



Memorandum

File #: 19-00418

City Council

9/12/2019

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

PITT SLIP AMENDED AND RESTATED LEASE

RECOMMENDATION:

That City Council approve the Amended and Restated Lease Agreement requested by Seville Harbour, Inc. (f/k/a South Florida Marine Investors, Inc.). Further that City Council authorize the Mayor to take all necessary actions to execute the Amended and Restated Lease Agreement.

HEARING REQUIRED: No Hearing Required

SUMMARY:

Attorneys for the City have negotiated an amended and restated lease with Seville Harbour, Inc. Seville Harbour subleases the upland improvements to Merrill Land Company. Those upland improvements include the Fish House and Atlas restaurants. The proposed lease includes the following provisions:

- i. The proposed lease is a fully amended and restated lease, superseding the earlier lease and the amendments thereto.
- ii. The current extension of the lease expires February 28, 2045. The new amended and restated lease is for 99 years with a termination date of August 31, 2118.
- iii. The leased premises are the submerged lands in the Pitt Slip marina area and the uplands where the Fish House and Atlas restaurants are currently located, including the parking lots immediately adjacent to the building and the oyster shell parking lot south of the restaurant. The parking lot across the street and west of the restaurants is not included as part of the leased premises.
- iv. The leased premises are subject to the covenants, conditions, and restrictions of the federal and state grants to the extent that they apply.
- v. The leased premises may be used for a marina, a harbor master facility, ships store, fuel facilities, parking, restaurants, office space, lounges, and other ancillary, compatible marina uses.

- vi. The City shall contribute \$350,000 towards the construction of a breakwater. If the breakwater is damaged or destroyed during a hurricane or other event, Seville Harbour is responsible for rebuilding the breakwater.
- vii. Rent will remain at its current amount for the remainder of the current extension through February 2045. Beginning on March 1, 2045, and continuing through the remainder of the lease, the base rent will increase 108%. Thereafter, automatic adjustments to the base rent will occur every five years based on the CPI.
- viii. Seville Harbour will be able to assign or sublease its interest in whole or in part, to which the City's consent shall not be unreasonably withheld.
- ix. Seville Harbour acknowledges that the grant restrictions may restrict in perpetuity all or substantial portions of the leased premises to use as an outdoor recreation area for the use and benefit of the general public.
- x. The marina facilities will be open and available to the general public, with slips being available to the public for lease by the day, week, or month, with no lease term exceeding seven months. A reasonable number of boat slips will be reserved for transient, day use, or other special public purpose.
- xi. In no event shall the use of the leased premises by lessee or any other person or entity interfere with the public's use of Bartram Park or any other park or public area adjacent to the leased premises. Visitors to Bartram Park will have use of Bartram Park unrestricted by any provisions of the lease, and that use includes without limitation full access to the water adjacent to Bartram Park for public outdoor recreational uses.
- xii. Seville Harbour will dismiss with prejudice its case, including any claim for attorneys' fees and costs, in Case No. 2014 CA 000081.

PRIOR ACTION:

November 8, 2018 - The City Council approved the declaration of the existence of exigent circumstances regarding parcels I, IA and III included in the Seville Harbour lease in accordance with Section 2-3-4 of the City Code.

October 11, 2018 - The City Council did not vote on a proposed purchase and sale agreement of parcels I, IA and III included in the Seville Harbour lease. The motioned died due to lack of a second.

June 14, 2018 - The City Council did not approve a motion to approve a settlement proposal encompassing the lease of South Palafox property, the sale of Pitt Slip parcels and an agreement addressing satisfaction of payment of prevailing party attorneys' fees in the Fish House lawsuit.

September 18, 1985 - The City initially entered into the 30 year Pitt Slip Lease for parcels IA, I and III, and there have been several amendments to the original lease since that time, and several assignments related thereto.

FUNDING:

N/A

FINANCIAL IMPACT:

The City's contribution of \$350,000 towards the construction of the breakwater will be funded from the Insurance Retention Fund.

CITY ATTORNEY REVIEW: Yes

9/3/2019

STAFF CONTACT:

Christopher L. Holley, City Administrator
Keith Wilkins, Deputy City Administrator

ATTACHMENTS:

- 1) Amended and Restated Lease

PRESENTATION: No