



# EXECUTIVE SUMMARY

**TO:** City Commission

**CC:** Jim Scholl

**FR:** Marilyn Wilbarger, RPA, CCIM

**DT:** May 21, 2018

**RE:** Sunset Watersports Inc. Concession Agreement Renewal at Smather's Beach

## **ACTION:**

This is a request to approve the renewal of a concession agreement between the City of Key West and Sunset Watersports Inc. for two existing water sports concession stands located on Smather's Beach.

## **HISTORY:**

Sunset Watersports has operated the water sports activities at Smather's Beach since 1983 and under the most recent agreement since June 2008 pursuant to Resolution 08-274. Sunset has requested a renewal and under the terms of the agreement they will reinvest in the concession with the replacement of the booth located at the #2 concession. The following terms are proposed for the renewal of the concession agreement:

**Demised Premises:** Two current locations as shown on Exhibit A of the agreement

**Term:** 10 years

**Concession Use:** Watersports concessions including the rental of; sailboats, paddle boards, windsurfers, inflatable rafts, chairs and umbrellas, and water kayaks. Sale of parasail rides, suntan products, towels and hats; sale of Hobie Catamaran rides, water skiing and water rides; ticketing and information for concession uses and concierge services for other businesses; sale of windsurfing and sailing instruction; loading and offloading of passengers for off-shore watersports activities.

**Concession fee:** A minimum fee of \$5000 per month or 10% of gross sales for both locations, whichever is greater and shall include 10% of concierge commissions

**Increases:** CPI annual increases in the minimum fee

**Improvements:** The concessionee will replace the #2 concession booth with a portable tiki hut structure substantially the same as the existing booth at concession #1.

**Hardship Provision** The minimum fee may be eliminated for any month when the beach is closed for more than 15 days due to events beyond the concessionee's control and by mutual consent of the city manager and the concessionee.

**FINANCIAL:**

The concession fee has been increased to reflect the minimum payment required to ensure that the City will receive fair value for the use of the sites while continuing to share in a percentage of the gross sales derived from this use. The Concessionee will provide a personal guaranty for the complete performance of the covenants and obligations under the agreement.

**RECOMMENDATION:**

The proposed concession agreement is in compliance with the permitted uses in the lease agreement between the City and the State Department of Natural Resources dated April 12, 1971.

This Concessionee has operated at this location for over thirty years and has re-invested in the site after every storm. A ten-year term is proposed to amortize the improvement costs associated with the replacement of the concession booth #2. The Concessionee's account is in good standing and the city has a satisfactory history with the Concessionee.

Staff recommends approval of the concession agreement renewal as proposed.

**ATTACHMENTS:**

Concession Agreement

Personal Guaranty