

# CITY OF CLAYTON, OHIO

ORDINANCE NO. O – 07 - 20 - 11

**AN ORDINANCE APPROVING AND AUTHORIZING THE CITY MANAGER TO SIGN *MONTGOMERY COUNTY LAND REUTILIZATION CORPORATION LAND BANKING AGREEMENT* (“AGREEMENT”) RELATIVE TO REAL PROPERTY OWNED BY THE CITY OF CLAYTON, OHIO AND BEARING PARCEL I.D. NUMBER M60 03102 0112 AND FURTHER AUTHORIZING THE TRANSFER OF SAID REAL PROPERTY TO THE MONTGOMERY COUNTY LAND REUTILIZATION CORPORATION CONSISTENT WITH THE TERMS AND CONDITIONS OF THE ATTACHED AGREEMENT AND DECLARING AN EMERGENCY**

**WHEREAS**, City staff has requested authority for the City Manager to sign the attached *Montgomery County Land Reutilization Corporation Land Banking Agreement* (“Agreement”) and further to transfer to the Montgomery County Land Reutilization Corporation, consistent with the terms and conditions of the attached Agreement, the real property owned by the City of Clayton, Ohio bearing Parcel I.D. Number M60 03102 0112.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:**

1. That the City Manager is hereby authorized to sign the attached *Montgomery County Land Reutilization Corporation Land Banking Agreement* (“Agreement”) and to further transfer to the Montgomery County Land Reutilization Corporation consistent with the terms and conditions of the attached Agreement, the real property owned by the City of Clayton, Ohio bearing Parcel I.D. Number M60 03102 0112.
2. That this Ordinance shall be effective as an exception to any ordinance, resolution or other legislation of the City of Clayton, Ohio, inconsistent with this Ordinance or which imposes additional requirements for effectiveness or validity.
3. That in accordance with Charter Section 4.031(B) the requirement that this ordinance be read on two (2) different days is dispensed with by affirmative vote of at least five (5) of the members of Council.
4. That unless this Ordinance is immediately enacted the public peace, health, safety and welfare will be detrimentally affected because in order to timely transfer the property referenced herein, and effectively comply with the terms of the attached Agreement, it is necessary that this Ordinance take effect at an early date. Accordingly, pursuant to Charter Section 4.033(A) this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the City and shall therefore be in full force and effect from and immediately upon affirmative vote of at least five (5) of the members of Council.

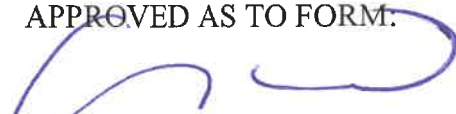
ADOPTED BY COUNCIL ON JULY 16, 2020.

AUTHENTICATION:

  
Mayor (Presiding Officer of Council)

  
Clerk of Council

APPROVED AS TO FORM:

  
Law Director

CERTIFICATION OF PUBLICATION


This shall certify that the text of the above referenced enactment or a summary thereof was published once in the following newspaper and a summary posted in three places of public access as designated by Council.

Name of newspaper

Brookville Star

Date of publication

July 22, 2020

  
Clerk

**MONTGOMERY COUNTY LAND REUTILIZATION CORPORATION  
LAND BANKING AGREEMENT**

THIS LAND BANKING AGREEMENT (" Agreement") is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2020 between MONTGOMERY COUNTY LAND REUTILIZATION CORPORATION, an Ohio corporation for non-profit, having an address of 130 W. Second Street, Suite 1425, Dayton, Ohio 45402 (the "Land Bank"), and CITY OF CLAYTON (the "Participant"), under the following circumstances:

A. In August of 1961, O.R.C. Section 1724.01 became effective and provided for the establishment of county land reutilization corporations for the purpose of facilitating the reclamation, rehabilitation and reutilization of vacant, abandoned, tax-foreclosed or other real property within the county for whose benefit the corporation is organized and the purpose of promoting economic and housing development in the county.

