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TO: Detroit City Council

FROM: David Whitaker, Director 
Legislative Policy Division

DATE: August 31, 2023

RE: **Memorandum of Understanding Relative to the Detroit Land Bank Authority**

The Legislative Policy Division (LPD) provides this report to update this Honorable Body on the possible need to review and/or extend the Memorandum of Understanding between the City of Detroit (City) and the Detroit Land Bank Authority (DLBA).

In LPD's April 18, 2023 report, it was noted that the expiration of the "Initial Term"¹ of the Second Amended and Restated Intergovernmental Agreement (the Agreement) between the City of Detroit and the Michigan Land Bank Fast Track Authority (MLBFTA) would occur on December 19, 2023. Under Section 9.02, either party could withdraw from the Agreement upon providing six (6) months' notice of its intention to terminate the Agreement. In order for the City to withdraw from the Agreement with the effective date of December 19, 2023, the City Council and the Mayor would have had to provide the MLBFTA the six (6) month prior notice. Without such notice being provided, the Agreement will automatically renew and continue until either party effectuates a withdrawal pursuant to Section 9.02.

In addition to the expiration of the initial term of the Agreement, the Memorandum of Understanding (MOU) between the City and the DLBA is set to expire or terminate on December 19, 2023. However, the MOU will not automatically renew, but will terminate, unless it is formally extended as is, or a renegotiated MOU is approved. LPD notes that the City Council's winter recess begins at the end of

¹ Intergovernmental Agreement: Section 1.12 Initial Term means the period ending on the date that is ten (10) years following the Effective Date. The Agreement was fully executed on December 19, 2013.

November, which provides approximately three (3) months in which any extension or modified MOU can be approved should the City choose to make changes and/or continue with an MOU with the DLBA. LPD has attached to this report a copy of the Second Amended and Restated Memorandum of Understanding for reference.

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

**SECOND AMENDED AND RESTATED
MEMORANDUM OF UNDERSTANDING**

**Between the City of Detroit and the
Detroit Land Bank Authority**

This Second Amended and Restated Memorandum of Understanding (this “MOU”) is entered into this 19th day of May, 2020 (the “Effective Date”) between the City of Detroit (the “City”) and the Detroit Land Bank Authority (the “Detroit Land Bank”). The City and the Detroit Land Bank are referred to from time to time in this MOU individually as a “Party” and together as the “Parties.”

WITNESSETH:

WHEREAS, the Detroit Land Bank was created by the City and the Michigan Land Bank Fast Track Authority (the “State Authority”) pursuant to that certain Intergovernmental Agreement dated September 15, 2008, as amended and restated from time to time, by and between the City and the State Authority (the “Intergovernmental Agreement”) to provide a separate authority to acquire, develop and re-sell land located in the City of Detroit in accordance with Public Act 258 of 2003 (the “Act”). The current organizational structure of the Detroit Land Bank is attached hereto as Exhibit A; and

WHEREAS, the Detroit Land Bank is governed by a Board of Directors consisting of five Directors, one of which is appointed by the Michigan State Housing Development Authority and four of which are appointed by the Mayor of the City, with recommendation from City Council on one appointment and subject to the timely approval of City Council on all four City appointments; and

WHEREAS, the City has previously determined that the City’s endemic blight creates a public nuisance and constitutes a Blight Emergency; and

WHEREAS, the Detroit Land Bank is well suited by its structure and powers granted under the Act to remain nimble to meet the evolving needs of the City and its residents by adjusting current programs, or creating new ones, to encourage home ownership in Detroit, help stabilize Detroit neighborhoods, address challenging market failures, fight blight and promote economic growth and entrepreneurship (the “DLBA Programs”). A current list and brief description of certain significant DLBA Programs are attached hereto as Exhibit B; and

WHEREAS, the Detroit Land Bank is ideally situated to dispose of property due to its special powers granted under the Act that allow the Detroit Land Bank to expedite the clearing of title and negotiate sales in order to return land to the City’s tax rolls in a responsible and expeditious manner; and

