



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

18 December 2013

Mr. Robert W. McDowell III
Real Estate Product Line Coordinator
Real Estate Contracting Officer
Naval Facilities Engineering Command Southeast
Jacksonville, Florida 32212-0030

Subject: Counter Offer Re: Lease Proposed for Key West Mole Pier by Correspondence dated 19 November 2013

Dear Mr. McDowell:

Yesterday afternoon 17 December 2013, the Mayor of Key West, Mr. Craig Cates, I and key senior members of my staff had the pleasure of meeting with Mr. Tim Yonce and Mrs. Robin McCarthey from your offices, together with Mr. Ron Demes and staff of Key West Naval Air Station. The purpose of the meeting, as you know, was to discuss the Navy's proposed public benefit lease of the Outer Mole Pier to the City of Key West attached to your letter of 19 November.

The meeting was both cordial and informative for both parties but did not produce an agreement on which a firm lease can be agreed to by the City. However, the parties now better understand the operational limitations and realities of operating a cruise port facility at the Outer Mole.

For the first time, the City is now aware of the Navy's representation of the fair market value of the lease of the Outer Mole. This is because Mr. Yonce was able to verbally share some limited data from the Navy's appraisal of the lease.

To recap the Navy's offered lease financial terms:

1. Minimum rent to the Navy from Key West - \$225,000, regardless of disembarking passenger count.
2. Revenue split for each passenger up to 200,000, \$4.00 to the Navy and \$6.68 to the City.
3. For all passengers over 200,000, \$3.50 to the Navy and \$7.18 to the City.

The proposed lease terms are unacceptable to the City for a number of reasons.

First, the cruise ship visits to the Outer Mole have been declining over the last two years despite the stabilizing economy, and the City expects that the 200,000 passenger level will not be reached (there were 141,000 disembarking in FY 2012/13). The City's 2013/2014 budget projects a further decline to 138,000 passengers. Moreover, at the meeting the City was informed by Mr. Yonce that the Navy was not interested in significantly increasing the number of ships or passengers arriving at the Outer Mole, so the 200,000 passenger may then be most that can be expected for some time. Finally, the Navy was informed and now understands that the City cannot direct Cruise ships to the Outer Mole when their preference is the privately owned Pier B where no transportation and few security restrictions exist.

Second, even if the most recent 141,000 passenger level is reached, immediate direct costs to the City for transportation and security are at least \$640,000.00 because the proposed lease as well as the existing



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license and previous lease did not allow any type of "walk off" passenger access from ships, despite tight security. If all the other indirect costs of the City's multiple departments responsible for managing the cruise ships and their passengers are accounted for the City net revenue per passenger clearly drops below that which the Navy receives and approaches zero. For example in FY 2013/2014 actual direct cost to the City of \$987,571.00 offset the revenue to the City such that the city incurred a loss of \$10,002.00. These direct costs are required for operation of the cruise ship port, and consist of transportation, class D security, Certified Police officers, the Port Administrative Coordinator and operating costs. Please see the attached 2012/2013 Cruise ship budget actual summary. Therefore, the minimum rent of \$225,000 is a "benefit" payment to the Navy with no cash left at the end of the day to pay for the new City Waterfront Park which is the "public benefit" basis for the exclusive lease to the City.

Third, the City is concerned as presently written the lease provides that the City can be immediately "directed" by the Navy to provide in kind City engineering and construction management services for utilization of the Navy's portion of the revenue for Navy projects anywhere in the Navy's southeast operation region. The City is clearly supportive of the concept of the passenger revenue to the Navy going to the local Navy station for improvements which serve the Navy's improvements to shore side and water side improvements which serve Navy vessels and passenger ships. However, this section of the lease needs some flexibility in order to recognize the City's limited personnel resources.

Fourth, from our very limited knowledge of the appraisal the City believes the appraisal is incomplete and incorrect. The City is very concerned that the Navy's appraisal of the lease value did not consider either the City indirect costs associated with management of the cruise ship impacts, nor more importantly the several federal laws which govern strictly the manner and purposes for which cruise ship passenger revenues must be spent. The Dormant Commerce Clause of the United States Constitution, as well as the Tonnage Clause, and the language in the Maritime Transportation Security Act are directive and clear, and must be consulted by the appraiser to arrive at a true fair market value.

From the City's perspective, now that we have had the opportunity for this frank discussion, the only true partner the Navy has in effectively managing the Outer Mole for the public benefit of the City and the Navy is the City. Based upon representations made by Mr. Yonce that the Navy would entertain a counter proposal, the City offers the following as an alternative as the basic financial/economic components for the basis of a lease to be quickly negotiated.

