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City of Detroit

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TO: Salvador Salort-Pons
President & Chief Executive Officer
Detroit Institute of Arts

FROM: David Whitaker, Director 
Legislative Policy Division

DATE: March 14, 2022

RE: Detroit Institute of Arts Analysis for City's FY 2022-2023 Budget

Attached is our analysis regarding the Detroit Institute of Arts for the City's Fiscal Year 2022-2023 Budget.

Please be prepared to respond to the questions raised in our analysis during your scheduled hearing on **Friday, March 18, 2022, at 3:00 p.m.** We would then appreciate a written response to the issues/questions at your earliest convenience before or after your budget hearing. Please forward a copy of your responses to the Council members, the City Clerk's Office, and the Legislative Policy Division.

Please contact us if you have any questions regarding our analysis.

Thank you for your cooperation in this matter.

Attachments:

Issues and Questions
Attachment I – Detroit Institute of Arts, Financial Report, June 30, 2021
Attachment II – 2020 Arts Authority Report, Wayne County
Attachment III – Review of DIA Compliance with Wayne County Art Institute Authority Service Agreement
Attachment IV – DIA Service Agreement with the Wayne County Art Institute Authority

cc: Councilmembers
Auditor General's Office
Jay Rising, CFO
Tanya Stoudemire, Chief Deputy CFO-Policy & Administration

Steven Watson, Deputy CFO/Budget Director
Donald Rencher, Group Executive
James George, Agency CFO
Justin Buss, Budget Analyst
Gail Fulton, Mayor's Office

Detroit Institute of Arts

Analysis by the Legislative Policy Division for the City's FY 2022-2023 Budget

The Detroit Institute of Arts (DIA) is a not-for-profit corporation exempt from income tax under Section 501(c)(3) of the Internal Revenue Code (IRC) and classified as a publicly supported organization under IRC Sections 509(a)(1) and 170(b)(1)(A)(vi). The DIA's purpose is to:

- Serve the public through the collection, conservation, exhibition, and interpretation of art from a broad range of cultures and to expand understanding of these diverse visual forms of creative expression for the enjoyment and appreciation of the widest possible array of audiences
- Solicit, receive, and administer funds, works of art, and other property
- Engage in other activities not prohibited by the laws of the State of Michigan in accordance with all powers under the provisions of the Non-profit Corporation Act (Act 162 of the Public Acts of 1982)

DIA History¹

The Detroit Museum of Art (DMA) was founded in 1885 as a private, nonprofit organization, after authorizing legislation was passed at the state level establishing the right to create a nonprofit corporation for art. The museum was an outgrowth of a period in which American cities aspired to European models of civic virtue and sophistication. To get the initiative off the ground, 30 individuals contributed \$1,000 each and \$10,000 came from lumber baron [Thomas Palmer](#), who served as the museum's first board chairman. By March 1886, \$100,000 had been raised to acquire land and erect a building. The first DMA, a Richardsonian Romanesque design by Canadian James Balfour, opened at Jefferson Avenue and Hastings Street on Sept. 1, 1888. Important early gifts of art from newspaper magnate James Scripps included key European works such as Peter Paul Rubens' "[The Meeting of David and Abigail](#)" and Pieter de Hooch's "[Mother Nursing her Child](#)."

The new museum ran into funding problems almost right away, and in 1893 began receiving subsidies from the city. By the second decade of the 20th Century, private donations were not enough to keep the museum afloat or accommodate its burgeoning collection. (The museum's endowment in 1915 was only \$50,000, compared with \$1 million at the Art Institute of Chicago). In July 1919 the Detroit Museum of Art was rechristened the Detroit Institute of Arts and became a city department. It now drew operating funds from the same pool of money that supported parks, police and other services. Ownership of the collection and building were ceded to the city — the DIA's precise structure, ownership and relationship history with the city remain unique among leading American museums.

The new DIA was governed by a mayoral-appointed Arts Commission. Flush with city cash, the DIA embarked on a buying spree between 1922 and 1930 that landed some of its greatest treasures — Van Gogh's "[Self-Portrait](#)," Rembrandt's "[The Visitation](#)," Bruegel's "The Wedding Dance,"

¹ Detroit Free Press Article, dated September 8, 2013, "[DIA in Peril](#)"

The Detroit Institute of Arts has a long and tangled relationship with Detroit politics — and an extensive history of financial issues. An exhaustive look at the museum's past provides insight into its key role in Detroit's bankruptcy.

Story By Mark Stryker, Web presentation by Brian Todd

Matisse's "The Window," Bellini's ["Madonna and Child,"](#) Van Eyck's ["Saint Jerome in His Study"](#) and others.

