

VILLAGE OF BYRON
ORDINANCE NO: 2020-1
(Enacted September 14, 2020)

**AN ORDINANCE TO APPROVE THE VILLAGE OF BYRON'S
DOWNTOWN DEVELOPMENT AUTHORITY'S
2020 DEVELOPMENT PLAN
AMENDMENT TO INCORPORATE NEW PROJECTS**

WHEREAS, a Tax Increment Finance and Downtown Development Plan (hereinafter the "Plan") was prepared for the development area within the downtown district established pursuant to then Act 197 of the Public Acts of 1975, since replaced by Public Act 57 of 2018, the Recodified Tax Increment Financing Act, being MCL 125.4101, et al., (hereafter referred to as "the Act"), and was enacted September 16, 2013 pursuant to the Village of Byron Ordinance No. 2013-2, and subsequently amended in December 2016;

WHEREAS, the DDA approved a proposed *Byron DDA's 2020 Development Plan Amendment to Incorporate New Projects* in February 2020 and forwarded those proposed Plan amendments to the Village Council for further action;

WHEREAS the Village Council scheduled a public hearing for August 10, 2020 at 7:00 p.m. on the proposed Development Plan Amendment, notice of the public hearing was made pursuant to MCL 125.4218 (1) and that notice was:

- A. Published in the Argus Press on July 7, 2020 and August 3, 2020,
- B. Posted in 20 conspicuous and public places in the downtown district on July 1, 2020,
- C. Sent via US Mail to all property taxpayers of record in the downtown district on July 1, 2020,
- D. Sent Certified US Mail on July 1, 2020 to all governing bodies of taxing jurisdictions levying taxes subject to capture,
- E. Posted on the Village website and DDA Facebook page on July 1, 2020;

WHEREAS the Notice of the public hearing contained the information required under MCL 125.4218 (2) and a copy of the proposed Development Plan Amendment was available for public inspection at the Village Hall, as indicated in the Notice, and the public hearing was held before the Village of Byron Council immediately adjacent to the entrance to the Village Hall in compliance with Michigan Executive Order 2020-160: Amended Safe Start Order in response to the COVID-19 pandemic at the Village Hall on 146 South Saginaw Street in Byron, Michigan to take comment on the proposed Plan Amendment on August 10, 2020, comments of interested persons were heard by the Village Council, written comments, if any, were considered; and a record of the public hearing was made as required under MCL 125.4218 (2);

WHEREAS, an opportunity was provided for the Plan Amendments to be reviewed with the other area taxing authorities in accordance with the Act; and

WHEREAS, the Village Council carefully considered the Downtown Development Plan Amendment, the statements and ideas expressed at the public hearing, and the recommendations received by the Council.

THE VILLAGE OF BYRON ORDAINS:

SECTION 1. The Village of Byron Council hereby expressly finds that under MCL 125.4219:

- 1.1 The Tax Increment Finance and Downtown Development Plan Amendments both constitute a public purpose [MCL 125.4219 (1); and
- 1.2 The Tax Increment Finance and Downtown Development Plan Amendment meets the requirements set forth in MCL 125.4217(2); and
- 1.3 The proposed method of financing the development is feasible, and the DDA has the ability to arrange the financing [MCL 125.4219 (c)] ; and
- 1.4 The development plan is reasonable and necessary to carry out the purposes of Part 2, Downtown Development Authorities of the Recodified Tax Increment Financing Act [MCL 125.4219 (d)]; and
- 1.5 Public services (such as fire and police protection, and utilities), if any, are, or will be, adequate to service the project area [MCL 125.4219 (g)]; and
- 1.6 Changes in zoning, streets, intersections, and utilities are reasonably necessary for the project area and for the Village of Byron [MCL 125.4219 (h)]; and
- 1.7 The Tax Increment Financing and Downtown Development Plan Amendments have been recommended by the Downtown Development Authority, no recommendation being required by the Downtown Area Citizen's Council as the development area does not qualify for same and said Council, if it did qualify, has failed to form [MCL 125.4219 (a)]; and
- 1.8 The land included within the development area to be acquired is reasonably necessary to carry out the purposes of the plan and of this Act in an efficient and economically satisfactory manner [MCL 125.4219 (e)], and;
- 1.9 The development plan remains in reasonable accord with the Village Master Plan [MCL 125.4219 (f)].

