

RESOLUTION NO. 2025- 3410

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AN AGREEMENT WITH PADL, LLC FOR KAYAK AND PADDLEBOARD RENTAL KIOSK SERVICES; FINDING THAT THE SERVICES ARE EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTION 3-13(3) OF THE TOWN CODE AS A PURCHASE MADE UNDER OTHER GOVERNMENTAL CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, consistent with its commitment to improving and enhancing the services available to its residents and visitors, the Town of Surfside ("Town") wishes to augment the kayak and paddleboard activities available at the 96th Street Park by providing rental stations where patrons can rent kayaks and paddleboards and associated paddles and lifejackets ("Services");

WHEREAS, the Town seeks to enter into an agreement with PADL, LLC ("Company") including and adopting substantially the same terms and pricing set forth in an agreement between the Company and the City of Miami Beach dated August 19, 2021 for kayak and paddleboard rental kiosk services ("City of Miami Beach Agreement");

WHEREAS, in accordance with Section 3-13(3) of the Town of Code, the Town elects to utilize substantially the same terms and pricing contained in the existing City of Miami Beach Agreement; and

WHEREAS, the Town Commission wishes to engage the Company to provide the Services pursuant to Section 3-13(3) of the Town Code authorizing purchases made under other governmental contracts; and

WHEREAS, the Town desires to enter into an agreement with the Company for

the Services, in substantially the form attached hereto as Exhibit "A" (the "Agreement"), including and adopting substantially the same terms and pricing set forth in the City of Miami Beach Agreement; and

WHEREAS, the Town Commission wishes to authorize the Town Manager to enter into the Agreement with the Company for the Services, substantially in the form attached hereto as Exhibit "A" (the "Agreement"), subject to final approval as to form, content, and legal sufficiency by the Town Manager and Town Attorney; and

WHEREAS, the Town Commission finds that it is in the best interest and welfare of the Town and its residents to approve the Agreement with the Company for the Services, and proceed as indicated in this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. Each of the above-stated recitals are hereby adopted, confirmed and incorporated herein.

Section 2. Town Manager Authorized: Agreement Authorized. The Town Manager is hereby authorized to enter into the Agreement with the Company for the Services, substantially in the form attached hereto as Exhibit "A", including and adopting the terms and pricing set forth in the City of Miami Beach Agreement, subject to final approval as to form, content, and legal sufficiency by the Town Manager and Town Attorney.

Section 3. Implementation of Agreement. The Town Manager and Town Officials are authorized to take any and all necessary action to implement the Services, the Agreement and the purposes of this Resolution.

Section 4. Effective Date. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED on this 10th day of June, 2025.

Motion By: Commissioner Velasquez

Second By: Commissioner Vildostegui

FINAL VOTE ON ADOPTION:

Commissioner Ruben A. Coto	<u>Yes</u>
Commissioner Nelly Velasquez	<u>Yes</u>
Commissioner Gerardo Vildostegui	<u>Yes</u>
Vice Mayor Tina Paul	<u>Yes</u>
Mayor Charles W. Burkett	<u>Yes</u>

Attest:



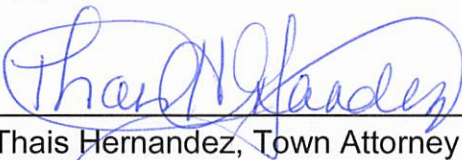
Sandra N. McCready, MMC
Town Clerk





Charles W. Burkett, Mayor

Approved as to Form and Legal Sufficiency:



Thais Hernandez, Town Attorney

PADDLE SHARE AGREEMENT BETWEEN THE TOWN OF SURFSIDE AND PADL, LLC

THIS AGREEMENT (this "Agreement") is made effective this ___ day of June, 2025 (the "Effective Date"), by and between the Town of Surfside, a Florida Municipality, whose principal address is 9293 Harding Avenue, Surfside, FL 33154 (hereinafter the "Town"), and PADL, LLC (hereinafter "PADL") a Florida limited liability company, whose principal address is 951 Crandon Blvd 491346, Key Biscayne, FL 33149.

RECITALS

WHEREAS, a goal of the Town is to provide safe and affordable recreational options to all visitors, and to promote the use of outdoor commodities through healthy activities;

WHEREAS, paddle share services are a component to help the Town achieve its goals and the Town desires to make paddle share services available to visitors and those who work in the Town;

WHEREAS, PADL is a qualified paddle share service provider and proposes to operate a kayak and paddle board share program (the "Services") within the Town;

WHEREAS, PADL requests the use of certain Town property to efficiently and effectively provide the Services;

WHEREAS, PADL possesses GPS, Cellular, and self-locking technology in its fleet such that kayak and paddle boards may be locked and opened by users with an app and tracked to provide for operations and maintenance; and

WHEREAS, the use of Town property for the Services is a benefit to Town residents and visitors.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, PADL and the Town agree as follows:

AGREEMENT

1. **Exclusive Operator.** Town designates PADL as the exclusive provider of the Services within its Town limits during the Term of this Agreement. This designation is personal to PADL and may not be assigned or transferred to any party without the written consent of the Town.

