

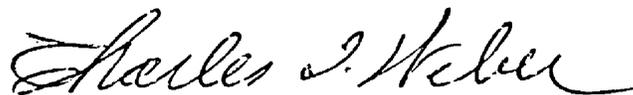
Annexation by Consent: One Community's  
Response to a Threatened Loss of Industrial Employment

by

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## I. INTRODUCTION

The purpose of this research project is to describe and discuss the response of one unit of local government to the threatened loss of substantial industrial employment. The response is worthy of investigation not only in view of its substantial importance to the affected governmental body, but also as it represents a novel approach to both economic development and to intergovernmental cooperation.

As more fully described below, the response which was prepared is novel in at least two aspects. Firstly, it supplemented more traditional industrial economic development incentives with what appears to be a novel application of a traditional, albeit infrequently used, means of adjusting municipal boundaries: the annexation of land situated in an adjacent, incorporated municipality.

The response also appears unique insofar as it represents a novel structure for cooperation between two political jurisdictions in an economic development venture. This cooperative effort was structured to allocate the benefits of a project to both entities which, in the absence of such cooperation, would accrue to neither.

In order to explain the circumstances which necessitated the formulation of the response, a brief section of this report entitled "Background" follows this introduction.

As the assertion is made that the annexation effort described below is a novel economic development and intergovernmental

cooperative structure, a "Review of the Literature" section presents an overview of the research undertaken to identify sources appropriate to this subject matter.

The "Description of the Response" section which then follows details the specific aspects of the proposal and discusses two issues which were addressed in formulating the particular response selected.

The final section of this report is entitled "Summary and Conclusions." It includes a review of the major points discussed earlier and also indicates the writer's own conclusions concerning the notion of annexation as an economic development tool. Other, subsequent applications of this procedure are also discussed.

This research project has been undertaken in fulfillment of a course requirement for PUB 593, Practicum in Applied Research, in the University of Michigan-Flint Master of Public Administration Program.

## II. BACKGROUND

The City of Flint, Michigan has long been identified with the largest single employer of its residents, General Motors Corporation. The birthplace of General Motors, Flint is the home of three corporate divisions and is the site of eleven automotive product manufacturing plants.

The scheduling of an unusual press conference in Flint by the then-chairman of General Motors Corporation, Thomas A. Murphy, in Flint in May of 1980, thus attracted considerable attention of the Flint media, city government officials and citizenry.

At an evening press conference, Mr. Murphy revealed that the Chessie System and General Motors' real estate arm, Argonaut Real Estate Development Company, had optioned a 537 acre site in Vienna Township, Michigan, north of the City of Flint. The land had been optioned to provide a site for a planned, new \$450 million General Motors Assembly Division automotive assembly plant. The plant would be substantially similar to that recently constructed in Oklahoma City, Oklahoma, as well as those proposed for Lake Orion in Oakland Township, Michigan; Kansas City, Kansas; Detroit, Michigan and Wentzville, Missouri.

Though the contemplated action on General Motors' part suggested an enduring presence in the Flint area, such a project undertaken in Vienna Township could have proven deleterious to the economic vitality of the City of Flint. Though General Motors' announcement did not address the

precise implications of this action to the City, it was widely speculated, in the Flint Journal and elsewhere, that the construction of a new assembly plant would necessitate or permit the closing of the Flint Fisher Body Plant #1 and transferring Buick final assembly operations from the Buick complex located within the City of Flint.

In addition, the likelihood of reuse of these facilities, particularly the Flint Fisher Body Plant, was at best unclear. The City thus potentially stood to lose an estimated 6,000 jobs, as well as the personal income tax and property tax revenue attributable to these employees and facilities, respectively.

A few hours previous to the press conference, Mr. Murphy met for fifteen minutes with Flint Mayor James W. Rutherford and indicated to him the substance of the statement which was to be released that evening. He then indicated to the Mayor that should the City wish to present an alternative site to General Motors' management, it could certainly do so.

It was explained that at least a 400 acre site would be required for the construction of a new, prototype 3,000,000 square foot single story plant. Such a site would have to be under the City's control, i.e., owned or optioned by the City; sufficiently quickly to enable a Spring, 1981, construction start. It was also indicated that General Motors would require rail and interstate highway access, property tax concessions, and environmental approvals.

To illustrate the difficulty of assembly of a 400 acre site within a developed city, one may contrast this area with the size of existing, substantial tracts of land within the City of Flint under single ownership. As an example, the University of Michigan-Flint campus in the Flint central business district occupies approximately 43 acres of land. An ideal

General Motors Assembly Division plant would occupy approximately 640 acres. A site nearly 15 times the site of the University of Michigan-Flint campus would thus be required if General Motors was to reconsider proceeding with the Vienna Township site.

One must also appreciate the importance of the automobile industry, particularly General Motors Corporation, to the City of Flint in order to appreciate the magnitude of the threatened loss of employment.

The important position occupied by General Motors Corporation in the City may be illustrated in several ways. Consider employment as an example. In July, 1981, an estimated 203,700 workers of the total civilian labor force of 237,300 were employed. Of these, 72,800 were classified by the Michigan Employment Security Commission as Manufacturing Wage and Salary Employees.

Fifty-four thousand, two hundred of all manufacturing employees, i.e., 74%; were classified as transportation equipment employees. These data do not reflect total auto industry related employment, however, as many Flint based workers are employees of automotive suppliers.

General Motors' prominent position in the city is perhaps more graphically illustrated by real and personal property assessed valuation. The largest single class of property within the City of Flint during the 1981-1982 tax year was industrial property, comprising 44.67% of the city's total valuation of \$1,469,064,040. This compares with commercial property which constituted only 14.19% of the property tax base.

