

THE WAYNE COUNTY LAND BANK CORPORATION
**REQUEST FOR QUALIFICATION AND PROPOSAL
FOR
MAINTENANCE CONTRACTORS**

RFQ TIMETABLE

ACTION	DATE	TIME
RFP/RFQ Issue Date	November 20, 2020	12:00 PM EST
Pre-Response Questions Due	December 4, 2020	3:30 PM EDT
Responses to Questions	December 9, 2020	3:30 PM EDT
Response Deadline Date	December 21, 2020	3:30 PM EDT
Accepted Respondent Notification Date	January 8, 2021	3:30 PM EDT

Description: The Wayne County Land Bank Corporation (“WCLB”) requests responses to this Request for Qualifications (RFQ) for purpose of identify and contract with at least three contractors capable of providing a wide range of maintenance services related to vacant property management with successful quality assurance at a reasonable cost. Winning bidders would be one of WCLB’s contractors that work with staff to address property maintenance needs including lawn maintenance, landscaping, snow removal, boarding and securing of vacant residential properties, and debris removal.

Contact: Carrie Beth Lasley, WCLB Operations Director
Phone: (502) 645-0421 (cellular)
Email: clasley@waynecounty.com

A copy of this RFQ may be obtained from the BidNet Direct website (formerly MITN.info) at <https://www.bidnetdirect.com>, until the deadline date and time noted above. It will also be posted on the WCLB’s website at www.waynecountylandbank.com. *Responses must be in the actual possession of the Wayne County Land Bank on, or prior to, the exact date and time indicated above. Late responses will not be accepted.*

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SECTION 1

INTRODUCTION, OVERVIEW, & INSTRUCTIONS

1.1 Introduction / Background

The Wayne County Land Bank Corporation (“WCLB”), which owns and manages over 1,200 properties across Wayne County, is a public authority designed to address the scourge of blighted, tax-foreclosed properties throughout Wayne County. Through its programs and development efforts, the WCLB maintains properties, markets properties, and works with municipalities and community partners to return blighted land to productive use and contribute to neighborhood stabilization.

1.2 Overview

The purpose of this RFQ is to identify and contract with at least three contractors capable of providing a wide range of maintenance services related to vacant property management with successful quality assurance at a reasonable rate.

Typically, WCLB has billed for \$112,000 of maintenance each year. It includes approximately monthly mowing of about 900 lots, boarding of about 270 vacant structures and occasionally additional maintenance requests such as tree removal, debris removal, overgrown brush removal and snow removal. Awarded respondents would split the primary work geographically with another contractor. WCLB reserves the right to distribute projects otherwise if it deems it in the best interest of the property. Contractors should be prepared to serve every neighborhood in Wayne County. Cutting season is from May 1st to October 31st while boarding and additional maintenance requests may continue throughout the year. The contractor would need to work with staff to receive and respond to maintenance requests in a timely matter and turn in invoices complete with photographs showing the work has been completed.

WCLB currently has maintenance funds reserved to be allocated for maintenance. The awardees will go through the process of being set up as a Wayne County contractor and receive payment from a fund established for maintenance for WCLB through an arrangement with the Wayne County Treasurer.

The general objectives of this RFQ/RFP are the following:

- Solicit qualified contractors that will provide for the responsible, successful maintenance of residential, commercial and vacant exteriors at a reasonable rate; and
- Ensure that the process is clear, transparent, and equitable; and
- Ensure that the process is completed in a timely and fiscally responsible matter.

1.3 Rejection of Responses

WCLB expressly reserves the right to reject any and all responses, waive any non-conformity, re-advertise for responses, to withhold the award for any reason WCLB determines, or to accept the responses that, in the WCLB’s opinion, are in the best interest of and to the advantage of WCLB or its partner municipalities.

1.4 Program Requirements

WCLB welcomes any insured and licensed entity with the experience and capacity to conduct maintenance of any specialty in Wayne County to submit a response to this RFQ/RFP. All responses will be evaluated based upon the criteria set forth in Section 2 of this RFQ/RFP. Interested parties should be willing and able to work in all Wayne County communities.

If selected, an entity (an “Accepted Respondent”) will be given until January 29, 2021 to complete the documentation to become a Wayne County contractor, if they are not a County contractor already. The accepted respondent responsibilities would then start once the contract is executed.

Prior to when the contract begins on March 1, 2021, the contractor will be provided a list of properties for which they are responsible to maintain. There will also be a scheduled Zoom meeting prior to when the contract begins to address any questions or concerns. The selected contractor will be authorized to cut their designated properties twice a month; however, any additional maintenance must be authorized by WCLB staff.

Invoices and photographs may be delivered to the WCLB by email to kbeals@waynecounty.com or by dropping off at the WCLB offices via flash drive at 500 Griswold Ste. 28, Detroit, Michigan 48226. Once invoices and photographs are reviewed by staff, WCLB will submit the invoices for payment and a check will be mailed to the contractor for the services provided. Exhibit A shows a sample contract for maintenance work that was used in the previous WCLB maintenance program.

To submit a response, interested parties must submit a Qualified Response, as defined under Section 2 below, via email to clasley@waynecounty.com. All responses must be submitted and received no later than December 21, 2020 at 3:30 p.m. This deadline will be strictly enforced.

After being selected as an Accepted Respondent, the following steps will occur:

- Accepted Respondents will be contacted by WCLB to complete documentation to become a County contractor. All Accepted Respondents must complete this process on or before January 29, 2021.
- A pre-contract Zoom conference call will be scheduled for February 8, 2021 at 2:00 p.m. to address and questions or concerns.
- Accepted Respondents have until February 12, 2021 to sign the Maintenance Contract and return it to WCLB.
- WCLB will provide Accepted Respondents a list of properties for which they are responsible to maintain on or before February 26, 2021.
- Accepted Respondents will begin contract on March 1, 2021.

At the end of the process, it is the WCLB’s goal and expectation that it will have at least three reliable contractors capable of providing a wide range of maintenance services related to vacant property management and capable of performing quality assurance measures as described in this section at a reasonable set rate.

1.5 Submitting Responses

Any insured and licensed party may submit a response under this RFQ/RFP. No response will be viewed or evaluated, however, unless it is a Qualified Response. Responses to this RFQ/RFP must be submitted in ONE electronic PDF document (the “Responding Document”) that contains all items, documents, data, and forms that the respondent wishes the WCLB to consider. The Responding Document may be delivered to the WCLB by the following means:

- By email to clasley@waynecounty.com on or before December 21, 2020 at 3:30 p.m. Please ensure that your document is small enough to deliver electronically and is received by the WCLB prior to the Response Deadline Date.
- By dropping off at WCLB Offices at 500 Griswold Ste. 28, Detroit, Michigan 48226 on or before December 21, 2020 at 3:30 p.m.

1.6 Minimum Response Requirements

Qualified Responses must contain ALL of the following:

- A copy of the entity's valid and current license to perform work
- A copy of the entity's valid and insurance policy for described work.
- A completed Qualification Form, attached hereby as Appendix A.
- A completed Rate Proposal Form, attached hereby as Appendix B.
- A completed Entity Information Form, attached hereby as Appendix C.
- A completed Conflicts Form, attached hereby as Appendix D.
- A completed Certification Form, attached hereby as Appendix E.

Notwithstanding any other provision of the RFQ/RFP, a response will not be considered a Qualified Response if any of the following apply:

- The respondent is not eligible under Section 1.3 of this RFQ/RFP.
- The respondent did not submit its response as required under Section 1.4 of this RFQ/RFP.
- The respondent is disqualified under Section 1.8 of this RFQ/RFP.

1.7 Communications Regarding the RFQ/RFP

In order to create a more competitive and unbiased qualification process, WCLB has designated a single point of contact throughout the qualification process. From the issue date of this RFQ, until the date Accepted Respondents are selected, all requests for clarification or additional information regarding this RFQ, or contact with WCLB or any governmental entity concerning this RFQ or the evaluation process, must be made solely to the contact person listed on the cover page of this RFQ.

If it is discovered that a respondent contacted and received information regarding this RFQ from any person other than the person specified above, WCLB may, at their sole discretion, disqualify that respondent from further consideration. Only those communications provided by WCLB in writing will be binding with respect to this RFQ.

1.8 Disqualification of Respondents

Any one or more of the following causes may be considered sufficient for the disqualification of a respondent and rejection of the response:

- Evidence of criminal activity tied to past maintenance work.
- Evidence of default under past development programs operated by WCLB, County of Wayne, or State of Michigan.
- Evidence of a conflict-of-interest that violates, or may violate, Section 1.14 below, any statute or bylaw of the WCLB or any WCLB policy.
- Evidence that a gratuity was provided, or offered, to a WCLB employee in violation of Section 1.15 below.
- Lack of professional responsibility as demonstrated by past contractors (i.e. billing for services when the services were not done).
- Not responding to WCLB staff or completing work in a timely matter.

1.9 Rights and Responsibilities

WCLB has the right to clarify, modify, or amend this RFQ/RFP by one or more written addenda. It is responsible only for that which is expressly stated in the RFQ/RFP document and any authorized written addenda thereto. WCLB reserves the right to withdraw RFQ/RFP, to select only one Accepted Respondent or none, or to select any combination of Accepted Respondents.

Should any addenda require additional information not previously requested, failure to address the requirements of such addenda may result in the response not being considered, as determined in the sole

discretion of WCLB. Aside from written representations made by the contact person listed on the cover page of this RFQ/RFP, WCLB is not responsible for and shall not be bound by any representations otherwise made by any individual acting or purporting to act on their behalf.

1.10 Freedom of Information Act (FOIA)

All information submitted to the WCLB by respondents is subject to the Michigan Freedom of Information Act (FOIA), 1976 PA 442, MCL 15.231, et seq.

1.11 Disclosure of Contents

All information provided in a response to this RFQ/RFP shall be held in confidence and shall not be revealed or discussed except in connection with the evaluation of this RFQ/RFP or as provided by law, including FOIA, as set forth under Section 1.10, or by court decision. All material submitted with the response becomes the property of WCLB and may be returned only at WCLB's option.

Respondents must make no other distribution of their responses other than authorized by this RFQ/RFP. A respondent who shares information contained in its response with competing respondent personnel shall be subject to disqualification.

1.12 Term

The term of any contracts awarded as a result of this RFQ may extend beyond the expiration of this RFQ.

1.13 Final Determination

The RFQ/RFP respondent(s) that are selected will be notified reasonably promptly. Acceptance of a respondent's RFQ/RFP does not constitute a binding contract. Only upon a fully executed Maintenance Contract will a binding relationship exist.