At the end of 1997, the city reached an agreement with the Founders Society to transfer all museum operations to the society, now simply known as the Detroit Institute of Arts. The 20-year agreement, which took effect in 1998, gave the museum its greatest autonomy since 1919. The city retained ownership of the art and building and contract details appeased workers' concerns.

On Aug. 7, 2012, a majority of voters in Wayne, Oakland and Macomb counties voted to approve an annual property tax millage — \$20 on a home worth \$200,000 — to fund the DIA for the next 10 years. The tax promises to funnel about \$22 million annually to museum operations — roughly 70% of its budget — and represents its first stable source of public funding since the 1991 state cuts. In exchange for passage, the DIA instituted free admission for tri-county residents and expanded its education and outreach programs. Many credit the success of the millage drive to the DIA's strategy of creating a more accessible and relevant institution, dating to its 2007 renovation.

The DIA committed to raising hundreds of millions of dollars in additional endowment funds over the next decade to build its nest egg to \$400 million — enough to finally sustain the museum in perpetuity. A \$400-million endowment would generate about \$20 million in annual income for operations, enough to replace tax dollars when the millage expires.

In campaigning for the millage, the DIA had argued that the museum was a prime regional asset and the only way to prevent its closure was to reinstate public funding to provide the breathing room it needed to raise endowment dollars.

The City's bankruptcy in July 2013, put the DIA's art works at risk of being sold to meet creditor demands. The City's bankruptcy attorneys, bankruptcy court, State of Michigan, DIA, and certain charitable foundations collaborated to create the "Grand Bargain". The Bankruptcy Court described the groundbreaking Grand Bargain, in particular, as the "cornerstone" of the Plan [Plan of Adjustment]. The collection of settlements comprising the Grand Bargain provided for the contribution of \$816 million over the next 20 years by the State, certain charitable foundations and the DIA for the benefit of the City's pensioners while simultaneously protecting the City's irreplaceable art collection housed at the DIA.

Judge Rhodes wrote in his confirmation opinion of the City's plan of adjustment², "The evidence unequivocally establishes that the DIA stands at the center of the City as an invaluable beacon of culture, education for both children and adults, personal journey, creative outlet, family experience, worldwide visitor attraction, civic pride and energy, neighborhood and community cohesion, regional cooperation, social service, and economic development. Every great City in the world actively pursues these values. They are the values that Detroit must pursue to uplift, inspire and enrich its residents and its visitors. They are also the values that Detroit must pursue to compete in the national and global economy to attract new residents, visitors and businesses. To sell the DIA art would only deepen Detroit's fiscal, economic and social problems. To sell the DIA art would be to forfeit Detroit's future. The City made the right decision."

² Judge's Confirmation ORAL OPINION ON THE RECORD In re City of Detroit Bankruptcy Judge Steven Rhodes November 7, 2014

On the Effective Date (December 10, 2014), pursuant to the DIA Settlement set forth in the Plan of Adjustment, the City irrevocably transferred all of its right, title and interest in the DIA Assets to a perpetual charitable trust, including: (a) the DIA Collection; and (b) the real property located at 5200 Woodward Avenue, Detroit, Michigan (the site of the DIA); and associated parking lots and garages.

Pursuant to the DIA Settlement: (1) certain charitable foundations and funders of the non-profit corporation ("DIA") that operates the Detroit Institute of Arts (collectively with DIA, the "DIA Funding Parties") have committed to assist in the funding of the City's restructured legacy pension obligations; and (2) the City has agreed to enter into certain transactions that will cause the DIA assets to remain in the City in perpetuity, subject to dispositions in accordance with applicable national ethical standards for museums, and to otherwise make the DIA assets available for the benefit of the residents on the City and State of Michigan. The DIA Settlement will be funded over a 20-year period as follows: (1) an irrevocable commitment of \$366 million by the charitable foundations payable in equal annual installments over the 20-year period; and (2) in addition to its continuing commitments outside of the DIA Settlement, an irrevocable commitment from DIA to raise at least \$100 million from its donors, the payment of which \$100 million will be guaranteed by the DIA payable in equal annual installments over the 20-year period, which DIA payments are subject to a present value discount if paid in advance of the 20-year schedule of payments. Upon the closing of the DIA Settlement transaction on December 10, 2014, the City irrevocably transferred the DIA assets, having a net book value of \$86.6 million, to the DIA, as trustee, to be held in perpetual charitable trust, subject to dispositions in accordance with applicable national ethical standards for museums, and within the City limits, for the primary benefit of the residents of the City and citizens of the State.

