

**INTERLOCAL AGREEMENT FOR
COLLECTION OF DELINQUENT TAXES THROUGH COURT PROCEEDINGS IN
FURTHERANCE OF RETURNING VACANT, ABANDONED, AND TAX-
DELINQUENT PROPERTIES TO PRODUCTIVE USE**

THIS INTERLOCAL AGREEMENT ("Agreement") is hereby made and entered into this 20 day of December, 2016, between THE COUNTY OF DOUGLAS, NEBRASKA, a political subdivision organized and existing under the laws of the State of Nebraska located in Douglas County, Nebraska (hereinafter "DOUGLAS COUNTY"), and the OMAHA MUNICIPAL LAND BANK, formed by the CITY OF OMAHA, NEBRASKA pursuant to Neb.Rev.Stat. §§ 19-5201 through 19-5218 and constituting a public corporation acting in a governmental capacity as well as a political subdivision of the State of Nebraska located in Omaha, Douglas County, Nebraska (hereinafter "OMLB"). This Agreement does not create a separate legal entity to conduct the cooperative undertaken envisioned herein. When referring to DOUGLAS COUNTY and OMLB collectively, this Agreement shall use the term "Parties";

WHEREAS, the Legislature of the State of Nebraska (the "Legislature") has declared that counties shall have a lien upon real estate within their boundaries for all taxes due thereon to the state, any governmental subdivision of the state, any municipal corporation, and any drainage or irrigation district. The Legislature has further declared that all real estate on which the taxes have not been paid in full shall be subject to sale. On the date designated for the sale, the Legislature mandated that county treasurers commence the sale of the real property upon which taxes have not been paid. Neb.Rev.Stat. § 77-1809 authorizes Nebraska counties such as DOUGLAS COUNTY to purchase any property offered for sale when the same remains unsold for want of bidders. Under such circumstances, the county treasurer is required to issue Tax Sale Certificates (hereinafter "TSCs") in the name of the county and is further authorized and directed to endorse upon such TSCs real estate taxes as the same become delinquent after the issuance of said TSCs and to endorse thereon all special assessment taxes or installments of special assessment taxes as the same become delinquent after the issuance of a TSC. These endorsements must be made by the county treasurer up to the time that said TSCs are turned over to the County Attorney for foreclosure as provided under Nebraska law. As a result, the properties which remain unsold for want of bidders

frequently become burdened with multiple years' worth of taxes or special assessments. It is often the case that properties which remain unsold for want of bidders in the first instance do so because of characteristics which may render the properties unappealing to outside investors, such as being vacant, abandoned, and tax-delinquent; so the addition of more years' taxes or special assessments further decreases the likelihood of an outside investor purchasing the property by paying the delinquent taxes or special assessments.

WHEREAS the Legislature has directed that after any parcel of real estate has been offered for sale and not sold for want of bidders, county boards shall make and enter orders to county attorneys directing them to foreclose the liens for all taxes then delinquent (excluding any liens on real estate for special assessments levied by any sanitary and improvement district which special assessments have not been previously offered for sale by the county treasurer). The Legislature directed that the foreclosure of these liens proceed in the same manner and with like effect as in the foreclosure of real estate mortgages, except as otherwise specifically provided by sections Neb.Rev.Stat. §§ 77-1903 through 77-1917. Accordingly, DOUGLAS COUNTY forecloses liens for delinquent taxes in the same manner and with like effect as in the foreclosure of real estate mortgages, except as otherwise specifically provided by sections Neb.Rev.Stat. §§ 77-1903 through 77-1917, yet frequently does so upon properties that are vacant, abandoned, or burdened with multiple years' worth of taxes or special assessments.

WHEREAS traditional revenue and taxation laws did not address the cycle of taxation and foreclosure that many of these vacant, abandoned, or tax-delinquent properties may fall into.

