

**CITY COUNCIL RESEARCH DIVISION
LEGISLATIVE SUMMARY**



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Bill Type and Number: Ordinance 2022-138

Introducer/Sponsor(s): Council President at the request of the Mayor

Date of Introduction: February 22, 2022

Committee(s) of Reference: NCSPPHS, F, R

Date of Analysis: February 24, 2022

Type of Action: Authorizing execution of a legal settlement agreement, amended and restated mortgage, and amended and restated promissory note and related loan documents; repeal of prior ordinance; CIP amendment; Procurement Code waiver; Ordinance Code waiver; Ordinance Code amendment; request for emergency approval on second reading

Bill Summary: The bill authorizes execution of a legal settlement agreement among the City, the Downtown Investment Authority (DIA) and Metropolitan Parking Solutions, LLC (MPS) to end ongoing litigation among the parties. It repeals prior Ordinance 2021-179-E which authorized bond funding for City acquisition of the MPS downtown parking garages. It amends the 2022-26 Capital Improvement Program to remove the project entitled "MPS Garage Purchase". The bill waives provisions of the Procurement Code to permit direct contracting for a period of six months from the date of the Lease Agreement execution with vendors and suppliers to provide for repair, operation and maintenance of the parking garages for a period not to exceed one year, subject to the requirement that a minimum of 3 bids for all projects must be received by the DIA before contract awards.

The bill waives provisions of Ordinance Code Chapter 122 – Public Property – to authorize the exercise of the purchase option or right of first refusal included in the Lease Agreement without first getting two appraisals of the value of the garages. The bill waives provisions of Ordinance Code Chapter 55 – Downtown Investment Authority – to permit the DIA to exercise of the purchase option or right of first refusal included in the Lease Agreement without following all of the procedures for property acquisition outlined in the chapter. The bill amends the Ordinance Code Chapter 55 to create a new Part 4 – DIA-Leased Parking Garages – which grants the DIA the authority to operate the 3 MPS garages, establish parking rates, sublease the garages to tenant users, and repair and maintain the garages. One-cycle emergency approval is requested due to the expectation that the Federal Reserve will begin raising interest rates in the very near future, meaning that the bond refinancing needs to take place before those rate hikes take place an increase the cost of borrowing.

Background Information: The City, the Jacksonville Economic Development Commission (the predecessor of the DIA) and MPS entered into a redevelopment agreement in 2004 under which the City agreed to loan funds to MPS to construct and operate 3 downtown parking garages (the Courthouse Garage on Adams Street and the Sports Complex Garage and Arena Garage on A. Phillip Randolph Boulevard flanking the arena). The City was required to loan the developer funds periodically as needed to cover net operating losses from operation of the garages along with a agreed-upon rate of return on investment. After some years of operations, the City and MPS have each alleged that the other is in default of the contract terms and lawsuits have been filed. After court-ordered mediation the parties have reached a settlement agreement to end the litigation, which is approved by this ordinance.

The major provisions of the settlement agreement are as follows:

- DIA assumes 100% control over garage operations, participating directly in any gain/loss.
- New lease ensures MPS ownership of garages to 2051 unless City/DIA exercises purchase option in 2041 or thereafter (currently possible turnover in 2035-2038).
- DIA pays MPS an annual rent payment consisting of \$175,000 in cash and an additional non-cash amount in the form of loan forgiveness.
- DIA can terminate the lease early and purchase the garages(s) for any reason beginning in 2041 for \$262,500 plus the sum of any remaining rent through 2051 (in both cash and non-cash loan forgiveness).
- Early termination/purchase can be exercised for any garage individually on a pro-rata basis.
- DIA has the option to take ownership of the garages in 2051 at the end of the lease term for \$262,500 if purchase option was not previously exercised.
- MPS bonds to be refinanced today by the City for debt service savings.
- MPS contributes \$25,000 annually to a Capital Reserve Fund to be used by DIA for capital expenditures on the garages.
- Existing Capital Reserve Fund amount is supplemented by \$428,000 in funds withheld by DIA in a prior loan request.
- DIA makes final loans to MPS for \$1.4 million to cover previous operating losses, in addition to loan for period due through closing.

Policy Impact Area: Parking garage ownership/operations

Fiscal Impact: The settlement agreement permits the City to refinance the garage construction bonds at a lower interest rate to achieve annual debt service savings. The conversion from a “net operating loss subsidy plus guaranteed rate of return” basis to “debt service plus rental fee” basis is expected to change annual costs from \$5 million per year through 2031 to \$2.5–3 million per year through 2041. The current accumulated \$77.4 million development loan to MPS for net operating losses will be reduced by \$2.5 million per year in the form of a rent payment.

Analyst: Clements