




MEMORANDUM

Date: September 14, 2023

To: Honorable Mayor and Commissioners

Via: Albert P. Childress 
City Manager

From: Steve McAlearney
Director, Port & Marine Services

Subject: **Approving Agreement with Ocean Key Resort to Secure Conditional Consent for Sovereign Submerged Lands Lease for Mallory T-Pier**

Introduction

The City Manager's Office requests the ratification of the attached "Conditional Consent to Proposed Submerged Land Lease between the City of Key West and Florida Department of Environmental Protection" with Ocean Key Resort.

Background

A sovereign submerged lands lease (SLL) from the state's Board of Trustees of the Internal Improvement Trust Fund (Governor and Cabinet), administered by the Florida Department of Environmental Protection (FDEP), is required for mooring vessels in waters overlaying state-owned bay bottom. When a SLL expires without a new one in place, a typical situation, FDEP then issues a Temporary Use Agreement (TUA) until the new lease can be obtained. The TUA is normally of the same dimensions as the previous SLL, which is the case here. If a TUA needs to be extended, FDEP can issue Addendums to the TUA. The City's current Addendum expires October 7th, 2023. We intend to have a new SLL with FDEP in place by that date.

The current TUA allows use of bay bottom for a length of 664 feet, of which 150 feet overlaps the Ocean Key Resort & Spa (Ocean Key) riparian uplands. In order to secure a SLL, an owner must show that they have sufficient upland interest (SUI) in the property adjacent to the desired lease area. SUI generally runs concurrently with an owner's riparian rights, which are those adjacent to land bordering upon navigable waters. To renew our SLL in its current footprint, we require consent from Ocean Key for use of their upland riparian rights. This consent is a condition of Ocean Key's 1989 major development plan with the City, and was given in exchange for allowing Ocean Key to count parking spaces at the City's Mallory Square parking lot towards their required total.

The Mallory T-pier is the City's only asset capable of receiving a vessel of any significant size. In addition to revenue generating opportunities, this capability could prove critical during a major event isolating the City and its residents from the mainland.

Procurement

There is no cost to renew this agreement.

Recommendation

The City Manager's Office recommends the City Commission approve the ratification of the attached "Conditional Consent to Proposed Submerged Land Lease between the City of Key West and Florida Department of Environmental Protection" with Ocean Key Resort.