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TO: Conan Smith, Chair  
Ways & Means Committee

THROUGH: Robert E. Guenzel  
County Administrator

FROM: Catherine McClary

DATE: July 8, 2009

SUBJECT: Land Bank Authority

**BOARD ACTION REQUESTED:**

It is requested that the Board of Commissioners authorize two agreements: an Agreement to establish a Washtenaw County Land Bank Authority and an Agreement to reimburse the General Fund.

1. The Agreement to establish a Washtenaw Land Bank Authority is an Intergovernmental Agreement between the County Treasurer as the Foreclosing Governmental Unit (FGU) and the State of Michigan's Land Bank Fast Track Authority. The Agreement follows statutory guidelines and has been reviewed and pre-approved by the Attorney General's Office. The Treasurer requests that the Board of Commissioners authorize entering into such an Agreement.
2. The second Agreement is between the Board of Commissioners and the Washtenaw County Land Bank Authority Board. It would allow the Land Bank Authority the option to operate using County resources by reimbursing the County General Fund from Land Bank Authority funds.

**BACKGROUND:**

Land Banks have been established in 20 other counties to date ranging in size and geographic location from Arenac to Wayne. Land Banks provide an opportunity for partnerships and collaborations among agencies, private and non-profit, throughout the County and the region. Partnerships have been a successful model in reducing costs and providing more effective programming in Washtenaw County. Two notable examples: the Foreclosure Prevention Collaborative initiated by the Treasurer and the Aerotropis established by the Board of Commissioners here and in Wayne County.

Land Banks are as diverse as the size, geography, demographics and priorities of the counties in which they were established. The premise is to serve as a depository or "bank" for property until it is "withdrawn" after "interest" has been added to its value and it can be returned to productive use. Land Banks are not land trusts, land conservancies, or land green belts. In other counties, the primary source for "banked" or deposited land has been tax-foreclosed property. The Washtenaw County Treasurer has prevented tax foreclosure in 99% of the cases, but the County is experiencing increasing numbers of mortgage foreclosures that cannot be

mitigated or cured through workout agreements with the lenders because of increased unemployment, decreased median incomes, and decreased property values. The extraordinarily poor economic conditions in the nation and in Michigan specifically have increased the need for Washtenaw County to bank blighted, hazardous, or crime-ridden property until it can be put back to productive use. The County Land Bank will work in partnership offering complementary services to those of existing agencies currently providing affordable housing and supportive services for affordable housing residents. The goal is to return properties to private sector, productive use.

The Washtenaw County Land Bank Authority has been modeled on Genesee County's Land Bank, which was the first Land Bank, and which has established best practices. The Treasurer has been awarded a technical assistance grant from the Genesee Institute to implement the Washtenaw County Land Bank Authority, to coordinate communication and information to all the stakeholders, and to establish best practices and policies for property acquisition and disposition.

### **DISCUSSION:**

We have identified two properties that may be suitable for Washtenaw County Land Bank acquisition so that they can be returned to their highest productive use. These are just examples to illustrate what possibilities exist when a Land Bank is formed.

In one of the cities, a tax-foreclosed parcel in an affordable neighborhood was built upon a floodway. Under current law, the only disposition of this property is public auction to the highest bidder. Depositing this parcel into a Land Bank would provide time for the neighborhood and local elected officials to determine the best and most productive use for this property – such as food garden, rainwater garden, sale to a non-profit for rehabilitated affordable housing, etc.

In one of the townships, in a nice neighborhood, an extremely blighted property exists with a vacant house that harbors mold. The local officials have moved forward proactively to have court-ordered remediation and demolition. The costs of this work are high and the township's only remedy to recover the money will be to place a lien on the property. This property has delinquent taxes and will be foreclosed. The foreclosure process extinguishes all liens. By placing this property into a Land Bank in lieu of foreclosure, the lien can be paid back to the township.

Because of the urgency of the two situations we have, and others like them in the pipeline, it is requested that the Board of Commissioners approve these two Agreements as early as feasible.

