

RESOLUTION NO.: 10-2015
INTRODUCED BY: Mayor Roche

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MUNICIPAL AGENCY AGREEMENT WITH THE CUYAHOGA COUNTY LAND REUTILIZATION CORPORATION FOR DEMOLITION AND REMEDIATION OF THE PROPERTY LOCATED AT 26102 CHARDON ROAD; AND DECLARING AN EMERGENCY.

WHEREAS, the property located at 26102 Chardon Road, Richmond Heights, Ohio (PPN 661-06-034) (the "Property") is abandoned land which has been designated as a Brownfield because of the environmental concerns associated with its historic use as a gasoline station;

WHEREAS, the Property has been identified for redevelopment by the City of Richmond Heights in its Master Plan, and this Council believes that redevelopment of the Property is a key component of overall economic development in this area of the City;

WHEREAS, the City has been awarded a U.S. Environmental Protection Agency (EPA) Brownfield Revolving Loan Fund Grant, administered by the Cuyahoga County Department of Development, that will provide the City up to \$200,000 for environmental remediation of the Property, subject to the City taking title to the Property;

WHEREAS, the Property has been placed on the Cuyahoga County forfeited land list as a result of unsuccessful Sheriff's sales during the tax foreclosure process;

WHEREAS, the City has previously entered into an agreement with the Cuyahoga County Land Reutilization Corporation ("County Land Bank") whereby the County Land Bank, pursuant to its statutory authority, will obtain title ownership of the Property upon request of the City and convey ownership of the Property to the City; and

WHEREAS, the City and the County Land Bank wish to enter into an agreement whereby the County Land Bank will, upon proper a grant application from the City, demolish the structure on the Property through the Cuyahoga County Property Demolition Program using grant monies and the agreement will further authorize the County Land Bank to manage the remediation work to be conducted on the Property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: The Mayor is authorized to enter into a "Municipal Agency Agreement" with the Cuyahoga County Land Reutilization Corporation, relative to the Cuyahoga County Property Demolition Program, for the City's acquisition of the property known as 26102 Chardon Road in the City of Richmond Heights, in substantially the same form as that attached hereto as "Exhibit A" and fully incorporated herein.

Section 2: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: This Resolution is declared to be an emergency measure immediately necessary to preserve the public health, safety and general welfare of the citizens of the City and for the further reason that this measure is necessary in order to allow the City to solidify the obligations of the parties to the agreement approved herein at the earliest possible time so that the City may secure the aforementioned grant money and begin remediation activities as soon as possible; wherefore this Resolution shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED:_____

David H. Roche, Mayor

APPROVED:_____

ATTEST:_____

Betsy Traben
Clerk of Council

Eloise Henry
President of Council

“EXHIBIT A”

MUNICIPAL AGENCY AGREEMENT
[Cuyahoga County Property Demolition Program]

THIS MUNICIPAL AGENCY AGREEMENT (this “*Agreement*”) is entered into this _____ day of _____, 201____, by and between the [City / Village] of _____, Ohio (the “*Municipality*”), a [chartered / unchartered] municipal corporation existing and operating pursuant to the laws of the State of Ohio, with a business address of _____, and the **Cuyahoga County Land Reutilization Corporation** (the “*CCLRC*”), a corporation authorized by the Ohio General Assembly and organized under Ohio Revised Code Chapter 1724, with a business address of 323 W. Lakeside Avenue, Suite 160, Cleveland, Ohio 44113.

WHEREAS, the County Council of Cuyahoga County, Ohio has enacted an ordinance that established the Cuyahoga County Property Demolition Program (“*Program*”) that dedicates funding to municipal corporations and townships within Cuyahoga County for the purpose of demolishing vacant, abandoned, and nuisance or blighted property;

WHEREAS, municipal corporations located within Cuyahoga County may apply for funding for eligible demolitions from the Program directly or through an authorized agent who will administer the demolitions on behalf of the municipal corporation;

WHEREAS, Ohio Revised Code Section 715.261(E) permits a municipal corporation to enter into an agreement with a county land reutilization corporation organized under Chapter 1724 of the Revised Code wherein the county land reutilization corporation agrees to act as the agent of the municipal corporation in connection with removing, repairing, securing insecure, or demolishing unsafe, structurally defective, abandoned, deserted, or open and vacant buildings or other structures, making emergency corrections of hazardous conditions, or abating any nuisance, including high weeds, overgrown brush, and trash and debris from vacant lots;

WHEREAS, the Municipality and the CCLRC are desirous of entering into this Agreement whereby the CCLRC will act as the agent of the Municipality under the Program, for (i) the purposes described in Ohio Revised Code Section 715.261(E), as may be amended from time to time, and (ii) the procurement of any other lawful demolition of structures approved under the Program.