WHEREAS, the Legislature has expressly found that land banks such as OMLB are one of the tools that can be utilized by municipalities to facilitate the return of vacant, abandoned, and tax-delinquent properties to productive use. Land banks such as OMLB may break the cycle of taxation and foreclosure that many vacant, abandoned, or tax-delinquent properties fall into. The Legislature has also found that Nebraska's municipalities are important to the social and economic vitality of the state, yet many municipalities are struggling to cope with vacant, abandoned, and tax-delinquent properties. The Legislature further found that vacant, abandoned, and tax-delinquent properties represent lost revenue to municipalities and large costs associated with

demolition, safety hazards, and the deterioration of neighborhoods; and that there is an overriding public need to confront the problems caused by vacant, abandoned, and tax-delinquent properties through the creation of new tools for municipalities to use to turn vacant spaces into vibrant places;

WHEREAS, DOUGLAS COUNTY and OMLB desire to see vacant, abandoned, and tax-delinquent properties return to being vibrant places. By enacting Neb.Rev.Stat. §§ 19-5201 through 19-5218, the Legislature granted OMLB greater flexibility and creativity in seeking the return of vacant, abandoned, and tax-delinquent properties to vibrancy than traditional revenue and taxation laws granted Nebraska counties;

WHEREAS, it is in the best interests of and mutually advantageous to the Parties to cooperate in the collection of delinquent taxes through court proceedings in relation to TSCs held by DOUGLAS COUNTY upon vacant, abandoned, and tax-delinquent properties because doing so makes the most efficient use of their powers on the basis of mutual advantage and better positions OMLB to discharge its purpose of facilitating the return of vacant, abandoned, and tax-delinquent properties to vibrancy and productive use;

WHEREAS, the Interlocal Cooperation Act of the State of Nebraska, §§ 13-801 *et seq.* (Reissue 2012), expressly enables local governmental units such as DOUGLAS COUNTY and OMLB to conduct a cooperative undertaking in order to make the most efficient use of their powers on the basis of mutual advantage by providing for joint undertakings, services and facilities, in a manner and pursuant to forms of governmental organization that will accord with best geographic, economic, population, and other factors influencing the needs and developments of local communities.

WHEREAS, Cooperation between DOUGLAS COUNTY and OMLB in the collection of delinquent taxes through court proceedings will enable the Parties to make the most efficient and economic use of their respective powers by avoiding possible duplication of proceedings and will accord OMLB an earlier opportunity to begin taking measures to return vacant, abandoned, and tax-delinquent properties to vibrancy and productive use by enabling OMLB to identify these properties at an earlier stage than the current collection system permits;

WHEREAS, it is necessary for the Parties to enter into an agreement to set forth their respective rights, duties and obligations; and this Agreement is intended to provide the methodology for the Parties' cooperation in the collection of delinquent taxes through court proceedings in relation to TSCs held by DOUGLAS COUNTY upon vacant, abandoned, and tax-delinquent properties;

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS HEREIN CONTAINED, THE PARTIES DO HEREBY MUTUALLY UNDERTAKE, PROMISE, AGREE AS FOLLOWS:

1. Purpose: The purpose of this Agreement is to delineate the cooperative undertaking between DOUGLAS COUNTY and OMLB that is intended to collect delinquent taxes through court proceedings pursuant to Neb.Rev.Stat. §§ 77-1901, *et seq.* in relation to those properties described in TSCs held by DOUGLAS COUNTY.
2. The Parties' Obligations: DOUGLAS COUNTY shall continue to conduct the sale of properties for which real estate taxes are delinquent. DOUGLAS COUNTY shall also continue to purchase any property offered for sale which remains unsold for want of bidders, to the extent it is required or allowed to do so by Nebraska law, as may be amended from time to time. For those properties DOUGLAS COUNTY purchases for want of bidders following the sale process, DOUGLAS COUNTY shall continue to accept from the County Treasurer TSCs in the name of DOUGLAS COUNTY. DOUGLAS COUNTY shall also continue to have real estate taxes as the same become delinquent after the issuance of said TSCs endorsed upon TSCs issued in the name of DOUGLAS COUNTY, along with all special assessment taxes or installments of special assessment taxes as these become delinquent after the issuance of a TSC. DOUGLAS COUNTY shall ensure that these endorsements are made by the county treasurer up to the time that OMLB assumes responsibility for foreclosing liens for delinquent taxes in the same manner and with like effect as in the foreclosure of real estate mortgages (except as otherwise specifically provided by sections Neb.Rev.Stat. §§ 77-1903 through 77-1917) on behalf of DOUGLAS COUNTY.

