Agenda Item#: 3H-6

## PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

Meeting Date:	June 15, 2021	[X] Consent [ ] Ordinance	[ ] Regular [ ] Public Hearing
Department:	Facilities Development & Operations		

#### I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: First Amendment to Concessionaire Service Agreement (R2018-2061) dated December 18, 2018, with US Soccer 5, LLC (US Soccer), for the operation of a mini soccer complex concession at John Prince Park (Park) extending the time frame to complete construction within the Park.

Summary: On December 18, 2018, the Board approved the Concessionaire Service Agreement (Agreement) (R2018-2061) with US Soccer for the construction, operation and maintenance of a mini soccer complex at John Prince Park for a term of ten (10) years, with two (2) ten (10) year renewal options. US Soccer proposed capital investment of \$2,088,746 over the course of thirty (30) years. In March of 2020, US Soccer was ready to move forward with the construction, but Covid-19 adversely impacted US Soccer operation from completing the construction within the specified time frame. This First Amendment: i) provides an additional 18 months to complete construction; ii) replaces Exhibit "B" (Premises) to the Agreement and Exhibit "A" (Site Area Map) to the Development Rider to reflect the location of the four (4) acres; iii) modifies various provisions of the Development Rider (Exhibit "D") to account for the additional time frame; and iv) adds standard County provisions on Criminal History Records Check, E-Verify employment eligibility and Counterparts. All other terms and conditions of the Agreement shall remain in full force and effect. The Parks and Recreation Department will continue to have administrative responsibility for this Agreement. (Property & Real Estate Management) District 3 (HJF)

**Background and Justification:** In July of 2018, a Request For Proposal (RFP) was issued for the operation of a mini soccer complex concession at John Prince Park. Two proposals were received in response to the RFP and the Selection Committee chose US Soccer as the successful vendor. Staff supports the extension of the time frame to complete construction as the delays to start construction were due to impacts resulting from the Covid-19 pandemic. This proposed Amendment also revises Exhibit "B" to reflect the location of the buildings and modifies, updates and adds certain standard County provisions to the Agreement. Florida Statutes, Section 286.23, requires that a Disclosure of Beneficial Interest be obtained when a property held in a representative capacity is leased to the County, but does not require such Disclosure when the County leases property to a tenant. Since a Disclosure was already provided, staff obtained an updated Disclosure which identifies Scott Georgeson (50%) and Alan Georgeson (50%), (previously held by Sharon Georgeson) as holding interests in US Soccer 5, LLC.

#### **Attachments:**

- 1. Aerial Map
- 2. First Amendment to Concessionaire Service Agreement (2)
- 3. Disclosure of Beneficial Interests

Recommended B	y: P Domi l. ayal hallo	5/14/21	
	Department Director	Date	
Approved By: _	1-	5/28/21	
	County Administrator	Date	

#### II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact: **Fiscal Years** 2021 2022 2023 2024 2025 Capital Expenditures **Operating Costs External Revenues** Program Income (County) **In-Kind Match (County NET FISCAL IMPACT** (\$-0-)(\$-0-)(\$-0-)<u>(\$-0-)</u> (\$-0-)# ADDITIONAL FTE **POSITIONS (Cumulative)** Is Item Included in Current Budget: Yes No XDoes this item include the use of federal funds? Yes $\underline{\hspace{1cm}}$ No $\underline{\hspace{1cm}}$ X Budget Account No: Fund \_\_\_\_ Dept \_\_\_\_ Unit \_\_\_\_ Object \_\_\_\_ Program **Recommended Sources of Funds/Summary of Fiscal Impact:** B. No fiscal impact Fixed Asset Number C. Departmental Fiscal Review III. REVIEW COMMENTS **OFMB Fiscal and/or Contract Development Comments:** B. Assistant County Attorney C. Other Department Review: Department Director

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



00-43-44-28-00-001-3020





#### FIRST AMENDMENT TO CONCESSIONAIRE LEASE AGREEMENT

THIS FIRST AMENDMENT TO CONCESSIONAIRE LEASE AGREEMENT (R2018-2061), (the "First Amendment") is made and entered into 4/22/2521 \_\_\_\_\_\_, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida, by and through its Board of County Commissioners ("County") and US SOCCER 5, LLC, a Florida limited liability company, ("Concessionaire").

