

Repeals
6-18-19

**BUDGET,
FINANCE, AND
AUDIT STANDING
COMMITTEE**

OFFICE OF CONTRACTING
AND PROCUREMENT

21
22

June 14, 2019

HONORABLE CITY COUNCIL:

The Purchasing Division of the Finance Department recommends a Contract with the following firm(s) or person(s):

6000981 100% City Funding – AMEND1 – To Provide an Additional Module for TeamMate Software and Training. – Contractor: Wolters Kluwer Financial Services – Location: 6815 Saukview Dr., St. Cloud, MN 56303 – Contract Period: Upon City Council Approval through February 15, 2022 – Contract Increase: \$47,941.27 – Total Contract Amount: \$142,641.27. **AUDITOR GENERAL**

Respectfully submitted,

Boysie Jackson, Chief Procurement Officer
Office of Contracting and Procurement

BY COUNCIL MEMBER AYERS

RESOLVED, that Contract No. 6000981 referred to in the foregoing communication dated June 14, 2019, be hereby and is approved.

OFFICE OF CONTRACTING
AND PROCUREMENT

22
23

June 14, 2019

HONORABLE CITY COUNCIL:

The Purchasing Division of the Finance Department recommends a Contract with the following firm(s) or person(s):

6000575 100% City Funding – AMEND 3 – To Provide Tools, Supplies, and Equipment to Maintain, Repair, and Operate Buildings, Grounds, and Facilities. – Contractor: Grainger – Location: 100 Grainger Parkway, Lake Forest, IL 60038 – Contract Period: July 1, 2019 through June 30, 2021 – Total Contract Amount: \$1,717,548.07. **CITYWIDE**

Respectfully submitted,

Boysie Jackson, Chief Procurement Officer
Office of Contracting and Procurement

BY COUNCIL MEMBER AYERS

RESOLVED, that Contract No. 6000575 referred to in the foregoing communication dated June 14, 2019, be hereby and is approved.

OFFICE OF CONTRACTING
AND PROCUREMENT

23
24

June 14, 2019

HONORABLE CITY COUNCIL:

The Purchasing Division of the Finance Department recommends a Contract with the following firm(s) or person(s):

6002068 100% City Funding – To Provide Copiers and Printers with Software, Click Charges, Maintenance, and Support. – Contractor: Canon Solutions America, Inc. – Location: One Canon Park, Melville, NY 11747 – Contract Period: Upon City Council Approval through June 30, 2024 – Total Contract Amount: \$6,000,000.00. **CITYWIDE**

Respectfully submitted,

Boysie Jackson, Chief Procurement Officer
Office of Contracting and Procurement

BY COUNCIL MEMBER AYERS

RESOLVED, that Contract No. 6002068 referred to in the foregoing communication dated June 14, 2019, be hereby and is approved.

OFFICE OF CONTRACTING
AND PROCUREMENT

~~24~~
25

June 14, 2019

HONORABLE CITY COUNCIL:

The Purchasing Division of the Finance Department recommends a Contract with the following firm(s) or person(s):

6002171 100% City Funding – To Provide Pest Control Services. – Contractor:
Pronto Pest Management – Location: 10130 Capital St., Oak Park, MI
48237 – Contract Period: Upon City Council Approval through June 30,
2024 – Total Contract Amount: \$1,900,000.00. **CITYWIDE**

Respectfully submitted,

Boysie Jackson, Chief Procurement Officer
Office of Contracting and Procurement

BY COUNCIL MEMBER AYERS

RESOLVED, that Contract No. 6002171 referred to in the foregoing communication dated June 14, 2019, be hereby and is approved.

OFFICE OF CONTRACTING
AND PROCUREMENT



June 14, 2019

HONORABLE CITY COUNCIL:

The Purchasing Division of the Finance Department recommends a Contract with the following firm(s) or person(s):

6002222 100% City Funding – To Provide Land Acquisition Related Activities in Support of Industrial Economic Development. – Contractor: Detroit Brownfield Redevelopment Authority – Location: 500 Griswold, Ste. 2200, Detroit, MI 48226 – Contract Period: Upon City Council Approval through June 1, 2020 – Total Contract Amount: \$150,000.00. **OCFO**

Respectfully submitted,

Boysie Jackson, Chief Procurement Officer
Office of Contracting and Procurement

BY COUNCIL MEMBER **AYERS**

RESOLVED, that Contract No. 6002222 referred to in the foregoing communication dated June 14, 2019, be hereby and is approved.

OFFICE OF CONTRACTING
AND PROCUREMENT

26
27

June 14, 2019

HONORABLE CITY COUNCIL:

The Purchasing Division of the Finance Department recommends a Contract with the following firm(s) or person(s):

6002054 100% City Funding – To Provide Detroit Economic Data Analysis Services, and Detroit Specific Economic Forecasting Services. – Contractor: Regents of the University of Michigan – Location: 627 Oxford, Ann Arbor, MI 48104 – Contract Period: Upon City Council Approval through July 9, 2024 – Total Contract Amount: \$1,201,891.00.
OCFO-BUDGET

Respectfully submitted,

Boysie Jackson, Chief Procurement Officer
Office of Contracting and Procurement

BY COUNCIL MEMBER AYERS

RESOLVED, that Contract No. 6002054 referred to in the foregoing communication dated June 14, 2019, be hereby and is approved.

OFFICE OF CONTRACTING
AND PROCUREMENT

28
28

June 14, 2019

HONORABLE CITY COUNCIL:

The Purchasing Division of the Finance Department recommends a Contract with the following firm(s) or person(s):

6002165 100% City Funding – To Provide Mailing to the Treasury Department for the Property Tax Billing and Revenue Collections. – Contractor: Diversified Data Processing and Consulting Inc., DBA DIVDAT – Location: 10811 Northend Ave., Ferndale, MI 48220 – Contract Period: Upon City Council Approval through June 30, 2021 – Total Contract Amount: \$94,640.00. **OCFO-TREASURY**

Respectfully submitted,

Boysie Jackson, Chief Procurement Officer
Office of Contracting and Procurement

BY COUNCIL MEMBER AYERS

RESOLVED, that Contract No. 6002165 referred to in the foregoing communication dated June 14, 2019, be hereby and is approved.



CITY OF DETROIT
LAW DEPARTMENT

COLEMAN A. YOUNG MUNICIPAL CENTER
2 WOODWARD AVENUE, SUITE 500
DETROIT, MICHIGAN 48226-3437
PHONE 313•224•4550
FAX 313•224•5505
WWW.DETROITMI.GOV

28
29

June 14, 2019

Detroit City Council
1340 Coleman A. Young Municipal Center
Detroit, Michigan 48226

RE: Economic Hardship Exemption in Special Assessment Districts

Your Honorable Body, through the Budget, Finance, and Audit Standing Committee, has forwarded a memorandum from the Legislative Policy Division (LPD) dated June 5, 2019, regarding the above-referenced topic with a proposed ordinance attached for Corporation Counsel's review and approval as to form. We are now responding to this request.

SHORT ANSWER

Taxes and special assessments are distinct under the law. While it is clear that special assessments on the basis of benefits received are not general property taxes, they are collected in the same manner as property taxes. There are no instances of relief from special assessments absent specific statutory exemptions (such as a Business Improvement Zone pursuant to MCL 125.990h).

The process for collection of unpaid taxes and special assessments is clear under the 2012 Detroit City Charter, state statutes and the 1984 Detroit City Code. The City Treasurer is mandated to forward delinquent real property taxes to the Wayne County Treasurer for collection but has the discretion, in certain circumstances, to determine which unpaid City taxes (or special assessments) to withhold. Delinquencies not returned to the Wayne County Treasurer remain a debt owed to the City of Detroit and are subject to collection efforts. There is no legal mechanism for the Treasurer or Assessor to "exempt" or "forgive" special assessments levied in a Special Assessment District.

