

RESOLUTION TO ADOPT TAX CAPTURE WAIVER POLICY

WHEREAS, the Detroit Land Bank Authority (the "DLBA") was created in order to assemble or dispose of vacant, tax foreclosed, and public property in a coordinated manner to foster the development of that property and to promote homeownership, neighborhood revitalization, and economic growth in the City of Detroit (collectively, "Revitalization"); and

WHEREAS, the City of Detroit develops and implements its programs and policies regarding Revitalization through certain City departments and agencies including, but not limited to, the Office of Jobs and Economic Development, the Planning and Development Department and the Housing and Revitalization Department (collectively, the "City Revitalization Offices"); and

WHEREAS, the DLBA desires to support the Revitalization programs and policies of the City Revitalization Offices, and to that end is willing to assist and cooperate with them to make property available for Revitalization projects and opportunities and facilitate their completion; and

WHEREAS, in furtherance of the DLBA's efforts to support Revitalization, the DLBA Board of Directors (the "Board") will under certain circumstances authorize waiving the DLBA's five-year, 50 percent tax capture related to a property it sells so that the property will be eligible for a tax abatement or lot combination; and

WHEREAS, the Board has adopted policies that address waiving the tax capture under certain circumstances including the Side Lot sales Policy and the Auction Disposition Policy; and

WHEREAS, the staff believe that it is appropriate to consolidate the policies related to tax capture waivers in a single policy and to expand such policies in order to delegate tax capture waiver decisions to staff in certain additional circumstances such as when purchasers reimburse the DLBA for the amount of revenue forgone due to a waiver and if such amount is de minimis, all as set forth in the Tax Capture Waiver Policy attached to this resolution as Exhibit 1, and recommend that the Board approve this Policy.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE DETROIT LAND BANK AUTHORITY, that this Board approves and adopts the Tax Capture Waiver Policy attached hereto as Exhibit 1.

The foregoing resolution was offered by _____ who moved its adoption. The motion was seconded by _____ and upon being put to a vote was as follows

Erica Ward Gerson
Richard Hosey
Miranda Morrow-Bartell

Patricia Pernell-Shelton
Carol Walters

The Chairperson thereupon declared the resolution duly passed and adopted this 15th day of October 2019.

DETROIT LAND BANK AUTHORITY:
BY ITS BOARD OF DIRECTORS
ERICA WARD GERSON, CHAIRPERSON

By: _____

EXHIBIT 1

Tax Capture Waiver Policy

I. Objective

For property sold by the Detroit Land Bank Authority (the “DLBA”), the DLBA has a statutory right to receive 50 percent of the property taxes paid by the purchaser of such property for a five-year period (see MCL Section 211.7gg). This right is referred to in this Policy as the “Tax Capture.” MCL Section 211.1025a(1) allows the DLBA to waive the Tax Capture for any given property if doing so will assist in the creation of jobs, investment or other economic development benefits in the City of Detroit.

The authority to waive the Tax Capture on a property resides with the DLBA Board of Directors (the “Board”). In certain of the DLBA’s disposition policies, the Board has assigned to DLBA staff its authority to waive the Tax Capture. In addition, under certain circumstances the Board has approved the waiver of the Tax Capture related to certain individual property transactions. The objective of this Policy is to consolidate all policy-driven authorities into a single policy and to expand the circumstances under which the DLBA staff has the delegated authority to waive Tax Captures.

II. Effectiveness

This Policy is effective immediately upon adoption by the Board. If any provision contained in this Policy conflicts with, or is inconsistent with, any provision in another DLBA policy, the provision contained in this Policy shall govern and control

III. Application for Waiver

Any purchaser of property from the DLBA that is subject the Tax Capture may request that the DLBA waive any remaining Tax Capture. The DLBA staff shall develop and maintain an application process that includes reasonable requirements of the purchaser such as providing requested information and, in the case of property that was not purchased through the Auction, Own it Now or Side Lot Programs, demonstrating that the Tax Capture is an impediment to the purchaser converting the property to the contemplated productive use. All purchasers requesting a Tax Capture waiver must provide documentation that any other property owned by the purchaser or any affiliate of the purchaser is current on all property taxes for property located in the City of Detroit. The DLBA will not waive the Tax Capture without having first received a complete application or a request from a City Department with all appropriate information.