The first Agreement is between the Treasurer as the Foreclosing Governmental Unit (FGU) and the State of Michigan. Under legislation passed in 1999, The County had the choice to opt in or out of having the Treasurer serve as the FGU. Washtenaw County chose to have the County Treasurer serve as the FGU and the Board of Commissioners has worked closely with the Treasurer to prevent tax and mortgage foreclosure. The County has been a leader in helping its residents during these times of increasing foreclosure.

Under legislation passed in 2003, the County has an opportunity to authorize the FGU to enter into an Intergovernmental Agreement with the Michigan Land Bank Authority to further the mission of returning blighted, hazardous, or crime-ridden property back to productive use. This Agreement, if voted affirmatively by the Board of Commissioners, would also allow the Washtenaw County Land Bank Authority to exist without dissolution by a future Board of Commissioners.

The second Agreement is between the Board of Commissioners and the Land Bank Authority Board. It would allow the Land Bank Authority the option to operate under County policies, using County resources such as purchasing, information technology (IT), human resources, and the Treasurer's pooled cash and investments, by reimbursing the County General Fund from Land Bank funds. It is anticipated that the Land Bank will receive money from the Neighborhood Stabilization Program (NSP) funds for initial start-up and for some demolition work. The Land Bank is part of a partnership applying for NSP II funds and in the future could seek grants from HUD, MSHDA, and private charities as well as economic development funds. It is anticipated that the Land Bank would work very closely with County staff at the Treasurer's Office, Office of Community Development (CD), Employment, Training, and Community Service office (ETCS), and Planning Department Brownfield program. It is not requested that there would be General Fund money for this Authority, unless authorized by a future Board of Commissioners in better economic times.

**IMPACT ON HUMAN RESOURCES:**

None

**IMPACT ON BUDGET:**

None

**IMPACT ON INDIRECT COSTS:**

None

**IMPACT ON OTHER COUNTY DEPARTMENTS OR OUTSIDE AGENCIES:**

This will continue work with an already established mortgage foreclosure prevention partnership that is already established.

**CONFORMITY TO COUNTY POLICIES:**

Guiding Principles:

- #1. Ensure long term fiscal stability for the County.
- #3. Enhance customer service.
- #5. Ensure adequate provision of mandated services.
- #6. Focus on the root causes of problems that affect the quality of life of County citizens by aggressively pursuing prevention strategies.
- #7. Provide leadership on intragovernmental, intergovernmental and intersectoral cooperation and collaboration aimed at improving services to County citizens.

**ATTACHMENTS/APPENDICES:**

The Resolution and the Intergovernmental Agreement are attached.

A RESOLUTION AUTHORIZING THE WASHTENAW COUNTY TREASURER AS THE FORECLOSING GOVERNMENTAL UNIT TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF MICHIGAN LAND BANK FAST TRACK AUTHORITY FOR THE PUPOSE OF ESTABLISHING A WASHTENAW COUNTY LAND BANK AUTHORITY AND APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE MICHIGAN LAND BANK FAST TRACK AUTHORITY AND THE TREASURER OF THE COUNTY OF WASHTENAW, MICHIGAN

WASHTENAW COUNTY BOARD OF COMMISSIONERS

JULY 8, 2009

WHEREAS, land banks have been established in 20 other Counties to date ranging in size and geographic location from Arenac to Wayne; and

WHEREAS, land banks provide an opportunity for partnerships and collaborations among agencies, private and non-profit, and partnerships have been a successful model in reducing costs and providing more effective programming in Washtenaw County; and

WHEREAS, land banks serve as a depository or "bank" for property until it is "withdrawn" after "interest" has been added to its value and it can be returned to productive use; and

WHEREAS, the Washtenaw County Treasurer has prevented tax foreclosure in 99% of the cases, but the County is experiencing increasing numbers of mortgage foreclosures that cannot be mitigated or cured though workout agreements with the lenders because of increased unemployment, decreased median incomes, and decreased property values; and

