City of Allen Park, County of Wayne
State of Michigan
ORDER No. 2014-054

WHEREAS, under Local Government Fiscal Responsibility Act, Act 72, Public Acts of Michigan, 1990, as amended ("Act 72") and as superseded by the Local Financial Stability and Choice Act, Act 436, Public Acts of Michigan, 2012 ("Act 436"), as well as any successor Acts, and a Contract (the "Contract") dated October 25, 2012 between the State of Michigan and Joyce A Parker, Joyce A. Parker has been appointed as the Emergency Manager (the "EM") of the City of Allen Park, County of Wayne, Michigan (the "City") and is thereby charged with the power and authority to take all actions necessary to develop and implement financial and operational plans, to regulate expenditures, investments, ensure compliance with federal, state and local laws, regulations, rules, local laws and make provisions for services essential to the public health, safety, and welfare of the City of Allen Park, including the power to exercise the authority and responsibilities of the Mayor, the Chief Administrative Officer of the City, and of the City Council, as the governing body of the City, concerning the adoption and enforcement of ordinances and resolutions affecting the financial condition of the City as provided in the Home Rule City Act, Act 279, Public Acts of Michigan, 1909, as amended ("Act 279");

WHEREAS, pursuant to Act 436 and specifically MCL 141.1552(1)(dd) and (ee) an emergency manager has the power and authority to exercise, on behalf of the local government, all authority and responsibilities of the governing body including of enforcement of ordinances and resolutions as provided under the Home Rule City Act, 1909 PA 279, and take any other action or exercise any power or authority of any officer, employee, board, and commission, recognizing that the power of the emergency manager shall be superior to and supersede the power of any of the aforementioned officers or entities;

WHEREAS, on January 22, 1991, the City adopted Ordinance 90-8, which created the Allen Park Downtown Development Authority (the "APDDA"), pursuant to PA 197 of 1975, MCL 125.1651. Shortly thereafter the APDDA adopted in April 1991, a Development Plan and Tax Increment Financing Plan (the "Plan") setting forth generally the legal basis and mission of the APDDA as it relates to reinvesting in the DDA district (the "District"), which is made up of large tracts of land within the City, includes property consisting of three parcels: 16630 Southfield Road, 16850 Southfield Road, and 8301 Enterprise Drive; with associated parcel numbers of 30-001-010003-007, 30-001-01-0002-005, and 30-008-99-0001-701 (for the purpose of this Order, hereinafter referred to as the "Site");

WHEREAS, the Site was acquired by the City by issuing one or more series of bonds (the "Bonds"), for the stated purpose of supporting redevelopment in the City and the District;

WHEREAS, the City and the APDDA through the EM have determined that the City's obligation to service the Bonds materially limits the City and the APDDA's ability to support economic development of the Site specifically and the District generally; and2

WHEREAS, this ORDER is necessary in order to carry out the duties and responsibilities required of the Emergency Manager as set forth in Public Act 436, the Contract and the emergency financial plan;

RESOLVED, NOW THEREFORE, IT IS HEREBY ORDERED BY THE EMERGENCY MANAGER OF THE CITY OF ALLEN PARK, PURSUANT TO PUBLIC ACT 436 of 2013, THE CONTRACT, AND ALL OTHER RELEVANT LEGAL MANDATES THAT:

1. The EM, on behalf of the City and the APDDA directs that all new tax increment revenues resulting from economic redevelopment activities after the effective date of this Order, which are subject to capture by the APDDA and generated from the Site, to be forwarded to the City for the limited and specific purpose of servicing the Bond debt obligations until such time as the Bond debt has been extinguished, or tax increment revenue capture is terminated pursuant to the Plan and any amendment or renewals thereof.

2. The EM, on behalf of the City and the APDDA, further directs all tax revenues received by the DDA throughout the entire District attributable to the recently adopted 6.75 mill/10 year public safety operations millage shall be forwarded to the City for the specific and limited purpose of providing public safety operations within the District.

3. All orders of the EM, contracts, resolutions of the Allen Park City Council, and parts of resolutions or orders in conflict with this Order are hereby repealed to the extent of such conflict.

IT IS SO ORDERED this 24th day of September, 2014.

