

COOPERATION AGREEMENT

THIS COOPERATION AGREEMENT (this “Agreement”) is made and entered into as of the ____ day of _____, 2023, by and between the **ERIE COUNTY LAND BANK**, a Pennsylvania land bank, with principal offices located at 1230 Townhall Road West, Suite 500, Erie, Pennsylvania 16509 (hereinafter, the “Land Bank”) and the **MILLCREEK TOWNSHIP GENERAL AUTHORITY**, a Pennsylvania Municipal Authority existing under the Pennsylvania Municipalities Authorities Act, as amended, with its principal office at 3608 West 26th Street, Erie, Pennsylvania 16506 (hereinafter, the “Authority”).

Background

A. Land Bank was created by Erie County Ordinance No. 3-2018 as provided in the Pennsylvania Land Bank Act, Act 153 of 2012 (the “Act”).

B. Authority was created by Millcreek Township Board of Supervisors Ordinance No. _____ - 2022 as provided in the Pennsylvania Municipalities Authorities Act, as amended.

C. There exist in the Township of Millcreek (the “Township”) certain vacant, abandoned, tax delinquent, or otherwise obsolete properties which generate minimal revenue to the taxing bodies and impair the productive growth and sustainability of the community (as further identified in Exhibit “A” attached hereto, the “Project Properties”).

D. At the request of Authority, Land Bank is willing to provide funding to Authority to aid Authority in demolishing the existing structures located on the Project Properties and attempting to return them to more productive use.

Terms of Agreement

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, and intending to be legally bound hereby, the parties agree as follows:

1. Use of Funds. Authority shall use funds provided to it by Land Bank pursuant to this Agreement to carry out activities as permitted by the Act, primarily the demolition of structures. The work plan attached hereto as Exhibit “A” (the “Work Plan”) describes the Project to be funded under this Agreement (the “Project”), including the activities, deliverables, time frame, budget, and payment schedule. Together, this Agreement, the Work Plan, and any addenda hereto shall constitute the entire agreement between the parties.

2. Provision of Funds. Land Bank shall, in accordance with the terms of each Work Plan, provide funds (the “Project Funds”) in the amount set forth in such Work Plan to Authority to complete the Project described in such Work Plan. To receive disbursements of Project Funds, Authority shall submit each disbursement request to Land Bank in accordance with the schedule set forth in the Work Plan, using Land Bank’s prescribed form of Request for Disbursement attached hereto as Exhibit “B,” accompanied by such invoices, receipts or other evidence reasonably acceptable to Land Bank for the amounts and items for which payment is being requested.

3. Expense Restrictions. Use of the Project Funds shall be restricted to the Project described in the Work Plan.

4. Unexpended Funds. Any portion of the Project Funds paid to Authority under this Agreement not expended during the time frame established under the applicable Work Plan must be returned to Land Bank at the conclusion of such time frame, unless otherwise agreed by the parties in a written Addendum to this Agreement.

5. Additional Project Funds. From time to time, Land Bank may, in its sole discretion, allocate to Authority additional Project Funds pursuant to one or more Addenda to this Agreement.

6. Property Ownership; Demolition Activities; Maintenance; Taxes and Insurance.

a. Initial Ownership of Project Properties. Upon request from the Authority, Land Bank will take ownership of the Project Properties from the current owners. All expenses related to the acquisition of the Project Properties shall be borne by the Authority. Ownership of the Project Properties by Land Bank shall not be a pre-requisite to the provision of the demolition funding provided for in this Agreement.

b. Demolition Activities.

(1) No activities related to the actual physical demolition of the structures located on the Project Properties shall take place while the properties are owned by Land Bank. However, Authority and its representatives shall have the right, on reasonable notice to Land Bank and at reasonable times, to enter upon the Project Properties to conduct appropriate testing and to make inspections; provided, however, that all such work shall be performed in a good and workmanlike manner at Authority's sole expense. Authority shall indemnify, defend and hold Land Bank harmless from and against any costs, damages, liabilities, losses, expenses, liens or claims (including, without limitation, court costs and reasonable attorneys' fees and disbursements) arising out of or relating to any entry on the Project Properties by Authority, its agents, employees or contractors in the course of performing the inspections, testings or inquiries provided for in this Agreement.

