

## **PROFESSIONAL SERVICES AGREEMENT**

BID4ASSETS, INC. and THE COUNTY OF LAKE

THIS AGREEMENT is made and entered into this 1st day of January, 2017, (the "Effective Date") by and between the COUNTY OF LAKE, a political subdivision of the State of California, as represented by the County Treasurer-Tax Collector, (hereinafter "County"), with its principal location at Courthouse, 255 N. Forbes Street, Lakeport, California 95453, and Bid4Assets, Inc., a State of Maryland corporation, (hereinafter "Consultant") whose principal place of business is at 8757 Georgia Avenue, Suite #520, Silver Spring, Maryland 20910;

### **WITNESSETH:**

#### **WHEREAS:**

- (a) Government Code sections 31000 and 53060 permit the County Boards of Supervisors to contract for the furnishing of special services with individuals specially trained and experienced and competent to perform those services; and
- (b) The County Treasurer-Tax Collector Office (hereinafter "responsible County Department") require Internet Advertising Services of Tax Defaulted Properties; and
- (c) County desires to engage Consultant to provide said services and Consultant, by reason of his/her qualifications, experience, and facilities for doing the type of work herein contemplated, has offered to provide the required services on the terms set forth herein; and

**NOW, THEREFORE, IT IS AGREED** between the parties hereto as follows:

1. **Services to be Rendered.** A description of the services to be provided is contained in Exhibit "A" which is attached hereto and incorporated herein by this reference.
2. **Compensation to Consultant.** For the initial auction, County shall pay Consultant a fixed fee in the amount of one hundred and fifty dollars (\$150.00) per property for each property that is SOLD, REDEEMED, WITHDRAWN or POSTPONED. A \$500 set-up fee will be charged for tax sales of less than 50 parcels. All fees are due within 30-days of receipt of Consultants invoice.

Properties that were unsold or pulled from the site during the initial auction can be re-offered within 90 days in a secondary auction at the same fixed fee in the amount of one hundred and fifty dollars (\$150.00) per property for each property that is SOLD, REDEEMED, WITHDRAWN or POSTPONED. There is no set-up fee for the re-offer sale.

**Optional Online Financial Services:** County may elect to have Consultant supply pre-bid deposit and payment processing services. If elected, County will so indicate in Exhibit "B" attached hereto. Depending on the methods selected for deposit submission, County may be required to execute the Funds Acceptance Authorization form attached as Exhibit "C".

3. **Term.** This Agreement shall be deemed in force as of the date first above written and shall remain in effect until December 31, 2017, unless sooner terminated as hereinafter provided. This agreement may be renewed for two (2) additional one (1) year periods by the written consent of all parties at the fees specified above hereinafter provided.

4. **Representations.** Consultant makes the following representations which are agreed to be material to and form a part of the inducement for this Agreement:

"I am aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Agreement."

Consultant shall require any sub-contractors to provide workers' compensation for all of the sub-contractors' employees, unless the sub-contractors' employees are covered by the insurance afforded by Consultant. If any class of employees engaged in work or services performed under this Agreement is not covered by Labor Code section 3700, Consultant shall provide and/or require each sub-contractor to provide adequate insurance for the coverage of employees not otherwise covered.

b. Liability Insurance Requirements:

(1) Consultant shall maintain in full force and effect, at all times during the term of this Agreement, Commercial General Liability Insurance, including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Consultant's performance of work under this Agreement. Said insurance coverage shall have minimum limits for Bodily Injury and Property Damage liability of five hundred thousand dollars (\$500,000) each occurrence and one million dollars (\$1,000,000) aggregate.

(2) The Commercial General Liability Insurance required in this subparagraph b. shall include an endorsement naming the County and County's board members, officials, officers, agents and employees as additional insureds for liability arising out of this Agreement and any operations related thereto.

(3) If any of the insurance coverage's required under this Agreement is written on a claims-made basis, the insurance policy shall provide an extended reporting period of not less than four (4) years following the termination of this Agreement or completion of Consultant's work specified in this Agreement, whichever is later.

