PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS <u>AGENDA ITEM SUMMARY</u>

Meeting Date:	January 7, 2025	[X] Consent [] Ordinance	[] Regular [] Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Second Amendment to Concessionaire Lease Agreement with Kayak-King Watersports, Inc. (Kayak-King), for the continued management and operations of the water sports and recreational rental concession at Okeeheelee Park from February 4, 2025 to February 3, 2027 at a Guaranteed Annual Rate (GAR) of \$9,053.47.

Summary: On February 4, 2020, the Board of County Commissioners (BCC) approved the Concessionaire Lease Agreement (R2020-0124), as amended, with Kayak-King for the management and operations of the water sports and recreational rental concession at Okeeheelee Park. The first extension option was approved by the BCC on December 6, 2022, extending the term of the Agreement to February 3, 2025. Kayak-King provided the County with timely notice of its intent to exercise the second and final extension option which extends the term to February 3, 2027. The current GAR of \$8,875.95/year will increase by 2% annually effective February 4, 2025, for a new GAR of \$9,053.47/year. This Second Amendment also adds certain standard provisions required in County agreements. The Parks and Recreation Department (Parks) will continue to have administrative responsibility for this Agreement. (Property & Real Estate Management) <u>District 2</u> (HJF)

Background and Justification: On February 4, 2020, the BCC approved the Concessionaire Agreement with Kayak-King for an initial term of three (3) years with two (2) options to extend, for a period of two (2) years each at the GAR of \$8,200/year (\$683.33/month), with annual 2% increases; and commission fee equal to 10% of Kayak-King's monthly gross revenue that exceeds the monthly installment of GAR. On December 6, 2022, the First Amendment to the Concessionaire Lease Agreement (R2022-1439) was approved exercising the first extension option and updating certain standard provisions required by the County agreements. Parks manages this Agreement and is satisfied with Kayak-King's performance. Updated Disclosure of Beneficial Interests provided identifies no changes in ownership, Annette Arriaga with 51% interest and Roger Roque with 49% interest.

Attachments:

- 1. Location Map
- 2. Second Amendment to Concessionaire Lease Agreement (2)
- 3. Second Option Extend Letter
- 4. Budget Availability Statement
- 5. Disclosure of Beneficial Interests

Recommended By: P	som 1. apr allo	11/20/24	
	Department/Director	Pate	
Approved By:	MBalcer	12/11/24	
	County Administrator	Date /	-

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2025	2026	2027	2028	2029
Capital Expenditures Operating Costs	N/A				
External Revenues	<u>(\$5,910)</u>	<u>N/A</u> (\$9,122)	<u>N/A</u> (\$3,156)	<u>N/A</u> (\$-0-)	<u>N/A</u> (\$-0-)
Program Income (County)		(42)1221	(\$9,190)	70-7	<u></u>
In-Kind Match (County					
NET FISCAL IMPACT	<u>(\$5,910)</u>	<u>(\$9,122)</u>	<u>(\$3,156)</u>	<u>(\$-0-)</u>	<u>(\$-0-)</u>
# ADDITIONAL FTE POSITIONS (Cumulative)					<u> </u>
Is Item Included in Current Bu	idget: Yes	X]	No		
Does this item include the use of	of federal fund	ls? Yes	NoX		
Does this item include the use of	of state funds?	Yes_	No		
Budget Account No: Fund	0 <u>001</u> Dep UB RSRC <u>18</u>	t <u>580</u>	Unit 5111-05	5 RSRC	<u>4729</u>

B. Recommended Sources of Funds/Summary of Fiscal Impact:

The option to extend the Concessionaire Lease Agreement is for two (2) years. The GAR is \$9,053.47 (\$754.46 monthly), with annual 2% increases, plus commission fee equal to the amount by which 10% of the monthly gross revenue exceeds the monthly installment of the GAR. The above does not include the commission fee.

