

**INTERGOVERNMENTAL COOPERATIVE AGREEMENT
BETWEEN
LAND BANK OF KANSAS CITY, MISSOURI AND THE CITY OF KANSAS CITY,
MISSOURI**

THIS AGREEMENT, made as of this _____ day of September, 2021, by and between Land Bank of Kansas City, Missouri, a public body corporate and politic, hereinafter referred to as “Land Bank,” and the City of Kansas City, Missouri, a constitutionally chartered municipal corporation, hereinafter referred to as “City.”

WHEREAS, Revised Missouri Statutes Section 141.980 permitted the City to establish by ordinance a land bank agency for the management, sale, transfer, and other disposition of interests in real estate owned by such land bank agency; and

WHEREAS, on September 20, 2012, the City passed Committee Substitute for Ordinance No. 120779 establishing the Land Bank (“Authorizing Ordinance”); and

WHEREAS, in recent years a substantial number of properties within the City have become vacant, dilapidated, and non-revenue generating; and

WHEREAS, the properties contain numerous violations of health, nuisance and property maintenance ordinances, contribute to the blight and deterioration of the City, and impose a significant economic burden upon the City; and,

WHEREAS, it is in the best interests of the health, safety and welfare of the citizens of City to support the Land Bank in its operations and to enter into this Intergovernmental Cooperative Agreement to achieve that interest;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, Land Bank and City agree as follows:

1. **SCOPE OF AGREEMENT.** This agreement outlines the terms and conditions by which the City will support and undertake administrative and operational staffing, and other services for the Land Bank. Specific operational policies and procedures will be developed by the Land Bank to govern its operations, within the limitations of the Authorizing Ordinance.
2. **PAYMENT.**
 - a. From the effective date of the formation of the Land Bank pursuant to the Authorizing Ordinance, City has provided and will continue to provide in-kind contributions of municipal administrative and operational staff and resources and paid certain formation costs such as surety bonds and liability coverage insurance. Those expenditures by the City on behalf of the Land Bank are intended to be reimbursed to the City from future sales

of property in accordance with Section 74-81(a) of the Authorizing Ordinance, and will be accounted for by the administrative staff assigned by the City to the Land Bank. For this current fiscal year ending April 30, 2022, the City has budgeted an amount of \$2,076,010.52, for the administrative support and operations of the Land Bank. May 1, 2022, the City will budget for the support and operation of the Land Bank, allocated in accordance with the direction from the City Manager, as initially set forth in its budget for that fiscal year, subject to annually appropriated funds as more fully set forth in Section 17. The Land Bank will adopt a line item budget in conformity with the final allocation approved by the City, and thereafter will make modifications to such budget if changes are made to appropriated funds, and are less than anticipated.

- b. On May 1, 2022, and on May 1 of each year thereafter that this Agreement is in effect, the City's annual contribution set out in subparagraph (a) above will be determined as a part of the City's budget process, and is not an ongoing obligation, and is subject in all respects to appropriated funds. For the fiscal year beginning May 1, 2022, and each fiscal year thereafter that this Agreement remains in effect, the Land Bank will develop and substantiate a request for budgeted funds submitted to the City Manager in accordance with the guidance and timeline established by the City Manager. Such request will be considered as a part of the City's overall budget process. The Land Bank acknowledges that pursuant to Section 74-83 of the Authorizing Ordinance, the City is not obligated to contribute amounts to the Land Bank's annual budget, and that contributions or the incurring of expenses by the City on behalf of the Land Bank shall be reimbursed to the City from sale proceeds consistent with Section 74-81(a)(3) and 74-81(b)(4) of the Authorizing Ordinance. Any amounts budgeted by the City for the benefit of the Land Bank will be accounted for in a separate fund maintained by the City.
3. **TERM.** The maximum term of this Agreement shall be for approximately six years, commencing on the effective date of the City's Ordinance authorizing the execution of this Agreement by the City Manager on behalf of the City, and terminating on April 30, 2027, but shall commence with an initial term ending April 30, 2022, but may be renewed in five, one-year increments, the last of which renewal terms if all are deemed exercised shall end April 30, 2027, subject to sufficient appropriations by the City as set out in Section 17 hereof. This Agreement shall automatically renew for such five, one-year terms commencing on the first day of the fiscal year May 1, unless either party elects to not renew the Agreement at least sixty (60) days prior to the termination date of April 30. On or before October 1, 2021, and each October 1, that this Agreement remains in effect, the City will provide to the Land Bank a list of proposed modifications, if any, for a renewal form of this Agreement. Upon the Land Bank's receipt of the proposed modifications, then the Land Bank may prepare and provide to the City

its proposed modifications by November 1, 2021, and each November 1 thereafter. Thereafter, the Land Bank and the City will enter into negotiations for a renewal form of this Agreement. The goal for the parties in those negotiations is to reach an agreement, if any, simultaneous with the submission of the City Manager's budget to the Mayor for the fiscal year.–The parties hereto agree that there may modifications during the term hereof consistent with Section 8.