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NOW, THEREFORE, in consideration of the mutual promises, covenants and obligations contained herein, the Municipality and the CCLRC hereby agree as follows:

1. **Term.** The term of this Agreement shall be indefinite and may be terminated by either party hereto upon thirty (30) days written notice to the other party.
2. **Agency Relationship.** The CCLRC agrees to act as the agent of the Municipality under the Program for: (i) one or more of the purposes described in Ohio Revised Code Section 715.261(E), as may be amended from time to time, or (ii) the procurement of any other lawful demolition of structures approved under the Program, upon the written request of the Municipality in the form described in Section 4 below, the written acceptance of the CCLRC in the form described in Section 5 below, and the written Notice to Proceed by the Municipality in the form described in Section 6 below.
3. **Declaration of Nuisance and Notice of Intent to Demolish.** The Municipality agrees that it shall have the sole responsibility of taking all legal actions necessary to enable the lawful demolition of structures approved for demolition under the Program. This includes, but is not necessarily limited to, declaring the property a public nuisance, providing notice to the applicable parties set forth in Revised Code Section 715.26(B) in compliance with the provisions of such Section and providing the applicable parties the opportunity to comply with or appeal said notice.
4. **Municipality's Written Request for Demolition.** From time to time the Municipality may request that the CCLRC cause the demolition of properties approved for demolition under the Program. The Municipality's written request for demolition shall contain the following information: (a) the property address; (b) the owner(s) of record; (c) the permanent parcel number; (d) the requested action(s) to be undertaken by the CCLRC; (e) date(s) of issuance of any citations, with copies enclosed; (f) date(s) of any nuisance declaration under official authority of the Municipality's police powers by the Council of the Municipality or any authorized building official or building department, including any specifications for repair or maintenance, with copy of Resolution or order of condemnation enclosed; (g) statement of compliance with all applicable notice requirements to all parties that have a legal or equitable interest in the parcel as of

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the date of the Municipality's written request as reflected in the public record, with copies of title work (a lien search or equivalent) and returned certified mail "green cards" enclosed; (h) notice of all Codified Ordinances of the Municipality applicable to the requested action, with copies enclosed; (i) designation of the Municipal official responsible for oversight and inspection; and (j) any other information reasonably requested in writing by the CCLRC.

5. **Written Acceptance by CCLRC.** Upon receipt of a written request from the Municipality as detailed in Section 4 above, the CCLRC shall respond in writing within thirty (30) days of receipt of such written request from the Municipality indicating their acceptance or rejection of the proposed agency relationship for a specific property/action. Such written acceptance shall designate a CCLRC official responsible for oversight of the action. Although each written request may include multiple properties, each such property shall be deemed a separate request to the CCLRC. As such, some or all of the properties requested for action may be accepted.
6. **Written Notice to Proceed by Municipality.** Upon receipt of the CCLRC's written acceptance of the nuisance abatement request, the Municipality shall thereafter deliver to the CCLRC a signed Notice to Proceed in the form attached hereto as Exhibit A, which shall serve as the CCLRC's final authorization to begin its work of abating the nuisance as described in the Municipality's written request delivered in accordance with Section 4 hereof. This Notice to Proceed shall contain, and serve as, a certification by the Municipality to the CCLRC that the property is approved for demolition under the Program and that the Municipality owns the Property or it has provided all notices required by and is in compliance with Ohio Revised Code Section 715.26(B) and local ordinances or other applicable law and, as a result, the demolition of the property is an appropriate use of the Municipality's police powers.
7. **Demolition Contracts.** The CCLRC agrees that all demolition contracts awarded under this Agreement that are wholly or partially funded by the Program shall be competitively bid. The CCLRC further agrees that all demolition contracts and work performed thereunder shall meet or exceed the minimum demolition and

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property maintenance standards under the Program as established by the Cuyahoga County Department of Development.

