



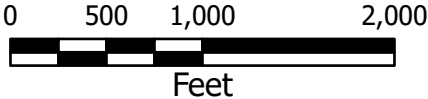




-  Proposed and TUA Lease Area
-  Previous Lease Area
-  State Managed Conservation Lands
-  Federal Managed Conservation Lands






Pier B Development Corporation
Lease No. 440020075

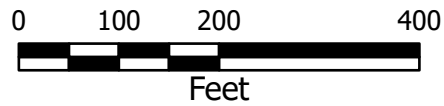
Monroe County, Florida



SITE



-  Proposed and TUA Lease Area
-  Previous Lease Area
-  Federal Managed Conservation Lands



Pier B Development Corporation
Lease No. 440020075

Monroe County, Florida

PROJECT DESCRIPTION

1. Location: 24°33’26.3244” Lat / -81°48’32.4749” Long
Aquatic Preserve: No
Waterbody Name and Classification: Key West Harbor, Class III Outstanding Florida Waters
Designated Manatee County: Yes, with an approved Manatee Protection Plan
Manatee Aggregation Area: No
Manatee Protection Speed Zone: Slow Speed All Year

Preempted area (square feet): 164,008 existing, 58,600 proposed; 222,608 total
Structure dimensions: Pier length approximately 481’ long, 36’ wide on the north side, 97’ wide in the center and 43’ wide on the south side.

Dredge: N/A
Number of Slips: 2
Vessels: Cruise ships in slip 2A and recreational vessels, commercial charter boat vessels, and one gambling cruise ship in slip 2B
2. Liveaboards: Liveaboards are not authorized
3. Sewage pump-out facilities: There are no sewage pumpout facilities
4. Fueling facilities: Fueling facilities, including fuel storage or fuel pumping devices, shall be prohibited on overwater structures within that portion of the leased premises identified as Cruiseport 2A.
5. Maintenance/New dredging: N/A

REQUIREMENTS/ASSESSMENTS/COMMENTS

1. DEP environmental resource permit: An ERP for the dock expansion was issued April 9, 1999. The increase in the size of the lease area is exempt from regulatory permitting.
2. U.S. Army Corps of Engineers permit: A standard lease condition references the need to obtain approval, if required.
3. Fish and Wildlife Conservation Commission (FWC), Division of Habitat and Species Conservation, Imperiled Species Management Section, Manatees: Recommended the following existing lease condition: (1) During the term of this lease and all subsequent renewal terms, Lessee shall maintain permanent manatee educational signs that provide information on the mannerisms of manatees and the potential threat to this endangered species from boat operation and shall be required to replace the signs in the event they become faded, damaged, or outdated. Lessee shall ensure that the view of the signs is not obstructed by vegetation or structures. The number, type, and procedure for installation of these signs shall be in accordance with the handout, “Manatee Educational Signs,” which can be obtained from the Florida Fish and Wildlife Conservation Commission, Imperiled Species Management Section, 620 S. Meridian Street – 6A, Tallahassee, Florida 32399-1600 (Phone 850/922-4330).
4. Cultural Resources: N/A
5. Riparian rights line setback: Lessee is requesting a waiver of setback requirement pursuant to Ch. 18-21.004(3)(d), FAC.

6. Compliance: The facility is in compliance and all fees are current through February 6, 2025. The last compliance site inspection was conducted on October 1, 2019 and the facility was in compliance.
7. Noticing: Rule 18-21.004(1)(m), F.A.C., an increase in preempted area of ten percent or more requires noticing. There were 71 property owners specifically noticed, and the Department received 131 objections and 56 letters of support. The City of Key West passed Resolution 23-135, adopting a neutral position, providing neither support nor opposition to the Applicant's request to modify its existing submerged lands lease. These responses were received by May 19, 2023, the end of the comment period.
8. For the northward 25-foot expansion of the lease area, the Lessee has provided satisfactory evidence of sufficient upland interest.

PUBLIC INTEREST STATEMENT

The lease modification request includes an expansion area that is within the 25-foot setback on both sides of the applicant's riparian lines. Pursuant to Rule 18-21.004(3)(d), F.A.C., all structures and activities must be set back a minimum of 25 feet inside the applicant's riparian rights lines. The Applicant requests that the Board of Trustees make a determination that it is in the public interest to allow mooring activities within the 25-foot setback area, up to the Applicants riparian line. The Applicant has provided the following public interest components to assist the Board of Trustees in making a determination:

Economic Benefits:

- As a whole, the cruise ship industry brings billions of dollars of benefit to the State; more specifically, the Monroe County Tourist Development Council's latest estimate indicated that over \$2.4 billion was spent by over five million visitors, which translates to an \$1.8 billion local economic impact;
- It supports the local economy by directly and indirectly supporting positive economic impact to the City of Key West, Monroe County, and the State of Florida; and
- The industry assists in the creation of both temporary and permanent jobs within the local economy.

Environmental Benefits:

- To further assist the Board of Trustees, the Applicant will contribute an annual monetary donation of \$50,000 to the Coral Reef Restoration Initiative through Mote Marine Laboratory, Inc for the full term of the lease;
- The lease modification will not reduce or degrade water quality; natural habitat or function; or destroy, harm, or harass endangered or threatened species or habitat;
- Nor will it increase navigational hazards, congestion, or reduce or degrade any aesthetics; and
- It will continue the historical use of the waterfront by providing the cruising public with continued access to the City of Key West and local amenities.

Based on the merits of the proposal, the Applicant has given reasonable assurance that the proposal will maintain essentially existing conditions and will not significantly impact fish, wildlife and other natural resources, including public recreation and navigation.

Therefore, it is the Department's opinion that the proposal is in the public interest, and otherwise meets all applicable requirements for a proprietary authorization to use sovereignty submerged lands.

EXISTING FACILITIES

An ERP individual permit (43-142062-001) was issued on April 9, 1999. This permit authorized the pier expansion.

SPECIAL LEASE CONDITION(S)

1. Fueling facilities, including fuel storage or fuel pumping devices, shall be prohibited on overwater structures within that portion of the leased premises identified as Cruiseport (2A).
2. During the term of this lease and all subsequent renewal terms, Lessee shall maintain permanent manatee educational signs that provide information on the mannerisms of manatees and the potential threat to this endangered species from boat operation and shall be required to replace the signs in the event they become faded, damaged or outdated. Lessee shall ensure that the view of the signs is not obstructed by vegetation or structures. The number, type, and procedure for installation of these signs shall be in accordance with the handout, "Manatee Educational Signs," which can be obtained from the Florida Fish and Wildlife Conservation Commission, Imperiled Species Management Section, 620 S. Meridian Street - 6A, Tallahassee, Florida 32399-1600 (Phone 850/922-4330).
3. On or in conjunction with the use of the leased premises, the Lessee shall at all times comply with all Florida statutes and all administrative rules promulgated thereunder. Any unlawful activity which occurs on the lease premises or in conjunction with the use of the leased premises shall be grounds for the termination of this lease by the Lessor.
4. The terms and conditions herein, including those related to assessment of lease fees, may be reviewed at any time during the term of this lease as deemed necessary by the Lessor or its designated agent, and such terms and conditions may be modified or additional conditions may be imposed as deemed necessary by the Lessor. For the purpose of this provision, the terms and conditions of this lease may be modified (which may include the addition of new terms and conditions) for, but not limited to, the following reasons:
 - a. to conform to the adoption or revision of Florida Statutes (F.S.), rules, and standards that require the modification of the lease for compliance;
 - b. to ensure compliance with the U.S. Endangered Species Act of 1973, 16 U.S.C., § 1531, et seq., and the Florida Endangered and Threatened Species Act of 1977, Section 372.072, F.S.;
 - c. to conform to adoption or revision of rules regarding the assessment of lease fees;
 - d. to conform to any modification to the terms and conditions of all applicable permits from the State of Florida Department of Environmental Protection, the applicable water management district and/or the U.S. Army Corps of Engineers, and all other required approvals; and,
 - e. to remove any structure declared to be a public nuisance.
5. During the term of this lease and all subsequent renewal periods, Lessee shall annually provide documentation to Lessor confirming that Lessee has made an annual donation of \$50,000 to the Coral Reef Restoration Initiative through Mote Marine Laboratory, Inc. Lessee shall provide this documentation with its “Annual Wetslip Revenue Reports” to Lessor.

