



Memorandum

File #: 17-00297

City Council

5/11/2017

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

PORT WAREHOUSE #1 LEASE AMENDMENT WITH OFFSHORE INLAND MARINE & OILFIELD SERVICES, INC.

RECOMMENDATION:

That City Council authorize the Mayor to take all action necessary to amend the Lease Agreement for Port Warehouse #1 with Offshore Inland Marine & Oilfield Services, Inc.

HEARING REQUIRED: No Hearing Required

SUMMARY:

On April 22, 2010, City Council approved the Lease Agreement for Port Warehouse #1 (“Warehouse #1 Lease”) with Offshore Inland Marine & Oilfield Services, Inc. (“OIMO”) which includes the lease premises of one-half (½) of the Warehouse #1 structure and associated open storage and working areas.

On January 10, 2013, City Council approved a FDOT Economic Development Transportation Project Fund Agreement for infrastructure improvements at the Port.

As City Council has been previously advised, repayment of certain grant-funded construction project expenses paid by OIMO is in question. As a result, the Port Director, with the City’s Chief Financial Officer’s consent, has allowed OIMO to hold \$363,000.00 in invoices owed to the Port in abeyance pending final determination by the Port Director, with the consent of the City’s Chief Financial Officer. Further, OIMO accumulated an additional past-due balance above and beyond the \$363,000.00 without the approval of the Port Director or the City’s Chief Financial Officer. As of March 15, 2017, that remaining past due amount was \$269,247.00.

On April 13, 2017, City Council considered a request to amend the Warehouse #1 Lease. The proposed amendment that was brought before City Council at that time provided:

(i) a payment plan to address both the outstanding past-due balance of \$269,247.00 at twelve percent (12%) interest, as well as a plan for final reconciliation of invoice amounts of \$363,000.00 held in abeyance, with a contingency to apply twelve (12%) interest;

(ii) in the event of any non-payment of monetary obligations by OIMO, the Warehouse #1 Lease was to be immediately terminated and OIMO was to vacate the Port within twenty (20) days and to surrender

all of the Leased Premises and all improvements, fixtures, equipment and personal property thereon, such property to become the exclusive property of the City;

(iii) contract language to address the previously unanticipated circumstance of significant infrastructure improvements to be made under the Warehouse #1 Lease as a result of the FDOT Economic Development Transportation Project Fund Agreement project;

(iv) terms and conditions to address the expansion of OIMO into the previously unoccupied half of the Warehouse #1 structure upon completion of the FDOT Economic Development Transportation Project Fund Agreement project infrastructure improvements, or into a portion of the space not currently occupied by OIMO; and

(v) no change or extension to the term of the original Warehouse #1 Lease, expiring May 1, 2022.

In conjunction with the above amendment request, City Council was also asked to terminate the lease agreement for the Warehouse #9 structure and approximately three and one-half (3½) acres of immediately adjacent undeveloped land (“Warehouse #9 Lease”) between the parties.

During the April 13, 2017 City Council meeting, City Council acted to postpone both requests, with direction to staff to negotiate with OIMO, and to bring negotiated agreements regarding each warehouse lease back to City Council as separate items at the next City Council meeting.

The attached negotiated draft of the Amendment No. 1 to Lease Agreement for Warehouse #1 has been revised to:

(i) delay the imposition of any interest charge on the outstanding amounts in the payment plan until no earlier than October 1, 2017;

(ii) delete language expressly terminating the Warehouse #1 Lease for non-payment of monetary obligations, specifically those in the payment plan, and introduce language requiring City Council determination of whether to terminate the Warehouse #1 Lease or to renegotiate payment terms;

(iii) delete language requiring the property be returned to the City in good condition; and

(iv) expand the time allowed to OIMO to vacate the premises to thirty (30) days following an action to terminate the Warehouse #1 Lease for non-payment.

PRIOR ACTION:

April 22, 2010 - City Council approved the Offshore Inland lease for a portion of Warehouse #1 and associated open storage and working areas.

January 10, 2013 - City Council approved a FDOT Economic Development Transportation Project Fund Agreement for infrastructure improvements at the Port.

March 13, 2014 - City Council approved and authorized the Mayor to negotiate and execute a lease agreement for Warehouse #9 and approximately three and one-half (3½) acres of immediately adjacent undeveloped land

with OIMO.

April 13, 2017 - City Council postponed a recommendation to authorize the Mayor to terminate the Warehouse #9 Lease and to amend the Warehouse #1 Lease.

FUNDING:

N/A

FINANCIAL IMPACT:

Approval of the Warehouse #1 lease amendment establishes a formal payment plan of OIMO's current outstanding balance of \$269,247.00. Further, the payment plan provides authorization for the resolution of the \$363,000.00 outstanding amount as it relates to grant project invoices. Approval of the amendment also establishes conditions for OIMO to occupy the entire warehouse premises at a proportional increased amount above the \$8,891.40 rent revenue currently paid.

CITY ATTORNEY REVIEW: Yes

5/1/2017

STAFF CONTACT:

Eric W. Olson, City Administrator
Richard Barker Jr., Chief Financial Officer
Amy Miller, Port Director

ATTACHMENTS:

- 1) Amendment to Warehouse #1 Lease (Revised)

PRESENTATION: No