A legal challenge in the Michigan Tax Tribunal or pursuit of a petition to discontinue a Special Assessment District (SAD) are the only mechanisms available to obtain relief from a special assessment levied in a SAD. The Treasurer may exercise their discretion and withhold special assessments from Wayne County but the special assessment remains a lien on the property subject to collection. The impact this activity would have on an established or prospective SAD should be explored prior to this action taking place. Therefore, the proposed ordinance amendment drafted by the Legislative Policy Division (LPD) is impermissible under the City Charter, relevant case law and is preempted by state law.

Lastly, the signature of the petition circulator is required under Sec. 18-12-126(c) of the 1984 Detroit City Code.

CITY CLERK 2019 JUN 14 PM 4:27



BACKGROUND

The local ordinance creating Special Assessment Districts (SAD) pursuant to the Home Rule City Act at MCL 117.5i was adopted by City Council on April 29, 2014 and effective June 9, 2014 (Ord. No. 07-14 codified at Section 18-12-120 *et seq.*). State law permits municipalities with a population of more than 600,000 to provide, by ordinance, for the creation of a Special Assessment District and a procedure to finance certain activities via a special assessment within that district. The statute contains requirements for establishing and discontinuing the district; however, it is silent on the collection of unpaid special assessments.

The SAD ordinance was amended by Ordinance No. 09-15, adopted by City Council on February 3, 2015 and effective April 28, 2015. The amendment prohibits the establishment of a SAD where the unpaid general taxes or special assessments are equal to or greater than 40% of the total tax assessments or special assessments due in the proposed SAD area.

The threat of foreclosure for non-payment of special assessments is a serious issue that was given considerable focus and attention when the original ordinance was enacted in 2014 as well as when the delinquency threshold was set at 40% in 2015. While the 40% threshold expands the opportunity to create a SAD in areas that cannot meet a higher threshold, it also increases the tax burden and threat of foreclosure in those same areas.

In a 2015 opinion, the Law Department addressed the ability of City Council to enact an ordinance prohibiting the City Treasurer from forwarding delinquent special assessments to Wayne County. It addresses preemption, the proper treatment of unpaid special assessments in a SAD under state law, the 2012 Detroit City Charter as well as applicable City Code provisions. Please refer to the attached Law Department opinion titled *Whether the City May Lawfully Enact an Ordinance Limiting the Availability of Foreclosure as a Remedy in the Collection of Unpaid Assessments in a Special Assessment District Created Pursuant to MCL 117.5i*, dated February 23, 2015, as it is relevant though not repetitive to our current discussion.

LAW & ANALYSIS

Collection of Unpaid Taxes under State Law

The General Property Tax Act (GPTA), MCL 211.1, *et seq.*, provides for the assessment, levying and collection of property taxes. The Treasurer is mandated to collect taxes¹ and follow the process and procedures set forth in the GPTA. The enabling SAD statute (MCL 117.5i) does not provide alternative enforcement mechanisms for unpaid special assessments in a SAD, instead it relies on the current statutory framework,² which is supported by the City's Charter and Code as set forth in our 2015 opinion.

¹ MCL 211.44 and 211.89b.

² MCL 211.78, *et seq.*



Pursuant to MCL 211.78(8)(a)(i), the Wayne County Treasurer is the foreclosing governmental unit and is responsible for the collection of delinquent City of Detroit taxes.³ Unpaid special assessments are included in the definition of “taxes” and collected pursuant to the procedures set for in the GPTA for the collection of delinquent property taxes.⁴ MCL 211.55 grants the Treasurer discretion in returning special assessments to Wayne County for collection:

A township treasurer or **other collecting officer may include** as a delinquent tax **any unpaid special assessment** which is delinquent on the last day of February **in the delinquent taxes returned to the county treasurer** the next day pursuant to this section. A delinquent special assessment included as a delinquent tax pursuant to this section shall, **after return to the county treasurer, be a valid tax** for all purposes under this act.

(Emphasis Added.)

This grants the Treasurer discretion to not return an unpaid assessment to Wayne County as delinquent; it does not authorize an exemption or reduction in the amount of a special assessment, it just shifts the burden of collection from the County to the City. Consistent with our analysis in the 2015 opinion regarding limiting foreclosure as a remedy, the Treasurer’s discretion in returning special assessments to Wayne County for collection as delinquent taxes under state law cannot be abrogated via ordinance.

2012 Detroit City Charter Provisions

In accordance with Section 8-604 of the 2012 Detroit City Charter, special assessments are liens on the property and debts of the person until paid. The same section of the Charter permits delinquent special assessments to be collected by the Treasurer, at his/her discretion, as delinquent city property taxes. This is consistent with the provisions in the GPTA outlined above.

Sec. 8-604. Assessment Lien.

From the date of confirmation of any roll levying any special assessment, the **full amount of the assessment and all interest thereon shall constitute a lien** on the property subject thereto and that amount shall also be a debt of the person to whom assessed until paid and, in case of delinquency, **may be collected as delinquent city property taxes.**

(Emphasis Added.)

³ Prior to 2003, the City of Detroit was responsible for collecting its own delinquent taxes. Public Act 246 of 2003 amended the General Property Tax Act to require the City of Detroit to collect all property taxes (state, county and city) levied after December 31, 2003, and to return all uncollected delinquent taxes to Wayne County for collection.

⁴ MCL 211.78a provides that “[a]s used in section 78, this section, and sections 78b to 79a, “taxes” includes interest, penalties, and fees imposed before the taxes become delinquent and unpaid special assessments or other assessments that are due and payable up to and including the date of the foreclosure hearing under section 78k.



Property taxation and collection matters, including the foreclosure of liens, are outlined in Section 8-403 of the Charter which provides, in relevant part, that:

Sec. 8-403. Collection of Property Taxes.

1. Except as otherwise provided by this Charter or ordinance, the rights, duties, powers, and immunities established by state law shall apply in the collection and enforcement of city property taxes.

2. City property taxes shall become a **debt of the persons liable** for them on the date provided by state law and shall become payable, and a **lien upon the property**, on the first (1st) day of the city's fiscal year or such other date as may be provided by ordinance.

* * *

7. In addition to the other remedies specified in this section, at the time unpaid city property taxes become delinquent or at any later time permitted by law, **the city may maintain a personal action against the debtor for collection of the unpaid property taxes and may use any means permitted by law for collection of the debt.** The City of Detroit tax roll shall be prima facie evidence of the amount of the indebtedness to the City of Detroit. The preceding sections of 8-403 are not the exclusive remedies of the City of Detroit.

8. In addition to the procedures and remedies for the collection and enforcement of the property taxes set forth in the Charter, the city or other lienholder **may use any procedure and remedy for the collection and enforcement of property taxes established by state law.**

(Emphasis Added.)

The City's ordinance regarding Special Assessment Districts, which provides that unpaid special assessments shall be a lien on the property and enforced as a special assessment lien or tax lien, conforms to the provisions in state law, City Charter and City Code outlined above. It provides:

Sec. 18-12-138. Special Assessments as Lien

From the date of confirmation of the special assessment roll, any unpaid Tax Parcel Share . . . shall be a lien on the associated Tax Parcel, and shall also be a debt of the Record Owner. The lien shall be of the **same character and effect as the lien created for municipal property taxes** and shall accrue interest and penalties in the same manner. The **lien shall be enforced in the same manner** prescribed in state law, the Detroit City Charter and this Code for the **enforcement of special assessment liens or tax liens.**

(Emphasis Added.)



While the City Treasurer has discretion in the return of special assessments as delinquent and the manner in which to attempt collection of the debt, they cannot “exempt,” choose to not levy or forgive a special assessment as it is a lien against the real property. The ordinance at Sec. 18-12-136(a) sets forth tax parcels “exempt” from a SAD levy:

1. The United States;
2. Any state (including Michigan);
3. The City of Detroit;
4. Any public school district; or
5. Any authority, municipal corporation, school district, or other governmental or quasi-governmental entity exempted from payment of special assessments by statute or other applicable law.

Section 18-12-136, *Exempt Tax Parcels*, also explicitly states at subsection (b) that:

Tax Parcels exempt by a Record Owner listed in subsection (a) shall be exempt regardless of the use or purpose of such Tax Parcel. All other Tax Parcels are subject to a special assessment created under this division, even if such Tax Parcels are exempt from property taxes under Michigan’s General Property Tax Act, MCL 211.1 et seq., unless such Tax Parcels are otherwise exempt from special assessments under applicable law.

