

SENATE BILL No. 414

April 21, 2005, Introduced by Senators SCHAUER, CHERRY, PRUSI, SCOTT, THOMAS, BRATER, OLSHOVE, JACOBS, LELAND, BARCIA, BASHAM, BERNERO, CLARK-COLEMAN and CLARKE and referred to the Committee on Appropriations.

A bill to amend 1980 PA 450, entitled
"The tax increment finance authority act,"
by amending sections 1 and 3 (MCL 125.1801 and 125.1803), section 1
as amended by 1998 PA 499 and section 3 as amended by 1983 PA 148,
and by adding section 3a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality
to an authority or to another person on behalf of the authority.
Evidence of the intent to repay an advance is required and may
include, but is not limited to, an executed agreement to repay,
provisions contained in a tax increment financing plan approved
before the advance or before August 14, 1993, or a resolution of

1 the authority or the municipality.

2 (b) "Assessed value" means 1 of the following:

3 (i) For valuations made before January 1, 1995, the state
4 equalized valuation as determined under the general property tax
5 act, 1893 PA 206, MCL 211.1 to 211.157.

6 (ii) For valuations made after December 31, 1994, taxable value
7 as determined under section 27a of the general property tax act,
8 1893 PA 206, MCL 211.27a.

9 (c) "Authority" means a tax increment finance authority
10 created under this act.

11 (d) "Authority district" means that area within which an
12 authority exercises its powers and within which 1 or more
13 development areas may exist.

14 (e) "Board" means the governing body of an authority.

15 (f) "Captured assessed value" means the amount in any 1 year
16 by which the current assessed value of the development area,
17 including the assessed value of property for which specific local
18 taxes are paid in lieu of property taxes as determined in
19 subdivision (w), exceeds the initial assessed value. The state tax
20 commission shall prescribe the method for calculating captured
21 assessed value.

22 (g) "Chief executive officer" means the mayor or city manager
23 of a city, the president of a village, or the supervisor of a
24 township.

25 (h) "Development area" means that area to which a development
26 plan is applicable.

27 (i) "Development area citizens council" or "council" means

1 that advisory body established pursuant to section 20.

2 (j) "Development plan" means that information and those
3 requirements for a development set forth in section 16.

4 (k) "Development program" means the implementation of the
5 development plan.

6 (l) "Eligible advance" means an advance made before August 19,
7 1993.

8 (m) "Eligible obligation" means an obligation issued or
9 incurred by an authority or by a municipality on behalf of an
10 authority before August 19, 1993 and its subsequent refunding by a
11 qualified refunding obligation. Eligible obligation includes an
12 authority's written agreement entered into before August 19, 1993
13 to pay an obligation issued after August 18, 1993 and before
14 December 31, 1996 by another entity on behalf of the authority.

15 (n) "Fiscal year" means the fiscal year of the authority.

16 (o) "Governing body" means the elected body of a municipality
17 having legislative powers.

18 (p) "Initial assessed value" means the assessed value, as
19 equalized, of all the taxable property within the boundaries of the
20 development area at the time the resolution establishing the tax
21 increment financing plan is approved as shown by the most recent
22 assessment roll of the municipality for which equalization has been
23 completed at the time the resolution is adopted. Property exempt
24 from taxation at the time of the determination of the initial
25 assessed value shall be included as zero. For the purpose of
26 determining initial assessed value, property for which a specific
27 local tax is paid in lieu of a property tax shall not be considered

1 property that is exempt from taxation. The initial assessed value
2 of property for which a specific tax was paid in lieu of a property
3 tax shall be determined as provided in subdivision (w).

4 (q) "Municipality" means a city.

5 (r) "Obligation" means a written promise to pay, whether
6 evidenced by a contract, agreement, lease, sublease, bond, or note,
7 or a requirement to pay imposed by law. An obligation does not
8 include a payment required solely because of default upon an
9 obligation, employee salaries, or consideration paid for the use of
10 municipal offices. An obligation does not include those bonds that
11 have been economically defeased by refunding bonds issued under
12 this act. Obligation includes, but is not limited to, the
13 following:

14 (i) A requirement to pay proceeds derived from ad valorem
15 property taxes or taxes levied in lieu of ad valorem property
16 taxes.

17 (ii) A management contract or a contract for professional
18 services.

19 (iii) A payment required on a contract, agreement, bond, or note
20 if the requirement to make or assume the payment arose before
21 August 19, 1993.

