



LOZIER THAMES FRAZIER & SPENCER, P.A.
ATTORNEYS AT LAW

COPY

October 16, 2009

VIA REGULAR U.S. MAIL

Susan A. Woolf
Assistant City Attorney
222 W. Main Street
Pensacola, FL 32502

**Re: Pitt Slip Marina Lease Agreement dated September
18, 1985, as amended**

DANIEL R. LOZIER*

WILLIAM K. THAMES, II

PAMELA K. FRAZIER

CRYSTAL C. SPENCER*

24 West Chase Street
Pensacola, FL 32502-5614

Mailing Address:
Post Office Box 408
Pensacola, FL 32591-0408

850-469-0202
Fax: 850-469-0006

www.LTFLaw.com

Dear Ms. Woolf:

I understand you have had recent communications with attorney Lawrence Schill with Merrill Land Company concerning the referenced lease and its renewal. As Mr. Schill explained, our client Marina Management Corporation is the lessee under referenced lease and Merrill Land Company is a sub-lessee of our client. The purpose of this letter is to outline the intended renewal of the referenced lease.

The original lease, as you know, sets forth two (2) different lease terms and two (2) different renewal procedures for two (2) different portions of the leased premises. This was done because one portion was at the time owned by the city while the other portion was at the time, owned by the state and leased to the city. The portion owned by the city is leased for a thirty (30) year term which expires on midnight September 17, 2015. As to this portion, the lease is renewed with written notice to the city at least one year prior to the expiration of the term. The other portion which was owned by the state and leased by the city, was sub-leased for a thirty (30) year term which can be renewed for successive five (5) year terms presumably with notice to the city but the lease does not explicitly require notice.

The reason for different treatment of the two (2) portions is that the city could not grant a sub-lease of the property owned by the state except on the same terms as given to the city by the state. Presumably, the state's lease to the city provided for successive five (5) year renewals.

* Board Certified Tax Attorney
Florida Supreme Court Certified Mediator

Florida Supreme Court Qualified Arbitrator
Florida Supreme Court Certified Mediator

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dated September 18, 1985, as amended
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Nonetheless, it is clear that what was intended was for the initial lease term to be thirty (30) years for both portions and that both portions could be renewed for a thirty (30) year term upon expiration of the initial term. That this was intended can be seen in paragraph (B) of Article II of the lease which provides for renewal of the entire lease without drawing a distinction between the portions of property leased.

Shortly after the original lease was executed, it was learned that the portion owned by the state and leased to the city did not have a thirty (30) year term remaining as of the date the original lease was signed but rather only had a twenty-seven (27) year term remaining. For this reason, the original lease was amended October 17, 1985 to make the term consistent with the remaining twenty-seven (27) term of the lease between city and the state. This explanation is actually provided in the third paragraph of the amendment dated October 17, 1985.

Since the city was required to make rental payments to the state for the state owned portion, the original lease as well as the amendment also provided for these charges to be passed through to the tenant which, in turn, would reimburse the city whatever amounts the city had to pay the state.

Obviously, because the entire project was constructed on both city owned land as well as state owned land, the separate ownership of the land created complications. To simplify matters and to eliminate these complications, and in order to fulfill the intended purpose of having a thirty (30) year lease of the entire project with a thirty (30) year renewal term for the entire project, the city approached the state and arranged to have the state transfer the state owned property to the city. This transfer was accomplished by a deed dated July 25, 1990 and recorded in OR Book 2888, Page 963. Enclosed is a copy of that deed for your records. Since the city now owns the land and is not required to make any payments to the state, there are no pass through expenses to be reimbursed to the city by the tenant and the land is no longer subject to successive five (5) year renewals as earlier imposed by the state.

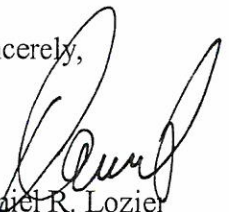
While this history is somewhat complex, it is clear that the various state and city agencies involved work cooperatively with one another for the purpose of assembling the various portions of property into one package for the purpose of developing the Marina project. Accordingly, we believe the tenant may renew and it is our intention to renew the lease of all properties associated with the marina for an additional thirty (30) year term beginning on expiration of the initial term and ending on midnight September 17, 2045. To avoid confusion in the future, we believe that it would also be appropriate for the city and the tenant to execute a memorandum of lease ratifying and confirming these terms to be recorded in the public records. Finally, because the threshold for payment of percentage rents based on gross sales was never met since the inception of the lease, we believe these provisions are inapplicable to the lease and should be deleted. These provisions simply impose

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additional accounting responsibilities on the city and the tenant with no benefit to either.