FEE CALCULATION

CONSIDERATION DUE: \$49,207.31

(1) Lease Fee: 222,608 sq. ft. x \$0.2074 =	\$46,168.90
(2) Plus 25% Surcharge on the additional area (proposed 222,608 sq. ft. – 164,008 existing sq. ft. = 58,600 sq. ft. x \$0.2074 = \$56,619.71 x .25 = \$3,038.41)	\$3,038.41
TOTAL CONSIDERATION DUE:	<hr/> \$49,207.31

SPECIFIC PURPOSE SURVEY SUBMERGED LAND LEASE AREA FOR CRUISEPORT 2A

LYING IN SECTION 6, TOWNSHIP 68 SOUTH, RANGE 25 EAST, MONROE COUNTY, FLORIDA

PREPARED FOR:

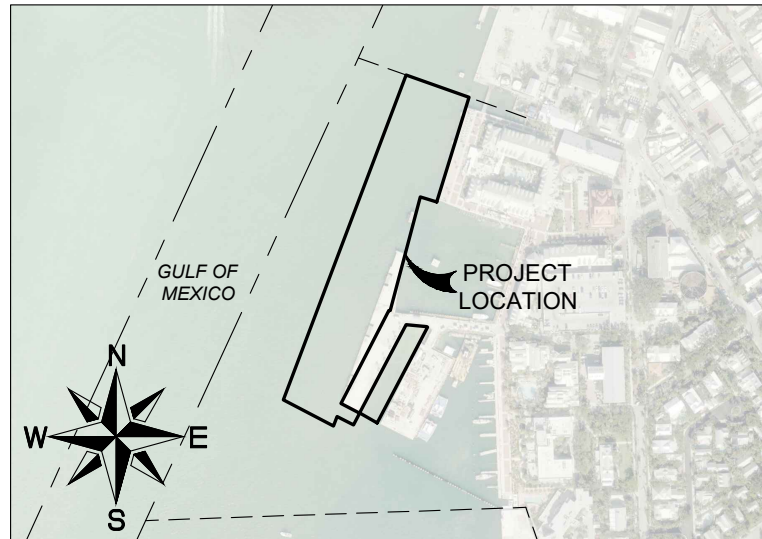
PIER B DEVELOPMENT CORP.

GENERAL NOTES

1. ● = FOUND 5/8" IRON PIN AND CAP STAMPED AS NOTED.
2. ▲ = FOUND PK NAIL AND TIN TAB
3. BEARINGS SHOWN HEREON ARE RELATIVE TO NORTH AMERICAN DATUM OF 1983, 1990 ADJUSTMENT, FLORIDA EAST ZONE.
4. ELEVATIONS SHOWN HEREON ARE RELATIVE TO N.A.V.D. 1988 (NORTH AMERICAN VERTICAL DATUM 1988)
5. COORDINATES SHOWN HEREON ARE IN U.S. SURVEY FEET AND RELATIVE TO NORTH AMERICAN DATUM OF 1983, 1990 ADJUSTMENT, FLORIDA WEST ZONE.
6. THE SHORELINE CONDITION 1000 FEET NORTH AND SOUTH OF LEASE AREA CONSISTS 100% SEAWALL, BULKHEAD OR RIP RAP.

SHEET INDEX

1. COVER SHEET
2. PROJECT OVERVIEW
3. SKETCH OF DESCRIPTION
4. BEARING / DISTANCE LINE TABLES
5. LEGAL DESCRIPTION



LOCATION MAP

N.T.S.

**THIS FIELD SURVEY IS
CERTIFIED TO THE BOARD OF
TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND
OF THE STATE OF FLORIDA**

THE MEAN HIGH WATER ELEVATION OF -0.24 FEET WAS
APPROVED BY THE BUREAU OF SURVEY AND MAPPING.

COASTAL ENGINEERING CONSULTANTS, INC.
FLORIDA BUSINESS AUTHORIZATION NO. LB 2464

RICHARD J. EWING, V.P.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5295
NOT VALID WITHOUT THE SIGNATURE AND
THE ORIGINAL RAISED SEAL OF A FLORIDA
LICENSED SURVEYOR AND MAPPER
DATE OF FIELD SURVEY: 12/22/20
DATE OF SIGNATURE:


PUBLISHED TIDAL INFORMATION

TIDAL DATUMS KEY WEST, FLORIDA
ARE BASED ON FLORIDA 872 4580

TIME PERIOD = JANUARY 1983 - DECEMBER 2001
TIDAL EPOCH = 1983 - 2001
CONTROL TIDE STATION = KEY WEST,
FLORIDA (872 4580)

ELEVATIONS OF TIDAL DATUMS ARE REFERENCED IN
NAVD 1988.

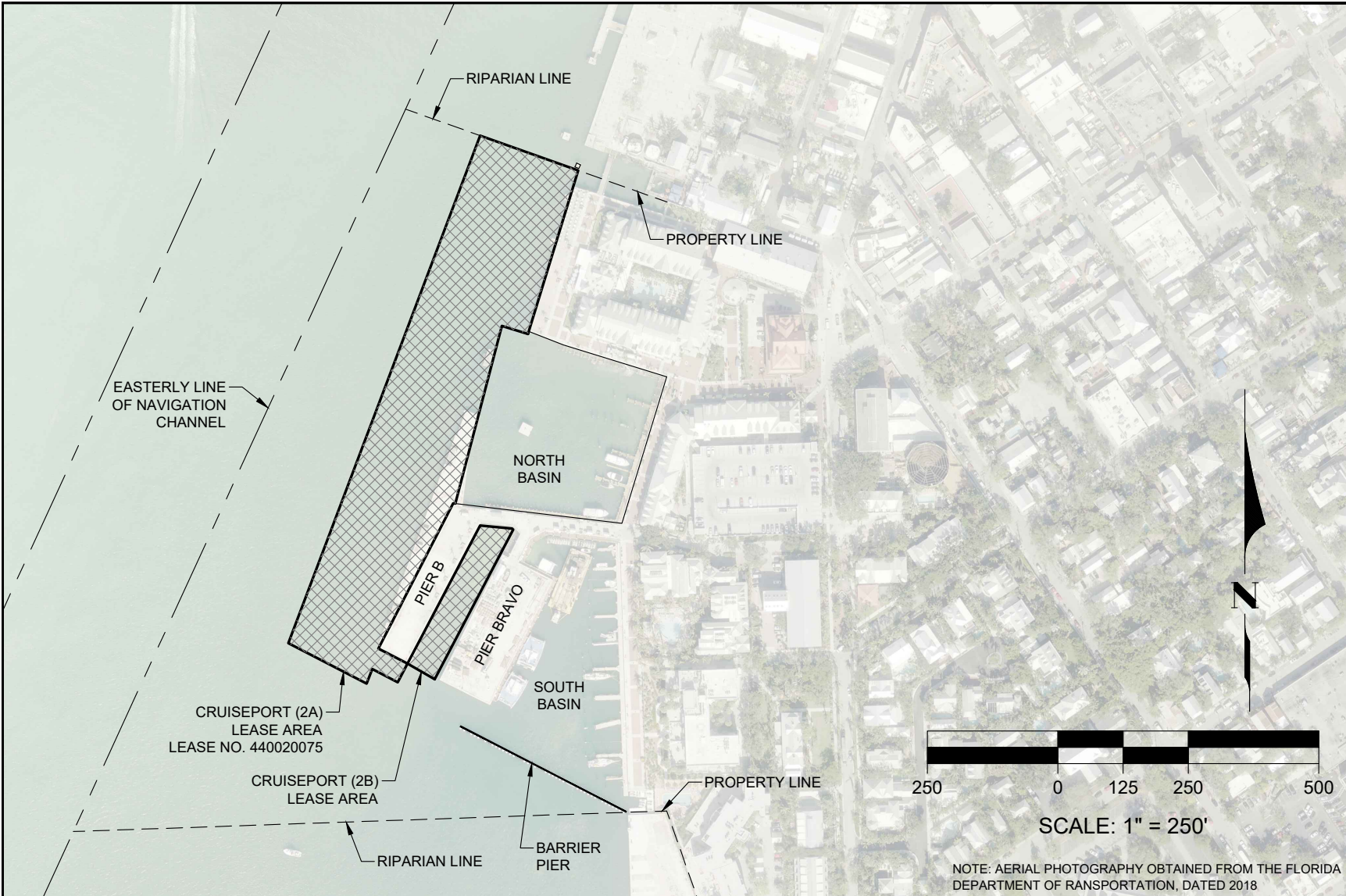
MEAN HIGH WATER (MHW) = -0.24 FT NAVD
MEAN LOW WATER (MLW) = -1.52 FT NAVD