4. BASIC SERVICES.

In consultation with the Land Bank, the City will allocate and provide staff to serve as the Land Bank's administrative and operational personnel as needed to implement and support the Land Bank, subject to the budget allocations. Pursuant to such consultation, the Land Bank will from time to time adopt resolutions appointing an executive director as provided by the City and delegate to such executive director such authority it deems prudent and consistent with the Authorizing Ordinance, and the Land Bank's own bylaws and policies. Such core staff provided by the City shall initially include an executive director, counsel, administrative assistants and code enforcement officers. Beyond the core staff, additional City staff will assist the Land Bank with additional functions, as assigned and coordinated by the executive director as follows:

- Administrative and operational staffing for public contact, distribution and process of application for purchase and donation of real properties, review and evaluation of offers for suitability of acceptance, and marketing properties;
- Field task staffing for inspection, evaluation, cleaning and securing properties in the Land Bank inventory or offered to the Land Bank, and ongoing monitoring of Land Bank properties as to changes in conditions;
- Maintenance or demolition of properties, to the extent of available and budgeted resources for that purpose, including mowing, cleaning, boarding, demolition, and limited repair, however, the primary responsibility for such maintenance will remain the liability of the Land Bank, and such an undertaking of assistance by the City will not be deemed an assumption of any liability for failure to maintain the Land Bank's property; and
- Financial support activities, including, but not limited to, processing of invoices, payments, receipt of funds, use of the City's accounting system, handling payroll of staff,

Such staff may have other duties as assigned by the City, and such duties shall not be deemed to be a conflict of interest with their undertakings on behalf of the Land Bank. The City agrees that all personnel costs associated with supporting and staffing the Land Bank, including salaries and benefits, will be paid by the City, and portions of that cost will be paid from the funds allocated by the budget

established by the City for the Land Bank, as affirmed by the line item budget of the Land Bank.

The Land Bank will separately contract for an annual audit consistent with Section 74-83 of the Authorizing Ordinance.

5. CLAIM SERVICES.

Subject to budget allocations from the City to the Land Bank, for the term of this Agreement, ending on April 30, 2022, the City, through its City's Attorney Office, under the direction of the City Attorney, hereby agrees to: a) handle the legal defense of all lawsuits for tort claims filed in the State of Missouri against the Land Bank, in which the City is not also a defendant, b) administer, evaluate and provide servicing of claims against the Land Bank that have not yet been filed as law suits through the Litigation Division, and provide legal advice and assistance on claims once made to the Land Bank during the term of this Agreement.

For those lawsuits in which both the City and Land Bank are named a party, the Litigation Division, Claims Unit, will provide, as soon as practical, to the Land Bank, in closed session, the circumstances as then determined, that led to the claim, to enable the Land Bank to make an informed knowledgeable decision whether to waive the conflict of interest to enable the Office of the City Attorney to represent both the City and the Land Bank. The disclosure in closed session will occur at the next Land Bank meeting after service of the summons upon the lawsuit has been received by either the Land Bank or the City, however, if it is not a claim that was already been received and evaluated by the Claims Unit, prior to the filing of a lawsuit, then additional time may be needed to have a sufficient disclosure upon which to base a decision to resolve the conflict of interest, if any. In any event, the City shall advise the Land Bank board of commissioners by expeditious means, such as email, of the filing of any lawsuit to which the Land Bank is named as a party; and such electronic notice will be given as soon as practical, but not later than ten business days after receipt by the City of the summons in such lawsuit. Similarly, each commissioner of the Land Bank who individually receives a summons for any lawsuit related to their activities on behalf of the Land Bank, shall advise the City by expeditious means, such as email, of the filing of any lawsuit to which the commissioner is named as a party; and such electronic notice will be given as soon as practical, but not later than ten business days after receipt by such commissioner of the summons in such lawsuit.

In the event that the Land Bank elects not to waive the conflict of interest, and desires to retain its own outside counsel, it shall so advise the City the earlier of i) five business days after the closed session in which the City advises the Land Bank of the circumstances of the lawsuit, or ii) ten business days before the answer on behalf of the City or the Land Bank needs to be filed in response to such lawsuit. If the Land Bank elects to retain independent counsel, then if requested by the Land Bank, the City will assist the Land Bank in engaging

counsel. If funds budgeted by the City for the benefit of the Land Bank are proposed to be used for the purpose of retaining independent counsel, then the City has the right to object to any counsel selected by the Land Bank, and thereafter payment for such fees and services by the Land Bank will be limited to sale proceeds generated by its inventory.

