

RESOLUTION 17-122

A RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AN AGREEMENT RENEWING AND AMENDING THE CITY'S LEASE WITH COASTAL PARASAIL, INC., OF THE KIOSKS, SNACK BAR, DINING AREA, TACKLE AND BAIT SHOP AT RUSSELL FIELD PIER; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

BE IT RESOLVED that the appropriate officers of the City are authorized but not required to execute and deliver on behalf of the City that certain Extension and Second Amendment to Beachfront Lease Agreement between the City and Coastal Parasail, Inc., relating to the operation and use of the Kiosks, Snack Bar, Dining Area, Tackle and Bait Shop at Russell Field Pier, providing for extension of the lease for a term of three years and amending the date by which the monthly payment of Additional Rent shall be made; all in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager, whose execution of such agreement shall be conclusive evidence of such approval.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 24th day of August, 2017.

CITY OF PANAMA CITY BEACH

By: _____

Mike Thomas, Mayor

ATTEST:

City Clerk

Deputy

EXTENSION AND SECOND AMENDMENT TO BEACHFRONT LEASE AGREEMENT

THIS EXTENSION AND SECOND AMENDMENT (the "Amendment") to that certain Beachfront Lease Agreement entered into by the City of Panama City Beach (the "City") and Coastal Parasail, Inc. (the "Tenant") on June 24, 2010 and recorded in the Official Records of Bay County at Book 3316 Pages 1463-1510 (the "Beachfront Lease") is made and executed as of September _____, 2017, by and between the City and the Tenant.

1. **Extension – Section 2.03 Term.** Pursuant to Section 2.03 of the Beachfront Lease, the parties agree to extend the term for a period of three (3) years beginning on the effective date of October 1, 2017 and ending on September 30, 2020.

2. **Additional Rent Due – Section 2.04 Rent.** Section 2.04 (B) is amended to read as follows (~~strikethrough~~ removed and underlined added):
 - (B) In addition to the Base Rent, Tenant shall pay Additional Rent (determined on the basis of sales made during the previous calendar month) to the City on the twentieth ~~fifteenth~~ day of each month. Additional Rent shall be due and payable beginning on the twentieth ~~fifteenth~~ day of the first full calendar month following the Effective Date and on the twentieth ~~fifteenth~~ day of each and every month thereafter throughout the Term (and on the fifteenth day of the month following the termination hereof) and shall be paid without demand, set off or deduction to the city. At the time Additional Rent is due, Tenant shall tender to the City in a form satisfactory to the City Manager an account of all business transactions conducted pursuant to this Beachfront Lease during the preceding month, setting forth in particular the Gross Sales for said month. Within ninety (90) days following the end of each calendar year in which this Beachfront Lease was in effect, Tenant shall submit to the City in a form satisfactory to the City Manager a detailed, certified statement of Gross Sales generated by Tenant under this Beachfront Lease prepared by an independent CPA firm. Should payments made to the City during the year be less than required by the percentage of Gross Sales provision as set out in this Beachfront Lease, such shortage will be paid by check accompanying the statement.

3. **Kiosks – Section 4.01 Tenant’s Duty to Repair.** Section 4.01 is amended to read as follows (~~strikethrough~~ removed and underlined added):
 - (A) Except for repair required of the City in Section 4.03 hereof, Tenant shall keep and maintain in good order, condition, repair and in an attractive appearance, and make such replacements and restorations as are required to the Leased Premises and Kiosks, every part thereof and every appurtenance thereto, including, but without limitation, the exterior and interior portion of all doors, door frames, door checks, windows, window frames, plate glass, store front, all plumbing and sewage facilities within the Leased Premises including free flow up to the main sewer lateral north of the deck sidewalk and all potable piping and connections serving the Leased Premises beginning at the discharge

connection of the water meter location north of the deck sidewalk, fixtures, heating and air conditional and electrical systems (whether or not located in the Leased Premises), sprinkler systems, if any, walls, floors and ceiling, meters applicable to the Leased Premises or Kiosks, exterior and interior signage, and all installations made by Tenant under the terms of this Beachfront Lease.

