



# DeKalb County Government

Manuel J. Maloof Center  
1300 Commerce Drive  
Decatur, Georgia 30030

## Substitute Agenda Item

File ID: 2019-3907

Substitute

12/10/2019

Public Hearing: YES ☐ NO ☒

Department: Community Development

### **SUBJECT:**

Commission District(s): Serves All

Local Government Agreement to Re-Establish the DeKalb Regional Land Bank Authority

Information Contact: Allen Mitchell, Director

Phone Number: 404-371-2727

### **PURPOSE:**

To consider approving the attached standard intergovernmental agreement to re-establish the DeKalb Regional Land Bank Authority pursuant to the Official Code of Georgia Annotated section 48-4-60 et seq., with the City of Lithonia, contingent upon the City of Lithonia's governing authority to participate, and authorizing the Chief Executive Officer to execute all necessary documents.

### **NEED/IMPACT:**

DeKalb County in 2010 engaged in a comprehensive study on workforce housing. That report produced a major recommendation to establish a land bank in DeKalb County because at the time DeKalb County suffered a fallout of the housing crises, with a large stock of vacant, abandoned and derelict properties. Such properties present a public safety issue as it attracts crime and vandalism, brings nearby property values down and leads to further blight and unnecessary loss of otherwise decent, affordable housing. A DeKalb Regional Land Bank was established in 2011; however, became defunct after the City of Decatur pulled out. There is still a need to mitigate blighted properties and bring vacant properties back onto the tax roll.

Local Jurisdictions in Georgia are authorized to establish land banks pursuant to the Official Code of Georgia Annotated section 48-4-60 et seq. Local jurisdictions establish land banks by adopting an intergovernmental agreement between the County and at least one municipality.

All municipalities within DeKalb County are welcome to join.

### **FISCAL IMPACT:**

No cost to the County for Memorandum of Understanding.

### **RECOMMENDATION:**

To approve the attached standard intergovernmental agreement to re-establish the DeKalb Regional Land Bank pursuant to the Official Code of Georgia Annotated section 48-4-60 et seq., with the City of Lithonia contingent upon the City of Lithonia's governing authority's approval to participate and authorizing the Chief Executive Officer to execute all necessary documents.

## **INTERGOVERNMENTAL CONTRACT**

BETWEEN

**DEKALB COUNTY**

AND

**CITY OF LITHONIA**

CREATING THE

**DEKALB REGIONAL LAND BANK AUTHORITY**

(a Georgia public body corporate and politic)

### **PREAMBLE**

This Intergovernmental Contract is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2019 (“**Contract**”) under Article IX, Section III, Paragraph I of the Constitution of the State of Georgia, and Sections 36-34-2(5) and 48-4-100 *et seq.* of the Official Code of Georgia Annotated, between DeKalb County and the City of Lithonia (herein collectively referred to as the “**Parties**”) for the purpose of establishing and adding to the members of the DeKalb Regional Land Bank Authority, a separate legal entity and public body corporate to administer and implement the purposes and objectives of this Contract.

### **RECITALS**

WHEREAS, in enacting Section 48-4-100*et seq.* of the Official Code of Georgia Annotated (hereinafter the “**Land Bank Act**”), the Georgia General Assembly found that there exists in the State of Georgia a continuing need to strengthen and revitalize the economy of the State of Georgia and the local units of government in this State to assemble or dispose of public property, including dilapidated, abandoned and tax delinquent property, in a coordinated manner to foster the development of that property and to promote economic growth in the State of Georgia;

WHEREAS, the Land Bank Act permits any county or counties and at least one city located in each participating county to enter into an intergovernmental contract establishing a land bank, the purpose of which would be to acquire tax delinquent and other properties in order to foster the public purpose of returning property which is nonrevenue generating and nontax producing to an effective utilization status in order to provide housing, new industry and jobs for the citizens of the State of Georgia;

WHEREAS, the Parties herein agree that the establishment of a land bank as composed

herein would be beneficial to the citizens and the Parties;

WHEREAS, the authority for the Parties to enter into this Contract is Article IX, Section III, Paragraph I of the Constitution of the State of Georgia, which authorizes intergovernmental contracts for up to fifty (50) years for the provision of services or uses of property not otherwise prohibited by law, and the provisions of the Land Bank Act; and

WHEREAS, the Parties want to create the DeKalb Regional Land Bank Authority as a public body corporate and politic within the State of Georgia to exercise the powers, duties, functions, and responsibilities of a land bank under the Land Bank Act.

Accordingly, the Parties agree to the following:

## **ARTICLE I** **DEFINITIONS**

As used in this Contract the following terms shall have the meanings provided in this Article.

**Section 1.01. “Board of Directors” or “Board”** means the Board of Directors of the Land Bank Authority.

**Section 1.02. “City Properties”** means Real Property located within the boundaries of any city that is, or subsequent to the Effective Date becomes, a Party to this Contract.