The total assessed valuation of real and personal property owned by General Motors Corporation in the City of Flint in

1981 was valued at \$620,085,300. The City's next largest property taxpayer, the Consumers Power Company, totalled \$30,797,400. General Motor's holdings were far and away the largest owned by any single corporation and constituted 42.21% of the City of Flint's tax base (Source: City of Flint Department of Finance, Assessment Division).

While an accurate estimate of the economic loss of 6,000 jobs is most difficult to develop, the City of Flint Department of Community Development undertook to do so in relation to the preparation of a federal grant application described below. Assuming an average annual salary of \$24,000, 6,000 General Motors employees would generate an annual payroll of \$144,000,000. Such a payroll would generate city income taxes in an estimated annual amount of \$1,080,000. Should these 6,000 jobs be relocated to Vienna Township, the lion's share of this personal income tax revenue would be forfeited by the City.

In addition, projected annual property tax revenues to the City totalling approximately \$980,000 would be foregone if the new plant was to be built outside of the city limits. When viewed in the context of the city's heavy reliance on the personal income tax revenues and in view of the July, 1980, unemployment rate of 22.4%; such a loss of tax revenue would be most disheartening and economically taxing for the Flint City government.

Having described the context within which the announcement by General Motors of the optioning of the Vienna Township site was made, the next section of this report is the "Review of the Literature" section. In order to support the assertion made in the introduction of this report that the City of Flint's response to threatened employment and revenue loss was novel in at least two aspects, a summary of the writer's review of pertinent literature follows.

### III. REVIEW OF THE LITERATURE

The purpose of the section of the report is to summarize the writer's review of a variety of sources researched to establish whether the annexation of property located within an incorporated municipality to advance an economic development project had been previously accomplished. The review was undertaken in such a way as to consider two aspects of this question.

Firstly, the manner in which communities typically respond to a threatened loss of employment and whether such responses entail the annexation of adjacent, incorporated land were considered.

Secondly, the use of annexation and other forms of reassignment of governmental functions were researched to establish whether the annexation of incorporated territory is a recognized means of transforming or sharing the responsibility of the provision of public goods and services among units of local government.

#### Response to Threatened Employment Loss

In investigating the manner in which municipalities typically react to threatened employment losses, essentially three types of responses appear plausible.

The municipality may choose not to respond to the threatened loss and hope for the best. Secondly, it may extend to the industrial employers such incentives as are immediately available to diminish the likelihood of the loss of employment. Finally, the municipality may rely on the eventual success

of a long-term economic development strategy which would define the manner in which workers who may become unemployed will be reemployed. The concurrent application of the last two approaches may also occur.

In the first instance, a community could determine that the circumstances surrounding a threatened employment loss might not enable the formulation of an appropriate response. The municipal government, upon consideration of such factors as the time available to respond, the lack of appropriate industrial investment inducements, and the lack of available and developable land; may conclude that a response to the threatened employment loss is not possible. The municipality may elect to adopt a "wait and see" attitude and hope for the best.

The community might also respond with such short-term or immediately available incentives as are available to attempt to prevent the threatened loss of employment. Based on the review of research materials, it appears that two incentive types are often extended by state and municipal governments: those intended to address the reduction of initial capital cost to the industry and/or those which diminish the cost which would otherwise be borne by the firm during its ongoing operations.<sup>1</sup>

One incentive program intended to underwrite one specific operating cost, the cost of borrowing; is the availability of industrial revenue bonds issued by state and local governmental units. Either tax exempt revenue bonds or state and municipal general obligation bonds are issued to finance fixed assets, the legal title of which is often

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<sup>1</sup>David Mulkey and B.L. Dillman, "Location Effects of State and Local Industrial Subsidies," Growth and Change, VII (October, 1977), 38.

vested in the public agency and "leased back" to the firm. The lease is typically so structured as to enable the leasee to enjoy investment tax credits and depreciation tax advantages which are of no benefit to the public agency.<sup>2</sup>

The tremendous growth of this tax exempt financing is illustrated by the fact that such borrowing totalled \$40.0 million in 1960, but grew to \$1.6 billion in 1968.<sup>3</sup>

This explosion of publicly underwritten debt issues prompted the United States Congress to adopt the Revenue Expenditure Control Act of 1968. That law stripped the exemption of interest of such indebtedness from federal income tax, though bond issues of \$1.0 million or less were exempted from this provision of the Act.

That exemption limit has since been increased to \$5 million and subsequently raised to \$10 million in 1980. The upward limit may be still further increased to \$20 million if the City has been awarded an Urban Development Action Grant from the United States Department of Housing and Urban Development in connection with the project.

In Michigan, such borrowing is enabled under the Michigan Economic Development Corporations Act, Act No. 338 of the Public Acts of 1974, as amended, and the Michigan Downtown Development Authorities Act, Act No. 197 of the Public Acts of 1975, as amended.

A second type of investment incentive available to state and local governments to assist industries is the provision of

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<sup>2</sup>Ibid., 39.

<sup>3</sup>Ibid.

special services, amenities, and other physical plant improvements. Frequently provided facilities include municipal industrial parks, public infrastructure, e.g., highways, railroads, sewer and water facilities; and employee training and retraining programs. State, federal and local funds typically finance such activities.<sup>4</sup>

Another widely used means of encouraging the continued operation or expansion of an existing firm or attracting a new firm to the political jurisdiction is the approval of a range of tax considerations to diminish both initial capital costs and ongoing operating expenses.

Among such tax reduction programs are corporate income tax exemptions, personal income tax exemptions and excise tax exemptions. Fully or partially abated sales/use taxes on new equipment and sales taxes on raw materials are also often available.

