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Presented by the Administration

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CITY OF CUYAHOGA FALLS, OHIO

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ORDINANCE NO. 01 - 2013

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AN ORDINANCE AUTHORIZING THE DIRECTOR OF COMMUNITY DEVELOPMENT TO MAKE A SUBGRANT OF CLEAN OHIO REVITALIZATION FUND GRANT PROCEEDS TO TESTA ENTERPRISES, INC. TO PROVIDE FINANCIAL ASSISTANCE FOR THE ACQUISITION OF CERTAIN REAL PROPERTY LOCATED AT 1783 FRONT STREET (PARCEL NOS. 02-17696, 02-03124, 02-03123, 02-17770, AND 02-03122), AND DECLARING AN EMERGENCY.

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WHEREAS, on September 24, 2007, the State of Ohio Department of Development, through State Controlling Board Action No. DEV010038, awarded a Clean Ohio Revitalization Fund ("CORF") grant (Grant No. 08-022 ADMN, hereinafter the "CORF Grant") to the City Cuyahoga Falls in the amount of \$2,381,440 for the purpose of assessment and remediation of environmental contamination at 1783 Front Street (Parcel Nos. 02-17696, 02-03124, 02-03123, 02-17770, and 02-03122), hereinafter the "Property;" and

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WHEREAS, pursuant to the authority of Ord. No. 11-2008, passed January 14, 2008, the City entered into contract to expend the CORF Grant for the assessment and remediation purposes stated therein, which purposes have been fully completed; and

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WHEREAS, surplus monies associated with the CORF Grant remain available to be reprogrammed for purposes authorized in Ohio law; and

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WHEREAS, the Ohio Development Services Agency, as administrator of the CORF Grant, has approved as consistent with governing law, a subgrant in the amount of \$160,000 to be provided to Testa Enterprises, Inc. ("Testa") to provide financial assistance to Testa in the acquisition of the Property for redevelopment purposes,

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NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County of Summit and State of Ohio, that:

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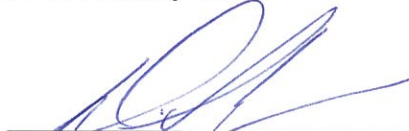
Section 1. The Director of Community Development is hereby authorized to make a subgrant of the proceeds of CORF Grant No. 08-022 ADMN in the amount of \$160,000 to Testa Enterprises, Inc. for the purpose of providing financial assistance to Testa for the acquisition of the real property known as 1783 Front Street (Parcel Nos. 02-17696, 02-03124, 02-03123, 02-17770, and 02-03122) for redevelopment purposes, as set forth in the subgrant agreement now on file with the Clerk of Council in Council File No. 01-2013.

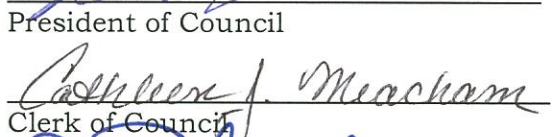
52 Section 2. The Director of Finance is hereby authorized and directed to make
53 payment for same from the Capital Projects Fund, line item Capital Outlay.


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55 Section 3. Any other ordinances or resolutions or portions of ordinances and
56 resolutions inconsistent herewith are hereby are repealed, but any ordinances and
57 resolutions not inconsistent herewith and which have not previously been repealed
58 are hereby ratified and confirmed.

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60 Section 4. It is found and determined that all formal actions of this Council
61 concerning and relating to the adoption of this ordinance were adopted in an open
62 meeting of this Council, and that all deliberations of this Council and of any of its
63 committees that resulted in such formal action, were in meetings open to the
64 public, in compliance with all legal requirements, to the extent applicable,
65 including Chapter 107 of the Codified Ordinances.

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67 Section 5. This ordinance is hereby declared to be an emergency measure
68 necessary for the preservation of the public peace, health, safety, convenience and
69 welfare of the City of Cuyahoga Falls and the inhabitants thereof, for the reason
70 that it is immediately necessary to permit timely and appropriate development of
71 this property, and provided it receives the affirmative vote of two thirds of the
72 members elected or appointed to Council, it shall take effect and be in force
73 immediately upon its passage and approval by the Mayor; otherwise it shall take
74 effect and be in force at the earliest period allowed by law.

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78 Passed: 11-25-13 _____  _____
79 President of Council

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82 Clerk of Council

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84 Approved: 12/2/10 _____  _____
85 Mayor

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87 11/12/13
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AGREEMENT FOR HIGHBRIDGE GLENS PROJECT SUBGRANT

This Agreement is made and entered into as of this _____ day of _____, 2013, by THE TESTA ENTERPRISES, INC., an Ohio corporation (the "Testa"), and the CITY OF CUYAHOGA FALLS, OHIO, a political subdivision of the State of Ohio (the "City").

WHEREAS, the City was awarded a Clean Ohio Revitalization Fund Grant (Grant No. 08-022 ADMN, hereinafter the "CORF Grant") by the State of Ohio for the cleanup and remediation of a Brownfield. The Project is known as "the Highbridge Glens Project" ("Project"), and

WHEREAS, the initial scope of the Project has been fully completed below budget and \$160,000.00 of the CORF Grant remains, and

WHEREAS, Testa has proposed to purchase 1783 S. Front Street for \$600,000, of which \$160,000 will be CORF funds. CORF funds were previously used at 1783 S. Front Street for cleanup, demolition and remediation of the Project and the State of Ohio and the City agree with such proposal.

NOW THEREFORE, in consideration of the promises, and the covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The City will make a subgrant of the proceeds of CORF Grant No. 08-022 ADMN in the amount of \$160,000 to Testa for the purpose of providing financial assistance to Testa for the acquisition of the real property known as 1783 Front Street (Parcel Nos. 02-17696, 02-03124, 02-03123, 02-17770, and 02-03122).
2. Testa shall purchase the above parcels for redevelopment purposes.
3. Testa or the escrow agent in charge of the sale of the property shall notify City of the date of closing, and all other information necessary for the City to transfer the funds to the escrow for the benefit of the seller(s).
4. In the event that the Grant is required to be returned or reimbursed to the State, Testa agrees to provide \$160,000.00 to City for such repayment within 30 days of notice to Testa.
5. The parties acknowledge that the transaction that is the subject matter of this contract bears a reasonable relation to the State of Ohio and agree that the law of Ohio will govern their rights and duties. The Courts located in Summit County, Ohio shall be the forum to resolve any disputes arising under this contract to the extent of their jurisdiction.
6. The parties intend the terms of this contract as a final expression of their agreement with respect to the terms and also as a complete and exclusive statement of the terms.

7. The parties may neither assign their rights nor delegate performance of their duties under this contract unless by prior written agreement of both.

IN WITNESS WHEREOF, the parties hereto have executed the Amendment as of the day and year first above written.

CITY OF CUYAHOGA FALLS, OHIO

By: _____
Its: _____
Date: _____

TESTA ENTERPRISES, INC.

By: _____
Its: _____
Date: _____

CERTIFICATE OF THE DIRECTOR OF LAW

Approved as to form:

Paul A. Janis, Director of Law
Date: _____

CERTIFICATE OF THE DIRECTOR OF FINANCE

To the Mayor, Director of Public Safety or Director of Public Service:

I hereby certify that the funds required to meet the City's obligations under this contract has been lawfully appropriated and is in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrance.

Joseph F. Brodzinski
Director of Finance
Date: _____