



## THE CITY OF KEY WEST

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### EXECUTIVE SUMMARY

**TO:** Gregory Veliz, City Manager

**FROM:** Doug Bradshaw, Director Port & Marine Services

**DATE:** May 15, 2020

**SUBJECT:** Approving a new 10-year Submerged Land Lease with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida for operation and maintenance of the Key West Mooring Field

#### ACTION STATEMENT

Resolution approving a new 10-year Submerged Land Lease with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida for operation and maintenance of the Key West Mooring Field.

#### BACKGROUND

On December 8, 1997 the City of Key West entered into a 5-year Management Agreement with the State of Florida to create and manage a mooring field for up to 149 vessels. The Management Agreement was renewed for 10 years on December 29, 2000.

In 2010 when another 10-year renewal would have been issued the City chose not to renew because it did not allow liveaboard vessels in the mooring field for more than 6 months within a one (1)-year period. The previous agreements had not addressed "live-aboards" in the mooring field. The proposed language in the 2010 agreement was as follows:

*25. LIVEABOARDS: The term "liveaboard" is defined as a vessel docked at the facility and inhabited by a person or persons for any five (5) consecutive days or a total of ten (10) days within a thirty (30) day period. If liveaboards are authorized by paragraph one (1) of this lease, in no event shall such "liveaboard" status exceed six (6) months within any twelve (12) month period, nor shall any such vessel constitute a legal or primary residence.*

Many in the mooring field live and work in Key West year-round. Speaking to FDEP they said other Management Agreement holders had the same concerns and the State was looking at changing that provision. In the interim the DEP said the City could continue to operate the mooring field with an annual Temporary Use Agreement which allowed operation under the original Management Agreement which did not reference Liveaboards. The City has operated the mooring field under an annually renewed Temporary Use Agreement from that time until today.

On March 4<sup>th</sup>, 2020 the State of Florida sent the City a new 10-year Submerged Land Lease. The

*Key to the Caribbean – Average yearly temperature 77° F.*

EXECUTIVE SUMMARY

State is no longer issuing management agreements but issue submerged land leases for mooring fields. The following language is in the lease regarding liveboards

*24. LIVEBOARDS: The term "liveboard" is defined as a vessel docked at the facility and inhabited by a person or persons for any five (5) consecutive days or a total of ten (10) days within a thirty (30) day period. If liveboards are authorized by paragraph one (1) of this lease, in no event shall such "liveboard" tenancy at a mooring anchor exceed twelve (12) months, nor shall any such vessel constitute a legal or primary residence.*

All boaters in the mooring field are classified as transient boaters and the City does not consider their vessel as their primary residence. This provision does not limit a mooring field tenant from relocating to another mooring within the mooring field after 12 months.

The rest of the new lease remains the same as the old Mooring Field Agreement and is acceptable to the City.

#### **OPTIONS/ ADVANTAGES/ DISADVANTAGES**

1. It is a 10-year lease agreement instead of a Management Agreement which allows the City to set and change rules as appropriate as long as they are not in conflict with the terms of the lease.
2. The lease is a fee waved lease agreement. Normally a Lessee pays a percent of revenue to the State.
3. The lease allows liveboards up to one year.

Staff sees no disadvantage to approving this lease.

#### **FINANCIAL ISSUES**

There are no new financial impacts above current budgeting requirements regarding the lease.

#### **RECOMMENDATION**

Staff recommends approving a new 10-year Submerged Land Lease with the State of Florida for operation of the Key West Mooring Field.