(4) Prior to Consultant commencing any of its obligations under this Agreement, evidence of insurance in compliance with the requirements above shall be furnished to the County by Certificate of Insurance. Receipt of evidence of insurance that does not comply with above requirements shall not constitute a waiver of the insurance requirements set forth above.

c. Cancellation of Insurance – The above stated insurance coverage's required to be maintained by Consultant shall be maintained until the completion of all of Consultant's obligations under this Agreement, and shall not be reduced, modified, or canceled without thirty (30) days prior written notice to County. Also, phrases such as "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company" shall not be included in the cancellation wording of all Certificates of Insurance or any coverage for County and County's board members, officials, agents, and employees. Consultant shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

d. All insurance shall be issued by a company or companies listed in the current "Best's Key Rating Guide" publication with a minimum of an "A" rating, or in special circumstances, shall be pre-approved by the County.

e. If Consultant is, or becomes during the term of this Agreement, self-insured

To County: Lake County Treasurer-Tax Collector  
Attn: Barbara Ringen  
Courthouse — 255 N. Forbes Street  
Lakeport, CA 95453

To Consultant: Bid4Assets, Inc.  
Attn: Will Scott  
8757 Georgia Avenue, Ste. 520  
Silver Spring, Maryland 20910

Nothing in this Agreement shall be construed to prevent or render ineffective delivery of notices required or permitted under this Agreement by leaving such notice with the receptionist or other person of like capacity employed in Consultant's office, or any employee in the County Treasurer-Tax Collector's office.

11. **Conflict of Interest.** Consultant has read and is aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the Government Code relating to conflict of interest of public officers and employees. Consultant agrees that they are unaware of any financial or economic interest of any public officer or employee of the County relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement, the County may immediately terminate this Agreement by giving written notice thereof. Consultant shall comply with the requirements of Government Code section 87100 et seq. during the term of this Agreement.

a) Employees of Bid4Assets are specifically forbidden from participating in any Lake County tax sale.

12. **Sole Agreement.** This document contains the entire agreement of the parties relating to the services, rights, obligations and covenants contained herein and assumed by the parties respectively. No inducements, representations or promises have been made, other than those recited in this Agreement. No oral promise, modification, change or inducement shall be effective or given any force or effect.

13. **Authority to Bind County.** It is understood that Consultant, in Consultant's performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has no authority to bind County to any agreements or undertakings.

14. **Modifications of Agreement.** This Agreement may be modified in writing only, signed by the parties in interest at the time of the modification.

15. **Non-waiver.** No covenant or condition of this Agreement can be waived except by the written consent of County. Forbearance or indulgence by County in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by Consultant. County shall be entitled to invoke any remedy available to County under this Agreement or by law or in equity despite said forbearance or indulgence.

employee, servant or subcontractor of Consultant shall discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, or sex, either directly, indirectly or through contractual or other arrangements.

25. **Audit, Inspection and Retention of Records.** Consultant agrees to maintain and make available to County accurate books and records relative to all its activities under this Agreement. Consultant shall permit County to audit, examine and make excerpts and transcripts from such records, and to conduct audits of all invoices, materials, records of personnel or other data related to all other matters covered by this Agreement. Consultant shall maintain such data and records in an accessible location and condition for a period of not less than three (3) years from the date of final payment under this Agreement, or until after the conclusion of any audit, whichever occurs last. The State of California and/or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred upon County herein.

26. **Non-Collusion Covenant.** Consultant represents and agrees that it has in no way entered into any contingent fee arrangement with any firm or person concerning the obtaining of this Agreement with County. Consultant has received from County no incentive or special payments, nor considerations not related to the provision of services under this Agreement.

27. **Signature Authority.** Each party has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement.

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## **Exhibit A: Scope of Work**

### **Web Site Advertising Services for Tax-defaulted Properties:**

Consultant to provide Web site services for the Treasurer-Tax Collector of Lake County, California to advertise for auction of tax-defaulted properties. Advertising Web site services will include organizing, posting, hosting, and servicing advertised tax-defaulted properties (including pictures of the properties when needed) and due diligence information for between 100 and 500 properties at one time. These advertised properties will be auctioned on the Web site at the direction of the County Treasurer-Tax Collector. For the duration of each auction, advertising on the Web site will be available to the public twenty-four hours per day, seven days per week ("24/7"). In addition, Consultant will collect information from successful purchasers for use by the county in completion of deed certificates.

According to California law, the Treasurer-Tax Collector may recover the cost of advertising for tax-defaulted property auctions. Auction advertising for three to four weeks is anticipated before the auction for 100 to 500 properties. The advertising fee will have no bearing on the sale of parcel – whether or not a parcel sells. The auction advertising Web site will be developed and maintained to accommodate all necessary aspects of auction advertising acceptable to the County Treasurer-Tax Collector, including advertising of sale results.

Consultant shall, at the direction of the organizing Treasurer-Tax Collector, establish parameters for auction advertising (in terms of time, minimum price, reserve price and settlement terms), develop a Web-based and traditional marketing effort, disseminate due diligence information online to potential bidders, and support the sale of tax-defaulted properties.

Consultant shall assign passwords to registered, pre-qualified bidders. The Treasurer-Tax Collector will determine which bidders are qualified and will provide that information to the Consultant.