Fixed Asset Number N/A

C. Departmental Fiscal Review:

TEW COMMENTS III. REV

A. OFMB Fiscal and/or Contract Development Comments

- 11/22/2 OFMB

Contract Development and Control ag 11.25.24

В. Legal Sufficiency: Assistant County Attorney

C. Other Department Review:

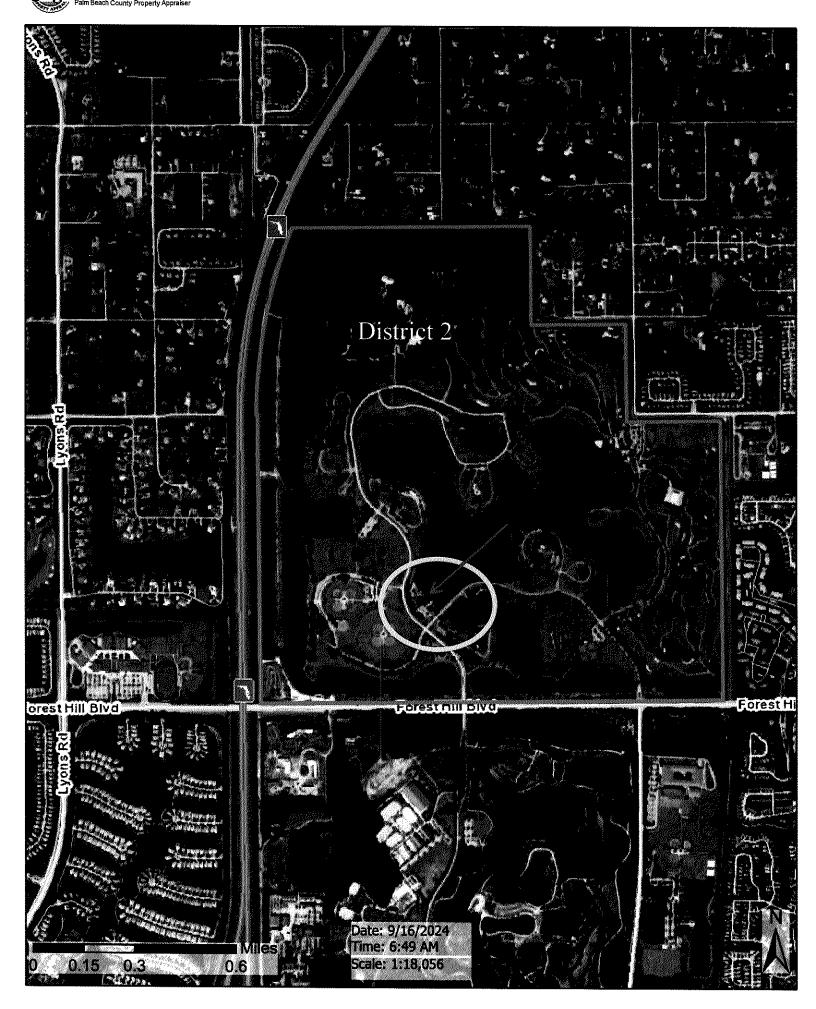
Department Director

This summary is not to be used as a basis for payment.

LOCATION MAP

gfll\DOROTHYJACKS

00-42-43-27-05-012-0350



ATTACHMENT #1

ATTACHMENT #2 Second Amendment to Concessionaire Agreement (2 @ 3 pages)

SECOND AMENDMENT TO CONCESSIONAIRE LEASE AGREEMENT

THIS SECOND AMENDMENT TO CONCESSIONAIRE LEASE AGREEMENT (R2020-0124), (the "Second Amendment") is made and entered into <u>January 7, 2025</u>, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida, ("County") and KAYAK KING WATERSPORTS, INC., a Florida Corporation, ("Concessionaire").

WITNESSETH:

WHEREAS, County and Concessionaire entered into that certain Concessionaire Lease Agreement (R2020-0124), as amended by the First Amendment dated December 6, 2022 (R2022-1439) (collectively, "Agreement") for the operation of a water sports and recreational rental concession within Okeeheelee Park ("Park") in West Palm; and

WHEREAS, the Term of the Agreement currently expires on February 3, 2025; and

WHEREAS, Concessionaire has provided County with written notice that Concessionaire wishes to exercise the second of two available two (2) year renewal options; and

WHEREAS, the parties hereto desire to amend the Agreement in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and various other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