One particularly frequently preferred form of public subsidy of industry is the deferral, abatement or exemption of locally levied real and personal property taxes. Such taxes are typically levied on land and capital improvements, equipment and machinery, goods in transit and manufacturers' inventories.<sup>5</sup>

The Michigan Plant Rehabilitation and Industrial Development Districts Act, Act #198 of the Public Acts of 1974, as amended; enables cities, villages and townships to exempt 50% of real and personal property taxes which would otherwise be payable to affected taxing jurisdictions for a period of up to twelve years.

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<sup>4</sup>Ibid.

<sup>5</sup>Ibid.

As indicated above, a variety of governmentally-enabled industrial investment incentive programs are typically available to manufacturing firms with the approval of state and local governments. Throughout the course of the Review of the Literature, however, no mention was made of instances in which land located within an incorporated municipality was annexed by another local governmental unit to advance a specific economic development project.

### Adjustment of Boundaries and Reassignment of Governmental Functions

A review of literature was also undertaken to establish whether the annexation of incorporated land is an accepted or even a previously accomplished means of reorganizing governmental responsibilities and/or adjusting municipal boundaries. To do so, literature pertaining to such issues of governmental form and structure in metropolitan areas as area-wide government, e.g., city-county consolidation, annexation and metropolitan districts; was accomplished.

One particularly germane discussion of alternate forms of reallocating governmental functions within metropolitan areas classifies reform efforts in three broad categories: the one-government approach, the two-level approach, and the cooperative approach. Advocates of these approaches are termed "centerists," "federationists," and "polycenterists," respectively.<sup>6</sup>

#### One Government Approach

In the first instance, the notion of assigning all governmental functions within a metropolitan area to one governmental

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<sup>6</sup>John C. Bollens and Henry J. Schmandt, "The Metropolis: Its People, Politics and Economic Life (New York: Harper & Row, Publishers, 1975), 238.

body has been viewed by proponents as an effective, efficient and economical means of provision of public goods and services. While opponents of consolidated government argue that diminished local control and access to government officials inevitably ensues following this approach, at least three techniques of imposing a unified political structure within a metropolitan area have been identified.<sup>7</sup>

Annexation, i.e., the additional of territory to the municipal corporation as an integral part of that corporation; of nearby, unincorporated land is the most common means of adjusting the boundaries of political jurisdictions.<sup>8</sup>

The practice of annexation was fairly commonplace in the United States prior to the early 1900's. Typically, an area which experienced population growth would first incorporate as a municipality and, having developed substantially within those boundaries, would annex adjacent land. Such annexation not only permitted area and population growth within the city, but also provided municipal services needed by the fringe area residents.<sup>9</sup>

During this period, the territory annexed typically was not extensively developed and the annexation action was often accomplished in concert with other governmental reorganization activities.<sup>10</sup>

Subsequent to the turn of the century, however, a precipitous decrease in annexation activity occurred. During this

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<sup>7</sup>Ibid., 239.

<sup>8</sup>National League of Cities, Adjusting Municipal Boundaries: Law and Practice (Washington, D.C., 1966), 1.

<sup>9</sup>Ralph T. Jans, The Urban Fringe Problem: Solutions Under Michigan Law (Ann Arbor: Bureau of Government, Institute of Public Administration, University of Michigan, 1957), 21.

<sup>10</sup>Bollens and Schmandt, Op. Cit., 239.

period, significant urban and metropolitan growth occurred. As a consequence, urban fringe areas were able to provide their own municipal services and thus no longer relied upon nearby central cities.<sup>11</sup>

In addition, smaller unincorporated areas formed their own "satellite cities" and other municipalities. This trend, coupled with the reticence of central cities to annex adjacent, unincorporated territory requiring the provision of expensive capital improvements; contributed to the curtailment of annexation activity.<sup>12</sup>

... More important still in explaining the reduced level of annexation activity is the adoption by state legislatures of new and exceedingly complex statutes establishing annexation procedures. These procedures typically gave property owners and residents of unincorporated land the ability to initiate annexation actions and to require their approval of contemplated annexation activity.<sup>13</sup>

As an example, no single law regulates annexation procedures applicable to cities and villages in Michigan. Separate procedures govern such activity for home rule cities, fourth class cities, home rule villages, general law villages and charter townships. Even within the Home Rule City Act, six distinct forms of annexation are provided for.<sup>14</sup>

A marked resurgence of annexation activities subsequent to World War II was recorded, however. During 1945, 152

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<sup>11</sup>National League of Cities, Op. Cit., 21.

<sup>12</sup>Ibid.

<sup>13</sup>Bollens and Schmandt, Op. Cit., 241.

<sup>14</sup>Jans, Op. Cit., 22.

cities having populations of 5,000 or more annexed territory. Since that time, annexation activity increased with nearly 1,100 annexations accomplished during 1971.<sup>15</sup>

This trend is explained by continued metropolitan growth, i.e., more smaller communities seeking to annex lands; and the general lack of acceptance of other forms of urban area governmental reorganization, hence the greater reliance on annexation.<sup>16</sup>

Though annexation has increased nationwide, such activity in the East and Midwest has remained fairly sporadic. In such areas, relatively little unincorporated land is available for annexation. Also, annexation laws continue to favor owners and residents of unincorporated territory.<sup>17</sup>

Another means of undertaking municipal government reorganization under the single government approach is the merger of incorporated places, also referred to as municipal consolidation. Under this approach a number of typically small political jurisdictions may elect to merge and form a single governmental body. Such consolidations may be subject to review by an administrative agency or official having quasijudicial powers or may be subject to judicial review.<sup>18</sup>

A final approach to achieving a one-level government is the complete or substantial consolidation of a county government with the center city and possibly all other municipal government within its boundaries.<sup>19</sup>

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<sup>15</sup>Bollens and Schmandt, Op. Cit., 241.