Consultant shall send emails to registered users and bidders upon the occurrence of any of the following events: (1) auction advertising information posted online (2) auction commencement (3) bid has been received (4) bidder has been outbid. Consultant shall structure auction advertising so that bidders can bid automatically.

### **Pre-Qualification of Bidders:**

Consultant must structure the auction advertising Web site to be conducted so as to inform potential buyers of certain relevant information concerning California property tax sales and to require potential buyers to acknowledge the receipt of this information as a precondition to bidding on properties. In addition to the acknowledgments mentioned above, the auction advertising Web site may also require that potential bidders submit a qualifying deposit to the Treasurer-Tax Collector demonstrating the bidder's ability to comply with the terms of sale as a precondition to bidding on any tax sale property in exchange for a password from the

examine the property listings and due diligence online. In addition, County will provide photos in .jpeg and maps in .PDF or in .jpeg.

**Security:**

Consultant must provide a secure online environment to protect the confidentiality of the data exchanged. The auction advertising Web site must be hosted on a secure server, using Secured Socket Layers. Site must provide a complete audit trail of all transactions. If Consultant chooses to deviate from these requirements, Consultant must justify the security features of its chosen system to the Treasurer-Tax Collector.

Following an auction, all unsuccessful bidders will receive a refund of their deposit within seven (7) to ten (10) business days after the close of an auction:

- Online check deposits are refunded via online check (ACH) to the originating bank account.
- Check or wire deposits are refunded by check, made payable to the account owner and mailed to the address on the Bid4Assets profile.

Successful bidders' deposits are transferred to a County at the end of an auction and applied as a partial payment to the total purchase price. Counties receive the deposits in the form of a bank wire, accompanied by a detailed sales summary report for each winning bidder that includes their name and contact information, the parcel identifiers of the assets won, the deposit amount submitted, and the total amount due to the County. There is a \$35 wire transfer fee which will appear on the final invoice.

#### **Payment Processing:**

At the County's election, Bid4Assets can provide services to collect full payment from winning bidders at the end of an auction. Bid4Assets will collect the balance due from the winning bidders, combine these funds with BidDeposits, and forward the collected funds three (3) business days after the settlement deadline (as determined by a County) via wire. A detailed report of all payments collected will accompany the settlement funds and will include the following for each winning bidder: name and contact information, parcel identifiers of these assets won, total amount due (including any documentary transfer tax or recording fees), and total amount paid. There is a \$35 fee for the forwarding of any monies to the County; this fee will be added to the invoice.

## **Exhibit C: Funds Acceptance Authorization**

### **Lake County**

Bid4Assets offers a number of methods by which bidders may submit deposit funds. Some methods of acceptance of funds are more secure than others. Bid4Assets generally recommends that wire transfers should be used as the most secure method of receiving deposit funds up until the close of business the day prior to the start of an auction.

Many Counties currently accept ACH funds for payment of property and other taxes. Therefore, Bid4Assets will also accept ACH funds for the collection of deposits for the County's tax-sale auction upon authorization by the County Treasurer-Tax Collector (hereinafter referred to as "County"), up to a limit of \$5,000 per bidder account.

In the auction environment, ACH funds are susceptible to errors or reversals by the depositor through his/her bank. The routing or account number may be submitted incorrectly, funds may not be available in the bank account submitted, or the bank account submitted may not allow an electronic draw. These types of errors are usually inadvertent, but rejection of an ACH request may take up to four (4) business days after the bidder authorizes the transfer. In addition, by signing an affidavit with his/her bank, the depositor may request that the deposit be rescinded up to sixty (60) days after the original transfer date -- well after the date Bid4Assets may be requested to return funds to the bidder. Although rare and contestable, the risk of loss exists under these circumstances.

Although Bid4Assets will make reasonable attempts to complete or correct erroneous or unsuccessful ACH transfers, there may be instances where funds cannot be collected from the depositor. Therefore to authorize Bid4Assets to accept ACH funds on behalf of the County for deposit purposes, Bid4Assets requires that the County agree that Bid4Assets is not responsible for any ACH funds found to be uncollectible from the depositor. Further, if a deposit is forwarded to the County and then subsequently rescinded by the depositor, the County agrees to reimburse to Bid4Assets any uncollectible funds, less the transaction fee charged to the bidder by Bid4Assets.

If elected, County may choose to accept ACH deposits up until the actual end of all auctions, however, Bid4Assets recommends removing the ACH deposit option at least five (5) business days prior to the auction close date. If ACH deposits are accepted past this five (5) business day mark, the transfer of winners' deposits from Bid4Assets to the County will not take place until ten (10) business days after the date of last acceptance of an ACH.

Based on the County's agreement to the above ACH responsibilities, please authorize the funding methods to be used for the County's auction(s):