#### WITNESSETH:

WHEREAS, County and Concessionaire entered into that certain Concessionaire Service Agreement dated December 18, 2018 (R2018-2061) (the "Agreement") for the use of the Premises as defined in the Agreement, which Agreement was set to commence no later than 30 days after the issuance of a certificate occupancy, and extend for a term of ten (10) years, with two (2) ten (10) year options to extend; and

WHEREAS, Concessionaire received approval for all permit applications as of March 2020 but Concessionaire was prevented from starting construction by COVID 19 Emergency Local Order 2020-003 that closed all parks and golf courses to the public; and

**WHREAS,** County and Concessionaire wish to extend the Agreement deadlines to account for COVID related closures and delays; and

WHEREAS, County and Concessionaire wish to revise Exhibit "B" (Premises) to reflect the location of the buildings, and County wishes to modify, update and add certain language into the Agreement; 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 considerations, 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.
- 2. The second sentence of the first paragraph of **Section 1.01 Premises**, is hereby deleted and replaced with the following:
  - The Premises consist of approximately four (4) acres and a dedicated area within the 2<sup>nd</sup> floor press box, as determined by the Department.
- 3. Section 3.02 Concessionaire's Alterations/Construction Responsibilities, is hereby modified as follows:

a. The last sentence of Section 3.02(A)(1), as shown below, is deleted in its entirety.

All of Concessionaire's construction and Alterations shall be initiated within 90 days after all permits and approvals have been obtained and made and performed in a good and workmanlike manner and shall be diligently performed to completion within 270 days of the receipt of such permits and approvals, strictly in accordance with the approved plans and specifications therefore.

b. Section 3.02(B)(5) is hereby deleted in its entirety and replaced with the following:

All of Concessionaire's construction and Alterations shall be initiated after execution of this First Amendment and made and performed in a good workmanlike manner and shall be diligently performed to completion within 18 months of the execution of this First Amendment, strictly in accordance with the approved plans and specifications therefore.

- 4. **Section 4.02, Operation of Business,** is hereby modified as follows:
  - a. Section 4.02(n) is hereby deleted in its entirety and replaced with the following:
  - (n) As provided in F.S. 435.03, Concessionaire shall perform a Level I background check on each employee prior to the employee beginning work at the Concession. The Concessionaire shall provide a background screening affidavit, as provided by Department, documenting background check clearance in accordance with F.S. 435.03, to the Department prior to the employee commencing work at the Concession. Concessionaire shall re-screen all of its employees every three (3) years from the employee's original hire date. If a disqualifying offense, as provided in F.S. 435.03, is identified during a re-screen or Concessionaire is made aware of a disqualifying offense at any time during employment, Concessionaire shall notify Department of any disqualifying offense it has knowledge of as to any of its employees during the Term of this Agreement and Concessionaire shall immediately terminate employment of any and all employees whom Concessionaire discovers have committed a disqualifying offense.
    - b. Section 4.02 (o) is deleted in its entirety and replaced with the following:
  - (o) Concessionaire may, with the approval of the Director of Parks and Recreation Department suspend operation of the concession whenever the Park is closed due to severe storms, maintenance, construction, epidemic pandemic, disaster, or acts of God. Reasonable effort shall be made to reopen the Park in a timely manner following severe storms, maintenance, construction, epidemic pandemic, disaster, or acts of God. If the closure is for an extended period of time (greater than seven (7) consecutive days, the Director of Parks and Recreation Department shall prorate the monthly payment of Annual Rent.