**Section 1.03. “Contract”** means this intergovernmental contract between the Parties.

**Section 1.04. “County Properties”** means Real Property located within DeKalb County but outside the boundaries of any city that is, or subsequent to the Effective Date becomes, a Party to this Contract.

**Section 1.05. “DeKalb County Board Member”** means a then acting member of the Board of Directors who was appointed by the governing authority of DeKalb County.

**Section 1.06. “Effective Date”** means the date upon which all of the following are satisfied:

(a) the Contract is approved by official action of the governing authority of DeKalb County; and

(b) the Contract is approved by official action of the governing authority of the City of Lithonia.

**Section 1.07. “Fiscal Year”** means the fiscal year of the Land Bank, which shall begin on January 1<sup>st</sup> of each year and end on the following December 31<sup>st</sup>.

**Section 1.08. "Land Bank Act"** means Section 48-4-100 *et seq.* of the Official Code of Georgia Annotated as it exists on the Effective Date, and as it may be hereafter amended or replaced, subject to the provisions of Section 10.11 of this Contract.

**Section 1.09. "Land Bank"** means the public body corporate and politic established pursuant to and in accordance with the provisions of this Contract and known as the DeKalb Regional Land Bank Authority.

**Section 1.10. "Party" or "Parties"** means either individually or collectively, as applicable, DeKalb County and/or the City of Lithonia, as each is a signatory to this Contract, and any other city, county or consolidated government that becomes a Party to this Contract after the Effective Date.

**Section 1.11. "Person"** means an individual, authority, limited liability company, partnership, firm, corporation, organization, association, joint venture, trust, governmental entity or other legal entity.

**Section 1.12. "Quorum"** means:

(i) With respect to administrative action, the presence of the greater of a simple majority of the entire Board membership;

(ii) With respect to action concerning County Properties, the presence of three (3) Members of the Board, two (2) representing DeKalb County and one (1) representing any city that is, or subsequent to the Effective Date becomes, a Party to this Contract. No action may be taken by the Land Bank concerning a property located within DeKalb County but outside the boundaries of any city that is, or subsequent to the Effective Date becomes, a Party to this Contract unless the action is approved by two (2) Members of the Board representing DeKalb County;

(iii) With respect to action concerning City Properties, the presence of three (3) Members of the Board including one (1) representing the city within which the subject City Property is located and one (1) representing DeKalb County;

The presence of School District Advisors is not required for establishing a quorum; however, the applicable Board of Education's consent must be obtained in order to extinguish school district taxes on Real Property of the Land Bank in accordance with Section 6.02 of this Contract and the Land Bank Act.

**Section 1.13. "Real Property"** means all lands and the buildings thereon, all things permanently attached to land or to the buildings thereon, and any interest existing in, issuing out of, or dependent upon land or the buildings thereon.

**Section 1.14. "School District Advisor"** means any non-voting representative to the Board appointed by the Board of Education of a school district for purposes of deliberation and providing or declining the required school district consent for the extinguishment of school district taxes on Real Property of the Land Bank in accordance with Section 6.02 of this Contract and the

Land Bank Act.

**Section 1.15. “State”** means the State of Georgia.

## **ARTICLE II**

### **PURPOSE**

**Section 2.01.Purpose.**The purpose of this Contract is to create and empower the Land Bank to exercise the powers, duties, functions and responsibilities of a land bank under the Land Bank Act.

**Section 2.02.Programs and Functions.** The Land Bank shall endeavor to carry out the powers, duties, functions and responsibilities of a land bank under the Land Bank Act consistent with this Contract, including, but not limited to, the power, privilege and authority to acquire, manage and dispose of interests in Real Property, and to do all other things necessary or convenient to implement the purposes, objectives and provisions of the Land Bank Act and the purposes, objectives and powers delegated to a land bank under other laws or executive orders.

## **ARTICLE III**

### **CREATION OF LAND BANK**

**Section 3.01.Creation and Legal Status of Land Bank.** The Land Bank is established as a separate legal entity and public body corporate, to be known as the “DeKalb Regional Land Bank Authority,” for the purposes of acting as a land bank under the Land Bank Act and implementing and administering this Contract.

**Section 3.02.By-Laws, and Policies and Procedures.** The Board shall adopt by-laws consistent with the provisions of this Contract and the Land Bank Act within thirty (30) days after the Board is appointed. The Board shall adopt policies and procedures consistent with the provisions of this Contract and the Land Bank Act within ninety (90) days after the Board is appointed.

**Section 3.03. Principal Office.** The principal office of the Land Bank shall be at a location within the geographical boundaries of DeKalb County, as determined by the Board.

**Section 3.04.Title to Land Bank Assets.** Except as otherwise provided in this Contract, the Land Bank shall have title to all of its Real Property and no Party shall have an ownership interest in Real Property owned by the Land Bank.

