City of Birmingham
A Walkable Community

MEMORANDUM

Community Development

DATE: **March 6, 2015**

TO: **Joseph A. Valentine, City Manager**

FROM: **Jana L. Ecker, Planning Director**

SUBJECT: **Update on the Development Plan & Tax Increment Financing Plan for the Birmingham Triangle District**

On March 16, 2015, the City Commission conducted a public hearing on the Development Plan and Tax Increment Financing Plan for the Birmingham Triangle District (hereinafter "the Plan"). Staff outlined the details of the Plan and members of the public were provided an opportunity to comment on the Plan and ask questions regarding the Plan. The City Commission discussed a pending change in Oakland County's guidelines for reviewing TIF plans and whether to postpone adoption until Oakland County had a chance to comment on the Plan. The City Commission voted unanimously to postpone the matter to May 11, 2015.

This memo is intended to provide the City Commission with an overview of Oakland County's new guidelines for reviewing TIF plans, and to provide an update on the status of the County's review of our Plan.

Oakland County's Board of Commissioners adopted a new Policy for Review and Potential Participation in Downtown Development Authorities (DDA), Corridor Improvement Authorities (CIA) and Local Development Financing Authorities (LDFA) (hereinafter "County Policy") on March 18, 2015. Although formal legal notice regarding the public hearing on our TIF Plan and a copy of the TIF Plan was sent to the County prior to March 18, 2015, Oakland County has advised that it will review our TIF Plan in accordance with their new policy. In accordance with the revised County Policy, Oakland County will opt out of a proposed TIF Plan if a contract is not negotiated within the 60 day opt-out period required under State law, and may continue working with an applicant municipality to review the plan and determine if a contract for the county's participation is recommended.

As noted above, the Plan has been submitted to the county for review. Under the County Policy, county staff shall review the TIF Plan and provide comments to various boards and commissions. In accordance with the County Policy, the TIF Plan will first be formally reviewed by the County Executive's Budget Task Force, who will then provide comments to the Oakland County TIF Review Committee. This seven member panel will then evaluate the TIF Plan to determine if the county should enter into negotiations to attempt to establish a contract permitting the capture of county taxes. If the panel so recommends, legal counsel for the county then negotiates terms for a contract with the applicant municipality. Once a contract has been finalized, it is brought back before the TIF Review Committee for a recommendation

of approval and a recommendation that any prior opt out be rescinded by the Board of Commissioners.

On March 26, 2015 the Oakland County Finance Committee passed a resolution recommending that the County Board of Commissioners exempt its taxes from capture by the Birmingham CIA at this time, and resolving that the County TIF Review Committee will study a proposal from Birmingham and determine later if it should recommend that the county negotiate a contract with Birmingham. The resolution further states that if the county determines later that it is advisable to opt in to the CIA under a contract, the county may revise its decision to exempt its taxes from capture. On April 2, 2015, the Oakland County Board of Commissioners adopted the same resolution.

The County Policy sets out the following parameters that determine whether Oakland County will opt in and participate in a municipal TIF Plan by contributing county tax funds.

<u>Oakland County Requirements for All TIF Plans</u>

1. The Applicant must provide financial projections that demonstrate a positive return on investment of County incremental taxed proposed for capture as well as an improvement of employment and the taxable value of the District. The projections shall attempt to include details on the projected number and types of new and retained jobs and a projection of tax base growth for the entire capture period. The TIF Review Committee may request the County's Equalization Division to conduct a review of the Applicant's projections.
2. The Applicant must disclose any agreements, proposed agreements, or opt-outs by other taxing entities and any voted millages that would impact the amount of lawfully captured tax revenue.
3. The Applicant must explain its plan to inform investors and businesses in the District about the services available from the Oakland County Economic Development Community Affairs Department including the One Stop Shop Business Center and the Oakland County Economic Development Corporation and the Oakland County Business Finance Corporation.
4. The city, village or township which created the Authority must adopt/amend its community master plan to accurately incorporate the TIF Plan.
5. The Authority utilizes all (100%) of the TIF revenue for redevelopment efforts, i.e., those activities specifically authorized within the applicable act, including operating expenses of the Authority.
6. The proposed plan must meet a majority of the standards provided in this Policy for the particular type of Authority.

The Planning Division is currently working with Oakland County staff to provide a report that highlights the level of return on investment outlined in the Plan, and to provide an estimate of the projected numbers and types of new jobs and expected tax base growth. The report will also provide disclosure of all agreements with other taxing entities, and commit to promoting the County's One Stop Shop Business Center and other related programs. The report will also discuss the incorporation of the TIF Plan in the Triangle District Plan, and restate the proposed use of TIF funds for parking development in the Triangle District.

Oakland County Guidelines for Reviewing CIA Proposals

The performance standards that will be used as a guideline for evaluating CIA requests for the county's participation in a TIF Plan adopted by a CIA are as follows:

1. Meets all applicable criteria in Public Act 280 of 2005, as amended;
2. Demonstrates to the TIF Review Committee how it complies with the seven development area criteria specified in PA 280 which are as follows:
    (a) Is adjacent to or is within 500 feet of a road classified as an arterial or collector according to the federal highway administration manual "Highway Functional Classification - Concepts, Criteria and Procedures";
    (b) Contains at least 10 contiguous parcels or at least 5 contiguous acres;
    (c) More than 1/2 of the existing ground floor square footage in the development area is classified as commercial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c;
    (d) Residential use, commercial use, or industrial use has been allowed and conducted under the zoning ordinance or conducted in the entire development area, for the immediately preceding 30 years;
    (e) Is presently served by municipal water or sewer;
    (f) Is zoned to allow for mixed use that includes high-density residential use; and
    (g) The municipality agrees to all of the following:
        (i) To expedite the local permitting and inspection process in the development area.
        (ii) To modify its master plan to provide for walkable non-motorized interconnections, including sidewalks and streetscapes throughout the development area;
3. Facilitates the redevelopment and/or revitalization of an existing developed area as opposed to developing a greenfield area or relatively undeveloped areas;
4. Establishes that single family residential use does not comprise more than 10% of the existing or planned land use of the Authority District;
5. Demonstrates that high density residential use does not comprise more than 30% of the existing and/or planned land use of the Authority District; and
6. If feasible, explains how one or more of the "Emerging Sectors" identified by Oakland County on its website www.advantageoakland.com as an economic growth industry, will benefit from this request.

The Planning Division is currently working with Oakland County staff to provide a report that clearly demonstrates how the Plan complies with the seven development area criteria specified in PA 280, and highlight the sections of the TIF Plan that demonstrate that the Triangle District is specifically designed to facilitate the redevelopment of an urban area consisting of mostly commercial and mixed use buildings, and to encourage the type of compact, walkable urban form that will attract millennials and the creative class, along with businesses seeking these employees.

Finally, it is important to note that if the county negotiates with a municipality to opt-in to a TIF capture, County Policy provides limitations on the amount of funds that may be captured, allowing only 50% of county funds to be captured, with the possibility of a 75% capture in those cases where the municipality is contributing an amount three times greater than the

county's share. The Birmingham TIF Plan does fall into the latter category, allowing for a 75% capture of the county taxes. County Policy also establishes a maximum overall cap of 5% of the total county operating level for all TIF plans, which has not yet been reached. County Policy further establishes that preference for granting approval of TIF plans shall be given to municipalities that do not have any pre-existing districts. Birmingham does not have any pre-existing CIA, DDA or LDFA districts.