Final determinations will be made pursuant to Section 2 of this RFQ/RFP.

1.14 Conflict of Interest

The following persons may not participate in this RFQ/RFP, be employed by any entity participating in the RFQ, or be a shareholder (in excess of 10%) of any entity participating in the RFQ/RFP:

- A board member, officer, appointee, or employee of the WCLB, County of Wayne, or State of Michigan.
- A relative of a board member, officer, appointee, or employee of the WCLB. For purposes of this Section 1.14, a relative is defined as a parent, child, sibling, spouse, aunt, uncle, niece, nephew, grandparent, grandchild, parent-in-law, child-in-law, or first cousin.

1.15 Gratuities

A respondent shall not offer or give either directly, indirectly, or through an intermediary, consideration, in any form, to a WCLB officer, employee, or agent, or to an appointee of the County of Wayne or State of Michigan, for the purpose of securing favorable treatment with respect to this RFQ/RFP.

SECTION 2

EVALUATION PROCESS AND CRITERIA

Responses to RFQ/RFP that both (i) satisfy Section 1.5 and (ii) are not disqualified under Section 1.7 (“Qualifying Responses”) will be assessed and scored by WCLB pursuant to the below criteria. All non-Qualifying Responses will be disregarded, and will be neither reviewed nor scored, notwithstanding the quality thereof. WCLB reserves the right to conduct an independent investigation of any information provided in a given response by contacting references, assessing public information, contacting independent parties, or through any other legal means. A response may be rejected if it is determined to contain false, misleading, incomplete, or deceptively unresponsive statements. WCLB further reserves the right to request additional information from a respondent during the evaluation process.

Each Qualifying Response will be scored based upon the criteria set forth below.

2.1 Experience (50 Points)

As discussed above, the goal of the RFQ is to identify and contract at least three contractors capable of providing a wide range of maintenance services related to vacant property management and successfully reporting services to WCLB staff. Thus, WCLB seeks respondents that possess technical expertise, a proven track record, and demonstrated familiarity with the duties they will be asked to perform.

In particular, the WCLB will weigh the following attributes when awarding points under this criterion:

- Experience with similar programs; and
- Experience with contracting jobs on a range of exterior maintenance; and
- Experience with other governmental entities or other clients providing similar services described in this RFQ/RFP; and
- Technical expertise or special skills; and
- At least three (3) current references of property maintenance agreements covering similar services listed in the proposal. Include entity name, contact name, and phone number.

2.2 Technical Requirements (25 points)

WCLB requires all contractors to be current on insurance and license requirements. It will request proof of each as part of this response. In addition, any qualifications, education or training that demonstrates increased awareness of public and worker safety and/or special skills will be considered.

In particular, WCLB will weigh the following attributes when awarding points under this criterion:

- Is the contractor suitably licensed?
- Is the contractor appropriately insured?
- Can WCLB feel confident that the contractor shall show it has the capability to meet the management reporting objectives of this RFQ?
- Does this contractor offer any special opportunities or skills to our maintenance program?

2.3 Proposed Rate (25 points)

WCLB will evaluate and compare rates provided by qualified applicants who have demonstrated the qualifications and capacity to complete the work. WCLB will ask for your rate for lawn mowing on small and large lots, base price for securing structures, material costs (i.e. cost of plywood and framing studs), removal and disposal of all debris (i.e. tires, concrete, furniture, garbage), removal and disposal of overgrown trees, bushes and vegetation, snow removal (on public sidewalk, front walk from public sidewalk to entrance door)

any dumping fees and labor cost per hour. Lawn maintenance is expected to be performed twice a month in the cutting season. Additional maintenance occurs at the request of WCLB staff.

APPENDIX A
QUALIFICATION FORM

QUALIFICATION FORM

Please provide complete written answers to the following questions. If you require additional space, or wish to include another document, please clearly indicate below where any attachment will be found in your Responding Document.

1. Entity Name: _____

2. Please describe your entity and the work that you perform in 200 words or less.

3. Please provide two professional references with a brief description of their association with you.

4. Please describe any safety or specialized certification, training, skills or services that you or members of your staff have attained.

5. Please provide a copy of the entity’s license and insurance information. Below is a checklist.

License attached: _____ Yes _____ No

Insurance attached: _____ Yes _____ No

APPENDIX B
RATE PROPOSAL FORM

RATE PROPOSAL FORM

Please provide quotes for the following services as described below:

Basic lawn maintenance of typical urban lot includes mowing, weed and light debris clearing:

Mow lawn on small lot <6000 Sq. Ft (up to 12" length).....\$_____ per property
Mow lawn on large lot >6001 Sq. Ft (up to 12" length).....\$_____ per property

Securing structures are all inclusive except for plywood and standard framing studs:

Base price for securing structure - up to 10 openings (2 doors & 8 windows).....\$_____ each
Price for re-securing structure/Price per each additional opening.....\$_____ each
Material Cost Plywood (8' x 4' x 3/4").....\$_____ each
Standard Framing Studs (2" x 4" x 8').....\$_____ each

Snow removal..... \$_____ per property
(public sidewalk and front walkway from public sidewalk to entrance door)

Removal and disposal of overgrown trees, bushes & vegetation.....\$_____ cubic yard

Removal and disposal of all debris..... \$_____ cubic yard
(including but not limited to tires, concrete, furniture, garbage)

Dump fee.....\$_____ per load

Labor cost (for additional work if necessary)..... \$_____ per hour

APPENDIX C
ENTITY INFORMATION FORM

ENTITY INFORMATION FORM

Respondents must provide complete answers to ALL items and questions on this form.

BACKGROUND INFORMATION

Applicant/Entity Name	
Mailing Address	
Contact Person <i>(please indicate only <u>one</u> person who will serve as the primary contact)</i>	
Phone Number <i>(of contact person)</i>	
E-Mail Address* <i>(of contact person)</i>	

* The email address provided on this form will serve as the primary mode of communication throughout the RFQ process.

ADDITIONAL BACKGROUND INFORMATION

Please provide complete written answers to the following:

1. Your entity's official registered name.

2. Your entity's identification number (from the Department of Licensing and Regulatory Affairs).

3. Your entity's date and state of incorporation, if applicable.

4. Your Taxpayer Identification Number (TIN) or Employer Identification Number (EIN).

5. Your entity's members, managers, and principal shareholders (i.e., those holding 5% or more of the outstanding shares).

6. A list of all partners, members, employees, owners, etc. of your entity who will be involved with any work performed under this RFQ.

7. Your office address, if different from the mailing address listed above.

8. Has your entity been debarred by the Federal or any State Governments? If yes, has it been lifted and if so, when?

9. Has your entity had contracts terminated for breach or failure to perform within the past five years? If yes, by whom and why?

EXPERIENCE

Please provide complete written answers to the following questions. If you require additional space, or wish to include a map or other document, please clearly indicate below where any attachment will be found in your Responding Document.

1. What is your entity’s background and experience? Particularly, what is your entity’s experience with: (1) specific types of exterior home rehab and construction and (2) working with local communities/government entities?

2. If different from #1, what is/are the background(s) of your entity’s members, employees, owners, etc.?

APPENDIX D
CONFLICTS FORM

CONFLICTS FORM

Please answer the following completely and truthfully. All conflicts indicated on this form will be reviewed by WCLB, however no respondent will be automatically disqualified unless their conflict/s is/are prohibited under Section 1.14 of this RFQ. During the evaluation process, WCLB may request clarification or additional information regarding your responses to this form. Please be prepared to promptly address any such request.

1. Have you or any shareholder, manager, employee, member, partner, director, or board member of your entity ever been employed by the Wayne County Land Bank or the County of Wayne?

YES NO

If yes, please explain:

2. Have any current employees or officials of the Wayne County Land Bank, or the County of Wayne ever been employed by you or your entity, or been a business affiliate thereof?

YES NO

If yes, please explain:

3. Do you or any shareholder, manager, employee, member, partner, director, or board member of your entity have a relative, as defined under Section 1.14 of this RFQ, who is a current employee or official of the Wayne County Land Bank or the County of Wayne?

YES NO

If yes, please explain:

APPENDIX E
CERTIFICATION FORM

CERTIFICATION FORM

The undersigned hereby certifies, under penalty of perjury, to the following:

1. I have read this RFQ in its entirety, along with all instructions on all forms being submitted as part of this response, and I understand the content thereof.
2. All of the information contained in this response is complete, accurate, and current to the best of my knowledge.
3. This response is submitted without collusion with any other person or entity making any other response.
4. If signing on behalf of a business or other entity, I have the legal authorization to bind the entity listed hereunder.
5. The respondent is not delinquent on property taxes payable to any governmental taxing unit. I understand that WCLB may verify the respondent's tax status.
6. I understand that, if selected as an Accepted Respondent, I am not necessarily entitled to being selected for work. Rather, I understand that my selection as an Accepted Respondent merely makes me a recommended contractor that grant recipients can select.

No response shall be accepted which has not been manually signed in ink in the appropriate space below.

Sign Name: _____

Date: _____

Print Name: _____

Title (if applicable): _____

Entity Name (if applicable): _____

EXHIBIT A
WCLB Sample Contractor Agreement for Maintenance

CONTRACT

Between

WAYNE COUNTY LAND BANK CORPORATION

and

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THIS CONTRACT dated and effective on _____, 2017 ("Effective Date"), by and between the Wayne County Land Bank Corporation (the "Land Bank"), whose address is 500 Griswold St., 28th Floor, Detroit, Michigan 48226, and _____(the "Contractor"), whose address is _____is made and entered into between the Land Bank and the Contractor.

1. PURPOSE

1.01 The Land Bank desires to contract with the Contractor for the services of the Contractor in the field of providing property maintenance and other services.

1.02 The Contractor acknowledges that the Land Bank requires the expertise of the Contractor and acknowledges that the representations and warranties stated herein are relied upon by the Land Bank in the execution of the Contract.

2. ENGAGEMENT OF CONTRACTOR

2.01 The Land Bank engages the Contractor, and the Contractor accepts a relationship of trust and confidence bestowed by the Land Bank by the execution of this Contract. The Contractor covenants to the Land Bank, that while performing this Contract, it will use its best skill and judgment in furthering the interests of the Land Bank. The Contractor agrees to perform all obligations hereunder, using efficient business administration superintendence and its best efforts to faithfully and diligently perform the services in accordance with the terms and conditions contained in this Contract and consistent with the standard of practice in the community.