5. The third paragraph of **Section 8.06**, **Insurance Terms and Conditions**, is hereby deleted in its entirety and replaced with the following:

Subsequently, Concessionaire shall, during the term of the Agreement, and prior to each renewal thereof, provide such evidence to:

Palm Beach County 2700 6<sup>th</sup> Ave S Lake Worth, FL 33461 Email: jsteele@pbcgov.org (561) 966-6654

6. **Article XIX** Miscellaneous is hereby modified to add the following:

#### **Section 19.27 Criminal History Records Check**

The Concessionaire, Concessionaire's employees, subcontractors of Concessionaire 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 R2013-1470 and R2015-0572, as amended. The Concessionaire is solely responsible for the financial, schedule, and/or staffing implications of this Ordinance. Further, the Concessionaire 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 above reference Resolutions, as amended. County staff representing the Department will contact the Concessionaire(s) and provide specific instructions for meeting the requirements of this Ordinance. Individuals passing the background check will be issued a badge. The Concessionaire 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 Concessionaire or its subcontractor(s) terminates an employee who has been issued a badge, the Concessionaire must notify the County within two (2) hours. At the time of termination, the Concessionaire shall retrieve the badge and shall return it to the County in a timely manner.

The County reserves the right to suspend the Concessionaire if the Concessionaire 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 Concessionaire 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.

#### Section 19.28 E-Verify - Employment Eligibility

Concessionaire warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-

Verify System (E-Verify.gov), and beginning January 1, 2021, uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of Concessionaire's subconsultants performing the duties and obligations of this Agreement are registered with the EVerify System, and beginning January 1, 2021, use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

Concessionaire shall obtain from each of its subcontractors/subconsultants an affidavit stating that the subcontractor/subconsultant does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in section 448.095(1)(k), Florida Statutes, as may be amended. Concessionaire shall maintain a copy of any such affidavit from a subcontractor/subconsultant for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this Agreement which requires a longer retention period.

County shall terminate this Agreement if it has a good faith belief that Concessionaire has knowingly violated Section 448.09(1), Florida Statutes, as may be amended.

If County has a good faith belief that Concessionaire's subcontractor/subconsultant has knowingly violated Section 448.09(1), Florida Statutes, as may be amended, County shall notify Concessionaire to terminate its contract with the subcontractor/subconsultant and Concessionaire shall immediately terminate its contract with the subcontractor/subconsultant.

If County terminates this Agreement pursuant to the above, Concessionaire shall be barred from being awarded a future contract by County for a period of one (1) year from the date on which this Agreement was terminated. In the event of such contract termination, Concessionaire shall also be liable for any additional costs incurred by County as a result of the termination.

#### **Section 19.29 Counterparts**

This Agreement, including the exhibits referenced herein, may be executed in one or more counterparts, all of which shall constitute collectively but one and the same Agreement. The County may execute the Agreement through electronic or manual means. Concessionaire shall execute by manual means only, unless the County provides otherwise.

- 7. **Exhibit "B" (Premises)** of the Agreement is hereby replaced with the updated Exhibit "B" (Premises) attached hereto.
- 8. Exhibit "D" Development Rider, is hereby modified as follows
  - a. The second sentence of **Section I(G)(a)** is hereby deleted in its entirety and replaced with the following:

Within 30 days of County approval of this First Amendment, the Concessionaire shall submit copies of all permits, an updated total development cost estimate, proof that funding

is available for construction, a Schedule of Values (SOV) for construction, an updated CPM schedule indicating construction start and completion dates, as well as major milestones for the Facility.

b. Section I(G)(d) is hereby deleted in its entirety and replaced with the following:

Construction of the facility shall be completed within 18 months of County approval of this First Amendment.

