

Special Meeting of The Maritime Authority

November 9, 2017, 5:30 p.m.

Room 236, City Hall

Present: Authority Members, Chair Donna King, Shannon O'Toole Giandurco, Amy Bien, John Igneri

Staff: Diane Beltz Jacobson, City Attorney

Meeting called to order: 5:28 p.m.

Discussion ensued regarding the proposed first amendment to the lease by and between the City of Norwalk and the Maritime Aquarium. Ms Beltz Jacobson answered questions about the changes and recommended passage of the amendment. The amendment shall direct and authorize the State to make payments directly to the Aquarium as they become available during the construction of the Walk Bridge.

Copy of the summarizing document is attached.

Motion to approve the amendment and refer to the Common Council was made by John Igneri and seconded by Shannon O'Toole Giandurco. The motion passed by a unanimous vote.

Motion to adjourn by John Igneri, seconded by Shannon O'Toole Giandurco. Passed unanimously.

Meeting adjourned 5:43 p.m.

Minutes taken by Donna King

MEMORANDUM SUMMARIZING TERMS OF PROPOSED FIRST AMENDMENT TO LEASE BY AND BETWEEN CITY OF NORWALK, THE MARITIME AQUARIUM AT NORWALK AUTHORITY AND THE MARITIME AQUARIUM AT NORWALK.

The City of Norwalk created the Maritime Aquarium At Norwalk Authority (originally the Norwalk Maritime Center Authority) in 1985 by enacting Chapter 70 of the Norwalk Code. The initial purpose of the Authority was to assist in the development of the Maritime Center along the waterfront areas of the City on property located at 10 North Water Street (the Property). One specific way in which the Authority assisted was to issue bonds to fund the development of the Property into a maritime aquarium and educational facility designed for the use, enjoyment and benefit of the public.

Thereafter the City leased the Property to the Authority in order to facilitate the development of the Maritime Aquarium and the Authority, in 1986, executed a sublease of the Property with what was then known as the Maritime Center. That Sublease was subsequently modified and amended at various times from 1988 to 2001. Most recently, the City of Norwalk (“the City”), the Maritime Aquarium At Norwalk Authority (“the Authority”) and the Maritime Aquarium At Norwalk, Inc. (“The Aquarium”), executed an Amended and Restated Lease dated December 2, 2014, for the Property which amended and restated, in its entirety, the Original Lease in order to reflect the current relationship between the parties. The intent of this 2014 document was both to have its provisions replace the Original Lease and to extend the effective term through July 29, 2031.

This past year the State of Connecticut approached the City and the Aquarium regarding its plans for the reconstruction of the Walk Bridge (“The Project”) and the potential impact the Project would have on the Property. Specifically, the State contemplates that for purposes of the Project it will (1) take, by eminent domain, the land on which the IMAX Theater currently sits; (2) raze the IMAX Theater building; and (3) take an additional portion of the Property by eminent domain for temporary and permanent easements along the Norwalk River necessary to create a right-of-way in favor of the State for purposes of its planned construction activities. Based on its review and assessment of the proposed Plans, the Aquarium determined that in order to withstand the impact of the Project and, in particular, to ensure the proper care and survival of its animals, protect the safety of its staff and visitors and continue to operate as a regional educational resource, it would need to relocate and /or replace certain of its facilities and assets. The First Amendment to the Lease is intended to address these changes and the impact they will have on the existing relationship between the City and the Aquarium as well as to acknowledge the changes that will have to be made to the Property and the building situated thereon.

The Material terms of the First Amendment will address the following:

1. The parties acknowledge that the State will award compensation for the “functional replacement” of certain building improvements necessitated as a result of the Walk Bridge Project and acknowledge that such compensation should be directed to the Aquarium. The City shall “direct and authorize” the State to make such payments directly to the Aquarium as they become available.

2. The specific improvements to the present building on the Property that the parties believe will be classified as “functional replacements” are generally described as including the replacement and rebuilding of the IMAX Theater and the replacement of certain of the Aquarium’s exhibits that will be displaced by the Walk Bridge Project, including the relocation of those animals impacted. The scope and details of the IMAX theater replacement/reconstruction and the relocation of the impacted exhibits are described in the attached document prepared by the Aquarium entitled “Functional Replacement” and are depicted in the plans to be presented.
3. The City will receive the award of funds from the State resulting from the condemnation and / or taking by the State of any of the real property in connection with the construction of the Walk Bridge reconstruction and ongoing maintenance. This will include awards for both temporary construction easements and permanent easements / rights of way in favor of the State across the Property.
4. The Lease is silent on whether the City will compensate the Aquarium for any unreimbursed costs it may incur in the replacement/rebuilding project that it contemplates for the IMAX Theater and its exhibits. That subject will be handled outside of the Lease and as yet has not been resolved.
5. The City will be entitled to receive any additional funds awarded by the State and not considered part of the “functional equivalent” calculation.
6. The City acknowledges in the Amendment: 1) that it has had the opportunity to review the plans for the construction of the new IMAX theater in the current North Parking Lot area (employee parking area) of the Property and the exhibit relocation plans, including the addition and new entrance construction; 2) that it generally approves of the plans subject to final construction plans complying with all applicable zoning and building code requirements, and further subject to the Aquarium obtaining all required approvals.
7. The Lease will reaffirm that the land along the Norwalk River adjacent to the Aquarium building, together with the current site of the IMAX Theater will continue to be available to the Aquarium as part of the leased Property, notwithstanding any easement to the State. However, the Aquarium acknowledges that the City as landlord will be building a walkway along the Norwalk River and performing other work as part of the Walk Bridge Project on the Property. Aquarium agrees to cooperate with City’s contractors in connection with such work.
8. The City agrees to grant Aquarium’s contractors reasonable access to the Property as may be necessary for the construction of the new IMAX Theater. The parties also agree to provide access to the contractors and representatives of the State in connection with the construction of the Walk Bridge Project.

