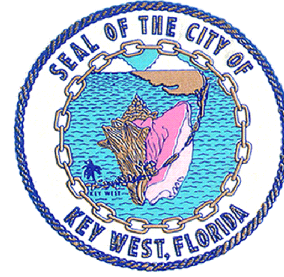


EXECUTIVE SUMMARY



TO: City Commission

CC: Patti McLauchlin
Todd Stoughton
Nathalia Mellies

FR: Michael Henriquez Jr, Senior Property Manager

DT: November 16, 2021

RE: Submerged Lands Lease Assignment 701 Palm Ave

ACTION: This is a request to approve an assignment of the submerged lands lease for the submerged land located at 701 Palm Avenue from A-1 Boat Services, LLC, also known as Spencer's Boatyard (Assignor) to SBY Key West, LLC (Assignee).

HISTORY: The City of Key West entered into submerged lands leases in September of 2014 in accordance with the procedural changes authorized by the State of Florida for the City owned submerged land. The current tenant, A-1 Boat Services, LLC, also known as Spencer's Boatyard, (Assignor) has entered into an agreement to sell the business located on the upland property and has requested the assignment of the submerged lands lease with that sale to SBY Key West, LLC (Assignee) at 701 Palm Avenue.

The submerged lands lease does include the right to assign the lease with the Landlord's approval as excerpted below:

10. ASSIGNMENT OF LEASE: This lease shall not be assigned or otherwise transferred without prior written consent of the Lessor, which consent may be withheld in the sole discretion of the Lessor. Such assignment or other transfer shall be subject to the terms, conditions and provisions of this lease, current management standards and applicable laws, rules and regulations in effect at that time. Any assignment or other transfer without prior written consent of the Lessor shall be null and void and without legal effect.

There is no change of use requested and the submerged lands will continue to be utilized exclusively as a commercial docking facility in conjunction with the upland ownership. The assignee may not change or add to the approved use of the leased premises without the Landlord's approval pursuant to Section 7 of the Lease, as follows:

7. AGREEMENT TO EXTENT OF USE: This lease is given to the Lessee to use or occupy the leased premises only for those activities specified herein and as conditioned by the Lessor. The Lessee shall not (i) change or add to the approved use of the leased premises as defined herein; (ii) change activities in any manner that may have an environmental impact; or (iii) change the type of use of the riparian uplands or as permitted by the Lessee's interest in the riparian upland property that is more particularly described as the street address shown in Attachment A without first obtaining, the Lessor's written authorization, which authorization may be withheld in the sole discretion of the Lessor, in the form of a modified lease, the payment of additional fees, if applicable, and, if applicable, the removal of any structures which may no longer qualify for authorization under the modified lease.

As of September 1, 2021, the proposed rental rate is as follows:

Assignor: A-1 Boat Service, Inc.

Assignee: SBY Key West, LLC

Demised

Premises: 701 Palm Avenue submerged lands
Containing approximately 25,021 square feet

Term: Five (5) years from September 1, 2019, the effective date of the lease.

Use: The current Lessee is authorized to operate a commercial docking facility with rental of wet slips, rental of recreational pleasure craft, loading/offloading passengers for charter/tour boats to be used exclusively in conjunction with the upland, without fueling facilities.

Lease Fees: The Assignee as new Lessee hereby agrees to pay to the Lessor an annual lease fee rate of \$0.55 per square foot plus sales tax, if applicable, on a monthly basis, as follows:

Monthly Fee	\$1,146.80
Sales Tax	\$80.28
Total	\$1,227.08

Increases: The annual fee for the remaining years of this lease shall be increased annually by \$0.10 per square foot.

FINANCIAL: All revenues collected from the use of the submerged lands in this Lease will be placed back into water-related activities for the general public. The Assignee will post a letter of credit equal to six month's rent and will also provide a personal guaranty. In addition, pursuant to current management standards, a \$500 transfer fee will be charged to offset the Landlord's costs associated with the preparation of the assignment necessary to effectuate same.

CONCLUSION: There is no change of use and the rate reflects gradual increases to begin to achieve the market value of the use of the submerged land at this location. The requested lease assignment meets the requirements of the submerged lands lease terms and conditions.

ATTACHMENTS:

- Rent Payment History
- 2019 Lease Renewal
- 2014 Lease
- Tenant request for Assignment
- Assignment of Lease and Consent of Lessor
- Assignee Corporate Documents
- Assignees Personal Guaranty