22 (iv) A requirement to pay or reimburse a person for the cost of
23 insurance for, or to maintain, property subject to a lease, land
24 contract, purchase agreement, or other agreement.

25 (v) A letter of credit, paying agent, transfer agent, bond
26 registrar, or trustee fee associated with a contract, agreement,
27 bond, or note.

(s) "On behalf of an authority", in relation to an eligible advance made by a municipality, or an eligible obligation or other protected obligation issued or incurred by a municipality, means in anticipation that an authority would transfer tax increment revenues or reimburse the municipality from tax increment revenues in an amount sufficient to fully make payment required by the eligible advance made by a municipality, or the eligible obligation or other protected obligation issued or incurred by the municipality, if the anticipation of the transfer or receipt of tax increment revenues from the authority is pursuant to or evidenced by 1 or more of the following:

(i) A reimbursement agreement between the municipality and an authority it established.

(ii) A requirement imposed by law that the authority transfer tax increment revenues to the municipality.

(iii) A resolution of the authority agreeing to make payments to the incorporating unit.

(iv) Provisions in a tax increment financing plan describing the project for which the obligation was incurred.

(t) "Other protected obligation" means:

(i) A qualified refunding obligation issued to refund an obligation described in subparagraph (ii) or (iii), an obligation that is not a qualified refunding obligation that is issued to refund an eligible obligation, or a qualified refunding obligation issued to refund an obligation described in this subparagraph.

(ii) An obligation issued or incurred by an authority or by a municipality on behalf of an authority after August 19, 1993, but

1 before December 31, 1994, to finance a project described in a tax
2 increment finance plan approved by the municipality in accordance
3 with this act before December 31, 1993, for which a contract for
4 final design is entered into by the municipality or authority
5 before March 1, 1994.

6 (iii) An obligation incurred by an authority or municipality
7 after August 19, 1993, to reimburse a party to a development
8 agreement entered into by a municipality or authority before August
9 19, 1993, for a project described in a tax increment financing plan
10 approved in accordance with this act before August 19, 1993, and
11 undertaken and installed by that party in accordance with the
12 development agreement.

13 (iv) An obligation issued or incurred by an authority or by a
14 municipality on behalf of an authority to implement a project
15 described in a tax increment finance plan approved by the
16 municipality in accordance with this act before August 19, 1993,
17 that is located on land owned by a public university on the date
18 the tax increment financing plan is approved, and for which a
19 contract for final design is entered into before December 31, 1993.

20 (v) An ongoing management or professional services contract
21 with the governing body of a county which was entered into before
22 March 1, 1994 and which was preceded by a series of limited term
23 management or professional services contracts with the governing
24 body of the county, the last of which was entered into before
25 August 19, 1993.

26 (vi) An obligation issued or incurred by a municipality under a
27 contract executed on December 19, 1994 as subsequently amended

1 between the municipality and the authority to implement a project
2 described in a tax increment finance plan approved by the
3 municipality under this act before August 19, 1993 for which a
4 contract for final design was entered into by the municipality
5 before March 1, 1994 provided that final payment by the
6 municipality is made on or before December 31, 2001.

7 (vii) An obligation issued or incurred by an authority or by a
8 municipality on behalf of an authority that meets all of the
9 following qualifications:

10 (A) The obligation is issued or incurred to finance a project
11 described in a tax increment financing plan approved before August
12 19, 1993 by a municipality in accordance with this act.

13 (B) The obligation qualifies as an other protected obligation
14 under subparagraph (ii) and was issued or incurred by the authority
15 before December 31, 1994 for the purpose of financing the project.

16 (C) A portion of the obligation issued or incurred by the
17 authority before December 31, 1994 for the purpose of financing the
18 project was retired prior to December 31, 1996.

19 (D) The obligation does not exceed the dollar amount of the
20 portion of the obligation retired prior to December 31, 1996.

21 (u) "Public facility" means 1 or more of the following:

22 (i) A street, plaza, or pedestrian mall, and any improvements
23 to a street, plaza, boulevard, alley, or pedestrian mall, including
24 street furniture and beautification, park, parking facility,
25 recreation facility, playground, school, library, public
26 institution or administration building, right of way, structure,
27 waterway, bridge, lake, pond, canal, utility line or pipeline, and

1 other similar facilities and necessary easements of these
2 facilities designed and dedicated to use by the public generally or
3 used by a public agency. As used in this subparagraph, public
4 institution or administration building includes, but is not limited
5 to, a police station, fire station, court building, or other public
6 safety facility.