- 9. **Exhibit "A" to the Development Rider** (Site Area Map) is hereby replaced with the updated Exhibit "A" to the Development Rider (Site Area Map) attached hereto.
- 10. **Exhibit "I"** (Disclosure of Beneficial Interests) of the Agreement is hereby replaced with the updated Exhibit "I" (Disclosure of Beneficial Interests) attached hereto.
- 11. This First Amendment is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners and shall become effective (the "First Amendment Effective Date") only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.
- 12. Except as set forth herein, the Agreement remains unrevised and in full force and effect, and the parties hereby ratify, confirm, and adopt the Agreement as amended hereby.

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

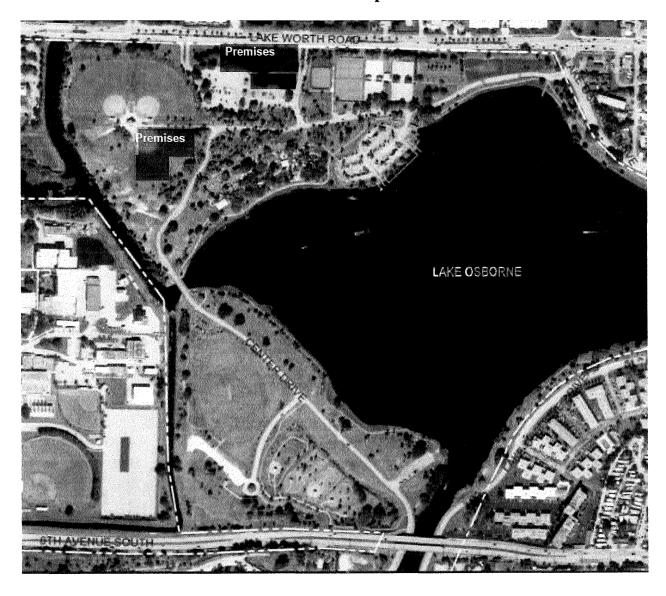
ATTEST:	COUNTY:
JOSEPH ABRUZZO CLERK OF THE CIRCUIT COURT & COMPTROLLER	PALM BEACH COUNTY, a political subdivision of the State of Florida
By: Deputy Clerk	By: Dave Kerner, Mayor
APPROVED AS TO LEGAL SUFFICIENCY By: Assistant County Attorney	APPROVED AS TO TERMS AND CONDITIONS  By: Department Director
Signed in the presence of:	CONCESSIONAIRE:  US Soccer 5, LLC, a Florida limited liability company
Signature of Witness  Olgo Galagan	By: Manager  Scott Georgeson, Manager
Print Name of Witness  Signature of Witness  Print Name of Witness	Liser Remarks Banos  Liser Remarks Banos  ACIDA DE LES STATES  Comm# GC9860795  Expires 4/22/2024

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### EXHIBIT "B" PREMISES



# EXHIBIT "A" TO THE DEVELOPMENT RIDER Site Area Map



### EXHIBIT "I" TO THE CONCESSIONAIRE LEASE AGREEMENT

#### **DISCLOSURE OF BENEFICIAL INTERESTS**

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

STATE OF FLORIDA
COUNTY OF PALM BEACH
BEFORE ME, the undersigned authority, this day personally appeared SCOT GEORES ON hereinafter referred to as "Affiant", who being by me first duly sworn, under oath
deposes and states as follows:
-
1. Affiant is the PRESIDENT (position - i.e. president, partner, trustee) of Secret 5 LLC (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: 8011 5W 1277H NEWE  MI AM 33183
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 concessionair 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 Beacl County relating to its entering into a Concessionaire Service Agreement for the Premises.
FURTHER AFFIANT SAYETH NAUGHT.
Print Affiant Name: 5 Cott OFOR CESON
Print Affiant Name: 5Cott GEORGESON
The foregoing instrument was sworn to, subscribed and acknowledged before me by means of [X] physical presence or [ ] online notarization this day of April 20 > 1 by
presence or 1 1 online notarization this of day of ADECC 1 20 of by SCOTT

