



Memorandum

Date: July 26, 2023
To: Mayor and City Council
Cc: Mark D. Vanderpool, City Manager
From: Marc D. Kaszubski, City Attorney
Alyssa M. Ericson, Assistant City Attorney

Subject: Resolution Establishing the Lakeside Corridor Improvement Authority, designating the Boundaries of the Lakeside Development Area, and fixing the number of members on the Corridor Improvement Authority Board.

Background

Lakeside Mall opened in 1976 and is considered to be one of the first regional indoor malls. Notably, it remains one of the largest indoor malls in Michigan, consisting of over 1.5 million square feet of retail space.

Over the past decade, retail shopping patterns shifted to more online purchasing and discount retailers assumed more market share, causing big box anchors to downsize and/or close. The loss of big box anchors also compromised the viability of the smaller in-line stores in malls across the country and soon thereafter, hundreds of malls began closing.

The City proactively responded to the changing dynamics of Lakeside Mall in 2015 and developed the Lakeside Sustainability Master Plan, with input from residents, businesses and other stakeholders to reimagine an exciting, transformative, and economically viable mixed-use redevelopment of the Lakeside property.

Over the past few years, Lionheart Capital has worked with the City to bring the Lakeside Sustainability Master Plan to life, proposing a \$1 billion investment to redevelop the Lakeside property into a mixed-use town center.

On November 1, 2022, City Council approved the Memorandum of Understanding (MOU) between the City and Lakeside OOTB Ventures, LLC to redevelop the Lakeside property. Specifically, the MOU detailed the framework for the overall scope of the project and the steps necessary to move forward with certain developmental and financial requirements, including the creation of a Corridor Improvement Authority.

Establishing a CIA

The Recodified Tax Increment Financing Act (“Act”) authorizes cities to establish a corridor improvement authority (“Corridor Improvement Authority”) and to designate the boundaries of an authority corridor improvement development area (“Development Area”) for the purpose of promoting economic growth.

Pursuant to the Act, City Council adopted a resolution on April 4, 2023, by a 6-1 majority, declaring its intent to establish a Corridor Improvement Authority, designating the boundaries of the proposed Development Area, and finding certain required criteria were met with respect to the proposed Development Area. On the same date, City Council set a public hearing on June 6, 2023 for discussion on the establishment of the Corridor Improvement Authority and the designation of the boundaries of the proposed Development Area.

Prior to the public hearing and in accordance with the Act, the City provided notice of the public hearing in the following ways:

- Published twice in the Macomb Daily (May 3, 2023 and May 10, 2023)
- First-class mail to the property taxpayers of record in the proposed Development Area (May 9, 2023)
- Posted signage in three (3) locations within the Proposed Development Area (May 9, 2023)
- Posted in twenty (20) conspicuous and public places within the Proposed Development Area (May 9, 2023)
- First-class mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture (May 9, 2023)
- First-class mail to the Michigan State Tax Commission (May 9, 2023)
- Posted on City’s website

On June 6, 2023, a public hearing was held on the establishment of a Corridor Improvement Authority and the proposed Development Area boundaries. Pursuant to the Act, City Council must wait sixty (60) days in order to determine whether to proceed with the establishment of a Corridor Improvement Authority. As such, at its June 6th meeting, City Council adopted a resolution directing City Administration to prepare a resolution establishing the Lakeside Corridor Improvement Authority and designating the boundaries of the Development Area for consideration at its August 15, 2023 regular meeting.

CIA Powers and CIA Board

Pursuant to the Act, a Corridor Improvement Authority is under the supervision and control of a board consisting of the chief executive officer of the City (the Mayor) or his designee and 5-9 other members, as determined by City Council. The Act requires that the members of the board be appointed by the Mayor and approved by City Council.

A majority of the members on the board must be persons having an ownership or business interest in property located in the Development Area, and at least 1 member of the board must be a resident of the Development Area or of an area within ½ mile of any part of the Development Area.

Furthermore, of the members first appointed, an equal number of members, as near as practicable, must be appointed for 1 year, 2 years, 3 years, and 4 years. However, after the initial appointment, each member must serve for a term of 4 years.

All members must serve without compensation, but must be reimbursed for actual and necessary expenses.

The Act permits the board to do any of the following:

- Prepare an analysis of economic changes taking place in the Development Area
- Study and analyze the impact of metropolitan growth upon the Development Area
- Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility, an existing building, or a multiple-family dwelling unit which may be necessary or appropriate to the execution of a plan that aids in the economic growth of the Development Area
- Plan, propose, and implement an improvement to a public facility within the Development Area to comply with the barrier free design requirements of the State Construction Code
- Develop long-range plans designed to halt the deterioration of property values in the Development Area and to promote the economic growth of the Development Area, and take steps to persuade property owners to implement the plans to the fullest extent possible
- Implement any plan of development in the Development Area necessary to achieve the purposes of the Act
- Make and enter contracts necessary or incidental to the exercise of its powers and the performance of its duties
- Acquire by purchase or otherwise, or own, convey, or otherwise dispose of, or lease land and other property that the Corridor Improvement Authority determines is reasonably necessary to achieve the purposes of the Act

- Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, and operate any building, including multiple-family dwellings, and any necessary or desirable appurtenances to those buildings, within the Development Area for the use of any public or private person or corporation, or a combination thereof
- Fix, charge, and collect fees, rents, and charges for the use of any facility, building, or property under its control and pledge the fees, rents, and charges for the payment of revenue bonds issued by the Corridor Improvement Authority
- Lease in whole or in part any facility, building, or property under its control
- Accept grants and donations of property, labor, or other things of value from a public or private source
- Acquire and construct public facilities
- Conduct market research and public relations campaigns, develop, coordinate, and conduct retail and institutional promotions, and sponsor special events and related activities
- Contract for broadband service and wireless technology services in the Development Area

The Corridor Improvement Authority's activities must be financially supported by one or more of the following:

- Donations to the authority for performance of its functions
- Money borrowed and to be repaid as authorized by MCL 125.4616 and MCL 125.4617 (revenue bonds)
- Revenues from any property, building, or facility owned, leased, licensed, or operated by the Corridor Improvement Authority or under its control
- Proceeds of a tax increment financing plan
- Proceeds from a special assessment district
- Money obtained from other sources approved by the governing body of the municipality or otherwise authorized by law for use by the Corridor Improvement Authority or the municipality to finance a development program

Due to the complexity of the proposed redevelopment of the Lakeside property, it's likely that the Corridor Improvement Authority may be financed by many of these sources. However, the Corridor Improvement Authority will likely be primarily supported by the proceeds of a tax increment financing ("TIF") plan.

Resolution

The Resolution being considered by City Council aligns with the requirements of the Act by expressing City Council's decision to proceed with the establishment of the Lakeside Corridor Improvement Authority (the "Authority") and the designation of the boundaries of the Lakeside Development Area (the "Development Area").

Furthermore, the Resolution begins the process of establishing the Authority's board by fixing the number of members that would serve thereon. If adopted by City Council, the entire board would consist of six (6) members, in addition to the Mayor or the Mayor's designee.

Overall, the Resolution establishes the Lakeside Corridor Improvement Authority and delineates the boundaries of the Lakeside Development Area. If approved by City Council, the number of board members would be fixed at six (6), and the process for filling such seats would thereafter begin. Once the board is formed, the board would begin exercising its authority as provided in the Act. Many of the financing sources of the board require City Council approval, and, therefore, City Council likely will be greatly involved in the board's future plans for the Lakeside Development Area.