B. Pursuant to O.R.C. Section 1724.02, the Land Bank has, among other powers, the power to do all acts and things necessary or convenient to carry out the purposes of O.R.C. Section 1724.01.

C. Participant has requested that the Land Bank temporarily hold title to the real property as described on Exhibit A to this Agreement (the "Property") in connection with the Land Bank's Land Banking Program.

D. The Property will be held by the Land Bank pursuant to the terms and conditions in this Agreement and will be conveyed from the Land Bank to Participant as provided in this Agreement.

For and in consideration of the mutual promises, covenants and agreements in this Agreement, the parties agree as follows:

1. Conveyance to Land Bank. Participant will transfer to the Land Bank fee simple title to the Property by general warranty deed, and the Land Bank agrees to accept title to the Property subject to the terms and conditions of this Agreement. Participant will ensure that, at the time of conveyance, the Property is vacant and free of all tenants and other occupants. The Land Bank's obligation to accept the Property will be conditioned upon Participant's full compliance with this Agreement.

2. Use of Property. During the period that the Land Bank holds title to the Property, the Property will not be used or occupied by Participant or any of its directors, officers, managers, members, employees, contractors or agents or any third parties for any purpose, and no business or other operations may be conducted from or at the Property. Notwithstanding the foregoing, if Participant is obligated by this Agreement to maintain or repair or make replacements to the Property, the Land Bank grants to Participant a license to enter the Property for the sole purpose of completing such maintenance, repairs and replacements.

3. Conveyance to Participant.

(a)Timing of Conveyance. Participant will direct in writing the Land Bank to convey fee simple title to the Property to Participant on a date after July 1, 2020 (the "First Conveyance Date") but before August 14, 2020 (the "Conveyance Deadline"). The Land Bank will convey fee simple title to the Property to Participant within ninety days after Participant's direction to convey the Property. If Participant requests the conveyance of the Property before the First Conveyance Date, the Land Bank may require Participant to pay a charge to compensate the Land Bank for the early conveyance of the Property, which shall be limited to the Land Bank's actual out of pocket expenses, and administrative costs associated with establishing the agreement which shall not exceed \$2,000. If, before the Conveyance Deadline, litigation or any other legal proceeding is commenced or threatened with respect to the Property, or if any violation of legal requirements is asserted by any governmental authority or agency, and regardless of whether or not the foregoing results from Participant's acts or breach of this Agreement, the Land Bank has the right to convey the Property to Participant before the Conveyance Deadline and without direction by Participant, and Participant will accept title to the Property.

(a) Deed. The Land Bank's conveyance of the Property to Participant will be by limited warranty deed, unless, at the time of the Land Bank's acquisition of the Property, Participant obtained an owner's title insurance policy from a title company satisfactory to the Land Bank and insuring the Land Bank's fee simple interest in the Property in an amount equal to the purchase price or other amount agreed to by the Land Bank and Participant (the "Owner's Title Policy"). If Participant provides an Owner's Title Policy, the Land Bank will convey the Property to Participant by a general warranty deed. Notwithstanding anything to the contrary in this Agreement or otherwise, the Land Bank's liability under a general warranty deed will be limited to title insurance proceeds actually received by the Land Bank under the Owner's Title Policy. The terms and conditions of this Section 3 will survive the transfer of the Property to Participant without limitation

4. Participant Representations and Warranties. Participant makes the below representations and warranties to the Land Bank, and these representations and warranties will survive the conveyance of the Property from the Land Bank to Participant without limitation. Participant acknowledges that the Land Bank is entering into this Agreement based on the truth and completeness of Participant's representations and warranties. As used in this Agreement, the "Property" includes all buildings, structures and improvements situated on the real estate, if applicable. Participant acknowledges, represents, warrants and covenants to Seller as follows:

(a) Legal Status and Authority. Participant is an Ohio municipal corporation, duly organized, validly existing and in good standing under the laws of the State of Ohio and has full corporate power and authority to execute, deliver and carry out this

Montgomery County Land Reutilization Corporation  
Land Banking Agreement

Agreement and has taken all necessary action to authorize the execution, delivery and performance of this Agreement. The individual executing this Agreement on Participant's behalf has the authority to bind Participant to this Agreement. The execution and delivery of, and consummation of the transactions contemplated by, this Agreement are not prohibited by, and will not conflict with, constitute grounds for termination of, or result in the breach of, any agreement or instrument to which Participant is now a party or subject or otherwise affecting the Property.

(b) Title to Property. Participant is the owner of fee simple title to the Property, and there are no liens or encumbrances affecting the Property and no leases, licenses, occupancy agreements or other legal or equitable interests in the Property held by third parties.

(c) Legal Compliance. The Property is not in violation or alleged violation of any legal requirement affecting the Property, including without limitation, any violation or alleged violation of any building, subdivision, environmental or other codes, laws, ordinances, statutes, regulations, rules or orders of authorities having jurisdiction in these matters.

(d) Litigation and Legal Proceedings. There is no pending or, to the best of Participant's knowledge, threatened (1) condemnation or eminent domain proceeding affecting the Property, and Participant has no knowledge that any such action is presently contemplated, or (2) litigation or governmental proceeding affecting the Property, and there is no basis for assertion of any claim, suit or action against Participant or the Property based on the use of the Property or the occurrence of any action or event thereon or associated therewith. If any such legal or administrative actions, suits or proceedings or any unresolved arbitrations directly or indirectly concerning the Property, or any portion of the Property or interest in the Property are commenced, Participant will immediately provide the Land Bank with written notice of the action, suit or proceeding.

(e) Environmental Matters. The Property is not in violation of any Environmental Law (as defined below), no Hazardous Materials (as defined below) have been used, generated, stored, or disposed of on, under or about the Property in violation of Environmental Laws or transported to or from the Property in violation of Environmental Laws, and Participant has not received any notice from any governmental agency or authority of any investigation or proceeding by such agency or authority concerning the presence or alleged presence of Hazardous Materials on the Property or any notice from any party related to the presence or alleged presence of Hazardous Materials on the Property or migrating from or onto the Property. The term "Environmental Law" includes any federal, state or local law, ordinance, regulation, directive or order pertaining to health, industrial hygiene, waste disposal, or the environment, including, without limitation, the Comprehensive Environmental Response, Liability and Compensation Act, 42 U.S.C. § 9601 et seq., the federal Superfund Amendments and Reauthorization Act, the Federal Resource Conservation and Recovery Act, and any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability for Hazardous Materials. The term "Hazardous Materials" includes, without limitation, all hazardous, toxic or

dangerous substances, wastes and materials, pollutants and contaminants classified as such under any Environmental Law.

(f) Legal Compliance of Other Property. Participant does not currently own any real property that is in material violation of state and/or local codes or other legal requirements, and Participant does not currently own and has not owned in the last 2 years any real property that has a history of code violations during Participant's ownership.

(g) Criminal Activity. Participant does not currently own and has not owned in the last 2 years any real property that has a history of being a site for criminal activity during Participant's ownership.

(h) Tax Delinquencies. Participant does not own any real property that is currently tax delinquent, nor has Participant lost title to or had any tax foreclosure actions filed against properties that Participant has owned within the last 2 years.

(i) Bankruptcies. Participant has not been the subject of any bankruptcy proceedings in the last 2 years.

(j) As-Is Condition. Participant represents, warrants and acknowledges that neither the Land Bank nor its directors, officers, employees, agents, contractors or representatives (collectively, the "Land Bank Parties") have made any representations or warranties to Participant or its directors, officers, managers, members, partners, principals, employees, agents, contractors or representatives (collectively, "Participant Parties") about any matters concerning the Property, verbally or in writing, and the Land Bank Parties disclaim any and all representations and warranties. Subject to the Land Bank's obligations in Section 5, Participant will accept the Property in its as-is condition and subject to all defects, patent or latent and whether known or unknown at the time of the Land Bank's acceptance of the Property.