JOYCE A. PARKER
Emergency Manager
City of Allen Park

MEMO

TO: Joyce Parker, City of Allen Park Emergency Financial Manager

FROM: Paul F. Bohn, Esq

DATE: September 24, 2014

RE: Downtown Development Authority Contribution to Economic Redevelopment at the Former Film Studio, Southfield Road Property

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You have requested that I review and advise whether the Allen Park Downtown Development Authority ("APDDA") may contribute tax increment revenues ("TIR") generated from upcoming economic redevelopment activities on the Former Film Studio, Southfield Road Property (the "Site"), which TIR would be used in whole or in part, to service the municipal bonds issued by the City to acquire the Site (the "Bonds"). For the reasons set forth below, and as qualified by this memo, it is our belief that such use of this TIR is a permissible use under the Downtown Development Authority Act, PA 197 of 1975, MCL 125.1651.[1]

BACKGROUND FACTS

On January 22, 1991, the City of Allen Park (the "City") adopted Ordinance 90-8, which created the APDDA, pursuant to PA 197 of 1975, MCL 125.1651. Shortly thereafter the APDDA adopted in April 1991, its Development Plan and Tax Increment Financing Plan (the "Plan") [2] setting forth generally the legal basis and mission of the APDDA as it relates to reinvesting in the DDA District. The property comprising the Site was included in the DDA District as well.

A review of the Plan confirms the following, that: (1) it contemplates the uses of tax increment financing to achieve its goals; (2) one of the stated goals of the Plan is to "strengthen the commercial area and to encourage and participate where feasible in the development of new private uses that clearly demonstrate the creation of new jobs, the

[1] This memorandum does not address and you have not requested whether you, as the appointed Emergency Financial Manager, may act in the role of the APDDA Board and or the City Council for Allen Park. Furthermore, this memorandum is based upon a review of a copy of the 1991 APDDA Development and Tax Increment Financing Plan alone. No other documents were provided to this office for the purposes of this analysis. The background facts herein are those provided to this office and have not been independently verified by this office.

[2] The current Plan only allows for the collection of TIR through **December of 2021**, which may well be a limiting factor on the use of TIR unless the Plan is extended beyond this termination date.

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attraction of new business and the generation of additional tax revenues". [3] Further financing of development activities within the DDA District contemplates that the APDDA may request the City to sponsor a bond using the proceeds of the tax increments for debt service payment. [4] The Plan goes on to state that "the (DDA) may use (TIR) for any legal purpose as is established under the Act including the payment of principal and interest on bonds." [5] It is your intention to adopt an Order after public notice of the same that the DDA and the City agree that after the effective date of the Order all new TIR which the APDDA would otherwise capture from the Site shall be provided to the City to assist the City in meeting its Bond obligations; and further, the City agrees to accept this new TIR generated from anticipated redevelopment of the Site and to utilize it exclusively for the aforementioned Bond debt service.

You have informed us that the Site was originally acquired by the City for the purposes of creating and promoting economic development within the DDA District and consistent with the APDDA Plan. Further, you have revealed that the City is contemplating the sale and/or lease of some or all of the Site to private developers with the specific purpose of encouraging economic development activities consistent with the Plan. You have also stated that acting on behalf of the DDA board, it is your desire to have the ability to utilize new TIR that is expected to be generated from these upcoming development activities on the Site to service the Bonds. Currently, the servicing of these Bonds, in your opinion as acting on behalf of the DDA and the City, prevents both the DDA and the City from providing needed economic support to redevelopment efforts within the DDA District.

Attached is a draft Order for your review which I believe embodies the above concepts. Additionally, you have asked and we have included in the draft Order and action previously taken by the APDDA; which is to specifically contribute the specific revenues generated by the recently adopted 6.75 mill/10 year public safety millage for <u>all</u> properties within the established APDDA District, including but not limited to the Site. DDA has agreed to contribute and the City has agreed to accept and utilize these specific tax revenues from this specific millage for as long as it is captured to be utilized by the City in providing public safety services within the APDDA District.

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[3] See Plan, p 4

[4] See Plan §11, p 20

[5] See generally Plan, pp 25-26.