IV. Waiver by DLBA Staff

The DLBA sells property through several programs, each with unique purposes and characteristics. In order to best serve these purposes, after receiving a request from a purchaser to waive the Tax Capture related to a property, and if the facts set forth in that request fall within the terms of this Section, DLBA staff are authorized to waive the Tax Capture for that property without Board approval.

A. **Side Lot** – To facilitate a purchaser’s ability to combine a parcel of property acquired

through the DLBA's Side Lot Program with the related occupied residential property, upon request by the purchaser, DLBA staff will waive the Tax Capture with no consideration for such waiver required from the purchaser.

- B. **Auction and Own it Now** – To allow purchasers of property through the DLBA Auction or Own it Now programs to obtain the benefit of the Neighborhood Enterprise Zone or other tax abatement program, upon request by the purchaser, DLBA staff will waive the Tax Capture with no consideration for such waiver required from the purchaser.
- C. **Other Programs** – If a purchaser is not eligible for a waiver of the Tax Capture under Sections IV A or B, the DLBA staff will waive the Tax Capture if either (i) the purchaser compensates the DLBA in full for the estimated amount that the DLBA would reasonably expect to receive if the Tax Capture had not been waived; or (ii) the purchaser did not receive reasonable advance notice of the possibility that compensation may be required for a waiver of the Tax Capture, in either case as reasonably determined by DLBA staff in their sole discretion.
- D. **De Minimis Amount** – If a purchaser is not eligible for a waiver of the Tax Capture under Sections IV A, B or C, the DLBA staff may, in its sole discretion, waive the Tax Capture for no consideration if the estimated amount the DLBA reasonably expects to receive due to its Tax Capture is less than \$250. Factors the DLBA staff may take into account in determining whether to waive the de minimus Tax Capture include but are not limited to the nature of the purchaser (e.g. a Community Partner or nonprofit), the proposed use of the property, and the aggregate amount of previous waivers granted to the purchaser or its affiliates.

If DLBA staff denies a request for waiver under this Section IV, a purchaser may appeal the denial to the DLBA Board of Directors. A purchaser may appeal a denial of waiver to the Board only once for each purchase transaction. The Board may support the denial or require that the Tax Capture be waived and may also set conditions on waiver including but not limited to requiring compensation for such waiver.

V. **Waiver by the DLBA Board of Directors**

In any circumstance other than those set forth in Section IV, a waiver of the Tax Capture must be approved by the DLBA Board of Directors. To seek approval of such a waiver, DLBA staff will present to the Board all relevant information regarding the circumstances of the request, along with a recommendation for approval and the reasons for such recommendation.

VI. **Consideration**

- A. **Calculation** – For any given property, DLBA staff will calculate the total amount reasonably expected to be received by the DLBA from the Tax Capture over the applicable five-year period. In making this calculation, DLBA staff may consult with representatives of the Detroit Economic Growth Corporation and other City of Detroit departments. DLBA staff may also request from the purchaser any information necessary to make the calculation, including but not limited to, pro forma financial information, development plans and timetables. DLBA staff will calculate the estimated Tax Capture amount using commonly accepted real

estate valuation techniques, historical information, estimates, assumptions, and projections that the staff deem reasonable and appropriate in their sole discretion, subject to any comments or corrections provided by the Board.

- B. **Collection** – DLBA staff shall collect any consideration owed by a purchaser in accordance with arrangements negotiated with the purchaser.

VII. **Informing the City of Detroit Office of the Assessor**

Upon approval of a Tax Capture waiver in accordance with this policy, by either the DLBA staff or the Board, the DLBA staff will promptly inform the City of Detroit Office of the Assessor and request that the Assessor take the steps necessary to waive the Tax Capture.

VIII. **Reporting**

The DLBA Staff will maintain a record of Tax Capture waivers and present to the Board quarterly reports summarizing the Tax Capture waivers granted for the applicable preceding period.