3. SERVICES TO BE PROVIDED

3.01 The Contractor, its subcontractors and agents, (collectively, referred to as "the Contractor"), agrees to provide the services as described herein and more fully described in **Appendix A(1)** ("Services"). The Contractor must perform the Services described in **Appendix A(1)** in accordance with the schedule described in **Appendix A(2)**.

3.02 In the event there is any dispute between the parties regarding the extent and character of the Services to be performed, the interpretation and determination of the Land Bank governs.

3.03 All Services are subject to review and approval of the Land Bank for completeness and fulfillment of the requirements of this Contract. Neither the Land Bank's review, approval, or payment for any of the Services shall be construed to operate as a waiver of any rights under the Contract, and the Contractor shall be and remain liable in accordance with the applicable law for all damages to the Land Bank caused by the Contractor's negligent performance or nonperformance of any of the Services furnished under this Contract.

3.04 The Contractor agrees and understands that the Land Bank cannot give a guarantee on the number of parcels for which Services may be requested. Unless otherwise expressly provided, the number of parcels indicated in this Contract for which Services are required is only an estimate and is not guaranteed. Should actual requirements be less or more than the quantities estimated in this Contract, that



fact will not constitute the basis for any price increase or adjustment, nor will the Land Bank be obligated or assume the responsibility to utilize or pay for any services not ordered during the contract period.

3.05 The Contractor warrants that any products sold, or any hardware, software, methodology, technology, terms, URLs, domain names, or processes used in the performance of this Contract do not infringe upon or violate any patent, copyright, trademark, trade secret, trade dress, intellectual property right, or other proprietary rights of any third party.

3.06 The Contractor agrees to promptly notify the Land Bank in writing if any notice or claim is made alleging that any products sold, or any hardware, software, methodology, technology, terms, URLs, domain names, or processes used in the performance of this Contract infringe upon or violate any patent, copyright, trademark, trade secret, trade dress intellectual property right, or other proprietary rights of any third party.

4. DEFINITIONS OF DEFINED TERMS

(a) **Change Order.** A written authorization signed by the Land Bank, or by any other officer who is authorized by the Land Bank to sign the original Contract, which directs the Contractor to make changes to the "Changes in Scope/Services" Article of this Contract without consent of the Contractor.

(b) **Contract/Contract Documents.** The written agreement covering performance of the Services, as provided in the specifications. The Contract shall include the bid documents, performance bond, payment bond, standard specifications, supplemental specifications, general and detailed plans, all supplemental agreements entered into, and all general or special conditions pertaining to the Services or materials provided, and shall be in force until the Services provided pursuant to the Contract are completed or the Contract terminated. The term "Contract" when used in the specifications or drawings, or in the general conditions shall be considered as synonymous with the term "Contract Documents."

(c) **Contract Modification.** Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provision of the Contract accomplished by mutual action of the parties to the Contract.

(d) **Land Bank.** The Wayne County Land Bank Corporation, a public body corporate.

(e) **County.** The Charter County of Wayne in the State of Michigan.

(f) **Contractor.** The individual, firm or corporation undertaking the execution of the Services to be provided under the terms and conditions of the Contract and acting directly or through its agents or employees.

(g) **Designated Properties.** The properties to be services by the Contractor which are designated and provided by the Land Bank.

(h) **Environmental Laws.** All federal, state, and local laws, ordinances, rules, regulations, requirements, permits, licenses, authorizations, approvals, criteria, guidelines, and judicial and administrative orders, decrees, or judgments, now or hereafter in effect, and in each case as amended, and



any judicial or administrative interpretation thereof, relating to the regulation and protection of human health, safety, the environment and the natural resources including, without limitation, laws (and all other items recited above) relating to emissions, discharges, releases, threatened releases or remediation of, or any other response action related to, contamination or Hazardous Materials or otherwise relating to the generation, use, treatment, storage, recycling, disposal, transport, or handling of or exposure to contamination or Hazardous Materials. Environmental Laws include but are not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601, et seq. ("CERCLA"); the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq. ("RCRA"); the Toxic Substances Control Act, 15 U.S.C. §2601, et seq.; the Clean Air Act, 42 U.S.C. §7401 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §6901 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §11001 et seq. and the Safe Drinking Water Act, 42 U.S.C. §300f et seq.; each as amended from time to time, and each of their state and local counterparts or equivalents including, but not limited to, the Michigan National Resources and Environmental Protection Act, 1994 PA 451, as amended.

(i) **Hazardous Materials.** Any hazardous waste, toxic substance or related materials identified now or during the term of this Contract as hazardous under any federal, state or local law or regulation, or any other substance or material which may be considered hazardous or otherwise subject to statutory or regulatory requirements governing handling, disposal and/or clean-up, including, without limitation, substances defined as "hazardous substances" or "toxic substances" in CERCLA, RCRA, and the Hazardous Materials Transportation Act, as amended, 49 U.S.C. Sec. 1802.

5. TERM OF CONTRACT

5.01 The initial term of this Contract is for two (2) years ("Initial Term") from the Effective Date. This Contract expires at the conclusion of the Initial Term ("Expiration Date"). At the sole discretion of the Land Bank, this Contract may be renewed for one (1) additional year.

5.02 The Contractor must expediently perform the Services to achieve the objectives of this Contract. Time is of the essence in performing this Contract.

6. DATA TO BE FURNISHED FOR CONTRACTOR

6.01 Upon the request of the Contractor, without charge, the Land Bank must furnish copies of all information, data, reports, records, etc., that the Land Bank thinks is necessary to do the services. The Contractor is entitled to visit County offices and key facilities as approved by the County, during regular business hours to obtain the necessary data. The Contractor will schedule conferences at convenient times with key administrative personnel of the County to gather the information.

6.02 The Land Bank has designated Cheryl Jordan or her designee to serve as the coordinator for the Land Bank in the performance of the Contract.

7. PERSONNEL



7.01 Contractor acknowledges that the Land Bank relies upon the representations and warranties of the Contractor that the Contractor is authorized to do business under the laws of the State of Michigan and is duly qualified to perform the Services as set forth in the Contract. The execution of this Contract is within the Contractor's authorized powers, and is not in contravention of federal, state, or local law.

7.02 The Contractor warrants that all employees of the Contractor assigned to the performance of the Services are qualified and authorized to perform the Services under the state and local laws and governing professional association rules where the employee is employed.

7.03 Each employee must devote the time and professional ability as is necessary to most effectively and efficiently perform the Services according to professional standards.

7.04 Whenever an employee assigned to this Contract must be replaced for any reason, the Contractor must supply an acceptable replacement as soon as possible and agrees not to substitute a lower classified employee to perform the Services without obtaining prior approval from the Land Bank in writing.

7.05 Employees' daily working hours may be determined by the Contractor. When the employees are working in or about a facility of the Land Bank or the County, Contractor agrees to adjust its employees' daily working hours to be the same as those worked by County employees working at the facility.

7.06 During the Initial Term of this Contract, and any period of renewal or extension, Contractor shall not employ, retain or otherwise contract, in any manner, with any employee of the Land Bank, or the County, for any of the Services to be provided under this Contract, nor use any equipment belonging to the Land Bank or the County without the Land Bank's prior written approval.

8. ADMINISTRATION

8.01 The Contractor must inform the Land Bank as soon as the following types of conditions become known:

A. Probable delays or adverse conditions which do or may materially prevent the meeting of the objectives of the Contract. The Contractor must accompany this disclosure with a statement of any remedial action taken or contemplated by it; and

B. Favorable developments or events which enable meeting time schedules or goals sooner than anticipated.

8.02 The Contractor must regularly inform the Land Bank of its activities in connection with its duties and must keep the Land Bank informed of the status of any program. The Contractor is not required to perform in a manner materially in conflict with requirements imposed by any applicable law including any statute, county charter, ordinance, resolution or executive order.

8.03 The Contractor shall have no authority in the name of the Land Bank or the County to borrow money, commence or defend litigation, spend money, or enter into contracts except as otherwise provided in this Contract.



9. NOTICE OF MATERIAL CHANGES

9.01 The Contractor shall provide the Land Bank not less than sixty (60) days written notice, of any negotiations to sell or otherwise transfer, assign or delegate to an entity, more than fifty (50%) of its current ownership or administrative services. The Contractor must immediately inform the Land Bank of material changes in its operation, ownership or financial condition. Material changes include, but are not limited to:

- A. Reduction or change in staffing assigned to the Contract.
- B. Decrease in, or cancellation of, insurance coverage.
- C. Delinquent payment, or nonpayment, of tax obligations.
- D. Delinquent payment, or nonpayment, of payroll obligations.
- E. Delinquent funding, or non-funding, of pension or profit-sharing plans.
- F. Delinquent payment, or nonpayment, of subcontractors.
- G. Termination of, or changes in, subcontracts.
- H. Transfer, sell, assignment or delegation to an entity other than the Contractor, of ownership or administrative services.

10. COMPENSATION/METHOD OF PAYMENT

10.01 Compensation shall be based on the attached rate schedule in **Appendix B**, attached. This compensation includes all remuneration to which the Contractor may be entitled. The Land Bank will not pay the Contractor for overtime, holiday or other premium charges or other benefits in addition to those stated in **Appendix B**.

10.02 The Contractor must, upon reasonable notice, be available to participate in any normal meetings necessary to develop and present the project to any County department, in order to assist the Land Bank in any matter relating to the purpose or outcome of this Contract.

10.03 Within 30 days of completion of Services, the Contractor shall provide an invoice for the Services rendered. The invoice must certify the total cost of the services rendered to date and the cost of all services for that billing period; and must describe the services rendered. The invoice must be signed by the Contractor, certifying the information is a correct statement of the Services rendered. The invoice is to be mailed, via first class or certified mailed, to the Land Bank, at the address stated herein, to the attention of the coordinator specified in Section 6.02, above.

10.04 Upon receipt of an invoice, submitted in the form described in Section 10.03 above, the Land Bank agrees to pay, subject to **Appendix B** and this Article 10.0 and the right to withhold or charge back the amount paid for errors or defects in Service, for the proper performance of the Services, commensurate with the progress of the work, as evidenced by the timely performance of the Services. In



the event that the services are not performed in a timely fashion such that the objects of the Contract are not met, the Land Bank may, in his sole discretion, adjust the compensation.

10.05 The Contractor must submit as part of the invoices, a completed “Contractor’s Activity Report,” **Appendix F**, which is signed by an authorized officer of the Contractor and indicates the Contractor’s activities for each day worked.

