



THE CITY OF KEY WEST

3140 Flagler Ave Key West, FL 33040 (305) 809-3700

EXECUTIVE SUMMARY

TO: Bob Vitas, City Manager

FROM: Doug Bradshaw, Port and Marine Services Director

CC: Craig Cates, Mayor
Shawn Smith, City Attorney
David Fernandez, Asst. City Manager
Mark Finigan, Asst. City Manager
Don Craig, Planning Director

DATE: January 15, 2014

SUBJECT: Resolution approving the acceptance of the Public Benefit Lease Agreement Between the United States of America and the City of Key West for use of the US Navy Outer Mole Pier

ACTION STATEMENT:

This Resolution accepts the Public Benefit Lease Agreement Between the United States of America and the City of Key West for use of the US Navy Outer Mole Pier.

BACKGROUND:

The City has completed an exhaustive negotiation process with the Navy for continued berthing of cruise ships at the Navy's Outer Mole. The existing lease expired in June 2013 but was extended through the end of January 2014 with a license agreement. The Navy has presented the City with its best and final offer (see attached). The basis of the agreement is similar to the current lease expect for the payment terms and restrictive use of proceeds:

Existing Lease: 40% of gross revenues (\$4 per passenger), no guarantee minimum dollar amount

Proposed Lease: \$3.75 per passenger for the first 200,000 passenger, \$3.50 per passenger thereafter, but in no case less than fair market value of \$225,000 per year (Section 3.1). In lieu of paying rent the Navy can direct the City to perform in kind projects within Monroe County in an equivalent dollar amount as would be collected per passenger.

Based on the lease being a public benefit lease the proceeds from the lease must be used for the development and maintenance of a waterfront park along Truman Harbor, Key West, specifically for the development and sustainment of an athletic field, walkways, jogging trails, interactive water feature, public utilities to serve the park, public restrooms, park furniture, park lighting, landscaping and green open space for public recreational purposes.

Key to the Caribbean – Average yearly temperature 77° F.

RESOLUTION SUMMARY

Other terms of the agreement:

- Lease Area: 800 linear feet of the outer portion of the Mole Pier (Section 1)
- Term: 5 years with 3 five year extensions (Section 2)
- \$200,000 Performance/Security Bond required by Navy in the form a standby letter (Section 4)
- Termination: Navy or City can terminate lease for any reason with a ninety (90) day notice (Section 15)

The following is a timeline of the negotiation process (all backup documents are attached)

- June 8, 2012: City request that discussions begin on a new long term lease for use of the outer mole
- October 12, 2012: Navy request that the City not develop a marina within the Truman Harbor Development Zone
- October 16, 2012: City adopts the Master Plan for the Truman Waterfront without a marina
- October 25, 2012: Navy releases public solicitation seeking interest for future use of the outer mole and indicates it will be competitively bid
- November 2, 2012: Navy officially notifies the City of the solicitation
- November 29, 2012: City responds to Navy's release of solicitation and indicates City's interest in property
- December 7, 2012: Navy acknowledges City's interest in the property, indicates that the existing lease will not be renewed, but City can submit information supporting a Public Benefit Lease (PBL)
- December 12, 2012: City notifies Navy that it will respond to the December 7 letter for info concerning PBL
- January 18, 2013: City lays out plans for a PBL to the Navy
- January 24, 2013: Navy discusses PBL and use of proceeds for the Truman Waterfront
- February 7, 2013 City officially request the PBL
- February 20, 2013: Navy asks for additional info on plan for PBL
- February 25, 2013: Navy closes Truman Harbor
- February 28, 2013: City provides additional info requested in Feb 20 letter
- March 6, 2013: Navy asks for additional info based on info provided in Feb 28 response
- March 11, 2013: City acknowledges March 6 letter
- March 12, 2013: Navy follows up their March 6 letter with request for additional info
- March 18, 2013: City provides additional info as requested in March 6 and 12 letters
- May 16, 2013: Navy agrees to enter into exclusive negotiations with the City for a PBL
- May 31, 2013: Navy presents City will draft PBL with no terms as the fair market value appraisal had not been completed
- September 20, 2013: City responds to PBL with terms as follows:
 1. Recognition of the loss of the Truman Harbor Development Zone (marina)
 2. 20 year term with one 20 year option
 3. Net Revenue sharing, 1-5 year City retains 100% proceeds, 6-10 year 90/10 City/Navy split, 11-20 year 75/25 City/Navy split
 4. Allow passengers to walk off pier
- November 19, 2013: Navy counter offers

1. \$4.00 per passenger for the first 200,000 passenger, \$3.50 per passenger thereafter, but in no case less than fair market value of \$225,000 per year (Section 3.1). In lieu of paying rent the Navy can direct the City to perform in kind projects within the Navy's southeastern division in an equivalent dollar amount as would be collected per passenger.
 2. 5 year term with three 5 year options
 3. Passengers cannot walk off pier
- December 18, 2013: City counter offers:
 1. 50/50 split of net revenue
 2. In-kind projects can only be in Monroe County
 - January 9, 2014: Best and final offer from the Navy

FINANCIAL IMPACT:

The City is expecting approximately 140,000 passengers at the outer mole this budget year so the \$3.75 rate will apply. The City does not anticipate exceeding the 200,000 passenger threshold. Based on 140,000 passengers and only recognizing direct expenses, staff feels this lease is a "break even" lease at best. Once indirect expenses are factored into the calculation, staff fully expects the City to lose money under the proposed lease; as is the present case.

PURPOSE & JUSTIFICATION:

Staff recognizes that even though this is a break even lease, cruise ships can provide additional benefits to the City, local businesses and its citizens including jobs, return tourist, and sales tax.

The City currently has cruise ships scheduled to dock at the outer mole up to two (2) years out. Accepting the lease would allow the City to continue uninterrupted docking of those ships and scheduling of new ships.

OPTIONS:

Based on discussions with the Navy, staff feels that there is no additional room for negotiations so there are only two options at this point:

1. Accept the negotiated lease
2. Reject the negotiated lease

If the lease is rejected staff fully expects that the Navy will discontinue allowing the City to use the outer mole on January 31, 2014 at the conclusion of the current license agreement and scheduled ships could be cancelled. Staff feels this would severely damage the existing relationships the City has with the cruise ship industry perhaps even impacting both Pier B and Mallory Square Pier in the near future.

RECOMMENDATION:

Staff recommends that the City accept the lease in order to allow uninterrupted docking of currently scheduled cruise ships.