

OHIO DEPARTMENT OF DEVELOPMENT
BROWNFIELD REMEDIATION PROGRAM
SUBRECIPIENT AGREEMENT

THIS AGREEMENT is entered into by and between the Summit County Land Reutilization Corporation (“SCLRC”) and _____ (“Subrecipient”), hereinafter collectively, the “Parties,” to undertake remediation of brownfield projects (“Projects”) as defined herein pursuant to the Brownfield Remediation Program (“Program”) as approved by the Ohio Department of Development (“ODOD”), and is effective as of the date when this Agreement becomes fully executed by all Parties hereto.

WHEREAS, the SCLRC, in conjunction with the Subrecipient, has applied for Program funds from the ODOD; and

WHEREAS, SCLRC, as the administrator of the Program funds, and Subrecipient, as the final recipient of a portion of the Program funds, each desire to set forth the responsibilities and obligations of each in undertaking activities pursuant to the Program in utilizing said funds.

WHEREAS, Parties realize that this Subrecipient Agreement may need to be changed, amended, terminated, or otherwise re-executed depending on Program Guidelines, as promulgated by ODOD.

NOW, THEREFORE, it is agreed between the parties hereto that:

I. SCOPE OF WORK.

- A. Activities. Subrecipient shall conduct all Projects in compliance, and consistent with, the latest version of the Program Guidelines provided by the ODOD, SCLRC’s Application, and any Agreement between ODOD and the SCLRC, each of which are incorporated by reference herein. The latest version of the Program Guidelines currently available online at: <https://development.ohio.gov/community/redevelopment/brownfield-remediation-program>
- B. Project. Program funds may be used for the sole and express purpose of undertaking and completing Projects as described in the Scope of Work provided within the Program Guidelines of ODOD, provided, however, that SCRLC shall be entitled to a portion of any General Administrative Costs reimbursed by ODOD, as outlined below in Section IV(B). Subrecipient shall select the specific Projects for remediation and shall be responsible for ensuring completion of all Projects within its estimated timeline for completion. Subrecipient shall select and enter into agreements with all contractors and/or subcontractors necessary to complete the Projects and shall follow all proper procurement procedures and all other federal, state, and local laws pertaining to the procurement and administration of said agreements. Subrecipient ensures that the total cost of the Project does not exceed the estimated cost of the Project submitted on Subrecipient’s application to SCRLC.

SCLRC may, under further written agreement between the Parties, solicit bids and/or proposals from contractors and/or subcontractors to perform environmental assessment, asbestos

assessment, remediation, demolition, and other related activities, for the Projects on behalf of Subrecipients. If it elects to do so, SCLRC may enter into a Master Pricing Agreement with said contractors and/or subcontractors that will establish the pricing that will be offered to Subrecipient for said work and may provide a listing of said contractors and/or subcontractors to Subrecipient with the agreed-upon pricing. Pursuant to Section 9.48 of the General Provisions of the Ohio Revised Code, Subrecipient may enter into an agreement with any contractor and/or subcontractor that has entered the Master Pricing Agreement, and the SCLRC shall not charge Subrecipient any charge for the right to enter into said agreement.

