



CITY OF PORT ST LUCIE

COUNCIL AGENDA MEMORANDUM

Agenda Item #: 13C

Meeting Date: 12/12/16

TO: Mayor and City Council

VIA: Russ Blackburn, City Manager *RB*

FROM: O. Reginald Osenton, City Attorney *RO*

Agenda Item: Motion: Request to Enter into a Parking Lot Lease Agreement between the City of Port St. Lucie and Michael I. Goldberg, in his capacity as Court-Appointed Receiver for US1 Real Estate Developments, LLC, for the Open Parking Lot, Consisting of 1.32 Acres, Located at 9300 S. US Highway 1, Port St. Lucie, Florida 34952; Parcel ID: 3435-803-0014-000-1

Submittal Date: 12/9/2016

STRATEGIC PLAN LINK: Principle 4: City Center and US 1; Goal 1: Financially Sound City, High Performance City Organization; Goal 5: Expanded Leisure Activities

BACKGROUND: The City of Port St. Lucie Civic Center is presently utilizing and maintaining the open parking lot, consisting of 1.32 acres, located at what is commonly known as 9300 S. US Highway 1, Port St. Lucie, Florida 34952 which is under the control and purview of Michael I. Goldberg, in his capacity as court-appointed receiver for US1 Real Estate Developments, LLC.

ANALYSIS: The attached Parking Lot Lease Agreement is presented for City Council consideration. The impetus behind the entry of such a Lease Agreement is to permit the City and the Civic Center to have continued use and access to the open parking lot for staff and patrons and to limit the exposure and liability of the court-appointed receiver by the City's use of such property. The proposed Parking Lot Lease Agreement is presented for authorization and approval in substantially the same form as attached. The relevant terms of the proposed agreement are as follows: (1) The City and Civic Center will have continued use of the open parking lot for a term of six (6) months with automatic renewal for successive six (6) month periods; (2) City will pay the total sum of One Dollar (\$1.00) as and for rent for the initial term of the Lease and each successive renewal term; (3) City shall maintain the leased premises in substantially the same condition of repair and appearance as presently existing; (4) City shall have possession of the leased premises for use by

the City's employees, invitees, agents, consultants, affiliates, guests, and third party assignees, sublessees and designees, as a parking lot and other uses for purposes related to events held at the City's Civic Center; and (5) City shall carry a policy of general liability insurance coverage for the leased premises and shall maintain such coverage during the term of the Lease and any renewal thereof. The insurance policy shall name the receiver as an additional insured.

FINANCIAL INFORMATION: One Dollar (\$1.00) rent to be paid by the City per initial term and any successive renewal term. City shall bear the cost of carrying the general liability insurance coverage, naming the receiver as an additional insured, for the leased premises during the term of the Lease and any renewal thereof.

LEGAL INFORMATION: Proposed Parking Lot Lease Agreement has been reviewed by Azlina Goldstein Siegel, Special Legal Counsel and has been reviewed and approved as to legal form and sufficiency by O. Reginald Osenton, City Attorney.

STAFF RECOMMENDATION: Recommend approval of the proposed Parking Lot Lease Agreement in substantially the same form as attached.

SPECIAL CONSIDERATION: The City's insurance carrier requires the execution of a Lease for the premises in order to maintain the liability coverage for the property. Said Lease must be fully executed within thirty (30) days of the effective date of coverage. The policy of liability insurance for this property became effective November 30, 2016.

PRESENTATION INFORMATION: N/A

REQUESTED MEETING DATE: 12/12/2016

LOCATION OF PROJECT: Open parking lot, consisting of 1.32 acres, located at 9300 S. US Highway 1, Port St. Lucie, Florida 34952; Lot 7 of the Plat entitled City Center 1st Replat; Parcel ID: 3435-803-0014-1000-1

ATTACHMENTS: 1. Proposed Parking Lot Lease Agreement

RECEIVED

DEC 09 2016

CITY MANAGER'S OFFICE

ATTACHMENT

“1”

(to Council Agenda Memorandum)

PARKING LOT LEASE AGREEMENT

THIS PARKING LOT LEASE AGREEMENT (the "Lease") is made this ____ day of _____, 2016 ("Effective Date") by and between Michael I. Goldberg, in his capacity as court-appointed Receiver for US1 Real Estate Developments, LLC (the "Receiver"), and the City of Port St. Lucie, a Florida municipal corporation (the "City").

In consideration of the mutual promises and covenants contained in this Lease, Receiver and City agree as follows:

1. The Premises.

Receiver hereby leases to City, and City accepts and leases from Receiver, that certain parcel of land presently being used as an open parking lot, consisting of 1.32 acres, and located at what is commonly known as 9300 S. U.S. Highway #1, Port St. Lucie, Florida 34952 (the "Leased Premises"). The Leased Premises is more specifically described as follows:

Lot 7 of the Plat entitled City Center 1st Replat, according to the Plat thereof recorded in Plat Book 60, Page 16, of the Public Records of St. Lucie County.