MEMORANDUM SUMMARIZING TERMS OF PROPOSED FIRST AMENDMENT TO LEASE BY AND BETWEEN CITY OF NORWALK, THE MARITIME AQUARIUM AT NORWALK AUTHORITY AND THE MARITIME AQUARIUM AT NORWALK.

The City of Norwalk created the Maritime Aquarium At Norwalk Authority (originally the Norwalk Maritime Center Authority) in 1985 by enacting Chapter 70 of the Norwalk Code. The initial purpose of the Authority was to assist in the development of the Maritime Center along the waterfront areas of the City on property located at 10 North Water Street (the Property). One specific way in which the Authority assisted was to issue bonds to fund the development of the Property into a maritime aquarium and educational facility designed for the use, enjoyment and benefit of the public.

Thereafter the City leased the Property to the Authority in order to facilitate the development of the Maritime Aquarium and the Authority, in 1986, executed a sublease of the Property with what was then known as the Maritime Center. That Sublease was subsequently modified and amended at various times from 1988 to 2001. Most recently, the City of Norwalk (“the City”), the Maritime Aquarium At Norwalk Authority (“the Authority”) and the Maritime Aquarium At Norwalk, Inc. (“The Aquarium”), executed an Amended and Restated Lease dated December 2, 2014, for the Property which amended and restated, in its entirety, the Original Lease in order to reflect the current relationship between the parties. The intent of this 2014 document was both to have its provisions replace the Original Lease and to extend the effective term through July 29, 2031.

This past year the State of Connecticut approached the City and the Aquarium regarding its plans for the reconstruction of the Walk Bridge (“The Project”) and the potential impact the Project would have on the Property. Specifically, the State contemplates that for purposes of the Project it will (1) take, by eminent domain, the land on which the IMAX Theater currently sits; (2) raze the IMAX Theater building; and (3) take an additional portion of the Property by eminent domain for temporary and permanent easements along the Norwalk River necessary to create a right-of-way in favor of the State for purposes of its planned construction activities. Based on its review and assessment of the proposed Plans, the Aquarium determined that in order to withstand the impact of the Project and, in particular, to ensure the proper care and survival of its animals, protect the safety of its staff and visitors and continue to operate as a regional educational resource, it would need to relocate and /or replace certain of its facilities and assets. The First Amendment to the Lease is intended to address these changes and the impact they will have on the existing relationship between the City and the Aquarium as well as to acknowledge the changes that will have to be made to the Property and the building situated thereon.

The Material terms of the First Amendment will address the following:

1. The parties acknowledge that the State will award compensation for the “functional replacement” of certain building improvements necessitated as a result of the Walk Bridge Project and acknowledge that such compensation should be directed to the Aquarium. The City shall “direct and authorize” the State to make such payments directly to the Aquarium as they become available.

2. The specific improvements to the present building on the Property that the parties believe will be classified as “functional replacements” are generally described as including the replacement and rebuilding of the IMAX Theater and the replacement of certain of the Aquarium’s exhibits that will be displaced by the Walk Bridge Project, including the relocation of those animals impacted. The scope and details of the IMAX theater replacement/reconstruction and the relocation of the impacted exhibits are described in the attached document prepared by the Aquarium entitled “Functional Replacement” and are depicted in the plans to be presented.
3. The City will receive the award of funds from the State resulting from the condemnation and / or taking by the State of any of the real property in connection with the construction of the Walk Bridge reconstruction and ongoing maintenance. This will include awards for both temporary construction easements and permanent easements / rights of way in favor of the State across the Property.
4. The Lease is silent on whether the City will compensate the Aquarium for any unreimbursed costs it may incur in the replacement/rebuilding project that it contemplates for the IMAX Theater and its exhibits. That subject will be handled outside of the Lease and as yet has not been resolved.
5. The City will be entitled to receive any additional funds awarded by the State and not considered part of the “functional equivalent” calculation.
6. The City acknowledges in the Amendment: 1) that it has had the opportunity to review the plans for the construction of the new IMAX theater in the current North Parking Lot area (employee parking area) of the Property and the exhibit relocation plans, including the addition and new entrance construction; 2) that it generally approves of the plans subject to final construction plans complying with all applicable zoning and building code requirements, and further subject to the Aquarium obtaining all required approvals.
7. The Lease will reaffirm that the land along the Norwalk River adjacent to the Aquarium building, together with the current site of the IMAX Theater will continue to be available to the Aquarium as part of the leased Property, notwithstanding any easement to the State. However, the Aquarium acknowledges that the City as landlord will be building a walkway along the Norwalk River and performing other work as part of the Walk Bridge Project on the Property. Aquarium agrees to cooperate with City’s contractors in connection with such work.
8. The City agrees to grant Aquarium’s contractors reasonable access to the Property as may be necessary for the construction of the new IMAX Theater. The parties also agree to provide access to the contractors and representatives of the State in connection with the construction of the Walk Bridge Project.