SHEET 1 OF 4 FILE NO. 20.447	 COASTAL ENGINEERING CONSULTANTS INC. A CEGI GROUP COMPANY Serving Florida Since 1977	COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEY AND MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464
	PHONE: (239)643-2324 FAX: (239)643-1143 www.coastalengineering.com E-Mail: info@cecif.com	
	28421 BONITA CROSSINGS BLVD BONITA SPRINGS, FLORIDA 34135	
	COASTAL ENGINEERING CONSULTANTS, INC. FLORIDA BUSINESS AUTHORIZATION NO. LB 2464	


CLIENT: PIER B DEVELOPMENT CORPORATION

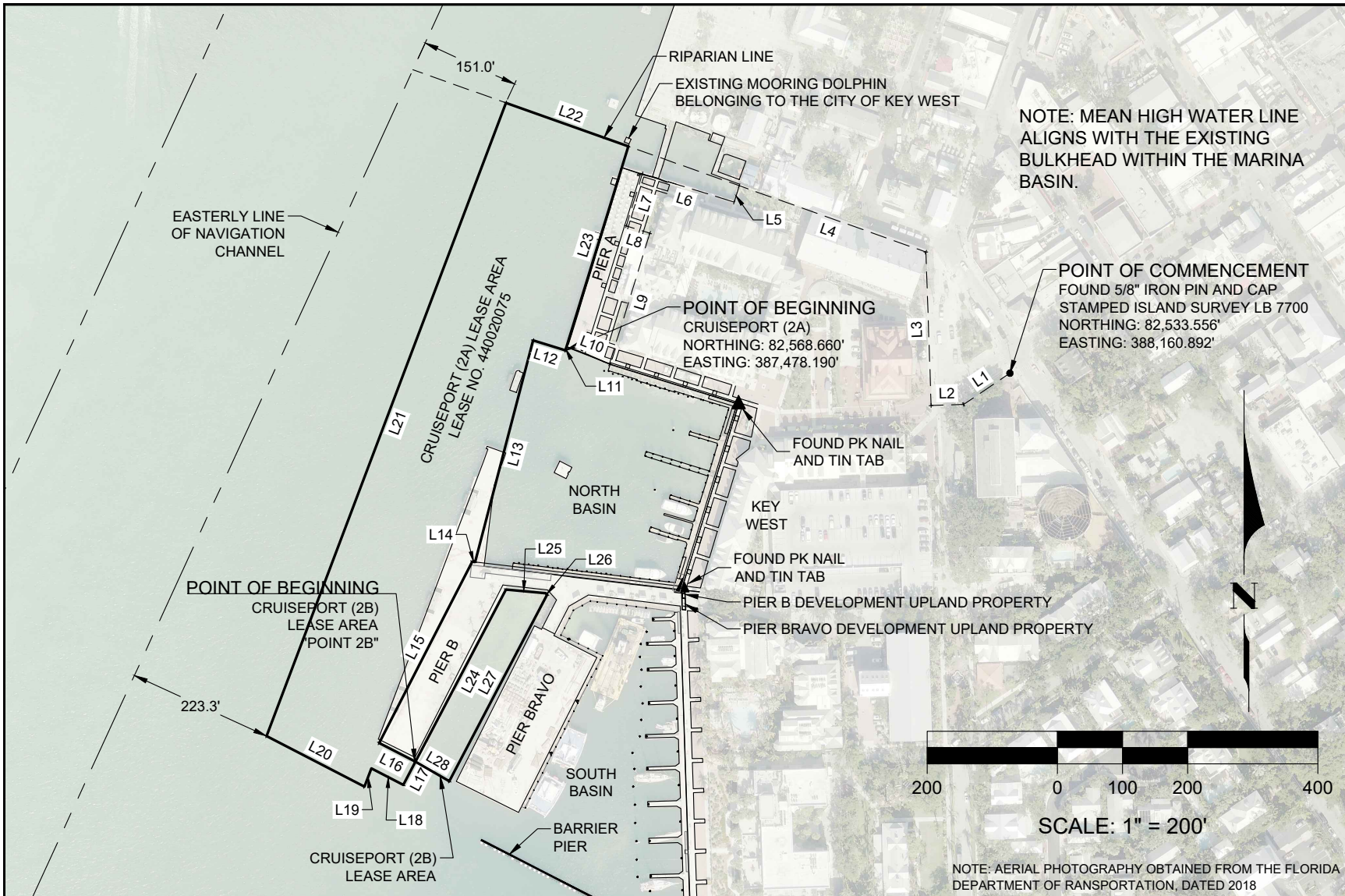
TITLE: SPECIFIC PURPOSE SURVEY OF A SUBMERGED
LAND LEASE AREA LYING IN SECTION 6, TOWNSHIP 68
SOUTH, RANGE 25 EAST, MONROE COUNTY, FLORIDA.

DATE:	5/3/2023	SCALE:	N/A
DRAWN:	SDB	F.B.:	MISC622
CHECKED:	RJE	PG.:	50
SEC.:	6	TWP.:	68S
		RNG.:	25E
ACAD NO.:	20.447		
REF. NO.:	20.447-SLL EXISTING-20220214	NO.:	DATE:
		BY:	REVISION DESCRIPTION



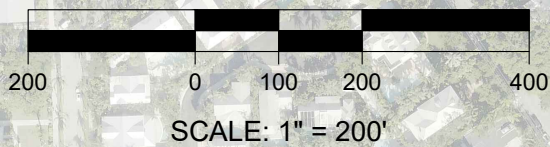
NOTE: AERIAL PHOTOGRAPHY OBTAINED FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION, DATED 2018

SHEET 2 FILE NO. 20.447	 COASTAL ENGINEERING CONSULTANTS INC. Serving Florida Since 1977 28421 BONITA CROSSINGS BLVD BONITA SPRINGS, FLORIDA 34135	COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEY AND MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464 PHONE: (239)643-2324 FAX: (239)643-1143 www.coastalengineering.com E-Mail: info@cecif.com	CLIENT: PIER B DEVELOPMENT CORPORATION	DATE: 5/3/2023 DRAWN: SDB CHECKED: RJE SEC. 6 TWP. 68S RNG. 25E ACAD NO. 20.447 REF. NO. 20.447-PIER B SLL_EXHIBIT1	SCALE: 1" = 200' F.B. PG. 25E				
			TITLE: PROJECT OVERVIEW OF A SUBMERGED LAND LEASE AREA LYING IN SECTION 6, TOWNSHIP 68 SOUTH, RANGE 25 EAST, MONROE COUNTY, FLORIDA.						
						NO.	DATE	BY	REVISION DESCRIPTION



NOTE: MEAN HIGH WATER LINE ALIGNS WITH THE EXISTING BULKHEAD WITHIN THE MARINA BASIN.