In accordance with the Plan of Adjustment, on the closing of the DIA Settlement transaction on December 10, 2014, the City, the DIA, and the Foundation for Detroit's Future ("FDF") delivered the following agreements to effectuate the DIA Settlement: (1) the Omnibus Transaction Agreement (Exhibit I.A.127 of the Plan) by and among the City, the DIA and the FDF; (2) the Settlement Conveyance and Charitable Trust Agreement by and between the City and the DIA (the "Conveyance Agreement"); (3) the Quit Claim Deed from the City to the DIA granting the DIA the City's interest in the cultural center garage (the "Garage Deed"); (4) the Quit Claim Deed from the City to the DIA granting the DIA the City's interest in the real property of the Detroit Institute of Arts (the "DIA Deed"); (5) the Bill of Sale by and between the City and the DIA (the "Bill of Sale"); and (6) the Intellectual Property Transfer Agreement by and between the City and the DIA.

On December 10, 2014 the Foundation for Detroit's Future made the first payments totaling \$23.3 million in accordance with the DIA Settlement Agreement to the GRS (\$5.0 million) and PFRS (\$18.3 million).

The DIA's board of directors passed a resolution in the year ended June 30, 2016 to extinguish the Grand Bargain obligation by electing to prepay a majority of the balance in lieu of paying over 20 years. As of June 30, 2020 the DIA owed \$5.3 million of the original \$100.0 million obligation to the City. The remaining \$5.3 million, at payments of \$375,000 per year, will be made through the Foundation for Detroit's Future.

As of the date of this analysis the City, DIA and the FDF have met all their obligations in accordance with the Plan of Adjustment.

In March 2020, voters in the Tri-County region approved renewal of the DIA millage for another years. The Plan is to increase the endowment to enable more funding for DIA operations.

Museum Collections

The works of art are held in charitable trust for educational, research, and curatorial purposes. Each of the items is catalogued, preserved, and cared for, and activities verifying their existence and assessing their condition are performed annually. Sales of works of art are subject to a policy that requires proceeds from their sales be used to acquire other items for the collection.

Relationship with the Tri-Counties

The counties of Macomb, Oakland, and Wayne, Michigan established Art Institute Authorities (the "Authorities") pursuant to the Public Act 296 of 2010, which allows for the continuing support of art institute services for the students, residents, and visitors of these counties. The Authorities entered into separate service agreements with the DIA, which provides for the continued provision of art institute services to the residents of the respective counties upon receipt of tax monies levied by the respective Authorities.

In August 2012, the voters of the respective counties approved the levies of the tax on real and personal property for a period of ten years. The millage rate approved was .2 mill (20 cents per \$1,000 of taxable value). In March 2020, the millage was renewed for another 10 years through 2032 at the previously approved rate of 0.2 mills.

All agreements are based on providing services over a calendar year. Proceeds from the millage are forwarded to the DIA, as received by the counties. For the years ended June 30, 2021 and 2020, the DIA has recognized approximately \$29.5 million and \$34.6 million, respectively, in service agreement revenue. The DIA does not show the amounts contributed for each county on its financial statements, but only the combined total.

Free Admissions (See Attachments II and IV)

Per the Wayne County Art Institute Authority Service Agreement with the DIA, the DIA is required to provide unlimited, free museum admission for all residents of Wayne County, including self-guided field trips.

Wayne County free general admissions for the DIA totaled 21,006 in 2020. This was 153,306 less than the 174,312 in 2019. In 2020, 18,120 individuals participated in no-cost field and virtual trips to the DIA, exceeding the service agreement requirement of 16,000 by 2,120.

The DIA hosted 26 senior group trips to the museum.

See Attachment II for other programs and events hosted for Wayne County residents in 2020.

The Service Agreement provides for the levy of the .2 mill tax on County properties.

Compliance with the 2020 Wayne County Service Agreement (See Attachments III and IV)

Total spending on school programs was \$118,349 in 2020. The requirement was \$150,000. The DIA is required to provide subsidies for transportation for the school programs.

Total senior program spending was \$37,864 in 2020. The requirement was \$100,000.

Total spending on community programs was \$142,510 in 2020. The requirement was \$300,000.

DIA Financials as of June 30, 2021 (See Attachment I)

The DIA had total net assets of \$531.3 million on June 30, 2021, which was \$119.4 million greater than the \$411.9 million on June 30, 2020. The DIA's financial condition is good. As of June 30, 2021, it has sufficient cash (\$40.6 million) and investments (\$439.5 million) to pay its obligations (\$15.8 million). The DIA had undesignated net assets of \$17.2 million on June 31, 2021.

