

RESOLUTION NO. 09-160

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING A PAYMENT OF \$275,000 TO THE UNITED STATES TREASURY FROM FUND 602, NAVY OUTER MOLE FUND, AS REQUESTED BY THE UNITED STATES NAVY; PROVIDING FOR THE APPROPRIATE BUDGET TRANSFER TO EFFECTUATE SUCH PAYMENT; PROVIDING FOR AN EFFECTIVE DATE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the payment from fund 602, Navy Outer Mole Fund, in the amount of \$275,000.00 to the United States Treasury on behalf of the Navy is hereby authorized and ratified and the City Manger is authorized to make the correlated budget transfer.

Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 7th day of July, 2009.

Authenticated by the presiding officer and Clerk of the Commission on July 8, 2009.

Filed with the Clerk July 8, 2009.



MORGAN MCPHERSON, MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK



To: Mayor and Commissioners
From: Mark Finigan, Asst. City Manager 
Cc: Jim Scholl, City Manager
Shawn Smith, City Attorney
Date: 6/23/2009
Re: Budget Transfer Navy Outer Mole Fund.

It has been determined that in order to comply with the City's budget ordinance and Governmental budgetary accounting standards the following budget transfer is necessary. As time was of the essence the payment was made to the Navy and we are requesting budget ratification after the fact.

History

In 2004 the City entered into a lease arrangement with the Navy for the use of the Outer Mole Pier. The lease called for the Navy to be paid 40% of gross receipts from cruiship use of the outer mole. The City was to be responsible for accounting and administering these funds. To account for these funds the City created fund 602 the Navy Outer Mole Fund.

Over the years the City has made various payments to vendors for projects authorized by the Navy. In preparation of the 08-09 budget the City was unaware of any immediate funding requirements of the Navy and therefore budgeted the entire amount of available resources in the reserve account of the fund.

Currently

Recently the Navy has requested that \$275,000 be paid to the US Treasury on its behalf. The City Attorney determined that such payment did not require ratification by the City Commission. The City is only acting in a custodial or trustee capacity for these funds as the City has no legal right to these funds as they belong to the Navy. In order to meet the timing requirements of the Navy, the City issued the check.

However, in order to maintain proper budgetary compliance. The payment needs to be moved from reserves into an operating account.

Mark Finigan

From: Mark Finigan
Sent: Thursday, June 11, 2009 8:05 AM
To: Roger Wittenberg; Doug Bradshaw
Cc: Jim Scholl; David Fernandez; Raymond Archer; Trish Whitacre; Shawn D. Smith; Bethann Curry; 'Demes, Ron A CIV CNRSE, N02'; Morgan McPherson; Commissioners
Subject: Navy Requests for Funds

It is my understanding the Navy has submitted two (2) formal requests to the City for issuance of checks (to the Navy) in specified amounts from Fund 602, Navy Outer Mole Payment Fund. The Navy is planning on awarding and managing the design of two Navy projects which the Navy will subsequently direct the City to award and manage the resulting construction efforts. Yes, this is a first in which the Navy has placed a "demand" for their monies.

Roger and Doug please coordinate first thing this morning and attempt to have these checks directly vouched as part of this weeks check run. The budget for the Navy Outer Mole Payment Fund consists of a fund balance designated in a reserve account - .98. As the Navy directs projects the City has traditionally transferred the project estimate/value into a capital account within the Navy Outer Mole Payment Fund. However, since the resulting improved asset is the property of the Navy, Finance makes adjustments to clear out the expenditure accounts of all activity and adjust the City's liability / due to the Navy. In short, I do not believe a budget transfer is required. The vouching can be direct from the .98 account. Additionally, we do not need to comply with the City's purchasing and/or payment ordinance since we are not paying a vendor nor are we awarding a purchase. We are simply honoring the "demand" by the Navy for monies the City manages but does not have ownership of.