<sup>16</sup>Ibid., 242.

<sup>17</sup>Ibid.

<sup>18</sup>Bollens and Schmandt, Op. Cit., 248.

<sup>19</sup>Ibid., 250.

Such consolidations typically require the adoption of a state constitutional amendment or enabling statutes, as well as the approval of voters both within the principal city and the balance of the county.<sup>20</sup> Only four principal city-county consolidations have occurred since World War II. These include Baton Rouge-East Baton Rouge Parish, Nashville-Davidson County, Jacksonville-Duval County and Indianapolis-Marion County.<sup>21</sup>

### Two-Level Approach

Another approach to improving the delivery of public goods and services within a metropolitan area is the so-called two-level approach. Advocates of this notion of local federalism endorse the assignment of one or more areawide functions to the governmental unit or agency. Specific, localized functions remain within the province of existing local units of government.<sup>22</sup>

The assignment of functions may occur in one of three ways. Firstly, a metropolitan district may be created. This governmental body is typically assigned one or a few related areawide functions, e.g., provision of port facilities, sewage treatment and disposal, airports, and mass transit; over its entire area of jurisdiction.<sup>23</sup> Examples of such districts include the Port Authority of New York and New Jersey and the Bay Area (San Francisco) Rapid Transit districts.<sup>24</sup>

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<sup>20</sup>Ibid., 251.

<sup>21</sup>Ibid., 254.

<sup>22</sup>Ibid., 264.

<sup>23</sup>Ibid.

<sup>24</sup>Ibid., 267.

In Michigan, an amendment to the state constitution was enacted in 1927, which permitted the state legislature to enable the creation of metropolitan districts by two or more cities, villages or townships. The Metropolitan District Act, Act #312 of the Public Acts of 1929, was subsequently adopted.<sup>25</sup>

One such district is the Beecher Metropolitan District which is responsible for the operation of a municipal water system and a sanitary sewage disposal system in portions of Mt. Morris and Genesee Townships.<sup>26</sup>

Another means of instituting the two-level form of metropolitan government is the adoption of a comprehensive urban county plan. This approach involves the simultaneous re-assignment of certain specific governmental functions to a county government from all of its constituent municipalities.<sup>27</sup> Metropolitan Dade County, Florida (Miami) is perhaps the best known example of this approach, the application of which has been fairly limited.

A third means of achieving a two-tiered metropolitan governmental system is the federation approach. Federation typically entails the creation of a new county-wide or area-wide agency to be responsible for certain, well defined functions. Though essentially similar to comprehensive urban county plans, federation provides for the creation of a new agency

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<sup>25</sup>Jans, Op. Cit., 32.

<sup>26</sup>Ibid., 35.

<sup>27</sup>Bollens and Schmandt, Op. Cit., 273.

rather than the assignment of functions to an extant county government.<sup>28</sup> Metropolitan Toronto, established in 1953, with substantial revisions in 1967, is illustrative of a federation.<sup>29</sup>

### Cooperative Approach

A third broad category of assigning areas of governmental functions within metropolitan areas is the cooperative approach. Unlike the two previously discussed means, functional responsibilities of governmental agencies may be transferred to other units of government without resorting to altering the structure of government. Two strategies of undertaking cooperative governmental ventures have been identified: the execution of inter-local agreements and the establishment of councils of governments.<sup>30</sup>

In Michigan, inter-local agreements may take the form of a county providing services to its political subdivisions on a contractual basis. Other illustrations of such agreements include the sale of services by either a village or a center city to other, smaller municipalities and unincorporated areas and the action by two or more municipalities to address a common need.<sup>31</sup>

The types of services which may be undertaken through joint action include the provision of health services, sewage treatment and disposal, water supply, rubbish disposal, fire

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<sup>28</sup>Ibid., 280.

<sup>29</sup>Ibid., 283.

<sup>30</sup>Ibid., 293.

<sup>31</sup>Jans, Op. Cit., 52.

protection and recreation.<sup>32</sup> One source of authority for such cooperation in Michigan is the Urban Cooperation Act, Act #7 of the Public Acts of 1967, as amended.

A more institutionalized means of intergovernmental cooperation is the establishment of metropolitan or regional councils of governments. Such organizations are voluntary associations of governments which provide a forum for local governmental officials to discuss and mutually address common problems. The metropolitan council of the Twin Cities (Minneapolis and St. Paul, Minnesota) is an example of such a council.<sup>33</sup>

To summarize, essentially three means of altering the boundaries of political jurisdictions and otherwise re-assigning responsibilities for public goods and services delivery have been reviewed. One such approach, the single government approach, has historically included the extensive use of annexation of unincorporated territory.

Annexation has been typically undertaken to accommodate metropolitan growth and the provision of needed municipal services to urban fringe areas. As with the earlier discussion of investment incentives, however, no reference to the annexation of incorporated territory to accomplish the alteration of municipal boundaries or the assignment of governmental responsibilities was noted.

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<sup>32</sup>Ibid., 46.

<sup>33</sup>Bollens and Schmandt, Op. Cit., 308.

#### IV. DESCRIPTION OF THE RESPONSE

Based on the aforementioned Review of the Literature, the investigation of the response of the City of Flint to the threatened loss of 6,000 jobs appears noteworthy of study as one aspect of that response, the annexation of incorporated territory with the consent of the affected local unit of government, has not, to the writer's knowledge, been previously accomplished to undertake a specific economic development project.