11. PRICING ADJUSTMENTS

11.01 Any adjustment in the Contract price as a result of the Land Bank’s exercise of its rights under this Contract shall be made in one or more of the following ways:

- (a) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
- (b) by unit prices, if applicable, specified in the Contract or subsequently agreed upon;
- (c) by the costs attributable to the event or situation, plus appropriate profit or fee, if applicable, all as specified in the Contract or subsequently agreed upon;
- (d) in such other manner as the parties may mutually agree; or
- (e) in the absence of agreement between the parties, by a unilateral determination of the Land Bank of the costs attributable to the event or situation, with adjustment of profit or fee, as computed by the Land Bank in accordance with generally accepted accounting principles.

11.02 If requested by the Land Bank, Contractor shall provide cost or pricing data for any price adjustments subject to the provisions of section 120-43 (Cost or Pricing Data) of the Wayne County Code.

12. RECORDS - ACCESS

12.01 The Contractor must maintain complete books, ledgers, journals, accounts, or records in which it keeps all entries reflecting its operation pursuant to this Contract. The Contractor must keep the records according to generally accepted accounting practices and for a minimum of seven (7) years after the Contract’s termination and completion. The Contractor must also maintain copies of all records, correspondence and documents, including electronically stored information, prepared in anticipation of this Contract, and for this Contract, for a period of seven (7) years after the Contract’s termination and completion.

12.02 The Land Bank and the Legislator Auditor General have the right to examine and audit all books, records, documents and other supporting data as they deem necessary of the Contractor, or any subcontractors, or agents rendering services under this Contract, whether direct or indirect, which will permit adequate evaluation of the services or the cost or pricing data submitted by the Contractor. The Contractor must include a similar covenant allowing for audit by the Land Bank and the Legislative Auditor General in any contract it has with a consultant or agent whose services will be charged directly



or indirectly to the Land Bank. The Land Bank may delay payment to the Contractor pending the results of any such audit without penalty or interest.

12.03 The Contractor agrees that representatives of the Land Bank are entitled to make periodic inspections to ascertain that the Contractor is properly performing the services. The inspections may be made at any time during normal business hours of the Contractor. If, in the course of the inspections, the representatives of the Land Bank should note any deficiencies in the performance of the services of the Contractor, or any other mutually agreed upon performance deficiencies, the alleged deficiencies must be reported promptly to the Contractor, in writing. The Contractor agrees to promptly remedy and correct any reported deficiencies within ten (10) days of notification by the Land Bank.

12.04 If, as a result of any audit conducted by or for a Land Bank, State of Michigan or Federal, agency relating to the Contractor's performance under this Contract, a discrepancy should arise as to the amount of compensation due the Contractor, the Land Bank may retain the amount of compensation in question from any funds allocated to the Contractor but not yet disbursed under the Contract. Should a deficiency still exist, the Land Bank may offset such a deficiency against the compensation to be paid the Contractor in any successive or future Contracts between the parties.

13. RELATIONSHIP OF PARTIES

13.01 The relationship of the Contractor to the Land Bank is and will continue to be that of an independent contractor. No liability or benefits, such as workers' compensation, pension rights, or insurance rights, arising out of, or related to a contract for hire or employer/employee relationship, accrues to either party or either party's agent, subcontractor or employee as a result of this Contract. No relationship, other than that of independent contractor will be implied between the parties, or either party's agent, employee, or subcontractor. The Contractor agrees to hold the Land Bank harmless from any such claims, and any related costs or expenses, to the extent caused by the Contractor.

13.02 For all purposes, the Land Bank's employees will remain employees of the Land Bank and the Contractor's employees will remain employees of the Contractor. The Contractor is being retained by the Land Bank as an independent contractor to provide Services to the Land Bank, and is not being retained in any capacity as a joint enterprise or venturer with the Land Bank. The Contractor also covenants that none of its employees are or will be, during the period of this Contract, employees of the Land Bank.

14. INSURANCE

14.01 Contractor shall procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the services by the Contractor, its agents, representatives, or employees.

14.02 Contractor shall maintain at least the following minimum coverage:

- A. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less



than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this Contract or the general aggregate limit shall be twice the required occurrence limit.

- B. Umbrella or Excess Liability Policy in an amount not less than \$3,000,000. Umbrella or Excess policy wording shall be at least as broad as the primary or underlying policy(ies) and shall apply both to the Contractor's general liability and to its automobile liability insurance and shall be written on an occurrence basis. The County, elected officials, employees and others as may be specified in any "Special Conditions" shall be named as an additional insured under this policy.
- C. Automobile Liability: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limits no less than \$1,000,000 per accident for bodily injury and property damage.
- D. Workers' Compensation insurance as required by the State of Michigan, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.
- E. Professional Liability (Errors and Omissions) Insurance appropriate to the Contractor's profession, with limits no less than \$3,000,000 per occurrence or claim, \$3,000,000 aggregate.

If the Contractor maintains higher limits than the minimum insurance coverage required in Section 14.02, the Contractor shall maintain the coverage for the higher insurance limits for the duration of the Contract.

14.03 Additional Insured Status. The Land Bank, its officers, employees, volunteers, and others as may be specified in any "Special Conditions" shall be additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

14.04 Primary Coverage. For any claims related to this Contract, the Contractor's insurance coverage shall be primary insurance as respects the County, its officers, elected officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, elected officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

14.05 Notice of Cancellation. Each insurance policy shall state that coverage shall not be canceled, except with notice to the Land Bank.

14.06 Waiver of Subrogation. Contractor grants to the Land Bank a waiver of any right to subrogation which any insurer of the Contractor may acquire against the County or the Land Bank by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be



necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County or the Land Bank has received a waiver of subrogation endorsement from the insurer.

14.07 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Land Bank. The Land Bank may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

14.08 All insurance must be effected under valid and enforceable policies, issued by recognized, responsible insurers qualified to conduct business in Michigan which are well-rated by national rating organizations. All companies providing the coverage required shall be licensed or approved by the Insurance Bureau of the State of Michigan and shall have a policyholder's service rating no lower than A:VII as listed in A.M. Best's Key Rating guide, current edition or interim report.

14.09 Claims-made Policies. If any of the required policies provide coverage on a claims-made basis:

- A. The Retroactive Date must be shown and must be before the date of the Contract or the date the Contractor starts to perform the services.
- B. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Contract.
- C. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of Contract work.

14.10 Verification of Coverage. Contractor shall furnish the Land Bank with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this Article. The Land Bank shall receive and approve all certificates and endorsements before the Contractor begins providing services. Failure to obtain the required documents prior to commencement of services shall not waive the Contractor's obligation to provide them. The Land Bank reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by the Article, at any time.

14.11 Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance satisfying all the stated requirements, and Contractor shall ensure that the County and the Land Bank are an additional insured on insurance required from subcontractors.

14.12 Special Risks or Circumstances. The Land Bank reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.



14.13 The Contractor must submit certificates evidencing the insurance to the Land Bank at the time the Contractor executes the Contract, and at least fifteen (15) days prior to the expiration dates of expiring policies.

15. INDEMNIFICATION

15.01 Except for claims arising from the County's gross negligence, the Contractor, at its expense, agrees to indemnify, defend and save harmless the County against, and from any and all liabilities, obligations, damages, penalties, claims, costs, charges and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and other consultants) which may be imposed upon, incurred by or asserted against the County because of any of the following occurring during the term of this Contract:

A. Any negligent or tortious act, error, or omission held in a court of competent jurisdiction to be attributable, in whole or in part to the Contractor, or any of its personnel, employees, consultants, agents, or any entities associated, affiliated, (directly or indirectly) or subsidiary to the Contractor now existing, or to be created, their agents and employees for whose acts any of them might be liable.

B. Any failure by the Contractor, or any of its employees to perform its obligations either implied or expressed under this Contract.

15.02 The Contractor agrees that it is its responsibility and not the responsibility of the County to safeguard the property and materials that the employees of the Contractor use in performing this Contract. The Contractor must hold the County harmless for costs and expenses resulting from any loss of the property and materials used by its employees pursuant to the performance of the Contractor under this Contract.

15.03 Nothing in this article shall be deemed to relieve the Contractor of its duty to defend the County, as specified, pending a determination of the respective liabilities of the Contractor and the County, by legal proceeding or agreement. The County shall cooperate with the Contractor in the defense against the suit. In no event shall the Contractor make any admission of guilt or liability on behalf of the County without the County's prior, written consent.

15.04 For purposes of this Article, the term "County" includes the County of Wayne and all other associated, affiliated, or subsidiary agencies, branches, divisions, or departments, now existing or to be created, and their respective agents, employees, officers, directors and elected officials.

15.05 This indemnity applies without regards to whether the claim, damage, liability or expense is based on breach of contract, breach of warranty, negligence, strict liability, or other tort. This indemnity survives delivery and acceptance of services.

15.06 This indemnity must not be construed as a waiver of any governmental immunity the County, its agencies, or employees, has as provided by statute or modified by court decisions.



16. INTELLECTUAL PROPERTY INDEMNIFICATION

16.01 The Contractor warrants that any products sold, or any hardware, software, methodology, technology, terms, URLs, domain names, or processes used in the performance of this Contract do not infringe upon or violate any patent, copyright, trademark, trade secret, trade dress, intellectual property right, or other proprietary rights of any third party. including all work, services, materials, reports, studies, and computer programs provided by the Contractor;

16.02 If any claim is made against the County that any products sold, or any hardware, software, methodology, technology, terms, URLs, domain names, or processes used in the performance of this Contract infringe upon or violate a patent, copyright, trademark, trade secret, trade dress, intellectual property right, or other proprietary rights of any third party, the Contractor agrees to defend the claim in the name of the County, at the Contractor's expense, provided the County promptly notifies the Contractor of the claim in writing. The Contractor further agrees to indemnify and save harmless the County against any loss, cost, damage, expense, liability and attorney fees arising out of the claim, whether or not the claim is successful.

16.03 For purposes of this Article, the term "County" includes the County of Wayne and all other associated, affiliated, or subsidiary agencies, branches, divisions, or departments, now existing or to be created, and their respective agents, employees, officers, directors and elected officials.

