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**TO:** Detroit City Council

**FROM:** David Whitaker, Director  
Legislative Policy Division 

**DATE:** October 18, 2019

**RE:** **Disolution of the Detroit Land Bank Authority**

The Legislative Policy Division (LPD) has been requested by Council President Pro-Tempore, Mary Sheffield and Councilman Andre Spivey to provide information regarding the dissolution of the Detroit Land Bank Authority (DLBA) and to address how the City receives assets, particularly the vast swaths of vacant real property in its inventory, back from the DLBA after dissolution.

As indicated in prior LPD reports the DLBA is created under an Intergovernmental Agreement between the City of Detroit and the Michigan Land Bank Fast Track Authority (MLB), pursuant to Public Act 258 of 2003, Land Bank Fast Track Act. Under the Second Amended and Restated Intergovernmental Agreement between the City and the MLB (hereinafter the Agreement ) the "Initial Term" of the agreement will end on or about December 19, 2023. Pursuant to Section 9.01 of the Agreement, after the Initial Term the DLBA shall continue until terminated by joint action of the Parties and the City Council and Mayor or withdrawal by a Party under Section 9.02 which provides:

Either Party may withdraw from this Agreement after the initial term upon six (6) months notice in writing to the City Authority and Parties as provided under Section 9.01; provided, however, that withdrawal by the City requires the approval of the City council and Mayor.

Prior to the DLBA dissolution, Section 9.03 of the Agreement provides that the DLBA must wind up its affairs as follows:

- (a) All of the City Authority's debts, liabilities, and obligations to its creditors and all expenses incurred in connection with termination of the City Authority and distribution of its assets shall be paid first.
- (b) The remaining assets, if any shall be distributed to any successor entity unless otherwise agreed by the Parties, provided, however, that approval by the City requires the approval of City Council. In the event that no successor entity exist, the remaining assets shall be distributed as directed by the City unless otherwise agreed by the Parties.

As provided in the Intergovernmental Agreement, if the City Council and Mayor approve the withdrawal from the Agreement, the DLBA would be required to wind up all its affairs. In doing so, all of the DLBA's obligations to creditors and any expenses incurred in undertaking the DLBA's dissolution must be paid first. If no successor exist, the remaining assets shall go to the City unless otherwise agreed by the Parties. Once the remaining assets are distributed, the DLBA would no longer exist.

LPD notes that should the DLBA be dissolved there is the likely possibility that tens of thousands of parcels of property will remain. Some strong consideration should be given to the fact that clouds may well exist on the title to much of the properties the DLBA will be expected to turn over after dissolution. In addition, one of the main functions of the DLBA includes the assembly, disposition, and quieting of title to property acquired by the DLBA. The DLBA is provided special tools granted under the Land Bank Fast Track Act to quiet title. The expedited quiet title tool enables the DLBA to provide a clear title to purchasers. This tool allows for the properties to be placed back into productive use in a much more efficient manner than the City could provide. Therefore, a process should be developed to legally clear the titles prior to any mass transfer of properties to the City after dissolution.

LPD has attached its prior report regarding the Dissolution of Quasi Govenmental Authorities for additional reference. If we can be of further assistance please call upon us.

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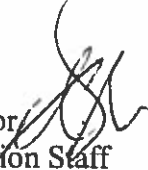
# City of Detroit

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TO: Detroit City Council

FROM: David Whitaker, Director  
Legislative Policy Division Staff 

DATE: September 24, 2018

RE: **Supplemental Report to Dissolution of Quasi-Governmental Authorities  
Created by State Enabling Acts**

On September 20, 2018, the Legislative Policy Division (LPD), submitted a report regarding the method of dissolution of quasi-governmental entities. LPD is submitting this supplemental report to correct and provide further clarification regarding its initial findings regarding the Detroit Land Bank Authority (DLBA).

In the September 20th report, LPD indicated the time provided in the Intergovernmental Agreement in which the City Council and the Mayor could consider the dissolution of the DLBA after the initial term was on or about September 15, 2018. Upon receiving further information and clarification regarding the minimum five-year duration of the Original Intergovernmental Agreement; the minimum five-year duration of the First Amended and Restated Intergovernmental Agreement; and the minimum ten-year duration of the Second Amended and Restated Intergovernmental Agreement, LPD is correcting its initial report to reflect that the correct end of the Initial Term should be on or about December 19, 2023.