5. Maintenance and Repairs. Participant will have sole and complete responsibility for maintaining, and for making all repairs and replacements to, the Property and will maintain the Property in good and safe condition and repair and in compliance with all applicable legal requirements. If there are buildings or other structures at the Property, Participant will at all times keep the Property secured from unauthorized entry and boarded as needed, according to the local code or as otherwise required by the Land Bank. Participant agrees that the Land Bank will have no responsibility or liability for maintenance, repairs or replacements or for any break-ins, vandalism of, or damage to, the Property.

6. Utilities and Property Services. All accounts for utilities, trash and other services to the Property will remain in the name of Participant, and Participant will be solely responsible for payment of all charges to these accounts, which will be paid when due. If charges to Participant's account are not timely paid, Participant will be responsible for all late charges. All damages, risks, losses, costs and liabilities of all kind related to the termination of utility services at the Property will be Participant's sole responsibility.

7. Property Contracts. There are no service contracts or other agreements in affect with respect to the Property (collectively, the "Property Contracts"), and if any vendor, contractor or other party asserts the existence of any contract or agreement, Participant will be fully responsible and liable for the payment of all amounts owed and the performance of all obligations required of Participant or the owner of the Property under the Property Contracts.

8. Taxes and Assessments. Participant understands that while title to the Property is held by the Land Bank, the Property is exempt from real estate taxes but not assessments. Participant further understands that upon the transfer of the Property to Participant, the Property will no longer be exempt from real estate taxes (unless Participant otherwise obtains an exemption), and Participant will receive bills for real estate taxes and assessments, including those charges that may have accumulated before the Land Bank took title.

9. Land Bank Covenants. During the period the Land Bank holds title to the Property, the Land Bank will not initiate any change in the zoning of the Property or voluntarily convey the Property or any interest in the Property to any third party without Participant's prior written consent. Notwithstanding the foregoing, the Land Bank will not be in breach of this Agreement, or liable to Participant in any manner, as the result of any actions or omissions that are initiated or taken by third parties, and the Land Bank will not be required to take any action s in response to the same. The Land Bank will be excused from performance of any of its obligations if performance is not reasonably possible or practical as the result of any circumstance or event outside of the Land Bank's reasonable control, including without limitation, the enactment or enforcement of any legal requirements, inability to reasonably obtain labor, materials, equipment or supplies, explosions, fire, wind damage or other casualty, acts of God.

10. Costs and Fees.

(a) Land Banking Fee. Participant will pay to the Land Bank an annual fee \$1,858.98 (the "Land Banking Fee"), which is based on a percentage of the real estate taxes that would be assessed against the Property if the Property were not exempt from real estate taxes. Said percentage is determined by the assessed value of the Property and is reflected in the attached Fee Schedule. The Land Bank will have the right to increase or decrease the Land Banking Fee from time to time based on changes in the real estate taxes assessed to the Property. The annual fee will be paid in arrears on or before December 31 of each calendar year during the effectiveness of this Agreement and will be prorated for any partial year during which the Land Bank holds title to the Property.

(b) Other Costs and Fees. In addition to the Land Banking Fee, Participant will pay those actual costs, expenses, fees and charges that are designated as Participant's responsibility on the attached estimated Fee Schedule, which may include (a) those arising from or associated with the Land Bank' s acquisition of the Property and the conveyance of the Property to Participant, such as closing and escrow charges, title

examination, commitment and policy charges and premiums, conveyance fees and transfer taxes owed to Montgomery County, if any, (b) the cost of insurance maintained by the Land Bank with respect to the Property, if any, (c) charges owed to third parties for maintenance, repairs or replacements, (d) real estate assessments, and (d) other Land Bank fees provided for in this Agreement. Participant will deliver to the Land Bank within five days of the Land Bank's request proof of payment of any costs, expenses, fees or charges that are to be paid directly to vendors, contractors and service providers. The Land Bank will pay those costs, expenses, fees and charges, if any, that are designated as its responsibility on the attached Fee Schedule.