**Section 3.05.Tax-Exempt Status.** The Parties intend the activities of the Land Bank to be governmental functions carried out by an instrumentality or political subdivision of the State as described in Section 115 of Title 26 of the United States Internal Revenue Code, or any corresponding provisions of any future tax code. The Parties also intend the activities of the Land Bank to be governmental functions carried out by a political subdivision of this State, exempt to

the extent provided under Georgia law from taxation by this State, including, but not limited to, ad valorem property tax exemption pursuant to Section 48-5-41 of the Official Code of Georgia Annotated or corresponding provisions of future State tax laws.

**Section 3.06. Waiver of Special Assessments.** Upon the request of the Land Bank and for the purposes of fostering the goals and objectives of the Land Bank, any Party, at its option and in its discretion, may extinguish special assessments levied by the Party prior to the date of acquisition by the Land Bank against Real Property owned by the Land Bank, and may exempt Real Property owned by the Land Bank from the imposition of special assessments.

**Section 3.07. Compliance with Law.** The Land Bank shall comply with all federal and state laws, rules, regulations and orders applicable to this Contract.

**Section 3.08. Relationship of Parties.** The Parties agree that no Party shall be responsible, in whole or in part, for the acts of the employees, agents, and servants of any other Party or of the Land Bank, whether acting separately or in conjunction with the implementation of this Contract. The Parties shall only be bound and obligated under this Contract as expressly agreed to by each Party. The Land Bank shall not obligate any Party nor shall any obligation of the Land Bank constitute an obligation of any Party.

**Section 3.09. No Third-Party Beneficiaries.** Except as otherwise specifically provided, this Contract does not create in any Person, other than a Party, and is not intended to create by implication or otherwise, any direct or indirect benefit, obligation, duty, promise, right to be indemnified (such as contractually, legally, equitably or by implication), right to be subrogated to any Party's rights under this Contract, or any other right or benefit.

**Section 3.10. Additional Parties to Contract.** At any time subsequent to the Effective Date, in accordance with the Land Bank Act, an additional city located in whole or in part within DeKalb County, or a consolidated government, or an additional county and at least one city located in that additional county may become a Party to this Contract by completing the following requirements:

(a) unanimous approval of the Board as it exists before the addition of the applicable city, county or consolidated government, and execution by the Board chairperson of the signature page attached hereto as Appendix II;

(b) adoption of a local law, ordinance or resolution as appropriate to the applicable city, county or consolidated government;

(c) execution by the authorized representatives of the existing cities, county and/or consolidated government of the signature page attached hereto as Appendix I;

(d) execution by both (A) the applicable city, county or consolidated government and (B) the Board of an amendment to this Contract (a "**Contract Amendment**") with such Contract Amendment to incorporate matters reflecting the terms and responsibilities associated with such city's; county's or consolidated government's joining the Land Bank.

**ARTICLE IV**  
**BOARD, EXECUTIVE DIRECTOR AND STAFF**

**Section 4.01.Board Composition; Member Qualifications.** The Land Bank shall be governed by a Board of Directors that shall be appointed within ninety (90) calendar days of the Effective Date. Each member shall serve at the pleasure of the appointing Party and shall serve without compensation. The members shall be residents of their respective appointing Parties and may be employees of one of the Parties. In addition, all members appointed to the Board shall be persons who have demonstrated special interest, experience or education in urban planning, real estate, community development, finance or related areas. The Board shall consist of the following members:

(a) Four (4) member(s) appointed by the governing authority of DeKalb County for an initial term of two years;

(b) One (1) member appointed by the Mayor of the City of Lithonia for an initial term of four years; and

(c) One (1) member appointed by the Mayor of any City that becomes a Party to this Contract after the Effective Date according to the provisions of Section 3.10 for an initial term of four years; provided that the governing authority of DeKalb County shall also appoint one (1) additional member for an initial term of four years. For purposes of clarification, and to avoid confusion, this Section 4.01(c) is intended to provide that DeKalb County shall always maintain a voting majority on the Board.

When identifying individuals for appointment to the Board (a “**New Appointment**”), DeKalb County and each City which is a Party to this Contract shall attempt to avoid appointing individuals with skill sets that are duplicative of the skill sets possessed by the individuals already serving on the Board at the time that such New Appointment is to be made.

**Section 4.02.Term of Office.** Except as otherwise provided in this section, the members of the Board appointed under Section 4.01 shall be appointed for staggered terms. The initial term of the members appointed by the governing authority of DeKalb County shall be for two (2) years and subsequent terms of the members appointed by the governing authority of DeKalb County shall be for four (4) years. The initial term and subsequent term of the members appointed by the Mayor of the City of Lithonia shall be for four (4) years. All subsequent board appointments shall be for terms of either two or four years as necessary to ensure staggered terms of office. The first term of the initial Board members shall commence on the date of the first Board meeting. Each Board member at the election of his or her appointing Party may serve an unlimited number of terms. In the event State law is amended to provide for different terms or composition of the Board, then the Board as it exists at the time of such amendment shall be authorized to take any action required such that the Board complies with any requirements of State law.