WHEREAS, the City wishes to engage the Detroit Land Bank and the Detroit Land Bank wishes to perform certain work under certain DLBA Programs that serve and enhance the policies

of the City and help to eliminate blight in Detroit in exchange for the City providing certain supplemental funding to the Detroit Land Bank; and

WHEREAS, the City and Detroit Land Bank entered into that certain Memorandum of Understanding dated March 14, 2014 (“Original MOU”) that was amended and restated by a First Amended and Restated Memorandum of Understanding (the “First Restated MOU”) approved by Detroit City Council on May 5, 2015 to accomplish such wishes of the Parties; and

WHEREAS, the purpose of this MOU is to amend and restate the Original MOU and First Restated MOU such that this MOU shall serve as an enforceable contract that defines the scope and manner of certain services to be provided to the City by the Detroit Land Bank; and

NOW THEREFORE, in consideration of the mutual undertakings of the Parties, each of which agrees to be bound by the terms and subject to the conditions set forth herein, it is hereby agreed as follows:

1. Incorporation of Recitals. The foregoing recitals are incorporated herein as terms of this MOU as though fully restated in this Paragraph 1.
2. Restatement. The Original MOU and First Restated MOU are hereby amended and restated in their entirety by this MOU and this MOU shall supersede and replace both the Original MOU and First Restated MOU in all respects.
3. Term. The term of this MOU shall commence on March 14, 2014 and shall expire on December 19, 2023 which is the current termination date of the Intergovernmental Agreement. The Detroit Land Bank expects that by this date it will have completed its work with respect to demolitions funded by the Hardest Hit Funds, made an effort to sell every saleable structure in its inventory through one of its sales programs, and adopted and implemented one or more policies to sell its inventory of vacant land. With these goals achieved or exceeded, the Parties believe that it would be appropriate no later than this date to have discussed the Detroit Land Bank’s future role.
4. The Detroit Land Bank Duties. The Detroit Land Bank is responsible for performing the following under this MOU:
 - a. *City Council Liaison*. The Detroit Land Bank will provide a liaison for direct communications with Detroit City Council Members and their staff.
 - b. *Community Engagement*.
 - i. At the invitation of a Detroit City Council Member, the Detroit Land Bank will participate in at least two (2) community meetings for each Detroit City Council Member per year.
 - ii. The Detroit Land Bank will continue to provide a multilingual call center and multilingual lobby services open to the public.

- c. *Reporting.* The Detroit Land Bank agrees to continue to provide the City quarterly written summaries of the work performed by the Detroit Land Bank in conducting its DLBA Programs, the most recent quarterly summary is attached hereto as Exhibit C.
- d. *Property Database.* The Detroit Land Bank shall operate and maintain an Inventory Management system that includes a property database (the "Database") that has both a physical component of maintenance as well as a clerical or administrative component of identifying and addressing issues that prevent property from being returned to productive use. Additionally, the Detroit Land Bank shall work cooperatively with the City, including providing the City certain access to the Database, to track through the Database public ownership of properties and the City's sales and demolition of real property.
- e. *Nuisance Abatement Program.* On February 18, 2014, City Council adopted a resolution that authorizes the Detroit Land Bank to exercise the power to abate public nuisances by pursuing any action legally available ("Nuisance Proceedings"). Furthermore, such resolution provides that in the event the outcome of any such Nuisance Proceeding is in favor of the Detroit Land Bank, title to the subject property shall vest with the Detroit Land Bank. The Detroit Land Bank shall continue to be responsible for the maintenance and upkeep of any properties it takes title to pursuant to any Nuisance Proceedings, subject to available funding.

In furtherance of the Nuisance Proceedings, the City was required to deposit Two Million and 00/100 Dollars (\$2,000,000.00) into a designated "Title Insurance Escrow Account" in December 2017 to be used to address third party claims related to any Nuisance Proceedings. The City hereby ratifies the prior creation, expenditures and agreements for such account and authorizes the City's Chief Financial Officer to enter into and execute any and all agreements and escrow documents and authorize disbursements that are necessary or convenient to administer the Title Insurance Escrow Account.