11. Events of Default. There will be an Event of Default under this Agreement if any one or more of the following occur:

(a) Any representation or warranty by Participant is untrue or misleading.

(b) Participant fails to pay any amount owed pursuant to this Agreement within five days of the due date stated in this Agreement, or if there is no due date stated in this Agreement, within fifteen days following written notice from Land Bank of the amount due.

(c) Participant fails to maintain the insurance Participant is required by this Agreement to maintain.

(d) Except as provided in (c) above, and unless a shorter performance or cure period is elsewhere provided in this Agreement for a particular obligation, Participant fails to perform or observe any other term, condition or obligation in this Agreement for a period of thirty days after written notice from the Land Bank provided, however, that if the nature of the cure is such that more than thirty days are reasonably required to complete the cure, then Participant will have additional time as reasonably needed so long as Participant promptly commences and diligently completes the cure within a reasonable time.

(e) All or substantially all of Participant's assets are attached or levied under execution (and Participant does not discharge the same within thirty days thereafter), or a petition in bankruptcy, insolvency or for reorganization or arrangement is filed by or against Participant (and Participant fails to secure a stay or discharge thereof within thirty days thereafter), or Participant is insolvent and unable to pay its debts as they become due, or Participant makes a general assignment for the benefit of creditors, or Participant takes the benefit of any insolvency action or law, or the appointment of a receiver or trustee in bankruptcy for Participant or its assets if such receivership has not been vacated or set aside within thirty days thereafter.



12. Remedies. Upon the occurrence of any Event of Default, the Land Bank will have the following rights and remedies, in addition to those available at law or in equity, any one or more of which may be exercised without notice:

(a) The Land Bank may terminate this Agreement and immediately convey the Property to Participant, which Participant will unconditionally accept, and the Land Bank will be relieved of all obligations pursuant to this Agreement.

(a) The Land Bank may institute an action, suit or proceeding in equity for the specific performance of any provisions in this Agreement or for injunctive relief.

(b) After the occurrence of an Event of Default, and until Participant accepts the conveyance of title to the Property, the Land Bank may, but will not be obligated to, perform any of Participant's obligations under this Agreement and use, operate, manage, preserve, control and otherwise deal with the Property, without interference from Participant.

(c) The Land Bank may collect, receive, sue for and recover in its own name and without interference from Participant, all rents, profits and proceeds derived from the Property and may deduct therefrom all costs, expenses and liabilities incurred by the Land Bank in controlling the same and in using, operating, managing, preserving and controlling the Property. The foregoing remedy will include the right of the Land Bank to sell the Property and retain all proceeds from the sale, provided that the Land Bank will not exercise the right of sale unless it has notified Participant in writing of its default pursuant to Section 11, and thereafter, Participant fails to accept the conveyance of the Property within fifteen days after notice from the Land Bank of the Land Bank's intent to sell the Property.

(d) The Land Bank may charge interest in the amount of five percent (5%) per annum on all costs, expenses, fees and charges incurred by the Land Bank in connection with Participant's default or an Event of Default, which interest will accrue from the date the cost, expense, charge or fee is incurred until paid by Participant. The Land Bank may sue Participant to recover all costs, expenses, charges, fees and damages and interest thereon and court costs and reasonable attorneys' fees.

13. Rights Cumulative. The Land Bank's rights and remedies will be separate, distinct and cumulative, and none of them will be exclusive of the others. The Land Bank will have all rights and remedies now or hereafter existing at law or in equity or by statute, in addition to those stated in this Agreement, and the Land Bank may pursue its rights and remedies concurrently or in any sequence. If Participant does not comply with this Agreement, no remedy of law will provide adequate relief to the Land Bank, and the Land Bank will be entitled to temporary and permanent injunctive relief without the necessity of proving actual damages.