17. BANKRUPTCY OR INSOLVENCY

17.01 If the Contractor is adjudicated bankrupt or insolvent, or if a trustee is appointed over the Contractor or any of its property, whether it is a third party or Contractor as debtor-in-possession (referred to as "Contractor" in this Article unless the context clearly requires otherwise) the following rights, obligations and limitations control:

- A. Contractor or any trustee must not assign any or all of its rights, title or interest, in or to this Contract, as this Contract is for the delivery of professional services and related services, as to which the Land Bank is entitled to insist upon performance solely by the Contractor.
- B. Contractor or any trustee may only assume this Contract if it provides adequate assurance of future performance. Adequate assurance of future performance means proof reasonably satisfactory to the Land Bank
 - (i) adequate financial capacity to employ or contract with sufficient personnel to perform the services assigned to the Contractor as provided in this Contract, and to pay for all services contracted for by the Contractor;
 - (ii) adequate financial capacity to own, operate, lease or obtain sufficient facilities and supplies to perform the services assigned to the Contractor as provided for in this Contract; and



- (iii) adequate financial and professional capacity to maintain the professional standard provided in this Contract. The reasonable determination of the Land Bank as to the adequate professional capacity of the Contractor is determinative.
- C. Because of the unique nature of the services this Contract requires the Contractor to provide, the Contractor agrees that any requests by the Land Bank that the trustee or it as debtor-in-possession assume or reject this Contract in a shorter time than provided for in 11 U.S.C. §365 is reasonable so long as the trustee or Contractor receives no less than five (5) business days' notice.
- D. If this Contract is terminated during bankruptcy proceedings or if the trustee or debtor-in-possession successfully and properly obtains a court order rejecting this Contract, the Contractor as debtor-in-possession or its trustee must cooperate with the Land Bank in arranging for the orderly transfer of responsibilities to persons or entities as the Land Bank may designate. The rejection is not effective until the orderly transfer of responsibilities, consistent with sound professional practice, has been completed.

17.02 Although neither party has the right to terminate the Contract merely because the other is adjudicated bankrupt or insolvent or a trustee or a debtor-in-possession is appointed over any parties' property, each party retains all of the other termination rights set forth elsewhere in this Contract during the period of any proceedings under the Bankruptcy Code.

18. LIQUIDATED DAMAGES

18.01 The Contractor shall perform the services according to the schedule contained in Appendix A(2). The Contractor shall be responsible for any loss or damage which results from failure to timely perform the services. Because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages which the Land Bank would sustain, the Contractor shall pay liquidated damages as indicated. If Contractor does not have the services completed within three (3) days of the Land Bank's provision of notice that the Contractor has failed to adhere to the schedule contained in Appendix A(2), Contractor shall pay to the Land Bank as fixed and agreed liquidated damages, in lieu of all other damages due to such delay, for each calendar day between the notice date and the date that Contractor actually completes the services, an amount of \$1,000.00 per day. The liquidated damages shall first be set off against the unpaid portion of the Contract price.

19. TERMINATION

19.01 The Land Bank may terminate this Contract without cause at any time, without incurring any further liability, other than as stated in this Article by giving written notice to the Contractor of the termination. The notice must specify the effective date, at least thirty (30) days prior to the effective date of the termination, and this Contract will terminate as if the date were the date originally given for the expiration of this Contract. If the Contract is terminated, the Land Bank will pay the Contractor for the services rendered prior to termination, as soon as can be authorized. The Land Bank will compute the amount of the payment on the basis of the services rendered, and other means which, in the judgment of



the Land Bank represents a fair value of the services provided, less the amount of any previous payments made. The final payment constitutes full payment. If the Contractor accepts the payment, the Contract is satisfied. The parties agree that no payments under this section will exceed the amount payable under Article 10.

19.02 The Land Bank may terminate this Contract if the Contractor is in default of any of its obligations under the Contract, or has failed to comply with any of the material terms and conditions of this Contract, by giving written notice to the Contractor. Before the Land Bank exercises its right to declare the Contractor in default, the Land Bank must give the Contractor Notice of its default status and the reasons for such status. If the Contractor does not cure the default within five (5) working days, the Contract is deemed terminated twenty-five (25) days after the date of the Notice. If after Notice, the Land Bank determines that the Contractor was not in default, the rights and obligations of the parties are the same as if the Notice had not been issued. Upon terminating the Contract, Land Bank shall not incur any further liability to Contractor, except as provided in this Article, which sets forth Contractor's exclusive remedies. The Land Bank may procure, upon such terms and in such manner as the Land Bank may deem appropriate, Services similar to those terminated, and the Contractor shall be liable to the Land Bank for any costs to obtain and transition similar services, provided the Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this Article. In addition to any legal remedies otherwise available to the Land Bank by law or equity, the Contractor shall be responsible for all additional costs, charges, and damages incurred by the Land Bank in connection with the completion of the Contract. Such expenses shall be deducted from any monies due or which may become due the Contractor under the Contract. If such expense exceeds the sum which would have been payable under the Contract, then the Contractor shall pay, on demand, such excess amount to the Land Bank. Should a deficiency exist, the Land Bank may offset such a deficiency against the compensation to be paid the Contractor in any concurrent, successive or future contracts between the parties. All excess reprourement costs and damages shall not be considered by the parties to be consequential, indirect or incidental, and shall not be excluded by any other terms otherwise. The rights and remedies of the Land Bank are not exclusive and are in addition to any other rights and remedies provided by law, including the collection of liquidated damages. The Contractor shall be liable to the Land Bank for any damages the Land Bank sustains by virtue of the Contractor's breach or any reasonable costs the Land Bank might incur in enforcing or attempting to enforce this Contract. Such costs shall include costs to secure the deliverables from another contractor, reasonable fees and expenses for attorneys, expert witnesses and other consultants.

19.03 After receipt of a Notice of Termination and except as otherwise directed by the Land Bank, the Contractor must:

- A. Stop work under the Contract on the date and to the extent specified in the Notice of Termination.
- B. Obligate no additional contract funds for payroll costs and other costs beyond the date as the Land Bank specifies.



- C. As of the date the termination is effective, present all Contract records and submit to the Land Bank the records, data, notes, reports, discs, and documents ("Records") as the Land Bank specifies, all pertinent keys to files, and carry out such directives as the Land Bank may issue concerning the safeguarding or disposition of files and property.
- D. Submit within thirty (30) days a final report of receipts and expenditures of funds relating to this Contract.
- E. Place no further orders on subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under this Contract as is not terminated;
- F. Terminate all orders and subcontracts to the extent that they relate to the portion of work so terminated;
- G. Submit within thirty (30) days a listing of all creditors, subcontractors, lessors, and other parties with which the Contractor has incurred financial obligations pursuant to the Contract.

19.04 Upon termination of this Contract, all Records prepared by the Contractor under this Contract or in anticipation of this Contract must, at the option of the Land Bank, become its exclusive property, whether or not in the possession of the Contractor. The Records are free from any claim or retention of rights on the part of the Contractor except as specifically provided. The Land Bank must return all the properties of the Contractor to it.

19.05 Any intentional failure or delay by the Contractor to deliver the Records to the Land Bank will cause irreparable injury to the Land Bank not adequately compensable in damages and for which the Land Bank has no adequate remedy at law. The Contractor will pay the Land Bank five hundred dollars (\$500) per day as damages, and not as a penalty, until it delivers the Records to the Land Bank. The Land Bank may seek and obtain injunctive relief in a court of competent jurisdiction and compel delivery of the Records which the Contractor consents to as well as all applicable damages and costs. The Land Bank has unrestricted use of the Records for the purpose of completing the services.

19.06 Access to the records prior to delivery must be restricted to authorized representatives of the Land Bank and the Contractor. The Contractor has no right to disclose or use any information gathered in the course of its work without obtaining the written concurrence of the Land Bank. All the information must be confidential and handled in such a manner at all times as to preserve confidentiality. The Records as well as any related products and materials are proprietary to the Land Bank, having been developed for the Land Bank for its own and sole use.

19.07 In addition, each party will assist the other party in the orderly termination of this Contract and the transfer of all aspects, tangible or intangible, as may be necessary for the orderly, non-disrupted business continuance of each party.

20. SUBCONTRACTING AND ASSIGNMENT



20.01 The Contractor may subcontract with the companies listed in **Appendix C**, List of Subcontractors. **Appendix C** shall identify each such subcontract by stating the name and address of the subcontractor, describing in a general manner the services that will be subcontracted, and stating the percentage of this Contract, by dollar value, that will be subcontracted. The Contractor shall not terminate any subcontractor, without the Land Bank's prior written approval. Such approval shall not in any way relieve the Contractor of full responsibility for the performance of the Contract. The Contractor shall provide the Land Bank with immediate notice when a Wayne County-based subcontractor is terminated or substantially displaced by a subcontractor who is not so qualified. The Contractor must also direct notices to the attention of the individual specified in the Notice provisions, Article 26. The Contractor must not assign this Contract, nor any part, or subcontract any of the work or services to be performed without the Land Bank's prior written approval. Any unauthorized assignment or transfer will be considered a breach of this Contract and result in the termination of the Contract at the Land Bank's discretion. If the Contract is not terminated, the assignment shall be deemed null and void.

21. PROMPT PAYMENT

21.01 If the Contractor should subcontract a part of the obligations under this Contract to a business which has been certified by the County's Division of Human Relations as a small or disadvantaged business enterprise, the Contractor shall make prompt payments to each subcontractor as the subcontract is performed which are at least equal to the prompt payments which are due to the Contractor under the provisions of this Contract and Section 120.3404 of the Code of County Ordinances. Unless alternate terms which have a similar purpose and effect are otherwise agreed upon in writing, the Contractor shall make payment within 45 days after delivery or satisfaction of the subcontract, or receipt of a complete invoice therefore, whichever is later. If an invoice is filled out incorrectly or contains a defect or impropriety, the Contractor shall notify the subcontractor of that fact within 10 days after receipt of the invoice. The 45 day period shall be extended by each day over 5 days which the subcontractor takes to make a correction. If a payment is past due, the Contractor shall pay to the subcontractor an additional amount to be calculated on a daily basis which is equal to an annual rate of interest of 9% (amount overdue x number of days overdue x .000246575). Interest shall not be due if payment is delayed because of a good faith disagreement between the contractor and the subcontractor regarding contract performance and the dispute is resolved in favor of the Contractor. This provision is expressly intended to create a third-party right which is legally enforceable by a subcontractor. This provision does not, however, create a duty on the part of the Land Bank to seek enforcement of a default of this provision or to make payment to the subcontractor on behalf of the Contractor.

22. ETHICS IN CONTRACTING

22.01 The Contractor must comply with Article 12 of Chapter 120 of the Wayne County Code governing "Ethics in Public Contracting."

22.02 Contractor's material misrepresentation or delinquency in the disclosures required by section 120-225 of the Wayne County Code constitutes a material breach of this Contract, sufficient to warrant immediate termination and the imposition of liquidated damages (not a penalty) of fifteen percent (15%) of the consideration made or due under the Contract as of the date of termination.