**Section 4.03.Removal.** Board members serve at the pleasure of their appointing Party and may be removed by the appointing Party at any time with or without cause, or may be removed

pursuant to any other provision of Georgia law.

**Section 4.04.Vacancies.** A vacancy among the members of the Board appointed under Section 4.01, whether caused by the death, resignation, or removal of a Board member, shall be filled in the same manner as the original appointment for the balance of the unexpired term. Such vacancy shall be filled as soon as practicable.

**Section 4.05.Participation by School Districts.** Each school district containing within its geographical boundaries Real Property owned by the Land Bank shall be given advance notice of each Board meeting and may designate a School District Advisor to the Board.

**Section 4.06.Meetings.** The Board shall conduct its first meeting no later than thirty (30) calendar days after the Board is appointed. The Board shall meet at least annually and hold such other meetings at the place, date and time as the Board shall determine. All meetings of the Board shall comply with the provisions of Sections 50-14-1 *et seq.* of the Official Code of Georgia Annotated, including, but not limited to, the provisions requiring public notice of the time, place, and date of the meetings.

**Section 4.07.Records of Meetings.** The Board shall maintain a written record of each meeting. Meeting summaries and minutes shall be kept in accordance with Sections 50-14-1 *et seq.* and 50-18-70 *et seq.* of the Official Code of Georgia Annotated.

**Section 4.08.Quorum and Voting.** Presence for both quorum and voting at a Board meeting may include electronic communication by which such member of the Board is both seen and heard by the members of the Board and any members of the public at the meeting. After a quorum is established, all actions of the Board shall be approved by the affirmative vote of a majority of the members of the Board present and voting; provided, however, that no action of the Board shall be authorized on the following matters unless approved by a majority of the entire Board membership (with such vote constituting "a majority of the entire Board membership" to include the affirmative vote of a DeKalb County Board Member):

(a) Hiring or firing of any employee or contractor of the Land Bank. Such function may, by a majority vote of the total Board membership (with such vote constituting "a majority of the entire Board membership" to include the affirmative vote of a DeKalb County Board Member), be delegated to a specific officer or committee of the Land Bank, under such terms and conditions and to the extent that the Board may specify;

(b) The incurring of debt; and

(c) Adoption or amendment of the annual budget.

**Section 4.09.Board Responsibilities.** The Board shall have all powers necessary to carry out and effectuate the purposes and provisions of this Contract and the Land Bank Act, including, but not limited to, the powers set forth in Sections 48-4-106 and 48-4-112 of the Land Bank Act.

**Section 4.10.Fiduciary Duty.** The members of the Board are under a fiduciary duty to



conduct the activities and affairs of the Land Bank in the best interests of the Land Bank, including the safekeeping and use of all Land Bank monies and assets. The members of the Board shall discharge their duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

**Section 4.11.Compensation.** The members of the Board shall receive no compensation for the performance of their duties. A Board member may engage in private or public employment, or in a profession or business, except to the extent prohibited by Georgia law. The Land Bank may reimburse members of the Board for actual and necessary expenses incurred in the discharge of their official duties on behalf of the Land Bank.

**Section 4.12. Executive Director.** The Board may select and retain an executive director. An executive director selected and retained by the Board shall administer the Land Bank in accordance with the operating budget adopted by the Board, general policy guidelines established by the Board, other applicable governmental procedures and policies and this Contract. The executive director shall be responsible for the day-to-day operations of the Land Bank, the control, management, and oversight of the Land Bank's functions, and supervision of all Land Bank employees. All terms and conditions of the executive director's length of service shall be specified in a written contract between the executive director and the Board, provided that the executive director shall serve at the pleasure of the Board. The Board may delegate to the executive director any powers or duties it considers proper, under such terms, conditions and to the extent that the Board may specify.

**Section 4.13.Employees.** The Land Bank may employ or otherwise contract for the services of any staff deemed necessary to carry out the duties and responsibilities of the Land Bank. Such staff may be employed as employees of the Land Bank, or the services of such staff may be retained pursuant to contracts with any Party or other public entities.

**Section 4.14.Expertise of Land Bank Staff.** The staff of the Land Bank shall be persons who have demonstrated special interest, experience or education in urban planning, community development, real estate, law, finance or related areas.

**Section 4.15.Ethics.** The Board shall adopt ethics policies governing the conduct of Board members, officers, appointees, employees and independent contractors. The policies shall be no less stringent than those provided for public officers and employees under Section 45-10-1 *et seq.* of the Official Code of Georgia Annotated. In addition, members of the Board shall be subject to any ethics code otherwise applicable to appointees of each Party, such as Section 22A of the Organizational Act of DeKalb County, or the Charter and Ordinances of the City of Lithonia, as applicable.