By this e-mail I am making formal notification to the Mayor and Commissioners of the City's action. Should the City Attorney determine that a resolution be put forth to ratify such a decision then he will advise and City staff will comply.

Thanks

Mark

Mark Finigan

From: Demes, Ron A CIV CNRSE, N02 [ron.demes@navy.mil]
Sent: Thursday, May 14, 2009 10:20 AM
To: Mark Finigan; Doug Bradshaw; Roger Wittenberg
Cc: Franco, Ana I LCDR NAVFAC SE; Feagin, Clarence CIV NAVFAC SE; Taylor, Robert W CIV NAVFAC SE
Subject: RE: Navy Request for Money

Mark: Per our phone call this morning, the Navy is requesting the check from the Navy cruise ship escrow account to pay for a Navy design contract. The Navy will to put a construction contract together for City construction (in-kind) execution paid from the Navy's cruise ship proceeds. Navy designs and City to do construction work all with escrow funds. City should play in the design to ensure the language and other aspects of the design are something the City is Ok with executing; i.e., language the City is familiar with. You were sent the scope as a heads-up on what will be designed/repaired.

Also, the City should be getting another request in a week for forwarding \$100,000 +/- to the Navy to pay for the ACOE recon study. The ACOE needs the funding from a federal account so we need to get it from the escrow account to send it through a federal pipeline to the ACOE. The ACOE can't take the funding directly from the City. We need to ensure the management of the project is worked out to get the City input/management anticipated.

If I can do anything to help, please let me know. I have met with the PWO and had phone call with other Navy players to run this all to ground since you sent the email.

R, ron

-----Original Message-----

From: Mark Finigan [mailto:mfinigan@keywestcity.com]
Sent: Wednesday, May 13, 2009 15:17
To: Demes, Ron A CIV CNRSE, N02
Cc: Doug Bradshaw; Roger Wittenberg
Subject: RE: Navy Request for Money

Ron - Plz advise.

Roger - Hold off until further guidance.

Mark

-----Original Message-----

From: Doug Bradshaw
Sent: Wednesday, May 13, 2009 1:53 PM
To: Mark Finigan; Roger Wittenberg
Subject: Navy Request for Money

Mark/Roger,

The Navy is requesting that the City cut them a check for some engineering within their own division. They are requesting that the check be made out to US Treasury. In their letter they mention after City Commission approval, but my question is it necessary to take it to City Commission when they are asking for their money? We are not part of this project and it does not follow our purchasing code per say. I don't have any problem preparing it for City Commission but I am not sure it is necessary. Please advise.

Thanks,

CITY OF KEY WEST
CITY COMMISSION TASKINGS
Doug Bradshaw, Project Manager
City of Key West
Port Operations
201 William Street
Key West, FL 33040
305-809-3792 office
305-797-8361 cell
305-293-6438 fax

-----Original Message-----

From: Yonce, Tim T CIV NAVFAC SE [mailto:timothy.yonce@navy.mil]
Sent: Wednesday, May 13, 2009 1:24 PM
To: Doug Bradshaw
Cc: Feagin, Clarence CIV NAVFAC SE; Ruzich, Richard R GS13 NAVFAC SE, PWD Key West;
Taylor, Robert W CIV NAVFAC SE; Tullar, Craig CIV NFESC ECDDET, Code OF55; Thompson, Jeremy
L CIV NAVFAC SE, PWD Key West; Franco, Ana I LCDR NAVFAC SE
Subject:

Mr. Bradshaw,

Please see the attached service-in-kind endorsement letter for an Engineering Design of Repairs effort associated with the Mole Pier at Truman Annex. Please note that the cost estimate provided differs slightly from the NTE amount on the endorsement letter (by approx. \$25K) so as to cover any contingency and unforeseen administrative costs associated with this effort. Upon approval of City Council, we request the agreed upon funding be sent to us at the address provided below and made out to the "U.S. Treasury." Upon receipt, our Comptroller will accept funding and distribute to Naval Facilities Engineering Service Center (NFESC) in support of their attention to this matter.