22.03 If the Land Bank determines that the Contractor has made a material misrepresentation or is willfully delinquent or knowingly evasive in the disclosures required by section 120-225, the Contractor and any other business which has substantially the same principal beneficiaries (as defined in section 120-238 of the Wayne County Code), may be debarred by the Purchasing Director, pursuant to Article 6 of Chapter 120 of the Wayne County Code, from competing for any further Land Bank contracts for up to three (3) years.

22.04 If the contract price is in excess of twenty thousand dollars (\$20,000) and the Contractor knowingly collaborate in or induces a violation of any of the ethical standards that are set forth in sections 120-225, 120-228, 120-229, 120-230 or 120-233 of the Wayne County Code, the Land Bank has the right to impose any one or more of the following sanctions:

- A. Immediately terminate the Contract and require the Contractor to pay the Land Bank liquidated damages, and not a penalty of fifteen percent (15%) of the total Contract compensation;
- B. Debar or suspend the Contractor from consideration from competing for further Land Bank contracts; or
- C. Recover the value transferred or received in breach of the ethical standards by a Land Bank employee or other person.

22.05 Upon a showing that a subcontractor has paid a surcharge to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount of the surcharge was included in the price of the subcontract or order and ultimately borne by the Land Bank and that the Land Bank shall have the right to recover the amount of the surcharge from the Contractor. The Land Bank may also recover the amount of the surcharge from the subcontractor that paid or is paying the surcharge. Recovery by the Land Bank of the surcharge from one offending party shall not preclude recovery from other offending parties. The Wayne County Prosecuting Attorney may initiate and prosecute any civil action needed to enforce this article, if the Wayne County Corporation Counsel declines to do so.

23. WORK FOR HIRE

23.01 Work prepared by the Contractor under this Contract is "work for hire" and the exclusive property of the Land Bank. To the extent the work may not be deemed a "work for hire" under applicable law, Contractor will assign to the Land Bank all right, title and interest in and to Contractor's copyrights for the work. Contractor must execute and deliver the assignment to the Land Bank. The Contractor must take other action that the Land Bank may reasonably request, including, without limitation, executing and filing, at the Land Bank's expense, copyright applications, assignments and other documents required for the protection of the Land Bank's rights to such materials.

24. CHANGES IN SCOPE/SERVICE

24.01 The Land Bank may request changes to the Scope of Services to be furnished or performed by the Contractor under the Contract, as well as changes in the time of performance of the Contract. All such changes shall be authorized by either Change Order or Contract Modification.



24.02 If any such change request increases or decreases the Contractor's cost of, or the time required for, performance of any part of the Services under this Contract, an adjustment may be made and the Contract modified in writing accordingly.

24.03 Contractor shall provide the Land Bank with a written proposal to the Land Bank's change request within five (5) business days of receipt of any such request. Contractor's proposal shall describe in reasonable detail the basis for any proposed price or time adjustment. All cost estimates shall include all completed Services, and cover all costs, expenses, overhead and profit of subcontractors, if any.

24.04 Contractor acknowledges that any change in the Contract price represents full compensation for all costs associated with the change request, including delay costs, impacts, acceleration, disruption, consequential damages and any other cost of any nature.

24.05 If the Land Bank does not accept the Contractor's proposal, the Land Bank may:

- A. withdraw its change request;
- B. modify its change request, in which case the procedures set forth above will apply to the modified change request; or
- C. issue a Change Order.

24.06 Any adjustment in the Contract price shall be computed in the manner as the parties may agree. Failure of the parties to agree to an adjustment shall not excuse the Contractor from proceeding with the Contract as changed, provided the Land Bank promptly and duly makes provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the required Services under protest, the Contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of the time for completion.

24.07 No action, conduct, omission, prior failure or course of dealing by the Land Bank shall act to waive, modify, change or alter the requirement that Contract Modifications must be in writing and signed by the Land Bank and the Contractor. Contractor further acknowledges that Change Orders and Contract Modifications are the exclusive method for effecting any change to the Contract.

24.08 No change to this Contract is effective unless it is in writing and references this Contract. If the change is a Contract Modification, it must be signed and acknowledged by duly authorized representatives of both parties. If the change is a Change Order, it must be signed by an authorized representative of the Land Bank.

25. NON-DISCRIMINATION PRACTICES

25.01 The Contractor and its subcontractors must comply with:

- A. Titles VI and VII of the Civil Rights Act (42 U.S.C. §2000d et. seq.) and the United States Department of Justice Regulations (28 C.F.R. Part 42) issued pursuant to those Titles.



- B. The Age Discrimination Act of 1985 (42 U.S.C. §6101-07).
- C. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794).
- D. The Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et. seq.) and its associated regulations.
- E. The Michigan Civil Rights Act (P.A. 1976 No. 453) and the Persons With Disabilities Civil Rights Act (P.A. 1976 No. 220).
- F. Article XI of Chapter 120 of the Wayne County Code governing Equal Contracting Opportunity.
- G. Any other appropriate affirmative action provisions as may be required from time to time by the Director of Human Relations of the County. The County shall promptly give notice of any such provisions to Contractor during the term of the Contract.

25.02 The Contractor and its subcontractors must not:

- A. Refuse to recruit, hire, employ, promote or to bar or discharge from employment an individual, or discriminate against an individual in compensation, terms, conditions or privileges of employment because of race, color, creed, national origin, age, marital status, handicap, sex, religion, familial status, height or weight.
- B. Limit, segregate, or classify an employee or applicant for employment in a way which deprives or tends to deprive any individual of employment opportunities or otherwise adversely affects the employment status of an employee because of race, color, creed, national origin, age, marital status, handicap, sex, religion, familial status, height or weight.
- C. Print or publish or cause to be printed or published a notice, application, or advertisement relating to employment by the Contractor indicating a preference, limitation, specification, or discrimination based upon race, color, creed, national origin, age, marital status, handicap, religion, familial status, height or weight.
- D. Except as permitted by rules and regulations promulgated pursuant to Article 11 of the Wayne County Code, headed "Equal Contracting Opportunity," or applicable state or federal law.
 - (i) Make or use a written or oral inquiry or form of application that solicits or attempts to elicit information concerning the race, color, creed, national origin, age, marital status, handicap, sex, religion, familial status, height, or weight of prospective employees;
 - (ii) Make or keep a record of that information or disclose that information;
 - (iii) Make or use a written or oral inquiry or form of application that expresses a preference, limitation or specification based on race, color, creed, national origin,



age, marital status, handicap, sex, religion, familial status, height, weight, or prior criminal conviction or convictions; or

- (iv) Make, before or during the initial application process, background checks or oral or written inquiries as to prior criminal conviction or convictions.

E. Absolutely bar or otherwise preclude possible employment based on prior criminal conviction or convictions, provided that the prior criminal conviction or convictions is or are not directly related to the position being sought.

25.03 The Contractor and its subcontractors must not discriminate against any employee or applicant for employment, training, education, or apprenticeship connected directly or indirectly with the performance of this Contract, with respect to hire, promotion, job assignment, tenure, terms, conditions or privileges of employment because of religion, race, color, national origin, age, sex, height, weight, familial status, marital status, creed, prior criminal convictions(s) or handicap. This Section does not apply if it is determined by the Division of Human Relations that the requirements are bona fide occupational qualifications reasonably necessary to perform the duties required for employment. The burden of proof that the occupational qualifications are bona fide is upon the Contractor.

25.04 The Contractor agrees that its subcontractors shall be subject to and shall not violate the nondiscrimination provisions of section 120-192(a) of the Wayne County Procurement Ordinance in performing work on Land Bank contracts. The Contractor shall notify its subcontractors that they shall be subject to said nondiscrimination provisions, and shall include said nondiscrimination provisions in its subcontracts. The Contractor shall provide the Land Bank or the County with a complete copy of any subcontractor agreement when requested.

25.05 If the Contract price is in excess of \$20,000, the Contractor shall comply with the slavery era disclosure requirements of section 120-192(f) of the Wayne County Procurement Ordinance, as implemented by the Wayne County Slavery Era Disclosure Affidavit the Contractor will complete as part of the contract approval process. If it is subsequently determined by the Division of Human Relations that the Contractor has not made a full disclosure in its affidavit of the information required by section 120-192, that failure shall constitute a substantial breach of the terms of this Contract, sufficient to warrant rescission of the Contract, the institution of liquidated damages as set forth in Section 25.07, and debarment from any further business with the County.

25.06 Breach of any section 120-192 of the Wayne County Procurement Ordinance or of the covenants in this Article may be regarded as a material breach of this Contract.

25.07 If the Contractor does not comply with the non-discrimination and affirmative action provisions of this Contract, the County may impose sanctions, as it determines to be appropriate, including but not limited to:

- A. Withholding of payments to the Contractor under this Contract until the Contractor attains compliance;
- B. Cancellation, termination or suspension of this Contract, in whole or in part;



C. Disqualification from bidding on future contractors for a period of no more than three (3) years;

D. Referral to Corporation Counsel for consideration of injunction, liquidated damages or other remedies; and/or

E. Because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages which the Land Bank would sustain, the imposition of liquidated damages (not a penalty) in the amount of Five Hundred Dollars (\$500) per day, for each day that the Contractor shall fail to comply with said requirements, as determined by the Purchasing Director, in consultation with the Director of Human Relations and Corporation Counsel. The liquidated damages shall first be setoff against the unpaid portion of the Contract price, and the balance to be paid by the Contractor.

25.08 If the Contract is funded, in whole or in part, by federal funds and if the Land Bank or the County has been authorized by the funding source to require an affirmative action commitment from contractors who are to be paid from those funds, the Contractor must establish and implement a good faith plan and goal to eliminate the continuing effects of past discrimination, which is determined by the Division of Human Relations to be appropriate for that purpose.

25.09 In the event that this Contract is or becomes subject to federal or state law which conflicts with the requirements of section Article XI of the Wayne County Code, the provisions of the federal or state law shall apply and the Contract shall be interpreted and enforced accordingly.

26. NOTICES

26.01 Unless otherwise provided in this Contract, all notices, consents, approvals, requests and other communications (“Notices”) required or permitted under this Contract must be given in writing and mailed by first-class mail and addressed as follows:

If to the Contractor:

If to the Land Bank:

Wayne County Land Bank

Attention: Cheryl V. Jordan, Interim Executive Director

500 Griswold Street, 28th Floor

Detroit, MI 48226



26.02 All notices are deemed given on the day of mailing. Either party to this Contract may change its address for the receipt of notices at any time by giving notice to the other as provided. Any notice given by a party must be signed by an authorized representative of such party.