(2) Prior to the commencement of the physical demolition of any structures on any Project Property, Land Bank shall convey title to the subject property to Authority. Thereafter, Authority shall conduct and complete all demolition activities in accordance with all applicable laws and the terms of this Agreement. Upon completion of all demolition activities on any Project Property to the reasonable satisfaction of Land Bank, Authority may (but shall not be obligated to) reconvey title to the subject property to Land Bank to be held for the sole benefit of Authority. Land Bank shall hold title to any such Project Property until the earliest of (i) the closing of the sale of the subject Project Property to a third party developer pursuant to an agreement of sale negotiated by Authority (all proceeds of which sale shall be the property of Authority), (ii) closing of the transfer of title to Authority pursuant to a written notice from Authority to Land Bank, or (iii) transfer of title by Land Bank to Authority upon either the commencement of any construction activities by Authority or any third party on a Project Property or the failure of Authority to perform any of its obligations under this Agreement.

c. Maintenance and Security of Properties. Authority agrees that during the term of this Agreement (whether Authority or Land Bank holds title to the Project Properties) it will keep the Project Properties in as reasonably safe condition as its operations shall permit. Authority will pay all costs incurred in connection with maintaining, securing and protecting the Project Properties.

d. Taxes, Governmental and Utility Charges. Authority will pay when they become due, any ad valorem or other taxes or governmental charges or assessments of any nature lawfully levied against the Project Properties. Authority will pay all charges for utilities when they become due.

e. Insurance Required. Throughout the term of this Agreement, (whether Authority or Land Bank holds title to the Project Properties), Authority shall keep the Project Properties continuously insured against such risks as are customarily insured against, paying as the same become due all premiums in respect thereto, including but not necessarily limited to comprehensive general liability insurance in an amount of not less than \$2,000,000. All insurance required by hereunder shall be taken out and maintained in generally recognized responsible insurance companies selected by the Authority, and may be written with deductible amounts comparable to those on similar policies carried by Authority. All policies evidencing such insurance shall name Land Bank as an additional insured.

f. Restriction Against Reconveyance to Current Owners. Authority shall not reconvey any Project Property to (i) the current owner of such property, (ii) any person related by blood or marriage to the current owner of such property, (iii) any entity owned in whole or in part by the current owner of such property, (iv) any entity owned in whole or in part by any person, or a relative by blood or marriage of such person, who is a shareholder, member, partner, or owner of any type of an entity that is the current owner of such property.

7. Periodic and Final Reporting.

a. Periodic Reporting. On a quarterly basis, Authority shall provide written reports to Land Bank including: (a) year to date (or year end, as applicable) financial statements for Authority, (b) updates (including actual and estimated revenues, costs and expenditures) of the Project in process, and (c) such other information as Land Bank may reasonably request regarding the activities of Authority pursuant to this Agreement.

b. Final Reporting. At the conclusion of the Project, or at the end of the designated time frame for such Project if it has not yet been concluded, Authority shall provide a written report to Land Bank setting forth in detail (a) a narrative of the uses of Project Funds, the impact thereof on achieving the Project goals, and the overall success of the Project, (b) a line item reconciliation of the uses of the Project Funds versus the Project budget, (c) if all Project Funds have not been spent, a recommendation regarding their disposition, and (d) such other information as Land Bank may reasonably request regarding the Project.

8. Publicity. Prior to public release, all materials acknowledging Land Bank's support that are produced by Authority will be approved by Land Bank to ensure accuracy and consistency of message, including in public statements, reports, and other print and online publications. Authority does not serve as a spokesperson for Land Bank in the media. Any public materials developed by Authority that reference or quote Land Bank also will be reviewed by and coordinated with Land Bank.