14. Indemnity. To the extent permitted by law, each party shall be responsible for any claim or cause of action made against it arising out of the performance of its duties under this

agreement and neither party shall be required or responsible to indemnify, defend, or hold harmless the other for any such claim or cause of action. Each party shall obtain for itself insurance or other security for the performance of this Agreement. Nothing in this Agreement shall be construed to waive any immunity of the City or the Land Bank.

15. Insurance.

(a) Liability Coverage. During the period the Land Bank holds title to the Property, Participant will maintain commercial general liability insurance against claims for bodily injury, personal injury, death or property damage, occurring in, on, under or about the Property, with limits of \$1,000,000 per occurrence, \$2,000,000 annual aggregate. Land Bank shall be listed as an additional insured. Participant will ensure that any contractors and other third parties performing any work at the Property will maintain commercial general liability insurance including broad form coverage against claims for personal injury, bodily injury, death and property damage occurring on, in or about the Property in amounts not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate, listing Participant and Land Bank as an additional insured.

(a) Property Damage Coverage. During the period the Land Bank holds title to the Property, Participant will maintain property insurance protecting against loss or damage to the Property, including all buildings, structures and improvements to the Property (collectively, the "Improvements" ) by fire, windstorm and against loss and damage by such other, further and additional risks and with such deductibles within the discretion of Participant.

(b) Insurance Carriers and Certificates. All insurance required of Participant will be provided for under valid and enforceable policies issued by financially responsible insurers authorized to do business in Ohio, with commercially reasonable deductibles designated by Participant. Upon the complete execution of this Agreement, Participant will deliver to the Land Bank copies of insurance certificates evidencing that the insurance required by this Agreement is in full force and effect, and Participant will deliver certificates for all renewals of such policies at least ten (10) days before the date of renewal. Upon the Land Bank's request, the Participant will also deliver complete copies of the policies for coverage required by this Agreement. All insurance certificates and policies delivered by Participant will be addressed to the Participant acknowledges and agrees that the Land Bank will have no liability or responsibility with respect to the types of coverage, amounts of coverage, and deductibles.

16. Damage or Destruction. In the event of any damage or destruction to the Property, the Land Bank or Participant may elect to terminate this Agreement by written notice to the other. Upon termination, the Land Bank will be relieved of all obligations under this Agreement. The Land Bank will have no liability or responsibility for any damage or destruction or for the repair or restoration of the Property; provided that, if this Agreement is terminated and Participant is not in breach or default of this Agreement and there is no Event of Default, then the Land Bank will reasonably cooperate with Participant with respect to making claims on any applicable insurance to the extent the Land Bank is deemed to hold any rights to such insurance, and any proceeds payable to the Land Bank will be assigned to Participant less the Land Bank ' s costs

incurred in making the claim. If neither the Land Bank nor Participant terminates this Agreement, they will work together to develop and plan for the restoration and repair of the Property or the demolition of one or more improvements at the Property, which will be put in writing, and all repairs and restorations will be undertaken in compliance with the plan and applicable legal requirements.

17. No Assignment or Liens. Neither the Land Bank nor Participant will assign this Agreement or encumber or transfer any interest in this Agreement or the Property without the other's prior written approval, which may be given or withheld in such party's sole discretion. Notwithstanding any assignment of Participant's interest in this Agreement, Participant will remain fully and primarily liable for the performance of all Participant obligations under this Agreement. If any liens are placed on the Property or any interest in the Property as the result of either party's acts or omissions, the responsible party will promptly take all actions necessary to remove the lien. The Land Bank's conveyance of the Property to Participant will be subject to all liens and encumbrances, if any, arising from the acts or omissions of Participant or any Participant Parties.