In this section of the report, the response will be generally described. This description will necessarily include an explanation of the basic premise upon which the response was based.

This section will also describe why the response developed was adopted or endorsed by the interested parties, specifically the Genesee Township, the City of Flint and General Motors Corporation.

This section will conclude with a more detailed description of the final version of the response. This description is included in the discussion of two particularly thorny issues which were addressed by the City of Flint: the necessity to obtain land control and the need to evidence legal authority to implement the proposed response.

##### Basic Premise and General Description of the Response

After the aforementioned May, 1980, meeting with General

Motors Corporation Chairman Thomas Murphy, Flint Mayor James Rutherford instructed Patrick Martin, then the City's Economic Development Coordinator, and Jack A. Litzenberg, Director of the Department of Community Development, to quickly survey substantial, non-intensively developed land masses within the City of Flint for a potential alternative automobile assembly plant site.

Substantial tracts of land were identified in the northeastern quadrant of the City, adjacent to the City's airport and near the threatened Flint Fisher Body Plant #1, particularly if the last included the aging factory site. None of the identified sites appeared to approach the General Motors' requirement of 400 acres, however, a finding which confirmed the Mayor's original suspicions.

It was then that the germ of the notion of annexing land adjacent to the City for inclusion in a General Motors' site was conceived. By supplementing land available in the City with underutilized, adjacent land located in an abutting charter township, a site of 400 acres could be assembled.

The City of Flint had only recently concluded a protracted annexation attempt of property located within Flint Township. It was therefore quite clear that another contentious annexation effort would likely fail or, in the alternative, would be a drawn out contest, the resolution of which would extend well beyond the Spring, 1981, construction start date.

The Mayor then considered how an annexation might be amiably accomplished. Should the adjoining township agree to the annexation and should the City be able to secure the approval of such an annexation by the Michigan Municipal Boundary Commission, it was reasoned, the entire process of annexation could be greatly expedited. If the proposed site would then

prove acceptable to General Motors Corporation, property not owned by the City of Flint could be optioned and subsequently purchased.

In order to enlist the support of a township government, the Mayor determined that some type of City tax revenue sharing should be proffered. Assuming that a township would agree to so participate, the City administration determined that it would share all new tax revenues collected from the project equally with the township. This concept was premised on a fairly straightforward notion: half of something is better than all of nothing.<sup>34</sup>

#### Appeal to Project Participants

It may be reasonably inferred that a municipal joint venture of the type described above would be attractive to a township only if half of the project's tax revenues, i.e., the township's share; would exceed that currently collected by the township from the same real estate. In determining whether the tax revenue would be sufficient so as to be appealing to the township, one must consider both the assessed valuation of the project and the tax rate levied on that assessed value by the appropriate taxing jurisdiction. Assessed valuation and the tax rate determine the amount of property tax revenue collected.

Clearly, the construction of a new, \$40 million automotive assembly plant would result in a much higher tax base, i.e., assessed valuation; than the aggregate valuation of several smaller, privately and publically owned parcels which are much less intensively developed. The City of Flint estimated

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<sup>34</sup>Interview with Mayor James W. Rutherford, April 5, 1982.

that an assembly plant, plus the land on which the plant, railroad marshalling yards and other, incidental improvements would be located; would bear an assessed value of \$230 million.<sup>35</sup>

Likewise, a comparison of real and personal property tax rates of the City of Flint versus those of the adjacent charter townships of Flint, Mundy and Genesee suggested that the contemplated arrangement would be appealing to township officials. In 1980, the combined operating and debt service tax levy of the City of Flint was 8.55 mills, i.e., \$8.55 of tax revenue per \$1,000 of assessed valuation. Half of this rate, i.e., that portion of the City's property tax rate which would accrue to a township's benefit in a joint venture project; contrasts favorably with the full tax rates of 3.04 mills, 4.04 mills and 3.04 mills for the above-listed townships, respectively.<sup>36</sup>

The arrangement would also have evident appeal to a township as it would also share in the City's income tax revenue. An income rate of 1% of adjusted annual gross income for City residents working at the plant and .5% of adjusted gross income from non-City assembly plant employees would yield an estimated \$108,750 in income tax revenue to the charter township as tax revenue which would be otherwise unavailable.<sup>37</sup>

Though these figures indicate the benefit to a township of jointly undertaking the development of a site for a General

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<sup>35</sup>City of Flint Department of Community Development, "General Motors Urban Development Action Grant Application," October 31, 1980, 32.

<sup>36</sup>Genesee County Treasurer's Office, Tax Rate Information Manual, January, 1980, 23-4.

<sup>37</sup>City of Flint Department of Community Development, Op. Cit., 32.

Motors assembly plant, it is not immediately apparent why a township would not undertake to develop such a project independent of the City of Flint. It is unlikely that such an effort would be successful as a township would likely not have identified a source of financing of the acquisition or perhaps even funding the option consideration cost necessary to secure land control. It would likewise appear difficult for any unit of government other than the City of Flint to dissuade General Motors from exercising the options which it had previously purchased in Vienna Township.

The City of Flint, however, had been previously advised that an alternative site which it proposed would at least be considered by General Motors' management. In addition, the City of Flint had qualified for designation as a distressed city under the guidelines of the United States Department of Housing and Urban Development. This dubious distinction gave the City the ability to seek Urban Development Action Grant funding of the cost of acquiring the site and relocating project displacees.

The availability of these federal funds would thus permit the City to acquire the needed land, to accomplish the necessary relocation activity and to sell the land to General Motors for a price substantially less than the City had had to pay. As the City indicated its willingness to undertake this site assembly activity, some incentive was provided to General Motors as the City's involvement would diminish the automaker's initial capital requirements.

