

April 11, 2019

VIA EMAIL

Hon. Mayor Francis Suarez
Hon. Chairman Ken Russell
Hon. Willy Gort, District One
Hon. Joe Carollo, District Three
Hon. Manolo Reyes, District Four
Hon. Keon Hardemon, District Five
Hon. Emilio Gonzalez, City Manager
Hon. Victoria Mendez, City Attorney
Hon. Todd B. Hannon, City Clerk

**Subject: Supplemental Letter from Friends of Maurice A. Ferré Park LLC In
Opposition to RFP No. 989387**

Dear Mayor Suarez and Commissioners Russell, Gort, Carollo, Reyes, and Hardemon:

The Friends of Maurice A. Ferré Park, LLC submit this supplemental letter opposing the RFP for Maurice A. Ferré Park and the Florida East Coast "FEC" Water Slip. Over the past few days, the City provided certain records in response to a Chapter 119 public records request we made on March 28. These records reveal serious additional infirmities in the process which provide additional grounds for this Commission to act decisively to void the RFP.

We urge the Commission to carefully review the attached exhibits, which address some of the new defects revealed.

1. The RFP was not approved by the BMPT Board. The first and overarching additional defect shown in the new records is that the RFP published on January 18 was not the same document that was shown to and voted on by the BMPT Board. The differences are material. The most important is that while the actual RFP published on January 18 requested proposals for a "lease of city owned waterfront property," which is clearly beyond the Trust's authority, the draft RFP shown to and approved by the Board on October 23 said nothing about soliciting a "lease of city-owned land. To the contrary, the document shown to BPMT board proposed a "management agreement" to "develop, manage, and operate the FEC Slip at Bayfront Park." Compare Exhibit 1, pages 1, 8, with Exhibit 2, pages 5, 21, and 30.

In other words, the board was shown and voted on a draft RFP they might have believed was within their authority, but the published RFP, which they never saw or voted on, clearly violates the City Charter and Code. The defects are not correctable legally, and this Commission should not endorse a process that is so fundamentally flawed.

2. The Commission must not acquiesce in the irregularities in the RFP process. In a pattern seen repeatedly with this process, essential components for a proper RFP are absent from

this one. The records the City recently produced show that City officials were aware of the need for a new survey as early as January 15, before the RFP was published, but the RFP was published on January 18 without one. As late as March 21, no new survey has been completed. Exhibits 3-7.

Similarly, the RFP, purporting to comply with standard practice and legal requirements, refers to a form lease to be entered into by the successful bidder in "Exhibit C." However, there is no Exhibit C or form lease in the published RFP. The documents produced this week show that no proposed lease has been reviewed nor approved by the BPMT board. Exhibit 8, page 1.


Finally, the City Attorney's Office is evidently concerned about the irregularities in the process that is now before this Commission. On March 6, six weeks after the RFP was published, and while the City procurement, legal, and BPMT staff were scrambling to try to plug the holes by obtaining a survey and creating a lease document to include as an "addendum," an assistant city attorney candidly admitted that the process was flawed and needed "clarification."

Please issue the Survey as an Addendum which also needs to extends (sic) the timeline due to the Survey and other miscellaneous changes. Please issue the least number of Addendums. As this is City owned land and a long-term lease the City is the prospective awarding authority and Lessor. Upon reflection, the issue of where and to who the rent is paid bears certain clarification.

Exhibit 9 (Emphasis supplied). The assistant city attorney had also stated at the October 2018 BPMT board meeting that he "recommended" that the City Commission to approve the RFP prior to its issuance, but the board plunged ahead anyway. Exhibit 10, page 13.

Conclusion. For all of the above reasons, in addition to the reasons expressed in our April 8 letter, it is responsibility of the Commission to take action immediately to nullify and void the BPMT's "FEC Slip RFP."

Respectfully,


Samuel J. Dubbin, P.A.