



Martha's Vineyard Land Bank Commission

REQUEST-FOR-PROPOSALS

January 27, 2023

- (1.) Description. The Martha's Vineyard land bank commission is inviting the submission of bids for the installation of a driveway and trailhead at 28 Litchfield Road in Edgartown (tax parcel no. 30-233). Specifications are found in Attachment 1.
- (2.) Site-Visit. The land bank will conduct an on-premises site-visit at 1:00 pm on Friday, February 17, 2023.
- (3.) Questions. The land bank will maintain a list of names and addresses of individuals and companies requesting a bid package. Prospective bidders may pose questions, but only in writing; questions must be received, electronically or otherwise, by noon on February 22, 2023. The land bank will thereafter issue a response to all on the list and such response shall constitute an addendum to the initial bid package.
- (4.) Submission requirements. Bids shall specify price and timetable for completion and must be received in the land bank office no later than noon on March 2, 2023; they may be mailed to Post Office Box 2057, Edgartown, Massachusetts 02539; emailed to mhill@vineyardlandbank.com; or hand-delivered to 167 Main Street, Edgartown, Massachusetts. Each bid shall be in a sealed envelope and bear the words *28 Litchfield Road Driveway* on the front of the envelope. The envelope shall also include an executed certificate of non-collusion, which appears here as Attachment 2.
- (5.) Withdrawal. Bids may be withdrawn by email or certified mail prior to the time fixed for opening and not thereafter. Negligence on the part of the bidder in preparing the bid confers no right for the withdrawal of the bid after it has been opened.
- (6.) Opening. Bids shall be opened by the land bank commission staff at 1:00 pm on March 2, 2023 at 167 Main Street in Edgartown, Massachusetts.
- (7.) Evaluation. The land bank commission staff shall evaluate the proposals and make recommendations to the commission as to which is the most advantageous. The land bank commission shall vote to select the winning proposal using the following

evaluation criteria: [a] responsibility and measure of responsiveness, as indicators of professionalism and reputation; [b] references, if any; and [c] best price. Given the above criteria, the winning proposal may not necessarily be the one with the lowest price or any price at all.

- (8.) Right to reject. The land bank commission reserves the right to reject any and all bids when such rejection is in its best interest and/or if it, in its judgment, determines that a bidder(s) is not in a position to perform on the contract. The land bank commission does not obligate itself to accept the lowest or any bid.
- (9.) Contract. The winning bidder will be expected to execute the contract appearing as Attachment 3, tailored as necessary to circumstances, within ten (10) days of selection by the land bank commission.

ATTACHMENT 1

- (1.) Tasks. The land bank is seeking [a] to upgrade, to a state suitable for vehicular use, approximately 900 square feet of existing driveway; and [b] to create, also to a state suitable for vehicular use, a trailhead of approximately 1600 square feet for the parking of 2 - 3 vehicles.
- (2.) Existing Conditions. The driveway is 16 feet wide and is at a topsoil base. The trailhead has been cut in and is also at a topsoil base.
- (3.) Terms.
- [a] the land bank will remove any trees necessary for the upgrading of the driveway
 - [b] the bidder is responsible for the delivery to the site, located on Chappaquiddick Island, of any material needed for the tasks and for the removal and disposal of any material from the site; an off-premises site, located elsewhere on Chappaquiddick on land bank land, is available for such disposal.
 - [c] the bidder will supply a timetable for completion of the tasks

ATTACHMENT 2

CERTIFICATION OF NON-COLLUSION

The undersigned certifies under the pains and penalties of perjury that this bid or proposal has been made and submitted in good-faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

[signature of person submitting bid or proposal]

[name of business]

ATTACHMENT 3**SERVICE AGREEMENT**

This Agreement (the "Agreement") is made, effective this *[number]* day of *[month and year]*, by and between *[name]*, a licensed *[title]*, of *[address]* ("Service Provider") and the MARTHA'S VINEYARD LAND BANK COMMISSION, a corporate body politic with a principal place of business at 167 Main Street, Edgartown, Massachusetts 02539 (the "Land Bank"),

WHEREAS the Land Bank wishes to *[description]* ;

WHEREAS the Land Bank, in accordance with the provisions of the commonwealth's procurement act, has accepted Service Providers' bid to *[description]* , in accordance with the terms and conditions set forth herein; and

WHEREAS the Service Provider wishes to offer said services, on behalf of the Land Bank and in accordance with terms and conditions set forth herein;

NOW THEREFORE, in consideration of these covenants, the parties mutually agree as follows:

(1.) Initiation of Project

The Service Provider shall provide and be responsible for payment of all expenses for labor, materials and equipment and shall do all things necessary for the completion of the project (the provision of such materials and the completion of the project being referred to herein as the "Work").