Naval Facilities Engineering Command Southeast
Attn: Bob Taylor (OPA4RT)
Ajax Street, Bldg 135N
P.O. Box 30
NAS Jacksonville, FL 32212-0030

If you have additional questions or concerns, my point of contact for this matter is Bob Taylor, NAVFAC SE Realty Specialist, who can be reached at (904) 542-6150 or robert.w.taylor1@navy.mil.

Regards,
Tim Yonce
Real Estate Team Lead
South Atlantic IPT (OPA4)
NAVFAC Southeast
COM: 904.542.6278
DSN: 942.6278
timothy.yonce@navy.mil



THE CITY OF KEY WEST

November 7, 2008

Captain Steven W. Holmes
Commanding Officer, Naval Air Station
P.O. Box 9001
NAS Key West
Key West, Florida 33040

Subj: Army Corps of Engineers Reconnaissance Study Funding Request

Dear Captain Holmes:

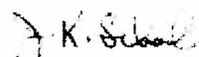
As you know, the Port of Key West serves military and civilian maritime operations. The port is a significant resource for national defense, homeland security and economic stability for the City of Key West. To that end, periodic review of the channel and harbor navigability is required.

A reconnaissance study of the Key West channel and harbor has been authorized by the U.S. Congress. The current fiscal year appropriations did not include specific funding for the project. The study requires federal government funding to proceed. The Army Corps of Engineers (ACOE) has reviewed the options for funding and existing limits for this authorized project. The most viable source of funding is the NAS Key West Port Operations maintenance account derived from cruise ship operations under the NAS Key West lease with the City of Key West. The ACOE has an existing project that has capacity for the authorized study.

As it is in the Navy and City's interest to preserve the current and future operations of the port, the City requests NAS Key West provide the funding for the Army Corps reconnaissance study. The current estimate is \$100,000. This investment will allow for gathering the necessary information for future port dredging decisions that supports both the Navy and the City waterfront operations.

Thank you for your consideration in the important issue of mutual concern. The City of Key West point of contact is Mr. Raymond Archer. (305) 809-3790.

Sincerely,


J. K. Scholl
City Manager



DEPARTMENT OF THE NAVY
Naval Facilities Engineering Command Southeast
Jacksonville, FL 32212-0030

IN REPLY REFER TO:
Ser 009-016
Code OPA4RT
May 12, 2009

Mr. Doug Bradshaw
City of Key West Port Project Manager
P. O. Box 6434
Key West, FL 33041-6434

SUBJECT: SERVICE-IN-KIND PROJECT APPROVAL: ENGINEERING DESIGN OF REPAIRS FOR THE MOLE PIER

Enclosure: (1) Naval Air Station Key West, Public Works Officer letter dated 1 May 09

Reference: (a) Naval Facilities Engineering Service Center (East Coast Detachment)
Statement of Work for Design of Repairs for the Mole Pier
(b) Naval Facilities Engineering Service Center (East Coast Detachment) Standard Design Cost
Estimate for Design of Repairs for the Mole Pier

Dear Mr. Bradshaw,

As requested by enclosure (1) this letter serves as the approval for the use of In-Kind-Funds for an engineering design of repairs for the Mole Pier located at Truman Annex. The engineering design work, as it relates to this project, shall be performed in accordance with statement of work described in ref (a), and shall not exceed the total estimated cost of \$175,000.00 per ref (b) without prior written approval.

My point of contact for this matter is Mr. Robert Taylor, Realty Specialist, Naval Facilities Engineering Command (NAVFAC) Southeast, P.O. Box 30, Jacksonville, Florida 32212-0030, 843-820-5642 or robert.w.taylor1@navy.mil


TIMOTHY T. YONCE
Real Estate Contracting Officer

Copy to: Commanding Officer, Naval Air Station Key West
Public Works Officer, Naval Air Station Key West