

**PORT OF GALVESTON  
REQUEST FOR DISCUSSION AND  
TRUSTEES ACTION**

**BUSINESS ITEM – E-6**

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PREPARED BY: Roger Quiroga     Director of Economic Development     September 26, 2017

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**SUBJECT: Discuss and Consider Proposed Conveyance of Property Located at 2410 Strand, Galveston, Texas as Part of Settlement of Prior Litigation**

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**BACKGROUND:** During the construction of the Downtown Transit Terminal at the corner of 25<sup>th</sup> and Strand, work was halted by the filing of Cause No. 13CV0597, *Allen Flores Interests, LP v Turner Construction Company and the Board of Trustees of the Galveston Wharves*. The lawsuit was filed in the 10<sup>th</sup> Judicial Court of Galveston County, Texas. On April 4, 2014, the parties to the lawsuit entered into a Rule 11 Agreement to settle the lawsuit. One of the terms of the Agreement was that the Port agreed to facilitate the settlement by taking title to the Fadden Building in the name of the GPFC during completion of construction subject to an option agreement in favor of Turner Construction Company. There is an Earnest Money contract on the Fadden Building and Turner Construction Company and the Buyer would like to close this transaction as soon as possible.

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**RECOMMENDATIONS:** The Board of Trustees is respectfully requested to listen to the briefing of the Interim Port Director and approve the conveyance of property located at 2410 Strand, Galveston, Texas as part of the settlement of prior litigation.

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**Respectfully Submitted By:**



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**Peter Simons, Interim Port Director**

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**DATE ACTION TAKEN:** \_\_\_\_\_

Approved: \_\_\_\_\_  
Disapproved: \_\_\_\_\_  
Deferred To: \_\_\_\_\_  
Incorporated into Minutes: \_\_\_\_\_

Motion By: \_\_\_\_\_  
Seconded By: \_\_\_\_\_  
Unanimous: Yes \_\_\_\_\_ No \_\_\_\_\_  
By: \_\_\_\_\_

**PORT OF GALVESTON**  
**Briefing**

**DISCUSS AND CONSIDER PROPOSED CONVEYANCE OF PROPERTY LOCATED  
AT 2410 STRAND, GALVESTON, TEXAS AS PART OF SETTLEMENT OF PRIOR  
LITIGATION**

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**Background**

During the construction of the Downtown Transit Terminal at the corner of 25<sup>th</sup> and Strand, work was halted by the filing of Cause No. 13CV0597, *Allen Flores Interests, LP v Turner Construction Company and the Board of Trustees of the Galveston Wharves*. The lawsuit was filed in the 10<sup>th</sup> Judicial Court of Galveston County, Texas. On April 4, 2014, the parties to the lawsuit entered into a Rule 11 Agreement to settle the lawsuit. One of the terms of the Agreement was that the Port agreed to facilitate the settlement by taking title to the Fadden Building in the name of the GPFC during completion of construction subject to an option agreement in favor of Turner Construction Company. There is an Earnest Money contract on the Fadden Building and Turner Construction Company and the Buyer would like to close this transaction as soon as possible.

**Current Situation**

The settlement of the Flores lawsuit included a “Main Rule 11” Agreement and a separate “Turner Port Rule 11 Agreement.” A significant issue of the settlement was Turner’s desire to acquire the Fadden Building to prevent subsequent suits from Flores for additional damage as well as their desire not to take title to the building. In order to get the Transportation Terminal project moving forward again, The Trustees agreed that GPFC would hold title, with Turner covering all costs during the time required to repair the Fadden Building foundation, redesign the Terminal to avoid further damage, and complete construction. Thereafter, Turner had an option to sell the Fadden Building to a third party buyer, in a transaction in which Turner keeps any net proceeds after reimbursing the GPFC for any remaining unpaid costs, and the usual closing costs. Turner has four years to sell the property or the GPFC would keep the property, free and clear of Turner’s rights.

To effectuate this transaction, an Earnest Money Contract was negotiated and executed between the GPFC and Turner, under which the GPFC will convey the Fadden Building to Turner “or its assignee.” The Port’s attorney received a letter from Turner’s counsel dated September 12, 2017, as a Notice to Close, triggering an obligation to close within 60 days.

**Fiscal Impact**

The Port will be receiving reimbursement for all of the expenses incurred during the period the property was under the ownership of the GPFC.

**Staff Recommendation**

The Board of Trustees is respectfully requested to listen to the briefing of the Interim Port Director and approve the conveyance of property located at 2410 Strand, Galveston, Texas as part of the settlement of prior litigation.