

## M E M O R A N D U M

**TO:** City of Buchanan, Heather Grace, City Manager  
**FROM:** Scott A. Dienes  
**DATE:** June 10, 2021  
**RE:** City of Buchanan Downtown Development Authority

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We were engaged to assist the City in dissolving its DDA. As we researched this matter with City staff, we became aware of Ordinance 2020.7/418 (“Ordinance 2020.7/418”) which dissolved the DDA in August of 2020. However, there remain lingering outstanding issues related to property owned by the DDA, funds of the DDA, and whether some sort of rebate to the taxing jurisdictions are now due.

### DDA Tax Increment & Property

Like other tax increment authorities, the DDA operates with tax increment captured from other entities that tax City properties. Tax increment is the tax created as the taxable value of property increases. The tax collected on the difference in value before and after a project is the “tax increment” or (“TIF”)

Not all taxes levied in the City are subject to capture. Millages for debt, for example, cannot be captured. Likewise, only taxes on property located within a TIF district (such as the DDA) can be captured by that TIF authority. Certain school taxes can be exempt as well.

The DDA last captured TIF in 2019. No taxes have been captured by the DDA after the dissolution occurred, so any remaining TIF dollars were captured by the DDA before it was dissolved, presumably pursuant to the then-existing DDA Plan.

Section 230 of Act 57 of the Public Acts of MI of 2018, as amended (“Act 57”), states that the “property and assets of the Authority remaining after the satisfaction of obligations of the Authority belong to the Municipality.” The DDA has no debt and no remaining obligations, so all remaining property and assets of the DDA now belong to the City as a function of law, and no further action is needed.

There is no ambiguity in Ordinance 2020.7/418. It clearly provides the reason for the distribution of DDA assets, and its directives are both consistent with, and authorized by Act 57.

It is our opinion that no further action by the City is necessary to dissolve the DDA. The action taken by virtue of Ordinance 2020.7/418 is sufficient and complies with the steps set forth in Act 57. Likewise, the DDA cannot be reactivated. Its ability to capture taxes at past levels is now gone and a new DDA would need to be established if desired. Today’s taxable values would be used, and certain of the tax entities would have the right to “opt-out” of capture. So, little legal incentive now exists to establish a new DDA.

Lastly, the City should continue to collect loan payments made on DDA loans to landowners. Those accounts receivable were property of the DDA that automatically became property of the City in 2020.

We trust our efforts have concluded the analysis of this issue and that the City is now satisfied. Thank you for the opportunity to serve the City. We have enjoyed working with your skilled and dedicated staff. We look forward to assisting the City in the future.