SECTION 2. All provisions of the Original Tax Increment Finance and Development Plan and any previous Amendment(s), not amended herein, shall remain in full force and effect.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Village of Byron declares that

it would have passed this ordinance and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more section, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 4. This Ordinance and the related rules, regulations, provisions, requirements, orders and matters established shall take effect immediately upon publication, except any penalty provisions which shall take effect twenty (20) days after publication, pursuant to MCL 66.1.

SECTION 5. Repealer - All Ordinances or parts of Ordinances in conflict with this Ordinance are repealed only to the extent necessary to give all provisions of this Ordinance full effect.

Motion By: Orr Second By: Chapman

Adopted at a regular Meeting of the Village Council held on the 14th day of September 2020.

YEAS: Bessenbacher, Phillips, Chapman, Orr,
Campbell & Prestonise

NAYS: None

ABSENT: Miller

VILLAGE OF BYRON

Anthony Prestonise
By: Anthony Prestonise
Its: Village President

Certification

I certify that the above is a true and complete copy of Ordinance No. 2020-1 adopted by the Village Council at a Meeting held on the 14th day of September 2020 and published in the Argus Press Newspaper of local circulation on September 18, 2020.

Marsha Reed
Marsha Reed, Village Clerk

Drafted by:
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**BYRON DOWNTOWN DEVELOPMENT AUTHORITY
2020 DEVELOPMENT PLAN AMENDMENT TO INCORPORATE NEW PROJECTS**

Pursuant to the requirements of MCL 125.4214 and 125.4219, the Byron Downtown Development Authority (hereinafter, the "BDDA") recommends that the following amendments be incorporated into the BDDA's Development and Tax Increment Finance Plans:

1. The original plan treated the boundaries of the downtown district and the boundaries of the Plan's Tax Increment Finance District in a manner that is somewhat confusing between the map contained on page 9 of the November 20, 2014 Original Tax Increment Finance and Development Plan, which is labeled the Development Area Map and the reference on page 24 to the Boundaries of the Development Area and how it differs from the "Downtown Development District".
 - 1.1 Pursuant to the former MCL 125.1653 (2), now MCL 125.4 203, and the prior actions of the Village Council to amend the Ordinance creating the DDA, the map of the Byron DDA's amended Downtown District is attached as Exhibit A to the 2016 Amendment and the legal description of the Downtown District is attached as Exhibit B to the 2016 Amendment. Both of those exhibits are incorporated herein by reference.
 - 1.2 Under MCL 125.4217(2)(a), the map of the BDDA's amended Development Area (TIF District) is attached as Exhibit C to the 2016 Amendment and the legal description of the TIF District is attached as Exhibit D to the 2016 Amendment. Both Exhibits C and D are incorporated herein by reference. The amended Tax Roll for the Development Area District (TIF District) was attached to the 2016 Plan Amendment and is incorporated here by reference.
2. Under MCL 125.4217(2)(b), the location and extent of existing streets and other public facilities within the development area were set forth in the maps contained on page 9 of the Original Plan, they were amended by the 2016 Plan Amendment, and are as pictured in the map attached to the 2016 Plan Amendment as Exhibit C. The Original Plan discussed the Zoning Ordinance on page 20 and attached the Village's 1989 zoning map on page 31. The 2016 Plan Amendment did not amend the zoning map already in place. However on November 30, 2018 the Village passed a new zoning ordinance and the zoning map pursuant that new zoning ordinance is attached to this Amendment as Exhibit A. The map sets forth the designated location, character, and extent of the categories of public and private land uses existing and proposed for the development area, including residential, recreational, commercial, industrial, educational, and other uses. The original legal description of the development area (TIF District) was attached to the original Development Plan and the legal description of the area added to the TIF District as part of the 2016 Plan Amendments was attached to the 2016 Plan Amendment and are both incorporated here by reference.