9. Subcontractors. Authority agrees that, if it engages subcontractors (“Subcontractors”) to help carry out any Project funded by this Agreement, it shall use its best efforts to ensure that such Subcontractors are bound by this Agreement. At a minimum, Authority shall notify Subcontractor in writing of the following requirements: (a) Subcontractor is prohibited from using names, logos, or other marks owned by or associated with Land Bank for any purpose without Land Bank's prior written consent, and (b) Subcontractor shall comply with all applicable laws in the performance of any work related to any Project funded pursuant to this Agreement.

9. Compliance with Laws. Authority acknowledges that the Project Funds are “public funds” provided to Land Bank by the Commonwealth of Pennsylvania and/or the County of Erie. Authority agrees that it and any agents shall comply with the Act and all applicable federal, state, and local laws, regulations, and rules, including those related to public bidding of contracts and payment of prevailing wages, and, upon request, shall provide Land Bank with documentation of such compliance.

11. Authority Status. Authority represents that it is a duly constituted and existing municipal authority pursuant to the Pennsylvania Municipalities Authorities Act, as amended.

12. Evaluation. All activities conducted hereunder are subject to Land Bank's review and acceptance to confirm that funds are being spent in accordance with this Agreement. At its own expense, Land Bank may monitor and conduct an evaluation of operations under this Agreement.

13. Authority's Records. Authority will keep systematic records of all expenditures relating to this Agreement and the Project and the Project Funds related thereto. These records, including bills, invoices, canceled checks, and receipts, will be retained by Authority for five years after the termination of this Agreement and will be available for Land Bank's inspection during that period. Land Bank may, at its own expense, examine or audit Authority's records related to activities supported by this Agreement.

14. Independent Parties. Authority and its employees, agents, and representatives are independent parties and are not Land Bank employees or agents.

15. Indemnification. Authority shall indemnify, defend, and hold harmless Land Bank and its officers, directors, employees, agents, affiliates, and contractors from and against any and all claims, liabilities, damages, losses, expenses, demands, suits, and judgments, including without limitation reasonable attorneys' fees and costs, arising from or relating to (a) Authority's performance of this Agreement or breach thereof, or (b) the intentional misconduct or negligent acts or omissions of Authority, its employees, agents, contractors, or consultants in connection with the performance of its obligations under this Agreement. This provision shall survive the termination of this Agreement.

16. Governing Law. The state and federal courts in Erie, Pennsylvania, will have exclusive jurisdiction over any and all disputes arising out of, or in any way related to, this Agreement, and Authority shall submit to the personal jurisdiction of those courts. The laws of the Commonwealth of Pennsylvania shall apply to any such disputes without regard to any conflict of law principles.

17. Termination and/or Postponement.

a. Land Bank may, in its sole discretion, terminate, postpone, or cancel any or all Project Funds payments if: (1) Authority fails to complete and/or make satisfactory progress toward the Project's purpose(s) or submit timely reports; (2) Authority's application or any required report is inaccurate in any material respect; (3) Authority substantially fails to perform any of its duties required by the terms of this Agreement; or (4) Authority has a substantial unexpended balance of Project Funds on hand.

b. Authority agrees to give immediate written notice to Land Bank and, upon demand, repay all portions of the Project Funds paid by Land Bank that are within Authority's control, and Land Bank may terminate this Agreement immediately, including all unpaid amounts, if Authority violates any applicable laws.

c. All notices under this Section shall be in writing and shall be delivered personally or by confirmed electronic mail, a recognized overnight courier service, or United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other party at its address set forth below or to such other address as such party may designate by notice given pursuant to this section:

If to Authority: 3608 West 26th Street
Erie, Pennsylvania 16506

If to Land Bank: 1230 Townhall Road West
Suite 500
Erie, Pennsylvania 16509

18. Funding Out Clause. The parties recognize that the performance of Land Bank's obligations under this Agreement is contingent upon the continued appropriation of Gaming Revenue Funds to Land Bank. If no such funds are appropriated for future fiscal years, this Agreement shall be suspended or terminated as Land Bank in its sole discretion shall determine. Likewise, where Land Bank's obligations under the contract depend upon the receipt of funds from another governmental body, or other funding source, and if such funds are not distributed to Land Bank, then this Agreement shall be suspended or terminated as Land Bank in its sole discretion shall determine. Should this Agreement be suspended or terminate for any of the reasons cited within this Section, Land Bank shall only be responsible for making payment to Authority for those portions of Project tasks completed as of the suspension or termination date.

19. Assignment. Authority will directly administer the Project being supported by this Agreement. However, notwithstanding any provision in this Agreement to the contrary, Authority may, upon giving written notice to Land Bank, delegate the day to day administration of its activities and of any Project to the staff of the Township. Authority may not otherwise assign this Agreement, in whole or in part, without Land Bank's prior written consent.

20. No Third-Party Benefit. The provisions of this Agreement are for the sole benefit of the parties hereto and confer no rights, benefits, or claims upon any person or entity not a party hereto.

21. Complete Agreement. This Agreement, including all exhibits (which are incorporated by reference herein), is the parties' final and binding expression of their agreement and the complete and exclusive statement of its terms. This Agreement cancels, supersedes, and revokes all prior negotiations, representations, and agreements between the parties, whether oral or written, relating to the subject matter of this Agreement. No change to this Agreement will be effective unless signed by both parties.

22. Severability; No Waiver. If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The parties agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision. The waiver by either party of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach.

23. Authority's Authority. Authority represents and warrants that (a) it has the corporate, statutory, or other power and authority to enter into this Agreement and to perform its obligations hereunder; (b) the person who executes this Agreement on its behalf has the necessary authority to bind Authority; and (c) neither the execution and delivery of this Agreement nor the performance of its obligations hereunder will constitute a violation of, a default under, or conflict with any term of any governance documents or other agreements to which it is bound.

24. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument. Faxed and PDF counterpart signatures are sufficient to make this Agreement effective.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

[SIGNATURE PAGE TO COOPERATION AGREEMENT]

ERIE COUNTY LAND BANK

By: _____
Chairman

Attest: _____
Secretary

MILLCREEK TOWNSHIP GENERAL AUTHORITY

By: _____
Chairman

Attest: _____
Secretary

1779830

EXHIBIT "A"

WORK PLAN

- A. ACTIVITIES: Demolition of existing structures located on Project Properties located at 2800 West 8th Street, 2835 West Lake Road, 2819 West 8th Street, 2818 West 8th Street, and 2826 West 8th Street, Millcreek Township, Erie County, Pennsylvania.
- B. TIME FRAME: Four (4) years from Execution Date.
- C. BUDGET: \$1,000,000 over four years.
- D. PAYMENT SCHEDULE: \$250,000 per year for four years.

EXHIBIT "B"

MILLCREEK TOWNSHIP GENERAL AUTHORITY
DISBURSEMENT REQUEST AND AFFIDAVIT
(To be delivered to Land Bank before each Work Plan Disbursement)

- 1. PROJECT: \$250,000 Year 1 of 4 Work Plan
- 2. PREMISES: West 8th Street, Millcreek Township, Erie County, Pennsylvania
- 3. PERIOD TO: _____, 2023
- 4. TOTAL YEAR 1 WORK PLAN AMOUNT: \$250,000.00
- 5. PRIOR DISBURSEMENTS: \$ _____
- 6. CURRENT DISBURSEMENT REQUEST: \$ _____
- 7. UNDISBURSED BALANCE REMAINING: \$ _____