- f. *HHF Demolition Program.* As part of the DLBA Programs, the Detroit Land Bank shall be responsible for operating and administering a demolition program (the "Demolition Program"). Demolition has proven to be a necessity for some of the long-deteriorated housing stock acquired by the Detroit Land Bank from the City and other sources.

The Detroit Land Bank's Demolition Program shall be responsible for the administration of Federal Hardest Hit Funds (the "HHF") for use in demolishing properties in the City. The Detroit Land Bank anticipates that (a) no later than December 31, 2020 all demolition activity related to this program will be complete; and (b) the Demolition Advance Fund (as defined below) will be repaid in full no later than forty-five (45) business days after the Detroit Land Bank receives the final disbursement of HHF funding from the Michigan State Housing Development

Authority (“MSHDA”). HHF has a limit of \$25,000 per property. In order to remove dangerous buildings that threaten public health and safety, the demolition of which may exceed such HHF per property limit, the City is hereby authorized to pay the Detroit Land Bank, as further conditioned below, to cover the difference in demolition related costs above the HHF limit. In order to be paid for such costs, the City’s Chief Financial Officer must grant approval to the Detroit Land Bank and the Detroit Land Bank shall provide the City’s Chief Financial Officer with invoices and supporting documentation in a form and manner acceptable to the City’s Chief Financial Officer. Any such payments made to the Detroit Land Bank in excess of the HHF limit of \$25,000 per property, shall be disclosed to the City Council by the City’s Chief Financial Officer in a monthly report as applicable.

- g. *Non-HHF Demolitions.* The City currently performs demolition of certain structures located on Detroit Land Bank property and, after completion of HHF demolitions, the demolition of structures located on Detroit Land Bank property will continue to be performed by the City. Unless the Parties agree otherwise, the Detroit Land Bank will survey all such structures and identify certain of them for demolition. The City will have full responsibility for the prioritization, administration, performance, property clean up and all related expenses in connection with all such demolition activity.
- h. *Disposition Programs.* The Detroit Land Bank will continue to implement its land disposition programs which are aimed at encouraging homeownership, occupancy, responsibility for vacant property, and increasing the City’s tax base. Examples of disposition programs to date include the BuildingDetroit.org auction programs, the Side Lot Sales, and the Community Partnership Program for nonprofit and faith-based organizations as further described in the attached Exhibit B.
- i. *Development Projects.* At the request of the City, the Detroit Land Bank will endeavor to assist in real estate development projects and opportunities.
- j. *Approval for Property Sales.* The Detroit Land Bank shall seek the approval of the Mayor and City Council prior to the subsequent transfer of ten (10) or more of such parcels to the same transferee within any rolling 12-month period.
- k. *Compliance with Land Use Plans.* The Detroit Land Bank shall adhere to the City’s Master Plan, Detroit Zoning Ordinance and any other land use ordinances and strategies adopted by the City.
- l. *City Development Agreements.* As directed by the City’s Planning & Development Department, the Detroit Land Bank shall continue to abide by any other contracts previously entered into by the City’s Planning & Development Department for any parcels subsequently acquired by the Detroit Land Bank from the City.

