

WISCONSIN INDEPENDENT CONTRACTOR AGREEMENT

The Parties. This Agreement is made between Sauk County ("Client") with a mailing address of 505 Broadway, Baraboo, Wisconsin 53913, and the Firm of Cross Jenks Mercer & Maffei, LLP ("Contractor") with a business mailing address of 221 Third Ave., P.O. Box 556, Baraboo, WI 53913.

WHEREAS the Client intends to pay the Contractor for services provided, effective May 11, 2020, under the following terms and conditions:

I. **Scope of Work.** The Contractor agrees to work with the Client, including the Office of the Sauk County Treasurer, to undertake In-Rem Tax Foreclosure pursuant to section 75.521 of the Wisconsin Statutes, for property owners for whom the Contractor does not have an ethical conflict.

II. **Payment.** The Client will pay the Contractor a flat fee for all legal work the Client requests of the Contractor under section 75.521 of the Wisconsin Statutes in the amount of \$10,000.00, exclusive of expenses and disbursements as set forth in the next paragraph, EXCEPT that the Client agrees to pay Contractor an hourly fee, in the amount of \$180.00 per hour, in the event that any person having any right, title, or interest in, or lien upon any party files an answer and/or otherwise contests the in-rem proceeding. The Contractor and the Client agree that the \$10,000.00 flat fee will have been deemed earned upon the filing of the tax list in the office of the clerk of the circuit court as set forth in section 75.521(6), and the Contractor will invoice the Client for payment of that amount at that time. The Contractor will invoice the Client for any hourly charges on a monthly basis.

a. In addition to the fees set forth above, the Client agrees to reimburse the Contractor for all necessary expenses and disbursements incurred by the Contractor in the rendition of Services as described above. Such expenses shall be in addition to the amounts paid for Services above. Contractor will consult with Client before incurring any unusual or major expense Contractor deems necessary. Expenses and disbursements related to the work performed above will be invoiced in conjunction with the work set forth above.

b. **Malpractice Insurance:** The Contractor agrees to bear all responsibility for the actions related to themselves under this Agreement. In addition, the Contractor agrees to maintain professional malpractice coverage in an amount dictated by the State Bar of Wisconsin.

III. Option to Terminate. The Client and Contractor shall:

Have the option to terminate this Agreement at any time with 15 days written notice and for any reason. It is understood that Contractor may withdraw from representing Client for any good cause and pursuant to SCR 20:1.16 which includes, but is not limited to the following: Client's failure to make timely payment of fees and/or costs; Client's misrepresentation or failure to disclose material facts to Contractor; or Client's failure to follow Contractor's advice. Client further agrees that if Client discharges Contractor, or if Contractor withdraws from representing Client for any reason, including the non-payment of fees and costs as they are due under this contract, Client will remain responsible for all fees, costs and expenses actually incurred under this contract and will make payment in full. If the representation is terminated before the filing of the tax list in the office of the clerk of the circuit court as set forth in section 75.521(6), the parties will prorate the \$10,000.00 flat fee based upon the percentage of the work completed.

IV. Independent Contractor Status. The Contractor, under the code of the Internal Revenue Service (IRS), is an independent contractor, and neither the Contractor's employees or contract personnel are, or shall be deemed, the Client's employees. In its capacity as an independent contractor, Contractor agrees and represents: Contractor has the right to perform services for others during the term of this Agreement; Contractor has the sole right to control and direct the means, manner: and method by which the Services required by this Agreement will be performed.

V. Business Licenses, Permits, and Certificates. The Contractor represents and warrants that it shall comply with federal, state, and local laws requiring any required licenses, permits, and certificates necessary to perform the Services under this Agreement.

VI. Federal and State Taxes. Under this Agreement, the Client shall not be responsible for: withholding FICA, Medicare, Social Security, or any other federal or state withholding taxes from the Contractor's payments to employees or personnel or make payments on behalf of the Contractor; make federal or state unemployment compensation contributions on the Contractor's behalf; and the payment of all taxes incurred related to or while performing the Services under this Agreement, including all applicable income taxes and, if the Contractor is not a corporation, all applicable self-employment taxes. The Contractor shall not be entitled to unemployment compensation in connection with the Services performed under this Agreement.

VII. Workers' Compensation. The Contractor shall be responsible for providing all workers' compensation insurance on behalf of their employees. Upon request by the Client, the Contractor must provide certificates proving workers' compensation insurance at any time during the performance of the Service.

VIII. Record Ownership/Retention. The Contractor and The Client agree that all files, documents, and/or attachments relating to the same are the sole and exclusive property of the Client. The Contractor shall have right to retain copies subject to any rules of confidentiality and professional conduct. It is also recognized that the Contractor may possess files from time to

time, but ultimate storage and retention of the same shall be the Client's responsibility. The Client is responsible for responding to any open records requests.

IX. Outcome. The Client acknowledges that the Contractor has not made any promise, assurance or guarantee about the outcome of Client's case.

X. No Partnership. This Agreement does not create a partnership relationship between the Client and the Contractor. Unless otherwise directed, the Contractor shall have no authority to enter into contracts on the Client's behalf or represent the Client in any manner.

XI. Governing Law. This Agreement shall be governed under the laws in the State of Wisconsin.

XII. Severability. This Agreement shall remain in effect in the event a section or provision is unenforceable or invalid. All remaining sections and provisions shall be deemed legally binding unless a court rules that any such provision or section is invalid or unenforceable, thus, limiting the effect of another provision or section. In such case, the affected provision or section shall be enforced as so limited.

XIII. Breach Waiver. Any waiver by the Client of a breach of any section of this Agreement by the Contractor shall not operate or be construed as a waiver of any subsequent breach by the Contractor.

XIV. Limited Liability Partnership. The Contractor is a Wisconsin limited liability partnership. Under this structure, the individual partners do not have unlimited personal liability arising from any malpractice of the other attorneys on matters in which they had no involvement or supervisory role. The LLP structure will not, however, protect those partners whose own negligence, wrongful acts or misconduct (or that of any person working under their direct supervision and control) is the basis for the malpractice claim at issue. Furthermore, by Wisconsin Supreme Court Rule, a firm of our size is required to carry professional liability professional liability insurance providing for at least \$5.0 million in combined indemnity and defense cost coverage per claim, with at least \$5.0 million aggregate combined indemnity and defense cost coverage amount per policy period.

XV. Electronic Records Storage. In order to reduce costs and increase efficiency, the Contractor will scan and store all of Client's file documents electronically. A copy of all documents received and generated by the firm related to Client's file will be sent to Client. Client acknowledges that the Contractor, to the extent permissible by law and the rules of professional conduct, will retain a complete copy of Client's file in digital format only, and Client expressly authorizes the Contractor to destroy all paper documents related to Client's file after those documents have been copied and saved electronically. Client further acknowledges that Contractor will retain a digital copy of Client's complete file for 10 years after completion of the representation contemplated by this agreement. After this 10 year term, Client authorizes the

Contractor to permanently delete Client's file unless Client has contacted the firm in writing prior to the ten year term's expiration, requesting a copy of Client's file.

XVI. Entire Agreement. This Agreement represents the entire Agreement between the parties. Any change or modification to this Agreement shall be in writing and signed by both parties.

Natalie T. Bussan, Partner
Cross Jenks Mercer & Maffei, LLP

Date



Tim McCumber – County Board Chair

5-19-20

Date