



**Date:** October 8, 2013

**To:** Thomas J. Bonfield, City Manager  
**Through:** Keith Chadwell, Deputy City Manager  
**From:** Mark D. Ahrendsen, Director of Transportation  
**Subject:** Ground Lease Agreement between CPGPI Regency Erwin and the City of Durham

**Executive Summary**

The purpose of this item is to enter into a lease agreement with CPGPI Regency Erwin, LLC for a surface parking lot on Ninth Street to provide public parking. The City has leased this parking lot from SEHED II, Ltd. since 1985 for an annual lease payment equal to the sum of the utility expense to light the parking lot and the City and County ad valorem taxes on the property (approximately \$3,000 per year). This lease agreement was terminated in May 2012 and the property was sold. The current owner, CPGPI Regency Erwin, LLC (“Regency”) has agreed to lease the parking lot to the City for a term of 10 years commencing on March 1, 2014 at a monthly base rent rate of \$6,875 for years 1 through 5 and \$7,291.33 per month for years 6 through 10. The lease agreement allows the City to continue to make the lot available for public parking.

**Recommendation**

Staff recommends that City Council authorize the City Manager to execute a Ground Lease Agreement with CPGPI Regency Erwin, LLC for a surface parking lot on Ninth Street for a term of 10 years at a monthly base rent rate of \$6,875 for years 1 through 5 and \$7,291.33 per month for years 6 through 10.

**Background**

The City leased the subject parking lot on Ninth Street from SEHED II, Ltd. beginning in 1985. The 42 parking spaces in this lot have served to help meet the parking needs of Ninth Street businesses. The spaces are time limited to 2 hours and there is no charge to park in these spaces.

The lease arrangement with SEHED II, Ltd. was terminated in May 2012 and the property was sold. The current owner of the property, CPGPI Regency Erwin, LLC, has allowed public parking in this lot to continue on an interim basis and is now offering to lease the parking lot at market rates.

The Ninth Street Parking Study has recognized the importance of this lot to the businesses located along Ninth Street and has further recommended that the City lease the parking lot and imposes a charge of \$1 per hour to park in this lot.

## **Issues and Analysis**

The proposed ground lease agreement between the City and Regency is to lease the 42 space parking lot on Ninth Street for a term of 10 years commencing on March 1, 2014 at a monthly base rent rate of \$6,875 for years 1 through 5 and \$7,291.33 per month for years 6 through 10, pursuant to the terms and conditions outlined in the attached lease agreement. In addition to some maintenance obligations for the parking facility, the City will also be responsible for payment of "impositions" representing direct costs or fees charged by public authorities against the parcel of land upon which the parking facility is located, such as property tax for the parcel of land upon which the parking facility is located. The monthly rental rate is deemed reasonable due to the property's proximity to the Ninth Street business district.

The landlord is responsible for routine maintenance of the parking lot including overhead lighting, snow and ice removal, sweeping, cleaning and landscape maintenance and pavement repair and striping. The City is responsible for the initial cost of milling and repaving the parking lot (at an actual cost that must be less than \$30,000), and for the collection of revenue associated with any fees that may be imposed to park in this parking lot. Such fees are subject to approval by City Council.

If a decision is made to impose a fee to park in the Ninth Street parking lot, a pay station would need to be purchased and installed in the lot and the parking management agreement with Lanier Parking Solutions would need to be amended to provide for the management and collection of revenue from this parking lot.

## **Alternatives**

1. Execute the lease agreement; continue to provide two hour free parking creating no revenue to offset increased cost to the Parking Fund.
2. Execute the lease agreement; impose a fee of \$1 per hour to park in the lot creating revenue to partially offset increased cost to the Parking Fund.
3. Do not execute the lease agreement. In which case the owner may charge for parking on the lot or not allow public parking.

## **Financial Impact**

The cost of the lease agreement for FY 2013-14 with a March 1, 2014 commencement date is estimated at \$28,529.67. The cost of the lease agreement in succeeding years is estimated at \$85,589.00 (including estimated impositions (e.g., property tax)) per year for years 1 through 5 and \$90,585.00 (including estimated impositions (e.g., property tax)) per year for years 6 through 10.

The Ninth Street Parking Study recommends the imposition of a parking fee of \$1.00 per hour between the hours of 8:00 am and 7:00 pm Monday through Friday to park in the Ninth Street parking lot with this fee increasing by 20% in FY 2017-18 and FY 2022-23, respectively.

The estimated expense of the lease, the potential revenue from the imposition of the aforementioned parking fee and the net difference is described below by fiscal year for the term of the lease:

	Parking Lease	Parking Revenues	Net Difference
<b>FY14</b>	\$ 28,529.67	\$ 15,333.33	\$ (13,196.34)
<b>FY15</b>	\$ 85,589.00	\$ 46,000.00	\$ (39,589.00)
<b>FY16</b>	\$ 85,589.00	\$ 46,000.00	\$ (39,589.00)
<b>FY17</b>	\$ 85,589.00	\$ 46,000.00	\$ (39,589.00)
<b>FY18</b>	\$ 85,589.00	\$ 55,200.00	\$ (30,389.00)
<b>FY19</b>	\$ 87,254.33	\$ 55,200.00	\$ (32,054.33)
<b>FY20</b>	\$ 90,585.00	\$ 55,200.00	\$ (35,385.00)
<b>FY21</b>	\$ 90,585.00	\$ 55,200.00	\$ (35,385.00)
<b>FY22</b>	\$ 90,585.00	\$ 55,200.00	\$ (35,385.00)
<b>FY23</b>	\$ 90,585.00	\$ 66,240.00	\$ (24,345.00)
<b>FY24</b>	\$ 60,390.00	\$ 44,160.00	\$ (16,230.00)
<b>Total</b>	\$880,870.00	\$ 539,733.33	\$(341,136.67)

The Parking Fund is currently subsidized by property taxes through the Debt Service Fund. The Downtown Parking Study projects the Parking Fund will be financially solvent in ten years but will continue to be subsidized until then. Therefore, while charging to park in the Ninth Street parking lot would reduce the net cost of the lease agreement, any such net cost associated with this agreement would increase the subsidy to the Parking Fund.

The cost of a pay station for the Ninth Street parking lot is estimated at \$20,000 and the estimated cost of the milling and resurfacing of this lot is estimated at less than \$30,000.

Sufficient funding is available in the Parking budget to pay for the lease of the Ninth Street parking lot in FY 2013-14 and for the cost of the pay station and milling and resurfacing of the parking lot. Lease payments will need to be included in the parking budget for subsequent years, and as noted above, these subsequent year lease payments would require additional General Fund subsidy.

**SDBE Summary**

SDBE Requirements are not applicable to this lease agreement.

**Attachments**

1. Ground Lease Agreement