

**SUBCONTRACT FOR PARK, TRAILS & GREENWAY DEVELOPMENT
UNDER THE
CUMBERLAND COUNTY LAND PARTNERSHIPS GRANT PROGRAM**

THIS AGREEMENT is entered between the County of Cumberland, with offices c/o Commissioners Office, 1 Courthouse Square, Carlisle, Pennsylvania (“County”) and «Applicant», «Applicant_Address1», «Applicant_Address2», (“Recipient”) and is effective upon the last date of execution hereof by the parties.

WHEREAS, the Board of Commissioners of Cumberland County has approved a Land Partnerships Grant to «Applicant» in the amount of \$«Committee_Recommendation» (“Grant”); and

WHEREAS, Recipient has agreed to use the Grant for «Description» (“Project”); and

WHEREAS, Recipient has agreed to be bound by all of the terms and conditions set forth in the Land Partnerships Grant Program (“Program”), as amended from time to time, [if applicable] the Master Intergovernmental Cooperation Agreement (“Agreement”) heretofore entered between County and Recipient, and this Subcontract; and

WHEREAS, the parties have agreed to be bound by the following terms and conditions with respect to the use of the Grant and completion of the Project.

NOW THEREFORE, the parties hereto, intending to be legally bound hereby, agree as follows:

1. RECITALS. The above recitals are incorporated herein.

2. COUNTY OBLIGATION TO ADVANCE GRANT. County shall be obligated to advance the Grant solely upon compliance with all applicable terms and conditions of the Program, the Agreement and this Subcontract.

3. LIMITATION OF GRANT. The Grant shall be expended solely for the Project and for no other purpose.

4. GRANT EXPIRATION DATE. Should the entire Grant not be fully expended for the Project by **December 31, 2021**, any unexpended and remaining Grant funds may be withheld by the County, retained for the Program and reallocated to other projects as determined by the County.

5. Use of Eminent Domain Prohibited. No real estate interest to be utilized for the Project may be acquired with the use of the Grant, in whole or in part, by the power of eminent domain.

6. AGREEMENT(S) FOR PERFORMANCE OF THE PROJECT. The proposed agreements for the performance of labor and the provision of materials for the Project shall be acceptable to the County and shall be submitted to the County for approval prior to execution by the Recipient. The County will review the agreements solely to confirm conformity with the Project description. In the event the project is being performed by Recipient's employees, the qualifications and duties of the employees providing labor to the Project, along with a written narrative of the Project scope and schedule, shall be provided to the County for its review and approval. The County shall review the proposed agreements, or other submissions, solely to insure compliance with the Program, Agreement, this Subcontract and the purposes of the Project, and all of the conditions related thereto, and shall promptly notify Recipient that it may proceed with

the Project or inform Recipient of the specific provision(s) which are unacceptable to the County. The agreements shall not be executed by the Recipient and the Project shall not proceed unless the objectionable provision(s) are removed. In the event the Project is being performed in-house, the Project shall not proceed unless all County objections, if any, have been removed. All agreements shall provide for the waiver of mechanics liens.

7. NO LIENS PERMITTED. No part of the cost of the Project, or expenses related thereto, shall be borrowed and no purchase money liens may be created or imposed upon the real estate improved by the Project. This provision shall not be construed to prohibit the use of grant funds obtained from the Commonwealth of Pennsylvania for the Project, and the imposition of any related deed restriction required by the Commonwealth in connection therewith shall not be considered to be a lien prohibited by this paragraph.

8. PAYMENT OF GRANT. Upon compliance with all of the terms of the Program, the Agreement and this Subcontract, County shall provide the Grant to Recipient in two equal installments. The first installment shall be paid at the time of County's approval under the provisions of Paragraph 6 of this Subcontract, and the balance shall be paid at the time of completion of the Project. The final installment shall not be made until County has inspected the work, which inspection shall be for the sole purpose of verifying completion of the Project. No inspection by the County shall be deemed or construed to be for the purpose of determining whether the work was properly performed and/or determining the quality of the work, and Recipient shall be solely responsible to determine the proper performance and quality of the work of the Project.

9. LIABILITY POLICY(IES). At all times during the term of the Project, Recipient shall maintain one or more policies of general comprehensive liability insurance, in limits acceptable to the County. Such policy(ies) shall insure against any and all claims arising directly or indirectly under this Subcontract and the Project. In addition, professional liability insurance, in limits acceptable to the County, shall be maintained by independent professional consultant(s) retained for the project, or by the Recipient should its professional staff perform any part of the Project. Certificates of insurance and renewals shall be provided to County. Recipient and its subcontractors shall also maintain policies of workers compensation, motor vehicle and other insurances of types and coverage consistent with municipal standards.