3. Under MCL 125.4217(2)(c), the description of the existing improvements in the area to be demolished, repaired or altered, a description of any repairs or alterations, and an estimate of the time required for completion:

A. Saginaw/Maple Street Intersection - Sidewalk and Crosswalk Project

Improvements for this project will be confined to the general area of the intersection between Maple and Saginaw Streets in downtown Byron. The existing curbs and connecting sidewalks around the intersection on the east side of Saginaw Street and both curbs and connecting sidewalks immediately north and south of Maple Street will be removed as needed and replaced with concrete, Americans with Disabilities Act (hereafter referred to as “ADA”) compliant ramps and truncated domes. All crosswalks at the intersection of Maple and Saginaw Streets will be marked and painted along with stop lines being painted on both eastbound and westbound lanes on Maple Street and northbound and southbound lanes on Saginaw Street to mark vehicle stopping areas in the traveled portions of the roadways at this intersection. Truncated dome pads will be installed at the transition points where both sidewalk ramps intersect Maple Street on the east side of the intersection with Saginaw Street, and where both sidewalk ramps intersect the east side of Saginaw Street at the Maple Street intersection. Construction and painting are scheduled to be completed by the end of December 2021 with cosmetic work of leveling surrounding areas with fill and replanting grass or vegetation to be completed by the end of July 2022.

B. Downtown Beautification - Planters and Trash Receptacles Project

This project will involve the purchase and installation of trash/rubbish/recyclable receptacles (hereafter referred to as “receptacles”) and flower/vegetation planters (hereafter referred to as “planters”), or combination planter/receptacles, in the downtown area along Saginaw Street in the central business district, Maple Street from Saginaw Street to west of the bridge, adjacent Byron Sesquicentennial Park, and Byron High School ballfields/boat launch areas, where any portion(s) of those areas lie within the DDA’s TIF capture zone. This project has an estimated completion deadline of five (5) years from passage of this amendment to the Development Plan.

4. Under MCL 125.4217(2)(d), the description of the location, extent, character, and estimated cost of the improvements, including rehabilitation, contemplated for the development area and an estimate of the time required for completion, signage or signalization.

A. Saginaw/Maple Street Intersection - Sidewalk and Crosswalk Project

The work and painting described in this Project outlined in paragraph 3 above, including removal and replacement of existing sidewalks and curbs, and cosmetic work to address the substantial restoration of the surrounding area, which may include, but not be limited

to the addition of fill materials to level the ground adjacent to the streets, sidewalks and ramps, plus the planting or restoration of grass or other vegetation estimated to cost no more than \$9,000.00. The entire project is expected to be completed by the end of July 2022.

B. Downtown Beautification - Planters and Trash Receptacles Project

This project involves the purchase and installation of vegetation planters, trash/rubbish/recyclables receptacles and/or a combination planter/receptacles. Installation of exterior quality planters, pots, and/or receptacles will be on sidewalks or surrounding areas adjacent to Saginaw Street; sidewalks, bridge railings and/or surrounding areas adjacent to Maple Street; Byron Sesquicentennial Park; and Byron High School ballfield/boat launch where those areas lie within the DDA's TIF capture zone. These planters and/or receptacles will be decorative containers that will help to enhance the overall architectural and aesthetic look of the central business district, Maple Street from Saginaw to the west side of the bridge over the Shiawassee River, Sesquicentennial Park and ballfield/boat launch area. The receptacles will help prevent the discarding of trash, rubbish and/or recyclables in these areas and make the areas cleaner so as to be more inviting to persons utilizing these locations. The planters will provide for the cultivation of aesthetic flowers and/or plants during the growing season. Further, the planters can be equipped with seasonal and holiday decorations like fabric bows, lights, Christmas decorations, holiday trees, and other festive items throughout the year. Footings and hardware may be necessary to facilitate the installation and fastening of the planters and receptacles to the ground, light poles, utility poles, bridge railings, signs, concrete or other hard surface pads. Estimated costs of purchase and installation of up to twenty-five (25) planters, trash receptacles and/or combination planter/receptacles will be up to \$7,500.00.

5. Under MCL 125.4217(2)(e), the following is a statement of the construction, or stages of construction, planned and the estimated time for completion of each stage.

