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From: Brad Schwartz
SouthWorks

Re: Proposed PILOT Terms

Date: August 13, 2024, revised August 29, 2024, September 18, 2024

This Memorandum outlines proposed terms regarding the PILOT for the SouthWorks Project. These terms are intended to address the IDA's feedback during the July 29 Special Meeting, and August 14 and September 11 Regular Meetings. The final agreed upon and approved terms would be memorialized in the Project Agreements entered between the Applicant and IDA.

Each "Sub-Area" shall constitute one or more buildings, or an area within the Chainway.

1. 10-year Sitewide Base PILOT, with 5-year Extension

- Applicant shall submit a request for a 5-Year Base PILOT Extension, which request shall be made at least 6 months prior to the expiration of the initial 10-Year period
- The extension request shall be reviewed and considered for approval by the IDA, with a Public Hearing, provided the following requirements are met:
 - 488 market-rate housing units have received a Final Certificate of Occupancy, are in construction, or have received a Building Permit
 - 122 affordable units have received a Final Certificate of Occupancy, are in construction, or have received a Building Permit
 - 400,000sf of commercial/office/manufacturing/industrial space has received a Final Certificate of Occupancy, is in construction, or has received a Building Permit

2. 20-year PILOT for each Sub-Area

a. Years 1-5

- For each Sub-Area that is either completed or has received a building permit and is under construction in the first five years after IDA approval of the Base PILOT, a new 20-year PILOT will be put in place administratively for that Sub-Area without additional IDA approval
- The Base PILOT will also be amended to remove the proportionate ‘pre- project’ value of the associated land and building for that Sub-Area

b. Year 5 Update & Extension for Years 5-10

- Applicant shall submit a request for a 5-Year Extension for this same administrative process to continue for another 5 years, which request shall be made at least 6 months prior to the expiration of the initial 5-year period
- The extension request shall be reviewed and considered for approval by the IDA, with a Public Hearing, provided the following requirements are met:
 - 244 market-rate housing units have received a Final Certificate of Occupancy, are in construction, or have received a Building Permit
 - 61 affordable units have received a Final Certificate of Occupancy, are in construction, or have received a Building Permit
 - 200,000 sf of commercial/office/manufacturing/industrial space has received a Final Certificate of Occupancy, is in construction, or has received a Building Permit
 - Reasonableness Assessment performed by independent 3rd Party, if requested by the IDA. The IDA’s selection of the independent consultant shall be made following consultation with the Applicant. The Applicant shall fund an escrow account to cover the IDA’s costs of the consultant.

c. Year 10 Update & Extension for Years 10-15

- Same as for Year 5 Update and extension request, except that the milestones shall be the same as the milestones for the Base PILOT extension request (i.e., 488 market-rate housing units, 122 affordable units, and 400,000sf of commercial/office/manufacturing/industrial space)

3. Exceptions and Reporting

- Notwithstanding anything to the contrary, the failure to meet one or more requirements or deadlines shall not result in a denial of any extension request, provided that the IDA finds in its reasonable discretion that the Applicant is working diligently, in good faith and using commercially reasonable efforts towards constructing the Project in an orderly and timely fashion, commensurate

with market demand and subject to economic conditions affecting the Project, and that the Applicant's failure to satisfy such requirement(s) or deadline(s) is not due to any unreasonable delay by the Applicant. The Applicant shall submit adequate information demonstrating that it is meeting such diligence obligations, and such other information as may be reasonably requested by the IDA. Upon such a showing, the IDA shall consider approving the extension request.

- In the event the Applicant anticipates not meeting one or more of the requirements on a date that is earlier than when the extension request is due, the Applicant shall submit a letter update to the IDA notifying the IDA of same, and the Applicant shall appear at an IDA meeting to discuss Project status upon IDA's request.
- For all extension requests (regarding both the Sitewide Base PILOT and the 20-year PILOT's administrative process for Sub-Areas), the IDA may (i) approve the extension request in accordance with these terms, with or without a modification to the then-current PILOT, including, without limitation, an increase or decrease in financial assistance based upon a material change in need and/or market conditions, or (ii) deny the extension request in accordance with these terms.
- The Applicant may submit a request at any time for an increase in financial assistance based upon need and market conditions.
- The Applicant shall submit an annual written report to the IDA, in such detail and at such other times as may be reasonably requested by the IDA, as to the actual progress of the Applicant's construction of the Project (*this is in addition to standard annual reporting requirements*).

