RESOLUTION No. 130-2014

WHEREAS, the Pennsylvania Capital Facilities Debt Enabling Act authorizes funding for eligible economic development capital projects through the Redevelopment Assistance Capital Program ("RACP") and

WHEREAS, the City of Reading has identified the development and new construction/renovation of GoggleWorks II Artist Housing to be located at 229 Washington Street, Reading, Berks County, Pennsylvania as eligible for such "RACP" assistance; and

WHEREAS, the downtown GoggleWorks II Artist Housing project will provide employment opportunities, promote economic development in the City of Reading and have a regional, multi-jurisdictional impact therein.

NOW THEREFORE, the Council of the City of Reading hereby resolves as follows:

That the Mayor of the City of Reading is authorized to file an application for "RACP" funds in the amount of $1.5 million ($1,500,000) for the downtown GoggleWorks II Artist Housing project and to execute any and all necessary documents and to carry out all procedures as required by the Commonwealth of Pennsylvania.

Adopted by Council Dec 8, 2014

President of Council

Attest:

City Clerk

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Resolution passed by the Council of the City of Reading, on the 8 day of Dec A. D. 20 14 Witness my hand and seal of the said City this 9 day of Dec A. D. 20 14

CITY CLERK

COOPERATION AND SUB-RECIPIENT AGREEMENT

Between

THE CITY OF READING, PENNSYLVANIA

And

OUR CITY READING, INC.

THIS COOPERATION AND SUB-RECIPIENT AGREEMENT ("Agreement") is made as of the _____ day of _____, 2014 by and between

THE CITY OF READING, PENNSYLVANIA, a Pennsylvania Third Class City ("Recipient")

And

OUR CITY READING, INC., a Pennsylvania Corporation ("Sub-recipient")

WHEREAS, Recipient has made application to the Commonwealth of Pennsylvania acting through the Office of the Budget ("Commonwealth") to use Redevelopment Assistance Capital funds (RACP) in the amount of up to $1,500,000 to assist in the development and construction of GoggleWorks II Artist Housing located in Reading, PA; which GoggleWorks II Artist Housing shall be owned and operated by Sub-recipient (the "Project"); and

WHEREAS, the Commonwealth has issued a Grant Agreement to Recipient for the Project in the amount of $1,500,000 (the "Contract"), which Contract is known as the _____, with Commonwealth Contract number ME _____; and

WHEREAS, the fully executed Contract anticipates that it is the intention of Recipient to receive RACP proceeds from the Commonwealth and to disburse same directly to Sub-Recipient for Project uses in compliance with the RACP program and state law; and

WHEREAS, the Sub-Recipient assumes the responsibility to receive such RACP funds from Recipient, and to assume the responsibility for compliance with RACP and state law requirements in the expenditure of such RACP funds, and to indemnify Recipient for any violations of said requirement.

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

1. <u>RESPONSIBILITIES OF RECIPIENT:</u>

    a. Recipient hereby assumes the responsibility to perform the following services on its behalf and on behalf of Sub-Recipient:

i. to submit eligible requests for reimbursement prepared by Sub-Recipient to the Commonwealth in a timely fashion;

ii. to accept grant funds made by the Commonwealth pursuant to the aforesaid requests for reimbursement and to timely transmit such funds to Sub-Recipient as reimbursement for the payment of those eligible costs incurred and paid by Sub-Recipient;

iii. to carry out such functions as may be required by the Commonwealth of the direct grantee under the Contract; and

iv. to take such other reasonable action as Recipient shall deem necessary to accomplish such purposes.

b. Recipient shall use its good-faith efforts to carry out its responsibilities under this agreement, but does not represent nor warrant that any of the goals contemplated by this agreement will be attained.

c. Recipient does not represent nor warrant that the Commonwealth will sell bonds to fund the Contract in whole or in part. Recipient will disburse funds received pursuant to the Contract to Sub-Recipient, but Recipient shall have no liability to the Sub-Recipient if such funds in whole or in part are not received from the Commonwealth.