2. **PADL.** PADL shall be responsible for all payments to any subcontractors of PADL and shall maintain responsibility for all work related to the Services. PADL may only utilize the services of a particular subcontractor of PADL with the prior written approval of the Town Manager, which approval may be granted or withheld in the Town Manager's sole and absolute discretion.

3. **Use of Town Property.** Town authorizes PADL to use Town Property solely for the purposes set forth in this Agreement. This authorization is not a lease or an easement and is not intended and shall not be construed to transfer any real property interest in Town Property. Within 30 days of the signing of this Agreement, or prior to the deployment of kayak and paddle boards and stations, whichever comes first, the parties will mutually agree on and develop a map of public areas where kayak and paddle boards and kayak and paddle board stations will be installed. Kayak and paddle boards utilized by the public shall be docked by users legally in the specified stations only. Kayak and paddle boards may not be docked on private property without prior written authorization from the property owner. Authorized designated kayak and paddle board docking locations will also be added to the docking map. This map and location site list may be modified from time to time by mutual agreement of parties.

4. **Permitted Use.** PADL may use Town Property solely for the installation of stations to dock kayak and paddle boards owned and maintained by PADL for use in the paddle share program. PADL shall not place or attach any personal property, fixtures, or structures to Town Property without the prior written consent of the Town Manager.

a. Use of Town Property, and PADL's operations within the Town, shall, at a minimum: a) not adversely affect Town Property or the Town's streets, or sidewalks; b) not adversely affect the property of any third parties; c) not inhibit pedestrian movement within Town Property or along other property or rights-of-way owned or controlled by the Town; and d) not create conditions which are a threat to public safety and security.

b. Upon termination of this Agreement by either party, PADL shall, at its sole cost and expense, immediately restore Town Property to a condition which is visually and structurally indistinguishable from the immediately surrounding area.

5. **Kayak and paddle board Docking.** Kayak and paddle boards are to be docked only in the racks provided by PADL. The only way to end the rental is to return the kayak and paddle board to the original station. The Town, at its own and sole discretion, may support the kayak and paddle board sharing program by requesting installation of additional kayak and paddle board docking stations with additional kayak and paddle boards from PADL.

6. **Condition of Town Property.**

a. Town makes Town Property available to PADL in an "as is" condition. Town makes no representations or warranties concerning the condition of Town Property or its suitability for use by PADL or its customers and assumes no duty to warn either PADL or its customers concerning conditions that exist now or may arise in the future.

b. In making Town Property available for use by PADL, Town assumes no liability for loss or damage to PADL's kayak and paddle boards or other property. PADL agrees that Town is not responsible for providing security at any location where PADL's kayak and paddle boards are stored or located, and PADL hereby waives any claim against Town in the event PADL's kayak and paddle boards or other property are lost or damaged.

7. **Maintenance and Care of Portion of Town Property.** PADL shall be solely responsible for: (i) maintaining Town Property to the Town standards applicable for use by the PADL as permitted herein; and (ii) obtaining from the Town any applicable permits required by the Town. PADL shall exercise due care in the use of Town Property and shall be responsible for maintaining Town Property in good condition and repair. PADL shall not act, or fail to act, in any way that result in excessive wear or damage to Town Property. PADL expressly agrees to repair, replace or otherwise restore any part or item of real or personal property that is damaged, lost or destroyed as a result of the PADL's use of Town Property. Should the PADL fail to repair, replace or otherwise restore such real or personal property, PADL expressly agrees to pay Town's costs in making such repairs, replacements or restorations.

8. **Operations & Maintenance.**

a. PADL shall be responsible for all operations.

b. PADL shall cover all maintenance costs for the kayak and paddle board fleet and maintenance to minimum level of service.

9. **Indemnification.** PADL shall protect, defend, indemnify, save and hold harmless the Town, all departments, agencies, boards and commissions, its elected officials, officers, attorneys, agents, servants and employees, from and against any and all claims, demands, expense and liability arising out of injury or death to any person or the damage, loss of destruction of any property which may occur or in any way grow out of the display or Services and any negligent act or omission of PADL, its agents, servants, and employees, or any and all costs, expense and/or attorney fees incurred by the Town as a result of any claim, demands, and/or causes of action. Nothing in this indemnification or the Agreement is intended to act as a waiver of the Town's sovereign immunity rights, including those provided under section 768.28, Florida Statutes. This indemnification shall survive the expiration or termination of the Agreement.