26.03 Termination notices, change of address notices, and other notices of a legal nature, are an exception and must be sent by registered or certified mail, postage prepaid, return receipt requested.

27. JURISDICTION AND LAW

27.01 This Contract, and all actions arising from it, must be governed by, subject to, and construed according to the law of the State of Michigan. The Contractor consents to the personal jurisdiction of any competent court in Wayne County, Michigan, for any action arising out of this Contract. Service of process at the address and in the manner specified in this Contract will be sufficient to put the Contractor on notice. The Contractor will not commence any action against the Land Bank because of any matter arising out of or relating to the validity, construction, interpretation and enforcement of this Contract, in any courts other than those in the County of Wayne, State of Michigan unless original jurisdiction is in the United States District Court for the Eastern District of Michigan, Southern Division, the Michigan Supreme Court or the Michigan Court of Appeals.

28. CONFIDENTIAL INFORMATION

28.01 If the Land Bank discloses confidential information to the Contractor's employees pertaining to the Land Bank's past, present and future activities, the Contractor must instruct its employees to regard all information gained by each person as a result of the Services to be performed as information which is confidential and not to be disclosed to any organization or individual without the prior written consent of the Land Bank.

28.02 The Contractor agrees to take appropriate action with respect to its employees to insure that the obligations of nonuse and non-disclosure of confidential information concerning this Contract can be fully satisfied.

28.03 All information provided by the Land Bank, or any work product thereof, shall be deemed Confidential Information. The Confidential Information provided by the Land Bank is, and at all times shall, remain the sole property of the Land Bank, and is for the sole and exclusive use of the Land Bank and his representatives. The Contractor shall not sell, rent, lease, use, furnish, supply or otherwise provide any Confidential Information obtained in connection with, or in relation to, this Contract to any other party without first obtaining the prior written consent of the Land Bank. Any breach of this provision of the Contract shall be a default, and shall be subject to, but not limited to, the rights and remedies provided in this Contract and under applicable law.

29. CONFLICT OF INTEREST



29.01 Contractor covenants that as of the Effective Date, neither the Contractor nor any of its employees have an interest, and shall not acquire any interest, directly or indirectly, that conflicts in any manner with its performance of the Services and agrees to execute an Affidavit of Conflicts of Interest” in the form attached as **Appendix D**, attesting to the same. The Contractor further covenants that in the event the Contractor becomes aware of an employee acquiring a conflicting interest or of circumstances that may appear to create a conflict of interest, as defined in Section 29.02, the Contractor shall immediately disclose the same to the Land Bank. The Contractor has the affirmative duty to immediately disclose the same to the Land Bank upon learning of such circumstances. No person or entity, of any kind, having any such conflict of interest shall be employed or supervised by the Contractor, its subcontractors or agents, without the prior written consent of the Land Bank.

29.02 A conflict of interest exists whenever the Contractor, or an employee, subcontractor or agent of the Contractor, knows or should reasonably be expected to know, that the Contractor, employee, subcontractor or agent, or a member of his or her immediate family, to the third degree of consanguinity, has a financial interest in a property forfeited to the Land Bank.

29.03 The Contractor represents that, other than this Contract, it has no contracts, with either the Land Bank or the County, other than those disclosed in the Affidavit of Contracts, in **Appendix E**.

29.04 The Contractor, its employees, members of their immediate family to the third degree of consanguinity, are strictly prohibited from participating directly or indirectly, in the bidding and purchasing by any means, including and not limited to, joint ventures, or assignments, of any foreclosed property to be sold at an auction conducted by the Land Bank.

29.05 All covenants, representations and warranties provided by the Contractor shall survive this Contract and any extensions and renewals thereof.

30. RIGHT TO INSPECT PLANT

30.01 The Contractor shall make available to the Land Bank, or its authorized representatives, at any time during normal hours of operation, the right to inspect that part of the plant, place of business, or work site of the Contractor which the Land Bank deems pertinent to the performance of any tier of the Contract by the Contractor. Contractor must include a similar covenant allowing for the right of the Land Bank to inspect the facilities of any subcontractor with whom the Contractor has an agreement related to this Contract.

31. AMENDMENTS

31.01 No amendment to this Contract is effective unless it references this Contract, is written, is signed and acknowledged by duly authorized representatives of both parties.

32. MISCELLANEOUS



32.01 The Contractor covenants that it is not, and will not become, in arrears to the Land Bank upon any contract, debt, or any other obligation to the Land Bank, including real property and personal property taxes.

32.02 The terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation, or termination of this Contract shall so survive. In addition, the terms of Articles 10, 12, 14, 15, 16, 19, 26, and 28 survive termination of the Contract.

32.03 All the provisions of this Contract are “covenants” and “conditions” as though the words specifically expressing or imparting covenants and conditions are used in each provision.

32.04 If any Affiliate of the Contractor takes any action, which if done by the Contractor, would constitute a breach of this Contract, the action is deemed a breach by the Contractor. “Affiliate” is a parent, subsidiary or other company controlling, controlled by or in common control with the Contractor.

32.05 Neither party is responsible for force majeure events. If there is a dispute between the parties with regard to what constitutes a force majeure event, the Land Bank's reasonable determination is controlling.

32.06 Unless the context otherwise requires, the words, “herein”, “hereof” and “hereunder” and other words of similar import, refer to this Contract as a whole and not to any particular Article, section, or other subdivision.

32.07 The headings of the Articles in this Contract are for convenience only and must not be used to construe or interpret the scope or intent of this Contract or in any way affect the Contract.

32.08 As used, the singular includes the plural, the plural includes the singular, and the use of any gender is applicable to all genders.

32.09 Any computer equipment the Contractor places in a County facility shall meet County standards and specifications and is the property of the County while the equipment is in the facility. The Contractor shall notify the Land Bank when equipment is placed in a County facility.

32.10 The Contractor warrants that any products sold or processes used in the performance of this Contract do not infringe upon or violate any patent, copyright, trademark, trade secret or any other proprietary rights of any third party. If a third party makes a claim against the Land Bank, the Land Bank must promptly notify the Contractor. The Contractor must defend the claim in the name of the Land Bank, at the Contractor's expense. The Contractor must indemnify the Land Bank against any loss, cost, expense or liability arising out of the claim, whether or not the claim is successful.

32.11 No failure by a party to insist upon the strict performance of any term of this Contract or to exercise any term after a breach, constitutes a waiver of any breach of term. No waiver of any breach affects or alters this Contract, but every term of this Contract remains effective with respect to any other then existing or subsequent breach.



32.12 The Contractor shall secure all permits necessary to perform the services and shall comply with all statutes, ordinance, and laws.

32.13 If any provision of this Contract or the application to any person or circumstance is, to any extent, judicially determined to be invalid or unenforceable, the remainder of the Contract, or the application of the provision to persons or circumstances other than those as to which it is invalid or unenforceable, is not affected and is enforceable.

32.14 This document, including the Appendices, contains the entire agreement between the parties and all prior negotiations and agreements are merged in this document. Neither party has made any representations except those expressly set forth. No rights or remedies are, or will be acquired by either party by implication or otherwise unless set forth.

32.15 The Land Bank or the Contractor may contract with other firms providing the same or similar services so long as the Contractor's obligations to the Land Bank contained in this Contract will not be affected in any manner.

33. AUTHORIZATION AND CAPABILITY

33.01 The Contractor warrants to the Land Bank that it has taken all corporate actions necessary for the authorization, execution, delivery and performance of this Contract. It is ready to perform its obligations. The Contractor further warrants that the person signing this Contract is authorized to do so on behalf of the Contractor and is empowered to bind the Contractor to this Contract.

33.02 This Contract is effective only upon review and approval by the Wayne County Land Bank.

34. DEBARMENT AND SUSPENSION

34.01 The Contractor certifies to the best of its knowledge and belief, that:

- A. The Contractor and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal agency;
- B. The Contractor and its principals have not, within a three (3) year period preceding this contract, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connections with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under public transaction; violation of Federal or State antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- C. The Contractor and its principals are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in 24.01 b above; and;



- D. The Contractor and its principals have not, within a three (3) year period preceding this contract, had one or more public transactions (Federal, State or local) terminated for cause or default.

34.02 The certification in this clause is a material representation of fact upon which reliance was placed. When the Land Bank determines that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Land Bank, the Land Bank may terminate this Contract for cause or default.

34.03 The Contractor shall provide immediate written notice to the Land Bank if, at any time, Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

32.04 The terms “covered transaction”, “debarred”, “suspended”, “ineligible”, “lower tier covered transaction”, “Grantee”, “person”, “primary covered transaction”, “principal”, “proposal”, and “voluntarily excluded”, as used in this clause, have the meaning set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549: 45 CFR Part 76.

34.05 The Contractor agrees that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Land Bank.

34.06 The Contractor further agrees that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction”, provided by the Land Bank, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

34.07 A Contractor may rely upon a certification of a participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A Contractor may decide the method and frequency by which it determines the eligibility of its principals. Each Contractor may, but is not required to, check the Non-procurement List (of excluded parties).

34.08 Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a Contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

34.09 If a Contractor is in a covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Land Bank, the Land Bank may terminate this transaction for cause or default.

35. COUNTERPARTS



35.01 This Agreement may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of this Agreement signed by each party, for all purposes.

36. SIGNATURE

36.01 The Land Bank and the Contractor, by their authorized officers and representatives have executed this Contract as of the signed date by the Land Bank.

(EXECUTION PAGES FOLLOW)



WAYNE COUNTY LAND BANK

EXECUTION PAGE

to the CONTRACT BETWEEN the WAYNE COUNTY LAND BANK and

WAYNE COUNTY LAND BANK

[CONTRACTOR]

Cheryl V. Jordan, Interim Executive Director
Wayne County Land Bank

By:

Date: _____

Date: _____



APPENDIX A(1)

SCOPE OF SERVICES

Contractor shall provide the Wayne County Land Bank the following property maintenance and other services with respect to residential, commercial and industrial properties owned by the Wayne County Land Bank and assigned by the Wayne County Land Bank to the Contractor (the "Designate Properties") in accordance with schedule contained in APPENDIX A(2).