(2.) Specifications

- (a) The Work shall be completed according to the Specifications agreed on by the parties and approved on the date hereof. The Specifications are attached hereto as Exhibit "U" and are incorporated herein by reference.
- (b) The Land Bank, without invalidating this Agreement, may order changes in the Specifications consisting of additions, deletions or modifications. The purchase price and time of completion shall each be adjusted accordingly. Any such changes in the Specifications shall be authorized by a written change order (a "Change Order") signed by the Land Bank and the Service Provider. Unless set forth in a duly signed Change Order, no alterations, deviations, additions or omissions from the Specifications shall be made by the Service Provider without the prior written consent of the Land Bank, except for such alterations, deviations, additions or omissions which would

not change the Specifications in any material respect.

(3.) Materials and Labor

The Service Provider shall furnish all materials and labor required to complete the Work, all such materials shall be of good quality and all Work shall be performed in a good and workmanlike manner and to the Land Bank's reasonable satisfaction.

(4.) Time

(a) The Service Provider shall commence performance of its obligations under this Agreement as soon as reasonably practicable but in no event later than *[date]* and shall complete the Work in accordance with the Specifications on or before *[date]* unless such completion date is extended pursuant to a duly signed Change Order. Time is of the essence in this Agreement.

(b) If Service Provider is delayed at any time in the completion of the Work due to any material act of negligence by Land Bank, or unusual delay in deliveries of materials, unavoidable casualties or any causes beyond Service Provider's control, then the time of completion set forth above shall be extended for such reasonable time as Service Provider and Land Bank may agree upon in good faith, and memorialize in writing.

(5.) Payments

The Land Bank shall pay Service Provider the total purchase price of *[price]* (\$000.00) for completion of the Work, which shall be due and payable as follows:

(a) A deposit of *[amount]* (\$0.00) shall be paid upon the execution of this Agreement;

(b) Once Service Provider has notified the Land Bank that the Work has been completed, the residue of the agreed price shall be paid to Service Provider, subject to the terms of section no. 10 hereof, as well as any other pertinent sections.

(c) If the Specifications are materially changed pursuant to a duly signed Change Order, and such changes create a material hardship to the Land Bank or Service Provider, the parties hereto shall in good faith agree on a revision of the payment schedule set forth above.

(d) Any payments due under this section may be withheld by the Land Bank if (i) Work, deemed in the Land Bank's reasonable good-faith discretion, to be defective is not remedied by Service Provider; (ii) Service Provider fails to pay subcontractors, if there be any, promptly; (iii) Service Provider fails to complete the Work in accordance with the Specifications and/or the

provisions of this Agreement; or (iv) the Land Bank has a claim against Service Provider for indemnification, pursuant to section 7 of this Agreement, for damages or liabilities incurred by the Land Bank.

(6.) Insurance

Service Provider, for the benefit and protection of the Land Bank, its representative, agents and employees (collectively, the "Indemnitees"), shall specifically procure, pay for and maintain, in full force and effect until final payment, (unless otherwise designated), and at no expense to the Land Bank, the following policies of insurance to be written by an insurer reasonably acceptable to the Land Bank, which is qualified to do business on Martha's Vineyard Island and which shall, at a minimum, afford the following types and limits of coverage:

- (i) Broad Form Comprehensive or Commercial General Liability Insurance (the "Broad Form Policy") with a combined single limit for bodily injury and property damage of \$500,000; and
- (ii) Worker's Compensation Insurance in the amount not less than the limits required by law.

The Broad Form Policy shall name all of the Indemnitees as additional insureds and shall expressly provide that the interest of each Indemnitee shall not be affected by any breach by Service Provider or any other Indemnitees of any policy provision. All policies and certificates of insurance shall provide that no less than thirty (30) days' prior written notice shall be given to the Land Bank in the event of material alteration, cancellation, non-renewal or expiration of the coverage contained in such policy or as evidenced by such certificate of insurance. Prior to the commencement of any work by Service Provider or any subcontractor under this Agreement, Service Provider shall provide to the Land Bank a copy of the certificate of insurance evidencing all coverage then in force and effect for Service Provider or any subcontractor.

(7.) Indemnification

Service Provider shall indemnify, defend and hold harmless the Indemnitees for any and all liabilities (including, without limitation, reasonable attorneys' fees) or claims for damages, injuries or illness to persons or property arising under or resulting from (i) any violation of any local, commonwealth or federal law, ordinance, rule, regulation, code or order (collectively, the "Legal Requirements") by Service Provider or any subcontractor of any tier and their respective employees and agents in any way related to the performance of this Agreement; (ii) any act, omission or conduct of Service Provider or any subcontractor of any tier or any of their employees or agents; (iii) or as the result of any event or occurrence with arises in connection with the Work. Service Provider's duty to defend the Indemnitees shall arise regardless of the fault of any party, unless such fault resides with the Indemnitee himself. The provisions of this section shall survive the termination of

this Agreement and the final completion of the Work.