7 (ii) The acquisition and disposal of real and personal property
8 or interests in real and personal property, demolition of
9 structures, site preparation, relocation costs, building
10 rehabilitation, and all associated administrative costs, including,
11 but not limited to, architect's, engineer's, legal, and accounting
12 fees as contained in the resolution establishing the district's
13 development plan.

14 (iii) An improvement to a facility used by the public or a
15 public facility as those terms are defined in section 1 of 1966 PA
16 1, MCL 125.1351, which improvement is made to comply with the
17 barrier free design requirements of the state construction code
18 promulgated under the **STILLE-DEROSSETT-HALE SINGLE** state
19 construction code act, ~~of 1972,~~ 1972 PA 230, MCL 125.1501 to
20 125.1531.

21 (v) "Qualified refunding obligation" means an obligation
22 issued or incurred by an authority or by a municipality on behalf
23 of an authority to refund an obligation if the refunding obligation
24 meets both of the following:

25 (i) The net present value of the principal and interest to be
26 paid on the refunding obligation, including the cost of issuance,
27 will be less than the net present value of the principal and

1 interest to be paid on the obligation being refunded, as calculated
2 using a method approved by the department of treasury.

3 (ii) The net present value of the sum of the tax increment
4 revenues described in subdivision (aa) (ii) and the distributions
5 under section 12a to repay the refunding obligation will not be
6 greater than the net present value of the sum of the tax increment
7 revenues described in subdivision (aa) (ii) and the distributions
8 under section 12a to repay the obligation being refunded, as
9 calculated using a method approved by the department of treasury.

10 (w) "Specific local tax" means a tax levied under 1974 PA 198,
11 MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA
12 255, MCL 207.651 to 207.668, the technology park development act,
13 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL 211.181
14 to 211.182. The initial assessed value or current assessed value of
15 property subject to a specific local tax shall be the quotient of
16 the specific local tax paid divided by the ad valorem millage rate.
17 However, after 1993, the state tax commission shall prescribe the
18 method for calculating the initial assessed value and current
19 assessed value of property for which a specific local tax was paid
20 in lieu of a property tax.

21 (x) "State fiscal year" means the annual period commencing
22 October 1 of each year.

23 (y) "Tax increment district" or "district" means that area to
24 which the tax increment finance plan pertains.

25 (z) "Tax increment financing plan" means that information and
26 those requirements set forth in sections 13 to 15.

27 (aa) "Tax increment revenues" means the amount of ad valorem

1 property taxes and specific local taxes attributable to the
2 application of the levy of all taxing jurisdictions upon the
3 captured assessed value of real and personal property in the
4 development area, subject to the following requirements:

5 (i) Tax increment revenues include ad valorem property taxes
6 and specific local taxes attributable to the application of the
7 levy of all taxing jurisdictions other than the state pursuant to
8 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,
9 and local or intermediate school districts upon the captured
10 assessed value of real and personal property in the development
11 area for any purpose authorized by this act.

12 (ii) Tax increment revenues include ad valorem property taxes
13 and specific local taxes attributable to the application of the
14 levy of the state pursuant to the state education tax act, 1993 PA
15 331, MCL 211.901 to 211.906, and local or intermediate school
16 districts upon the captured assessed value of real and personal
17 property in the development area in an amount equal to the amount
18 necessary, without regard to subparagraph (i), to repay eligible
19 advances, eligible obligations, and other protected obligations.

20 (iii) Tax increment revenues do not include any of the
21 following:

22 (A) Ad valorem property taxes attributable either to a portion
23 of the captured assessed value shared with taxing jurisdictions
24 within the jurisdictional area of the authority or to a portion of
25 value of property that may be excluded from captured assessed value
26 or specific local taxes attributable to such ad valorem property
27 taxes.

1 (B) Ad valorem property taxes excluded by the tax increment
2 financing plan of the authority from the determination of the
3 amount of tax increment revenues to be transmitted to the authority
4 or specific local taxes attributable to such ad valorem property
5 taxes.

6 (iv) The amount of tax increment revenues authorized to be
7 included under subparagraph (ii), (v), OR (vi), and required to be
8 transmitted to the authority under section 14(1), from ad valorem
9 property taxes and specific local taxes attributable to the
10 application of the levy of the state education tax act, 1993 PA
11 331, MCL 211.901 to 211.906, a local school district or an
12 intermediate school district upon the captured assessed value of
13 real and personal property in a development area shall be
14 determined separately for the levy by the state, each school
15 district, and each intermediate school district as the product of
16 sub-subparagraphs (A) and (B):

17 (A) The percentage which the total ad valorem taxes and
18 specific local taxes available for distribution by law to the
19 state, local school district, or intermediate school district,
20 respectively, bear to the aggregate amount of ad valorem millage
21 taxes and specific taxes available for distribution by law to the
22 state, each local school district, and each intermediate school
23 district.