1. Contractor shall use professional methods, expertise and judgment to secure or re-secure structure openings with $\frac{3}{4}$ " plywood and 2" x 4" studs on the first floor and any basement windows accessible from the outside and securing all doors including locksmith services. The front door must be secured with a padlock of at least 2" and padlock key must be labeled with address and given to the Land Bank's coordinator. Contractor may use the HUD specification or their professional judgment in the manner of securing the structure. Contractor must supply all tools and supplies necessary to complete work. The securing of each structure shall last a minimum of one year.
2. Contractor shall mow all grass on property to the height of 3" or less. If grass is over 6" in length, Contractor must dispose of clipping. Grass height for normal mow is 12" or less. Overgrowth of trees, bushes and other vegetation must be cut down, removed from property and disposed of properly.
3. Contractor shall remove all snow with depth of 2" inches or more from the public sidewalk and front walk of the property from public sidewalk to entrance door.
4. After receiving written approval from the Land Bank or Land Bank coordinator, remove and properly dispose of overgrowth of trees and bushes on the front, back and sides of the property. Contractor shall notify the Land Bank or Land Bank coordinator of all hazardous materials on the property and must obtain written approval of the Land Bank or the Land Bank coordinator before disposal of the same. All hazardous materials must be disposed of in accordance with local, state and federal laws.
5. After receiving written approval from the Land Bank or Land Bank coordinator, remove and properly dispose of all debris, including, but not limited to tires, concrete, furniture and garbage. Contractor shall notify the Land Bank or Land Bank coordinator of all hazardous materials on the property and must obtain written approval of the Land Bank or the Land Bank coordinator before disposal of the same. All hazardous materials must be disposed of in accordance with local, state and federal laws.
6. If the structure is occupied, the Contractor shall take a photograph of said property and report to the Land Bank coordinator immediately. No work shall be done until the Contractor receives an approval to proceed in writing from the Land Bank coordinator.
7. Contractor must take before and after photographs of each property serviced. Address or marker must be visible on photograph for reference. Photos must be delivered to Land Bank's coordinator as an attachment to the Activity Report.



8. Small and large lot sizes including structure. Small shall be considered to be 6000 square feet or less; large shall be 6001 square feet or more. If there is a lot which exceeds 12,000 square feet, Contractor must contact Land Bank's coordinator to negotiate a fair and equitable price prior to beginning work. Only the property owned by the Land Bank shall be serviced.
9. Transportation of workers and materials is the responsibility of the Contractor. The Land Bank will not pay the Contractor for overtime, holiday or other premium charges or other benefits.
10. When requested by the Land Bank or Land Bank coordinator, the Contractor shall take photographs of the front, back and sides of any property requested. Address or marker must be visible on photograph for reference. Photos must be delivered to Land Bank's coordinator.
11. Contractor must immediately notify the Land Bank or Land Bank coordinator in writing of any dangerous or unusual conditions on the property.
12. Anything unusual or extreme shall be brought to the attention of the Land Bank coordinator immediately. Notification shall be in writing. The Land Bank at its sole discretion shall negotiate a fair and equitable price for such circumstances.
13. All work must be done in accordance with all local, state and federal laws.
14. Contractor or its subcontractor shall have all necessary licenses and permits, if any waste or debris must be disposed of at a restricted dump site. All hazardous materials must be disposed of in accordance with local, state and federal laws
15. The Contractor must submit a completed "Contractor's Activity Report," **Appendix F**, which is signed by an authorized officer of the Contractor and indicates the Contractor's activities for each day worked.
17. Contractor agrees that it has the ability to service all of the properties designated by the Land Bank in accordance with the schedule contained below in **Appendix A(2)**.



APPENDIX A(2)

SCHEDULE

1. Contractor shall inspect and determine the necessity to secure any structure located on the Designated Properties within 72 hours of the execution of this Agreement. Contractor shall re-secure structures on an as needed basis thereafter.
2. Contractor shall remove debris and trash as necessary from the Designated Properties within 72 hours of the execution of this Agreement and on an as needed basis thereafter.
3. Contractor shall trim trees and bushes as necessary from the Designated Properties within 72 hours of the execution of this Agreement and on an as needed basis thereafter.
4. Contractor shall mow grass on the Designated Properties once per month, or approximately every 5 weeks during the months of May through October. Contractor will mow grass as requested during the months of November through April.
5. Contractor shall remove snow from sidewalks in front of Designated Properties only upon request.



APPENDIX B/COMPENSATION

1. The maximum compensation payable under this Contract is \$_____. The Land Bank will pay the Contractor the following for each requested service:

	DESCRIPTION	UNIT PRICE
1	Base price for securing structure, up to 10 openings,(2 doors and 8 windows) All inclusive except for plywood 8' x 4' x ¾" and standard framing studs 2" x 4" x 8'.	EACH
2	Re-securing structure/PRICE PER EACH ADDITIONAL OPENING, all inclusive except for plywood 8' x 4' x ¾" and standard framing studs 2" x 4" x 8'. Price shall be 10% of BASE price.	EACH
3	Material cost plywood 8' x 4' x ¾"	EACH
4	Standard framing studs 2" x 4" x 8'	EACH
5	Mow lawn on small lot <6000 Sq. Ft (up to 12" length)	PER PROPERTY
6	Mow lawn on large lot >6001Sq. Ft (up to 12" length)	PER PROPERTY
7	Snow removal on public sidewalk and front walkway from public sidewalk to entrance door.	PER PROPERTY



8	Removal and disposal of overgrowth of trees bushes and vegetation.	CUBIC YARD
9	Removal and disposal of all debris including but not limited to tires, concrete, furniture, garbage.	CUBIC YARD
10	Per load Dump fee. (Approx . 5 cubic yards)	PER LOAD
11	Labor cost per hour (for additional work if necessary).	PER HOUR
12	Photographs requested (when photos are only requested service)	SET OF Photos PER PROPERTY

2. Prices are inclusive. All equipment, tools and supplies necessary to complete work, transportation to and from site. Labor shall be included in base price. Contractor must supply pictures both before and after completion of work on every property assigned. Dumping fee will be reimbursed. Contractor must submit valid receipt from dump site.

3. The Land Bank will not pay the Contractor for overtime, holiday or other premium charges or other benefits in addition to those above. The Contractor agrees and understands that the Land Bank will not provide compensation if the Contractor does not provide the services for the Land Bank as required under this Contract.

4. The Contractor agrees and understands that the Land Bank cannot give a guarantee on the number of parcels for which property maintenance or other services may be requested. Unless otherwise expressly provided, the number of parcels indicated in this Contract for which services are required is only an estimate and is not guaranteed. Should actual requirements be less than the quantities estimated in this Contract, that fact will not constitute the basis for any price increase or adjustment, nor will the Land Bank be obligated or assume the responsibility to utilize or pay for any services not ordered during the contract period.



APPENDIX C

LIST OF SUBCONTRACTORS

For The Professional Services Contract Between

The Wayne County Land Bank

and



APPENDIX D

AFFIDAVIT OF CONFLICTS OF INTEREST

For The Professional Services Contract Between

The Wayne County Land Bank

and

This Affidavit of Conflicts of Interest is given pursuant to, and subject to, Article 29, and terms as defined therein, of the Contract of even date herewith, between the undersigned and the Wayne County Land Bank.

1. Are you or an immediate family member, to the third degree of consanguinity, an employee of the Wayne County Land Bank or Wayne County? Yes ____ No ____

If yes, please state the full name and department and relationship.

2. Within the previous twelve (12) months, has your company employed, an immediate family member, to the third degree of consanguinity, of an employee of the Wayne County Land Bank or Wayne County? Yes____ No____

If yes, please stated the full name, relationship, position and length of employment and name of the Land Bank of Wayne County employee to whom the family member is related.



3. Does any employee, subcontractor or agent of the undersigned have a substantial financial interest in any of the forfeited or foreclosed properties subject to be sold at public auction by the Wayne County Land Bank. Yes ___ No___

If yes, described in detail the financial interest:

The undersigned certifies under oath that all information provided herein above is a true and accurate statement of the financial interest of the undersigned with the Wayne County Land Bank and the County of Wayne as of dated hereof.

Dated: _____, 2017

By _____

Subscribed and sworn to before me

on this ____ day of _____, 2017

Notary Public

County of Wayne, State of Michigan

My Commission Expires: ___/___/_____

Acting in Wayne County



APPENDIX E

AFFIDAVIT OF CONTRACTS

For The Professional Services Contract Between

The Wayne County Land Bank

and

Pursuant to Article 29 of the contract between _____ and the Wayne County Land Bank of even date herewith (“Contract”), the following is a list of all contracts, and their date of execution, between the undersigned, the Wayne County Land Bank and/or Wayne County as of date of the Contract:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

Please provide any other information that may relate to any contracts with either the Wayne County Land Bank or Wayne County.

The undersigned certifies under oath that the information provided above is true and accurate and that all information concerning contracts between the undersigned, the Wayne County Land Bank and/or Wayne County has been disclosed. The undersigned covenants that it will advise the Wayne County Land Bank prior to the execution of any contract(s) with Wayne County.

By _____ Dated: _____, 2017



APPENDIX "F" - CONTRACTOR'S ACTIVITY REPORT

COMPANY NAME: _____

1. Secure structure:
Property address _____ Date: _____
windows _____; doors _____; front door _____
Activity Description: _____

Type of Equipment Used: _____

Plywood/Studs Used: _____

Additional Comments: _____

2. Re-Secure structure:
Property address _____ Date: _____
windows _____; doors _____; front door _____
Activity Description: _____

Type of Equipment Used: _____

Plywood/Studs Used: _____

Additional Comments: _____

3. Mow grass on property:

Property address _____ Date: _____
Activity Description: _____

Type of Equipment Used: _____

Lots Size (Small/Large): _____

Additional Comments: _____

4. Remove snow from the public sidewalk and front walk of the property:

Property address _____ Date: _____

Activity Description: _____



Type of Equipment Used: _____

Lots Size (Small/Large): _____

Additional Comments: _____

5. Remove and dispose of all overgrowth of trees and bushes on the front, back and sides of the property:

Property address _____ Date: _____

Activity Description: _____

Disposal Size/Dumping Fee _____ (Attach Dumping Fee Receipt)

Type of Equipment Used: _____

Additional Comments: _____

6. Remove and dispose of all debris, including, but not limited to tires, concrete, furniture, garbage

Property address _____ Date: _____

Activity Description: _____

Type of Equipment Used: _____

Disposal Size/Dumping Fee _____ (Attach Dumping Fee Receipt)

Additional Comments: _____

7. Photographs of the front, back and sides of a property (used when only service requested is a photograph)

Property address _____ Date: _____

Activity Description: _____

Type of Equipment Used: _____

Additional Comments: _____

The undersigned certifies under oath that the information provided above is true and accurate.



By _____ Dated: _____, 2017