10. **Insurance.** PADL shall secure and maintain throughout the duration of this Agreement insurance of such types and in such amounts not less than those specified below as satisfactory to Town, naming the Town as an Additional Insured, underwritten by a firm rated A-X or better by A.M. Best and qualified to do business in the State of Florida. The insurance coverage shall be primary insurance with respect to the Town, its officials, employees, agents and volunteers naming the Town as additional insured. Any insurance maintained by the Town shall be in excess of PADL's insurance and shall not contribute to PADL's insurance. The insurance coverages shall include at a minimum the amounts set forth in this Section 10 and may be increased by the Town as it deems necessary or prudent. Commercial General Liability coverage with limits of liability of not less than a \$1,000,000 per Occurrence combined single limit. The General Aggregate and the Products/Completed Operations Liability limit shall be in the amount of \$2,000,000 each. Workers Compensation and Employer's Liability insurance, to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000.00 each accident. No employee, subcontractor of PADL or agent of PADL shall be allowed to provide services pursuant to this Agreement without Worker's Compensation insurance.

a. **Certificate of Insurance.** Certificates of Insurance shall be provided to the Town, reflecting the Town as an Additional Insured (except with respect to Worker's Compensation Insurance), no later than ten (10) days after award of this Agreement and prior to the execution of this Agreement by Town and prior to commencing Services on any Project. Each certificate shall include no less than (30) thirty-day advance written notice to Town prior to cancellation, termination, or material alteration of said policies or insurance. PADL shall be responsible for assuring that the insurance certificates required remain in full force and effect for the duration of this Agreement, including any extensions or renewals that may be granted by the Town. The Certificates of Insurance shall not only name the types of policy(s) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The Town reserves the right to inspect and return a certified copy of such policies, upon written request by the Town. If a policy is due to expire prior to the completion of the Services, renewal Certificates of Insurance shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Town before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the Town.

b. **Additional Insured.** Except with respect to Worker's Compensation Insurance, the Town is to be specifically included as an Additional Insured for the liability of the Town resulting from Services performed by or on behalf of the PADL in performance of this Agreement. PADL's insurance, including that applicable to the Town as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the Town shall be in excess of and shall not contribute to PADL's insurance. PADL's insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured (for applicable policies) in the same manner as if separate policies had been issued to each. Deductibles. All deductibles or self-insured retentions must be declared to and be reasonably approved by the Town. PADL shall be responsible

for the payment of any deductible or self-insured retentions in the event of any claim. The provisions of this section shall survive termination of this Agreement.

11. **Compliance with Law.** PADL at its own cost and expense, shall comply with all statutes, ordinances, regulations, and requirements of all governmental entities applicable to its use of Town Property and the operation of its paddle share program, including but not limited to laws governing operation of kayak and paddle boards. Town shall reasonably cooperate with PADL, at no additional cost to Town, such that PADL can properly comply with this section and be allowed to use Town Property as specified in this Agreement.

12. **PADL's Responsibilities, Representations and Warranties.** PADL hereby warrants and represents that at all times during the term of this Agreement it shall maintain in good standing all required licenses, certifications and permits required under Federal, State and local laws applicable to and necessary to perform the Services for Town as an independent contractor of the Town. PADL further warrants and represents that it has the required knowledge, expertise, and experience to perform the Services and carry out its obligations under this Agreement in a professional and first-class manner.

13. **Required Reports.** PADL shall provide reports to the Town concerning utilization of its kayak and paddle boards and kayak and paddle board route usage not less than monthly and shall cooperate with the Town in the collection and analysis of aggregated data concerning its operations.

14. **No Joint Venture.** Nothing herein contained shall be in any way construed as expressing or implying that the parties hereto have joined together in any joint venture or liability company or in any manner have agreed to or are contemplating the sharing of profits and losses among themselves in relation to any matter relating to this Agreement.

15. **Term.** This agreement shall commence on **June 10, 2025**, (the "Commencement Date") and shall expire on the date that is 5 years after the Commencement Date, unless earlier terminated pursuant to Section 17 below.

16. **Revenue Share.** A 20% share of gross receipts net of sales tax will be provided to the Town for the granted use of park space starting on the fourth calendar month after the Commencement Date.

17. **Termination.** This Agreement may be terminated prior to the expiration date set forth in Section 15 above, upon the occurrence of the following condition:

- a. Upon delivery of written notice from Town to PADL terminating this agreement for any reason, or for no reason, by giving at least sixty (60) days' notice to the PADL of such termination.