24 (B) The maximum amount of ad valorem property taxes and
25 specific local taxes considered tax increment revenues under
26 subparagraph (ii), (v), OR (vi).

27 (v) TAX INCREMENT REVENUES INCLUDE AD VALOREM PROPERTY TAXES

1 AND SPECIFIC LOCAL TAXES ATTRIBUTABLE TO THE APPLICATION OF THE
2 LEVY OF THE STATE UNDER THE STATE EDUCATION TAX ACT, 1993 PA 331,
3 MCL 211.901 TO 211.906, AND LOCAL OR INTERMEDIATE SCHOOL DISTRICTS
4 UPON THE CAPTURED ASSESSED VALUE OF REAL AND PERSONAL PROPERTY IN
5 ANY PART OF THAT PORTION OF AN AUTHORITY DISTRICT DESIGNATED AS A
6 DOWNTOWN EXPANSION ZONE UNDER SECTION 3A.

7 (vi) TO THE EXTENT AUTHORIZED UNDER SECTION 3A AND NOT
8 OTHERWISE CONSIDERED TAX INCREMENT REVENUES UNDER SUBDIVISION
9 (AA) (ii), TAX INCREMENT REVENUES INCLUDE AD VALOREM PROPERTY TAXES
10 AND SPECIFIC LOCAL TAXES ATTRIBUTABLE TO THE APPLICATION OF THE
11 LEVY OF THE STATE UNDER THE STATE EDUCATION TAX ACT, 1993 PA 331,
12 MCL 211.901 TO 211.906, AND LOCAL OR INTERMEDIATE SCHOOL DISTRICTS
13 UPON THE CAPTURED ASSESSED VALUE OF REAL AND PERSONAL PROPERTY IN
14 ANY DOWNTOWN DEVELOPMENT AREA AS DEFINED BY SECTION 3A.

15 Sec. 3. (1) If the governing body of a municipality determines
16 that it is in the best interests of the public to halt a decline in
17 property values, increase property tax valuation, eliminate the
18 causes of the decline in property values, and to promote growth in
19 an area in the municipality, the governing body of that
20 municipality may declare by resolution its intention to create and
21 provide for the operation of an authority. **THE DETERMINATIONS**
22 **REQUIRED UNDER THIS SUBSECTION FOR THE CREATION OF AN AUTHORITY**
23 **SHALL NOT BE REQUIRED FOR THE EXPANSION OF AN AUTHORITY DISTRICT OF**
24 **AN EXISTING AUTHORITY TO INCLUDE A DOWNTOWN EXPANSION ZONE**
25 **DESIGNATED UNDER SECTION 3A.**

26 (2) In the resolution of intent, the governing body shall set
27 a date for the holding of a public hearing on the adoption of a

1 proposed resolution creating the authority and designating the
2 boundaries of the authority district. Notice of the public hearing
3 shall be published twice in a newspaper of general circulation in
4 the municipality, not less than 20 nor more than 40 days before the
5 date of the hearing. Notice shall also be mailed to the property
6 taxpayers of record in the proposed authority district not less
7 than 20 days before the hearing. Failure to receive the notice
8 shall not invalidate these proceedings. The notice shall state the
9 date, time, and place of the hearing, and shall describe the
10 boundaries of the proposed authority district. At that hearing, a
11 citizen, taxpayer, or property owner of the municipality has the
12 right to be heard in regard to the establishment of the authority
13 and the boundaries of the proposed authority district. The
14 governing body of the municipality shall not incorporate land into
15 the authority district not included in the description contained in
16 the notice of public hearing, but it may eliminate described lands
17 from the authority district in the final determination of the
18 boundaries.