- m. *Land Trusts.* The Detroit Land Bank will endeavor to assist in the sale or lease of land for City sponsored land trusts or cooperatives, should the City adopt such a policy.
- n. *Side Lots.* The Detroit Land Bank will offer its side lots (“Side Lots”) for sale at the purchase price of One Hundred and 00/100 Dollars (\$100.00) each. The Detroit Land Bank will seek the approval of City Council prior to increasing such purchase price for Side Lots.
- o. *Vacant Land Policies.* The Detroit Land Bank will adopt one or more vacant land policies that will provide transparent methods for the disposition of vacant lots currently in its inventory as well as any that come into its inventory in the future. This will include, among other things, offering vacant parcels for sale or lease for urban agricultural use, and for sale in connection with job creation projects, new construction residential infill projects and to nearby residents.
- p. *Policies Facilitating Land Sales.* The Detroit Land Bank will evaluate programs suggested by the City and will also recommend new programs that will facilitate the purchase of Detroit Land Bank property by Detroiters. Such programs may include new discount programs and expanding the existing Building Block Program.
- q. *Policy Availability on Website.* The Detroit Land Bank will provide on its website copies of its policies regarding land sales (both vacant and with structures) in a manner that is transparent and accessible to the public.
- r. *Other Blight Remediation Services.* In addition to the services set forth in this MOU, the Detroit Land Bank shall also provide the City with mutually agreed upon services and/or activities necessary or convenient to the City to address blight remediation (“Blight Services”) in Detroit that are limited to the following:
- renovation of structures;
 - nonstructural blight removal; and
 - cleaning title.

Any such Blight Services shall require the prior approval of the City’s Chief Financial Officer and shall be disclosed to City Council prior to disbursement.

5. The City Duties. The City is responsible for performing the following under this MOU:
- a. *City Payments.*
- i. For each respective City of Detroit fiscal year budget of this MOU, City Council will approve an annual budget allocation to the Detroit Land Bank to

fund in-part its obligations under this MOU and to support other Detroit Land Bank operations.

- ii. Any payments in excess of the annual allocation made by the City to the Detroit Land Bank will be in such amounts as are approved by the City Council for blight remediation services and any other relevant services.
- b. Demolition Advance Fund. On March 10, 2015, City Council adopted a resolution that authorized the City, with the approval of the City's Chief Financial Officer, to create a Demolition Advance Fund for the Detroit Land Bank in an amount not to exceed of Twenty Million and 00/100 Dollars (\$20,000,000.00) (the "Demolition Advance Fund").

In recognition of the significant delays by MSHDA in providing reimbursement to the Detroit Land Bank for demolition costs funded by HHF under the Detroit Land Bank's Demolition Program, the City created the Demolition Advance Fund to help make it possible for the Detroit Land Bank to make timely payments to contractors that are performing demolition work under the Demolition Program to avoid potential shut-downs or substantial delays in the Demolition Program. The Demolition Advance Fund allows the Detroit Land Bank to receive from the City not more than \$20 million in outstanding advances at any time, which advances can be utilized by the Detroit Land Bank solely for cash flow to make payments to third parties, providing demolition related contract services under the HHF Demolition Program, and which advances shall be repaid by the Detroit Land Bank within forty-five (45) business days of receiving the final disbursement of HHF dollars from MSHDA.

- c. Providing City Services. In recognition of the City's buying power and economies of scale, the City shall provide the Detroit Land Bank use of the services of certain City departments in an effort to reduce the overall cost of public expenditures. Such use of services of certain City departments may include, but is not limited to: (1) utilization of the City's experience and capacity to monitor demolition contracts; and (2) partnership with the City's General Services Department for maintenance of certain properties in the City.
- d. Promoting Events. The City will assist the Detroit Land Bank in efforts to increase awareness of Detroit Land Bank programs and to encourage attendance at its events that are open to the public, such as the City's Department of Neighborhoods promoting the Detroit Land Bank's Building Block events and open houses for Auction and Rehabbed & Ready homes.
- e. Lis Pendens Release. In support of the Detroit Land Bank's efforts to clear title of abandoned properties to return them to a productive reuse that generates tax revenue for the City, the City hereby discharges and releases any and all lis pendens that were executed by the City's Buildings, Safety Engineering & Environmental Department against properties associated with the Detroit Land Bank. The City

hereby authorizes the Detroit Land Bank to record an instrument with the Wayne County Register of Deeds to evidence such discharges and releases approved by this MOU. Any such instrument shall be in a standardized form that is approved by the City's Law Department.