**Section 4.16.Conflicts of Interest.** Members of the Board and officers, appointees, employees and independent contractors of the Land Bank shall be deemed to be public officials for the purposes of Section 45-10-20 *et seq.* of the Official Code of Georgia Annotated, or corresponding provisions of future State conflicts of interest law, and are subject to any other applicable law with respect to conflicts of interest. The Land Bank shall establish policies and procedures requiring the disclosure of relationships that may give rise to a conflict of interest. The

Board shall require that any member of the Board with a direct or indirect interest in any matter before the Board disclose the member's interest to the Board before the Board takes any action on the matter.

## **ARTICLE V**

### **GENERAL POWERS OF LAND BANK**

**Section 5.01. General Powers Under Land Bank Act.** The Land Bank may exercise all of the powers, duties, functions and responsibilities of a land bank under the Land Bank Act to the extent authorized by the Land Bank Act and any other Georgia law.

**Section 5.02. Tax Limitation.** The Land Bank shall not levy any type of tax or special assessment.

**Section 5.03. Eminent Domain Prohibited.** The Land Bank shall neither possess nor exercise the power of eminent domain.

**Section 5.04. Limitation on Political Activities.** The Land Bank shall not spend any public funds on political activities. Subject to the foregoing, this section is not intended to prohibit the Land Bank from engaging in activities authorized by applicable law.

**Section 5.05. No Waiver of Governmental Immunity.** The Parties agree that no provision of the Contract is intended, nor shall it be construed, as a waiver by any Party of any sovereign or governmental immunity applicable to the Parties.

**Section 5.06. Non-Discrimination.** The Land Bank shall comply with all applicable laws and policies prohibiting discrimination.

(a) The Land Bank shall not provide services in a manner that discriminates against an individual because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, disability or genetic information.

(b) The Land Bank shall not fail or refuse to hire, recruit, promote, demote, discharge or otherwise discriminate against an individual with respect to employment, compensation, or a term, condition or privilege of employment because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, disability or genetic information.

## **ARTICLE VI**

### **SPECIFIC POWERS OF THE LAND BANK**

**Section 6.01. Acquisition of Real Property.** Except as otherwise provided in this Contract or under the Land Bank Act, the Land Bank may acquire, by gift, devise, transfer, exchange, foreclosure, purchase or otherwise, Real Property or personal property, or rights or interests in Real Property or personal property, on terms and conditions and in a manner the Board considers is in the best interest of the Land Bank. The Land Bank may purchase Real Property by purchase

contract, lease purchase contract or otherwise. The Land Bank may acquire Real Property or rights or interests in Real Property for any purpose the Land Bank considers necessary to carry out the purposes of the Land Bank Act.

**Section 6.02. Tax Delinquent Real Property.** Subject to the notice provided to school districts pursuant to Section 48-4-112(a) of the Land Bank Act, and by resolution of the Board subject to the requirements of Section 4.08 of this Contract, the Land Bank may discharge and extinguish Real Property tax liens and claims owed to one or more of the Parties that encumber Real Property owned by the Land Bank. The Land Bank may bid on and acquire title to Real Property in judicial and non-judicial tax enforcement proceedings in accordance with Section 48-4-112 of the Land Bank Act or such other general, special or local laws as may be applicable to the property tax enforcement procedures of the Parties. The Land Bank may negotiate the acquisition of tax executions in accordance with Section 48-4-112 of the Land Bank Act or such other general, special or local laws as may be applicable to the property tax enforcement procedures of the Parties. The Land Bank may foreclose the right of redemption on Real Property interests acquired through tax sale.

**Section 6.03. Quiet Title Actions.** The Land Bank may initiate a quiet title action to quiet title to interests in Land Bank Real Property.

**Section 6.04. Execution of Legal Documents Relating to Real Property.** All deeds, mortgages, contracts, leases, purchases or other contracts regarding Real Property of the Land Bank, including contracts to acquire or dispose of Real Property, shall be approved by the Board or by a Land Bank staff member authorized by the Board, and executed in the name of the Land Bank.

**Section 6.05. Holding and Managing Real Property.** The Land Bank may hold and own in its name any Real Property acquired by the Land Bank or conveyed to the Land Bank by the State, a Party to this Contract, a local unit of government, an intergovernmental entity created under the laws of the State, or any other public or private Person, including, but not limited to, Real Property with or without clear title. The Land Bank may, without the approval of a local unit of government in which Real Property held by the Land Bank is located, control, hold, manage, maintain, operate, repair, lease as lessor, secure, prevent the waste or deterioration of, demolish, and take all other actions necessary to preserve the value of the Real Property it holds or owns. The Land Bank shall maintain all Real Property held by the Land Bank in accordance with applicable laws and codes. Real Property held by the Land Bank shall be inventoried and appraised and classified by the Land Bank according to the title status of the Real Property and suitability for use. The inventory shall be maintained as a public record and shall be filed in the principal office of the Land Bank. The Land Bank may take or perform actions with respect to Real Property held or owned by the Land Bank, including, but not limited to, the following:

(a) grant or acquire a license, easement, or option with respect to Real Property as the Land Bank determines is reasonably necessary to achieve the purposes of this Contract and the Land Bank Act;

(b) fix, charge, and collect rents, fees, and charges for use of Land Bank Real Property

or for services provided by the Land Bank;

(c) pay any tax or special assessment due on Real Property acquired or owned by the Land Bank;

(d) take any action, provide any notice, or institute any proceeding required to clear or quiet title to Real Property held by the Land Bank in order to establish ownership by and vest title to Real Property in the Land Bank; and

(e) remediate environmental contamination on any Real Property held by the Land Bank.