(Emphasis Added.)

The City is Precluded from Extending Hardship Exemptions or Other Relief from a SAD Levy

While special assessments are collected and enforced in the same manner as property taxes pursuant to the above-referenced provisions, they are distinct under the law. Although it resembles a tax, a special assessment is not a tax. *Knott v. City of Flint*, 363 Mich. 483, 497 (1961). A special assessment refers to “a levy upon property within a specified district,” the purpose of which is “to recover the costs of improvements that confer local and peculiar benefits upon property within a defined area.” *Kadzban v. City of Grandville*, 442 Mich. 495, 500 (1993).

In a case directly on point, *In re Petition of Auditor General*, 226 Mich. 170 (1924), the question of exemption from liability for a special assessment based on an exemption of the general tax law was at issue. The Michigan Supreme Court held that “the association whose property was involved and which was organized for benevolent and charitable purposes was exempt from a general village tax levied in connection with the construction of sewers, but its liability was recognized for the payment of a special assessment of a portion of such cost raised pursuant to charter provisions in that manner.” In holding that an exemption from property taxes does not relieve the property owner from special assessments levied the Court noted:

There is a clear distinction between what are termed general taxes and special assessments. The former are burdens imposed generally upon property owners for governmental purposes, without regard to any special benefit which will inure to the taxpayer. The latter are sustained upon the



theory that the value of the property in the special assessment district is enhanced by the improvement for which the assessment is made.

In *Blake v. Metropolitan Chain Stores*, 247 Mich. 73 (1929), the parties entered into a lease which required the lessee to pay “all taxes” and the question of whether this included liability for a special assessment was litigated. The Michigan Supreme Court again distinguished between the two noting that “[a] special assessment is laid on the property specially benefited by a local improvement, in proportion to the benefit received for the purpose of defraying the cost of the improvement.” As to taxes the Court stated “[t]he word ‘taxes’ presents to the mind exactions to defray the ordinary expenses of the government and the promotion of the general welfare of the country. It is not generally understood as applying to improvements, levied upon property with a resultant benefit thereto to the amount thereof. It must be assumed, as determined by the commissioner, that the value of plaintiffs’ property was benefited by the improvement made to the amount of the assessment levied against it.”

It should also be noted that the limit and rollback provisions contained in the 1963 Michigan Constitution, Article IX, *Finance and Taxation*, at Section 6, *Real and tangible personal property; limitation on general ad valorem taxes; adoption and alteration of separate tax limitations; exceptions to limitations; property tax on school district extending into 2 or more counties*, do not apply to special assessments as distinguished from general ad valorem taxes. *Niles Twp. V. Berrien County Bd. Of Com’rs*, 261 Mich.App. 308 (2004). The Michigan Supreme Court interpreted the former constitutional provision (Article 10, Section 21 of the 1908 Michigan Constitution) in the same manner - special assessments are not taxes within the meaning of constitutional tax limitations. *Graham v. Saginaw*, 317 Mich. 427 (1947). The tax limitations in the 1908 Constitution were comparable to the millage limitations in Article IX of our current state constitution.

Treatment of Solid Waste Fees and Special Assessments are Not Interchangeable

The City’s solid waste fee is a fee⁵ for service,⁶ not a tax or special assessment so it is an improper comparison for the purpose of providing an example of an exemption to a levy. Rather than being an exercise of the municipal power to tax, the imposition of a fee constitutes an exercise of a municipalities’ police power to regulate public health, safety, and welfare. *Bolt v. City of Lansing*, 459 Mich. 152 (1998); *Merrelli v. St Clair Shores*, 355 Mich. 575, 583 (1959). A more appropriate comparison would be the special assessments levied by the City for sidewalk replacement. The amount is calculated by the number of concrete flags needing replacement on a specific tax parcel.

Beginning in 1976, the City collected a 3 mill garbage disposal levy. The millage was replaced by annual solid waste fees for residential trash collection and solid waste inspection fees on commercial buildings and certain apartment buildings that contracted with private solid waste

⁵ *Wolf v. Detroit*, 287 Mich. App. 184 (2010) vacated by 489 Mich. 923 (2011).

⁶ The solid waste collection charge is a user fee. A user fee is a fee paid by those receiving specific services from the government. The revenue from such fees are dedicated to the services provided and the amount of the fee is based on the value of the service provided. *Bolt v. City of Lansing*, 459 Mich 152 (1998).



collectors for disposal services. To implement the switch from the millage-generated revenue to the fee-generated revenue, City Council passed Ordinance No. 18-06 on June 30, 2006. This ordinance amended various ordinances within Chapter 22 of the City Code. Amid ongoing legal challenges, the City advocated for and the legislature amended the General Property Tax Act with Public Act 512 of 2008 (effective January 13, 2009; copy attached) to authorize the City to place the solid waste fee on tax bills and return the delinquent amounts to the Wayne County Treasurer for foreclosure.

MCL 211.89c also grants the City the discretion to return delinquent solid waste fees to Wayne County. As previously discussed in this opinion as well as our 2015 opinion, it is legally impermissible to restrict via ordinance the discretionary powers of the Treasurer to withhold items from the tax rolls returned to Wayne County as delinquent.

Legal Challenge of a Special Assessment and Certification of Petitions

It is well-recognized that special assessments are presumed valid and should generally be upheld. *Kadzban v. City of Grandville*, 442 Mich. 495 (1993). A special assessment will be deemed valid if it meets two requirements: (1) the improvement subject to the special assessment must confer a benefit on the assessed property and not just the community as a whole and (2) the amount of the special assessment must be reasonably proportionate to the benefit derived from the improvement. *Kadzban*, 442 Mich. at 500-502. A petitioner seeking to challenge a special assessment bears the burden of presenting credible evidence to rebut the presumption that the assessments are valid. *Kane v. Williamstown Twp.*, 301 Mich.App. 582 (2013). Specifically, the petitioner must demonstrate “a substantial and unreasonable disproportionality between the amount assessed and the value that accrues to the land as a result of the improvements.” *Dixon Rd. Group v. City of Novi*, 426 Mich. 390 (1986); *Storm v. City of Wyoming*, 208 Mich.App. 45 (1994). Without credible evidence to rebut the presumption of the assessment's validity, the Michigan Tax Tribunal “has no basis to strike down a special assessment.” *Kadzban*, 442 Mich. at 505. Additionally, to protect private property rights, Michigan law also requires that the total amount of the assessment must be no greater than what was reasonably necessary to cover the cost of the work. *Oneida Twp. v. Eaton Co. Drain Comm'r*, 198 Mich.App. 523 (1993).

In addition to a legal challenge against the special assessment, the Ordinance at Sec. 18-12-141, *Discontinuance of special assessment district through discontinuance petition*, codifies MCL 117.51(2) whereby a SAD may be discontinued at any time via a discontinuance petition.

Therefore, a legal challenge to the Michigan Tax Tribunal or pursuit of a discontinuance petition are the proper vehicles to impact a SAD levy once established. The City cannot forgive or exempt a special assessment. The Treasurer may withhold a delinquent special assessment from Wayne County but it remains a lien against the property and subject to collection action by the City.⁷ Although this avenue is legal it should be carefully analyzed with the Office of the Chief Financial Officer to determine, at minimum, the following: 1) how withholding collection of a SAD levy on individuals with hardship exemptions would shift that tax burden onto neighbors, 2)

⁷ If an individual were delinquent on their property taxes or water bill then it would still be referred to Wayne County for collection.



how the fee for contracted services would be calculated without full participation, or 3) include a mechanism to prohibit individuals with hardship exemptions from signing the petition to initiate a SAD as they would not be participating in the payment for such services but would be receiving the benefits unless the contractors hired were to “skip” those households. Withholding special assessment levies from return to Wayne County for those parcels with hardship exemptions could create an administrative nightmare for the contractors hired to perform the services, the designated neighborhood organization facilitating the SAD and the City administering departments as well.