Though this enticement was of apparent benefit to General Motors, it was reported that the Corporation's announced policy of favoring urban sites to assist such other central

cities as Detroit, Kansas City and Baltimore would have been a more compelling plant location consideration.<sup>38</sup>

### Detailed Description of the Response

Within the above-described conceptual framework of a City-Township joint development effort, two substantial issues had to be addressed in order to adhere to General Motors' requirement that alternative site be under the City's control and available for conveyance to General Motors by November, 1980. One such issue was the identification and securing control of a site which conformed with General Motors' size, configuration, environmental and other requirements.

### Land Control Issue

The initial site seriously pursued by the City was one adjacent to the City's Bishop Airport. The City, having previously acquired acreage immediately contiguous to the airport for future runway expansion, first sought to acquire an adjacent 226 acre parcel owned by two Flint businessmen in Flint Township. The site, bordering the airport on the East and North, is a substantial tract of land adjacent to Linden and West Maple Roads.

Acting on the City administration's recommendation made in an unusual closed session, the Flint City Council authorized the optioning of the 226 acre parcel located within the township.<sup>39</sup> After a series of meetings with General Motors officials, however, the City learned that still additional property would have to be acquired for the site to be

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<sup>38</sup>The Flint Journal, November 23, 1980.

<sup>39</sup>The Flint Journal, September 6, 1980.

seriously considered. Though the site proposed did conform to the original 400 acre requirement, it did not permit General Motors to lay out the new plant in the desired configuration. To do so, the City was asked to find a site approximately one mile square, a requirement of which the City had not previously been informed.<sup>40</sup>

A series of negotiations then ensued with representatives of Mundy Township and the Swartz Creek and Carmen-Ainsworth school districts. As the land immediately south of the City/Flint Township site, the only direction in which expansion appeared feasible, was within the boundaries of these jurisdictions. By so expanding the site, however, a 650 acre site meeting General Motors' site configuration criteria would be created.

As the Mundy Township land and the balance of the Flint Township site was in fragmented, private ownership; no further attempt to acquire land control was made until the new site was presented to General Motors.

The actual optioning or acquisition of these properties proved unnecessary as Federal Aviation Administration's objections to a planned smokestack near Bishop Airport, coupled with other concerns of General Motors, lead to the ultimate rejection of this site.

Subsequently, a site immediately North of the City of Flint located in still another charter township, Genesee Township, was identified. Bordered by Dort Highway, Coldwater Road, Bray Road and Carpenter Road, the roughly mile square site included an existing industrial park, the Dort-Carpenter

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<sup>40</sup>Interview with Mayor James W. Rutherford, April 5, 1982.

Industrial Center. A pledge of cooperation from the Genesee Township Supervisor and Board notwithstanding, that site too was not favored by General Motors.

A third alternative was discussed in the Mayor's office in Flint on September 26, 1980. A 600 acre tract of land immediately North of the Genesee Township site was proposed. In addition to being somewhat larger than the former site to the South, the tract of land defined by Dort Highway, Stanley Road, Bray Road and Coldwater Road, enjoyed superior highway and rail access.

Having received a fairly strong expression of interest from General Motors representatives, the Flint City Council authorized the execution of an agreement with the Flint realty firm on October 22, 1980. The firm, Gil V. Sabuco and Associates, was engaged to secure options on as much of the site as possible. The option consideration to be paid to the property owners was advanced from a fund maintained by the City of Flint to advance economic development projects. Those properties not acquired through negotiated purchase would be acquired through eminent domain. Ultimately, options were secured on a majority of the proposed site.

Concurrently, the City's Department of Community Development prepared a federal Urban Development Action Grant application. The funding request, dated October 31, 1980, sought funding in the amount of nearly \$18 million to accomplish the property acquisition and relocation activities necessitated by the project.<sup>41</sup> Following negotiations between the City and the U.S. Department of Housing and Urban Development, the City submitted a revised grant request totalling \$10 million on November 17, 1980.<sup>42</sup>

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<sup>41</sup>City of Flint Department of Community Development, Op. Cit., 1.

<sup>42</sup>City of Flint Department of Community Development, Revised General Motors Urban Development Action Grant Application, November 17, 1980.

As a result, the City had thus identified and secured control of an alternative automotive assembly plant site, identified the means of financing property acquisition and relocation activity and had presented the site to General Motors for their consideration within the time frame originally established by Thomas Murphy.

#### Legal Authority to Implement the Response

As discussed above, the City of Flint engaged in a series of ongoing discussions with representatives of the charter townships of Flint, Mundy and finally Genesee concerning the voluntary annexation proposal. These discussions were concluded with Genesee Township's consenting to permit the City to annex land within its boundaries in exchange for a share of real and personal property tax and personal income tax revenues from a new General Motors Assembly Division plant.

Though the parties to the proposed annexation and tax sharing arrangement concurred in principle, these understandings had to be reduced to a series of legal documents for which both the City of Flint and Genesee Township needed to evidence the authority to execute. As the states are deemed sovereign in the United States, their political subdivisions, i.e., units of local government; have the power to engage in only those activities which the Michigan Constitution and law permit.

The responsibility for determining the manner in which the proposed joint venture should be structured so as to evidence constitutional and statutory authority fell to the then-Chief Legal Officer of the City of Flint, Richard J. Figura.

In his review of the situation, Figura determined that two principal issues were to be addressed. These questions

would need to be resolved quickly to conform with General Motors' time table. The identified issues were completing the timely annexation of township land and evidencing the legality of the City's sharing its tax revenues with another unit of local government.