**Section 6.06.Lawn Maintenance of Real Property Within a City.** Regarding any Real Property acquired by the Land Bank or conveyed to the Land Bank as contemplated by this Contract that is a City Property (as defined in Section 1.02 of this Contract), during the course of the Land Bank's ownership of such Real Property, the City (if such City is a Party to this Contract) within whose boundaries such Real Property lies shall be responsible for the maintenance of such Real Property specifically related to keeping the lawn free of debris, and such lawn and the trees and the shrubs on such Real property properly cut, pruned and trimmed.

**Section 6.07.Civil Action to Protect Land Bank Real Property.** The Land Bank may institute a civil action to prevent, restrain or enjoin the waste of or unlawful removal of any Real Property held by the Land Bank.

**Section 6.08.Environmental Contamination.** If the Land Bank has reason to believe that Real Property held by the Land Bank may be the site of environmental contamination, the Land Bank shall provide the Environmental Protection Division of the Georgia Department of Natural Resources with any information in the possession of the Land Bank that suggests that the Real Property may be the site of environmental contamination. The Land Bank shall cooperate with the Georgia Department of Natural Resources with regard to any request made or action taken by the Department of Natural Resources.

**Section 6.09.Transfer of Interests in Real Property by Land Bank.** On terms and conditions, in a manner, and for an amount of consideration the Land Bank considers proper, fair and reasonable, including for no monetary consideration, the Land Bank may convey, sell, transfer, exchange, lease as lessor, mortgage as mortgagor or otherwise dispose of Real Property or rights or interests in Real Property in which the Land Bank holds a legal interest to any public or private Person.

**Section 6.10.Criteria for Conveyance.** Land Bank Real Property shall be conveyed in accordance with the Land Bank Act and according to criteria determined in the discretion of the Board and contained in the policies and procedures adopted by the Board. The Board may adopt policies and procedures that set forth priorities for a transferee's use of Real Property conveyed by the Land Bank, including, but not limited to, affordable housing.

**Section 6.11.Structure of Conveyances.** Transactions shall be structured in a manner that

permits the Land Bank to enforce contractual agreements, real covenants and the provisions of any subordinate financing held by the Land Bank pertaining to development and use of the Real Property.

**Section 6.12.Disposition of Proceeds.** Any proceeds from the sale or transfer of Real Property by the Land Bank shall be retained, expended, or transferred by the Land Bank as determined by the Board in the best interests of the Land Bank and in accordance with the Land Bank Act.

## **ARTICLE VII**

### **BOOKS, RECORDS, AND FINANCES**

**Section 7.01.Land Bank Records.** The Land Bank shall keep and maintain at the principal office of the Land Bank all documents and records of the Land Bank. The records of the Land Bank, which shall be available to the Parties, shall include, but not be limited to, a copy of this Contract along with any amendments to the Contract. The records and documents shall be maintained until the termination of this Contract and shall be delivered to any successor entity.

**Section 7.02.Financial Statements and Reports.** The Land Bank shall cause to be prepared, at the Land Bank's expense, audited financial statements (balance sheet, statement of revenue and expense, statement of cash flows and changes in fund balance) on an annual basis. Such financial statements shall be prepared in accordance with generally accepted accounting principles and accompanied by a written opinion of an independent certified public accounting firm.

**Section 7.03.Annual Budget.** The executive director, or other individual designated by the Board, shall prepare annually a budget for the Land Bank. The Board shall review and approve a budget for the Land Bank immediately preceding each Fiscal Year.

**Section 7.04.Deposits and Investments.** The Land Bank shall deposit and invest funds of the Land Bank, not otherwise employed in carrying out the purposes of the Land Bank, in accordance with an investment policy established by the Board consistent with laws and regulations regarding investment of public funds.

**Section 7.05.Disbursements.** Disbursements of funds shall be in accordance with guidelines established by the Board.

**Section 7.06.Performance Objectives.** Each Fiscal Year, the executive director, or other individual designated by the Board, shall prepare, for review and approval by the Board, objectives for the Land Bank's performance.

## **ARTICLE VIII**

### **FUNDING AND EXPENDITURES AND IN-KIND CONTRIBUTIONS**

**Section 8.01.Budget Contributions.** While under no obligation, the Parties may

contribute to the annual Land Bank budget in such manner as approved by the Party or Parties.