II. SCOPE OF SERVICES.

- A. Administration. Subrecipient will be responsible for the administration of the Projects in a manner satisfactory to SCLRC and consistent with the standards set forth in the Agreement between SCLRC and the ODOD, and in accordance with the Program Guidelines. SCLRC will be responsible for the general administration of the Program, as established in the Agreement between SCLRC and ODOD.
- B. Levels of Accomplishment – Goals and Performance Measures. Pursuant to the Program Guidelines, Subrecipient shall be responsible for completing the Projects and reporting such information and providing such documentation as may be required by ODOD and/or the SCLRC. Subrecipient shall also provide timeframes for performance to the SCLRC as requested and may be required to submit additional information and documentation, in a timely manner, as may be necessary for the SCLRC to meet its own reporting requires pursuant to the Program Guidelines. Quarterly Reports are due, from the SCLRC to ODOD, by 5:00 p.m. on the second Friday after the end of each quarter. Subrecipient hereby agrees to submit such information and documentation, as requested, in a reasonable and timely manner.
- C. Staffing. Subrecipient shall ensure adequate and appropriate staffing is allocated to each Project. Subrecipient shall, at all times, remain an independent contractor with respect to the services to be performed under this Agreement. Neither Subrecipient nor its personnel shall at any time, or for any purpose, be considered as agents, servants, or employees of SCLRC, ODOD, or the State of Ohio.
- D. Performance Monitoring. As part of its general administrative responsibilities, SCLRC shall monitor the performance of the Subrecipient. Subrecipient shall provide SCLRC all necessary reporting information as required by the ODOD for reimbursement and in the administration and review of the Program. Substandard performance, as determined by the SCLRC, will constitute noncompliance with this Agreement. SCLRC shall notify Subrecipient of substandard performance by written notice of default. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time, not less than thirty (30) days after being notified by SCLRC, this Agreement may be terminated by SCLRC and SCLRC may redistribute any funds previously allocated to Subrecipient to other subrecipients. The parties specifically acknowledge and agree that termination and redistribution of funds in the event of substandard performance is necessary to ensure that funds awarded by the ODOD to the SCLRC are expended and utilized within Summit County to the fullest extent possible.

E. Miscellaneous Matters.

- (1) Demolition Waiver Form. For any Project that is performed as the result of the owner of a property, other than Subrecipient, voluntarily agreeing to the demolition of structures on the property, Subrecipient shall obtain a Demolition Waiver in the form and manner prescribed by the SCLRC.
- (2) Waste Stream Locations. All waste that is the result of any Project shall either be deconstructed and reutilized or shall be transported to a state-approved waste stream facility or location.
- (3) Contractors. For each contractor and/or subcontractor procured by Subrecipient to perform any work on any Project, Subrecipient shall ensure their compliance with any contractor or subcontractor requirements pursuant to any agreement between SCLRC and ODOD and/or the Program Guidelines. Subrecipient may be required to provide copies of all agreements between Subrecipient and any Contractor or Subcontractor. In the event the Subrecipient elects to utilize a contractor and/or subcontractor procured through the SCLRC that is party to a Master Pricing Agreement as set forth in Section I(B), above, the terms of this Section will be satisfied.

III. TIME OF PERFORMANCE

Performance of Projects by the Subrecipient shall start on the date of the execution of this agreement by both parties and shall be completed within the Project Period defined by ODOD in its Program Guidelines, unless otherwise agreed to by and between the SCLRC and the ODOD in writing. Any Projects not completed as described may result in the recapture and/or reallocation of Program Funds. In the event that Subrecipient fails to expend any Program funds by the end of the Project Period, and the ODOD and SCLRC extend the length of time to generally expend Program funds by all recipients, but the SCLRC believes that Subrecipient cannot, or will not, adequately expend program funds, or is otherwise unsatisfied with the performance of Subrecipient, SCLRC may terminate this Agreement, effective immediately, and redistribute or reallocate any funds previously allocated to Subrecipient, to other subrecipients, if allowable under the Program Guidelines.

IV. PAYMENT

- A. Upon a successful award to the SCLRC, by ODOD, the SCLRC shall allocate funds to the Subrecipient, in a total amount not to exceed the total amount of funds awarded to the SCLRC, by ODOD, for all projects submitted by the Subrecipient to the SCLRC, which were subsequently submitted by the SCLRC to ODOD, and upon which the award of funding from ODOD to SCLRC was based. Additionally, Subrecipient shall meet, and maintain, all necessary match requirements, for each project, set forth by ODOD, by and through its agreements with the SCLRC and the Program Guidelines, such that Subrecipient agrees to provide documentation to the SCLRC of prior eligible match expenses, contribute, and/or expend the required match funds necessary to secure any awarded amount. The total amount of funding to be contributed, or spent, by Subrecipient, on eligible Program costs shall be referred to, throughout this agreement, as "Program Funds." Program Funds shall be expended for the sole and express purpose of completing the Projects described herein. It is expressly agreed and understood that the total amount to be disbursed, or reimbursed by the SCLRC to the Subrecipient shall not exceed the total amount awarded to the

SCLRC for each project, less the Delegated Administrative Costs for each project to be retained by the SCLRC. It is also expressly understood that submission of a project to the SCLRC, for application of grant funding by the SCLRC to ODOD, and the execution of this Agreement, does not guarantee any award of funding to the SCLRC, from ODOD, or the subsequent award or allocation of funding to Subrecipient from the SCLRC, nor does it guarantee any obligation on behalf of the SCLRC to disburse, or reimburse, any funds to Subrecipient, for any project.