POINT OF COMMENCEMENT FOUND 5/8" IRON PIN AND CAP STAMPED ISLAND SURVEY LB 7700 NORTHING: 82,533.556' EASTING: 388,160.892'



NOTE: AERIAL PHOTOGRAPHY OBTAINED FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION, DATED 2018

SHEET 3 FILE NO. 20.447	 COASTAL ENGINEERING CONSULTANTS INC. Serving Florida Since 1977 28421 BONITA CROSSINGS BLVD BONITA SPRINGS, FLORIDA 34135	COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEY AND MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464		CLIENT: PIER B DEVELOPMENT CORPORATION	DATE: 5/3/2023 DRAWN: SDB CHECKED: RJE SEC. 6 TWP. 68S RANG. 25E ACAD NO. 20.447 REF. NO. 20.447-PIER B SLL_EXHIBIT1	SCALE: 1" = 200' F.B. PG. 25E															
		TITLE: LEASE MODIFICATION EXHIBIT OF A SUBMERGED LAND LEASE AREA LYING IN SECTION 6, TOWNSHIP 68 SOUTH, RANGE 25 EAST, MONROE COUNTY, FLORIDA.																			
		<table border="1" style="width: 100%;"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>BY</th> <th>REVISION DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>										NO.	DATE	BY	REVISION DESCRIPTION						
NO.	DATE	BY	REVISION DESCRIPTION																		

LXX - LINE TABLE


LINE	BEARING	DISTANCE
L1	S55°59'14"W	85.77'
L2	S88°06'46"W	50.00'
L3	N1°56'59"W	235.87'
L4	N70°26'40"W	304.41'
L5	S16°55'28"W	26.34'
L6	N72°54'10"W	147.59'
L7	S17°07'10"W	83.65'
L8	S72°43'50"E	37.81'
L9	S17°07'10"W	210.00'
L10	S68°40'27"E	71.00'

LXX - LINE TABLE

LINE	BEARING	DISTANCE
L11	N17°07'10"E	5.29'
L12	N72°51'30"W	52.00'
L13	S14°41'55"W	351.76'
L14	N83°14'07"W	4.17'
L15	S27°13'10"W	313.12'
L16	S62°37'32"E	62.81'
L17	S27°45'56"W	40.21'
L18	N62°41'40"W	55.07'
L19	S20°43'37"W	29.95'
L20	N62°41'40"W	169.24'

LXX - LINE TABLE

LINE	BEARING	DISTANCE
L21	N20°42'26"E	1039.77'
L22	S70°26'38"E	199.55'
L23	S17°07'06"W	327.89'
L24	N27°45'57"E	298.78'
L25	S84°46'59"E	61.65'
L26	S42°32'12"E	2.91'
L27	S27°41'02"W	323.66'
L28	N60°07'30"W	60.18'

SHEET 4 FILE NO. 20.447	 COASTAL ENGINEERING CONSULTANTS INC. A CEGI GROUP COMPANY Serving Florida Since 1977 28421 BONITA CROSSINGS BLVD BONITA SPRINGS, FLORIDA 34135	COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEY AND MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464	CLIENT: PIER B DEVELOPMENT CORPORATION	DATE: 5/3/2023 DRAWN: SDB CHECKED: RJE SEC. 6 TWP. 68S RANG. 25E ACAD NO. 20.447 REF. NO. 20.447-SLL EXISTING-20220214	SCALE: N/A F.B. PG. 20.447	NO. DATE BY REVISION DESCRIPTION
		TITLE: SPECIFIC PURPOSE SURVEY OF A SUBMERGED LAND LEASE AREA LYING IN SECTION 6, TOWNSHIP 68 SOUTH, RANGE 25 EAST, MONROE COUNTY, FLORIDA.				

**CRUISEPORT (2A)
PROPOSED SUBMERGED LAND LEASE AREA
LEASE NO. 440020075
LEGAL DESCRIPTION**

A PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 68 SOUTH, RANGE 26 EAST, MONROE COUNTY, FLORIDA, SUBMERGED IN THE GULF OF MEXICO, WESTERLY OF THE CITY OF KEY WEST, LYING BETWEEN THE WESTERLY PROLONGATION OF WHITEHEAD STREET AND EATON STREET AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCE AT THE INTERSECTION OF THE SOUTHEASTERLY RIGHT OF WAY LINE OF WHITEHEAD STREET AND THE SOUTHEASTERLY RIGHT OF WAY LINE OF GREENE STREET; AS SHOWN ON THE UNRECORDED "MAP OF THE TOWN OF KEY WEST TOGETHER WITH THE ISLAND AS SURVEYED AND DELINEATED FEBRUARY 1829 BY W.A. WHITEHEAD" SAID POINT MARKED BY AN ALUMINUM DISK STAMPED NO. 928; THENCE RUN ALONG THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF GREENE STREET S 55°59'14" W FOR A DISTANCE OF 85.77 FEET TO A POINT OF INTERSECTION WITH THE EASTERLY RIGHT OF WAY LINE OF FRONT STREET; THENCE S 88°06'46" W FOR A DISTANCE OF 50.00 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF FRONT STREET; THENCE ALONG THE NORTHERLY PROLONGATION OF THE WESTERLY RIGHT OF WAY LINE OF FRONT STREET, N 01°56'59" W FOR A DISTANCE OF 235.87 FEET TO A POINT OF INTERSECTION WITH THE SOUTHERLY RIGHT OF WAY LINE OF WHITEHEAD STREET; THENCE ALONG SAID THE SOUTHERLY RIGHT OF WAY LINE N 70°26'40" W FOR A DISTANCE OF 304.41 FEET TO A POINT ON THE SEAWARD FACE OF A BULKHEAD; (LOCATIONS OF ALL FACE OF BULKHEAD, FACE OF PIERS, FACE OF SEAWALL CAPS, AS SURVEYED BY TASK ENGINEERS, INC. AND SHOWN ON DRAWING 3012B, DATED FEBRUARY 1987; THENCE CONTINUE ALONG SAID BULKHEAD THE FOLLOWING FIVE (5) COURSES: 1). S 16°55'28" W FOR A DISTANCE OF 26.34 FEET; 2). N 72°54'10" W FOR A DISTANCE OF 147.59 FEET; 3). S 17°07'10" W FOR A DISTANCE OF 83.65 FEET; 4). S 72°43'50" E FOR A DISTANCE OF 37.81 FEET; 5). S 17°07'10" W FOR A DISTANCE OF 210.00 FEET TO A POINT OF INTERSECTION WITH THE NORTHWESTERLY FACE OF PIER "A"; THENCE ALONG SAID FACE OF PIER "A", N 68°40'27" W FOR A DISTANCE OF 71.00 FEET TO THE SOUTHWEST CORNER OF PIER "A"; THENCE ALONG THE SOUTHWESTERLY PROLONGATION OF THE NORTHWESTERLY FACE OF PIER "A", S 17°07'10" W FOR A DISTANCE OF 5.29 FEET TO THE POINT OF BEGINNING; THENCE N 72°51'30" W FOR A DISTANCE OF 52.00 FEET; THENCE S 14°41'55" W FOR A DISTANCE OF 351.76 FEET TO A POINT OF INTERSECTION WITH A LINE LYING 5.00 FEET, AS MEASURED AT RIGHT ANGLES, WATERWARD OF AND NORTHWESTERLY OF THE ACCESS PIER; THENCE ALONG SAID LINE N 83°14'07" W FOR A DISTANCE OF 4.17 FEET TO A POINT OF INTERSECTION WITH A LINE LYING 5.00 FEET, AS MEASURED AT RIGHT ANGLES, WATERWARD OF, PARALLEL WITH, AND NORTHWESTERLY OF PIER "B"; THENCE ALONG SAID LINE S 27°13'10" W FOR A DISTANCE OF 313.12 FEET TO A POINT OF INTERSECTION WITH A LINE LYING 5.00 FEET, AS MEASURED AT RIGHT ANGLES, WATERWARD OF, PARALLEL WITH, AND SOUTHWESTERLY OF THE OUTERMOST FACE OF PIER "B";

**CRUISEPORT (2A)
PROPOSED SUBMERGED LAND LEASE AREA
LEASE NO. 440020075
LEGAL DESCRIPTION (CONT.)**

THENCE ALONG SAID LINE S 62°37'32" E FOR A DISTANCE OF 62.81 FEET TO A POINT OF INTERSECTION WITH THE SOUTHWESTERLY PROLONGATION OF A LINE LYING 5.00 FEET, AS MEASURED AT RIGHT ANGLES, WATERWARD OF, AND PARALLEL WITH THE OUTERMOST SOUTHEASTERLY FACE OF PIER "B"; SAID POINT REFERRED HEREIN AS "POINT 2B"; THENCE ALONG SAID PROLONGATION S 27°45'56" W FOR A DISTANCE OF 40.21; THENCE N 62°41'40" W FOR A DISTANCE OF 55.07 FEET; THENCE S 20°43'37" W FOR A DISTANCE OF 29.95 FEET; THENCE N 62°41'40" W FOR A DISTANCE OF 169.24 FEET; THENCE N20°42'26"E FOR A DISTANCE OF 1,039.77 FEET; THENCE S70°26'38"E FOR A DISTANCE OF 199.55 FEET; THENCE S17°07'06"W FOR A DISTANCE OF 327.89 FEET TO THE POINT OF BEGINNING.