OMLB shall foreclose upon the liens memorialized in the TSCs issued in the name of DOUGLAS COUNTY in the same manner and with like effect as in the foreclosure of real estate mortgages, except as otherwise specifically provided by sections Neb.Rev.Stat. §§ 77-1903 through 77-1917. OMLB will undertake the foreclosure process for TSCs held by DOUGLAS COUNTY and at the conclusion of judicial foreclosure proceedings OMLB shall conduct the sale of the property pursuant to Neb.Rev.Stat. §§ 77-1901, *et seq.* The Parties acknowledge and agree that all activity and action needed to draft, file, process and complete the foreclosure actions for the TSCs will be undertaken by the OMLB and from time to time the OMLB will require additional information or assistance from DOUGLAS COUNTY regarding certain TSCs. DOUGLAS COUNTY agrees to provide any and all documents, information and assistance to the OMLB that may be reasonably necessary for the OMLB to fulfill its obligations under this Agreement

3. Financing: This Agreement does not require the levying, collecting, or accounting of any additional tax authorized under sections 13-318 to 13-326 or 13-2813 to 13-2816. Each Party shall finance its performance of its obligations in the ordinary course of its respective business and no separate budget shall be prepared with respect to the cooperative undertaking described herein.
4. Administration: This Agreement does not establish a separate legal entity. The Executive Director of OMLB shall serve as the administrator of the Parties' cooperative undertaking and DOUGLAS COUNTY shall ensure that the Executive Director of OMLB is provided the information necessary to collect delinquent taxes through court proceedings pursuant to Neb.Rev.Stat. §§ 77-1901, *et seq.* and Neb.Rev.Stat § 19-5216(2) in relation to those properties described in TSCs held by DOUGLAS COUNTY. DOUGLAS COUNTY shall do so by providing the Executive Director of OMLB by November 1st of each year a list of TSCs issued in the name of DOUGLAS COUNTY. OMLB shall refer to this list when collecting delinquent taxes through court proceedings pursuant to Neb.Rev.Stat. §§ 77-1901, *et seq.* in relation to those properties described in TSCs held by DOUGLAS COUNTY.
5. Property: The cooperative undertaking shall not require the acquisition of real or personal property separate and apart from real and personal property DOUGLAS COUNTY and OMLB

currently utilize in conducting their respective day-to-day operations. As a result, any property a Party purchases, whether used in connection with this cooperative undertaking or not, shall be and remain the property of the purchasing Party throughout the duration of this Agreement and upon termination of this Agreement.

6. Term and Termination: This Agreement shall become effective upon Dec. 20, 2016. This Agreement will terminate on Nov. 30, 2026. Prior to the natural expiration of this Agreement, any Party may give the other Party thirty (30) days written notice of the notifying Party's desire to renegotiate this Agreement. During the pendency of these negotiations, this Agreement will remain in full force and effect.

A Party may terminate this Agreement for convenience at any time for any reason by giving the other Parties one (1) year's written notice. Each Party shall be responsible for performing its obligations as set forth above until the effective date of the termination.

This Agreement may also be terminated for a material breach not cured within a reasonable time following written notice to the Party committing the material breach. Such notice, to be effective must describe the breach or breaches complained of and provide a reasonable time to cure which time may not be less than forty-five (45) days following receipt of notice, unless such length of time is impracticable (for example, in the case of a breach relating to performance of a duty for which Nebraska statutes proscribe specific dates or timeframes for performance), in which case such time may be 7 (seven) days. Following a failure to cure, the breaching Party may notify the other Party in writing that the Agreement is terminated as to the breaching Party effective in one (1) year following the receipt of such notice. Each Party shall be liable for performance of its obligations as set forth above until the effective date of the termination.

7. Amendment: The Parties herein reserve the right, by written request sent by registered mail from the notifying Party to the other Party, to amend as provided herein any provision of this Agreement. To be effective, all amendments hereto must be in writing and must be executed by an authorized representative of each Party. If on or after one hundred and eighty (180) days of such amendment notice, amendment negotiations fail, then a Party may notify the other Party in writing of that Party's intent to withdraw and that the notifying Party's

participation in this Agreement is terminated following 180 days after the withdrawal notice.