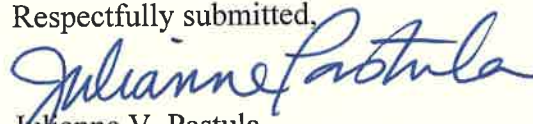
Lastly, the current SAD Ordinance at Sec. 18-12-126(c) explicitly requires that “each sheet of the petition shall have below the table of signatures a place for certification by the person collecting the signatures of the Record Owners on that sheet, including the printed and signed name of the collector and the date of certification.”

CONCLUSION

The proposed ordinance amendment directly conflicts with the procedures set forth in state law for the collection of unpaid special assessments. The 2012 Detroit City Charter, 1984 City Code and General Property Tax Act expressly prohibit removing special assessments from the tax roll. Therefore, Corporation Counsel is unable to approve the proposed ordinance amendment drafted by LPD as to form as its enactment or enforcement is not supported by either the law or relevant case law.

Should you have any additional questions, please feel free to contact us.


Respectfully submitted,

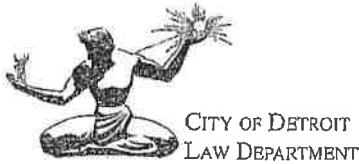

Julianne V. Pastula
Senior Assistant Corporation Counsel

Concur:


Tonja R. Long
Supervising Assistant Corporation Counsel

Approved:


Lawrence T. Garcia
Corporation Counsel



COLEMAN A. YOUNG MUNICIPAL CENTER
2 WOODWARD AVENUE, SUITE 500
DETROIT, MICHIGAN 48226-3535
PHONE 313•224•4550
FAX 313•224•5505
WWW.DETROITMI.GOV

February 23, 2015

Detroit City Council
1340 Coleman A. Young Municipal Center
Detroit, Michigan 48226

RE: Whether the City May Lawfully Enact an Ordinance Limiting the Availability of Foreclosure as a Remedy in the Collection of Unpaid Assessments in a Special Assessment District Created Pursuant to MCL 117.5i.

Your Honorable Body, through the Budget, Finance, and Audit Standing Committee, has requested a legal opinion as to whether the City may enact an ordinance limiting the availability of foreclosure as a remedy in the collection of unpaid assessments in a Special Assessment District created under Chapter 18, Article XII of the 1984 Detroit City Code¹. We are now responding to this request.

SHORT ANSWER

Rules of preemption prohibit the city from enacting ordinances contrary to state law or the city charter. The General Property Tax Act, 1893 PA 206, grants discretion to the City Treasurer to include delinquent special assessments with delinquent taxes returned to the Wayne County Treasurer for collection. The 2012 Detroit City Charter states that delinquent special assessments may be collected as delinquent city property taxes, and states that the city may use any procedure and remedy for the collection of property taxes. The proposed ordinance amendment drafted by the Legislative Policy Division (LPD) represents an impermissible restraint on the powers of the City Treasurer granted by state law and the City Charter and is therefore preempted.

BACKGROUND

Section 5i of the Home Rule City Act, 1909 PA 279, MCL 117.5i, authorizes municipalities with a population of more than 600,000 to provide, by ordinance, a procedure to finance by special assessment certain activities, including private security services, snow removal, and mosquito abatement. Pursuant to this delegation of authority, the City of Detroit enacted Ordinance 07-14, effective June 9, 2014 and codified at Section 18-12-120 *et seq.* of the Detroit City Code. Consistent with state law and the city charter, Section 18-12-138 provides that a special assessment is a lien on the property, is a debt due from the property owner, and may be collected in the manner provided by state law, the city charter, and the city code. While the enabling statute

¹ The Legislative Policy Division drafted an ordinance to amend City Code Section 18-12-138. The proposed language is attached as exhibit A.

2015 FEB 26 A 9:20

DETROIT
CITY CLERK



contains requirements for establishing and discontinuing the district, it is silent on the collection of unpaid special assessments.

Concerns have been raised by members of Your Honorable Body regarding the desirability of foreclosure as a remedy for unpaid special assessments.² This resulted in a draft ordinance prepared by Your Honorable Body's Legislative Policy Division that would amend City Code Section 18-12-138 to prohibit return of delinquent special assessments to the County Treasurer unless there were also delinquent taxes on the same parcel. This opinion, submitted at the request of the Budget, Finance and Audit Standing Committee, formalizes the concerns expressed by the Law Department regarding the legal effect of the proposed ordinance amendment.³

APPLICABLE LAW

Powers to enact ordinances

Although the City enjoys broad authority under the Home Rule City Act, 1909 PA 279, MCL 117.1 *et seq.*, this authority is not without limits. The Michigan Constitution or state statutes may constrain municipal authority. Article VII, § 22 of the Michigan Constitution states, in part, ". . . Each . . . city . . . shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. . . ." Furthermore, Section 5j of the Home Rule City Act states, in part: "Each city in its charter may provide . . . (3) . . . through its regularly constituted authority to pass all laws and ordinances relating to its municipal concerns subject to the constitution and general laws of this state." MCL 117.5j. Thus, city charters and ordinances are specifically subject to the general laws of the state.

Doctrine of Preemption

State law

The Michigan Supreme Court outlined the constraints on a city's power to enact ordinances in *Beek v Wyoming*, 495 Mich 1, 19-20; 846 NW2d 531 (2014):

Under the Michigan Constitution, the City's "power to adopt resolutions and ordinances relating to its municipal concerns" is "subject to the constitution and the law." Const 1963, art 7, § 22. As

² See memorandum to The Honorable City Council from your Legislative Policy Division, dated July 10, 2014.

³ This opinion addresses only the legal effect of the proposed ordinance. It does not address any policy considerations either for or against the proposed ordinance.



this Court has previously noted, “[w]hile prescribing broad powers, this provision specifically provides that ordinances are subject to the laws of this state, *i.e.*, statutes.” *AFSCME v Detroit*, 468 Mich 388, 410; 662 NW2d 695 (2003). **The City, therefore, “is precluded from enacting an ordinance if . . . the ordinance is in direct conflict with the state statutory scheme, or . . . if the state statutory scheme preempts the ordinance by occupying the field of regulation which the municipality seeks to enter, to the exclusion of the ordinance, even where there is no direct conflict between the two schemes of regulation.”** *People v Llewellyn*, 401 Mich 314, 322; 257 NW2d 902 (1977).
(Emphasis added.)

In *McNeil v Charlevoix*, 275 Mich App 686, 697 NW2d 27 (2007), the Michigan Court of Appeals defined direct conflict as:

“For purposes of preemption, a **direct conflict exists** between a local regulation and a state statute **when the local regulation permits what the statute prohibits or prohibits what the statute permits.**”
(Emphasis added.)

See also *Rental Property Owners Ass'n v City of Grand Rapids*, 455 Mich 246, 566 NW2d 514 (1997), where the Michigan Supreme Court held that a local ordinance may add requirements to a state regulatory scheme, so long as “**the municipality does not attempt to authorize by the ordinance what the legislature has forbidden or forbid what the legislature has expressly licensed, authorized, or required, . . .**” (Emphasis added).

2012 Detroit City Charter

In the same way that a local ordinance may not be enacted that is contrary to state law, the Michigan Supreme Court has determined that a city may not validly enact an ordinance that contradicts the express provisions of its charter. *Bivens v Grand Rapids*, 443 Mich 391, 400; 505 NW2d 239 (1993). Moreover, ordinances must conform to, be subordinate to, and neither conflict with nor exceed the charter. *Id* at 401.

ANALYSIS

Collection of Taxes and Special Assessments under State Law

The General Property Tax Act (GPTA), 1893 PA 206, MCL 211.1, *et seq.*, a general law of the state, provides for the assessment, levying, and collection of property taxes. The City



Treasurer is mandated to collect taxes⁴ and follow the process and procedures set forth in the GPTA.