6. Property Transfers. The Parties acknowledge that the City has consolidated the public ownership of certain residential parcels of real property through prior transfers authorized by the Original MOU, the First Restated MOU and multiple City Council resolutions authorizing the transfer of such parcels to the Detroit Land Bank for resale to reduce blight in the City and strengthen and revitalize the economy of the City. Consistent with this effort, the City's Planning & Development Department will continue to transfer property to the Detroit Land Bank as appropriate and subject to applicable City Council approvals.
7. Invoicing Requirements. On a periodic basis, no more often than monthly, the Detroit Land Bank Authority shall provide invoices and supporting documentation in a form and manner reasonably acceptable to the City's Chief Financial Officer for payments due to the Detroit Land Bank as provided for in this MOU.
8. Audits, Monitoring, Record Keeping and Reports. The Detroit Land Bank shall make available all books, documents, papers, records (herein collectively called "Records") and project sites directly pertinent to this MOU for monitoring, audits, inspections, examinations and making excerpts and transcriptions by the City (including the City's Office of the Auditor General and Office of Inspector General), MSHDA, the U.S. Department of Housing and Urban Development, and the Comptroller General of the United States, at all reasonable times. The Detroit Land Bank shall make available all such Records—for itself, its demolition contractors, and, moving forward, for any new contractors and subcontractors—in their entirety, including all identifying labels and case names, with no deletions, for all such monitoring, audits, inspections, examinations, and making of excerpts and transcriptions. The Detroit Land Bank shall keep full and complete records documenting all services performed under this MOU including, but not limited to, records of all activities performed pursuant to this MOU and all financial records associated therewith. The Detroit Land Bank shall provide the City with monitoring access to the site of any demolition performed hereunder. All financial Records pertinent to this MOU shall be kept in accordance with generally accepted accounting practices. The Detroit Land Bank shall keep a property inventory for all property received in whole or in part from the City of Detroit, consistent with all Federal property management requirements. The Detroit Land Bank shall implement a process for expedited provision of or access to its Records at the request of the City's Chief Financial Officer or Corporation Counsel.
9. Demolition Insurance. The Detroit Land Bank represents and warrants that it is and will continue to be an additional insured under the insurance coverage that is required to be provided under all of the contracts for demolition entered into for the Demolition Program with the use of HHF. The City represents and warrants that it will cause the Detroit Land Bank to be an additional insured under the insurance coverage that is


required to be provided by City contractors under all of the City contracts for demolition occurring on Detroit Land Bank property.

10. Confirmation and Ratification. All prior actions by the City authorized by the Original MOU and First Restated MOU, including transfers of property, are hereby ratified and confirmed approved by this MOU.
11. Amendments. Any change, modification or amendment of this MOU (an "Amendment"), must be in writing, signed by authorized representatives of the parties hereto and approved in accordance with Paragraph 12 below.
12. Conditions to Effectiveness. This MOU shall not be effective, nor shall any Amendment be effective until all of the following occur:
 - a. It has been approved by the City's Mayor and the City Council; and
 - b. It has been approved by the Board of Directors of the Detroit Land Bank.

[Signatures contained on the following page]

The City and Detroit Land Bank, by and through their authorized officers and representatives, have executed this MOU as follows:

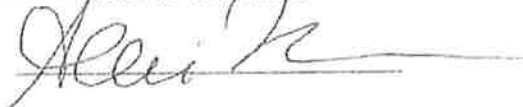
CITY OF DETROIT

BY: 

Print: Michael E. Duggan

ITS: Mayor

DETROIT LAND BANK AUTHORITY

BY: 

Print: Saskia Thompson

ITS: Executive Director

Approved by Detroit City Council on:

May 19, 2020




Chief Procurement Officer

Approved as to form in accordance with § 7.5-206 of the 2012 City of Detroit Charter.


Supervising Assistant Corporation Counsel

Approved by the Finance Director in accordance with § 17-5-4 of the Detroit City Code.


Finance Director / Chief Deputy CFO

THIS MOU IS NOT VALID OR AUTHORIZED UNTIL APPROVED BY THE DETROIT CITY COUNCIL AND SIGNED BY THE CHIEF PROCUREMENT OFFICER.