19 **(3) NOT MORE THAN 60 DAYS AFTER A PUBLIC HEARING, THE**
20 **GOVERNING BODY OF A TAXING JURISDICTION LEVYING AD VALOREM PROPERTY**
21 **TAXES THAT WOULD OTHERWISE BE SUBJECT TO CAPTURE MAY EXEMPT ITS**
22 **TAXES FROM CAPTURE BY ADOPTING A RESOLUTION TO THAT EFFECT AND**
23 **FILING A COPY WITH THE CLERK OF THE MUNICIPALITY PROPOSING TO**
24 **CREATE THE AUTHORITY. THE RESOLUTION TAKES EFFECT WHEN FILED WITH**
25 **THAT CLERK AND REMAINS EFFECTIVE UNTIL A COPY OF A RESOLUTION**
26 **RESCINDING THAT RESOLUTION IS FILED WITH THAT CLERK.**

27 **(4) —(3)—** After the public hearing, if the governing body

1 intends to proceed with the establishment of the authority, it
2 shall adopt, by majority vote of its members, a resolution
3 establishing the authority and designating the boundaries of the
4 authority district within which the authority shall exercise its
5 powers. The adoption of the resolution is subject to any applicable
6 statutory or charter provisions with respect to the approval or
7 disapproval by the chief executive or other officer of the
8 municipality and the adoption of a resolution over his or her veto.
9 This resolution shall be filed with the secretary of state promptly
10 after its adoption and shall be published at least once in a
11 newspaper of general circulation in the municipality.

12 (5) ~~—(4)—The~~ **EXCEPT AS PROVIDED BY SUBSECTION (7) AND SUBJECT**
13 **TO SECTION 29, THE** governing body may alter or amend the boundaries
14 of the authority district to include or exclude lands from the
15 authority district in accordance with the same requirements
16 prescribed for adopting the resolution creating the authority.

17 (6) ~~—(5)—~~ The validity of the proceedings establishing an
18 authority shall be conclusive unless contested in a court of
19 competent jurisdiction within 60 days after the last of the
20 following takes place:

21 (a) Publication of the resolution as adopted.

22 (b) Filing of the resolution with the secretary of state.

23 (c) The effective date of this subsection.

24 (7) **NOTWITHSTANDING SECTION 29, AT ANY TIME AFTER CALLING AND**
25 **HOLDING A PUBLIC HEARING AS REQUIRED BY SUBSECTION (2), THE**
26 **GOVERNING BODY OF A MUNICIPALITY MAY ALTER OR AMEND THE BOUNDARIES**
27 **OF AN EXISTING AUTHORITY DISTRICT THAT INCLUDES A DOWNTOWN**

1 DEVELOPMENT AREA, AS DEFINED BY SECTION 3A, TO INCLUDE LANDS ONLY
2 WITHIN AN AREA DESIGNATED AS A DOWNTOWN EXPANSION ZONE UNDER
3 SECTION 3A.

4 SEC. 3A. (1) AN AUTHORITY MAY APPLY TO THE MICHIGAN ECONOMIC
5 DEVELOPMENT CORPORATION FOR THE FOLLOWING DESIGNATIONS:

6 (A) THE DESIGNATION OF A DOWNTOWN DEVELOPMENT AREA AS A
7 DEVELOPMENT AREA IN WHICH TAX INCREMENT REVENUES, AS DEFINED BY
8 SECTION 1(AA) (vi), MAY BE CAPTURED BY THE AUTHORITY FOR PURPOSES
9 PERMITTED UNDER SUBSECTION (6).

10 (B) THE DESIGNATION OF AN AREA CONTIGUOUS TO AN EXISTING
11 AUTHORITY DISTRICT THAT INCLUDES A DOWNTOWN DEVELOPMENT AREA AS A
12 DOWNTOWN EXPANSION ZONE.

13 (2) THE APPLICATION SHALL BE IN A FORM SPECIFIED BY THE
14 MICHIGAN ECONOMIC DEVELOPMENT CORPORATION AND SHALL CONTAIN
15 INFORMATION THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION CONSIDERS
16 NECESSARY TO MAKE THE DETERMINATIONS REQUIRED UNDER THIS SECTION,
17 INCLUDING ALL OF THE FOLLOWING:

18 (A) THE BOUNDARIES OF THE PROPOSED DOWNTOWN EXPANSION ZONE TO
19 BE ADDED TO THE AUTHORITY'S EXISTING DISTRICT.

20 (B) THE DESCRIPTION OF THE DOWNTOWN DEVELOPMENT AREA PROPOSED
21 TO BE DESIGNATED UNDER SUBSECTION (1) (A) AS A DEVELOPMENT AREA IN
22 WHICH TAX INCREMENT REVENUES, AS DEFINED BY SECTION 1(AA) (vi), MAY
23 BE CAPTURED BY THE AUTHORITY FOR THE PURPOSES PERMITTED UNDER
24 SUBSECTION (6).