- 1. The foregoing recitals are true and correct and incorporated herein by reference. Terms not defined herein shall have the same meaning as ascribed to them in the Agreement, as amended.
- 2. The Term of the Agreement is hereby extended to February 3, 2027, pursuant to Tenant's exercise of the second renewal option for two (2) years.
- 3. The parties agree that on February 4, 2025 the Guaranteed Annual Rent will increase pursuant to Section 2.02 to Nine Thousand Fifty-Three Dollars and Forty-seven cents (\$9,053.47), and will continue to increase on each anniversary date of the Commencement Date, as set forth in Section 2.02 of the Agreement.
- 4. Except as set forth herein, the Agreement, as amended by this Second Amendment, remains unrevised and in full force and effect, and the parties hereby ratify, confirm, and adopt the Agreement, as amended, hereby.
- 5. HUMAN TRAFFICKING AFFIDAVIT. Concessionaire warrants and represents that it does not use coercion for labor or services as defined in Section 787.06, Florida Statutes. Concessionaire has executed a Nongovernmental Entity Human Trafficking Affidavit, which is attached hereto.

[SIGNATURE APPEAR ON THE NEXT PAGE]

Page 1 of 2

IN WITNESS WHEREOF, the parties have executed this Second Amendment on the date set forth above.

Signed in the presence of:

Signature of Witness

sharm Ansle Print Name of Witness ar

Signature of Witness

<u>Damion</u> <u>Greenwary</u> Print Name of Witness

ATTEST:

JOSEPH ABRUZZO CLERK OF THE CIRCUIT COURT & COMPTROLLER

By:

Deputy Clerk

APPROVED AS TO LEGAL SUFFICIENCY By: Chief Assistant County Attorney

CONCESSIONAIRE:

KAYAK KING WATERSPORTS, INC., a Florida Corporation By:

Unnolla Signature

"the Prosident na (Print Name and Title

(SEAL)

COUNTY:

PALM BEACH COUNTY, a political subdivision of the State of Florida

By:_

Maria G. Marino, Mayor

APPROVED AS TO TERMS AND CONDITIONS

L'allor By: Reamon and the second Department Director

G:\PREM\PM\Leases-Agreements\Okeeheelee Park Concession - Kayak-King [Parks] [Receivable]\Option 2 of 2 - Feb.04.25 thru Feb.03.27\Amend 2\Kayak King Sports Amendment 2.docx

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NONGOVERNMENTAL ENTITY HUMAN <u>TRAFFICKING AFFIDAVIT (§ 787.06(13), *Fla. Stat.*)</u> THIS AFFIDAVIT MUST BE SIGNED AND NOTARIZED

I, the undersigned, am an officer or representative of <u>KayaK Kny Water Spirls</u> Inc (CONTRACTOR) and attest that CONTRACTOR does not use coercion for labor or services as defined in section 787.06, Florida Statutes.

Under penalty of perjury, I hereby declare and affirm that the above stated facts are true and correct.

(signature of officer or representative)

(printed name of officer or representative)

State of Florida, County of Palm Beach

Sworn to and subscribed before me by means of \square physical presence or \square online notarization this, ______ day of ______ 2024____, by _____ Anneff Arriaga______

Personally known \square OR produced identification \square .

Type of identification produced _____

NOTARY PUBLIC My Commission Expires: State of Florida at large

DAMION GREENAWAY Commission # HH 223967 Expires February 2, 2026

(Notary Seal)

ATTACHMENT #3 Second Option to Extend Letter (1 page)

Kayak-King WaterSports Inc. Okeeheelee Boat Rentals 1338 Victoria Drive West Palm Beach, FL 33406 (561) 632-7969

August 26, 2024

Email to KBrooks1@pbcgov.org

Palm Beach County Board of County Commissioners Parks & Recreation Department 2700 Sixth Avenue So. Lake Worth, FL 33461

To whom it may concern:

This letter is to inform you that Kayak-King Watersport's, Inc. intends to renew its current lease as allowed in Section 1.05 of our Concessionaire Lease Agreement approve by the Board of County Commissioners on February 4, 2020 (R2020-0124) and amended by R-2022-1439.

Thank you for your time and cooperation regarding this matter.

Sincerely,

Annette Arriaga / President, Kayak-King WaterSports Inc.