THE ABOVE DESCRIBES 203,901 SQUARE FEET OR 4.68 ACRES OF SUBMERGED LAND.

**CRUISEPORT (2B)
EXISTING SUBMERGED LAND LEASE AREA**

BEGINNING AT THE POINT REFERENCED ABOVE AS "POINT 2B", THENCE N27°45'57"W FOR A DISTANCE OF 298.78 FEET; THENCE S84°46'59"E FOR A DISTANCE OF 61.65 FEET; THENCE S42°32'12"E FOR A DISTANCE OF 2.91 FEET; THENCE S27°41'02"W FOR A DISTANCE OF 323.66 FEET; THENCE N60°07'30"W FOR A DISTANCE OF 60.18 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBES 18,707 SQUARE FEET OR 0.43 ACRES OF SUBMERGED LAND.

SHEET 5
FILE NO. 20447



COASTAL ENGINEERING CONSULTANTS INC.
A CECI GROUP COMPANY
Serving Florida Since 1977
28421 BONITA CROSSINGS BLVD
BONITA SPRINGS, FLORIDA 34135

COASTAL & MARINE ENGINEERING
ENVIRONMENTAL & GEOLOGICAL SERVICES
SURVEY AND MAPPING
ENGINEERING: CA 2464
SURVEYING: LB 2464
PHONE: (239)643-2324
FAX: (239)643-1143
www.coastalengineering.com
E-Mail: info@cecifi.com

CLIENT: **PIER B DEVELOPMENT CORPORATION**
TITLE: **SPECIFIC PURPOSE SURVEY OF A SUBMERGED LAND LEASE AREA LYING IN SECTION 6, TOWNSHIP 68 SOUTH, RANGE 25 EAST, MONROE COUNTY, FLORIDA.**

DATE:	5/3/2023	SCALE:	N/A
DRAWN:	SDB	F.B.	
CHECKED:	RJE	PG.	
SEC.	6	TWP.	68S
		RNG.	25E
ACAD NO.	20.447		
REF. NO.	20.447-SLL EXISTING-20220214		

NO.	DATE	BY	REVISION DESCRIPTION

RESOLUTION NO. 23-135

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, ADOPTING A NEUTRAL POSITION, PROVIDING NEITHER SUPPORT NOR OPPOSITION TO THE PIER B DEVELOPMENT CORP. REQUEST TO THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND TO MODIFY ITS EXISTING SUBMERGED LANDS LEASE; AUTHORIZING THE CITY CLERK TO TRANSMIT A CERTIFIED COPY OF THIS RESOLUTION TO DESIGNATED MEMBERS OF FLORIDA LEGISLATURE AND ADMINISTRATION; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on Wednesday, May 3, 2023, the City Manager received a notice from the Board of Trustees of the Internal Improvement Trust Fund advising that Pier B Development Corp. {Pier B) requested a modification to their sovereignty submerged land lease, which would expand the cruise port lease area; and

WHEREAS, the City Commission held a special public meeting on Tuesday, May 9, to accept public comment and to discuss environmental, economic and legal concerns related to this request to expand Cruise port "B"; and

WHEREAS, the City Commission accepted additional public comment and discussed their concerns again at the regular Commission meeting of May 16, 2023, and provided direction to the City Manager and City Attorney to pursue action and information as set forth herein; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the City Commission hereby adopts a neutral position, providing neither support nor opposition to Pier B's request to expand and extend their sovereignty submerged land lease.

Section 2: That the City Clerk is hereby authorized to transmit a certified copy of this Resolution to Jason.Andreotta@floridadep.gov, SED_Permitting@floridadep.gov, Governor Ron DeSantis, Representative James "Jim" Mooney, Jr, and Senator Ana Maria Rodriguez.

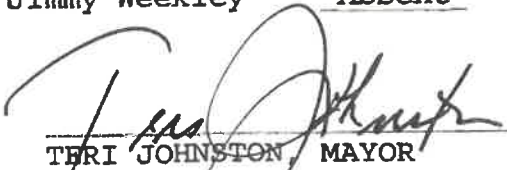
Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 16th day of May, 2023.

Authenticated by the Presiding Officer and Clerk of the Commission on 17th day of May, 2023.

Filed with the Clerk on May 17, 2023.

Mayor Teri Johnston	<u>Yes</u>
Vice Mayor Sam Kaufman	<u>Yes</u>
Commissioner Lissette Carey	<u>Yes</u>
Commissioner Mary Lou Hoover	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Absent</u>


TERI JOHNSTON, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK



STATE OF FLORIDA, COUNTY OF MONROE,
CITY OF KEY WEST

This copy is a true copy of the public record on file in this office. Witness my hand and official seal this 18 day of May, 2023

By 
Cheryl Smith, City Clerk



FLORIDA DEPARTMENT OF Environmental Protection

Southeast District
3301 Gun Club Rd MSC 7210-1
West Palm Beach, FL 33406

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

June 30, 2023

Mark Walsh, President
Pier B Development Corp
1001 E. Atlantic Ave, Suite 202
Delray Beach, FL 33483

Re: Temporary Use Agreement
Pier B Development Corp.
Site No. 166412 / Project No. 401305
BOT Lease No. 440020075
Gulf of Mexico, Class III Outstanding Florida Waters
Parcel No. 00000200-000203
Monroe County – ERP/State Lands

Dear Mr. Walsh:

Enclosed is the fully executed Temporary Use Agreement (TUA) to provide Pier B Development Corp. with temporary authorization for an existing commercial cruise ship mooring area beyond the boundary of the above-referenced lease for temporary mooring of commercial cruise ship vessels on state-owned submerged lands at the above-referenced site. The TUA is effective today, June 30, 2023.

If you have any questions regarding this matter, please contact Jason Andreotta at 561-681-6639.

Your continued cooperation in this matter is appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Andreotta".

Jason Andreotta
Director of District Management
Southeast District
Florida Department of Environmental Protection

Enclosures: Executed Temporary Use Agreement, Exhibit A, invoice

cc: Mark Kincaid VP Engineering, Coastal Engineering Consultants, Inc. mkincaid@cecifl.com
Mara Gambineri, DEP
Justin Davis, DEP

TEMPORARY USE AGREEMENT
BOT# 440020075

This Temporary Use Agreement (hereinafter referred to as the "Agreement") is entered into this 30 day of June, 2023, by and between the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (hereinafter referred to as the "Board") and Pier B Development Corp. (hereinafter referred to as the "Applicant").

RECITALS:

- A. The Applicant desires to enter into this Agreement for the sovereign lands (hereinafter referred to as "lands") and water column located waterward of Parcel Nos. 00000200-000202, 00000200-000203, 00000200-000206 and 00000200-000100 in Key West, Florida 33041.
- B. On August 26, 2015, the Florida Department of Environmental Protection ("Department"), as staff to the Board, issued a 10-year sovereignty submerged lands lease renewal (no. 440020075) ("Lease") authorizing an existing 2-slip commercial docking facility in conjunction with an upland commercial marina complex.
- C. The Department received multiple complaints between February 8, 2022 and February 15, 2022 alleging that cruise ships are being periodically moored partially outside of the Lease. Information, including photos, submitted with the complaints indicates potential non-compliance with the Lease and therefore potential non-compliance with the requirements of Section 253.77, Florida Statutes (F.S.) and Rule 18-21, Florida Administrative Code (F.A.C.).
- D. The Applicant desires to obtain the temporary authorization of the Board to periodically moor cruise ships extending partially beyond the Lease boundary as shown on Exhibit A during the processing and review of the Applicant's application for a modification to the Lease.
- E. The parties acknowledge that the Department will expeditiously process the Applicant's application for a modification to the Lease.