If you have questions or would like to discuss this further, please do not hesitate to contact me. Thank you for your consideration.

Sincerely,


Daniel R. Lozier

DRL/blt

Enclosures

cc: Lawrence Schill (w/ encl.)

COPY

EXHIBIT - MAPS

2888 963

STATE OF FLORIDA)
COUNTY OF ESCAMBIA)

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that the HISTORIC PENSACOLA PRESERVATION BOARD OF TRUSTEES, an agency of the State of Florida, for and in consideration of Ten Dollars and other good and valuable consideration, the receipt whereof is hereby acknowledged, does bargain, sell, convey and grant unto CITY OF PENSACOLA, a municipal corporation of Florida, whose tax identification number is _____ and whose address is Post Office Box 12910, Pensacola, Florida 32521, its successors and assigns, forever, the following real property, situated, lying and being in the County of Escambia State of Florida, to-wit:

ALL OF LOTS 1 THROUGH 10, 21 AND 22, AND THE WEST 20 FEET OF LOTS 11 THROUGH 20, BLOCK 8, WATERFRONT GRANT, ACCORDING TO MAP OF CITY OF PENSACOLA, BY THOMAS C. WATSON COPYRIGHTED IN 1906. MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT THE NORTHWEST CORNER OF BLOCK 8, WATERFRONT GRANT, ACCORDING TO MAP OF CITY OF PENSACOLA BY THOMAS C. WATSON COPYRIGHTED IN 1906, SAID POINT ALSO BEING THE INTERSECTION OF THE EASTERLY RIGHT OF WAY LINE OF BARRACKS STREET (60' R/W) AND THE SOUTH RIGHT OF WAY LINE OF CEDAR STREET (60' R/W); THENCE GO NORTH 79 DEGREES 25 MINUTES 49 SECONDS EAST ALONG THE NORTH LINE OF THE AFORESAID BLOCK 8 A DISTANCE OF 175.00 FEET; THENCE GO SOUTH 10 DEGREES 34 MINUTES 11 SECONDS EAST A DISTANCE OF 250.00 FEET TO A POINT ON THE SOUTH LINE OF THE AFORESAID BLOCK 8; THENCE GO SOUTH 79 DEGREES 25 MINUTES 49 SECONDS WEST ALONG THE AFORESAID SOUTH LINE A DISTANCE OF 175.00 FEET TO A POINT ON THE AFORESAID EASTERLY RIGHT OF WAY LINE OF BARRACKS STREET; THENCE GO NORTH 10 DEGREES 34 MINUTES 11 SECONDS WEST ALONG THE AFORESAID EASTERLY RIGHT OF WAY LINE A DISTANCE OF 250.00 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED PARCEL IS SITUATED IN SECTION 46, TOWNSHIP 2 SOUTH, RANGE 30 WEST, ESCAMBIA COUNTY, FLORIDA.

(Parcel Tax Identification # _____)

AND ALSO:

THE EAST 110 FEET OF LOT "J", IN THE OLD CITY OF PENSACOLA, SAID LOT FRONTING EAST UPON SEVILLE SQUARE, ACCORDING TO THE PLAN OF SAID CITY COPYRIGHTED BY THOMAS C. WATSON IN 1903, BEING THE SAME PROPERTY CONVEYED BY THE CHURCH WARDENS AND VESTRYMEN OF CHRIST'S CHURCH IN PENSACOLA TO THE CITY OF PENSACOLA BY DEED DATED AUGUST 28, 1936, AND RECORDED IN DEED BOOK 144, AT PAGE 242, OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA.

(Parcel Tax Identification # _____)

Subject to taxes for current year and to valid easements and restrictions of record affecting the above property, if any.