1. Based upon reaching accord on lease principles, a 6 month extension of the existing license, for expiration on June 30, 2014.
2. Based upon projected levels of passenger disembarkation and assuming the present method of Port Operations and Management a 50% Navy and 50% City split of the net revenues after deduction of all direct and indirect costs.
3. For the in kind service projects, the City will provide services only for projects within the Monroe County, or make the appropriate payment to the Navy.
4. A five year term, with three successive five year terms.

Near the end of the conversation all involved realized that while the Navy could put the lease out to bid to a private entity to manage the Outer Mole, both City and Navy realize there has been a commitment made to the cruise industry and 74 ships that are scheduled to use the Outer Mole for the remainder of the fiscal



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2013/2014, if the Pier B facility is not available. In order not to disrupt the set schedules of the cruise industry and to prevent a future "souring" of the cruise industry as to the continued availability of the Outer Mole, the parties recognized the need for a transition plan if no lease could be reached. That transition plan must be at least 12 months in length, and be a license agreement in order to preserve the revenue sharing presently in place.

As requested by the Navy team we have presented this counter proposal by today's date and hope that we can reach even a very temporary accord in order not to negatively impact the expected visitors who will be coming to the City on cruise ships beginning early January 2014.

Very truly yours,


Bogdan Vitas Jr., City Manager

Cc: Mayor Craig Cates, City of Key West
Commanding Officer, NAS Key West
Shawn Smith City Attorney, City of Key West
Ron Demes, NAS Key West

CITY OF KEY WEST
 FY 12-13 BUDGET
 CRUISESHIP BUDGET - ACTUAL SUMMARY

	Mallory	Pier B	Mole	Anchorage	Total
Revenues					
Disembarkation Fees					
Actual Passenger Arrivals	24,684	567,456	141,277	-	733,417
Disembarkation Rate / Pass.	\$ 10.00	\$ 2.50	\$ 10.00		
Subtotal	246,840	1,418,640	1,412,770		3,078,250
Security Surcharge					
Actual Passenger Arrivals	24,684	567,456	141,277		733,417
Port Security Rate / Pass.	\$0.63	\$0.00	\$0.63		
Subtotal	15,551	-	89,005		104,555
Disembarkation Fees Total	\$ 262,391	\$ 1,418,640	\$ 1,501,775		\$ 3,182,805
Additional Security Surcharge	0	0	\$ 22,000		\$ 22,000
Cruiseship Utilities					
001-0000-344.21 (Mallory)	3,425	0	0		3,425
Dockage Fees					
Based on tonnage rates	10,626		31,503		42,129
Revenue Subtotal	\$ 276,442	\$ 1,418,640	\$ 1,555,277		\$ 3,250,359
Revenue Offset:					
Outer Mole Navy Lease					
Gross Revenue Total (calculated above)	N/A	N/A	\$ 1,444,273		\$ 1,444,273
Rate	N/A	N/A	40%		40%
Revenue Offset Subtotal	0	0	\$ (577,709)		\$ (577,709)
Revenue Total	\$ 276,442	\$ 1,418,640	\$ 977,568	\$ -	\$ 2,672,650
Actual Transportation Costs	\$ -	\$ -	\$ 501,232	\$ -	\$ 501,232
Actual Class D Security Costs * (Mallory and Outer Mole Combined)	\$ 6,063	\$ -	\$ 34,355	\$ -	\$ 40,418
Certified PD Officers *	\$ 63,000	\$ -	\$ 375,000	\$ -	\$ 438,000
Port Admin Coordinator **	\$ 11,000	\$ 11,000	\$ 33,000	\$ -	\$ 55,000
Operating Costs ***	\$ 7,761	\$ -	\$ 43,984	\$ -	\$ 51,745
Indirect Costs ****	\$ -	\$ -	\$ -	\$ -	\$ -
Direct Expenses					
Expense Total	\$ 87,824	\$ 11,000	\$ 987,571	\$ -	\$ 1,086,394
Net Income/(Loss)	188,618	1,407,640	(10,002)	0	1,586,256

* Based on a 15/85 Percent Split between Mallory and Outer Mole. Based on Passenger Count for those 2 venues

** Based on a 20/20/60 Percent Split between Mallory, Pier B and Outer Mole. Based on Level of Effort

*** Based on a 15/85 Percent Split between Mallory and Outer Mole. Based on Passenger Count for those 2 venues

**** No recognition of Indirect Costs