10. POST-PROJECT REQUIREMENTS. Within 30 days following the completion of the Project, Recipient shall provide the County with written proof that all laborers, consultants and material providers have been fully paid.

11. PROJECT OVERRUNS. County will not fund any portion of the Project in excess of the Grant and any cost overruns are the sole responsibility of the Recipient.

12. PROJECT SIGN. A sign suitable to the County must be placed at a conspicuous location on the Project which states: "This project was funded in part by the Cumberland County Land Partnerships Program." The sign shall be maintained by the Recipient for such period of time as the County shall determine in its sole discretion.

13. COUNTY NOT A PARTY TO AGREEMENT. In no event shall the County be deemed to be a party to any agreement between the Recipient and any of its contractors, subcontractors, consultants or any other person providing labor or materials to the Project. County's interest in the project shall be strictly limited to protecting its interest

with respect to the Grant and achievement of the purposes of the Project. The County agrees to exercise its prior approval rights solely in respect to those purposes and shall not be deemed to retain any approval rights with respect to any other term or condition of any agreement or understanding between the Recipient and its contractors, subcontractors, consultants or any other person providing labor or materials to the Project.

14. RECIPIENT IS AN INDEPENDENT CONTRACTOR. At all times in the performance of the Project, Recipient shall be deemed to be acting as an independent contractor and no person acting on its behalf shall be deemed to be an employee of County or a joint employee of the parties for any purpose. Recipient shall be responsible for all lawful withholdings from the salaries or wages of its employees providing services to or for the Project. In no event shall this Agreement be construed as establishing a partnership, joint venture, or other business or similar relationship between the parties, and nothing herein shall be construed to authorize either party to act as an agent for the other.

15. INDEMNIFICATION. Recipient shall indemnify and hold County, its elected and appointed officials, officers, administrators, employees, agents, contractors, subcontractors, successors and assigns, or any of them, harmless against any and all claims, demands, actions and liabilities, including all costs of litigation and attorneys fees, based upon or arising out of any matter performed or omitted to be performed by Recipient and its employees, agents and subcontractors under this Agreement and shall, at the request of the County, defend any and all actions brought against the County based upon any such claims or demands. Recipient's agreement in this respect shall extend to

payment of the County's legal fees in the enforcement of the provisions of this paragraph. It is understood between the parties that the County's sole undertaking is to provide funding for the Project.

16. DEFAULT. Should Recipient default under the terms and conditions of the Program, the Agreement or this Subcontract, County shall be entitled to pursue any and all remedies at law or in equity, including without limitation, the right to seek reimbursement of the Grant.

17. STATUTORY AND REGULATORY COMPLIANCE. Recipient shall comply with all federal, state and local laws and regulations in the performance of this Subcontract and in completing the Project.

18. NONDISCRIMINATION. Recipient shall perform the Project without regard to race, ancestry, color, religious creed, age, sex, diagnosis, handicap, disability, national origin, sexual orientation or other category protected by law.

19. REPRESENTATIONS AS TO AUTHORITY. Each party represents unto the other that all necessary actions have been taken to approve this Agreement and that this Agreement is a legal, valid and binding obligation of each and legally enforceable in accordance with its terms.

20. ASSIGNMENT PROHIBITED. Recipient shall not have the right to assign this Agreement, or its rights, duties, obligations or responsibilities hereunder, in whole or in part, without the prior written consent of the County.

21. NO WAIVER. The failure of any party to insist upon strict performance of a covenant hereunder or of any obligation hereunder shall not be a waiver of such party's right to demand strict compliance therewith in the future.

22. SEVERABILITY. If any provision of this Agreement is held illegal, void, invalid or unenforceable it shall not affect the validity, legality or enforcement of the remaining portions of this Agreement, and if any provision is inapplicable to any person or circumstance it shall nevertheless remain applicable to all other persons and circumstances.

23. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

24. AMENDMENT. No change, modification or amendment of this Agreement shall be valid or binding upon the parties unless such change or modification shall be in writing signed by the party against whom the same is sought to be enforced.

25. ENTIRE AGREEMENT. The Program, Agreement and this Subcontract constitute the full and complete agreement of the parties pertaining to the subject matter hereof and supersede any and all prior and contemporaneous agreements and understandings of the parties in connection therewith. There are no representations, warranties or agreements other than those set forth in the Program, Agreement of this Subcontract.

IN WITNESS WHEREOF, each of the parties have executed this Subcontract the date appearing below.

ATTEST:

COUNTY OF CUMBERLAND

DATE: _____

By: _____

Chair

Vice-Chair

Secretary

ATTEST:

«Applicant»

DATE: _____

By: _____

By: _____

By: _____