25 (C) THE PROPOSED USES OF TAX INCREMENT REVENUES WITHIN OR FOR
26 THE BENEFIT OF THE DOWNTOWN EXPANSION ZONE.

27 (3) THE DESIGNATIONS PERMITTED UNDER THIS SECTION BY THE

1 MICHIGAN ECONOMIC DEVELOPMENT CORPORATION SHALL BE BASED UPON A
2 FINDING BY THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION THAT THE
3 APPLICATION DEMONSTRATES THAT THE PROPOSED DOWNTOWN EXPANSION ZONE
4 WOULD SATISFY THE FOLLOWING CRITERIA:

5 (A) THE PUBLIC FACILITIES TO BE DEVELOPED IN THE DOWNTOWN
6 EXPANSION ZONE WILL ATTRACT PRIVATE BUSINESSES TO OR RETAIN PRIVATE
7 BUSINESSES IN THE AUTHORITY DISTRICT AND CONTRIBUTE TO THE HOUSING
8 AND ECONOMIC GROWTH AND DEVELOPMENT OF THE AUTHORITY DISTRICT.

9 (B) THE PUBLIC FACILITIES PLANNED TO BE DEVELOPED WILL ENHANCE
10 THE ATTRACTIVENESS OF THE DOWNTOWN EXPANSION ZONE TO BUSINESSES,
11 RESIDENTS, AND VISITORS TO THE AUTHORITY DISTRICT.

12 (C) THE PROPOSED DOWNTOWN EXPANSION ZONE WILL BE DEVELOPED TO
13 TAKE ADVANTAGE OF THE UNIQUE CHARACTERISTICS AND SPECIALTIES
14 OFFERED BY THE PUBLIC AND PRIVATE RESOURCES AVAILABLE IN THE AREA
15 IN WHICH THE PROPOSED DOWNTOWN EXPANSION ZONE WILL BE LOCATED.

16 (D) THE AUTHORITY WILL BE ABLE TO COMPLY WITH THE REQUIREMENTS
17 OF SUBSECTION (6), INCLUDING THE REIMBURSEMENT OF THE STATE AND
18 LOCAL OR INTERMEDIATE SCHOOL DISTRICTS FROM TAX INCREMENT REVENUES
19 FROM ANY DEVELOPMENT AREA WITHIN THE AUTHORITY DISTRICT, INCLUDING
20 THE DOWNTOWN EXPANSION ZONE.

21 (E) THE DESIGNATION OF THE PROPOSED DOWNTOWN EXPANSION ZONE
22 WILL ASSIST IN PREVENTING OR HALTING A DETERIORATION OF PROPERTY
23 VALUATION IN AREAS SURROUNDING THE EXISTING AUTHORITY DISTRICT.

24 (F) THE PROPOSED DOWNTOWN EXPANSION ZONE IS PART OF OR
25 ADJACENT TO AN AREA THAT REPRESENTS THE HISTORIC DOWNTOWN AREA OF
26 THE MUNICIPALITY.

27 (4) WHEN THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION DECIDES

1 TO MAKE A DESIGNATION UNDER SUBSECTION (1), IT SHALL ENTER INTO AN
2 AGREEMENT WITH THE AUTHORITY TO IMPLEMENT THE TERMS OF THE
3 DESIGNATION, WHICH SHALL INCLUDE ALL OF THE FOLLOWING:

4 (A) A DESCRIPTION OF THE BOUNDARIES OF THE DOWNTOWN EXPANSION
5 ZONE AND THE DEVELOPMENT AREA TO BE CREATED FOR THE DOWNTOWN
6 EXPANSION ZONE.

7 (B) A DESCRIPTION OF THE DOWNTOWN DEVELOPMENT AREA OF THE
8 AUTHORITY OF WHICH THE DEVELOPMENT AREA CREATED FOR THE DOWNTOWN
9 EXPANSION ZONE SHALL BE CONSIDERED TO BE A PART DURING THE TERM OF
10 THE AGREEMENT.

11 (C) A DESCRIPTION OF THE PUBLIC FACILITIES TO BE DEVELOPED
12 WITHIN OR FOR THE DOWNTOWN EXPANSION ZONE.

13 (D) A STATEMENT OF THE MAXIMUM COST OF PUBLIC FACILITIES TO BE
14 DEVELOPED WITHIN OR FOR THE DOWNTOWN EXPANSION ZONE.