The Undersigned, the authorized representative of Millcreek Township General Authority (the "Authority"), having made due investigation as to the matters set forth in this Request and Affidavit (sometimes referred to herein as "Disbursement Request") and to induce Erie County Land Bank ("Land Bank") to make the Current Work Plan Disbursement Request as set forth on line 6 above to Authority pursuant to the terms of the Cooperation Agreement and Work Plan (the "Work Plan Agreement") dated _____, 2023, between Authority and Land Bank, and in conjunction with the attached receipts, invoices or such other form of supporting documentation as is acceptable to the Land Bank, after being duly sworn, does depose and state:

1. Work Plan Disbursement Request. Authority hereby requests that the Land Bank make a Disbursement on the Work Plan in the amount of the Current Work Plan Disbursement Request as set forth on line 6 above and does hereby represent and certify to the Land Bank that the Authority is entitled to receive such Current Work Plan Disbursement Request under the terms of the Work Plan Agreement.

2. Representations and Warranties. All representations and warranties contained in the Work Plan Agreement and the other documents executed and delivered pursuant to the Work Plan Agreement (collectively with the Work Plan Agreement, the "Work Plan Documents") are true and accurate in all material respects as of the date of this Agreement.

3. No Event of Default. No Event of Default exists under any Work Plan Documents, and no event or condition has occurred and is continuing or existing, or would result from the Disbursement about to be made, which, with the lapse of time or the giving of notice, or both, would constitute such an Event of Default.

4. Performance Continuous. Performance of the Work on the Project has been carried on with reasonable dispatch and has not been discontinued at any time for reasons within the control of Authority.

5. Work on Schedule. The Work is progressing in such manner so as to insure completion of the Work in substantial accordance with the Work Plan on or before the Project Completion Date.

6. Disbursements Applied to Work Plan Costs. All funds received from Land Bank previously as Disbursements under the Work Plan Agreement have been expended (or are being held in trust) for the sole purpose of paying Work Plan costs ("Costs") previously certified to Land Bank in Disbursement Requests. No part of said funds has been used, and the funds to be received pursuant to this

Disbursement Request shall not be used, for any other purpose. No item of Costs previously certified to Land Bank in an Disbursement Request remains unpaid as of the date of this Affidavit.

7. Statements Truthful; Costs Accurate; Disbursements to Pay Costs. All of the statements and information set forth in the Disbursement Request being submitted to Land Bank with this affidavit are true and correct in every material respect at the date of this affidavit. All Costs certified to Land Bank in this Disbursement Request accurately reflect the precise amounts due. Where such Costs have not yet been billed to Authority, they accurately reflect Authority's best estimates of the amounts that will become due and owing during the period covered by the Disbursement Request. All the funds to be received pursuant to this Disbursement Request shall be used solely for the purposes of paying the items of Cost specified in this Disbursement Request or for reimbursing Authority for such items previously paid by Authority.

8. No Impairment of Authority's Ability to Perform. Nothing has occurred which has or may substantially and adversely impair the ability of Authority to meet its obligations under the Work Plan Documents.

9. No Prior Work Plan Requisition for Expenses. None of the items of expense specified in this Disbursement Request submitted with this Affidavit have previously been made the basis of any Disbursement Request by Authority or of any payment by Land Bank.

10. Aggregate Cost of Completion of Project. The estimated aggregate cost of completing the Project is \$ _____.

11. All Preconditions to Disbursement Have Been Satisfied. All conditions to the Disbursement which is to be made in accordance with this Disbursement Request (in additional to those conditions to which reference is made in this Work Plan Disbursement Request) have been met in accordance with the terms of the Work Plan Agreement.

12. Terms. The capitalized terms used in this Disbursement Request and Affidavit, not otherwise defined herein, have the meaning given to them in the Work Plan Agreement. This affidavit is subject to and incorporates the terms of the Work Plan Agreement.

Witness:

MILLCREEK TOWNSHIP GENERAL AUTHORITY

By: _____

Title: _____

Sworn to before me this ____ day
of _____, 2023.

Notary Public

(SEAL)