Pittsburgh Foundation (“TPF”).
- Shell – Shell Chemical Appalachia, LLC.

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<sup>1</sup> The initial 17 Steering Committee Members are named in DEP’s press release dated 7/10/23 entitled “DEP Announces Steering Committee for \$5 Million Environmental Mitigation Community Fund, Committee to Host Open Meeting.”

- Facility – the Shell petrochemical facility as described in the COA and colloquially known as the “Shell Cracker Plant” and variations thereof.
- Protocol – Environmental Mitigation Community Fund Protocol dated July 18, 2023.
- Advisory Board – a Board composed of members representing organizations serving Beaver County and those spearheading environmental justice within DEP that recommend community project applications for selection and funding, not affiliated, nor a part of TPF.
- Community Project – a proposed project, and/or a project that is recommended for an award by the Advisory Board for approval by TPF in accordance with its due diligence procedures and the Fund Agreement.
- Nearby Communities – as used in the COA, nearby communities mean those in Beaver County, Pennsylvania.
- Fund Agreement – agreement that creates the Fund between Shell and TPF.

**C. ADVISORY BOARD**

1. Selection of the Advisory Board

a. The Advisory Board will be composed of no more than 9 members. Selection of each member will be done in the same manner as was done for selection of the Steering Committee (as described in the Protocol).

b. The Advisory Board must include at least one member from DEP but may not otherwise include any members who are participating in active litigation against any party to the COA, whether in a personal capacity or as a directing member of an organization in active litigation.

c. With the exception of the DEP member who may serve for an indefinite period, all other Advisory Board members are expected to make a good faith commitment to serve for at least a year after enactment of this Implementation Plan or a “Term.”

i. After serving for a Term, a member may request to remain on the Advisory Board for another consecutive Term.

ii. Any member, with the exception of the DEP member, that serves for 2 consecutive Terms will not be considered for third consecutive Term but may be considered for selection to the Advisory Board after not participating on the Advisory Board for a Term. The Advisory Board may make an exception to this subsection if doing so would allow the Advisory Board to more efficiently undertake its responsibilities.

2. Meetings of the Advisory Board

a. The Advisory Board will hold meetings to discuss applications for proposed Community Projects, advertisement of the Environmental Mitigation Community Fund, progress of approved Community Projects, and any other relevant business on an as needed basis.

b. The Advisory Board will maintain minutes and/or notes of its meetings and make them publicly available. Minutes and/or notes can be informal and official transcription is not required.

3. Responsibilities of the Advisory Board

a. The Advisory Board will utilize application materials from TPF but has the ability to add to these application materials or require additional materials from applicants for consideration by the Advisory Board. The Advisory Board will make all necessary application materials available in digital and/or hard copy as warranted.

b. The Advisory Board will review applications for proposed Community Projects in accordance with this Implementation Plan.

c. The Advisory Board will approve, in writing, Community Projects and recommend them for funding to TPF. The Advisory Board will make its recommendations publicly available.

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d. The Advisory Board, in consultation with any necessary experts, will seek and evaluate progress and/or completion of all approved Community Projects and will make descriptions and/or reports of progress and/or completion publicly available.

e. The Advisory Board will take steps to contact TPF to stop award funding and seek to recover previously awarded funds should it determine that an approved Community Project is not progressing, and/or has not been completed in accordance with the approved application and the Advisory Board's recommendation. The Advisory Board will also provide necessary information to TPF for TPF to stop award funding and seek recovery of previously awarded funds if TPF determines an awardee has violated its due diligence criteria.

**D. APPLICATION PROCESS**

1. Selection Criteria

a. A Community Project must meet the following selection criteria. Any Community Project application must describe how it would meet each of the selection criteria.

b. The Community Project should provide one or more of the following and should consider the Special Considerations section below:

i. Benefits to Environment

A project would provide a “benefit to the environment” if it provides direct positive impacts to the quality of environmental resources, such as air, water or land. Priority will be given to those projects that mitigate or improve the environmental impacts of Shell’s air emissions.