15 (E) THE TERMS OF ENFORCEMENT OF THE AGREEMENT, WHICH MAY
16 INCLUDE THE DEFINITION OF EVENTS OF DEFAULT, CURE PERIODS, LEGAL
17 AND EQUITABLE REMEDIES AND RIGHTS, AND PENALTIES AND DAMAGES,
18 ACTUAL OR LIQUIDATED, UPON THE OCCURRENCE OF AN EVENT OF DEFAULT.

19 (F) THE FINANCIAL COMMITMENTS OF ANY PARTY TO THE AGREEMENT
20 AND OF ANY OWNER OR DEVELOPER OF PROPERTY WITHIN THE DOWNTOWN
21 EXPANSION ZONE.

22 (G) COVENANTS AND RESTRICTIONS, IF ANY, UPON ALL OR A PORTION
23 OF THE PROPERTIES CONTAINED WITHIN THE DOWNTOWN EXPANSION ZONE AND
24 TERMS OF ENFORCEMENT OF ANY COVENANTS OR RESTRICTIONS.

25 (H) ANY LIMITATIONS IMPOSED BY THE STATE TREASURER AT HIS OR
26 HER DISCRETION UPON THE TERM OR AMOUNT OF TAX INCREMENT REVENUES
27 AVAILABLE UNDER SECTION 1(AA) (v) OR (vi) .

1 (I) THE TERM OF THE AGREEMENT.

2 (J) CONDITIONS FOR THE EFFECTIVENESS OF THE AGREEMENT, WHICH
3 SHALL INCLUDE APPROVAL OF THE CREATION OF THE DOWNTOWN EXPANSION
4 ZONE AND A DEVELOPMENT PLAN FOR THE DOWNTOWN EXPANSION ZONE.

5 (5) THE TAX INCREMENT FINANCING PLAN OF THE DEVELOPMENT AREA
6 CREATED FOR A DOWNTOWN EXPANSION ZONE AND FOR ALL EXISTING
7 DEVELOPMENT AREAS SHALL PROVIDE BOTH FOR THE CAPTURE AND USE OF TAX
8 INCREMENT REVENUES FROM THE DOWNTOWN DEVELOPMENT AREA DESIGNATED
9 UNDER SUBSECTION (1) (A) AND FOR TAX INCREMENT REVENUES FROM THE
10 DEVELOPMENT AREA CREATED FOR THE DOWNTOWN EXPANSION ZONE. FOR THE
11 PURPOSE OF PERMITTING TAX INCREMENT REVENUES FROM THE DOWNTOWN
12 DEVELOPMENT AREA TO BE USED FOR PUBLIC FACILITIES WITHIN OR FOR THE
13 BENEFIT OF THE DOWNTOWN EXPANSION ZONE, THE DOWNTOWN EXPANSION ZONE
14 SHALL BE CONSIDERED PART OF THE DOWNTOWN DEVELOPMENT AREA
15 DESIGNATED PURSUANT TO SUBSECTION (1) (A). HOWEVER, TAX INCREMENT
16 REVENUES FROM A DEVELOPMENT AREA CREATED FOR A DOWNTOWN EXPANSION
17 ZONE SHALL BE CALCULATED SEPARATELY FROM THE CALCULATION OF TAX
18 INCREMENT REVENUES MADE FOR THE DOWNTOWN DEVELOPMENT AREA OF THE
19 AUTHORITY OF WHICH THE DOWNTOWN EXPANSION ZONE IS CONSIDERED A
20 PART. AFTER THE AGREEMENT ENTERED INTO UNDER THIS SECTION HAS
21 EXPIRED OR BEEN TERMINATED, THE AUTHORITY SHALL NOT BE ENTITLED TO
22 RECEIVE TAX INCREMENT REVENUES, AS DEFINED BY SECTION 1 (AA) (v) AND
23 (vi), FROM THE DEVELOPMENT AREA CREATED FOR A DOWNTOWN EXPANSION
24 ZONE, AND THE DEVELOPMENT AREA CREATED FOR THE DOWNTOWN EXPANSION
25 ZONE SHALL NOT BE CONSIDERED A PART OF ANY OTHER DEVELOPMENT AREA
26 WITHIN THE AUTHORITY DISTRICT.

