

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: October 8, 2019

☒ Consent ☐ Regular
☐ Ordinance ☐ Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a First Amendment to the Agreement between Palm Beach County and the Ski Club of the Palm Beaches, Inc. (Ski Club), for the cooperative maintenance, management and use of the water ski lakes at Okeeheelee Park. The original Agreement was entered into on October 7, 2014. This Amendment exercises the first renewal option for the period of October 7, 2019 through October 6, 2024.

Summary: In 1983, the County entered into an agreement (R83-855) with the Ski Club for the design, construction and use of the water ski courses and appurtenant structures at Okeeheelee Park. In 1999, the agreement was amended (R99-1572D) for an additional fifteen years. In 2014, the County entered into a five year agreement (R2014-1507) with two five year renewal options for the cooperative maintenance, management and use of the water ski lakes at Okeeheelee Park. This First Amendment exercises the first renewal option; changes the termination clause from ninety days to twelve months; updates the nondiscrimination, criminal history records check, public records and the hazardous material provisions. There is no cost to the County. District 2 (AH)

Background and Justification: On August 9, 1983, the County entered into an agreement (R83-855) with the Ski Club for the design, construction and use of the water ski courses and appurtenant structures at Okeeheelee Park. On August 24, 1999, the agreement was amended (R99-1572D) for an additional fifteen years. On October 7, 2014, the County entered into a five year agreement (R2014-1507) with two five year renewal options for the cooperative maintenance, management and use of the water ski lakes at Okeeheelee Park. This First Amendment exercises the first renewal option; changes the termination clause from ninety days to twelve months; updates the nondiscrimination, criminal history records check, public records and the hazardous material provisions. The Ski Club and the Department have worked cooperatively to ensure that the lakes and structures are properly maintained and used. The Ski Club has voluntarily provided funding and labor for this maintenance. They also host local, state, national, and international tournaments on the lakes bringing many visitors to Palm Beach County. The participation and cooperation of the Ski Club, since the creation of the Okeeheelee Ski Lakes, has made it possible for the Department to provide this world class facility.

Attachment: First Amendment to Agreement

Recommended by: _____

Department Director

9-10-19

Date

Approved by: _____

Assistant County Administrator

9/24/2019

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u><u>*-0-</u></u>	<u><u>-0-</u></u>	<u><u>-0-</u></u>	<u><u>-0-</u></u>	<u><u>-0-</u></u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current Budget:	Yes _____		No _____		X _____
Does this item include use of federal funds?	Yes _____		No _____		X _____

Budget Account No.: Fund _____ Department _____ Unit _____
Revenue _____ Object _____ Program _____


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

*There is no additional fiscal impact associated with this item.

C. Departmental Fiscal Review: 

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

 9/17/19
OFMB 9/16/19 BR 9/17/19

 9/20/19
Contract Development & Control
9/19/19 TW

B. Legal Sufficiency:

Anne Welsch 9-23-19
Assistant County Attorney

C. Other Departmental Review:

Department Director

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

**FIRST AMENDMENT
BETWEEN PALM BEACH COUNTY
AND SKI CLUB OF THE PALM BEACHES, INC.**

THIS FIRST AMENDMENT TO THE AGREEMENT is made and entered into on _____, by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as the "COUNTY", and SKI CLUB OF THE PALM BEACHES, INC, A NON-PROFIT CORPORATION, hereinafter referred to as the "CLUB".

WITNESSETH:

WHEREAS, on October 7, 2014, COUNTY and CLUB entered into an Agreement to cooperatively enhance and manage the water-ski courses and appurtenant structures at Okeeheelee Park ("Agreement"); and

WHEREAS, the parties desire to renew the AGREEMENT for the period October 7, 2019 through October 6, 2024 with one (1) five (5) year renewal option remaining; and

WHEREAS, entering into this Amendment serves a public purpose.