- B. As General Administrative Costs, Subrecipient may request a maximum of 10% of its total request, subject to eligibility requirements of the Program Guidelines.
- C. As Delegated Administrative Costs, for being the designated lead entity and therefore providing administrative and management services, SCLRC is entitled to an amount of 3% of Subrecipient's total request regardless of whether Subrecipient has requested any General Administrative Costs as defined in Section IV.B. The Delegated Administrative Costs is due and payable by Subrecipient to SCLRC via SCLRC withholding 3% of Subrecipient's total request from the total of any reimbursement from SCLRC to Subrecipient.
- D. Payment of Program Funds to Subrecipient shall be made upon the timely submission to SCLRC of a Reimbursement/Disbursement Request Report in the form and manner prescribed by the SCLRC. Upon receipt of the same, SCLRC shall request appropriate payments from ODOD, consistent with the agreement between the SCLRC and the ODOD. SCLRC reserves the right to suspend payments should the Subrecipient fail to provide any required information, documents, or reports in a timely manner or if Subrecipient fails to meet any other terms and conditions of this Agreement or the Program Guidelines. Payments shall be made to Subrecipient upon receipt of funds from ODOD and upon satisfactory documentation of any required match. SCLRC shall not be liable to Subrecipient for any delay in receiving funds from ODOD.
- E. Program Funds shall be used solely for the stated purposes set forth in the Program Guidelines and this Agreement, and the expenditures shall be supported by contracts, invoices, vouchers, cancelled checks or other proof of payment, and other information, documents and data that may be reasonably requested. Any Program Income generated from the performance of Subrecipient's obligations under this Agreement shall remain with Subrecipient and be restricted to future demolition, brownfield remediation, neighborhood stabilization activities, or economic development activities, as set forth in the Program Guidelines. If the Program Funds are not expended in accordance with the terms, conditions and time period set forth in this Agreement, or are not expended, the amounts improperly expended or not expended shall be returned within thirty (30) days after the expiration or termination of this Agreement. SCLRC shall require completed Projects before payment is made to Subrecipient.
- F. All costs incurred by Subrecipient in the performance of its duties under this Agreement for which disbursement, or reimbursement, is sought, or substantiating any matching funds requirement, shall be fully documented as set forth herein.

V. NOTICES

Communication, notices, and details concerning this contract shall be directed to the following contract

representatives:

SUBRECIPIENT:

Name: _____
Title: _____
Telephone: _____
E-mail: _____

SCLRC

Name: Jim Davis
Title: Program Director
Telephone: 330-449-0622
E-mail: jjdavis@summitlandbank.org

CC: Barbara Biro
Title: Staff Attorney
Telephone: 330-449-0600
E-mail: bbiro@summitlandbank.org

VI. REPORTING AND COMPLIANCE

- A. Reporting Requirements. Subrecipient shall submit to the SCLRC any information, documents, data, or reports as required herein or by the Program Guidelines.
- B. Inspections. At any time during normal business hours and upon three (3) days prior written notice, as often as SCLRC may deem necessary and in such a manner as not to interfere unreasonably with the normal business operations, Subrecipient shall make available to SCLRC, for examination, all its records with respect to matters covered by this Agreement. Records to be made available for inspection include, but are not limited to, records of personnel and conditions of employment, contractor and/or subcontractor agreements and any invoices paid related for any Project, accounting and fiscal records adequate to allow the SCLRC, ODOD and or State of Ohio to audit and verify that the Program funds are used for the purposes stated herein and the Program Guidelines and other records and reports as required by the SCLRC to enable it to comply with local, state and federal statutes, rules, and regulations. Subrecipient shall permit SCLRC to audit, examine and make copies or transcripts from such records. SCLRC, ODOD, and the State of Ohio shall have the right of access to any relevant information, document, information, data, or other records, written or electronic, of the Subrecipient, which are relevant to the Program, to make audits or examinations thereof.
- C. Records. Subrecipient shall maintain all records related to this Agreement, any Project, and the Program, in general, for three (3) years after the SCLRC makes final payment hereunder and all other pending matters are closed. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year (3-year) period, Subrecipient shall retain the records until completion of the action and all issues which arise from it or until the end of the three-year (3-year) period, whichever is later.