27 (6) TAX INCREMENT REVENUES, AS DEFINED BY SECTION 1 (AA) (vi),

1 AVAILABLE TO AN AUTHORITY UNDER A DESIGNATION PERMITTED UNDER
2 SUBSECTION (1) (A) SHALL BE USED ONLY FOR PURPOSES OF DEVELOPMENT OR
3 ACQUISITION OF A PUBLIC FACILITY WITHIN OR FOR THE BENEFIT OF THE
4 DOWNTOWN EXPANSION ZONE OR TO PAY THE PRINCIPAL OF AND INTEREST ON
5 OBLIGATIONS ISSUED BY OR ON BEHALF OF THE AUTHORITY FOR THOSE
6 PURPOSES. TAX INCREMENT REVENUES AVAILABLE TO AN AUTHORITY FROM A
7 DOWNTOWN EXPANSION ZONE DESIGNATED UNDER SUBSECTION (1) (B) SHALL
8 ONLY BE USED DURING THE TERM OF THE AGREEMENT MADE UNDER THIS
9 SECTION FOR REIMBURSING THE STATE AND LOCAL OR INTERMEDIATE SCHOOL
10 DISTRICTS FOR ANY TAX INCREMENT REVENUES, AS DEFINED BY SECTION
11 1(AA) (vi), THAT WERE RECEIVED BY THE AUTHORITY AND USED FOR PURPOSES
12 PERMITTED UNDER THIS SECTION.

13 (7) AN AUTHORITY MAY NOT SHARE WITH TAXING JURISDICTIONS OR
14 EXCLUDE BY THE TAX INCREMENT FINANCING PLAN ANY PORTION OF THE TAX
15 INCREMENT REVENUES OR CAPTURED ASSESSED VALUE ATTRIBUTABLE TO
16 PROPERTY WITHIN THE DEVELOPMENT AREA CREATED FOR THE DOWNTOWN
17 EXPANSION ZONE.

18 (8) AN AGREEMENT MADE UNDER THIS SECTION MAY NOT BE MADE AFTER
19 DECEMBER 31, 2006, BUT ANY AGREEMENT MADE ON OR BEFORE DECEMBER 31,
20 2006 MAY BE AMENDED AFTER THAT DATE. THE AGGREGATE MAXIMUM COST OF
21 PUBLIC FACILITIES THAT MAY BE APPROVED UNDER AGREEMENTS THAT MAY BE
22 ENTERED INTO UNDER THIS SECTION AND SECTION 3E OF 1975 PA 197, MCL
23 125.1653E, SHALL NOT EXCEED \$100,000,000.00.

24 (9) AS USED IN THIS SECTION:

25 (A) "DOWNTOWN DEVELOPMENT AREA" MEANS A DEVELOPMENT AREA THAT
26 IS PRINCIPALLY ZONED FOR COMMERCIAL OR BUSINESS PURPOSES AND THAT
27 IS WITHIN BOTH THE CENTRAL BUSINESS AREA OF THE MUNICIPALITY AND AN

1 EXISTING AUTHORITY DISTRICT.

2 (B) "MICHIGAN ECONOMIC DEVELOPMENT CORPORATION" MEANS THE
3 PUBLIC BODY CORPORATE CREATED UNDER SECTION 28 OF ARTICLE VII OF
4 THE STATE CONSTITUTION OF 1963 AND THE URBAN COOPERATION ACT OF
5 1967, 1967 (EX SESS) PA 7, MCL 124.501 TO 124.512, BY A CONTRACTUAL
6 INTERLOCAL AGREEMENT EFFECTIVE APRIL 5, 1999 BETWEEN LOCAL
7 PARTICIPATING ECONOMIC DEVELOPMENT CORPORATIONS FORMED UNDER THE
8 ECONOMIC DEVELOPMENT CORPORATIONS ACT, 1974 PA 338, MCL 125.1601 TO
9 125.1636, AND THE MICHIGAN STRATEGIC FUND. IF THE MICHIGAN ECONOMIC
10 DEVELOPMENT CORPORATION IS UNABLE FOR ANY REASON TO PERFORM ITS
11 DUTIES UNDER THIS ACT, THOSE DUTIES MAY BE EXERCISED BY THE
12 MICHIGAN STRATEGIC FUND OR ITS SUCCESSOR.

13 (C) "PUBLIC FACILITY" MEANS THAT TERM AS DEFINED BY SECTION
14 1(U), BUT SHALL NOT INCLUDE A SCHOOL, LIBRARY, PUBLIC INSTITUTION
15 OR ADMINISTRATION BUILDING, OR ANY OTHER PUBLIC OR PRIVATE FACILITY
16 THAT IS NOT USED PRIMARILY BY THE GENERAL PUBLIC.