18. Notices. All notices and other communications given under this Agreement will be in writing, and will be deemed sufficiently given when personally delivered or when deposited in the United States Mail, postage prepaid, certified or registered, or when delivered by a nationally recognized overnight delivery service and addressed as follows (or to such person, or to such other address, of which the Land Bank or Participant has given written notice as provided in this Section):

If to Land Bank:	Montgomery County Land Reutilization Corporation 130 West Second Street, Suite 1425 Dayton, OH 45402 Attention: Susie Crabill
If to Participant:	City of Clayton P. O. Box 280 Clayton, OH 45315 Attention: Jack Kuntz

Any notice or other communication mailed as provided above will be deemed effectively given on the date of delivery, if delivered by hand, or on the date received or refused if sent by overnight express delivery or if sent by U.S. Mail.

19. Interpretation. The titles to the sections and paragraphs in this Agreement are for reference only and do not limit in any way the contents of this Agreement and will not be considered in the interpretation of the sections or paragraphs. Any words in this Agreement that are used in one gender will be read and construed to mean or include the other gender wherever

they would so apply. Any words in this Agreement that are used in the singular will be read and construed to mean and to include the plural wherever they would so apply, and vice versa.

20. Time. Time is of the essence with respect to Participant's obligations under this Agreement.

21. Survival. The terms, conditions and covenants of this Agreement will not be merged with either the deed by which the Land Bank acquires title to the Property or the deed by which Participant acquires title to the Property, and all terms, conditions and covenants will survive any termination of this Agreement.

22. Severability. If any term or provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any term or provision of this Agreement that is held invalid or unenforceable by a court of competent jurisdiction only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

23. Binding Effect. This Agreement will be binding upon and inure to the benefit of the Land Bank, Participant, their respective successors and assigns.

24. Complete Agreement. This Agreement supersedes all other agreements and understandings between the parties, oral or written, and constitutes the entire agreement between the parties with respect to the subject matter covered by this Agreement. No amendment or modification will be effective unless it is in writing and signed by the Land Bank and Participant and dated subsequent to the date of this Agreement. This Agreement will be governed by the laws of the State of Ohio.

Executed effective as of the date first stated in this Agreement.

LAND BANK:

**MONTGOMERY COUNTY LAND REUTILIZATION CORPORATION**

By \_\_\_\_\_  
Michael Grauwelman  
Executive Director

PARTICIPANT:

**CITY OF CLAYTON  
P. O. BOX 280  
CLAYTON, OH 45315**

By \_\_\_\_\_

Title \_\_\_\_\_

**Exhibit A**

**3.7884 acres**

Tract I

Situate in Section 20, Town 5, Range 5 East, City of Clayton, Montgomery County, Ohio. Being part of a 7.7884 acre (by deed) parcel conveyed to RCS Holdings, LLC by LR. Deed-08-048482 of the Deed Records of Montgomery County, Ohio, and being a tract of land more particularly described as follows:

*All of the Plats and Deeds referenced hereon; are recorded in the Plat and Deed Records of Montgomery County, Ohio.*

Beginning at a Mag nail found at the northeast corner of Village of North Clayton P.U.D., Section Two, recorded in Plat book 206, Page 24 and the extension of the east right-of-way line of Proaction Drive (having a width that varies) and in the centerline of National Road (U.S. 40) and being the **True Point of Beginning**:

**Thence**, from said **True Point of Beginning**, N 83°55'23"E, with the centerline of said National Road (U.S. 40), for a distance of 336.70 feet to a Mag nail found at the northwest corner of a 1.000 acre (by deed) parcel conveyed to the City of Clayton by LR. Deed-14-051513:

**Thence**, S 06°04'37"E, leaving the centerline of said National Road (U.S.40), with the west line of said 1.000 acre parcel, passing a 5/8" iron pin set at a distance of 45.00 feet, for a total distance of 214.24 feet to a 5/8" iron pin found at the southwest corner of said 1.000 acre parcel:

**Thence**, S 69°13'11"E, with the south line of said 1.000 acre parcel, for a distance of 172.66 feet to a 5/8" iron pin found at the southeast corner of said 1.000 acre parcel and on the west line of a 5.945 acre (by deed) parcel conveyed to Mary Jo Theresa George by Deed M.F.#96-190E05:

**Thence**, S 00°00'57"W, with the west line of said 5.945 acre parcel, for a distance of 154.41 feet to a 5/8" iron pin set for a new corner:

**Thence**, N 89°59'03"W, with a new division line through said 7.7884 acre parcel, for a distance of 486.16 feet to a 5/8" iron pin set for a new corner on the east right-of-way line of said Proaction Drive:

**Thence**, N 05°30'33"W, with the east right-of-way line of said Proaction Drive, for a distance of 86.39 feet to a 5/8" iron pin found at the south corner of Lot 60 of Village of North Clayton, Section 2 recorded in Plat Book 206, Page 24:

*Thence*, northeasterly with the easterly line of said Lot 60, with a curve to the left, having a radius of 66.50 feet, an arc length of 131.77 feet, with a central angle of  $113^{\circ}31'58''$  and chord length of 111.25 feet which bears  $N 00^{\circ}54'30'' E$ , to a 5/8" iron pin found at a point of reverse curvature:

*Thence*, northwesterly continuing with the easterly line of said Lot 60, with a curve to the right, having a radius of 15.00 feet, an arc length of 13.03 feet, with a central angle of  $49^{\circ}46'53''$  and chord length of 12.63 feet which bears  $N 30^{\circ}58'03'' W$ , to a 5/8" iron pin found at a point of tangency:

*Thence*,  $N 06^{\circ}04'37'' W$ , with the east right-of-way line of said Proaction Drive, for a distance of 185.91 feet to the **True Point of Beginning**, Containing 3.7884 acres. Subject to all legal conditions, easements and right-of-ways pertaining to the premises herein described. This description prepared by McDougall - Marsh Land Surveyors, Based on a field survey made by same in April 2018, under the direct supervision of Thomas K. Marsh P.S. #7735. All iron pins set are 30" x 5/8" capped "7735." Bearings are based on the centerline of National Road (U.S.40), ( $N83^{\circ}55'23'' E$ ), as recorded in Survey Volume 2006, Page 0295 of the Survey Records of Montgomery County, Ohio. Plat of Survey recorded in the Montgomery County Engineer's Record of Land Surveys, Volume 2018, Page 0130.

**FEE AND EXPENSES SCHEDULE PAID BY PARTICIPANT**

<b>Check if applicable</b>	<b>Fee/Expense Name</b>	<b>Estimated Amount of Fee</b>
<b>X</b>	Annual Land Banking Fee	\$1,858.98
<b>X</b>	Closing and escrow charges	
	Title examination and commitment	
<b>X</b>	Title policy charges and premiums	\$1,000.00
<b>X</b>	Conveyance fees and transfer taxes	\$300.00
<b>X</b>	Recording costs	\$56 .00
<b>X</b>	Phase I Environmental Audit	\$2,195.00
	Environmental Legal Documents	
	Legal Agreement Preparation	
<b>X</b>	Real Estate Tax Assessments (estimate)	\$3267.08
<b>X</b>	Maintenance, repair, replacement, etc. - Administrative Fee/Maintenance Fee	
<b>X</b>	Insurance Costs	



**MAINTENANCE AND REPAIR SCHEDULE**

<b>Item of Work</b>	<b>Participant Responsible</b>	<b>Land Bank Responsible</b>
Mowing and landscaping	X	
Trash removal	X	
Snow removal	X	
HVAC	N/A	
Fire Suppression	N/A	
Elevator	N/A	
Roof and roof membrane	N/A	
Security systems or building security	N/A	