8. **Filing Liens; Collection of Costs Incurred.** In the event that the CCLRC agrees to act as the Municipality's agent in connection with the Program and the Municipality elects to not file its own lien, the CCLRC shall file a lien against the property that was subject to a demolition. By electing not to file its own lien, the Municipality agrees that the total cost of such demolition may be collected by the CCLRC pursuant to Ohio Revised Code Section 715.261(B) and the Program. The Municipality further agrees to make no claim to any amount collected by the CCLRC in accordance with any expenditure by the CCLRC in accordance with this Agreement. If the Municipality desires to enforce its lien or receive any reimbursement of demolition-related costs dedicated to the Municipality under the Program, then the Municipality must state so in its written request to the CCLRC. Upon such election, the Municipality shall be responsible for filing any and all liens required to be filed against the property under the Program.
9. **Program Reporting.** Using the Cuyahoga County Department of Development's Program website, the CCLRC agrees to provide the County timely and accurate data on each parcel and structure for which demolition is requested or performed. The Municipality agrees that it shall be the Municipality's responsibility to provide the Cuyahoga County Department of Development all other program progress reports as required under the Program and to inform the Cuyahoga County Department of Development when the Municipality has fulfilled all its obligations under a demolition grant agreement.
10. **Assignment.** This Agreement may not be assigned by either party without the express written consent of the non-assigning party.
11. **Default/Remedies.** In the event of a material default by either party in the performance of its obligations hereunder, the non-defaulting party shall deliver to the other party written notice setting forth the nature of the default. The defaulting party shall have thirty (30) days to cure the default. If the default is not cured to the satisfaction of the non-defaulting party within such thirty (30) day period, the non-defaulting party may terminate this Agreement effective immediately upon receipt of written notice of termination by the defaulting party.

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In the event of termination, the defaulting party shall have no further rights or obligations under this Agreement; however, the defaulting party shall not be relieved of its obligations under this Agreement which accrued prior to the date of termination.

IT IS ESSENTIAL THAT IN ADDITION TO COMPLIANCE WITH ALL APPLICABLE POLICE POWER CONDEMNATION STATUTES, RULES, OR ORDINANCES, THE MUNICIPALITY MUST ASSURE THAT ALL OWNERS AND INTERESTED PARTIES OF RECORD ARE LEGALLY SERVED WITH ALL REQUIRED NOTICES. THE CCLRC RESERVES THE RIGHT TO REFUSE OR TERMINATE AGENCY RELATIONSHIPS DUE TO DEFECTIVE NOTICES, NOTICES TO PROCEED OR OTHER MATERIAL NON-COMPLIANCE WITH PROGRAM AND LEGAL REQUIREMENTS.

12. **Miscellaneous.** This Agreement shall be governed by the laws of the State of Ohio. This Agreement contains the entire agreement between the Parties and any amendment hereto shall be mutually agreed upon in writing by the Parties hereto.
13. **Notices.** All notices which either party hereto may give shall be addressed, in the case of the Municipality, as follows:

[City/Village] of _____
Attn: _____
_____, Ohio _____

And in the case of the CCLRC, as follows:

Cuyahoga County Land Reutilization Corporation
Attn: Cheryl Stephens
323 W. Lakeside Avenue, Suite 160
Cleveland, Ohio 44113

Such notices shall be delivered personally or sent by certified mail, return receipt requested, to the above addresses, or such other addresses as either party may direct in writing.

[signature page to follow]

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IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the date first written above.

City/Village of _____, Ohio

Cuyahoga County Land Reutilization Corporation

_____, _____

Gus Frangos, President

Date _____

Date _____

The legal form and correctness of the within instrument are hereby approved.

Law Director

By: _____

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Exhibit A



Notice to Proceed

[Cuyahoga County Property Demolition Program]]

The Cuyahoga County Land Reutilization Corporation ("the CCLRC"), under the authority of Ohio Revised Code Section 715.261(E) and pursuant to the **Municipal Agency Agreement dated** _____, 20____ between the CCLRC and the **City of _____, Ohio** ("the Municipality") is authorized to act as an agent of the Municipality for the purposes described in Ohio Revised Code Section 715.261(E) and for the procurement of any other lawful demolition of structures approved under the Cuyahoga County Property Demolition Program.

The Municipality hereby authorizes and orders the CCLRC to proceed as its agent and cause to be performed the actions requested below ("the Actions") on the structure located at the address referenced below ("the Property").

Requested Action(s): _____

Property Information:

Address: _____

PPN: _____ Structure Type: _____

Owner(s) of Record:

Name(s) _____ Tax Mailing Address _____

Most Recent Condemnation/Intent to Demolish Notice: (please attach copies of all such notices for the Property including copies of title work and returned certified mail "green cards" – Nuisance Abatements Only – Not required for properties owned by the Municipality)

Date of Issuance _____

Comply by Date _____

Violation Number _____

Certification of Compliance:

In issuing this order to proceed on _____, the Municipality certifies that the Property is approved for demolition under the Program and that it owns the Property or that the Municipality has provided notice to the applicable parties set forth in Revised Code Section 715.26(B) in compliance with the provisions of such Section and the applicable parties have not successfully appealed or complied with said notice and, as a result, the demolition of the property is an appropriate use of the Municipality's police powers. The undersigned warrants that he/she has legal authority to execute this notice to proceed on behalf of the Municipality.

