



Agenda Item: Discuss and Consider Approval of Terms and Conditions for 2023 Summer Concessionaire Program

Background: The Park Board of Trustees receives authority from the City of Galveston to issue agreements for concession operations on beaches in front of the Seawall from 10th to 69th Streets. Chapter 8 of the City of Galveston municipal code provides for the Park Board to issue agreements for concession operations on beaches, and reads as follows:

“It shall be unlawful for any person to rent or lease, or to exhibit for renting or leasing, any surfboard, float, umbrella, bicycle, personal watercraft, kayak, boat or ski-boat, whether with or without driver, or other type of beach or recreational equipment, or to sell a product or concession ride to the public from a beach location under the jurisdiction of the city without having obtained from the park board of trustees for the city a beach concessionaire's agreement to conduct such business. A separate concession agreement shall be required for each location.”

The following process proposes to establish two types of concession agreements 1) Beach Concession Agreement for concession operations on property asserted to be private, and 2) License Agreement for those concessionaires operating with a Park Board issued agreement.

The Park Board and the City of Galveston consider all property in front of the Seawall to be part of the public beach easement, but also recognize some individuals have asserted private property rights. The following proposal seeks to facilitate concession operations along the length of the Seawall and bring to light any assertions of private property under the established ordinance. Property owners who can demonstrate ownership will be awarded an agreement to operate and will not be required to pay revenue share as does a license agreement holder (current concessionaire).

To “Demonstrate ownership” means the submission of a notarized “Beachfront Surface Rights” affidavit together with a survey by a registered professional land surveyor. The issuance of a concession agreement shall not be construed as an admission or waiver by the Park Board, City of Galveston or the State of Texas to any rights to the public beach.

The 2023 summer season concessionaire program proposal continues to honor all valid and current concessionaire agreements issued to date, unless a claim of ownership has been registered through the established process. In those cases, staff will work with concessionaires to relocate or refund on a case-by-case basis.

The following items constitute the proposal for the 2023 summer season concession program:

- 1) For the 2023 summer season, a Beach Concessionaire Agreement Application will be required for each operator wishing to conduct business from 14th to 69th Streets along Seawall Urban Park. The Application requires the following items to be included in the Application Submittal:
 - Auto liability Insurance for cars/trucks operating on the beach.
 - General Liability policy in the amount of \$1 million, listing the following as additional insureds:
 - City of Galveston, 823 Rosenberg, Galveston, TX 77553



- Park Board of Trustees of the City of Galveston, 601 Tremont St • Galveston, Texas 77550
 - Sales and Use Tax Permit from the State of Texas listing Galveston as the municipality.
 - Health Permit from Galveston County Health District, if applicable
 - Beach Patrol Permit for Water Safety, if applicable
 - Affidavit Regarding Beachfront Surface Rights, or Concession License with the Galveston Park Board.
 - Survey of surface rights if Applicant is operating under a claim of private property (see above instructions).
 - Application Fee of \$200.00 payable to the “Park Board of Trustees of the City of Galveston”.
- 2) Concessionaires with current agreements will be awarded 2023 Beach Concession Agreements for the areas currently assigned. Surveys are not required by concessionaires operating under Park Board issued license agreements on the public beach easement.
- 3) Application submittals for areas not currently under Park Board agreement on parcels asserted to be private property will be reviewed, and will include a process by which to vet the title through Mills Shirley. Once the application is approved and a Beach Concession Agreement is issued, then the survey coordinates will be used to indicate the specific site assigned to the concessionaire.
- 4) A plan to address relocation or refund of any current concessionaire with a Park Board license agreement will be presented to the Board of Trustees at the next meeting.
- 5) Beach Patrol will monitor beachfront concession activities for non-compliance of City ordinance. Such infractions may result in a citation which will be processed through Municipal Court.

Staff Recommendation: Staff recommends the Board approve:

- 1) Issuance of two types of concession agreements under the terms and conditions above:
 - a. License Agreement: Agreement issued by the Park Board, no application fees, lease fees do not change
 - b. Beach Concession Agreement: Agreement issued by the Park Board to operate on the beachfront; whether on public property or claimed private property, \$200 application fee, no land lease fees
- 2) Waiving of Beach Concession Agreement Application fee of \$200.00 each location for the 2023 Season for all applicants.

Funding Source (if applicable): Associated administrative and legal fees historically covered by the application fee will be allocated in the Nourished Beach budget to line item 5204.

Revenues for concession fees, as budgeted, are expected to be significantly reduced this fiscal year; staff does not anticipate reaching the \$140,000 revenue line in Nourished Beach.