NOW THEREFORE, in consideration of the mutual covenants and agreements expressed herein, the COUNTY and CLUB agree as follows:

1. Section 9 of the Agreement is amended to state: The term of this Agreement shall begin on October 7, 2014 and continue through October 6, 2024 with one (1) five (5) year renewal option remaining.
2. Section 17 of the Agreement is amended to state: COUNTY may terminate this Agreement at any time, with or without cause upon providing twelve (12) months advance written notice to the CLUB.
3. Section 18 of the Agreement is amended to state: CLUB may terminate this Agreement at any time, with or without cause upon providing twelve (12) months advance written notice to COUNTY.
4. Section 28 of the Agreement is amended to state: CLUB hereby acknowledges and understands that its activities involve petroleum products, aquatic weed control or other ski-related materials that involve, the generation, processing, handling, storing, transporting and disposal of certain hazardous and/or toxic materials which are subject to regulation by Federal, State or local laws, ordinances, regulations, rules, orders, or other governmental rules and requirements (the "Hazardous Materials").

5. Section 34 of the Agreement is amended to state: The COUNTY is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the CLUB warrants and represents that throughout the term of this Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of this Agreement.
6. Section 44 of the Agreement is amended to state: The CLUB, CLUB'S employees, subcontractors of CLUB and employees of subcontractors shall comply with Palm Beach County Code, Section 2-371 - 2-377, the Palm Beach County Criminal History Records Check Ordinance ("Ordinance"), for unescorted access to critical facilities ("Critical Facilities") or criminal justice information facilities ("CJI Facilities") as identified in Resolution R-2003-1274, as amended. The CLUB is solely responsible for the financial, schedule, and/or staffing implications of this Ordinance. Further, the CLUB acknowledges that its Contract price includes any and all direct or indirect costs associated with compliance with this Ordinance, except for the applicable FDLE/FBI fees that shall be paid by the COUNTY.

This Agreement may include sites and/or buildings which have been designated as either "critical facilities" or "criminal justice information facilities" pursuant to the Ordinance and Resolution R2003-1274, as amended. COUNTY staff representing the COUNTY department will contact the CLUB and provide specific instructions for meeting the requirements of this Ordinance. Individuals passing the background check will be issued a badge. The CLUB shall make every effort to collect the badges of its employees and its subcontractors' employees upon conclusion of the contract and return them to the COUNTY. If the CLUB or its subcontractor(s) terminates an employee who has been issued a badge, the CLUB must notify the COUNTY within two (2) hours. At the time of termination, the CLUB shall retrieve the badge and shall return it to the COUNTY in a timely manner.

The COUNTY reserves the right to suspend the CLUB if the CLUB 1) does not comply with the requirements of County Code Section 2-371 - 2-377, as amended; 2) does not contact the COUNTY regarding a terminated CLUB employee or subcontractor employee within the stated time; or 3) fails to make a good faith effort in attempting to comply with the badge retrieval policy.

7. Section 48 of the Agreement is amended to state: Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the CLUB: (i) provides a service; and (ii) acts on behalf of the COUNTY as provided under Section 119.011(2) F.S., the CLUB shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The CLUB is specifically required to:

A. Keep and maintain public records required by the COUNTY to perform services as provided under this Agreement.

B. Upon request from the COUNTY's Custodian of Public Records, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. The CLUB further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.

C. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Agreement, if the CLUB does not transfer the records to the public agency.

D. Upon completion of the Agreement the CLUB shall transfer, at no cost to the COUNTY, all public records in possession of the CLUB unless notified by COUNTY's representative/liaison, on behalf of the COUNTY's Custodian of Public Records, to keep and maintain public records required by the COUNTY to perform the service. If the CLUB transfers all public records to the COUNTY upon completion of the Agreement, the CLUB shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the CLUB keeps and maintains public records upon completion of the Agreement, the CLUB shall meet all applicable requirements for retaining public records. All records stored electronically by the CLUB must be provided to COUNTY, upon request of the COUNTY's Custodian of Public Records, in a format that is compatible with the information technology systems of COUNTY, at no cost to COUNTY.

Failure of the CLUB to comply with the requirements of this article shall be a material breach of this Agreement. COUNTY shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate

for cause. CLUB acknowledges that it has familiarized itself with the requirements of Chapter 119, F.S., and other requirements of state law applicable to public records not specifically set forth herein.

IF THE CLUB HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SKI CLUB'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT RECORDS REQUEST, PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT, 301 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.

8. Except as provided herein, each and every other term of the Agreement shall remain in full force and effect and the agreement is reaffirmed as modified herein.

