



Memorandum

File #: 17-00298

City Council

5/11/2017

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

PORT WAREHOUSE #9 TERMINATION OF LEASE WITH OFFSHORE INLAND MARINE & OILFIELD SERVICES, INC.

RECOMMENDATION:

That City Council authorize the Mayor to take all action necessary to terminate the Lease Agreement for Port Warehouse #9 with Offshore Inland Marine & Oilfield Services, Inc.

HEARING REQUIRED: No Hearing Required

SUMMARY:

On March 13, 2014, City Council authorized the Mayor to negotiate and execute a lease agreement for the Warehouse #9 structure and approximately three and one-half (3½) acres of immediately adjacent undeveloped land ("Warehouse #9 Lease") with Offshore Inland Marine & Oilfield Services, Inc. ("OIMO").

On May 12, 2016, City Council granted an extension to OIMO to complete construction of the Tenant's Structure located on the ground lease premises of the Warehouse #9 Lease. The Tenant's Structure was to serve as a submersible pipe manufacturing facility once completed. OIMO had requested the extension of the construction completion date as all construction work on the facility halted in the fall of 2015.

On October 13, 2016, City Council declined a request from OIMO for partial deferral of rent under the Warehouse #9 Lease.

On April 13, 2017, City Council considered a request from OIMO to terminate the Warehouse #9 Lease. The proposed agreement to terminate brought before City Council at that time provided:

- (i) OIMO was to vacate all of the Ground Lease Premises, including Warehouse #9, the adjacent land, and Tenant's Structure;
- (ii) City was to keep all improvements, fixtures, equipment and personal property in the Warehouse #9 leased premises, including the incomplete Tenant's Structure;
- (iii) OIMO was not to be released from any rents or amounts due and payable under the Warehouse #9 Lease, or any rents, fees or amounts due and payable under any other lease or operation at the Port; and

(iv) OIMO was to warrant to the City that OIMO had complied with all insurance coverage requirements under the Warehouse #9 Lease, and was to protect the City from any third party's claims against the City, or from OIMO's own claims against the City.

In conjunction with the above termination request, City Council was also asked to amend the City's June 17, 2010 Lease Agreement ("Warehouse #1 Lease") between the parties, which includes the leased premises of one-half (1/2) of the Warehouse #1 structure.

During the April 13th 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 Termination of Lease Agreement for Warehouse #9 has been revised to:

(i) exclude both equipment and personal property from the City's possession, allow OIMO to keep equipment and personal property on the premises for an additional fifteen days, and delete language expressly obligating OIMO to remove abandoned OIMO property after the fifteen (15) day period or to cover the costs of such removal by the City if necessary;

(ii) delete language obligating OIMO to warrant that OIMO complied with the insurance coverage requirements under the Warehouse #9 Lease, and delete language serving as acknowledgment of insurance coverage requirements;

(iii) limit the City's protection against claims made by OIMO, or by any third party, against the City to only those claims arising out of the Warehouse #9 Lease and termination; and

(iv) require the City release any and all claims against OIMO arising out of the Warehouse #9 Lease and termination.

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 (3 1/2) acres of immediately adjacent undeveloped land with OIMO.

May 12, 2016 - City Council authorized the Mayor to take all necessary actions to provide OIMO with a twelve (12) month extension to complete construction and obtain a certificate of occupancy for the Tenant's Structure located on the Ground Lease Premises of the Lease Agreement for Warehouse #9, contingent upon the Tenant's Structure being storm hardened and enclosed prior to July 31, 2016.

October 13, 2016 - City Council rejected a request from OIMO for partial deferral of rent under the Warehouse

#9 Lease.

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 #9 Lease termination will result in the loss of \$12,966.72 per month in rent revenue to the Port. However, the facility will be marketed to new potential users.

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) Termination Agreement for the Warehouse #9 Lease (Revised)

PRESENTATION: No