VII. GENERAL CONDITIONS

A. Adherence to State and Federal Laws, Regulations

- (1) General. Subrecipient agrees to comply with all applicable federal, state, and local laws, rules, regulations, and ordinances in the performance of its obligations under this Agreement and in expending any Program Funds, and to ensure the same of its contractors and/or subcontractors. Without limiting the generality of such obligation, Subrecipient shall pay or cause to be paid all unemployment compensation, insurance premiums, workers' compensation premiums, income tax withholding, social security withholding, and any, and all, other taxes or payroll deductions required for all employees engaged by Subrecipient in connection with the Projects. Subrecipient shall comply with all applicable environmental, building, health, zoning, fire, and planning laws, rules, regulations, and codes.
- (2) Contractor and Subcontractor Debarment. Subrecipient shall ensure that no contractors and/or subcontractors are used in the performance of its obligations under this Agreement, and pursuant to the Program, that are listed on the Federal or State debarment list.
- (3) Ethics. Subrecipient, by its signature on this document, certifies that it has reviewed and understands the Ohio ethics and conflict of interest laws and will take no action inconsistent with those laws, as any of them may be amended or supplemented from time to time. Subrecipient understands that failure to comply with the Ohio ethics and conflict of interest laws is in, and of, itself grounds for termination of this Agreement and the grant of funds made pursuant to this Agreement.
- (4) Conflict of Interest. Subrecipient shall immediately disclose in writing to SCLRC any such person who, prior to or after the execution of this Agreement, acquires a personal interest, voluntarily or involuntarily, in the Program or any of the Projects. Subrecipient shall cause any such person who, prior to or after the execution of this Agreement, acquires any personal interest, voluntarily or involuntarily, to immediately disclose such interest to SCLRC in writing. Thereafter, such person shall not participate in any action affecting the work under this Agreement unless SCLRC determines that, considering the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.
- (5) Non-Discrimination and Equal Employment Opportunity. Pursuant to Section 125.111 of the Ohio Revised Code, the ODOD's policy, and Section 111.04 of the Codified Ordinances of the County of Summit, Subrecipient agrees that Subrecipient and any person acting on behalf of Subrecipient shall not discriminate, by reason of race, color, religion, sex, sexual orientation, gender identity, age, disability, military status, national origin, or ancestry against any citizen of this state in the employment of any person qualified and available to perform the work under this Agreement. Subrecipient further agrees that Subrecipient and any person acting on behalf of Subrecipient shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, sexual orientation, gender identity, age, disability, military status, national origin, or ancestry. Subrecipient will take affirmative action to ensure that applicants and employees are treated without regard to race, color, religion, sex, sexual orientation, gender identity, age, disability, military status, national origin, or ancestry, during

the term of any application process and/or employment. Subrecipient shall incorporate the foregoing requires of this paragraph into its contracts for any of the work prescribed herein and will require all its subcontractors for any part of such work to incorporate such requirement in all such subcontracts.