TO HAVE AND TO HOLD, unto the Grantee, its successors and assigns forever. Together with all and singular the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining, free from all exemptions and right of homestead. And the said corporation covenants that it is well seized of an indefeasible estate in fee simple in said property and has a good right to convey the same; that it is free from all encumbrances and that it, its successors and assigns, the said Grantee, its successors and assigns, in the quiet and peaceful possession and enjoyment thereof, against all persons lawfully claiming the same, shall and will forever warrant and defend, subject to the exceptions set forth above.

IN WITNESS WHEREOF, the said Grantor, in pursuance of due and legal action of its Board of Trustees, has executed these presents this 25 day of July, 1990.

HISTORIC PENSACOLA PRESERVATION BOARD OF TRUSTEES, an agency of the State of Florida

Attest:

Michael P. [Signature]
Its Secretary

By: [Signature]
Its Chairman

28887 964

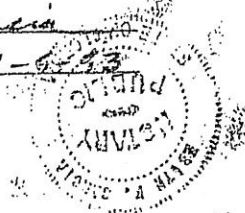
STATE OF FLORIDA
COUNTY OF ESCAMBA

The foregoing instrument was acknowledged before me this 25 day of July, 1980, by J. Earle Bowden and Manda P. Lindstrom as Chairman and Secretary, respectively, of HISTORIC PENSACOLA PRESERVATION BOARD OF TRUSTEES an agency of the State of Florida, for and on behalf of said agency.

Earle F. Bowden
Notary Public

My commission expires: 1-6-83

This instrument prepared by:
James J. Reeves
Attorney at Law
730 Bayfront Parkway, Suite 4-B
Pensacola, FL 32501



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LOZIER THAMES & FRAZIER, P.A.
ATTORNEYS AT LAW

February 28, 2011

VIA REGULAR U.S. MAIL

Susan A. Woolf
Assistant City Attorney
222 W. Main Street
Pensacola, FL 32502

**Re: Pitt Slip Marina Lease Agreement dated September 18,
1985, as amended**

DANIEL R. LOZIER*

WILLIAM K. THAMES, II

PAMELA K. FRAZIER

DIANE M. LONGORIA

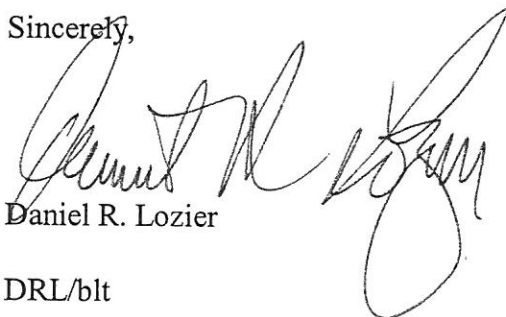
CANDACE O. MCIVER, R.N.
Nurse Paralegal

Dear Ms. Woolf:

I am writing as a follow up to my earlier correspondence, a copy of which is enclosed for your convenience. As this matter is somewhat complex, we would like to address it well in advance of the current lease expiration date. If you would, please review this matter and give me a call so that we may discuss how next to proceed.

Thank you for your consideration.

Sincerely,



Daniel R. Lozier

DRL/blt

Enclosures

cc: Marina Management Corporation (w/o encl.)
Lawrence Schill (w/o encl.)
Ashton J. Hayward, Mayor (w/ encl.)

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Office of
City Attorney

City of
Pensacola

*America's First Settlement
Established 1559*

March 3, 2011

Daniel R. Lozier, Esquire
Lozier Thames & Frazier, P.A.
25 W. Chase Street
Pensacola, Florida 32502-5614

Re: Pitt Slip Marina Lease Agreement dated September 18, 1985, as amended

Dear Mr. Lozier:

I am in receipt of your letter dated February 28, 2011, regarding the above-referenced lease. After receiving your letter of October 16, 2009, I reviewed your letter and the file on the Pitt Slip Marina lease agreement and provided information to the City Manager at that time. I have again called this matter to the attention of the Mayor.

Sincerely yours,



Susan A. Woolf
Assistant City Attorney

SAW/jlm

cc: Ashton J. Hayward, III, Mayor
Lawrence Schill, attorney for Merrill Land Company