ii. Benefits to Health

A project would provide a “benefit to health” if it provides a measurable benefit to the health of residents of Beaver County. Priority will be given to those projects that mitigate the impacts of Shell’s operations, such as those that mitigate impacts of poor air quality on human health, or that mitigate potential health impacts of the facility’s operation (i.e. noise and odor).

iii. Benefits to Quality of Life

A project would provide a “benefit to quality of life” if it improves “quality of life” in a way that is closely linked with benefits to the environmental and benefits to health. Priority will be given to those projects that mitigate the “quality of life” impacts of Shell’s operations at the Facility. Examples include Community Projects that may buffer noise from the Facility by planting trees or installing sound mitigation devices.

c. Prohibited Activities - No Community Projects should seek funding for the activities listed below, and any application that fosters the activities listed below will not be eligible for consideration by the Advisory Board. Any applicant whose project application is ineligible will be informed that the application is not being considered.

i. Lobbying of any sort, including but not limited to public entities, private entities and individuals, or political activities such as fundraising or advertising for a political party, campaign, or election.

ii. Advocacy directly against any party to the COA, any government entity, or any private and/or public organization.

iii. Legal advice, services, or representation, or support services for litigation and/or potential legal action, whether against a private entity or public entity; though legal advice sought for completion of a Community Project may be approved by the Advisory Board (such as contracting, subcontracting and purchasing).

iv. Promote or enable hate, discrimination or violence against any individual, group, organization, or other entity, or are otherwise against the funding prohibitions enumerated by TPF.

d. Location of Proposed Community Projects - To be accepted for consideration by the Advisory Board, the proposed project must be located in Beaver County, Pennsylvania.

e. Special Considerations:

i. The Advisory Board will approve at least one Community Project that provides for regular, independent, testing of the air quality in the vicinity of the Facility.

ii. The Advisory Board will approve at least one Community Project focusing on meaningful community education and engagement that fosters civic participation, and to design strategies seeking to improve the health and/or quality of life of the communities near to the Facility, with an emphasis on current and future mitigation of the environmental impacts from the Facility.

## 2. Applicant Criteria

a. Any organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (Code), and not otherwise classified as a private foundation under Section 509(a) of the Code, may apply. If a potential applicant is not described in Section 501(c)(3), it may partner with an entity that is described in Section 501(c)(3) to submit the application. Funding would be directed from the Trustee to the Section 501(c)(3) organization.

b. Mandatory location – an applicant must be either:

i. Based in Beaver County, Pennsylvania, or

ii. If an applicant based outside of Beaver County wishes to seek funding for a proposed Community Project, it must apply in a partnership with a qualifying organization based in Beaver County.

a. If applying in a partnership as described above, the qualifying organization based in Beaver County must have an active role in the Community Project that is delineated in the application.

c. All Community Project applications, and the information therein, will be treated as publicly available information, and not as “confidential.” Any applicant or application that asserts that any portion of the application is confidential, proprietary or trade secret information, or otherwise purports to be anything less than fully available to the public, will not be accepted for consideration by the Advisory Board.

d. Personal identifying information, and other information that could lead to an increased risk of fraud or crime, such as bank routing numbers or account numbers, social security numbers, protected health information, and the like, should not be included in application materials provided to the Advisory Board.

## E. SELECTION PROCESS

### 1. Pre-Application Community Engagement Period

a. The Advisory Board will implement a public engagement period starting the date of the announcement of this Implementation Plan, until January 31, 2024.

b. The Advisory Board will host at least two in-person public meetings in Beaver County, and at least one virtual public meeting.

c. The Advisory Board will host at least two Q&A sessions for potential applicants.

2. Application Period and Application Scoring Criteria

a. Applications for Community Projects will be accepted for review by the Advisory Board from the date of the announcement of this Implementation Plan until February 29, 2024.

b. Applications should utilize any application materials provided by TPF.

c. Every application must also include at minimum, the following elements, in addition to meeting the necessary applicant and selection criteria described above:

i. Project executive summary, including answers to these three specific questions:

(a) How is your project going to benefit the people impacted by the violations and exceedances from the Facility?

(b) How are you planning to share your project and its results with the public? What level of transparency are you implementing?