LPD initially reported that the City Council and Mayor could consider dissolution of the City Authority (DLBA) with six-month's notice, after the end of the Initial Term of ten years. It was initially believed that the Initial Term which is defined to begin on the Effective Date was the original date of the Intergovernmental Agreement (IGA) between the City of Detroit (City) and the Michigan Land Bank Fast Track Authority, being September 15, 2008. Although that was the effective date of the Original IGA, the "Effective Date" and the Initial Term was changed in the First Amended and Restated IGA, and the Second Amended and Restated IGA.

To further clarify, the Original IGA under Article VIII, Duration of Agreement provides:

This Agreement and the City Authority shall commence on the Effective Date and shall continue in effect for an initial term of five (5) years and after that until terminated by joint action of the Parties and the City Council or withdrawal by a Party under Section 8.02.

Section 1.07 of the Original IGA identifies the Effective Date as the date in which the Agreement is approved and entered by the Parties. The Original IGA was entered into on or about September 15, 2008, which is the Effective Date of that Agreement. The initial term of five years would have expired on September 15, 2013.

On or about July 18, 2013 the Parties entered into the First Amended IGA which provided under Article VIII, Duration of Agreement:

The City Authority shall commence on the effective date of the Original Agreement and this Agreement shall commence on the Effective Date. The City Authority and this Agreement shall continue through the Initial Term and after that until terminated by joint action of the Parties and the City Council and Mayor or withdrawal by a Party under Section 8.02

This provision indicates the City Authority commenced on September 15, 2008, upon the Parties entering the Original IGA. The Effective Date is then identified as a separate and distinct time frame regarding the underlying Agreement (First Amended IGA). The Effective Date here refers to the First Amended IGA's commencement and is defined in Section 1.09.

Section 1.09 of the First Amended IGA identifies the Effective Date as the date that the Agreement (First Amended IGA) is approved and entered by the Parties. The Effective Date of the First Amended IGA is on or about July 18, 2013. The First Amended IGA provides in Section 1.14 that the Initial Term for the Agreement is "the period ending on the date that is five (5) years following the Effective Date. The Initial Term under the First Amended IGA would have expired on or about July 18, 2018. However, on December 19, 2013 the Parties entered the Second Amended IGA.

The Second Amended IGA under Article IX, Duration of Agreement, Section 9.01 provides:

The City Authority shall commence on the effective date of the Original Agreement and this Agreement shall commence on the Effective Date. The City Authority and this Agreement shall continue through the Initial Term and after that until terminated by joint action of the Parties and the City Council and Mayor or withdrawal by a Party under Section 9.02.

Just as provided in the First Amended IGA, the language in the Second Amended IGA makes a distinction between the "effective date of the Original Agreement", the date the City Authority commenced versus the "Effective Date" the date the Second Amended IGA commenced.

Section 1.08 of the Second Amended IGA indicates the Effective Date is the date that the Agreement is approved and entered by the Parties. More significant is the language in Section 1.12 which provides:

“Initial Term” means the period ending on the date that is ten (10) years following the Effective Date

The Effective Date would be the date in which the Second Amended IGA was entered, on December 19, 2013. According to Section 1.12 the Initial Term would end ten (10) years after the Effective Date or on December 19, 2023. Understanding that at the time the Second Amended IGA was being executed, the City was anticipating receiving federal dollars under the Hardest Hit Funding (HHF) program and would have wanted to extend the life of the DLBA beyond the minimum five-year term. LPD believes based on the language in the three agreements regarding Duration of Agreement, December 19, 2023 is the correct end date of the Initial Term and not September 15, 2018 as previously reported.

LPD also provides clarification regarding page 2, footnote 1, of the September 20th report in that the 90,000 properties the DLBA received consist of the 53,558 from the City and the 44,402 received from the Wayne County Treasurer, as reflected in the DLBA's July 2018 Quarterly Report.

Finally, LPD provides clarification regarding page 3, footnote 2, of the September 20th report, that the \$2 million provided for title insurance was not delivered to the DLBA, but to an escrow account on the DLBA's behalf.

If we can be of further assistance, please call upon us.