All such notices, provided for in this section, shall be sent by registered mail as follows:

TO DOUGLAS COUNTY

Foreclosure Specialist
Douglas County Attorney's Office – Civil Division
Room 909 Civic Center
Omaha, NE 68183
(402) 444-7622

TO OMLB

Chairperson, Board of Directors
Omaha Municipal Land Bank
1299 Farnam Street, Suite 300
Omaha NE 68102
402-401-2726

8. Nondiscrimination: The Parties, in the performance of this Agreement, shall not discriminate in violation of Federal or State law or local ordinances. In accordance with state and federal law, the Parties shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to hire, tenure, terms, conditions, or privileges of employment because of race, color, age, religion, sex, disability, national origin or similar protected status of the employee or applicant.
9. No Waiver: The failure of either Party to insist on strict performance of any covenants or conditions, or to exercise any option herein conferred on any one or more instances, shall not be construed as a waiver or relinquishment of any such covenant, condition, right, or option, but the same shall remain in full force and effect. For a waiver of a right or power to be effective, it must be in writing signed by the waiving Party. An effective waiver of a right or power shall not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power. In addition, any act by any Party which is it not obligated to do hereunder shall not be deemed to impose any obligation upon any Party to do any similar act in the future or in any way change or alter any of the provisions of this Agreement.

10. Applicable Law / Venue: This Agreement shall be construed and all of the rights, powers, and liabilities of the Parties hereunder shall be determined in accordance with the laws of the State of Nebraska. Venue for any action under this Agreement shall be in Omaha, Nebraska, Douglas County District Court or for any federal action, it shall be in Omaha, Nebraska, the United States District Court for the State of Nebraska.
11. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, that provision will be severed and the remainder of this Agreement will remain in full force and effect. The Parties further recognize that this Agreement shall be subject to amendments in laws and regulations and to new laws and regulations. Any law or regulation that invalidates, or is otherwise inconsistent with the terms of this Agreement or that would cause one or both Parties to be in violation of the law or regulation, shall be deemed to have superseded the terms of this Agreement, provided, however, that the Parties shall exercise their best efforts to accommodate the terms and intent of this Agreement to the greatest extent possible. Any law or regulation that supplements the abilities of either Party to perform its obligations under this Agreement shall be deemed incorporated within this Agreement if such incorporation may be accomplished without amendment to this Agreement.
12. Third Party Rights: This Agreement does not create any third-party rights for those who are not a Party to this Agreement.
13. Assignment: This Agreement may not be assigned or transferred, whether voluntarily or by operation of law, nor may any of the duties and responsibilities be assigned or transferred, whether voluntarily or by operation of law, without prior written consent of the non-assigning Party.
14. Entire Agreement: This Agreement contains the whole understanding of the Parties and supersedes all prior oral or written representations and statements among the Parties.

15. Indemnification: Each Party will indemnify, defend and hold harmless the other Party from any and all liability, expense, cost, attorney's fees, claim, judgment, suit and / or cause of action (whether or not meritorious), settlement, or demand for personal injury, death or damage to tangible property which may accrue against the other Party to the extent it is caused by the negligent acts or omissions of the Indemnifying Party, its officers, employees, agents, or subcontractors while performing their duties under this Agreement, provided that the other Party gives the Indemnifying Party prompt, written notice of any such claim, suit, demand or cause of action. The other Party shall cooperate in the defense or settlement negotiation of such claim, suit, demand or cause of action. This indemnification provision is not the equivalent of purchasing liability insurance and it is not intended to be a waiver of either Party's sovereign immunity under Nebraska law.

16. No Joint Entity: It is agreed that nothing contained herein is intended or should be construed in any manner as creating or establishing a partnership or joint venture between the Parties. Any and all acts that the Parties or their personnel, employees, agents, contractors, or servants perform pursuant to the terms of this Agreement shall be undertaken not as employees of the other Party. The Parties shall, except as provided herein, act in their individual capacities and not as agents, employees, partners, joint ventures or associates of the other. An employee or agent of one shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. None of the Parties nor its personnel, employees, agents, contractors, or servants shall be entitled to any benefits of the other. The Parties shall not provide any insurance coverage to the other or their employees including, but not limited to, workers' compensation insurance. Each Party shall pay all wages, salaries and other amounts due its employees and shall be responsible for all reports, obligations, and payments pertaining to social security taxation, income tax withholding, workers' compensation, unemployment compensation, group insurance coverage, collective bargaining agreements or any other such similar matters. Neither Party shall have any authority to bind the other by or with any contract or agreement, nor to impose any liability upon the other. All acts and contracts of each shall be in its own name and not in the name of the other.