NOW, THEREFORE, for and in consideration of the mutual agreements and covenants set forth herein, the Applicant agrees to pay to the Board a total of **\$12,261.15** for deposit into the Internal Improvement Trust Fund as compensation for the prior and current use of these lands with the Board's authorization granted herein. (See Exhibit B for a breakdown of the lease fee for the Agreement area and sales tax.) Such payment, which shall be paid online by check, credit card or debit card at <http://www.fldepportal.com/go/pay-invoices> or paid by a cashier's check, certified check, or money order payable to the Department of Environmental Protection and delivered to the Board's Accounting Office, Post Office Box 3070, Tallahassee, Florida 32315-3070 within 30 days of this Agreement's effective date.

The parties hereto, then, agree as follows:

1. The Applicant acknowledges and understands that the grant of this Agreement does not guarantee that the Board will grant the Applicant a Lease modification or that the Department



will recommend that a Lease modification be granted. **The Board will issue a Lease modification if the Applicant meets the lease requirements of Rule 18-21, Florida Administrative Code (F.A.C.).**

2. The Applicant is hereby granted the temporary exclusive use of the structures and activities located on these lands as depicted in Exhibit A, consisting of approximately 58,720 square feet. This temporary exclusive use is for a term not to exceed one year from the date of execution of this Agreement, or until the date of execution of a sovereign lands lease modification between the Board and the Applicant, whichever occurs first. The Applicant shall make no claim of title to or interest in the sovereign lands identified in Exhibit A solely by reason of occupancy or use thereof under this Agreement.

3. The existing structures and activities can only be utilized as they existed on the date of execution of this Agreement. In the event any part of any of these structures or activities are determined by a final adjudication issued by a court of competent jurisdiction to encroach or interfere with riparian rights of the adjacent upland riparian owner, Applicant agrees to either obtain written consent for the offending structure or use from the affected adjacent upland riparian owner or remove the interference or encroachment within 60 days from the date of the adjudication. Failure to comply with this paragraph shall constitute a material breach of this Agreement and be grounds for immediate termination of this Agreement at the sole option of the Board.

4. The consideration paid for this Agreement includes the lease fees due for these lands from July 2, 2023 through July 1, 2024 and sales tax. This consideration is not refundable, notwithstanding the denial of a sovereign lands Lease modification by the Board.

5. In the event that a Lease modification application is not approved by the Board, or the Applicant fails to execute the Lease modification prior to the expiration or termination of this Agreement, whichever occurs first, the Applicant shall remove all structures and cease all activities referenced herein on the sovereign lands at the Applicant's sole expense. If the Applicant asserts title to the sovereign lands identified in Exhibit A, and either the Applicant fails to timely submit the information concerning title as required herein, or the Board denies the Applicant's claim of title and the Applicant has not commenced an action to quiet title as specified herein, the Applicant shall remove all structures and cease all activities referenced herein on the sovereign lands at the Applicant's sole expense. If the Applicant fails to complete the requirements of paragraph 7 of this Agreement, the Applicant shall remove all structures and cease all activities referenced herein on the sovereign lands at the Applicant's sole expense. The complete removal of the structures as required by this paragraph shall be accomplished within 180 days following the expiration or termination of this Agreement, whichever occurs first. The complete cessation of the activities shall occur immediately following the expiration or termination of this Agreement, whichever occurs first.

6. If the Applicant asserts title to the sovereign lands identified in Exhibit A, the Applicant must submit an application, accompanied by all evidence upon which Applicant relies for the assertion of title, to the Department's Division of State Lands (hereinafter referred to as "DSL"), within 90 days after the execution of this Agreement. DSL will review the application and



accompanying evidence and give a response to Applicant as to whether the Board will assert title to the sovereign lands described in Exhibit A. If DSL responds that the Board will assert title to said sovereign lands, the Applicant must file an appropriate action in circuit court within 90 days of DSL's response to obtain a legal determination of title to the sovereign lands. If DSL, after consultation with the Board, responds that the Board does not assert title to the sovereign lands, then the Applicant shall not have to apply for a sovereign lands lease modification. Failure to submit the initial application and evidence within 90 days after execution of this Agreement, or failure to file the appropriate court action within 90 days after DSL's response, shall constitute a waiver by the Applicant of all of its claim of title to the sovereign lands and an acknowledgment that the Board owns the sovereign lands.

7. Applicant shall complete the application submitted on April 13, 2023, for a sovereign submerged lands lease modification to the Board by no later than 180 days of the execution of this Agreement for the lands identified in Exhibit "A".

8. This Agreement is temporary in nature and may not be extended or modified except upon the express written agreement of the Board. No request for an extension of the Agreement shall be considered by the Board except upon a demonstration by the Applicant that the Applicant is in full compliance with the terms and conditions of this Agreement and has exercised due diligence in its efforts to procure a sovereign lands Lease modification from the Board.

9. As a material condition of this Agreement, Applicant agrees to comply with all applicable requirements of Chapters 253, 373, 376, and 403, Florida Statutes, and the rules promulgated pursuant thereto. The Board has the right to immediately rescind this Agreement upon the failure of Applicant to comply with either the terms of this Agreement, statutes, rules, or any permits or exemptions. Upon written notice that the Board has exercised its right to rescind under this paragraph, Applicant shall immediately cease and desist all activity authorized by this Agreement, or within the timeframe specified in the notice, or within twenty days of receipt of the notice if no timeframe is specified. Notice may be given by the Board by certified mail or hand delivery to: Pier B Development Corp, 1001 E. Atlantic Ave, Suite 202, Delray Beach, FL 33483, or by posting the notice at the property described in Paragraph A.

10. The Applicant shall save and hold harmless and indemnify the Board, Department, and the State of Florida against any and all liability, claims, judgments or costs of whatsoever kind and nature for injury to, or death of, any person or persons and for loss or damage to any property arising out of or connected with Applicant's occupation and use of these lands and the structures or activities located thereon. By execution of this Agreement, applicant waives any claim it may have against the Department concerning the submerged lands described on Exhibit A except as described in Paragraph 6 above.

11. Applicant agrees that any litigation arising from matters relating to this Agreement between the Board and the Applicant shall be initiated and maintained only in Leon County, Florida.

12. This Agreement, and any rights and privileges contained herein, are for the sole benefit and use of the Applicant and shall not be assigned or transferred by the Applicant to any other



party without the prior written consent of the Board, which consent shall not be unreasonably withheld.

13. The terms of this Agreement may be enforced by the Board notwithstanding that the authorization granted hereunder has expired.

Executed on the date first written above.

PIER B DEVELOPMENT CORP.