Georgeson		[X] who is personally known to me or [ ]
who has produced	as identific	cation and who did take an oath.
		Notary Public
	Liset Fernandez-Banos NOTARY PUBLIC	(Print Notary Name)

Comm# GG980795 Expires 4/22/2024

NOTARY PUBLIC

State of Florida at Large
My Commission Expires: 04/02/2004

### EXHIBIT "A" TO THE DISCLOSURE OF BENFICIAL INTERESTS

#### "PREMISES"



### EXHIBIT "B" TO THE 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	ADDRESS	PERCENTAGE
		OF INTEREST
SCOTT GEORGESIN	6011 SW 1274 AVENUE	50%
	Mesme 33183	
AUN GEORGESON	4648 ASTREY VIEW CANE	504/8
	CHARLESTAN 29405	

### EXHIBIT "I" TO THE CONCESSIONAIRE LEASE AGREEMENT

#### **DISCLOSURE OF BENEFICIAL INTERESTS**

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

STATE OF FLORIDA COUNTY OF PALM BEACH
BEFORE ME, the undersigned authority, this day personally appeared Scott Georges on Line 1988.
deposes and states as follows:
1. Affiant is the PRESIDENT (position - i.e. president, partner, trustee) of US SOCER 5 LLC (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: 8011 5W 1277H NEWE
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 Service Agreement for the Premises.
FURTHER AFFIANT SAYETH NAUGHT.
The foregoing instrument was sworn to, subscribed and acknowledged before me by means of [X] physical presence or [ ] online notarization this day of Apell , 20 day of Scott

Georgeson	[X] who is personally known to me	e or [ ]
who has produced	as identification and who did take an oath.	
	Notary Public  Notary Public  NOTARY PUBLIC  NOTARY PUBLIC	<u> </u>
	NOTARY PUBLIC (Print Notary Name)	

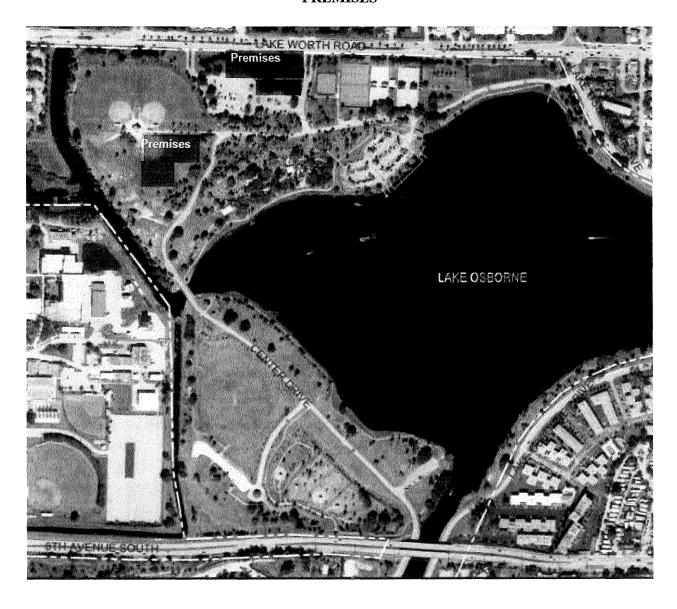
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG980795
Expires 4/22/2024

NOTARY PUBLIC

State of Florida at Large
My Commission Expires: 04/22/20

## EXHIBIT "A" TO THE DISCLOSURE OF BENFICIAL INTERESTS

#### "PREMISES"



### EXHIBIT "B" TO THE 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	ADDRESS	PERCENTAGE
		OF INTEREST
SCOTT GEORGESN	FOIL SW WITH AVENUE	50%
	MIAMI 33183	
ALM GEORGESON	4648 ASTRET VIEW CANE	501/2
	CHARLESTAN 29405	
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