Notice To Proceed Ordered by:

Print Name _____ Signature _____

Title _____ Date _____

Email or Fax completed and signed forms to:

Cheryl Stephens

Director of Acquisitions, Dispositions and Development, Cuyahoga Land Bank

323 W. Lakeside Avenue, Suite 160, Cleveland OH 44113

Fax Number: (216) 698-8972

Email: cstephens@cuyahogalandbank.org

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ADDENDUM 1
MUNICIPAL AGENCY AGREEMENT
[Cuyahoga County Property Demolition Program]

This Addendum (“*Addendum 1*”), entered into this _____ day of _____, 201____, is to the Municipal Agency Agreement (“*Agreement*”) dated _____, 20____ by and between the [City / Village] of _____, Ohio (the “*Municipality*”) and Cuyahoga County Land Reutilization Corporation (“*CCLRC*”). The Agreement is subject to the following additional terms and conditions, which the Municipality and CCLRC acknowledge and agree to:

- 1. Reimbursement of Ineligible Costs.** The Municipality shall reimburse the CCLRC for all costs incurred by the CCLRC as a result of demolitions or other related activities arising from this Agreement that are ineligible for reimbursement to the CCLRC under the Program (“*Ineligible Costs*”). These Ineligible Costs may include, but are not limited to i) demolition costs that are in excess of the Program’s maximum reimbursement for a single structure, or ii) costs associated with environmental remediation or site finishes that are requested by the Municipality but are not eligible for reimbursement under the Program. Upon the request of the Municipality, the CCLRC shall provide to the Municipality a written estimate of the Ineligible Costs for any demolition or other related activities arising from this Agreement. In all cases, the CCLRC shall document and maintain an itemized record of all Ineligible Costs incurred as a result of each agreement arising from this Agreement. Upon the request of the Municipality, the CCLRC shall provide copies of all invoices and receipts related to Ineligible Costs arising from this Agreement.

- 2. Additional Administrative Fee.** In addition to any administrative fees that are eligible for reimbursement to the CCLRC under the Program, the Municipality shall pay to the CCLRC an additional administrative fee equal to two percent (2%) of the total amount of any Ineligible Costs incurred by the CCLRC arising from any request made under this Agreement (“*Additional Administrative Fees*”).

3. **Appropriation and Authority to Spend.** If the CCLRC determines that a request by the Municipality under this Agreement may cause the CCLRC to incur Ineligible Costs, then, the CCLRC may, in its sole discretion, require that the legislative body of the Municipality enact an ordinance authorizing the appropriation and authority to spend funds. These funds shall be appropriated and spent for the purpose of reimbursing the CCLRC for any Ineligible Costs and Additional Administrative Fees that may be incurred by the CCLRC under this Agreement. The total amount of Ineligible Costs and Additional Administrative Fees set forth in the authorizing ordinance shall be in an amount sufficient, in the sole discretion of the CCLRC, to cover any anticipated Ineligible Costs or Additional Administrative Fees. The ordinance must also refer to the terms and conditions of this Agreement and any Addendums or Amendments that may be adopted from time to time. If the Municipality fails to enact such an authorizing ordinance, the CCLRC, in its sole discretion, may refuse to commence or continue serving as the Municipality's agent for the requested demolition or related activity that may result in Ineligible Costs and Additional Administrative Fees.
4. **CCLRC Invoicing.** Unless otherwise agreed to in writing by both the Municipality and the CCLRC, the CCLRC shall invoice the Municipality for any Ineligible Costs and associated Additional Administrative Fees incurred by the CCLRC as a result of this Agreement. Such invoicing shall be done no more frequently than on a monthly basis with the first month commencing on the first day of the immediately succeeding month from the date of execution of this Addendum 1. Each invoice shall contain an itemized list of Ineligible Costs incurred by the CCLRC during the invoiced period and the Additional Administrative Fees. The Municipality agrees to deliver payment to the CCLRC within Sixty (60) days of the date of issuance of the invoice by the CCLRC.
5. **Conflict.** Should any terms and conditions of this Addendum 1 be in conflict with the Agreement, then the terms and conditions of this Addendum 1 shall prevail.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the date first written above.

City/Village of _____, Ohio

_____, _____

Date _____

Cuyahoga County Land Reutilization Corporation

Gus Frangos, President

Date _____

The legal form and correctness of the within instrument are hereby approved.

Law Director

By: _____