Parcel Identification Number: 3435-803-0014-000-1

2. Term.

The term of this Lease shall be for a period of six months, commencing on the ____ day of _____, 20__ through the ____ day of _____, 20__, (the "Initial Lease Term") unless terminated earlier in accordance with the terms of this Lease. At the end of the Initial Lease Term, this Lease shall automatically renew for successive periods of six months each unless either party gives written notice of nonrenewal to the other party at least Thirty (30) days prior to the end of the initial or any renewal term.

3. Rent.

City will pay Receiver the total sum of \$1.00 as the rent for the initial term and each successive renewal term(s).

4. Maintenance of Leased Premises.

City shall maintain the Leased Premises in substantially the same condition of repair and appearance existing at the beginning of the initial term, ordinary wear and tear and casualty excepted. City shall not make any alterations, additions or improvements to the Leased Premises without the prior written approval of Receiver.

5. Possession of Leased Premises.

Possession of the Lease Premises shall be delivered to City for use by the City's employees, invitees, agents, consultants, affiliates, guests, and third party assignees, sublessees and designees, as a parking lot and other uses for purposes related to events held at the City's Civic Center.

6. Insurance.

The City presently carries a policy of liability insurance covering its municipal properties. Effective November 30, 2016, the City bound general liability coverage for the Leased Premises and shall maintain such coverage during the term of this Lease or any renewal thereof. The insurance policy shall name the Receiver as an additional insured.

7. Indemnification. The City shall indemnify and hold the Receiver harmless from and against any and all claims arising out of the City's possession and use of the Leased Premises or any third party's use of the Premises during the Term of this Lease.
8. Compliance with Laws.
Throughout the term of this Lease, City, at its sole cost and expense, shall comply with any and all laws, regulations and ordinances that are applicable to the Leased Premises or any part thereof.
9. Termination.
This Lease shall terminate upon either party giving the other party thirty (30) days written notice of termination.
10. Use of Leased Premises by Third Parties.
The Parties acknowledge that various civic, art and community events and functions have previously and will in the future utilize the Leased Premises as a parking lot or excess space for uses related to such events, and the Receiver agrees that the City may permit such uses in the future pursuant to terms the City may determine, in its sole discretion, appropriate and lawful.
11. Quiet Enjoyment.
Upon City's observance and performance of all the covenants, terms and conditions to be observed and performed pursuant to this Lease, City shall peacefully and quietly hold, occupy and enjoy the Leased Premises free of any interference by Receiver.
12. Notices.
All notices sent or required to be sent hereunder shall be sent in writing by certified mail, return receipt requested, postage prepaid, to the following addresses:

<p>If to Receiver:</p> <p>Michael I. Goldberg, Esq., Receiver AKERMAN, LLP 350 East Las Olas Boulevard Suite 1600 Fort Lauderdale, FL 33301</p>	<p>If to City:</p> <p>City Manager CITY OF PORT ST. LUCIE 121 SW Port St. Lucie Boulevard Port St. Lucie, FL 34984</p> <p>With a copy to:</p> <p>City Attorney CITY OF PORT ST. LUCIE 121 SW Port St. Lucie Boulevard Port St. Lucie, FL 34984</p>
---	--

13. Authority.
This Lease Agreement does not, and is not intended to, prevent or impede the City from exercising its legislative or administrative authority as the same may affect the Leased Premises.
14. Captions.
The captions used herein are for convenience only and shall not be relied upon in construing this Lease Agreement.

15. Surrender.

City shall (a) on the last day of the term hereof (including the final Renewal Term, if any), (b) upon any earlier termination permitted under this Lease, and (c) upon any permitted entry or re-entry by Receiver upon the Leased Premises, peaceably leave and surrender the Leased Premises into the possession and use of Receiver without delay in good order, condition and repair without violations, reasonable wear and tear and casualty excepted. If City has made additions, alterations or modifications to the Leased Premises, City shall remove such additions, alterations or modifications, at its expense, upon such surrender.

16. Sole Agreement and Effectiveness.

This Lease constitutes the sole and only agreement between the parties and supersedes any prior understandings or other agreements between the parties regarding the Leased Premises. This Lease shall not be deemed effective until this Lease is duly approved and authorized by the City Council of the City of Port St. Lucie.

17. Amendment.

No amendment, modification or alteration of the terms of this Lease shall be binding unless the same shall be in writing and duly executed by the parties.

18. Counterparts.

This Lease may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Lease to be executed as of the day and year first above written.

CITY OF PORT ST. LUCIE

BY: _____
Gregory J. Oravec, Mayor

ATTEST:

Karen A. Phillips, City Clerk

APPROVED AS TO FORM:

O. Reginald Osenton, City Attorney

RECEIVER

Michael I. Goldberg