Pursuant to MCL 211.78(8)(a)(i), the Wayne County Treasurer is the foreclosing governmental unit and is responsible for the collection of delinquent City of Detroit taxes.⁵ Subject to certain exceptions, the County Treasurer is required by law to foreclose on unpaid delinquent taxes. MCL 211.78 through MCL 211.78m. Unpaid special assessments are included in the definition of “taxes” and collected pursuant to the procedures set forth in the GPTA for the collection of delinquent property taxes.⁶ Furthermore, MCL 211.55 grants the City Treasurer discretion in returning special assessments to Wayne County for collection:

A township treasurer or other **collecting officer may include** as a delinquent tax **any unpaid special assessment** which is delinquent on the last day of February **in the delinquent taxes returned to the county treasurer** the next day pursuant to this section. A delinquent special assessment included as a delinquent tax pursuant to this section shall, **after return to the county treasurer, be a valid tax** for all purposes under this act.
(Emphasis Added.)

Thus, the state legislature has specifically authorized the City Treasurer as the city’s collection officer⁷ to use his or her discretion to include delinquent special assessments with delinquent property taxes returned to the County Treasurer. The proposed ordinance amendment is preempted by state law because it directly conflicts with the procedure set forth in state law for the collection of unpaid special assessments by prohibiting what the state legislature has specifically authorized.

Collection of Taxes and Special Assessments under the City Charter

⁴ MCL 211.44(1); MCL 211.89b

⁵ Prior to 2003, the City of Detroit was responsible for collecting its own delinquent taxes. Public Act 246 of 2003 amended the General Property Tax Act to require the City of Detroit to collect all property taxes (state, county and city) levied after December 31, 2003, and to return all uncollected delinquent taxes to Wayne County for collection.

⁶ MCL 211.78a(1) provides that “[a]s used in section 78, this section, and sections 78b to 79a, “taxes” includes interest, penalties, and fees imposed before the taxes become delinquent and unpaid special assessments or other assessments that are due and payable up to and including the date of the foreclosure hearing under section 78k.” (Emphasis added.)

⁷ City Charter Section 6-305.



Honorable City Council

Ordinance purporting to prohibit foreclosure of delinquent special assessments

Page 5

February 23, 2015

City Charter Section 6-305 mandates that the City Treasurer collect all moneys of the city. This fiduciary duty extends to custody and control of all money, funds and security of the city.

In accordance with Section 8-604 of the 2012 Detroit City Charter, a special assessment is a lien on the property subject to the assessment, and a debt of the person assessed until paid. The same section of the Charter permits delinquent special assessments to be collected by the Treasurer, at his/her discretion, as delinquent city property taxes, which is consistent with the provisions in the General Property Tax Act outlined above:

Sec. 8-604. - Assessment Lien.

From the date of confirmation of any roll levying any special assessment, the **full amount of the assessment and all interest thereon shall constitute a lien** on the property subject thereto and that amount shall also be a debt of the person to whom assessed until paid and, in case of delinquency, **may be collected as delinquent city property taxes.**

(Emphasis Added.)

Property taxation and collection matters, including the foreclosure of liens, are outlined in Section 8-403 of the Charter which provides, in relevant part, that:

Sec. 8-403. - Collection of Property Taxes.

1. Except as otherwise provided by this Charter or ordinance, the rights, duties, powers, and immunities established by state law shall apply in the collection and enforcement of city property taxes.
2. City property taxes shall become a **debt of the persons liable for them on the date provided by state law and shall become payable, and a lien upon the property**, on the first (1st) day of the city's fiscal year or such other date as may be provided by ordinance.

* * *

7. In addition to the other remedies specified in this section, at the time unpaid city property taxes become delinquent or at any later time permitted by law, **the city may maintain a personal action against the debtor for collection of the unpaid property taxes and may use any means permitted by law for collection of the debt.** The City of Detroit tax roll shall be prima facie evidence of the amount of the indebtedness to the City of Detroit. The preceding sections of 8-403 are not the exclusive remedies of the City of Detroit.



8. In addition to the procedures and remedies for the collection and enforcement of the property taxes set forth in the Charter, **the city or other lienholder may use any procedure and remedy for the collection and enforcement of property taxes established by state law.**
(Emphasis added.)

Thus, the City Charter specifically permits delinquent special assessment payments to be treated as delinquent taxes, and specifically grants the power to use any means permitted by law for the collection of debt, and to use any procedure or remedy for collection of property taxes established by state law. The proposed ordinance, which would restrict the options available to the City Treasurer for collection of certain special assessments, is in direct conflict with the City Charter and is therefore preempted.

Comparison with Business Improvement Zone assessment remedies

Advocates for withholding foreclosure as a remedy cite the Principal Shopping Districts and Business Improvement District statute, which specifically limits foreclosure as an option for delinquent special assessments in a Business Improvement Zone (BIZ).⁸ This reliance is misplaced as the remedies in the BIZ statute apply only to assessments levied pursuant to that particular statute. It sets forth an alternative process for collecting delinquent assessments in a BIZ and allows for the BIZ itself to collect delinquent assessments (those not paid within 90 days) as well as the authority to pursue civil actions to collect.

The BIZ statute also allows unpaid assessments to either be a lien on the property or the BIZ may return the delinquent assessments to the City to be collected. Most importantly, the BIZ statute expressly provides that delinquent assessments are subject to forfeiture, foreclosure or sale only if the property also has delinquent property taxes. MCL 125.990h. None of these provisions are contained in the enabling statute for a SAD, however; therefore, none of the BIZ provisions can be applied to the collection of unpaid special assessments in a SAD. While the model of the BIZ may in many ways be considered superior to the SAD authorized by MCL 117.5i, a BIZ cannot be established for residential properties⁹. Accordingly, the BIZ model cannot be applied to a SAD unless the legislature expands the concepts embodied in the BIZ statute to residential properties, or adopts an analogous act for residential or neighborhood areas.

⁸ Public Act 120 of 1961; MCL 125.981 to 125.990n.

⁹ “. . . real property in a zone area other than property classified as residential real property . . .” MCL 125.990(a).

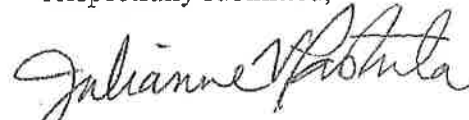


CONCLUSION

Enactment or enforcement of a Detroit ordinance that would control or limit the specific powers conferred by the General Property Tax Act or the 2012 City Charter to the City Treasurer relative to the collection of delinquent property taxes or delinquent special assessments would be in direct conflict with the statute and the charter and therefore is preempted by state law.

Should you have any additional questions, please feel free to contact us.

Respectfully submitted,

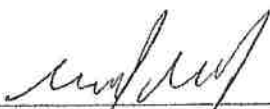

Julianne V. Pastula
Assistant Corporation Counsel

Concur:



Timothy A. Beckett
Supervising Assistant Corporation Counsel

Approved:



Melvin Butch Hollowell
Corporation Counsel

EXHIBIT A

Proposed ordinance drafted by LPD to amend City Code § 18-12-138

Section 18-12-138. Special assessment as lien.

From the date of confirmation of the special assessment roll, any unpaid Tax Parcel Share, include any part of a Tax Parcel Share deferred as to payment, shall be a lien on the associate Tax Parcel, and shall also be a debt of the Record Owner. The lien shall be of the same character and effect as the lien created for municipal property taxes and shall accrue interest and penalties in the same manner. The lien shall be enforced in the manner prescribed in state law, the Detroit City Charter, and this Code for enforcement of special assessment liens or tax liens. However, property is not subject to forfeiture, foreclosure, and sale under sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a, for nonpayment of an assessment under this ordinance [sic – section?] unless the property also is subject to forfeiture, foreclosure, and sale under sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a, for delinquent property taxes. The Board of Assessors [sic – Treasurer¹⁰] shall not return an unpaid special assessment to the county treasurer.

¹⁰ Role of Board of Assessors

The LPD draft ordinance amendment contains language prohibiting the “Board of Assessors” from returning unpaid special assessments to the County Treasurer. This appears to be in error as the Charter-prescribed role of the Board of Assessors under Sec. 8-402 is to prepare the tax roll and deliver it to the Treasurer, who is responsible for collection of taxes and return of delinquent taxes to the County Treasurer.