### Authority to Annex

As indicated in the Review of Literature section of this report, the chief impediment to the annexation of territory by cities in the twentieth century was the adoption of state statutes and constitutional amendments which protected property owners and residents of smaller incorporated areas. The State of Michigan was no exception.

The Michigan Constitution, adopted in 1908, provides that "The Legislature shall provide by a general law for the incorporation" of cities and villages (Article VII, Section 20). The Michigan Supreme Court has interpreted this clause to mean that the State Legislature may alter the boundaries of municipalities, as well as to provide for their incorporation.<sup>43</sup>

For such cities as the City of Flint organized under the Home Rule City Act, the annexation of adjacent land has historically been provided for by the standard method of annexation. This three step process typically begins with the submission of properly executed annexation petition bearing the signatures of at least 1% of the population of the "affected territory."<sup>44</sup> The affected territory in this instance would have been the City of Flint and Genesee Township.

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<sup>43</sup>Jans, Op. Cit., 22.

<sup>44</sup>Ibid., 23.

Action on the proposal would then be subject to approval by the County Board of Commissioners and finally subject to referendum by all qualified electors in the area to be annexed, as well as by the balance of the township and the entire City of Flint.<sup>45</sup> Such a process would have been most cumbersome and unlikely to be achieved within the brief remaining time available.

The City Attorney, in the course of his research, established that the Charter Townships Act, adopted in 1947, provided for the annexation of charter township land by a new means. This new procedure, while intended to further protect the charter townships from annexation by cities, excluded the aforementioned requirement that all qualified electors in the affected territory approve that action.<sup>46</sup>

Section 34 of the same act included a stipulation which provided that if the owners of more than one-half of the area to be annexed signed a duly filed annexation petition, the annexation could be accomplished with simple majority approval by the City Council and the Board of the charter township.<sup>47</sup>

In order to accomplish the annexation, the City needed to merely secure the endorsement of the Genesee Township Board (which had been pledged), as well as that of the owners of

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<sup>45</sup>Ibid.

<sup>46</sup>Interview with Richard J. Figura, Esq., February 12, 1980.

<sup>47</sup>Charter Townships Act, Act #359 of the Public Acts of 1947, as Amended, Section 34(4).

50% of the property to be annexed. To do so, the City's real estate agent secured property owners' signatures on annexation petitions in the course of quietly taking options on the privately owned parcels in that portion of Genesee Township to be annexed.

Once the requisite number of signatures had been obtained, the Flint City Council and Genesee Township Board met separately on November 10, 1980, and approved the annexation of the General Motors' plant site, plus the industrial park area immediately South of the site and abutting the City's Northerly boundary. This 460 acre site of former charter township plan was at that moment located within the City of Flint.

#### Authority to Share Taxes

Extensive legal research revealed a way in which the annexation of charter township property could be promptly accomplished. The research on the other principal legal issue, evidencing the authority of the City to share its tax revenues, was less fruitful. No means of the City's directly conveying tax revenues to the township could be established.

It was determined, however, that both the City and the township had the authority to lend, grant, transfer or contribute funds to an Economic Development Corporation (EDC) created pursuant to the Economic Development Corporations Act.<sup>48</sup> Similarly, an EDC could transfer revenues derived from a project in which it had participated to the local governing body which created it.

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<sup>48</sup>Economic Development Corporations Act, Act #338 of the Public Acts of 1974, as Amended, Section 27.

The Economic Development Corporations Act also provides that "more than one corporation may join or cooperate in a project."<sup>49</sup> The Act also enables the creating governmental body to condemn property to be acquired in connection with an EDC project.<sup>50</sup>

As both the City of Flint and Genesee Township had previously established EDCs, principally for the purpose of issuing industrial revenue bonds of the type previously alluded to, the use of the Economic Development Corporations in the project appeared a promising approach.

Though a means of making tax revenues available to and collecting other revenue from City and township Economic Development Corporations was identified, a problem of how to transfer revenues from one EDC to another remained. In order to facilitate the sharing of tax revenues and to otherwise operate, manage and control the development on behalf of the City, the Township and their respective Economic Development Corporations; it was agreed that a joint project operating authority would be created.

The authority, the Flint-Genesee Township Urban Cooperation Authority, would be governed by a six member board of directors. The City and the township agreed to appoint two members each, with the City and township EDCs also each appointing one member.

It was agreed by the City and the Township that any "ad valorem tax, municipal income taxes, state-shared revenues,

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<sup>49</sup>Ibid., Section 6.

<sup>50</sup>Ibid., Section 22.

federal-shared revenues and that revenues...received from municipal fees, rates and charges" attributable to the annexed property would be transferred to the respective Economic Development Corporations.<sup>51</sup> The EDCs would then each capitalize the operating authority with the revenues so received.

The Authority would then use the funds transferred from the Economic Development Corporations to meet such financial obligations as it incurred in the operation of the project. Any "excess" funds remaining were then to be transferred from the Authority to the EDCs on a "50-50 basis."<sup>52</sup> The EDCs would then pass these revenues through to the City or the township, as appropriate.

The statutory authority to implement this agreement was drawn from several sources. Firstly, the Michigan Constitution authorizes local units of government to contract with each other to jointly administer their powers, to share costs or responsibilities with each other and to otherwise cooperate with one another.<sup>53</sup>

Further, the Charter Township Act authorizes charter townships to contract with other governmental units to perform its functions concurrently, or to delegate its powers and duties to other governmental units.<sup>54</sup>

Michigan municipal corporations are also authorized to join with any other municipal corporation to own or operate any

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<sup>51</sup>"Flint-Genesee Township Cooperation Agreement," November 11, 1980, 6.