- (6) Anti-Kickback and Non-Collusion. Any contract between Subrecipient and its contractors and/or subcontractors, or by and between the same, shall include anti-kickback and non-collusion clauses, as required by the Program Guidelines.
 - (7) Property Tax Certification and Outstanding Liabilities. Any contract between Subrecipient and its contractors and/or subcontractors, or by and between the same, shall include property tax and outstanding liabilities certifications such that the contracted party certifies that it does not owe, 1) any delinquent taxes to the State of Ohio or a political subdivision of the State of Ohio, 2) any monies to the state or a state agency for the administration or enforcement of any environmental laws of the state, and 3) any other monies to the state, a state agency, or a political subdivision of the state that are past due, whether the amounts owed are being contested in a court of law or not.
 - (8) Drug Free Workplace. Any contract between the Subrecipient and its contractors and/or subcontractors, or by and between the same, shall include language that requires the contractors and/or subcontractors to certify that they are enrolled and implemented in Ohio Bureau of Workers' Compensation Drug Free Program, either Drug Free Safety Program, or has adopted and implemented a comparable program.
 - (9) Campaign Contribution Limits. Neither Subrecipient nor any of Subrecipient's partners, officers, directors, or shareholders, if any, nor the spouses of any such person, have made contributions in excess of the limitations specified in R.C. 3517.13.
 - (10) Public Records. Subrecipient acknowledges that this Agreement and other records in the possession or control of SCLRC and ODOD regarding each Project may be public records under R.C. 149.43 and, therefore, open to public inspection unless a legal exemption applies.
 - (11) Equal Employment Opportunity.
Subrecipient and its contractors and/or subcontractors shall comply with affirmative action and equal employment opportunity requirements of state and federal laws while performing services under this Agreement.
- B. Subcontracts. Subrecipient shall bind any contractor and/or subcontractor utilized to complete any Project to the terms of this Agreement, so far as applicable to the work of the contractor and/or subcontractor, and shall not agree to any provision which seeks to bind the SCLRC to terms inconsistent with, or at variance from, this Agreement. Subrecipient shall not subcontract with any entities for the performance of activities related to items pursuant to this Agreement.
- C. Environmental Requirements. Subrecipient agrees to comply with all applicable federal, state, and local environmental laws, statutes, rules, regulations, or other requirements insofar as they apply to the performance of this Agreement, including, but not limited to, (i) asbestos assessment and

remediation for ALL Projects as required by the Ohio EPA or US EPA, and (ii) any lead assessment and remediation.

- D. Liability. Subrecipient shall be liable for negligent acts or omissions, or negligent conduct of Subrecipient, its employees, agents, or subcontractors, to the extent permitted by law, in connection with the activities of this Agreement. Each party agrees to defend itself and themselves and pay any judgments and costs arising out of such negligent acts or omissions, and nothing in this Agreement shall impute or transfer any such liability from one to the other.
- E. Source and Availability of Funds. Subrecipient acknowledges that the source of the Program Funds is an appropriation by the Ohio General Assembly. SCLRC shall have no obligation to advance or pay Subrecipient with any funds other than the funds the SCLRC receives from ODOD. Any payments made hereunder are contingent upon the availability and award of Program Funds.
- F. Communications Regarding Program. All media communications, publications, signage, etc. distributed regarding the Program or any of the Projects shall recognize and acknowledge the “Summit County Land Bank” and the “Ohio Department of Development” as partners on the Program and/or Projects.
- G. Termination
 - (1) Termination. SCLRC may immediately terminate this Agreement by giving reasonable written notice of termination, not less than thirty (30) days, to the Subrecipient for any of the following occurrences:
 - a. Failure of Subrecipient to fulfill in a timely and proper manner any of its obligations under this Agreement and/or substandard performance as set forth in Section II(D) of this Agreement.
 - b. Failure of Subrecipient to submit complete and accurate reports.
 - c. Failure of Subrecipient to use the Program Funds for the stated purposes in this Agreement.
 - d. Use of program funds on any other properties in the Subrecipient jurisdiction without the express written consent of the SCLRC and modification of the original grant agreement with ODOD.
 - (2) Effects of Termination. Within sixty (60) days after termination of this Agreement, Subrecipient shall surrender all reports, information, documents, data, reports, and other materials assembled and prepared pursuant to this Agreement, written or electronic. After receiving written notice of termination, Subrecipient shall incur no new obligations and shall cancel as many outstanding obligations as possible. Upon compliance with this paragraph, Subrecipient shall receive compensation for all activities satisfactorily performed prior to the effective date of termination.