A. Saginaw/Maple Street Intersection - Sidewalk and Crosswalk Project

The Village of Byron has plans to repave and/or resurface the traveled portion of Saginaw Street in the vicinity of downtown Byron. Additional projects being explored by the Village of Byron include modification and/or replacement of curbs and sidewalks along Saginaw Street in the downtown area in 2020 and/or 2021. This DDA project is planned to include three phases. Phase I will include the removal of curbs and sidewalks followed by the installation of sidewalks, ramps, truncate pads at the Maple Street/Saginaw Street intersection. Phase I is planned to occur prior to the start of the Village of Byron's repaving/resurfacing of Saginaw Street around the intersection with Maple Street in order for curbs and ramps to be installed at appropriate grades to properly intersect the surface of the traveled portion of Saginaw and Maple Streets after repaving/resurfacing is completed. Phase I is estimated to be completed by the end of December 2021. Phase II involves the substantial restoration of the general area by the addition or

removal of dirt, or other fill materials, to level the work area to properly intersect the surrounding grade. Phase II is estimated to be completed by the end of July 2022. Phase III involves the painting of the crosswalks and stop lines in the intersection and is planned to be performed contemporaneously with the painting and markings needed following the Village of Byron's planned repaving/resurfacing of Saginaw Street and the Maple Street intersection along with surrounding curb and sidewalk construction. Phase III is estimated to be completed by the end of 2022.

B. Downtown Beautification - Planters and Trash Receptacles Project

Footings or pads needed for affixing planters and/or receptacles to the ground may need to be poured, or placed, once specific locations within the above described work areas are selected. The installation of fixtures on poles, signs or bridge railings to hold planters and/or receptacles will need to be accomplished prior to installation of planters or receptacles. The estimated time line for this project is up to five (5) years following approval of this amendment to the Development Plan. Purchase and installation of planters and/or receptacles can occur at any number of time(s) after approval of the Development Plan as funding is available and as selections of specific locations may be periodically determined to be appropriate. Planters will need to be filled with dirt or similar growth medium. Flowers and/or vegetation will need to be procured for planters once installed and filled.

6. Under MCL 125.4217(2)(f), the description of any parts of the development area to be left as open space, and the use contemplated for the space is contained in the Original 2014 Plan.

No change proposed in this Plan Amendment.

7. Under MCL 125.4217(2)(g), the following is a description of any portion of the development area that the authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.

No change proposed in this Plan Amendment.

8. Under MCL 125.4217(2)(h), the following is a description of desired zoning changes, and changes in streets, street levels, intersections, or utilities.

No change proposed in this Plan Amendment.

9. Under MCL 125.4217(2)(i), the following is an estimate of the costs of the development, a statement of the proposed method of financing the development, and the ability of the Authority to arrange the financing.

A. Saginaw/Maple Street Intersection - Sidewalk and Crosswalk Project

The estimated cost of the project is \$9,000.00:

A.	Removal and replacement of curbs, sidewalks and ramps.	\$6,000.00
B.	Painting of crosswalks and stop lines.	\$2,000.00
C.	Regrading & replanting of area following work.	<u>\$1,000.00</u>
	Total:	\$9,000.00

The Byron DDA proposes to finance this project through the capture of tax increment funds, Byron DDA fund-raising events, public or private grants, and/or donations of funds, materials and/or services. The DDA may also utilize any of the following financing mechanisms:

- A. Any tax increment revenue bonds issued by the Village, pursuant to MCL 125.4213 of the Recodified Tax Increment Financing Act;
 - B. Any tax increment revenue bonds issued by the Byron DDA, pursuant to MCL 125.4213(a) of the Recodified Tax Increment Financing Act;
 - C. Other advances from the Village repayable from tax increment revenues of the Byron DDA, which advances may be financed through obligations incurred by the Village under the Local Building Authority Act or other authorizing statutes;
 - D. Tax increment revenues on a pay-as-you-go basis; and
 - E. Other Federal or State grants or contributions, not specified above.
- B. Downtown Beautification - Planters and Trash Receptacles Project

The estimated cost of the project is \$7,500.00:

A.	Purchase of planters, receptacles and or combos.	\$6,500.00
B.	Hardware procurement, and installation.	<u>\$1,000.00</u>
	Total:	\$7,500.00