**Section 8.02.Tax Allocation.** The Parties agree that in accordance with Section 48-4-110(c) of the Land Bank Act, 75% of the Real Property taxes collected on Real Property, exclusive of any state or school district ad valorem tax, conveyed by the Land Bank after the Effective Date shall be remitted to the Land Bank commencing with the first taxable year following the date of conveyance and shall continue for a period of five (5) years.

**Section 8.03.Management of Funds.** The Land Bank executive director, or other individual designated by the Board, shall be designated the fiscal agent of the Land Bank's account established for the management of sales proceeds, monetary contributions made by the Parties, and other Land Bank funds. Standard accounting procedures shall be used in the management of the accounts.

**Section 8.04.Authorized Expenditures.** The Land Bank shall in its sole discretion and within its budget expend such funds as necessary to carry out the powers, duties, functions and responsibilities of a land bank under the Land Bank Act consistent with this Contract.

**Section 8.05. In-Kind Contributions.** Each City that is a Party to this Contract shall make "in-kind" contributions to the Land Bank with the type of such "in-kind" contributions to be determined in such City's discretion. Such "in-kind" contributions may consist of (i) making office facilities available for meetings of the Land Bank's Board of Directors, (ii) providing office supplies to the Land Bank, and (iii) assigning certain of such City's staff to provide additional staff resources to the Land Bank for the purpose of assisting the Land Bank in the execution of its duties and responsibilities.

## **ARTICLE IX**

### **DURATION OF CONTRACT**

**Section 9.01.Duration.** This Contract shall commence on the Effective Date and shall remain in full force and effect until December 31, 2025, at which time it shall become null and void, unless terminated earlier under the terms and conditions set forth herein.

**Section 9.02.Withdrawal by Party.** Any Party may withdraw from this Contract upon six (6) months prior notice in writing to the Land Bank and all Parties as provided under Section 10.01. Upon the effective withdrawal of any Party to this Contract, the Party so withdrawing will no longer have any rights to funds or other assets of the Land Bank; provided, however, that such withdrawal shall not discharge the withdrawing Party from its obligations under Section 8.02 of this Contract. The Land Bank shall not automatically dissolve upon the withdrawal of one or more Parties except that no City may maintain the existence of a land bank if the County in which the City is located withdraws from the Land Bank, and no County may maintain the existence of a Land Bank if the single City that is both located within that county and a Party withdraws from the Land Bank.

**Section 9.03.Termination.** The Land Bank shall be terminated by: (i) agreement by all Parties to this Contract; (ii) by affirmative resolution approved by two-thirds of the membership



of the Board and in accordance with Section 48-4-111 of the Land Bank Act; or (iii) by withdrawal of one or more Parties such that only one Party to this Contract remains and such remaining Party is not a consolidated government.

**Section 9.04. Disposition upon Termination.** As soon as possible after termination, the Land Bank shall finish its affairs as follows:

(a) all of the Land Bank's debts, liabilities, and obligations to its creditors and all expenses incurred in connection with the termination of the Land Bank and distribution of its assets shall be paid first;

(b) the remaining Real Property and personal property owned by the Land Bank, if any, shall be distributed to any successor entity, subject to approval by the Parties. In the event that no successor entity exists, the remaining Real Property and personal property, and other assets of the Land Bank, shall become assets of the city, county or consolidated government in which the Real Property is located, unless provided otherwise in any applicable intergovernmental contracts; and

(c) liability shall be absorbed upon termination as agreed upon by the Board of the Land Bank. In the absence of agreement by the Board, liability associated with each property shall be with the Party in which the property is located.

## **ARTICLE X**

### **MISCELLANEOUS**

**Section 10.01. Notices.** Any and all correspondence or notices required, permitted or provided for under this Contract to be delivered to any Party shall be sent to that Party by first-class mail. All such written notices, including any notice of withdrawal under Article IX, shall be sent to each other Party's signatory to this Contract, or that signatory's successor. All correspondence shall be considered delivered to a Party as of the date that such notice is deposited with sufficient postage with the United States Postal Service. Any notice of withdrawal shall be sent via certified mail, return receipt requested. Notices to DeKalb County shall be sent to: Chief Executive Officer, 1300 Commerce Drive, 6<sup>th</sup> Floor, Decatur, GA 30030. Notices to the City of Lithonia shall be sent to the Mayor, 6980 Main Street, Lithonia, GA 30058. Notices to the Land Bank shall be sent to the Land Bank Principal Office. All notices sent to the addresses listed above shall be binding unless said address is changed in writing.

**Section 10.02. Entire Agreement.** This Contract sets forth the entire agreement between the Parties and supersedes any and all prior contracts or understandings between them in any way related to the subject matter of this Contract. It is further understood and agreed that the terms and conditions of this Contract are not a mere recital and that there are no other contracts, understandings or representations between the Parties in any way related to the subject matter of this Contract, except as expressly stated in this Contract.