WHEREAS, the extraordinarily poor economic conditions in the nation and in Michigan specifically have increased the need for Washtenaw County to bank blighted, hazardous, or crime-ridden property and a Land Bank provides a mechanism to do this until the property can be put back to productive use; and

WHEREAS, the Washtenaw County Land Bank Authority has been modeled on Genesee County's Land Bank, which was the first Land Bank, and which has established best practices; and

WHEREAS, the Washtenaw County Treasurer has been awarded a technical assistance grant from the Genesee Institute to implement the Washtenaw County Land Bank Authority, to coordinate communication and information to all the stakeholders, and to establish best practices and policies for property acquisition and disposition; and

WHEREAS, the Washtenaw County Land Bank Authority will focus on eradicating blight, hazards, and crime to preserve residential neighborhoods and remedy pollution in commercial properties, with the goal of returning properties to private sector, productive use; and

WHEREAS, the Washtenaw County Land Bank Authority will work in partnership offering complementary services to those of existing agencies currently providing affordable housing and supportive services for affordable housing residents; and

WHEREAS, it is anticipated that the Land Bank will receive money from the Neighborhood Stabilization Program (NSP) for initial start-up and for some demolition work; and

WHEREAS, the Washtenaw County Land Bank Authority is eligible for NSP II funds and in the future could seek grants from HUD, MSHDA, and private charities as well as economic development funds, and it is not anticipated that General Fund money would be appropriated for this Authority, unless authorized by a future Board of Commissioners in better economic times; and

WHEREAS, the Michigan Land Bank Fast Track Authority was created as a public body corporate and politic within the Michigan Department of Labor and Economic Growth, a principal department of the executive branch of the state government, under the Land Bank Fast Track Act, 2003 PA 258, MCL 124.751 to 124.774, and is authorized to enter into an Intergovernmental Agreement with a Foreclosing Governmental Unit providing for the creation of a County Authority to exercise the powers, duties, functions, and responsibilities of an authority under that act; and

WHEREAS, the Treasurer of the County of Washtenaw, Michigan is a Foreclosing Governmental Unit under the Land Bank Fast Track Act, 2003 PA 258, MCL 124.751 to 124.774, and Section 78 of The General Property Tax Act, 1893 PA 206, MCL 211.78; and

WHEREAS, the Michigan Land Bank Fast Track Authority and the Treasurer and the Board of Commissioners of Washtenaw County seek to establish a Washtenaw County Land Bank Authority as a separate legal entity and as a public body to exercise within Washtenaw County the powers, duties, functions, and responsibilities of an authority under the Land Bank Fast Track Act, 2003 PA 258, MCL 124.751 to 124.774.

NOW THEREFORE BE IT RESOLVED that the Washtenaw County Board of Commissioners hereby authorizes the Washtenaw County Treasurer as the Foreclosing Government Unit to enter into an Intergovernmental Agreement with the State of Michigan Land Bank Fast Track Authority for the purpose of establishing a Washtenaw County Land Bank Authority.

BE IT FURTHER RESOLVED that the Washtenaw County Board of Commissioners hereby approves the Intergovernmental Agreement between the Michigan Land Bank Fast Track Authority and the Treasurer of the County of Washtenaw, Michigan creating the Washtenaw County Land Bank Authority, subject if necessary, to technical, typographical, or non-substantive modifications approved by the Board of Directors or the Executive Director of, or legal counsel for, the Michigan Land Bank Fast Track Authority before the effective date of the Intergovernmental Agreement.

BE IT FURTHER RESOLVED that the Washtenaw County Board of Commissioners authorizes the County Administrator to execute a contract with the Washtenaw County Land Bank Authority Board to permit the Land Bank Authority to operate, in part, using County resources, provided such resources are fully reimbursed back to the County from Land Bank Authority funds, upon the review and approval of Corporation Counsel.