By: Mark Walsh
Original Signature

MARK WALSH
Typed/Printed Name

President
Title

THIS PORTION INTENTIONALLY LEFT BLANK

BOT # 440020075

Page 5 of 5

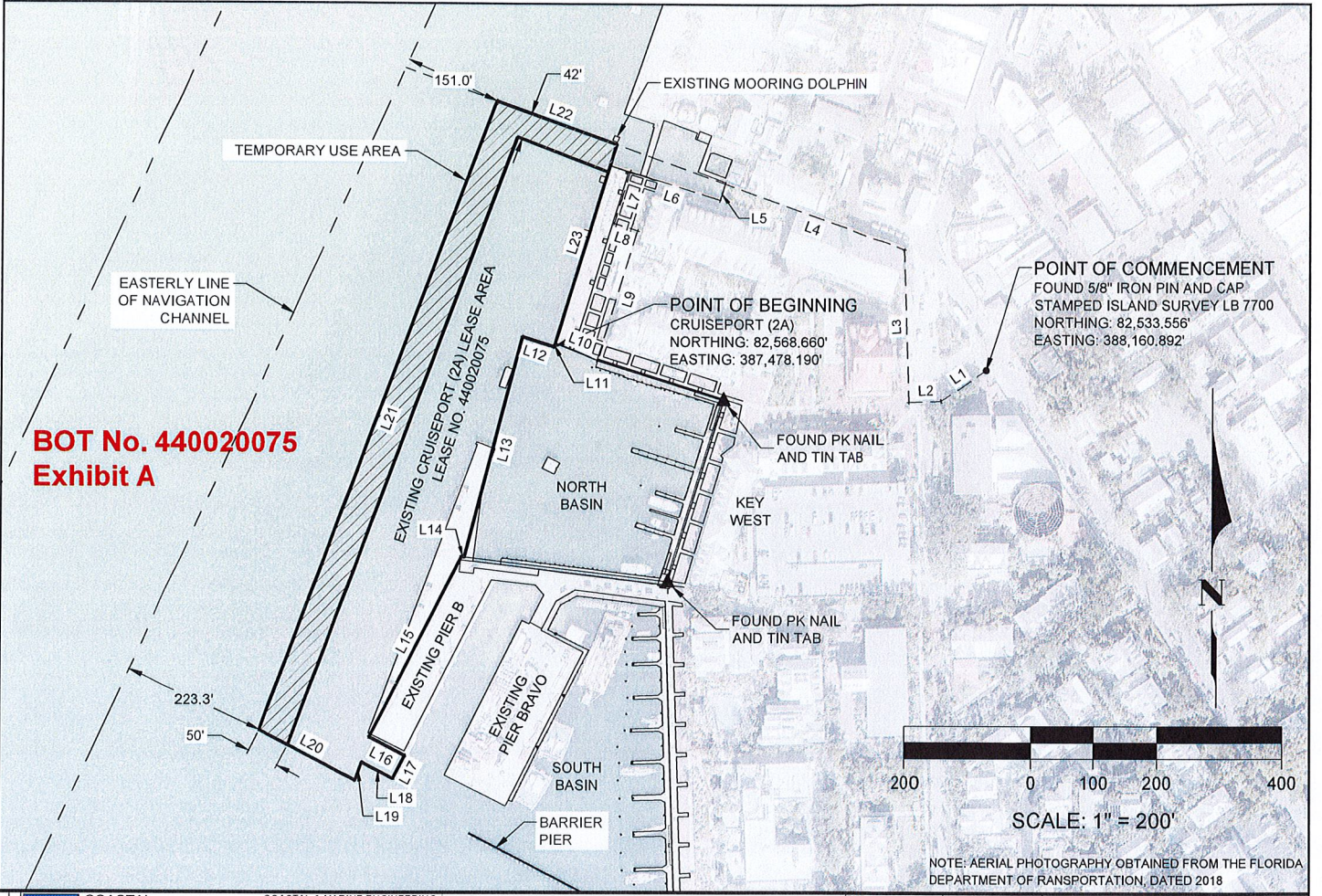
BOARD OF TRUSTEES OF THE
INTERNAL IMPROVEMENT TRUST
FUND OF THE STATE OF FLORIDA

By: 

Jason Andreotta

Director of District Management,
Department of Environmental Protection, as
agent for and on behalf of the Board of
Trustees of the Internal Improvement Trust
Fund of the State of Florida





**BOT No. 440020075
Exhibit A**

COASTAL ENGINEERING CONSULTANTS INC.
A CECI GROUP COMPANY
Serving Florida Since 1977
28421 BONITA CROSSINGS BLVD
BONITA SPRINGS, FLORIDA 34135

COASTAL & MARINE ENGINEERING
ENVIRONMENTAL & GEOLOGICAL SERVICES
SURVEY AND MAPPING
ENGINEERING CA 2484
SURVEYING LB 2484
PHONE: (239)643-2324
FAX: (239)643-1143
www.coastalengineering.com
E-Mail: info@cecif.com

CLIENT: PIER B DEVELOPMENT CORPORATION
TITLE: TEMPORARY USE AREA EXHIBIT OF A
SUBMERGED LAND LEASE AREA LYING IN SECTION 6,
TOWNSHIP 68 SOUTH, RANGE 25 EAST, MONROE COUNTY,
FLORIDA.

DATE: 06/30/2022 SCALE: 1" = 200'
DRAWN: SDB/KAK F.B.
CHECKED: RJE PJL
SEC: 6 TWP: 68S RANG: 25E
ACAD NO.: 20.447
REF. NO.:

NO.	DATE	BY	REVISION DESCRIPTION

MW

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Receipts Section
 Post Office Box 3070
 Tallahassee, FL, 32315-3070



INVOICE

Bill To:

Pier B Development Corp
 1000 Market St Bldg 1 Ste 300
 Portsmouth, NH 3801

**** INVOICE / INSTRUMENT INFORMATION ****

Invoice #:	130613	Instrument #:	440020075
Invoice Date:	06/01/2023	Expiration Date:	02/06/2025
Due Date:	07/01/2023	Extended Term Fee:	N
Lessee Name:	Pier B Development Corp		
Rate:	Base Rate		
Location:	Cruiseport		

**** IMPORTANT REMINDER ****

If paying by mail, please return invoice with your payment to the above address.
 Online payment by check, credit card or debit card is available at
<http://www.fldepportal.com/go/pay-invoices/>
 Late payments are subject to a 12% Interest fee pursuant to FAC 18-21.011(1)(b)13.

INFORMATION			LEASE FEE DATA				
Description	Memo	Object	Net Square Feet	Rate	Discount	Extended Term Fee	*Amount
Arrears 2023/2024 Commercial	From 07/02/2023 to 07/01/2024 on 58,720 sq. ft.	21017	164008.0	0.0	0	N	\$11,459.01
Note: Extension of Temporary Use Agreement on additional square footage of 58,720 for 1 full year - Agent: Jason Andreotta (sw)					Subtotal		\$11,459.01
					Sales Tax		\$630.25
					County Tax		\$171.89
					Credit Applied		(\$0.00)
					Payment Applied		\$0.00
					Total		\$12,261.15
					Invoice Balance Due		\$12,261.15
Instrument Lease Balance Due		\$12,261.15					

ANNUAL LEASE FEE FORMULA = BASE FEE - DISCOUNT + EXTENDED TERM FEE

*BASE FEE =Base Rate x Net Square Feet OR

*BASE FEE =Minimum Rate

DISCOUNT =Base Fee x Discount Percentage

EXTENDED TERM FEE =Base Fee x Extended Term Fee Percentage

For any questions concerning this invoice,
 please call the Division of State Lands at (850) 245-2555.

Memorandum

Florida Department of
Environmental Protection

NOTICE OF BOARD ACTION

TO: Office of the Secretary
Office of General Counsel
Office of Greenways and Trails
District Office - South Florida
Division of Water Facilities
Division of Marine Resources
Division of Recreation and Parks
Division of State Lands

FROM: Judy A. Brooks
Office of the Secretary

ITEM # **Substitute Item 2**

TITLE: **Pier B Development Corp. Lease Modification**

CABINET MEETING DATE: May 25, 1999

ACTION: Approved as amended, without objection

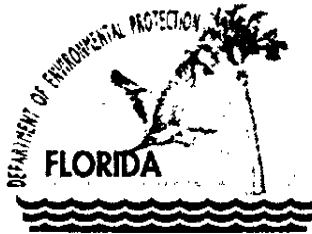
MEMBERS:

	Present	Absent
GOVERNOR	X	
SECRETARY OF STATE	X	
ATTORNEY GENERAL	X	
COMPTROLLER	X	
TREASURER	X	
COMMISSIONER OF EDUCATION	X	
COMMISSIONER OF AGRICULTURE	X	

The above action was taken on subject division agenda item at today's meeting. Will you please see that the information is provided to appropriate staff for further processing/handling of the matter and that the formal action as noted is made a part of the division's master file.

Please contact me immediately if you have any questions relating to the item's action as noted (922-3766). Thank you for your cooperation and help.

/db



Department of Environmental Protection

Jeb Bush
Governor

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

David B. Struhs
Secretary

STATE OF FLORIDA

COUNTY OF LEON

CERTIFICATE

I, Judy A. Brooks, do hereby certify that the Governor and Cabinet, sitting as the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, met on May 25, 1999, and approved the following Substitute Item 2 with the following amendment concerning Lease Area 2-A:

During the term of this lease and any extensions, renewals, or modifications thereof, lessee agrees to: (1) comply with any special lease condition that may be adopted by the lessor concerning new, renewed, or modified sovereignty submerged land leases restricting or prohibiting the preemption of sovereign submerged lands by gambling cruises to nowhere, such agreement to apply within 30 days of receipt by lessee notification of adoption of such special lease condition; and (2) the automatic incorporation of any such special lease condition into this lease without any further action by lessor or lessee.