17. New Employee Work Eligibility Status: The Parties hereby agree to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.
18. Captions. The captions used in this Agreement are for convenience and are not used in the construction of this Agreement.
19. Force Majeure. Except as may be otherwise specifically provided in this Agreement, no Party shall be in default under this Agreement if and to the extent that any failure or delay in such Party's performance of one or more of its obligations hereunder is caused by any of the following conditions, and such Party's performance of such obligation or obligations shall be excused and extended for and during the period of any such delay: act of God; fire; flood; fiber, cable, conduit or other material failures, shortages or unavailability or other delay in delivery not resulting from the responsible Party's failure to timely place orders therefore; lack of or delay in transportation; changes to any of the following: government codes, ordinances, laws, rules, regulations or restrictions, as to which either Party's compliance is necessary to carry out the terms and conditions of this Agreement; war or civil disorder; or any other cause beyond the reasonable control of such Party. The Party claiming relief under this section shall promptly notify the other Parties in writing of the existence of the event relied on and the cessation or termination of said event.
20. Joint Work Product. This Agreement is the joint work product of both Parties; accordingly, in the event of any ambiguity, no presumption shall be imposed against or in favor of any Party by reason of document preparation.

21. Dispute Resolution. Any dispute which, in the judgment of a Party to this Agreement, may affect the performance of such Party shall be reduced to writing and delivered to the other Parties. As soon as possible thereafter, the Parties authorized representatives shall schedule a face to face meeting to resolve the dispute in a mutually satisfactory manner. Prior to the institution of any formal legal proceeding, the Parties must meet in this manner to resolve the dispute. This meeting must take place within ten (10) business days after service of the written statement of dispute. During the pendency of negotiations, the Parties shall act in good faith to perform their respective duties described herein. If the Parties are unable to resolve their dispute using the process described above, a Party may commence a legal action against the other Party.

22. Authorized Representatives and Notice. Except as provided in paragraph 7, above, the following named authorized representatives for each Party are available as a point of contact for any inquiries related to the performance of this Agreement. The Parties hereto expressly agree that for purposes of notice, during the term of this Agreement and thereafter, the following named individuals shall be the authorized points of contact of the Parties:

A. For DOUGLAS COUNTY:

Foreclosure Specialist
Douglas County Attorney's Office – Civil Division
Room 909 Civic Center
Omaha, NE 68183
402- 444-7622

B. For OMLB:

Chairperson, Board of Directors
Omaha Municipal Land Bank
1299 Farnam Street, Suite 300
Omaha NE 68102
402-401-2726

THE UNDERSIGNED HEREBY WARRANTS THAT SHE IS POSSESSED OF FULL AND ACTUAL AUTHORITY TO SIGN THIS AGREEMENT ON BEHALF OF THE COUNTY OF DOUGLAS, NEBRASKA.

Mary Ann Bergeson
CHAIRPERSON, DOUGLAS COUNTY
BOARD OF COMMISSIONERS

12-20-2016
Date

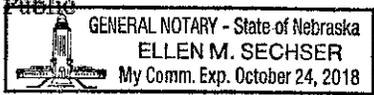
STATE OF NEBRASKA)
) ss:
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me on this 20th day of December 2016, by Mary Ann Bergeson, Chairperson of the Douglas County Board of Commissioners.

APPROVED AS TO FORM:

Theresa W. Heil
Deputy County Attorney

Ellen M. Sechser
Notary Public



THE UNDERSIGNED HEREBY WARRANTS THAT SHE IS POSSESSED OF FULL AND ACTUAL AUTHORITY TO SIGN THIS AGREEMENT ON BEHALF OF THE OMAHA MUNICIPAL LAND BANK.

Jami Berglund
CHAIRPERSON, OMAHA MUNICIPAL
LAND BANK BOARD OF DIRECTORS

11/9/2016
Date

STATE OF NEBRASKA)
) ss:
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me on this 9 day of November 2016, by Jami Berglund, Chairperson of the Omaha Municipal Land Bank Board of Directors.

Cheryl L. Lawson
Notary Public