ATTACHMENT #4 Budget Availability Statement (1 page)

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BUDGET AVAILABILITY STATEMENT

REQUEST DATE: 10/2/24	REQUESTED BY: Della M. Lowery PHONE: 233-0239 Real Estate Specialist/PREM FAX: 233-0210					
PROJECT TITLE: Okeeheelee Pa	ark Concession	– Kayak-King (Option 2 of 2		PROJEC	Г NO.:
Fiscal Years	2025	2026	2027	2028	2	2029
Capital Expenditures Operating Costs External Revenues Program Income (County) In-Kind Match (County)	<u>(\$5.910)</u>	 (\$9,122)	(\$3,156)	(\$-0-)		(\$-0-)
NET FISCAL IMPACT	<u>(\$5,910)</u>	<u>(\$9,122)</u>	<u>(\$3,156)</u>	<u>(\$-0-)</u>		(\$-0-)
# ADDITIONAL FTE POSITIONS (Cumulative)						
** By signing this BAS your department by FD&O. Unless there is a change	-		•	-	-	eipt of this BAS
BUDGET ACCOUNT NUMBER	:					
FUND: <u>0001</u> DEPT: <u>580</u>	UNIT: <u>_5111-</u>	05 RSRC: _4	4729 SUB RSH	RC: <u>18</u>		
IS ITEM INCLUDED IN CURR						
IDENTIFY FUNDING SOURCE	FOR EACH A	CCOUNT: (cheo	k <u>all</u> that apply)			
 Ad Valorem (source/type: Non-Ad Valorem (source/type: _ Grant (source/type:	/type: ffOpera	ting Budget	D Fe))) ederal/Davi		
Department: <u>Parks & Recreat</u>	ion Departmer	at				······································

4		
BAS APPROVED BY:	denie & Cuille	DATE: 10/2/24
		<i>Lj</i>
ENCUMBRANCE NUMBER	k:	

C:\Users\rraymond\Documents\BAS (002).doc

The information below justifies the figures listed on the attached BAS for Okeeheelee Park Concession -Kayak-King Option 2 of 2; commencing 02/04/25 the annual rent will increase 2% to \$9,053.47 (\$754.46 monthly)

A. **Five Year Summary of Fiscal Impact:**

Fiscal Years	2025	2026	2027	2028	2029
Capital Expenditures Operating Costs External Revenues	(\$5,910)	(\$9,122)	(\$3,156)	 (\$-0-)	(\$-0-)
Program Income (County) In-Kind Match (County)					
NET FISCAL IMPACT	<u>(\$5,910)</u>	<u>(\$9,122)</u>	<u>(\$3,156)</u>	<u>(\$-0-)</u>	<u>(\$-0-)</u>
# ADDITIONAL FTE POSITIONS (Cumulative)					

FY2025:

- The current GAR is \$8,875.95, and the term is set to expire on 02/03/25.
- The exercise of this second option will extend the term for 2-years from 02/04/25 to 02/03/27. Commencing 02/04/25 the GAR will be \$9,053.47; pursuant to Section 2.01 of the Agreement, any fractional
- of month will be calculated on the basis of a 30 day month and paid on a per diem basis; Section 2.02 of the Agreement, each anniversary date of the Commencement Date is to be adjusted by multiplying current GAR by 2%.
- $\$8,875.95 \times 102\% = \$9,053.47 \text{ annual } \div 12 = \$754.46 \text{ per month } \div 30 = \25.15 per diem
- 02/04/25 02/28/25 = 25 days x 25.15 = 628.7503/01/25 09/30/25 = 7 months x 754.46 = 5,281.22-
- \$628.75 + \$5,281.22 = \$5,909.97 -

FY2025 TOTAL = <u>\$5,909.97</u>

FY2026

- 10/01/25 01/31/26 = 4 months x \$754.46 = \$3,017.84
- 02/01/26 02/03/26 = 3 days x 25.15 = \$75.45
- $\$9,053.47 \times 102\% = \$9,234.54$ annual $\div 12 = \$769.55$ per month $\div 30 = \$25.65$ per diem
- -
- 02/04/26 02/28/26 = 25 days x 25.65 = 641.2503/01/26 09/30/26 = 7 months x 769.55 = 55,386.85-
- \$3,017.84 + \$75.45 + \$641.25 + \$5,386.85 = \$9,121.39 -