2. RESPONSIBILITIES OF SUB-RECIPIENT:

a. Ability to Perform. Recipient enters in this Agreement with the understanding as a material inducement to Recipient's undertakings, that Sub-Recipient has the intention, willingness and capability to complete the development of the Project in a competent and timely manner and in a strict compliance with all regulations governing the grant and the Contract. The City of Reading shall have no obligation to disburse any funds unless it is satisfied that the Sub-Recipient has that intention, willingness, and capability.

b. Compliance with Provisions of the Commonwealth's Contract. Sub-Recipient recognizes that the Recipient has entered into the Contract with the Commonwealth for the purpose of directing RACP to fund to Sub-Recipient and that Sub-Recipient will be bound by and obligated to comply with all applicable provisions of said Contract, including, but not limited to, its record keeping and retention requirements, its bidding requirements, its Steel Product Procurement and use restrictions, the Trade Practices Act, the Public Works Contractor's Bond Law of

1967, the American's With Disabilities Act, prevailing wage requirements, and sexual harassment and non-discrimination provisions, for itself and its subcontractors.

c. Contract incorporated as Attachment A. The fully executed Contract is attached hereto and incorporated herein as Attachment A. The Sub-Recipient agrees to accept responsibility and agrees to abide by the terms and conditions of all of the articles of the Contract as the Sub-Grantee or, where the term Contractor is used, as if it were the Contractor.

d. Sub-Recipient Project Responsibility. Sub-Recipient shall be primarily responsible for the development and carrying out of the Project as set forth in this Agreement.

e. Fiscal Responsibility. Sub-Recipient shall be responsible for obtaining the total funds necessary to complete the Project (in addition to RACP funds receipt pursuant to the Contract) and with paying the costs necessary to develop the Project. Such additional funds shall meet or exceed the requirements for matching funds set forth in the Contract.

f. Ineligible Expenses. Sub-Recipient shall be responsible for providing any funds necessary to reimburse the Commonwealth for any expenditures made by Sub-Recipient pursuant to the Contract that are finally determined to be ineligible for funding or ineligible as match by the Commonwealth under the Contract and the RACP program. Further, Sub-Recipient shall indemnify the Recipient against any liability Recipient may have for such reimbursement.

g. Reporting. Sub-Recipient shall furnish to Recipient in a timely manner such progress and periodic reports in such form and quantity as Recipient may from time to time reasonably require or reasonably deem necessary or appropriate concerning payment eligibility and the progress of Sub-Recipient's plans and the Project. Further, reports shall be submitted to Recipient and/or the Commonwealth as may be required under the Contract, including, but not limited to, status reports of the Project, Project accounts, statements, certificates, approvals, proposed budgets, and all other information relative to the Project as may be reasonably requested.

h. Document Format. Sub-Recipient shall be responsible for the preparation of any documentation required by the Commonwealth and/or Recipient for the draw down of RACP funds and shall prepare all documents necessary to meet any reporting requirements imposed on Recipient by the Commonwealth in connection with the administration of the Contract.

i. Completion. Sub-Recipient shall complete all Project activities before _____.

j. Non-Discrimination. Sub-Recipient shall include or require to be included in every contract, subcontract or agreement entered into with respect to the Project the

provisions of the Nondiscrimination/sexual harassment clauses as are contained in the Grant Agreement.

k. Notification. Sub-Recipient shall immediately notify the Recipient if any of its contractors, subcontractors, or sub-grantees shall be suspended or debarred by the Commonwealth of Pennsylvania, the federal government or any other state or governmental entity.

3. INDEMNIFICATION: Sub-Recipient agrees to indemnify, defend and hold harmless the Recipient from any claims for injury or damages arising out of any of the activities performed by or information provided by or through Sub-Recipient hereunder, and for claims for reimbursement asserted by the Commonwealth pursuant to the Contract. Recipient shall be named as additional insured on all insurance policies relating to the construction of the Project and/or required to be obtained by the Contract.

4. CONSTRUING AGREEMENT: This agreement shall be construed in accordance with the laws of the Commonwealth of Pennsylvania and all duties, obligations and liabilities of Recipient and of the Sub-Recipient with respect to same shall be deemed to have occurred in Reading, Pennsylvania.

5. HEADINGS: The headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provision of this contract.

6. NOTICES: All notices which may be proper or necessary to be served hereunder shall be in writing and shall be served by certified mail, postage prepaid, with return receipts requested. All notices addressed to Recipient shall be sent to: Mr. Adam Mukerji, Executive Director, Redevelopment Authority of the City of Reading, _____. All notices address to the Sub-Recipient shall be sent to: Mr. Albert Boscov, President, Our City Reading, Inc., _____.

7. SEVERABILITY: If any section, subsection, sentence, clause or portion of this agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

8. INTEGRATION CLAUSE: This agreement, and any incorporations herein, constitute the entire agreement between Recipient and the Sub-Recipient with respect to the subject matter contained herein, and supersedes all prior oral and/or written agreements, understandings, and communications between the parties with respect to the subject

matter hereof. This agreement shall not be in any way modified, abridged or amended except in writing signed by the parties to be bound thereby.

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

RECIPIENT: **THE CITY OF READING, PENNSYLVANIA**

By:_____
Vaughn Spencer
Mayor

SUB-RECIPIENT: **OUR CITY READING, INC.**

By:_____
Albert Boscov
President and CEO