THE GENERAL PROPERTY TAX ACT (EXCERPT)
Act 206 of 1893

211.89c Solid waste fee; treatment as delinquent; applicability of section; "solid waste fee" defined.

Sec. 89c. (1) In any local tax collecting unit in a city with a population of 600,000 or more, the local tax collecting unit may treat as delinquent under sections 87b, 87c, and 87d a solid waste fee that is delinquent under the terms of any ordinance authorizing the solid waste fee, if that solid waste fee was included in the tax statement under section 44.

(2) If a solid waste fee is delinquent on the March 1 immediately preceding the date that the solid waste fee is returned as delinquent to the county treasurer under subsection (1), a county treasurer may include that solid waste fee in the county's delinquent tax revolving fund.

(3) If a solid waste fee is returned to a county treasurer as delinquent under subsection (2), that solid waste fee shall be a fee treated as a delinquent tax for purposes of sections 87b, 87c, and 87d and the property on which the fee is assessed is subject to forfeiture, foreclosure, and sale for delinquent taxes as provided in this act if the local tax collecting unit has also returned to that county treasurer uncollected delinquent taxes levied on the property on which the solid waste fee is assessed.

(4) If an owner redeems property that is his or her principal residence that is returned to the county treasurer for delinquent taxes and a delinquent solid waste fee is assessed to that owner's principal residence, the owner may redeem his or her principal residence without payment of the delinquent solid waste fee. As used in this subsection, principal residence means property exempt under section 7cc.

(5) This section applies to any fee that was delinquent on or after March 1, 2007 and that was included in the delinquent tax roll delivered to a county treasurer at the same time as delinquent taxes for a year in which the fee is assessed.

(6) As used in this section, "solid waste fee" means that term as defined in the ordinance or resolution of the local tax collecting unit authorizing the assessment of the solid waste fee and includes all interest, penalties, and fees imposed on that solid waste fee.

History: Add. 2007, Act 31, Imd. Eff. June 29, 2007;—Am. 2008, Act 512, Imd. Eff. Jan. 13, 2009.

Popular name: Act 206



Christopher Gulock, AICP
 Derrick Headd
 Marcel Hurt, Esq.
 Kimani Jeffrey
 Anne Marie Langan
 Jamie Murphy
 Carolyn Nelson
 Kim Newby
 Analine Powers, Ph.D.
 Jennifer Reinhardt
 Sabrina Shockley
 Thomas Stephens, Esq.
 David Teeter
 Theresa Thomas
 Kathryn Lynch Underwood
 Ashley A. Wilson

City of Detroit
CITY COUNCIL

LEGISLATIVE POLICY DIVISION
 208 Coleman A. Young Municipal Center
 Detroit, Michigan 48226
 Phone: (313) 224-4946 Fax: (313) 224-4336

David Whitaker, Esq.
 Director
 Irvin Corley, Jr.
 Executive Policy Manager
 Marcell R. Todd, Jr.
 Senior City Planner
 Janese Chapman
 Deputy Director

John Alexander
 LaKisha Barclift, Esq.
 M. Rory Bolger, Ph.D., AICP
 Elizabeth Cabot, Esq.
 Tasha Cowen
 Richard Drumb
 George Etheridge
 Deborah Goldstein

CITY CLERK 2019 JUN 14 PM 1:06

TO: Janeé Ayers, Chairperson
 Budget, Audit & Finance Standing Committee

FROM: David D. Whitaker, Director
 Legislative Policy Division Staff

DATE: June 14, 2019

RE: **Special Assessment Districts Petitions**

The Legislative Policy Division was requested to provide a report regarding the concerns raised before City Council on June 4th and 11th alleging the petitions circulated by the designated neighborhood improvement organization (DNIO) for the proposed Special Assessment District (SAD) for University District were defective and not in compliance with the requirements as set forth in the City's SAD ordinance. LPD has obtained copies for several of the petitions for review and has determined the validity of the allegations. A sample has been attached for your review.

The SAD ordinance under Subdivision B, *Petition*, sets forth the requirements for the petitions. Pursuant to Sec. 18-12-125, the ordinance a DNIO may sponsor a petition for a SAD. The petitions shall be prepared in accordance with the following provisions:

Section 18-12-126 Form of petition; information to be provided with petition.

(a) The administering department shall prepare a form of petition to be used to initiate a SAD described in this division and shall make the form available upon request to any certified DNIO. The form of petition shall provide for the inclusion of all of the following information at the top of each sheet:

- (1) The name and address of the DNIO associated with the petition and contact information for one or more DNIO representatives.
- (2) A description of the geographic boundaries of the proposed SAD.

(3) A description of the services to be funded by special assessment.

(4) A preliminary estimate of the assessed cost for the services described in paragraph (a)(3). The estimate shall be based in part on the DNIO's acquisition of three (3) estimates of the costs of providing the Services to be paid by special assessment. Such estimates shall be from contractors licensed to conduct business in the City of Detroit under all applicable laws.

(5) The estimated tax parcel share for the services to be provided within the proposed SAD. The petition shall state that the estimated tax parcel share may change after a record owner signs the petition and that any such change shall not impact the validity of the petition, although a hearing may be required pursuant to section 18-12-134(b) during the term of a SAD as a result of such a change.

(6) The proposed term of the SAD.

(b) The remainder of each sheet of the petition shall contain a table with columns for tax parcel, record owner, record owner's signature, and the date of such signature. The petition form may contain blank underlined spaces for rows of data for each column, or the petition may be prepared with the data for tax parcel and record owner pre-printed on the petition form and blank underlined spaces for the signature and date.

(c) Each sheet of the petition shall have below the table of signatures a place for certification by the person collecting the signatures of the record owners on that sheet, including the printed and signed name of the collector and the date of certification.

(d) To prepare the form of petition described in subsection (a) for circulation, a DNIO may request from the board of assessors or any other applicable City agency or department, as needed, the following information:

(1) A listing of all tax parcels, with ward and item numbers, within the geographic boundaries of the proposed SAD, the record owner of each tax parcel, and the area in square feet of each tax parcel.

(2) Identification of each tax parcel that would be exempt from assessment pursuant to section 18-12-136.

(e) The DNIO shall be responsible for circulating the petition to the record owners within the proposed SAD and submitting the completed petition to the city clerk in accordance with the following section. Prior to circulating an unsigned petition, a DNIO shall submit it to the administering department for approval as to its form and content. If the administering department denies the form and content of the unsigned petition, it shall specify any deficiencies. The DNIO shall then have the opportunity to cure any such deficiencies and resubmit the unsigned petition for approval.

The petitions as drafted fail to meet five of the six criteria set forth in Sec. 18-12-126(a). The petitions do not describe the geographic boundaries or the services to be funded, identify the preliminary estimate of the assessed cost of services or the estimated tax parcel share for services nor does it state the proposed term of the SAD. The Assessor's Office, as the administering department, needs to recreate the form petition itself so that it comports with the SAD ordinance before it can be utilized by any DNIO to create a SAD.

Additional allegations were made that some of the signatures were not valid because the petitions were not signed, *i.e.* certified, by the petition circulator. LPD, in a previous report, erroneously indicated no such a requirement existed under the Detroit City Code. That requirement can be found in Sec. 18-12-126(c). Therefore, given the defective nature of the petitions submitted for City Council's consideration, your Honorable Body should not vote on this matter until such time that the defects are cured.¹

If there are any additional questions or concerns, please advise.

¹ LPD was informed that the DNIO is withdrawing its petition for creation of the SAD, indicating its intention to redo the petition process so that all concerns with the petitions can be addressed. So, before the DNIO reengages the community members, the Assessor's Office should recreate the petitions in accordance with the SAD ordinance.

(1)

**City of Detroit
Petition to Authorize an Election to Create a Special Assessment District
Name of Potential Special Assessment District: University District**

*To Be Completed By Signature For Certification. I Certify Each Owner Of Record Whose Signature Appears In This Petition Appeared Before Me And Signed Their Name In Presence.