4. Other IDA Policy Compliance and Requested Deviations

**** taken directly from the IDA Administrative Director's July 15, 2024 Memorandum**

i. Diversity and Inclusion Policy

Only single occupant projects (buildings developed specifically for one tenant or an owner-occupied facility) are subject to the Diversity and Inclusion Policy. This project is not a single occupant project.

ii. Enhanced Energy Incentive Policy

The policy does provide additional incentive for projects that exceed the requirements of the City of Ithaca's Green Building Code (the Stretch Code). In 2026, this policy will become obsolete when the Code will require net zero compliance. The applicant will comply with City Code. In consideration of the economic and community benefits which include energy and sustainability as well as mixed income housing, adaptive reuse, environmental remediation, workforce development, business growth and retention, and public amenities, the applicant has requested an incentive that exceeds that contained in the Enhanced Energy Policy.

iii. Local Labor Utilization Policy

The applicant intends to comply with the Local Labor Utilization Policy.

iv. Workforce Housing Policy

The applicant intends to substantially comply with the IDA's Workforce Housing Policy by developing 915 housing units. 183 units, or 20% of the units (as required by the policy), will be affordable housing units.

- a. Some portions of the property may be subdivided and sold to a private developer that will build and sell market rate single family homes – ***The applicant requests these units count towards total units in the Project – these units will not be part of the PILOT.***
- b. Some portions of the property may be subdivided and sold to an affordable housing developer that will build and sell affordable single-family homes – ***The applicant requests these units count towards total units and affordable units in the Project – these units will not be part of the PILOT.***
- c. Some portions of the property may be subdivided and sold to either a for profit or a not-for profit affordable housing developer that will develop and manage affordable rental housing units .
 - ***The applicant requests that a sale to a for profit affordable housing developer be considered, which is not contemplated in the policy.***
 - ***The applicant requests a determination for these units to count towards the 20% affordable unit requirement per the Workforce Housing Policy as follows:***

(.....Excerpted from the Workforce Housing Policy):

“In the event that a proposed project consists of more than one parcel of real property owned by different corporate entities, the Tompkins County IDA will consider and determine whether to treat the development as a single project for purposes of calculating the 20% affordable total unit requirement. The following criteria are required:

- (1) The improvements to be made to the real properties will be constructed simultaneously or in sequence. Specifically, the affordable project will open for operation either before the market rate component or within three years after the opening of the market rate component; and
- (2) The land for the affordable housing portion of the project is being conveyed by the principal investor to a not-for profit affordable housing organization who will perform the development; and

The following criteria will be considered in making a determination:

- (1) The real properties involved are contiguous;
- (2) The real properties are, or were, considered for municipal site plan approval or SEQOR determination as a single project;
- (3) The improvements to be made to the real properties are the product of a coordinated design with common design elements;
- (4) The purpose of maintaining separate corporate ownership of the real property is related to regulatory eligibility or financing requirements for affordable housing.”

v. Uniform Evaluation Policy

This policy establishes criteria to be used for the evaluation and selection for all projects for which the IDA may provide financial assistance. The criteria are established and required by state law. The IDA should use this policy to assess the project for approval. The policy is attached to this document.

5. Fees & Project Modifications

***** also taken directly from the IDA Administrative Director's July 15, 2024 Memorandum***

- A flat fee of \$35,060 (1% of current assessed value), plus attorney's fees at cost, will be assessed upon the Base PILOT approval and issuance of sales tax documents. Subsequent PILOTs will be assessed a fee based on costs of that improvement per the fee policy outlined in the TCIDA Uniform Tax Exemption Policy (an administrative of 1% of hard construction costs; and an additional 1/3 of the administrative cost in attorney fees).
- Any modifications to the project description in the TCIDA application for financial assistance that exceed a 10% threshold change in use, and any modifications that require additional SEQR/CEQRO review would need to be presented to the TCIDA for approval.

6. Recommendation to Future IDA Boards

- The IDA finds that the tax incentives approved by this Board properly balance the IDA's typical considerations in deciding applications for financial assistance, and the Applicant's interest in having a reasonable degree of certainty and predictability for this multi-year construction Project having multiple Sub-Areas. This is a challenging and ambitious Project that this IDA Board would like to see come to fruition for the benefit of our community, the surrounding region, and future generations of Ithaca residents.
- Accordingly, it is this IDA Board's intent and recommendation to future IDA Boards that they continue to facilitate and ensure the successful completion of the Project, including, but not limited to, by approving the requisite PILOT extension requests pursuant to these terms, and modifying the approvals granted by this IDA Board as may be appropriate as set forth above.