



**2019.105**

**IN BOARD OF CITY COUNCIL... SEPTEMBER 17, 2019**

**BE IT ORDERED**, that the City Manager and City Solicitor be and hereby are authorized to negotiate a Joint Development Agreement (“JDA”) with Treadwell Franklin Infrastructure Capital LLC (“TFIC”) and James W. Sewall Company (“Sewall”) (and/or its appropriate designee) for the construction and subsequent operation and maintenance of a privately financed municipal parking garage and existing pay-per-use surface lots. The City Council specifically directs that the JDA must include the following critical terms and conditions:

Garage

- The garage shall be located on a designated lot at the 3 Lincoln Street site as specified by the City
- Garage shall be 640± spaces in accordance with Desman Design Management plans

Costs:

- Project construction cost shall be confirmed by a formal bid process through TFIC with such costs identified in the JDA.
- Selection of operator determined through an agreed selection process with such costs identified in the JDA.
- Expected construction cost to be \$22,297,158 to include up to \$3,000,000 for the construction of the RiverWalk and pedestrian connections
- Construction cost capped at \$24,631,350, based on formal bid process.
- Initial construction costs above \$22,297,158, based on bid results, limited to an additional City obligation of no greater than \$16,500/\$250,000 increment.
- Financing for no greater than a 25-year term.
- Construction costs shall be subject to open-book accounting review by the City.
- No taxpayer support required.

Project Options

- After year 10, the City shall have the option to buy the garage at fair market value (“FMV”), sell the garage to TFIC at FMV, refinance the garage, or continue with established terms.
- After year 25, the ownership of the garage shall revert to the City for \$1.

### Cost Sharing:

- Any project cost savings resulting from a lower than expected construction bid shall go to the direct benefit of the City to reduce Support Payments; such reduction shall be reflected in the JDA.
- If NOI is greater than 110% of projections, on a six-month basis, income above 100% of projections shall go to the City until such time as the City's sunk costs are recouped in full. Thereafter, the City shall share future revenue with TFIC - \$0.90 of every dollar to the City, \$0.10 of every dollar to TFIC.

### Revenue and NOI Projections

- Prepare and include as part of the JDA, net operating income (NOI), revenue, operation and maintenance, and other projections to serve as the basis for revenue sharing, Opex Reimbursement, Support Payments, Stabilization Payments, and garage/lot pricing calculations utilizing the most advantageous construction and operator bids.

### Support Payments from TIF:

The JDA shall limit the City's financial obligations to Support Payments, operating expense reimbursements (Opex Reimbursement), and Stabilization Payments from TIF resources. No property tax dollar commitment shall be included.

- Support Payments
  - Support Payments shall begin no earlier than six months after the date of garage opening.
  - Support Payments shall be capped at \$650,000, \$700,000, \$750,000, \$800,000, \$850,000, \$900,000, for years 1-6 respectively.
  - Support Payments shall increase annually thereafter subject to the lesser of a negotiated escalator or the local CPI.
  - Support payments may be increased incrementally by no more than \$16,500 for every \$250,000 increment over \$22,297,158 based on received construction bids up to a construction cap of \$24,631,350. Such calculations, if required, shall be established and finalized in the JDA.
- Opex Reimbursement
  - Opex Reimbursement shall include operating and maintenance expenses, beginning no sooner than one month after the date of garage opening.
  - Opex expense payments shall be established in the JDA.
- Stabilization Payment
  - The need for Stabilization Payments shall be assessed on a semi-annual basis.
  - Stabilization Payments shall only be required in the event net operating income (NOI) falls below 90% of projections, and only to the extent that the NOI shortfall is a result of deviations in operation and maintenance expenses or garage/lot revenues relative to projections established in the JDA.
  - Stabilization Payment calculations shall be subject to review by the City through an open-book accounting system. Such payments are intended to maintain a targeted 10% IRR.
  - A Stabilization Payment shall be no greater than the amount of the NOI shortfall.
  - The JDA shall include a provision for review of rate increases in an effort to limit the need for municipal Stabilization Payments.

- The City shall make such Stabilization Payments, as needed, and at its sole discretion, establish a mechanism for reimbursement of such payments, for example, through a Special Assessment District or any other mechanism authorized by the City Council.

Specific Protections:

- The JDA shall include construction dates and penalties for delivery of a parking structure.
- The City shall have the right to review and if desired, buy down any rate increases.
- No rate increases in existing lots through the date of garage opening.
- TFIC shall bear risk for all-in costs of financing and project execution including project overrun costs and delays.
- All other customary administrative terms and conditions.

**BE IT FURTHER ORDERED**, that the City Manager shall execute a JDA which includes the above terms and conditions provided, however, that the City Manager shall not be authorized to execute the JDA unless the City Council has reviewed the JDA to confirm that the JDA includes the City Council's directives regarding the above critical terms and conditions.