(3) Forbearance Not a Waiver. No act of forbearance or failure to insist on the prompt performance by Subrecipient of its obligations under this Agreement, either express or implied, shall be construed as a waiver by the SCLRC, or ODOD, of any of its rights hereunder.

H. Falsification of Information. Subrecipient affirmatively covenants that it has made no false statements to SCLRC or ODOD in the process of obtaining any grant of funds. If Subrecipient has knowingly made a false statement to SCLRC or ODOD to obtain any grant of funds, Subrecipient shall return all funds immediately pursuant to R.C. 9.66(C)(2) and shall be ineligible for any future economic development assistance from the State, any state agency, or political subdivision pursuant to R.C. Section 9.66(C)(1), or from the SCLRC. Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor in the first degree, pursuant to R.C. 2931.13(D)(1), which is punishable by a fine of not more than \$1,000.00 and/or a term of imprisonment of not more than six months.

I. Indemnification. Unless otherwise exempted by law, Subrecipient shall indemnify and hold harmless SCLRC, the State of Ohio, and the Ohio Department of Development, including its agents, officers, and employees against any and all claims, liabilities, and costs for any personal injury or property damage, or other damages that may arise out of or in connection with Subrecipient's performance of this Agreement.

VIII. MISCELLANEOUS

- A. Entire Agreement. This Agreement and any documents referred to herein constitute the complete understanding of the parties and merge and supersede any, and all, other discussions, agreements and understandings, either verbal or written, between the parties with respect to the subject matter hereof.
- B. Amendments or Modifications. Either party may at any time during the term of this Agreement request amendments or modifications. The parties shall agree in writing to any amendments or modifications.
- C. Assignment. Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned, subcontracted, or subgranted by the Subrecipient without the prior express written consent of the SCLRC.
- D. Private Property. No action shall be taken to impose a conservation easement on a property on which Program Funds are used.
- E. Authority to Execute. By signing below, each party warrants and represents that it has obtained the proper authority to execute and enter into this Agreement from its legislative authority, if required.
- F. Prevailing Wage Rates and Labor Standards. Subrecipient, and all hired contractors and subcontractors will comply with the provisions of ORC Sections 4115.03 to 4115.16, inclusive, as applicable, with respect to the payment of all mechanics and laborers employed in construction work financed with grant funds.

- G. Public Records. Subrecipient acknowledges that this Agreement and other records in possession or control of ODOD and SCLRC may be public records under R.C. 149.43 and, therefore, open to public inspection unless a legal exemption applies.
- H. Headings. Section Headings contained in this Agreement are inserted for convenience only and shall not be deemed to be a part of this Agreement.
- I. Pronouns. The use of any gender pronoun shall be deemed to include all the other genders, and the use of any singular noun or verb shall be deemed to include the plural, and vice versa, whenever the context so requires.
- J. Severability. This Agreement will be governed, construed, and enforced in accordance with the laws of the State of Ohio. Should any portion of this Agreement be found unenforceable by operation of statute or by administrative or judicial decision, the remaining portions of this Agreement will not be affected as long as the absence of the illegal or unenforceable provision does not render the performance of the remainder of the Agreement impossible.
- K. Construction. Nothing in this Agreement is to be construed as providing an obligation for any amount or level of funding, resources, or other commitment by SCLRC to Subrecipient that is not specifically set forth in state and federal law. Nothing in this Agreement is to be construed as providing a cause of action in any state or federal court or in an administrative forum against agents, employees of SCLRC, the Board of SCLRC, ODOD, or the State of Ohio.
- L. Execution Counterparts/PDF. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument. Copies of signatures sent or provided electronically in portable document format (PDF) shall be deemed to be originals for purposes of execution and proof of this Agreement.

[Signature page to follow.]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

SUBRECIPIENT: _____

Summit County Land
Reutilization Corporation

By: _____

By: _____

Name: _____

Name: Patrick Bravo

Title: _____

Title: Executive Director

Address: _____

Address: 400 South Portage Path

Akron, OH 44320

Date: _____

Date: _____

Approved as to legal form:

Barbara Biro, Esq.
Staff Attorney
Summit County Land
Reutilization Corporation
400 South Portage Path
Akron, OH 44320

