

18-206

EXHIBIT A

PROJECT MANAGEMENT AGREEMENT

Between

DEVELOPMENT FINANCE AUTHORITY OF SUMMIT COUNTY

AND

COUNTY OF SUMMIT, OHIO

PROJECT MANAGEMENT AGREEMENT

THIS PROJECT MANAGEMENT AGREEMENT (the "Agreement") is entered into as of the County Executive's signature below, between the DEVELOPMENT FINANCE AUTHORITY OF SUMMIT COUNTY, a port authority and political subdivision and body corporate and politic duly organized and valid existing under the laws of the State of Ohio (the "Development Finance Authority") with its principal place of business located at 47 N. Main St., Akron, OH 44308 and the COUNTY OF SUMMIT, OHIO, a county and political subdivision organized and validly existing under the laws of the State of Ohio and its Charter (the "County") with its principal place of business located at 175 S. Main St., 8th Floor, Akron, OH 44308.

RECITALS:

- A. The Development Finance Authority is in need of certain general project management services, including, but not limited to management of certain physical facilities owned by the Development Finance Authority, construction inspection, review of disbursement requests, management of construction contractors, prevailing wage coordination and related tasks in connection with the Development Finance Authority's economic development operations ("Project Management Services").
- B. The County employs certain individuals who can provide Project Management Services to the Development Finance Authority.
- C. The Development Finance Authority and County desire to enter into an agreement whereby the County will provide Project Management Services to the Development Finance Authority, and County will be compensated for the same.

ARTICLE I: TERM.

- 1.1 Term. The term of this Agreement shall commence effective November 1, 2017 and shall continue until June 30, 2018, unless either party terminated the Agreement earlier under Article 6 below. There will be no modifications of this term without the express, written consent of the parties.

ARTICLE II. SERVICES RENDERED BY THE COUNTY.

- 2.1 Services Rendered. At the direction of the Development Finance Authority, through its President or other officer(s) appointed or directed by the board of directors, County shall provide Project Management Services to the Development Finance Authority during the Term of this Agreement. County will provide the Project Management Services by providing a mutually-agreed upon employee to the Development Finance Authority for approximately 24 hours per week which may vary from time to time as agreed by the parties. The parties will mutually agree upon the schedule of the employee from time to time. Additionally, County will provide general oversight and management of the employee providing

Project Management Services, as well as general assistance related to the Project Management Services by other necessary County personnel.

ARTICLE III. COMPENSATION.

3.1 Compensation. As compensation for the performance of County's obligations, Development Finance Authority shall pay to County the sum of \$50.00 per hour of services performed, which shall approximately represent the salary and benefits of the employee providing the Project Management services, plus overhead/administrative/supervisory costs of 10% of the cost of said employee. Any additional staff provided by County to Development Finance Authority necessary to complete County's obligations shall be at no cost to Development Finance Authority.

On a monthly basis, Development Finance Authority shall calculate the number of hours of Project Management Services provided by the County in the preceding month. Development Finance Authority shall provide said calculation by way of a draft invoice to the County by the fifth of each month for the prior month. County shall review the same, and, if in agreement with the draft invoice, will finalize the invoice, transmit the same to the Development Finance Authority, and perform a journal entry to transfer payment for the same from the Development Finance Authority to the County. In the event of any dispute on the draft invoice, the parties agree to mutually resolve any disagreement to their mutual satisfaction.

ARTICLE IV. REPORTS AND RECORDS.

4.1 Maintenance of Records and Reports. The Development Finance Authority shall maintain and provide to County upon demand the following records and reports:

4.1.1 Accounting and fiscal records adequate to enable County or the State of Ohio or any duly-appointed law enforcement agency to audit and otherwise verify that funds provided under this Agreement are used for the purpose stated in this Agreement.

4.1.2 Other records and reports required by the County to enable it to comply with local, state and federal statutes and regulations. The County shall have the right to audit which includes the right of the County's internal auditing department to access proprietary software and hardware systems to audit and verify compliance including but not limited to generating system reports and summaries, verifying passwords and other security protections and verifying proper functioning.

4.2 Retention of Records. The Development Finance Authority must maintain all records related to this Agreement for three years after the termination of this Agreement. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the

three-year period, the Development Finance Authority must retain the records until completion of the action and all issues that arise from it or until the end of the three-year period, whichever is later.