- (B) Tenant shall keep and maintain the Leased Premises and Kiosks in a clean, neat, sanitary and safe condition and in accordance with all required rules and regulations of the governmental agencies having jurisdictions of the Leased Premises and Kiosks and of Tenant and the City with respect to the Leased Premises and Kiosks, and Tenant shall comply with, and maintain the Leased Premises and Kiosks in compliance with all requirements of law, by statute, ordinance or otherwise, affecting the Leased Premises and the appurtenances thereto.
- (C) ~~(D)~~ Tenant shall, at its expense, keep, maintain and repair all furniture, fixtures and equipment in the Leased Premises and Kiosks, including all equipment belonging to the City, in a good working order and safe, sanitary, neat, clean and in an attractive condition, and if necessary replace the same at its expense.
- (D) ~~(E)~~ In addition, and in consideration of the benefits of this Beachfront Lease, the Tenant shall keep the entire Concession Deck in a neat, clean and sanitary condition, free of trash, garbage and litter.
- (E) ~~(F)~~ In addition, and in consideration of the benefits of this Beachfront Lease, the Tenant shall keep the entire Beachfront Property in a neat, clean and sanitary condition, free of trash, garbage, litter, dog feces and man-made, nighttime obstructions to nesting sea turtles. Tenant shall not be required to remove seaweed from the Beachfront Property.
- (F) ~~(G)~~ If Tenant fails to commence and to complete repairs, replacements, cleaning or other obligations set forth in this Section, promptly and adequately after written notice from City, City may, but shall not be required to, make and complete said repairs or other obligations and Tenant shall promptly pay the cost thereof upon demand by City.

Remainder of Terms. All terms of the Beachfront Lease remain unchanged and in full force and effect unless specifically amended or modified herein.

[Signatures on Following Pages]

IN WITNESS WHEREOF, the City Council of the City of Panama City Beach, Florida, has caused this Amendment to be executed and delivered as of the date and year first above written.

**CITY OF PANAMA CITY BEACH,
FLORIDA**

By: _____
Mario Gisbert
City Manager

By: _____
Mike Thomas
Mayor

ATTEST:

City Clerk

STATE OF FLORIDA
COUNTY OF BAY

The foregoing instrument was acknowledged before me by Mario Gisbert, Mike Thomas, and _____, as City Manager, Mayor and Clerk of the City of Panama City Beach, Florida. Each person is personally known to me or has produced _____ as identification.

WITNESS my hand and official seal, this ____ day of _____, 2017.

Notary Public
State of Florida

My commission expires _____

IN WITNESS WHEREOF, Coastal Parasail, Inc. has caused this Beachfront Lease to be executed and delivered as of the day and year first above written.

Coastal Parasail, Inc.

By: _____

Adris Pender, President

ATTEST:

Secretary

STATE OF FLORIDA
COUNTY OF BAY

The foregoing instrument was acknowledged before me by Adris Pender and Adris Pender, as President and Secretary of Coastal Parasail, Inc., a Florida corporation, on behalf of the corporation. They are personally known to me or have produced _____ as identification.

WITNESS my hand and official seal, this ____ day of _____, 2017.

Notary Public
State of Florida

My commission expires _____



CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:

PIER/JIM PONEK

2. MEETING DATE:

AUGUST 24, 2017

3. REQUESTED MOTION/ACTION:

APPROVE RESOLUTION EXTENDING AND AMENDING BEACHFRONT LEASE WITH COASTAL PARASAIL

4. AGENDA

PRESENTATION
PUBLIC HEARING
CONSENT
REGULAR

5. IS THIS ITEM BUDGETED (IF APPLICABLE)? YES NO N/A
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED YES NO N/A

6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)

IN JUNE 2010, THE CITY ENTERED A BEACHFRONT LEASE AGREEMENT WITH COASTAL PARASAIL, REGARDING THE RENTAL AND USE OF THE SNACK BAR, TACKLE AND BAIT SHOP, KIOSKS, AND CONCESSION DECK. THAT LEASE CONTEMPLATED RENEWALS OVER A TEN YEAR PERIOD, AND WAS RENEWED IN SEPTEMBER 2012 FOR A FIVE YEAR PERIOD.

STAFF RECOMMENDS RENEWING THE LEASE NOW FOR A FINAL THREE YEAR TERM.

IF APPROVED, THE LEASE RENEWAL WILL ALSO MODIFY THE LEASE TO ALLOW THE TENANT'S PAYMENT OF ADDITIONAL RENT BY THE TWENTIETH DAY OF EACH MONTH, AND CLARIFY THE TENANTS RESPONSIBILITY TO REPAIR OR OTHERWISE MAINTAIN THE KIOSKS LOCATED IN THE LEASED PREMISES IN GOOD CONDITION.

AT THE CONCLUSION OF THE THREE YEAR TERM (SEPTEMBER 30, 2020), THE CITY WILL NEED TO TAKE OVER OPERATIONS OF THE LEASED PREMISES, OR SOLICIT THE PROVISION OF THESE SERVICES BY A COMPETENT THIRD PARTY.