



Ann Arbor District Library

Math-
FYI.
Tom

January 27, 2012

Mayor John Hieftje
City of Ann Arbor
Larcom City Hall, 3rd Floor
301 E. Huron Street
P.O. Box 8647
Ann Arbor, MI 48107

Re: Chapter 7 TIF Repayment to Ann Arbor District Library

Dear Mayor Hieftje:

I am writing in regard to the Tax Increment Financing ("TIF") funds owed to the Ann Arbor District Library based on Chapter 7 of the Ann Arbor City ordinance.

As you are aware, in May of 2011 the City informed the Ann Arbor DDA that due to an overlooked paragraph in Chapter 7 of the City ordinance, the City had remitted excessive TIF amounts to the DDA in fiscal years 2004, 2005, 2007, 2008, 2009, 2010 and 2011. As a result, the taxing authorities whose revenue is subject to TIF capture were owed refunds for the years in which the City captured an excessive amount of TIF.

On May 31, 2011, the Ann Arbor City Council unanimously passed a resolution authorizing TIF refunds to the taxing authorities for fiscal years 2004-2011 based on Chapter 7 of the City Code. The City and DDA calculated that the amount of excess TIF capture owing to the Library for these years was \$74,666. In June of 2011 the Library received a check for \$74,666 with assurances that in the future the City's TIF capture would be in accordance with Chapter 7 of the ordinance.

It is unfortunate that neither the City nor the DDA consulted with the Library before calculating the amount of excess TIF capture. It is quite disappointing to the Library that the City and DDA deliberately chose a method of calculation which yields the smallest possible amount to the taxing authorities.

The TIF plan contains an estimate of captured assessed value in TIF revenues from 2003 to 2033, which is used as a basis for establishing the cap on TIF capture for any given year. Appendix C to the TIF plan contains a table which includes three scenarios for the projected valuations. The "pessimistic" valuation assumes a growth rate of about 2.3 percent; the "realistic" valuation assumes a growth rate of about 2.9 percent; the "optimistic" valuation assumes a growth rate of about 3.5 percent. In calculating the amount of refund due to the

Library, the City and DDA used the "optimistic" projections as the cap for TIF fund capture which yields the smallest refund to the taxing authorities.

The TIF plan clearly suggests that the "realistic" projection should be used to establish the cap on TIF capture. The TIF plan states: "The future captured taxable value base is expected to increase by an estimated two to three percent per year." Furthermore, the DDA acknowledged in a letter to the Library dated July 27, 2011 that the actual annual growth rate has averaged two percent. The "optimistic" projection used by DDA in its calculation assumes a growth rate of 3.5 percent. Nowhere in the body of the TIF plan does the DDA anticipate the growth of captured taxable value at a rate greater than three percent. Even the table in Appendix C with the three scenarios supports an anticipated growth rate of just under three percent. The "realistic" valuations are the only ones in bold type and the table only shows the growth rate for the "realistic" valuation, also in bold type.

The Library also disputes the method used by the City and DDA for calculating the actual growth of the amount of TIF capture. The City ordinance clearly states that the estimates of captured assessed value in the 2003 DDA Plan function as caps on the amount that can be captured by DDA in any given year. The ordinance also states that if the actual captured assessed value exceeds the cap in any given year, then the DDA is required to refund a portion of the excess TIF capture to the taxing authorities. For example, for 2008, the DDA's "realistic" projection for captured assessed value was \$80,619,488. The actual TIF capture for 2008 was \$92,204,889, an excess of \$11, 585,401 over the cap amount. This is the amount that should be subject to the refund provision of the City ordinance for the year 2008.

However, the DDA utilized a computation method which results in significantly lower amounts of excess TIF capture. This method compares the valuation for a given year to the previous year's valuation and calculates the difference as actual growth. Then the difference between the estimates in the TIF plan for the same years is calculated and subtracted from the actual growth number to determine the amount of excess TIF capture. Using this method, the City and DDA calculate that for 2008 there is an excess TIF capture of \$7,498,052, over \$4 million less than the amount calculated using a straightforward comparison of the projected amount and the actual TIF capture for 2008.

In 2009 the difference in calculation methods yields an even greater difference. Using a straightforward comparison, in 2009 there was an excess TIF capture of \$30,481,575. The City and DDA calculated an excess amount of \$18,326,175, a difference of over \$12 million.

This calculation method is also contrary to the ordinance requirement of establishing definitive caps on TIF capture from which any excess owed to the taxing authorities can be calculated. This method essentially eliminates a definite cap amount for any given year because it resets the baseline each year against which growth is measured. The clearest way to illustrate the elimination of the cap is to look at the TIF capture for fiscal years 2011 and 2012. For these

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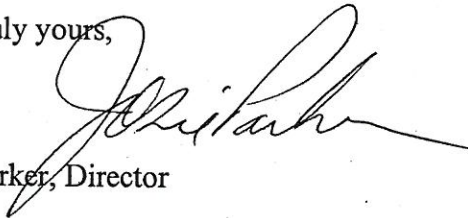
years there was a decrease of \$2,812,249 which under this approach means no actual growth and therefore no possibility of a refund to the taxing authorities for that year. With this method, the projected cap amount of \$90,478,316 for fiscal year 2012 becomes irrelevant because there was no growth in TIF capture from FY 2011 to FY 2012. However, if you compare the cap amount for FY 2012 in the TIF plan with the actual TIF capture of \$137,800,186, there is excess TIF capture of over \$47 million.

The Library has determined that it is actually owed a TIF refund for fiscal years 2004 through 2011 in the amount of approximately \$200,000 by using a method of calculation which is consistent with Chapter 7 of the City ordinance and the TIF plan adopted by the City. The Library would welcome the opportunity to share with the City its method for calculating the amount of the TIF refund.

Based on the City's recognition that its own ordinance requires excess TIF capture to be distributed to the taxing authorities, the Library fully expects that it will continue to receive TIF refunds in the future. From this point forward, however, the Library would ask for a consultation with the City so that a calculation method can be agreed upon before any refund checks are issued.

I would appreciate it if you would contact me at your earliest convenience to discuss the additional amount of excess TIF owed to the Library for fiscal years 2004 through 2011. Thank you for your time and attention to this matter.

Very truly yours,



Josie Parker, Director

cc: Stephen K. Postema, City Attorney
✓ Steve Powers, City Administrator