(c) What do you hope to accomplish in the long term? What are you projected long-lasting effects beyond specific results?

ii. Applicant Background will be scored out of 10 points and includes:

(a) Past performance (if any), including experience managing similar projects in scope and funding.

(b) Applicant's history and work in Beaver County.

(c) Programmatic capacity (such as personnel, resources, partnerships) necessary to implement the applicant's proposal.

iii. Project Scope and Objectives will be scored out of 20 points and include:<sup>2</sup>

(a) Benefit environment

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<sup>2</sup> See, Section D of the Implementation Plan, above.

(b) Benefit health

(c) Benefit quality of life

iv. Partnerships / Collaborations will be scored out of 10 points and includes:

(a) If the Applicant will partner or collaborate with other organizations, what programmatic and strategic capacity would be added?

v. Logistics, Feedback, and Results will be scored out of 30 points and includes:

(a) Planned activities and/or stages in the Community Project and funding intended for utilization in each activity/stage.

(b) Milestones toward completion of the Community Project and intended timeline for completion of each milestone.

(c) Feedback and input including letters of support, public involvement by the applicant regarding the Community Project, and incorporation of public feedback into the application.

(d) Results assessment – how will the success of the Community Project be measured and what is the timeline for results of the Community Project.

d. Applicants may submit multiple Community Project applications for funding, though an applicant who has an already approved Community Project will have lower priority for funding of any other proposed Community Projects.

e. Applicants may revise applications and reapply in the next Application Period, should successive Application Periods be necessary to expend the monies in the Fund.

### 3. Review Period

a. The Advisory Board will review all applications for proposed Community Projects within forty-five days after the end of the Application Period (“Review Period”).

b. The Advisory Board will meet on an as needed basis but will meet at least once within the Review Period to consider and discuss the applications for proposed projects.

### 4. Advisory Board Voting

a. Members of the Advisory Board will have one vote per member on whether to approve a Community Project for recommendation for funding. The scoring system

for the selection criteria described above will aid the Advisory Board in funding recommendations and prioritization of Community Projects for funding.

i. If, after consultation within DEP, the DEP member determines that any proposed Community Project could result in foreseeable violations of statutes, regulations, or policies administered by DEP, the Community Project will not be recommended for funding.

ii. Any determination under Paragraph 4(a)(i) above, will be memorialized and available to the public. Such a determination will not preclude an applicant from revising the application and reapplying for approval.

b. Recommendation for funding a Community Project for funding will be by simple majority vote of the members of the Advisory Board.

c. The Advisory Board's recommendation for funding of a Community Project will be memorialized and made publicly available.

d. Any member who does not vote to recommend a Community Project for funding will state their reasoning to be included in the memorialization described in 4(c) above.

## **F. RECOMMENDATION FOR FUNDING OF PROJECTS**

### **1. Recommendation/Non-recommendation for Funding**

a. Applications for Community Projects will be either recommended for funding or not recommended for funding by the Advisory Board in accordance with the Funding Agreement.

b. The Advisory Board will state the result of its review of each Community Project (recommendation/non-recommendation for funding), and bases for the recommendation/non-recommendation for funding in correspondence to the applicant that will subsequently be publicly available.

c. Applicants who submit applications for Community Projects that are not considered by the Advisory Board for the reasons described in this Implantation Plan will be informed in correspondence why the application was not accepted for consideration.

### **2. Approval Terms ("Terms")**

a. The Advisory Board may include terms requiring the successful applicant to provide whatever information it deems appropriate to monitor the successful implementation and completion of the Community Project.

b. Prior to submitting the recommendation for Funding, the successful applicant must commit to the Advisory Board, in writing, that it understands the Terms and it will comply with them. If the successful applicant does not make this written commitment, the Community Project will not be recommended for funding.

c. No applicant has any legal or equitable right to an award from the Community Fund, and any recommendation/non-recommendation for funding by the Advisory Board is not an action of DEP or the Commonwealth of Pennsylvania, nor does it create any legal right to seek appeal or review of that recommendation/non-recommendation for funding.

**F. AWARD PROCESS**

1. Awards will be provided via grants from TPF using TPF's grant-making processes.
2. If any potential applicant, or successful applicant, has questions regarding TPF's grant-making processes, it can contact the Advisory Board.