Print Name
Signature
Date

Parcel Number	Property Address	Payee of Record	Payee Address	Name of Property Owner (Print)	Signature of Property Owner	Date
02003401	17100 FAIRFIELD	[Redacted]	17100 FAIRFIELD ST	X	[Redacted]	[Redacted]
02003402	17114 FAIRFIELD	[Redacted]	17114 FAIRFIELD			
02003587.003L	17121 FAIRFIELD	[Redacted]	17121 FAIRFIELD			
02003403	17126 FAIRFIELD	[Redacted]	17126 FAIRFIELD STREET			
02003587.002	17127 FAIRFIELD	[Redacted]	1329 COACH HOUSE LN			
02003587.001	17135 FAIRFIELD	[Redacted]	1329 COACH HOUSE LN			
02003404	17136 FAIRFIELD	[Redacted]	17136 FAIRFIELD			
02003586	17145 FAIRFIELD	[Redacted]	17145 FAIRFIELD ST			
02003405	17146 FAIRFIELD	[Redacted]	17146 FAIRFIELD ST			
02003406	17158 FAIRFIELD	[Redacted]	210 HENRY			
02003585	17161 FAIRFIELD	[Redacted]	17161 FAIRFIELD ST			
02003407	17166 FAIRFIELD	[Redacted]	17166 FAIRFIELD ST			
02003584	17167 FAIRFIELD	[Redacted]	17167 FAIRFIELD ST			
02003408	17174 FAIRFIELD	[Redacted]	17174 FAIRFIELD ST			
02003583	17175 FAIRFIELD	[Redacted]	17175 FAIRFIELD ST			
02003409	17186 FAIRFIELD	[Redacted]	17186 FAIRFIELD ST			



COLEMAN A. YOUNG MUNICIPAL CENTER
2 WOODWARD AVENUE, SUITE 1240
DETROIT, MICHIGAN 48226
PHONE: 313.224.4950 TTY: 313.224.4950
FAX: 313.224.3434
WWW.DETROITMI.GOV

31

To: The Honorable Detroit City Council
From: Charity Dean, Director of Civil Rights, Inclusion, and Opportunity Department
RE: Request to Amend the FY 2019 to Provide Funds for the Workforce Training Fund Program.
Date: June 13, 2019

The Civil Rights Inclusion and Opportunity (CRIO) Department requests authorization to amend the City of Detroit FY 2019 Budget.

This amendment will provide funding that will be used for the Workforce Training Program being administered by the Detroit Employment Solutions Corporation. They will provide high-school diploma programs, work readiness certifications, industry-recognized training and job placement for residents from three targeted groups: returning citizens and residents with criminal records, residents without high school diplomas and residents who lack workplace skills & experience.

If approval is granted, funds from various appropriations within the Office of the CFO will be transferred to the Civil Rights Inclusion and Opportunity (CRIO) Department in the amount of \$3,000,000.

Respectfully Submitted,

Charity Dean
Director
Civil Rights, Inclusion and Opportunity Department

cc: Mike Duggan, Mayor
David Massaron, Chief Financial Officer
Tanya Stoudemire, J.D., Deputy CFO / Budget Director
Stephanie Grimes Washington, Mayor's Office

RESOLVED, that the FY 2019 City of Detroit Budget be and is hereby amended as follows:

Incr. / Decr.	Appro. #	Appropriation Name	Amount
Increase	20388	Non Compliance Fees	\$3,000,000
Decrease	00245	Office of the Controller	\$1,500,000
Decrease	14057	Office of Departmental Financial Svcs.	\$1,000,000
Decrease	13909	Office of Grants Management	\$500,000

AND BE IT FURTHER RESOLVED; the Budget Director be and is hereby authorized to increase and decrease the aforementioned appropriations.



CITY OF DETROIT
 OFFICE OF THE CHIEF FINANCIAL OFFICER
 OFFICE OF BUDGET

Coleman A. Young Municipal Center
 2 Woodward Avenue, Suite 1106
 Detroit, MI 48226
 Phone: (313) 224-6260
 Fax: (313) 224-2827

32

June 14, 2019

To: *The Honorable Detroit City Council*

SUBJECT: *Request to Amend the FY 2019 Budget to Cover Various Anticipated Appropriation Deficits*

The Office of the CFO–Office of Budget requests authorization to amend the City of Detroit FY 2019 Budget to eliminate year-end appropriation deficits.

This budget amendment recommends corrections of appropriation deficits under the provisions of the Uniform Budgeting and Accounting Act, 1968 PA 2, MCL 141.421 to 141.440.

INCREASE/DECREASE	APPROPRIATION NUMBER	APPROPRIATION NAME	AMOUNT
Decrease	10082	Police Operations	(2,250,000)
Increase	11041	Police Technology Bureau	750,000
Increase	13713	Police Budget Fiscal Operations	1,500,000

Sincerely,

Tanya Stoudemire, J.D.
 Deputy CFO/Budget Director/Senior Advisor

cc: Mike Duggan, Mayor
 David Massaron, CFO
 Stephanie Grimes Washington, Mayor's Office

CITY CLERK 2019 JUN 14 PM 4:05

RESOLUTION

RESOLVED, that the FY 2019 City of Detroit Budget be and is hereby amended as follows:

INCREASE/DECREASE	APPROPRIATION NUMBER	APPROPRIATION NAME	AMOUNT
Decrease	10082	Police Operations	(2,250,000)
Increase	11041	Police Technology Bureau	750,000
Increase	13713	Police Budget Fiscal Operations	1,500,000

AND BE IT FURTHER RESOLVED; the Budget Director be and is hereby authorized to increase and decrease the aforementioned appropriations to eliminate deficits.

2741

MAY 30 2019



Jo Anne G. Mondowney
Executive Director



May 23, 2019

HONORABLE CITY COUNCIL

RE: AUTHORIZATION TO AMEND THE FY2018-19 BUDGET FOR THE DETROIT PUBLIC LIBRARY

The Detroit Public Library (DPL) is requesting authorization to amend its Fiscal Year 2018-19 Adopted Budget to increase projected revenues and offsetting appropriation by \$536,000. The current budget total appropriation is \$32,372,470.

At its May 21, 2019 meeting the Detroit Library Commission approved the budget amendment for capital outlay. The Library will increase total expense by \$536,000. During FY2018, the Skillman Branch incurred major water damage. The total cost incurred was \$636,000 which was covered by insurance. After the \$100,000 deductible, the Library received \$536,000 in FY2018 from the insurance company to pay for the repairs. Upon receipt, the insurance company funds were booked in FY2018. However, the repair expenses occurred in FY2019. This will increase the Capital Outlay expenditure account 644124 by \$536,000. The budget Prior Year Surplus would be amended by \$536,000. DPL requests to increase FY2018-19 Department Appropriation 10454 from amended budget 20,138,671 to \$20,674,671.

Increase Revenue Appropriation No.	10454 DPL-Administration Mgmt	\$536,000
Increase Appropriation No.	10454 DPL-Administration Mgmt	\$536,000

Respectfully Submitted,

Jo Anne G. Mondowney, Executive Director
Detroit Public Library

APPROVED	
BUDGET DIRECTOR	
Date	6/10/19

cc: Stephanie Washington, City Council Liaison

CITY CLERK 13 JUN 2019 4:11:53

RESOLUTION

BY COUNCIL MEMBER _____

WHEREAS, it is the intention of the City of Detroit to provide adequate funding for the operations of the Detroit Public Library for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

NOW THEREFORE BE IT;

RESOLVED, that the Budget Department be and is hereby authorized to amend the 2018-19 Budget as follows;

Increase Revenue Appropriation No.	10454 DPL-Administration Mgmt	\$536,000
Increase Appropriation No.	10454 DPL-Administration Mgmt	\$536,000

AND BE IT FURTHER RESOLVED,

that the Finance Director be and is hereby authorized to increase the necessary accounts and honor vouchers and payrolls when presented in accordance with the foregoing communications and regulations of the City of Detroit.

