

MARITIME PARK

development partners LLC

Delivered via e-mail and facsimile

April 5, 2010

Mr. Edward E. Spears
Neighborhood & Economic Development Administrator
City of Pensacola
180 Governmental Center
P.O. Box 12910
Pensacola, Florida 32521

Re: Public records request for financial statements and associated information submitted by or on behalf of Maritime Park Development Partners, LLC ("MPDP"), Rick Rodriguez, MAGI Realty Inc. and Brass Real Estate Funds that may have submitted financial statements to the City of Pensacola ("City") or Community Maritime Park Associates, Inc. ("CMPA") which was provided either as required by the City/CMPA or in conjunction with a response to a relevant proposal involving Community Maritime Park (for the subject of this correspondence, the term "proposal" means from the time the City/CMPA sought relevant proposals through the execution of the Development Agreement with MPDP and to present in the process to secure services for construction of Community Maritime Park; and the term "Community Maritime Park" means the fairly described 'public works project' which comprises the subject matter and activities addressed in the Development Agreement between the City/CMPA and MPDP)

Dear Mr. Spears,

This correspondence is provided in response to your April 2 memorandum concerning a public records request for the above-referenced financial statements and associated information posited to you by a third party under Florida's very broad public records law. For the purpose of this correspondence and our response, we recognize you as the relevant public records custodian. We also understand that you have an obligation not to disclose records and information that are exempt from dissemination to the public and respectfully submit to you that you should not disclose the above-referenced financial statements and information to the public.

The above-referenced financial statements and information are exempt as they were provided to the City/CMPA either as required by the City/CMPA or in conjunction with the response

to a proposal for a significant community public works project – Community Maritime Park. The relevant exemption is Section 119.071(1)(c), Florida Statutes:

(c) Any financial statement that an agency requires a prospective bidder to submit in order to prequalify for bidding or for responding to a proposal for a road or any other public works project is exempt from s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution.

For your ready reference, I am also attaching to this correspondence the relevant statutory and constitutional provisions.

In your memorandum, you state that MPDP somehow has an obligation to indemnify, hold harmless and defend the City/CMPA with regard to your obligation as custodian of certain public information. MPDP is not aware of any obligation to undertake a defense or indemnify the City/CMPA for its acts as custodian associated with information it possesses which is claimed in good faith as exempt from dissemination to the public under law. In the spirit of cooperation, kindly cite to us the relevant and specific authority for such a statement which somehow would make MPDP responsible for undertaking your responsibilities and actions as a public information custodian in this regard. The information requested is possessed by you, and you have the responsibility as custodian to act to assert a valid exemption.

Stated plainly, you are the records custodian, you possess financial statements and associated information which are exempt from dissemination to the public pursuant to Section 119.071(1)(c), Florida Statutes, this correspondence is intended to fairly place you on notice that we provided the information in good faith for business purposes associated with this public works project and object to the release of such information to the general public, and that we respectfully reserve all rights if this information is improperly released to the public.

Thank you for your careful attention to this matter.

Sincerely,



Jeff Galt
President