REMAINDER OF PAGE LEFT INTENTIONALLY BLANK

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

ATTEST:

**SHARON R. BOCK, CLERK
& COMPTROLLER**

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

By: _____
Deputy Clerk

By: _____
Mack Bernard, Mayor

If Agreement Value Exceeds \$10,000.00:

County Administrator

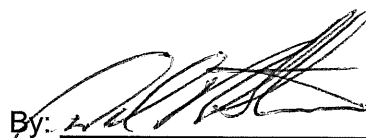
Signature Date

WITNESS

SKI CLUB OF THE PALM BEACHES

 8-8-19
Signature Date

Laurie C. Schobeleck
Print

By:  8/8/19
Signature Date

Dave R Stevens
Print
President
Title

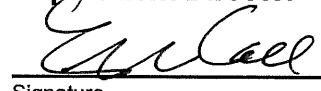
**APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:**


County Attorney


Signature Date

**APPROVED AS TO
TERMS & CONDITIONS:**

Department Director

 8-9-19
Signature Date

CERTIFICATE OF INSURANCE		PRINT DATE: 2/6/2019			
		CERTIFICATE NUMBER: 20190206685365			
AGENCY:					
Integro USA Inc. d/b/a Integro Insurance Brokers 2727 Paces Ferry Road, Building Two, Suite 1500 Atlanta, GA 30339 678-324-3300 (Phone), 678-324-3303 (Fax)		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
NAMED INSURED:		INSURERS AFFORDING COVERAGE:			
USA Water Ski & Wake Sports, Inc. 1251 Holy Cow Road Polk City FL 33868		Ski Club of the Palm Beaches 8585 Rosalie Ct Boynton Beach FL 33437-1271			
		INSURER A: Philadelphia Indemnity Ins. Co. NAIC #: 18058 INSURER B: Philadelphia Indemnity Ins. Co. NAIC #: 18058			
EVENT INFORMATION:					
Year Round Club Activity (2/6/2019 - 12/31/2019)					
POLICY/COVERAGE INFORMATION:					
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
INS	TYPE OF INSURANCE:	POLICY NUMBER(S):	EFFECTIVE:	EXPIRES:	LIMITS:
A	GENERAL LIABILITY				
	X Occurrence	PHPK1923647	1/1/2019 12:01 AM	1/1/2020 12:01 AM	GENERAL AGGREGATE (Applies Per Event) \$2,000,000
	X Participant Legal Liability				EACH OCCURRENCE \$1,000,000
					DAMAGE TO RENTED PREMISES (Each Occ.) \$1,000,000
					MEDICAL EXPENSE (Any one person) EXCLUDED
					PERSONAL & ADV INJURY \$1,000,000
					PRODUCTS-COMP/OP AGG \$2,000,000
B	UMBRELLA/EXCESS LIABILITY				
	X Occurrence	PHUB659830	1/1/2019 12:01 AM	1/1/2020 12:01 AM	EACH OCCURRENCE \$1,000,000
	X SIR				AGGREGATE (Applies Per Event) \$1,000,000
					RETENTION/DEDUCTIBLE \$10,000
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS:					
The certificate holder is an Additional Insured with respect to liability arising out of the negligence of the Named Insured as per the following endorsement: Additional Insured - Certificate Holders (Form PI-AM-002).					
Coverage only applies with respect to tournaments, practices, exhibitions, clinics and related activities sanctioned and approved by USA Water Ski, Inc.					
CERTIFICATE HOLDER:			NOTICE OF CANCELLATION:		
Palm Beach County Sports Commission 2195 Southern Blvd West Palm Beach FL 33406			Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.		
			AUTHORIZED REPRESENTATIVE:		
					

CERTIFICATE OF INSURANCE		PRINT DATE: 2/6/2019			
		CERTIFICATE NUMBER: 20190206685363			
AGENCY:					
Integro USA Inc. d/b/a Integro Insurance Brokers 2727 Paces Ferry Road, Building Two, Suite 1500 Atlanta, GA 30339 678-324-3300 (Phone), 678-324-3303 (Fax)		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
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			AUTHORIZED REPRESENTATIVE:		
					