Substitute Item 2 Pier B Development Corp. Lease Modification

REQUEST: Consideration of an application for a modification of a 25-year sovereignty submerged lands lease to increase the preempted area from 109,756 square feet to 164,008 square feet for a proposed expansion of an existing commercial marina facility.

COUNTY: Monroe
Lease No. 440020075
ERP No. 44-0142062-002

APPLICANT: Pier B Development Corp., a Florida corporation

LOCATION: Section 22 , Township 68 South, Range 25 East, in Key West Harbor, Class III waters, within the local jurisdiction of the City of Key West
Aquatic Preserve: No
Manatee Area idle/slow speed/caution zone: No
Outstanding Florida Waters: Yes

CONSIDERATION: \$20,527.20 as the initial lease fee computed at the base rate of \$0.1156 per square foot for the 164,008 square-foot area, and including the initial 25 percent surcharge

Certificate for Substitute Item 2
May 25, 1999 Trustees Agenda
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payment for the 54,252 square-foot expansion area. Sales tax will be assessed pursuant to section 212.031, F.S., if applicable. The lease fee may be adjusted based on six percent of the annual rental value, pursuant to section 18-21.011, F.A.C.

STAFF REMARKS: The lessee is proposing to expand an existing commercial marina facility by increasing the preempted area from 109,756 square feet to 164,008 square feet. The lease contains two lease areas. Lease area 2A currently provides for berthing of cruise ships up to 875 feet long. Lease area 2B provides for mooring of recreational vessels, commercial charter boat vessels and a gambling ship ("Vegas West"). The proposed expansion will be to lease area 2A to provide for berthing of cruise ships up to 1,000 feet long along the western face of Pier B. Lease area 2B will not be modified.

Pier B was built prior to 1970 for use by the United States Navy. The pier and associated uplands were purchased from the federal government by a private developer (Pritam Singh, a/k/a Truman Annex Company) on March 11, 1987. The Board of Trustees initially approved a 25-year sovereignty submerged lands lease on January 22, 1987, for 17,507 square feet. On February 6, 1990, the Board of Trustees approved a 25-year sovereignty submerged lands lease modification (no. 440002595) for an existing commercial docking facility, including the submerged lands adjacent to Pier A, Pier B, and Pier Bravo, for a total area of 114,671 square feet.

On January 22, 1991, the Board of Trustees approved a 25-year sovereignty submerged lands lease modification for the same lease to expand the existing commercial marina to 328,512 square feet. That modification did not include changes to Pier B. The lease was also assigned to Truman Annex Retail Development Company. On March 30, 1994, Pier B Development Corp. purchased Pier B.

On March 31, 1994, the Board of Trustees approved a 25-year sovereignty submerged land lease modification, under a delegation of authority (DOA) for lease no. 440002595, splitting the lease area into four separate leases and reassigning the leases from Truman Annex Retail Development Corp. to: North Basin Development Corp. (lease no. 440002595), Pier Bravo Development Corp. (lease no. 440020085), South Basin Development Corp. (lease no. 440020095) and Pier B Development Corp. (lease no. 440020075).

The lessee applied to the Department of Environmental Protection (DEP) on June 18, 1998, for a permit/water quality certification and authorization to use sovereignty submerged lands to construct a pier extension of approximately 12,416 square feet, install four new breasting dolphins and one new mono-pile mooring dolphin. The project included a request to expand by 54,252 square feet the sovereignty submerged lands lease (no. 440020075) at Pier B. The original purpose of the project was to accommodate larger cruise ships (up to 1,000 feet long), eliminate the berthing loads on the existing structure and improve maneuverability of the cruise ships during docking and departures. During the permit process, turbidity created by the

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cruise ships became a concern for DEP. As a result of negotiations between DEP and the lessee, the lessee provided DEP with reasonable assurance that there will be a net improvement in water quality as a result of pier expansion by: (1) the lessee providing DEP documentation showing a reduction in turbidity generation in the order of 75 to 80 percent once the pier expansion is complete; (2) project revisions designed to deflect and breakup the prop wash energy from ships' propulsion systems; and (3) the lessee's agreement to follow best management practices during the maneuvering of ships docking and departing from the pier.

As mitigation and public interest for the permit application, the lessee agreed to: (1) monitor turbidity levels within the Key West Channel for each ship that docks and departs from the pier; and (2) contribute a monetary donation of \$16,088 to the Florida Keys Environmental Trust Fund, for the purpose of restoring approximately 30,940 square feet (0.71 acre) of wetlands within the Key West Salt Ponds Habitat Restoration Area.

As a result of the above project modifications, the lessee agreed to pursue the project in two phases. Phase One would be the request to construct the pier expansion within the existing lease boundary, but not to allow for mooring of more or larger cruise ships. Phase Two would be a subsequent request to modify the sovereignty submerged lands lease to increase the lease area to accommodate the larger cruise ships. On April 8, 1999, the lessee withdrew the request to modify the sovereignty submerged lands lease until Phase Two. As a result, DEP issued an Environmental Resource Permit (no. 44-0142062-001) for the revised project on April 9, 1999.

The permit granted regulatory and proprietary authorization for construction of the pier extension. The proprietary authorization, a consent of use, was issued pursuant to a DOA because the pier extension did not increase the number of slips, substantially change the use of the facility from that currently authorized in the existing lease, or authorize berthing of vessels outside of the existing sovereignty submerged lands lease area.

On April 13, 1999, the lessee applied to DEP for Phase Two to modify the sovereignty submerged lands lease by increasing the preempted area from 109,756 square feet to 164,008 square feet, to provide for berthing of the larger cruise ships. It is the intent of this item to recommend that the expansion of lease area 2A, Pier B, include implementation of Environmental Resource Permit no. 44-0142062-001 issued on April 9, 1999. Implementation of this permit will provide assurances that adverse impacts to the Outstanding Florida Waters (OFW) from the operation of cruise ships will be minimized. In addition, a new special lease condition will require compliance with applicable environmental laws.

An April 14, 1999 inspection showed that the lessee is in compliance with the existing lease. All fees are current through February 6, 2000.

The existing lease authorizes fueling facilities and sewage pumpout facilities, but prohibits liveaboards. However, the waterbody is classified as an Outstanding Florida Water (OFW)

Certificate for Substitute Item 2
May 25, 1999 Trustees Agenda
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and is therefore subject to section 62-312.430(2), F.A.C. That rule prohibits fuel storage or pumping facilities located on over-water structures within OFWs. There are currently no such over-water facilities within lease area 2A. For consistency with the DEP regulatory rule, staff recommends that the lease be modified to prohibit fueling facilities within lease area 2A. Should this staff recommendation be approved, the following special lease condition will be included in the lease:

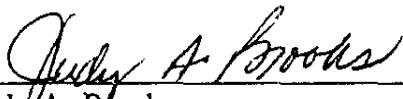
Fueling facilities, including fuel storage or fuel pumping devices, shall be prohibited within lease area 2A.

Recommendations from DEP's Division of Marine Resources regarding manatee protection include requiring the lessee to: (1) comply with the standard manatee protection construction conditions for all in-water construction; and (2) install and maintain permanent manatee informational displays and awareness signs. These items will be addressed in the modified lease as special lease conditions.

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S.; however, the Department of Community Affairs (DCA) determined that the plan is not in compliance. In accordance with the Compliance Agreement between DCA and the local government, an amendment has been adopted which brought the plan into compliance. The proposed action is consistent with the adopted plan as amended according to a letter received from the City of Key West.

RECOMMEND APPROVAL SUBJECT TO THE SPECIAL LEASE CONDITIONS
AND PAYMENT OF \$20,527.20

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the Board of Trustees of the Internal Improvement Trust Fund on this 25th day of May A.D., 1999.



Judy A. Brooks
Cabinet Affairs Director