The DIA had Board designated net assets of \$304 million on June 30, 2021. Board designated net assets are unrestricted and can be spent for operating purposes and on endowments, as directed by the DIA's board of directors.

Donor restricted net assets totaled \$210.2 million on June 30, 2021. They have donor-imposed restrictions that permit the DIA to use or expend the assets as specified (e.g., operations and art acquisition).

The DIA pension obligation was overfunded by \$3.2 million, which meant it had more pension assets than liabilities, which is good, unlike the City's large Net Pension Liability.

The DIA had a \$3.6 million postretirement health care obligation on June 30, 2021.

During the year ending June 30, 2021, the DIA received a Paycheck Protection Program (PPP) loan in the amount of \$3,965,625. Under the terms of this program, the loan may be fully or partially forgiven if the loan proceeds are spent on qualifying expenses and staffing level and salary maintenance requirements are met. As of June 30, 2021, the full amount of \$3,965,625 is outstanding and it is classified as debt on DIA's statement of financial position. The DIA has submitted a request for forgiveness of the entire loan amount balance in July 2021; however, there can be no assurance given that any portion of the PPP loan will be forgiven.

The DIA had \$29.5 million of Tri-county support revenue from the tri-county millage tax for the year ending June 30, 2021. This was \$5.1 million less than the \$34.6 million of Tri-county support revenue for the year ended June 30, 2020. Other unrestricted revenue sources in FY 2021 included: (1) \$10.4 million from membership and development; (2) \$2 million from program and operational activities; and (3) \$79.6 million in investment income.

The City collects and paid approximately \$1 million in millage taxes to the DIA through Wayne County for FY 2021. This is included in the \$29.5 million Tri-county support revenue reported by the DIA for FY 2021 (See Attachment I, page 3).

DIA unrestricted operating expenses in FY 2021 included: (1) \$24.9 million program and operational activities; (2) \$3.5 million for membership and development; and (3) \$7.3 million for supporting services.

The DIA purchased \$2.1 million works of art in FY 2021.

The DIA's unrestricted ("Without Donor Restrictions") net assets for FY 2021 was \$321.1 million, an increase of \$89.5 million from the \$231.6 million in FY 2020.

In conformity with allowable museum financial statement presentation practice, the value of the DIA's art collection is excluded from the statement of financial position, and as such, purchases for the collection

are recorded as expenditures for the acquisition of art objects on the statement of activities and changes in net assets in the year in which the objects are acquired.

The DIA has substantial beneficial interests (approximately \$53.8 million in principal) which include endowment and other funds that are not recorded on the DIA financial statements because of outside organization control over the funds. The DIA benefits from contributions from these organizations.

Issues and Questions
Detroit Institute of Arts

1. What initiatives are planned by the DIA to expand the cultural and educational experiences to the region?
2. How would you rate the current financial health of the DIA?
3. Please describe the cultural and educational benefits provided to the children and adults of the City of Detroit by the DIA.
4. Please describe the financial impact that COVID-19 Pandemic has had on DIA operations.
5. Can you quantify the number of annual admissions for Detroit residents in fiscal year 2022 or the calendar year 2022? If so can you quantify the number of Detroit children and schools served?
6. Does the DIA have partnerships or relationships with Detroit schools for cultural and educational benefits? Does the DIA have a department that specializes in providing educational and cultural opportunities to the residents of the City and State? Please provide details on outreach efforts.
7. What major capital projects does the DIA plan over the next four years? Please provide the benefits that any planned capital projects will bring to the community.
8. Please describe any major exhibits that the DIA will feature in 2022 and 2023.
9. How many full time employees does the DIA have? How many part time employees does the DIA have? Can you provide the number of Detroit residents employed by the DIA?
10. Can you provide the total amount of millage tax revenue contributed just by Wayne County for FY 2021?
11. Per the independent auditor's (Plante Moran) report on applying agreed-upon procedures which were agreed to by the DIA and the Macomb County Art Institute Authority Board, there were spending shortfalls for student curriculum development, senior programs, and community collaborations as of December 31, 2019. How will these spending shortfalls be handled? Will unspent monies be used for future years?
12. Please provide the independent auditor's reports on applying agreed-upon procedures between

the DIA and Macomb County as of December 31, 2020, and December 31, 2021. If available, were any spending shortfalls in 2020 and 2021 addressed?

13. Are there similar independent auditor's reports on applying agreed-upon procedures between the DIA and Wayne County for 2020 and 2021? If so, please provide a copy. Were any spending shortfalls in 2020 and 2021 addressed?