

COUNCIL CHAMBER

City of Berea, Ohio

Ordinance No. 2015-4

By Dale A. Lange Sponsored By Mayor Cyril M. Kleem

AN ORDINANCE

AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH THE CUYAHOGA COUNTY LAND REUTILIZATION CORPORATION (CCLRC) FOR PARTICIPATION IN THE CUYAHOGA COUNTY PROPERTY DEMOLITION PROGRAM, AND DECLARING AN EMERGENCY.

WHEREAS, The Cuyahoga County Land Reutilization Corporation (CCLRC), which is a Corporation authorized by the Ohio General Assembly and organized under Ohio Revised Code Chapter 1724, has tendered to the City of Berea a Municipal Agency Agreement providing for demolishing vacant, abandoned and nuisance or blighted property in the City of Berea; and

WHEREAS, the tendered agreement can save the City of Berea money in the demolishing of vacant, abandoned and nuisance or blighted property.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Berea, County of Cuyahoga, State of Ohio:

SECTION 1. That the Mayor be and is hereby authorized and directed to enter into a contract with the Cuyahoga County Land Reutilization Corporation (CCLRC), as set forth in Exhibit "A", attached hereto and incorporated herein by reference, and to do all things necessary in furtherance thereof.

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

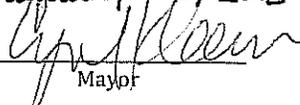
SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare, or providing for the usual daily operation of a municipal department, and for the further reason that the demolition services of the CCLRC to the inhabitants of this City cannot otherwise be assured. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: January 26, 2015

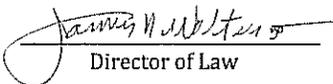


President of Council

ATTEST: 
Clerk of Council

APPROVED: January 28, 2015


Mayor

Approved as to Form:


Director of Law

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.

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

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

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.

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]

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: _____

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