Detroit Library Commission
May 21, 2019

Committee on Finance

Approval of Budget Amendment for Capital Outlay

During the FY2019 Budget process, the Commission approved a Capital Outlay budget line item of **\$930,822** to cover renovation costs of Franklin and Jefferson branches, Hubbard branch new HVAC system, and to purchase a new Mobile Library (Bookmobile). During FY2018, the Skillman Branch incurred major water damage. The total cost incurred was **\$636,000** which was covered by insurance. After the \$100,000 deductible, the Library received **\$536,000** in FY2018 from the insurance company to pay for the repairs. Due to a timing issue within the accounting rules, the expenditures incurred for the repairs were not recorded until FY2019 and the revenue received from the insurance company was placed into fund balance.

Administration is requesting approval to amend the FY2019 budget; to decrease fund balance by **\$536,000** and to increase the Capital Outlay line item by **\$536,000**. The increase is needed to pay for the remaining expenditures for the Mobile Library and planned renovations at the Jefferson branch.

Proposed Budget Amendment

<u>Account Budget</u>	<u>Current FY2019</u>	<u>Budget Amendment New FY2019</u>	
644124 – Capital Outlay	\$930,822	\$536,000	\$1,466,822

Please note, if approved, the total FY2019 Budget will increase to **\$32,908,740** and leave a fund balance total of **\$26,101,670**.

Franklin Jackson, Chair
Committee on Finance

Jo Anne G. Mondowney
Executive Director

Antonio Brown, CFO
Finance and Business Operations

Approved by
Detroit Library Commission
Date 5-21-19

Approved at the May 21, 2019 Commission Meeting



Funds Available Analysis Report by Appropriation

DPL CC 72002 - Appn: 10454

Fy18

Object Code	Description	Project Code	Amended Budget Amount	Commitment Amount	Obligation Amount	Actual Amount	Funds Available Amount
408130	Int-Prior Years Real Prop Tax	000000	-3,000.00	0.00	0.00	0.00	-3,000.00
432330	Grants-Other	000000	-365,000.00	0.00	0.00	0.00	-365,000.00
432330	Grants-Other	000138	0.00	0.00	0.00	-523,429.78	523,429.78
432340	Grants - Other - Fed	000000	-90,000.00	0.00	0.00	0.00	-90,000.00
432340	Grants - Other - Fed	000138	0.00	0.00	0.00	-35,010.00	35,010.00
432350	Grants-Other-State	000000	-37,000.00	0.00	0.00	0.00	-37,000.00
432350	Grants-Other-State	000138	0.00	0.00	0.00	-41,073.00	41,073.00
447585	Other Cost	000000	-212,000.00	0.00	0.00	0.00	-212,000.00
447585	Reimbursements-State Other Cost	000138	0.00	0.00	0.00	-250,923.00	250,923.00
448100	Library Fees	000000	-81,000.00	0.00	0.00	0.00	-81,000.00
448100	Library Fees	000138	0.00	0.00	0.00	-181,544.38	181,544.38
448115	Other Fees	000000	-63,000.00	0.00	0.00	0.00	-63,000.00
448115	Other Fees	000138	0.00	0.00	0.00	-35,978.61	35,978.61
448145	Other Fees-Fed	000138	0.00	0.00	0.00	-2,435.57	2,435.57
455105	Court Fines	000000	-465,000.00	0.00	0.00	-406,596.13	-58,403.87
461100	Earnings On Investments	000000	-18,000.00	0.00	0.00	0.00	-18,000.00
461100	Earnings On Investments	000138	0.00	0.00	0.00	-128,105.10	128,105.10
461160	Other Interest Earnings	000000	0.00	0.00	0.00	-17,711.78	17,711.78
462100	Rental-Public Bldgs & Space	000138	0.00	0.00	0.00	-3,125.00	3,125.00
471125	Library Fines	000000	-39,000.00	0.00	0.00	0.00	-39,000.00
471125	Library Fines	000138	0.00	0.00	0.00	-30,383.57	30,383.57
472160	Gifts	000138	0.00	0.00	0.00	-2,790.00	2,790.00
472205	Insurance	000138	0.00	0.00	0.00	-536,002.99	536,002.99
472230	Recoveries	000138	0.00	0.00	0.00	-5,555.41	5,555.41
472250	Sale-Fixed Assets Not Real Es	000138	0.00	0.00	0.00	-50,400.00	50,400.00
474100	Miscellaneous Receipts	000000	-57,000.00	0.00	0.00	0.00	-57,000.00
474100	Miscellaneous Receipts	000138	0.00	0.00	0.00	-1,024.52	1,024.52
475100	Prior Years Surplus	000000	-1,837,000.00	0.00	0.00	0.00	-1,837,000.00
Total Revenues			-33,000,000.00	0.00	0.00	-30,623,389.89	-2,376,610.11
Cost Center Net Tax Cost			-24,788,890.00	0.00	0.00	-22,071,216.09	-2,717,673.91



CITY of DETROIT

Funds Available Analysis Report by Appropriation

DPL CC 720002 Appn: 10454

2479

Object Code	Description	Project Code	Amended Budget Amount	Commitment Amount	Obligation Amount	Actual Amount	Funds Available Amount
627185	Pur Svcs-Security	000000	680,000.00	0.00	0.00	0.00	680,000.00
627185	Pur Svcs-Security	000138	0.00	0.00	0.00	471,471.88	-471,471.88
627215	Grants-In-Aid-Discretionary	000000	76,500.00	0.00	0.00	0.00	76,500.00
627215	Grants-In-Aid-Discretionary	000138	0.00	0.00	0.00	6,235.71	-6,235.71
627225	Other Oper Svc- Miscellaneous	000138	0.00	0.00	0.00	-1,096.41	1,096.41
627230	Employee Parking	000000	30,000.00	0.00	0.00	0.00	30,000.00
627230	Employee Parking	000138	0.00	0.00	0.00	143.00	-143.00
627235	Purchased Computer Service	000138	0.00	0.00	0.00	12,726.48	-12,726.48
628100	Travel	000138	0.00	0.00	0.00	1,386.41	-1,386.41
628200	Training	000138	0.00	0.00	0.00	3,464.67	-3,464.67
628500	Miscellaneous Expense	000138	0.00	0.00	0.00	2,035.54	-2,035.54
628520	Bank Service Charges	000138	0.00	0.00	0.00	-247.32	247.32
644100	Acquisitions - Equipment	000138	0.00	0.00	0.00	33,787.58	-33,787.58
644120	Acquisitions - Library Reference Materials	000000	0.00	0.00	0.00	-1,416.97	1,416.97
644120	Acquisitions - Library Reference Materials	000138	0.00	0.00	0.00	72,948.95	-72,948.95
644124	Capital Outlay	000138	0.00	0.00	0.00	1,016,639.88	-1,016,639.88
651120	Administrative Costs	000138	0.00	0.00	0.00	507.23	-507.23
651204	Program Administration	000000	127,500.00	0.00	0.00	-1,527.08	129,027.08
651204	Program Administration	000138	0.00	0.00	0.00	13,201.23	-13,201.23
701500	Retiree Health Care	000000	366,450.00	0.00	0.00	0.00	366,450.00
701500	Retiree Health Care	000138	0.00	0.00	0.00	387,000.00	-387,000.00
703100	Interest On Bonded Debt	000000	430,260.00	0.00	0.00	0.00	430,260.00
703100	Interest On Bonded Debt	000138	0.00	0.00	0.00	316,088.20	-316,088.20
704100	Retirement Of Debt- Principal	000000	109,197.00	0.00	0.00	0.00	109,197.00
739990	Improvement Fund	000000	11,218.00	0.00	0.00	0.00	11,218.00
739990	Improvement Fund	000138	0.00	0.00	0.00	99,039.67	-99,039.67
739991	Improvement Fund-Dda	000000	1,048,995.00	0.00	0.00	0.00	1,048,995.00
739991	Improvement Fund-Dda	000138	0.00	0.00	0.00	1,101,458.32	-1,101,458.32



MEMORANDUM

TO: Lawrence Garcia, Director
Law Department

CC: Honorable Colleagues
Louise Jones, Senior City Clerk

FROM: Council President Brenda Jones *BJ*

DATE: June 18, 2019

RE: Procurement Certification Monitoring

Please draft an ordinance establishing the following requirements for the procurement certification process:

1. Mandatory 2 year site visits to verify certifications
2. Yearly renewal of various certifications