The Byron DDA proposes to finance this project through the capture of tax increment funds, Byron DDA fund-raising events, public or private grants, and/or donations of funds, materials and/or services. The DDA may also utilize any of the following financing mechanisms:

- A. Any tax increment revenue bonds issued by the Village, pursuant to MCL 125.4213 of the Recodified Tax Increment Financing Act;
- B. Any tax increment revenue bonds issued by the Byron DDA, pursuant to MCL 125.4213(a) of the Recodified Tax Increment Financing Act;
- C. Other advances from the Village repayable from tax increment revenues of the Byron DDA, which advances may be financed through obligations

incurred by the Village under the Local Building Authority Act or other authorizing statutes;

- D. Tax increment revenues on a pay-as-you-go basis; and
- E. Other Federal or State grants or contributions, not specified above.

10. Under MCL 125.4217(2)(j), the following is a designation of the person or persons, natural or corporate, to whom all, or a portion of the development is to be leased, sold, or conveyed in any manner, and for whose benefit the project is being undertaken, if the information is available to the authority.

No change proposed in this Plan Amendment, except for the Downtown Beautification - Planters and Trash Receptacles Project which is being done for the benefit of the public, the businesses and residents in the Development area and as to any planters or receptacles that may be placed in the ballfield/boat launch and Byron Sesquicentennial Park which are the property of Byron Schools, will be done, in part, for the benefit of Byron Schools, and for the members of the public that utilize the ballfield/boat launch and Sesquicentennial Park areas.

11. Under MCL 125.4217(2)(k), the procedures for bidding for the leasing, purchasing, or conveying in any manner of all or a portion of the development upon its completion, if there is no express or implied agreement between the Authority and persons, natural or corporate, that all or a portion of the development will be leased, sold, or conveyed in any manner to those persons.

No change proposed in this Plan Amendment.

12. It is estimated that there are less than 100 persons and families residing in the development area. It is estimated that zero (0) persons or families residing in the development area will be displaced.

Since the Plan does not call for the acquisition of occupied residential property, the Plan does not include a survey of the families or individuals to be displaced (including their income and racial composition); a statistical description of the housing supply in the community (including the number of private and public units in existence or under construction); the condition of those units in existence; the number of owner-occupied and renter-occupied units; the annual rate of turnover of the various types of housing and the range of rents and sale prices; an estimate of the total demand for housing in the community; and the estimated capacity of private and public housing available to displaced families and individuals.

13. Under MCL 125.4217(2)(m), the following constitutes the plan for establishing priority for the relocation of persons displaced by the development in any new housing in the development area.

Because of the answer to paragraph 12 above, no plan for establishing priority for relocation is required.

14. Under MCL 125.4217(2)(n), the following shall constitute the provisions for the costs of relocating persons displaced by the development and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the *Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, being Public Law 91-646, 42 U.S.C. Sections 4601, *et seq.*

Because of the answer to paragraph 12 above, no provision for the costs of relocating persons displaced is included.

15. Under MCL 125.4217(2)(o), no persons are being relocated in the development area, but any future relocation will be done in compliance with Act No. 227 of the *Public Acts of 1972*, being Sections 213.321 to 213.332 of the Michigan Compiled Laws.
16. Under MCL 125.4217(2)(p), this Plan Amendment also provides for the following other material that the authority, local public agency, or governing body, considers pertinent:

No change proposed in this Plan Amendment.

17. This Development Plan does not provide for improvement related to a qualified facility, as defined in the *Federal Facilities Development Act*, Act No. 275 of the *Public Acts of 1992*.
18. The original 2014 Plan states that its duration will “last until the principal and interest on bonds issued pursuant to the Plan have been paid or until funds sufficient to make such payments have been segregated or until all improvements have been financed, if bonds are not sold . . . In the absence of a specific bond issue, the Plan is designed . . . for a 25-year plan.” Nothing in this Amendment changes that length.
19. The estimated impact of tax increment financing on all taxing jurisdictions in which the BDDA’s Development Area was originally addressed by the BDDA on page 39 of the Plan and Tables 2 & 3. Nothing in this Amendment changes those projections drastically. Additionally, the BDDA states:

Tax increment financing permits the BDDA to capture Tax Increment Revenues (as defined below) attributable to increases in the value of real and personal property in the Development Area. The tax increment finance procedure is governed by Act 57 of the *Public Acts of 2018*, as amended (the “Recodified Tax Increment Finance Act” or “RTIF Act”), being MCL 125.4101 *et seq.* The procedures outlined below are the procedures provided by the RTIF Act effective as of the date this Plan Amendment is adopted, but are subject to any changes imposed by future amendments to the RTIF Act.