The Land Bank agrees to pay the City for such legal and investigative services from its budgeted funds upon submission of invoices outlining those services. Generally, it is anticipated that the submitted amounts will be a flat fee for customary types of claims, such as \$500 for tree related damage, or \$1,000 for trip and fall cases. However, for personal injury claims related to structures, those invoices are anticipated to be not less than \$1,000, but if the costs of defense are projected to be in excess of \$1,000, then the Litigation Division, Claim Unit, will provide to the Land Bank the cost estimate of the time and expenses to be incurred, and period updates of the actual time and expense incurred. All other actual expenses associated with defending claims, such as costs of depositions and court reporters, preparation of trial exhibits, or outside counsel whenever required, will be chargeable to the various case files and submitted to the Land Bank for its payment.

The parties hereto agree that the City Attorney will have settlement authority up to an amount of Five Thousand Dollars (\$5,000) on all claims or cases without the approval of the Land Bank board, and may rely upon the Land Bank executive director's verification of the source of funding for such payment from the Land Bank's budget. The Land Bank's executive director shall include in its periodic financial report submitted at each of its meetings any claim payments. The City Attorney's Office shall endeavor to notify the Land Bank at least twenty (20) days in advance of any lawsuit which threatens to settle for Five Thousand Dollars (\$5,000) or greater. Any settlement proposed in an amount in excess of Five Thousand Dollars (\$5,000) shall have advance approval of the Land Bank. The Land Bank staff or City staff assigned to tasks for the benefit of the Land Bank will immediately advise both the Land Bank executive director, and the Office of the City Attorney, Litigation Division, Claims Unit, of circumstances that could give rise to a claim. In addition, such staff shall direct a person asserting a potential claim to the Claims Unit.

In the future, once a history of claims likely to be made is established, thereafter the Land Bank will be requested by the City Attorney's Office-Litigation Division-Claims Unit to pay an amount corresponding thereto into the claims fund established for and benefiting various City Departments or other entities for which similar services are provided.

6. TECHNOLOGY.

Subject to the budget allocation, City shall provide access to an integrated computer system and hardware to track Land Bank inventory. Land Bank may

enter into a contract for software, and software maintenance coverage, and assure connectivity to the City's computer system. City and Land Bank shall make a reasonable effort to create an interface between the existing City tracking software within the City's provided system with the software obtained by the Land Bank.

7. FACILITY and IMPROVEMENTS.

- a. City will provide a portion of its facility at 4400 Martin Luther King, Jr., Boulevard used in cooperation with the City's Neighborhoods Department and the Housing and Community Development Department to house the Land Bank operations, but may relocate such operations if deemed necessary or convenient to the City to other municipal facilities provided such alternative facilities are equally accessible to the public.
- b. City and Land Bank shall jointly participate in good faith in the coordination and management of the facility to house the Land Bank pursuant to the terms of this Agreement. All furnishings and fixtures provided by the City for the Land Bank's use shall remain the property of the City. Reusable and recycled furnishings, equipment, or supplies from existing City facilities may be utilized.

8. MODIFICATION. This Agreement shall not be amended, modified, or canceled without the written consent of both parties to this Agreement. The Land Bank Board of Commissioners and the City Manager, or his designee, shall have authority to make modifications to the Agreement that do not change the compensation to be paid by the Land Bank to the City, from budgeted funds from the City allocated to the Land Bank operations, or affect the duration of the Agreement.

9. DEFENSE AND INDEMNIFICATION. No party to this Agreement shall assume any liability for the acts or omissions of any other party to this Agreement, its officers or employees. However, City shall add the Land Bank as an additional insured or add the Land Bank's name by endorsement upon the City's comprehensive general liability coverage similarly to other boards, commissions or entities affiliated with the City, and/or to which the Mayor or City Council make appointments. The Land Bank acknowledges that the City is uninsured up to an amount, with that amount being determined from time to time by the City's risk manager, upon the advice of its insurance consultant. The Land Bank will either 1) maintain its own comprehensive general liability coverage, in at least an amount of \$500,000 combined single limit throughout the term of this Agreement, or 2) upon amendment of municipal Code Section 2-1685 rely upon the city legal expense fund if such participation is approved by the City Council. Both the City and the Land Bank preserve their own separate sovereign immunity, and acknowledge that such immunity will be asserted in any actions related to those activities undertaken by City staff on behalf of the Land Bank, and that each will submit claims to their respective policies, with rights of subrogation to the other's

policy. To the extent permitted by law and subject to sufficient appropriations by the City Council, and further the City's obligations under this Section with respect to this indemnification for acts or omissions, including negligence of the City shall be limited to the coverage and limits of insurance maintained by the City, the City will indemnify, defend and hold Land Bank harmless from any and all claims, liabilities, damages and costs (including reasonable attorney's fees directly related thereto) including but not limited to bodily injury to or death of any person and for damage to or destruction of property due to the actions or omissions of the City employees providing services to the Land Bank.

