


David Whitaker, Esq.
Director
Irvin Corley, Jr.
Executive Policy Manager
Marcell R. Todd, Jr.
Senior City Planner
Janese Chapman
Deputy Director

John Alexander
LaKisha Barclift, Esq.
Nur Barre
M. Rory Bolger, Ph.D.,
FAICP
Elizabeth Cabot, Esq.
Tasha Cowan
George Etheridge

City of Detroit
CITY COUNCIL
LEGISLATIVE POLICY DIVISION
208 Coleman A. Young Municipal Center
Detroit, Michigan 48226
Phone: (313) 224-4946 Fax: (313) 224-4336

Christopher Gulock,
AICP
Derrick Headd
Marcel Hurt, Esq.
Kimani Jeffrey
Anne Marie Langan
Jamie Murphy
Kim Newby
Analine Powers, Ph.D.
Jennifer Reinhardt
Rebecca Savage
Sabrina Shockley
Thomas Stephens, Esq.
David Teeter
Theresa Thomas
Kathryn L. Underwood,

TO: Detroit City Council

FROM: David Whitaker, Director 
Legislative Policy Division Staff

DATE: October 20, 2021

RE: **Land Exchange Agreement with the Detroit International Bridge Company**

Council Member Raquel Castañeda-López requested by memorandum dated October 1, 2021, that the Legislative Policy Division (LPD) review and draft a report with regard Land Exchange Agreement (LEA) with the Detroit International Bridge Company

Question

1. The law department has stated that if this final piece of the land transfer does not go through the only thing the City will lose is the final \$2M donation. Where can the city pull money from to substitute this \$2M donation? Can ARPA monies and/or general fund surplus monies be used?

The Law Department has indicated if the final land transfer does not go through, the City will only lose the \$2 million donation. While that is the most likely outcome, the DIBC may attempt to take court action and seek a remedy through specific performance even though success may be unlikely. With regard to where the City can pull money from to substitute the \$2 million donation, LPD acknowledges that the City through the Administration and with the concurrence of City Council could make adjustments to the budget and appropriate \$2 million to the Riverfront Park project. However, consideration would have to be given regarding the programs the money

would come from that would be reduced. With regard to the use of ARPA dollars to replace the \$2 million the use of those dollars would depend on the federal guidelines for the use of those funds.

2. I request an opinion on the LEA and whether LPD believes that the 25-year clause would prohibit a) the City from improving the 3085 W. Jefferson property, given it is part of Riverside Park, in alignment with the current improvements to the park or b) restrict the city from improving the parcel in any way?

There does not appear to be anything within the LEA that would prohibit the City from improving the property located at 3085 W. Jefferson. However, LPD notes that the subject property is still the part of the consideration of the LEA and the Agreement will remain in effect until either the Second Closing or the passage of 25 years beyond the Effective Date. Any investment the City makes to improve the property could be wasted if the property is subsequently transferred under the Agreement.

3. Page 7 of the agreement reads section 7. Agreements, acknowledgements and expressions of belief reads: “A. The Parties acknowledge and agree that the City's proposed use of the News Warehouse Property and the Waterfront Easement Property is for a park and other recreational uses related thereto, and that DIBC's proposed use of the City-Owned Property and the Air-Rights Easement Property is for a new international bridge span and related uses.”
 - a. Given the clear intention of the DIBC to construct a new bridge, please provide a report on what power and approvals would come to Council if this land is transferred.

Presently, without knowing the specific plans of the DIBC for construction related to the new span, it does not appear that subsequent City Council approvals will be necessary to begin construction of the new span. However, the DIBC has been acquiring land in the vicinity to the bridge plaza, particularly to the east of the plaza. If the DIBC seeks to expand the plaza onto these properties they will need to acquire the intervening streets, allies and any other City-owned land with the footprint of the expansion area. Council approval would be required for right of way adjustments, surplus declarations and conveyance of the land.

- b. Please include your recommendation as to the best stage to secure community benefits.

The LEA includes a letter committing the DIBC to engage the public and enter into discussions for community benefits. While this letter does not provide specifics, or

any guarantees the Law Department indicates that it is enforceable. If expansion of the plaza, spoken to above, is pursued and City-owned land is required by the DIBC, the conveyance of that land could be conditioned upon community benefits and other concessions.

4. Please provide a report on the status of any permits or approvals the DIBC has received to build the second span of the international bridge crossing.

According to the 9th District office of the United States Coast Guard a permit to construct a second span to be operated in conjunction with the existing Ambassador Bridge was issued in March of 2016. Said permit was to expire in 2019, but the DIBC requested and was granted an extension to 2022. The Bridge Company has until the end of 2022 to commence construction of the new span and five years thereafter to complete it. Failure to meet this timeline will result in the expiration of the permit and require them to begin the process approval process anew.

In 2017 Transport Canada, the authorizing agency in Canada, issued a permit to the Canadian Transport Company, DIBC's Canadian Sister company, to construct a new bridge immediately west of the Ambassador Bridge. However, the permit includes several conditions, among them is the requirement that the Ambassador Bridge be demolished within five years of the new span opening to traffic.

The Coast Guard indicates the DIBC could begin construction of the new span at any point within the above time frame, but the conflicting requirements of the US and Canadian approvals as it concerns the existing bridge have the effect of nullifying the construction.

It is the opinion of LPD that City issued permits will be required for the construction of the new bridge. We await the definitive response from the Building Safety Engineering and Environmental Department. However, the DBIC has been known to proceed with the construction of other projects in the past without securing the necessary permits.

LPD is seeking additional responses from the USCG, the EPA, US Customs and the US General Service Department with respect to any outstanding approvals required relative to the new span,

the need to expand the plaza or provide additional US Customs facilities. We will report further to this Honorable body as this information is received.