

Order 281-20/21
Passage: 8-0 (Dion absent) on 6/7/2021

Effective 6/17/2021

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING THE FIRST LETTER AGREEMENT WITH
DEVELOPERS COLLABORATIVE FOR THE HOMELESS SERVICES
CENTER ON RIVERSIDE STREET**

ORDERED, that the First Letter Agreement between Developers Collaborative and the City of Portland for the Homeless Services Center on Riverside Street is hereby approved and accepted in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to execute said document and any other related documents necessary or convenient to carry out the intent of the above order.



_____, 2021

ATTN: Jon Jennings
City Manager
City of Portland
389 Congress St.
Portland, ME 04101

**First Letter Agreement
Homeless Service Center, 654 Riverside Street, Portland, Maine (the “Project”)**

We have outlined in concept a multi-step process in predevelopment of the proposed Homeless Service Center to be located at 654 Riverside Street in Portland, Maine whereby: (1) this First Letter Agreement will be effective for a period of 60 days from execution by Developer and City to allow the Project to begin while final terms are being negotiated; and (2) a Second Letter Agreement that will be effective from execution by Developer and City through the end of the 2021 calendar year, or upon completion of the Planning Board approval process, whichever comes first. Following mutual satisfaction of both Letter Agreements, the Parties (Developers Collaborative Predevelopment LLC, “Developer,” and City of Portland, “City”) will consider negotiating and entering into a ground lease, and master lease, which would codify and define the relationship for financing, construction, and operations of the Project, and the leaseback of the Project to City.

The major difference between the First Letter Agreement and Second Letter Agreement is that in the First Letter Agreement the Developer will receive no compensation for 60 days, and will work totally at their own risk. Developer will merely be managing the process and hiring consultants for pre-development work for the Project. The Second Letter Agreement will be a more comprehensive agreement, which is contemplated to provide for City payment of and/or reimbursement for Developer fees, and third party costs related to the Project. The work under the First Letter Agreement is intended to vet out major feasibility issues on all aspects of the property and provide a comprehensive basis for a permitting application to the City of Portland, as well as a Second Letter Agreement and eventually a ground lease, and a master lease, between the parties. On behalf of City, Developer will undertake the following as part of the First Letter Agreement:

SCOPE OF WORK:

1. Conceptual Site and Building Design; Public Process

- Manage design professionals and other consultants and be responsible for all work products from the development team.
- Contract with consultants identified in the Homeless Service Center RFP #21041 (the “RFP”) to complete a conceptual building and site design which will be the basis of a Planning Board application to be submitted with a target of early July for a July 27 Planning Board meeting.



- With the help of City, coordinate and lead interactions with a) internal and b) community stakeholders as needed. This is anticipated to involve multiple community meetings in addition to the required neighborhood meeting (which only takes place after the July 27 submission). Meetings will be facilitated by Developer and Amistad. Developer and Amistad will enter into a third party consulting contract, which will govern Amistad's role of facilitator of community meetings. The goal of the public process will be to improve final product and gain community consensus on major Project elements. Best practices will be discussed and implemented.

2. Due Diligence

- Develop a due diligence scope intended to vet out major issues that affect project feasibility in design, site constraints, permitting, and financing.
- Design a schedule for entitlements (local and state), community reviews and obtaining permits for construction.
- Work with City to determine any title issues on the property (assumed none; rely on City legal/title due diligence and examination results; review for issues only).

3. Deliverables

- Provide all third party generated due diligence to City as it becomes available for review.
- Provide recommendations for next steps and timeline to binding agreements. Second Letter Agreement to be agreed upon by Developer and City within 60 days from the effective date of this First Letter Agreement.
- Formulate a financing, partnership, and phasing strategy that best fits the circumstances, exploring various alternative transaction structures. While a myriad of other structures is possible, the working assumption is that Developer, through a new single purpose entity, will ground lease land from City, construct Project, and master lease-back to City, and City will own Project free and clear after a period of time.
- Within the context of the basic financial/legal arrangement, however, the parties both understand that this will be a high profile project and its community impact will be closely watched. As such, it is of utmost importance to both parties that the Project, while it must be financially feasible, must also satisfy a host of other criteria so it is a credit to the reputations of both City and Developer. These criteria will be mutually agreed upon and incorporated into in any ground lease and master lease between the Parties.

4. Compensation and additional items

- Developer will receive no compensation for this phase, for a period of 60 days.
- The Second Letter Agreement is contemplated to provide for City payment of and/or reimbursement for actual Developer fees, and actual third party costs related to the Project, on a mutually agreeable basis.



- All work to be undertaken by third party consultants will contract directly with Developer and costs will be consistent with amount of work performed relative to Developer's Total Development Costs Budget set forth in its April 27, 2021 response to the RFP; provided, that, prior to Developer entering into any contract or agreeing to any amount of work to be performed relative to the Project, such contract and/or work shall be approved in writing by the City Manager. Such written approval shall not be unreasonably withheld or delayed. Additionally, Developer shall provide to City, on a monthly basis, detailed expense reports related to any and all third party consultant work.
- Upon signing of a Master Lease or similar instrument, it is contemplated that costs expended under this Letter Agreement will be assumed by the Project.
- If Project does not proceed, and Second Letter Agreement is not signed, upon terms which Developer and City shall mutually agree, Developer will assign all of its rights in all work products generated by any third party consultants including all drawings, schematics, reports and similar items to City, if City chooses to reimburse Developer in full for all third party costs.

City of Portland

Developers Collaborative
Predevelopment LLC

By: _____

Jon Jennings
Its: City Manager

By: _____

Kevin R. Bunker
Its: Manager