10. **ASSIGNMENT.** This Agreement, or any part thereof, shall not be assigned without the prior written consent of the City and/or the Land Bank. Any attempt to assign without such consent shall be void and confer no rights on any third parties.
11. **GOVERNING LAW.** This Agreement shall be construed and governed in accordance with the laws of the State of Missouri. The parties submit to the jurisdiction of the courts of the State of Missouri and waive venue.
12. **WAIVER.** Waiver of any of the provisions of this Agreement or any breach of this Agreement shall not thereafter be deemed to be a consent by the waiving party to any further waiver, modification or breach by the other party, whether new or continuing, of the same or any other covenant, or breach by the party, whether new or continuing, of the same or any other covenant, condition or provision of this Agreement. Failure by one of the parties of this Agreement to assert its rights for any breach of this Agreement shall not be deemed a waiver of such rights.
13. **SEVERABILITY.** If any covenant or other provision of this Agreement shall be construed to be invalid, or incapable of being enforced, by reason of any rule of law or public policy, all other provisions and conditions of this Agreement shall nevertheless remain in full force and effect, and no covenant or provision shall be deemed dependent upon any other covenant or provision unless so expressed herein.
14. **CONFLICTS OF INTEREST.** City and Land Bank warrant as to their respective officers or employees of the City or Land Bank, whether elected or appointed, shall not in any manner whatsoever be interested in or receive any benefit from the profits or emoluments of this Agreement, except City employees may receive their salaries, wages and benefits otherwise due them. Both the City and the Land Bank will take such steps that are reasonable to assure that the conflicts of interest and ethics provisions contained in Section 74-86 of the Authorizing Ordinance are complied with by their respective employees or the individual commissioners of the Land Bank.

15. COMPLIANCE WITH LAW. City and Land Bank must comply with all applicable laws, ordinances and codes, and regulations of the federal, state and local governments in performing any of the work embraced in this Agreement.
16. TERMINATION.
 - a. Notice. City or Land Bank may terminate this Agreement at any time by giving sixty days' notice in writing to the other party.
 - b. If the Agreement is terminated by the Land Bank, the City will be paid for all services and associated costs up to the date of termination, from budgeted funds allocated by the City to the Land Bank, and any unexpended budgeted amounts allocated by the City will revert to the City. Subsequent to termination the Land Bank shall not have any right to funds derived from or traceable back to the budget allocated by the City to the Land Bank.
17. NON-APPROPRIATION. The parties recognize that City intends to satisfy its financial obligation to Land Bank hereunder out of funds annually appropriated for that purpose by the City, from which in turn it is anticipated that the Land Bank will reimburse the City for services provided for its benefit. In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable by any means whatsoever in any fiscal year for payments due hereunder, City shall immediately notify Land Bank of this occurrence. Land Bank and City agree:
 - a. That any funds authorized or appropriated for the operation of the Land Bank in any fiscal year shall be applied to the payments hereunder consistent with this Agreement, and upon termination consistent with Section 16.b. above.
 - b. The City Manager through the Director of Housing and Community Development will use their reasonable efforts to obtain authorization and appropriation of such funds including, without limitation, the inclusion in the City's annual budget for each fiscal year during the term of this Agreement, a request for adequate funds to operate the Land Bank in a reasonable manner.
18. NOTICE. Any notices or other communication required or permitted to be given hereunder must be in writing and will be deemed given three (3) days after posting in the United States mail, regular mail, postage prepaid, or upon receipt by personal or telefacsimile delivery, addressed to:

If to City: Director of Housing and Community Development
4400 Martin Luther King, Jr., Blvd.
2nd Floor
Kansas City, MO 64130

With a courtesy copy to:
City Attorney
414 E 12th, 23rd Floor
Kansas City, MO 64106

If to Land Bank:
Chair of Land Bank of Kansas City, Missouri
4400 Martin Luther King, Jr., Blvd., 1st Floor
Kansas City, MO 64130

19. **WARRANTY.** City and Land Bank warrant that each has authority to enter into this Agreement and that all necessary approvals have been given.
20. **INCORPORATION.** This Agreement incorporates the entire understanding and agreement of the parties.

IN WITNESS WHEREOF, Land Bank and the City have each caused this Agreement to be executed by its duly authorized representative effective as of the date first above written.

CITY OF KANSAS CITY, MISSOURI

**LAND BANK OF KANSAS CITY,
MISSOURI**

a Constitutionally Charter Municipal
Corporation of the State of Missouri

a Public Body Corporate and Politic
of the State of Missouri

By _____
Brian Platt, City Manager

By  _____
Julie Anderson, Chair

APPROVED AS TO FORM:

By _____
Amelia McIntyre, Associate City Attorney

ATTEST:

By _____
City Clerk