ARTICLE V. EQUAL OPPORTUNITY EMPLOYMENT/NON-DISCRIMINATION

5.1 Equal Opportunity Employment/Non-Discrimination. The Development Finance Authority agrees that in the hiring of employees for the performance of work under this Agreement, the Development Finance Authority, its subcontractors, or any person acting on the Development Finance Authority's or its subcontractor's behalf, shall not discriminate against any citizen of the state in the employment of a person qualified and available to perform the work to which the employment relates by reason of race, creed, sex, disability, military status as defined in Section 4112.01 of the Ohio Revised Code, color, gender identity as defined in Section 101.02(f) of the Codified Ordinances of the County of Summit and sexual orientation as defined in Section 101.02(c) in the Codified Ordinances of the County of Summit. The Development Finance Authority further agrees that the Development Finance Authority, its subcontractors, or any person acting on the Development Finance Authority or its subcontractor's behalf, shall not discriminate in any manner, against, or intimidate any employee hired for the performance of work under this Agreement on account of race, creed, sex, disability, military statutes as defined in Section 4112.01 of the Ohio Revised Code, color, gender identity as defined in Section 101.02(f) of the Codified Ordinances of the County of Summit and sexual orientation as defined in Section 101.02(c) of the Codified Ordinances of the County of Summit. The Development Finance Authority certifies that it does not maintain and it will not permit its employees to perform services at any segregated facilities. The Development Finance Authority agrees to comply with all applicable federal, state and local laws, orders, rules, and regulations regarding equal employment opportunity.

ARTICLE VI. TERMINATION.

6.1 Termination. Either party may terminate this Agreement immediately upon written notice to the other. Upon termination, the Development Finance Authority shall pay the County for all services rendered prior to and up to the date of notice of termination.

ARTICLE VII. GENERAL TERMS AND CONDITIONS

7.1 Insurance. The County shall carry complete and adequate worker's compensation insurance for any employee who performs services under this Agreement. Development Finance Authority shall procure and keep in force and effect during the term of this Agreement; Commercial Comprehensive General Liability Insurance with liability limits in an amount of not less than One Million Dollars (\$1,000,000.00); Professional Liability Coverage in the minimum of One Million Dollars (\$1,000,000.00)(including contractual liability coverage) covering personal injury, bodily injury and property damage, said coverage to be maintained for a period of three (3) years after the date of the final payment hereunder; and Comprehensive Automobile Liability Insurance, including owned, hired,

and non-owned vehicles, if any, in the amount of One Million Dollars (\$1,000,000.00) covering personal injury, bodily injury and property damage.

7.2 No authority to Bind. Neither party has the power or authority to bind the other party to contracts or other obligations.

7.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

7.4 Forum. The parties agree that the forum for any claim, action, arbitration, mediation, or litigation arising from this Agreement will be Summit County, Ohio. The parties agree that jurisdiction and venue for any matter involving any parties to this Agreement is proper in the Akron Municipal Court and/or the U.S. District Court for the Northern District of Ohio, Eastern Division, Akron.

7.5 Assignment. Neither party may assign this Agreement without prior written consent of the other party, which consent must not be unreasonable withheld. Any assignment in violation of this Agreement is void. This Agreement is binding upon the heirs, successors, legal representatives and permitted assigns of the parties.

7.6 Force Majeure. Neither party will be considered in default in the performance of any obligations hereunder, except the obligation to make payment, to the extent that the performance of such obligation is prevented or delayed by fire, flood, explosion, strike, war, insurrection, embargo, government requirement, civil or military authority, act of God, or any other event, occurrence or condition which is not caused, in whole or in part, by that party, and which is beyond the reasonable control of that party. The parties will take all reasonable action to minimize the effects of any such event, occurrence or condition.

7.7 Severability. If any provision of this Agreement is found invalid or unenforceable by an arbitration panel or a court of competent jurisdiction, the remainder of this Agreement must continue in full force and effect.


7.8 Reservation of Rights. A delay or failure in enforcing any right or remedy afforded hereunder or by law must not prejudice or operate to waive that right or remedy or another right or remedy, including any remedy for a future breach of this Agreement, whether of a like or different character.

7.9 Review by Legal Counsel. Each party has had the opportunity to review this Agreement with the assistance of legal counsel. Accordingly, the rule of construction that any ambiguity in this Agreement is to be construed against the drafting party is not applicable.

7.10 Notices. Every notice and demand required under the terms of this Agreement must be in writing and must be sent by certified mail, return receipt request, or by other means of delivery requiring a signed receipt to the other's address first set forth above. All notices are effective upon receipt. A party may change its address by giving written notice to the other party in accordance with this Article.

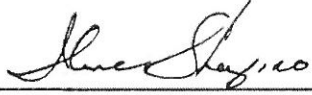
7.11 Amendment and Waiver. This Agreement may not be amended, supplemented, or waived except by a writing signed by the parties. The waiver of any particular right or claim must not constitute a waiver of any other right or claim. Intending to be legally bound, the parties have signed this Project Management Agreement effective as of the date signed by the County Executive.

DEVELOPMENT FINANCE AUTHORITY
OF SUMMIT COUNTY

By: 
Christopher J. Burnham, President

Date: 11-13-17

COUNTY OF SUMMIT, OHIO

By: 
Ilene Shapiro, Executive *RSP*

Date: 11/27/17

Approved as to form:


Deborah S. Matz
Director, Department of Law,
Insurance and Risk Management

Date: 11/27/17