**Section 10.03. Interpretation of Contract.** The Parties intend that this Contract shall be construed liberally to effectuate the intent and purposes of this Contract and the legislative intent and purposes of the Land Bank Act as complete and independent authorization for the performance

of each and every act and thing authorized by this Contract and the Land Bank Act. All powers granted to the Land Bank under this Contract and the Land Bank Act shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers.

**Section 10.04. Severability of Provisions.** If any provision of this Contract, or its application to any Person, Party or circumstance, is invalid or unenforceable, the remainder of this Contract and the application of that provision to other Persons, Parties or circumstances is not affected but will be enforced to the extent permitted by law.

**Section 10.05. Governing Law.** This Contract is made and entered into in the State of Georgia and shall in all respects be interpreted, enforced and governed under the laws of the State of Georgia without regard to the doctrines of conflict of laws. The language of all parts of this Contract shall in all cases be construed as a whole according to its plain and fair meaning, and not construed strictly for or against any Party.

**Section 10.06. Captions and Headings.** The captions, headings, and titles in this Contract are intended for the convenience of the reader and are not intended to have any substantive meaning or to be interpreted as part of this Contract.

**Section 10.07. Terminology.** All terms and words used in this Contract, regardless of the number or gender in which they are used, are deemed to include any other number and any other gender as the context may require.

**Section 10.08. Cross-References.** References in this Contract to any article include all sections, subsections, and paragraphs in the article, unless specifically noted otherwise. References in this Contract to any section include all subsections and paragraphs in the section.

**Section 10.09. Jurisdiction and Venue.** In the event of any disputes between the Parties over the meaning, interpretation or implementation of the terms, covenants or conditions of this Contract, the matter under dispute, unless resolved between the Parties, shall be submitted to the Superior Courts of DeKalb County.

**Section 10.10. Amendments to Contract.** With the exception of the addition of a new Party pursuant to the provisions of Section 3.10 of this Contract, this Contract may be amended or an alternative form of this Contract adopted only upon written amendment approved by all Parties.

**Section 10.11. Amendments to Land Bank Act.** The Land Bank and Board shall have any powers authorized pursuant to any amendments, replacements or substitutions to the Land Bank Act, unless the Contract is amended by the Parties to provide otherwise.

**Section 10.12. Effective Date.** This Contract shall become effective as of the Effective Date.

**Section 10.13. Time of Essence.** Time is of the essence of this Contract.



[ Signature page to follow ]

This Contract is hereby executed by the authorized representatives of the Parties as of the date indicated herein.

**DEKALB COUNTY, GEORGIA**

**CITY OF LITHONIA, GEORGIA**

By: \_\_\_\_\_ (SEAL)  
Michael L. Thurmond  
Chief Executive Officer

By: \_\_\_\_\_ (SEAL)  
Deborah Jackson  
Mayor

ATTEST:

ATTEST:

By: \_\_\_\_\_  
Barbara H. Sanders, CCC  
Clerk to the Chief Executive Officer  
and Board of Commissioners

By: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Viviane Ernstes  
County Attorney

By: \_\_\_\_\_  
City Attorney

APPROVED AS TO SUBSTANCE:

By: \_\_\_\_\_  
Allen Mitchell  
Community Development Director

**APPENDIX I**

The undersigned agree that the City of \_\_\_\_\_ is authorized to, and has, become a Party to this Intergovernmental Contract by virtue of the approval through official action of by the Parties as indicated below.

**DEKALB COUNTY, GEORGIA**

**CITY OF LITHONIA, GEORGIA**

By: \_\_\_\_\_ (SEAL)

Chief Executive Officer

ATTEST:

By: \_\_\_\_\_

Clerk to the Chief Executive Officer  
and Board of Commissioners

APPROVED AS TO FORM:

By: \_\_\_\_\_

County Attorney

APPROVED AS TO SUBSTANCE

By: \_\_\_\_\_

Community Development Director

By: \_\_\_\_\_ (SEAL)

Mayor

ATTEST:

By: \_\_\_\_\_

City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_

City Attorney

**APPENDIX II**

The undersigned City has become a Party to this Intergovernmental Contract by virtue of the approval through official action of the City on \_\_\_\_\_, the unanimous approval of the DeKalb Regional Land Bank Authority on \_\_\_\_\_, the approval of the Parties by official action of their governing authorities as indicated by official action in substantially similar form to that attached hereto as Appendix I and the Parties execution of a Contract Amendment.

**DEKALB REGIONAL  
LAND BANK AUTHORITY**

**CITY OF \_\_\_\_\_, GEORGIA**

By: \_\_\_\_\_ (SEAL)  
Chair

By: \_\_\_\_\_ (SEAL)  
Mayor

ATTEST:

ATTEST:

By: \_\_\_\_\_  
Executive Director and  
Secretary

By: \_\_\_\_\_  
City Clerk