The Tax Increment Revenues are generated when the Current Assessed Value of all properties within the Development Area exceed the Initial Assessed Value of the properties. The amount in any one year by which the Current Assessed exceeds the Initial Assessed Value is the Captured Assessed Value.

Initial Assessed Value: When the Village Council enacted the Original Plan by Ordinance in 2014, the Initial Assessed Value of the Development Area was established as the assessed value, as equalized, of all the taxable property within the boundaries of the Development Area at the time that Ordinance was approved, as shown by the then most recent assessment roll of the Village for which equalization had been completed, prior to the adoption of the 2014 Original Plan by Ordinance. Property exempt from taxation at the time of the determination of the Initial Assessed Value was included as zero. However, in determining the Initial Assessed Value, property for which a “specific local tax” was paid in lieu of a property tax was not considered to be property that was exempt from taxation. A “specific local tax” is defined in the RTIF Act and includes “Industrial Facilities Taxes” levied under 1974 PA 198, taxes levied under the *Technology Park Development Act*, 1984 PA 385, and taxes levied on lessees and users of tax-exempt property under 1953 PA 189. The Initial Assessed Value or Current Assessed Value of property subject to a specific local tax was determined by calculating the quotient of the specific local tax paid divided by the *ad valorem* millage rate, or by other method as prescribed by the State Tax Commission.

Current Assessed Value: Each year the “Current Assessed Value” of the Development Area will be determined. The Current Assessed Value of the Development Area is the taxable value of the property in the Development Area.

Captured Assessed Value: The amount by which the Current Assessed Value exceeds its Initial Assessed Value in any one year is the “Captured Assessed Value.”

Tax Increment Revenues: For the duration of the Plan, taxing jurisdictions will continue to receive tax revenues based upon the Initial Assessed Value of the Development Area. The BDDA will receive that portion of the *ad valorem* tax levy of all taxing jurisdictions on the Captured Assessed Value of the taxable property in the Development Area, other than the State, local school district, intermediate school district tax levies, and specific local taxes attributable to such *ad valorem* property taxes (the “Tax Increment Revenues”), subject to limitations and exemptions which may be contained in the RTIF Act, this Tax Increment Financing Plan, and the provisions of any agreements for the sharing of Captured Assessed Value.

Increases in the Current Assessed Values which generate Tax Increment Revenues can result from any of the following:

- a. Construction of new developments;
- b. New rehabilitation, remodeling, alterations, or additions;

- c. Increases in property values which occur for any other reason.

Tax Increment Revenues can be used as they accrue annually, can be held to accumulate amounts necessary to make improvements described in the Plan, or can be pledged for payment of bonds or notes issued by the BDDA or the Village under the RTIF Act. Further, the BDDA may not borrow money or issue revenue notes without the prior approval of the Village. The BDDA may expend tax increment revenues only in accordance with this Plan; surplus revenues revert proportionally to the respective taxing jurisdictions.

- 20. **Adoption of these Amendments.** The Village of Byron, before adopting an Ordinance approving this 2020 Amendment, shall hold a public hearing on this development plan amendment and seek input and approval from the Citizens Advisory Committee, if one forms. At the time of the hearing, the Village Council shall provide to all interested persons an opportunity to be heard and shall receive and consider communications in writing with reference thereto. The hearing shall provide the fullest opportunity for expression of opinion, for argument of merits, and for introduction of documentary evidence pertinent to the development plan. The Village Council shall make and preserve a record of the public hearing, including all data presented at that time. All provisions of the Original 2014 Plan and the 2016 Amendment not modified by any subsequent amendments to the Plan shall remain in full force and effect.

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