<sup>52</sup>Ibid.

<sup>53</sup>Michigan Constitution, Article VII, Section 28.

<sup>54</sup>Charter Townships Act, Act #359 of the Public Acts of 1947, as Amended, Section 18.

property or facility, to perform any service and to delegate such power to another municipal corporation pursuant to the provisions of the inter-governmental contracts by the Municipal Corporations Act.<sup>55</sup> Similarly, the Inter-governmental Transfers of Functions and Responsibilities Act permits two or more political subdivisions to contract with each other in order to transfer its functions or responsibilities to another political subdivision.<sup>56</sup>

Finally, the Urban Cooperation Act enables the creation of a separate administrative entity, e.g., an authority; to administer an inter-local agreement and to share revenues for the purpose of operating a revenue producing entity. The Act also enables the joint exercise of any power, privilege or authority by public agencies which they might otherwise exercise separately.<sup>57</sup>

The approval of the Governor and the state agency having jurisdiction in the matter addressed in an Urban Cooperation Agreement is required prior to its execution by the parties.<sup>58</sup>

By virtue of the foregoing statutes and the Michigan Constitution, a means was identified by the Flint City Attorney of accomplishing the sharing of a General Motors plant site tax revenues. An agreement incorporating the provisions described above and recognizing the Constitution and several statutes also previously discussed was then drafted.

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<sup>55</sup>Inter-Governmental Contracts Between Municipal Corporations Act, Act #359 of the Public Acts of 1951.

<sup>56</sup>Inter-Governmental Transfers of Functions and Responsibilities Act, Act #8 of the Public Acts of 1967.

<sup>57</sup>Urban Cooperation Act, Act #7 of the Public Acts of 1967, as Amended, Section 4.

<sup>58</sup>Ibid., Sections 10 and 11.

Parties to the agreement included the City of Flint, the Charter Township of Genesee, and the Economic Development Corporations of both the City and the Township. Once drafted, this document was reviewed by the State Boundary Commission, the state agency having jurisdiction in the annexation matter addressed in the Urban Cooperation Agreement, as well as the State Attorney General.

The Urban Cooperation Agreement was approved by the Boundary Commission on November 6, 1980; by the Governor on November 12, 1980; and adopted by the Flint City Council and Genesee Township subject to the Governor's approval on November 10, 1980. A means to accommodate both the annexation and tax revenue sharing was thus in place consistent with General Motors' time table of November, 1980.

In addition to the provisions described above, however, the Urban Cooperation Agreement also included certain limitations. One such limitation was the provision for expiration of the agreement and the annexation of Genesee Township should General Motors not commit to the construction of the proposed assembly plant by December 22, 1980.<sup>59</sup> In the absence of such a commitment on that date, the agreement lapsed and was declared null and void.

The property options on both the Genesee Township and Vienna Township sites have also since expired. To date, the construction of a new automotive assembly plant has not proceeded in the greater Flint area.

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<sup>59</sup>"Flint-Genesee Township Cooperation Agreement," November 11, 1980.

## V. SUMMARY AND CONCLUSIONS

This research project has endeavored to describe a novel annexation and tax revenue sharing economic development project involving the City of Flint and the Charter Township of Genesee, Michigan.

It has also sought to discuss this effort in the context of other governmental economic development incentive programs and inter-governmental cooperative agreements.

With regard to the latter, it is evident that the City of Flint eschewed the "No Response" alternative to the imminent threat of the loss of 6,000 jobs. Rather, it supplemented such available investment incentive programs as real and personal property tax abatement, the acquisition, clearance, and assembly of a new industrial site with federal funds and the provision of site utilities with the annexation of charter township land.

The response developed was also noteworthy as it exhibited elements of the range of types of governmental reorganization efforts previously described. As with the one government approach to metropolitan government reorganization, the annexation of urban fringe property was accomplished by the region's principal city.

As with the two-tiered approach, however, the analogue of a metropolitan district was created to operate and administer the new project.

The cooperative approach is also in evidence, however, as two political jurisdictions cooperated in a joint economic development venture, even to the extent of equally dividing net project revenues.

Though the annexation and tax revenue sharing approach was a novel one at the time it was first employed in Flint, the technique has since been studied and used elsewhere. The Detroit/Hamtramck Poletown automotive assembly plant now under construction is an example of another application of this approach. Though the process has been streamlined with a series of amendments to the Urban Cooperation Act in 1981, the essential elements of the Flint City Attorney's basic research are embodied in that project.

On the face of it, it may appear that the City of Flint was unsuccessful in its effort to convince General Motors Corporation to develop a new automotive assembly plant on territory annexed from Genesee Township. The enormous effort in a very short period of time notwithstanding, the assembly plant in the Flint area did not proceed.

Nor, however, did those in Baltimore, Kansas City or Wentzville, Missouri proceed. It is generally conceded that a combination of such factors as high interest rates, lower than expected demand for the General Motors' four cylinder, front wheel drive "J Car" series and the retirement of Thomas Murphy as Chairman and Elliot "Pete" Estes as President of General Motors Corporation better explain why the Flint plant did not proceed.

What is perhaps most important, however, is that the assembly functions to be relocated to either the Vienna Township site or the Flint/Genesee Township site remain within the limits of the City of Flint. While the City would have collected half of the revenues from the new General Motors Assembly

Division plant should the automaker have elected to proceed with the Flint/Genesee Township site, the City presently collects property and personal tax revenue from the Flint Fisher Body Plant #1 and the Buick Final Assembly Plant as it had done previous to the 1980 threatened loss of employment. In the final analysis, the City of Flint has sustained no job loss attributable to the threatened loss of employment.

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