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TO: Honorable Scott Benson, Council Member
FROM: Jay B. Rising, Chief Financial Officer
Kevin Johnson, CEO, Detroit Economic Growth Corporation
DATE: October 19, 2022
RE: TIF Capture and Tax Abatements

In your memorandum dated March 31, 2022, you requested we report on the fiscal impact to the City of Detroit if the Detroit Public Library (DPL) and Detroit Public Schools Community District (DPSCD) were removed as capturable taxing jurisdictions for tax increment financing (TIF) purposes and were exempted from tax abatements. In addition, you requested that we report on the impact of such a policy change to Detroit's ability to attract and compete for future real estate development and tenanting opportunities.

TIF and tax abatements are governed by State law. The City has no authority to pick and choose which levies and taxing jurisdictions are exempted under the Michigan statutes that create and govern TIF plans and tax abatements to support economic development. Public libraries may exempt their taxes from certain TIF plans under certain conditions outlined in statute, but those conditions are not present today for DPL. As such, the question at hand is a hypothetical one.

For background, in 2013 in anticipation of the LCA, the DDA amended its TIF plan to add the area north of I-75 (TID-8), extend the duration, and otherwise provide for the support for the land contributions and TIF bonds for the arena. All taxing jurisdictions were provided notice of the proposed amendments and, under the DDA act at the time, they all had the opportunity to "opt out" of the to be added area within 60 days following the public hearing. The library attempted to opt-out after the deadline and was therefore ineffectual. However, as an accommodation to the library, the DDA entered into a tax sharing agreement allowing all tax increment revenues generated in TID-8 to be "shared" with the library, with the library receiving 100%.

In 2014, the library's millage was up for renewal and the ballot language included certain language purporting to limit the capture of tax increment revenues by DEGC entities to 5%. City of Detroit Corporation Counsel issued a legal opinion providing that the language was unenforceable as it attempts to supersede state law.

In late 2016/early 2017, amendment to the DDA act gave libraries additional opt-out rights. However, due to the language of the legislation, DPL was not able to exercise that opt out when the DDA last amended its plan in 2017 as State Treasurer and Mayoral consent would have been required according to a legal opinion issued by City of Detroit Corporation Counsel.

Before a TIF plan or tax abatement is in effect, taxing jurisdictions receive revenues based on the value of the property prior to the construction of redevelopment-related improvements that increase the property value being taxed. Under a TIF plan, as the taxable value of the property increases, the incremental taxes can be captured to offset certain costs associated with economic development activities. Depending on the TIF authorizing statute, the captured increment taxes can be used for costs within the approved TIF plan area that include, but are not limited to, infrastructure improvements, environmental remediation, property acquisition, revitalization of vacant and underutilized properties, rehabilitation of historic buildings, assets, and facades and business recruitment and retention programs. Captured incremental taxes can also be used to finance debt service such as the issuance of bonds.

Separately, tax abatements enable redevelopment by reducing taxes that would otherwise have to be paid on account of the improvements. Because the taxes paid on the value of the land before redevelopments are not abated or captured, taxing jurisdictions see no reduction of what they collected prior to the abatement. Over time, they receive more revenues than they would have if the abatement were never approved.

These economic development tools enable developments that would not be constructed but for the approved TIF and tax abatements. This “but for” test confirms that without that approval, the subject development will not move forward. No new revenue would be unlocked by the resulting development – whether partially abated revenues during the abatement term or, more significantly, the revenues paid on the development after the abatement expires.

In urban areas like Detroit that face development challenges due to issues such as environmental conditions created by prior uses of the property, aging infrastructure, decaying or obsolete buildings, these economic development tools can “level the playing field” with developing exurban areas and direct development back into urban core areas. Without these tools, Detroit would lose the opportunity for jobs-generating economic development activity, as the properties would remain vacant. Thus, the fiscal impact to the City of Detroit of losing these developments would not only be future incremental property taxes, but also the incremental income taxes from both the construction jobs and the ongoing jobs once the development opens for business.