FY2026 TOTAL = <u>\$9,121.39</u>

<u>FY2027</u>

- 10/01/26 01/31/27 = 4 months x \$769.55 = \$3,078.20
 02/01/27 02/03/27 = 3 days x \$25.65 = \$76.95
- \$3,078.20 + \$76.95 = \$3,155.15

FY2027 TOTAL = <u>\$3,155.15</u>

G:\PREM\PM\Leases-Agreements\Okeeheelee Park Concession - Kayak-King [Parks] [Receivable]\Option 2 of 2 - Feb.04.25 thru Feb.03.27\BAS Fiscal Info - 1.doc

ATTACHMENT #5 Disclosure of Beneficial Interests (3 pages)

EXHIBIT "F" TO CONCESSIONAIRE LEASE AGREEMENT

CONCESSIONAIRE'S DISCLOSURE OF BENEFICIAL INTERESTS

TO: PALM BEACH COUNTY CHIEF OFFICER, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA COUNTY OF PALM BEACH

1. Affiant is the <u>Vresident</u> (position - i.e. president, partner, trustee) of <u>Kanyak Kane Water Spects Duc</u> (name and type of entity - i.e. ABC Corporation, XYZ Limited Partnership), (the "Concessionaire") which entity is providing concession services on the real property legally described on or depicted in the attached Exhibit "A" (the "Premises").

2.	Affiant's address is:	7566 Via	Luria
		Lalu Worth	FL 33467

3. Attached hereto, and made a part hereof, as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent (5%) or greater beneficial interest in the concessionaire and the percentage interest of each such person or entity.

4. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

5. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete, and will be relied upon by Palm Beach County relating to its entering into a Concessionaire Lease Agreement for the Premises.

FURTHER AFFIANT SAYETH NAUGHT. Print Affiant Name: Onnette Drriges , Affiant

as identification and who did take an oath

produced _____ t

DAMION GREENAWAY Commission # HH 223967 Expires February 2, 2026

Notary Public Union (preenaway

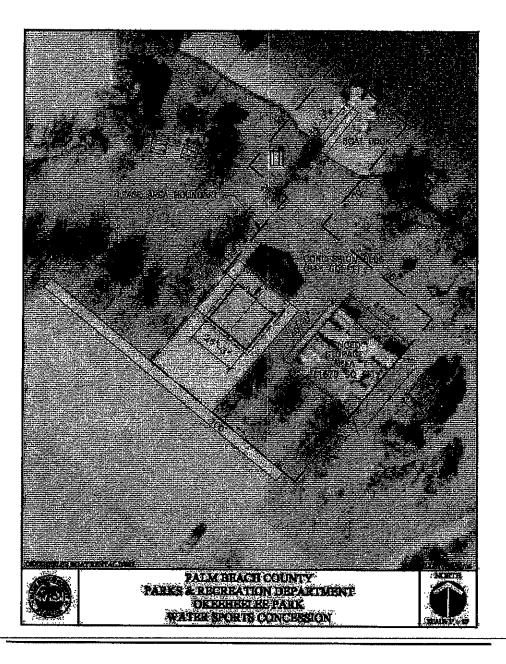
(Print Notary Name)

NOTARY PUBLIC State of Florida at Large

My Commission Expires: 2/1/2026

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EXHIBIT "A" CONCESSIONAIRE'S DISCLOSURE OF BENEFICIAL INTERESTS PREMISES



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EXHIBIT "B" CONCESSIONAIRE'S DISCLOSURE OF BENEFICIAL INTERESTS SCHEDULE TO BENEFICIAL INTERESTS

Concessionaire is only required to identify five percent (5%) or greater beneficial interest holders. If none, so state. Concessionaire must identify individual interest holders. If, by way of example, Concessionaire is wholly or partially owned by another entity, such as a corporation, Concessionaire must identify such other entity, its address and percentage interest, as well as such information for the individual interest holders of such other entity.

NAME INTEREST	ADDRESS	PE	RCENTAGE OF	
Anne	the Arria	iga	5-1 70	
1566	Via Uuri	<u>4</u>		
Lalc	e worth p	<u>r 33447</u>		<u></u>
<u> </u>	Roque		49%	
2566	Vialuria			
Late 1	Vialuria North FL	33-467		
	— — — — — — — — — — — — — — — — — — —	101.111.1.1		
		0.4469 <u>,</u>		

lofl