(8.) Compliance with Safety Laws

- (a) Service Provider shall, at its expense, give all necessary notices and cause all Work done and materials and equipment furnished pursuant to this Agreement to comply strictly with all legal requirements.
- (b) Service Provider shall be responsible for initiating, maintaining and supervising all safety precautions in connection with the performance of this Agreement. Service Provider shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to, (i) employees or subcontractors participating in the Work performed under this Agreement, (ii) the materials and equipment used in connection with completion of the Work and (iii) the Property.

(9.) Licenses and the Like

Service Provider shall give all requisite notices to proper authorities, obtain all official inspections, approvals, permits, certificates and licenses necessary to complete the Work, and pay all fees related thereto. It shall be Service Provider's responsibility to determine when such notices, inspections, permits and the like are required under applicable commonwealth and local laws.

(10.) Final Inspection and Final Payment

- (a) Upon receipt by the Owner of a written notice from Service Provider that the Work is ready for final inspection and acceptance, representatives of the Land Bank shall promptly make such inspection. During such inspection, such representatives shall prepare for submission to Service Provider a list of items to be completed or corrected (the "Punchlist"); provided, however, that the failure to include any item on the Punchlist shall not alter the responsibility of the Service Provider to complete the Work in accordance with the Specifications. The Land Bank shall then cause the remainder of the purchase price to be released to Service Provider, less the cost (estimated by Service Provider and the Land Bank's representatives) of completing the work specified on the Punchlist. Service Provider shall use its best efforts to complete or correct such items in a reasonable period of time after the receipt of such list. Upon completion of the Work specified on the Punchlist, the Land Bank shall pay to Service Provider the residue of the purchase price.

(11.) Warranty of Title

- (a) Service Provider warrants that (i) title to all Work, materials and equipment

will pass to the Land Bank upon the receipt of payment by the Land Bank, free and clear of all liens, claims, security interests or encumbrances (collectively referred to as "Liens") and (ii) Service Provider shall acquire no work, materials or equipment, whether directly or through a subcontractor, subject to an agreement under which a Lien is retained by the seller or otherwise imposed by Service Provider, any subcontractor or any other person or entity. Service Provider shall also defend the Land Bank, at Service Provider's sole cost and expense, against any actions, lawsuits or proceedings brought against the Land Bank as a result of Liens filed against the Property, or otherwise. Service Provider hereby indemnifies, defends and holds harmless the Land Bank against any such Liens or claims for lien and agrees to pay any judgment or Lien against the Land Bank or the Land Bank's property resulting from any such actions, lawsuits or proceedings brought to enforce such Lien or claim.

- (b) Notwithstanding anything to contrary herein contained, the Land Bank reserves the right to settle any disputed mechanics' Lien claims by direct payment to the mechanic Lien claimant by the Land Bank if the Land Bank, in its sole discretion, determines such payments are the most economical or advantageous method of settling any dispute, but not before the Land Bank has given seven days' notice to Service Provider of the Land Bank's intention to settle such claims. Service Provider shall promptly reimburse the Land Bank for such payment upon demand of the Land Bank may elect to deduct the amount(s) of any such payment(s) from the purchase price.
- (c) Service Provider shall timely pay each subcontractor for any work performed by subcontractors. The Land Bank shall not have the obligation to pay or cause payment of monies to any subcontractor. Prior to the commencement of the Work, Service Provider shall provide to the Land Bank a written list of each subcontractor of any tier who is to perform any Work or is otherwise engaged in the Work. The provisions of this section shall survive the termination of this Agreement.

(12.) Assignment

This Agreement shall not be assigned by either party, unless mutually agreed to in writing by the parties, attached hereto and incorporated herein.

(13.) Termination of Agreement

If Service Provider defaults or fails to carry out the Work in accordance with the Specifications and the Agreement, the Land Bank, upon fifteen (15) business days' written notice to Service Provider, and without prejudice to any other remedy the Land Bank may have, may make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due Service Provider. Alternatively, at the Land Bank's option, the Land Bank may terminate this Agreement and take

possession of the site and all materials, equipment and machinery thereon owned by Service Provider and may finish the Work by whatever method the Land Bank may deem expedient. If the unpaid balance of the purchase price exceeds the cost of finishing the Work, such excess shall be paid to Service Provider, but if such cost exceeds such unpaid balance, Service Provider shall pay the difference to the Land Bank. Such payment obligations shall survive the termination of this Agreement.

(14.) Notices

Notice to either party hereunder shall be deemed properly given when delivered in person, in writing or having been placed in the United States mails, certified mail with sufficient postage affixed and addressed to the addresses set forth on page one of this Agreement.

(15.) Entire Agreement

This Agreement contains the entire agreement of the parties and may not be altered or modified except by an instrument in writing signed by both parties.

(16.) Governing Law

This Agreement shall be construed and governed under the laws of the commonwealth of Massachusetts. All actions for performance and breach shall be brought in Dukes County courts regardless of any claim of diversity of citizenship.

Executed as a sealed instrument on the day and year first written above in two duplicate originals.

by: _____
[name]
Service Provider

by: _____
[name and title]
MARTHA'S VINEYARD LAND BANK COMMISSION