18. **Amendment.** This Agreement may be amended by mutual agreement of the parties. Such amendments shall only be effective if incorporated in written amendments to this agreement and executed by duly authorized representatives of the parties.

19. **Applicable Law and Venue.** This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any litigation arising out of this Agreement shall be proper exclusively in Miami-Dade County, Florida.

20. **Controlling Agreement; No Construction against Drafter.** The Agreement is the sole expression of the understanding between the Town and PADL as to the subject matter thereof.

21. **Counterparts.** This Agreement may be executed simultaneously or in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

22. **Reporting:** In addition to the general reporting requirements, not later than 120 days following the Commencement Date, PADL shall furnish the Town Manager and Town staff with a report that includes, but is not limited to, total number of program riders, number of rides, average rides per kayak and paddle board per day, number of kayak and paddle boards non-operational over the Term, and total Customer Support call and responsiveness metrics.

23. **Attorney Fees and Waiver of Jury Trial.** In the event of any litigation arising out of or related to this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels. In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

24. **Nondiscrimination.** During the term of this Agreement, PADL shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and to abide by all Federal and State laws regarding nondiscrimination.

25. **Force Majeure.** Each party hereunder shall be excused for the period of delay in the performance of any of its obligations hereunder and shall not be liable for failure to perform or considered in default hereunder, when prevented from so performing by a cause or causes beyond its reasonable control, including but not limited to fire, storm, earthquake, flood, drought, accident, explosion, pandemic, operation malfunction, or interruption, strikes, lockouts, labor disputes, riots, war, (whether or not declared or whether or not the United States is a member), federal, state, municipal or other governmental legal restriction or limitation or compliance therewith, failure or delay of transportation, shortage of, inability to obtain materials, supplies, equipment, fuel, power, labor or other operational necessity, interruption or curtailment of power supply, or act of God, nature or public enemy.

26. **Public Entity Crimes Affidavit.** PADL shall comply with Section 287.133, Florida Statutes (Public Entity Crimes Statute), notification of which is hereby incorporated herein by reference, including execution of any required affidavit.

27. **Notice.** Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

For the Town:	Mark Blumstein Town of Surfside Attn: Town Manager 9293 Harding Avenue Surfside, FL 33154 305-861-4863 (telephone) 305-993-5097 (facsimile) mblumstein@townofsurfsidefl.gov (email)
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	With a copy to: Thais Hernandez, Esq. Office of the Town Attorney Town of Surfside 9293 Harding Avenue Surfside, FL 33154 305-861-4863 (telephone) thernandez@townofsurfsidefl.gov (email)
For PADL:	Andres Avello PADL 951 Crandon Blvd 491346 Key Biscayne, Florida 33149

28. **Ownership and Access to Records: Public Records.** Notwithstanding anything to the contrary in the Agreement, the Agreement and all work, deliverables and services provided by the PADL are subject to Florida's Public Records Law (Chapter 119, Florida Statutes, including but not limited to the following:

a. All records, books, documents, maps, data, deliverables, papers and financial information (the "Records") that result from the PADL providing the work to the Town under the Agreement shall be the property of the Town.

b. PADL agrees to keep and maintain public records in PADL's possession or control in connection with PADL's performance under the Agreement. PADL additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. PADL shall 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 Agreement, and following completion of the Agreement until the records are transferred to the Town.

c. Upon request from the Town custodian of public records, PADL shall provide the Town 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 by Chapter 119, Florida Statutes, or as otherwise provided by law.

d. Unless otherwise provided by law, all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the Town.

e. Upon completion of this Agreement or in the event of termination by either party, all public records relating to the Agreement in the possession of the PADL shall be delivered by PADL to the Town Manager, at no cost to the Town, within seven (7) calendar days. All such records stored electronically by PADL shall be delivered to the Town in a format that is compatible with the Town's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, PADL shall destroy all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

f. Any compensation due to PADL shall be withheld until all records are received as provided herein.

g. PADL's failure or refusal to comply with the provisions of this section shall result in the immediate termination of the Agreement by the Town.

Section 119.0701(2)(a), Florida Statutes

IF THE COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS.

Custodian of Records: SANDRA MCCREADY, MMC, TOWN CLERK

Mailing address: 9293 Harding Avenue Surfside, Florida 33154

Telephone number: 305-887-9541

Email: smccready@townofsurfsidefl.gov

29. **Boycotts.** PADL is not currently engaged in, and will not engage in, a boycott, as defined in Section 3-1.1 of the Town of Surfside Code of Ordinances.

30. **E-Verify Affidavit.** In accordance with Section 448.095, Florida Statutes, the Town requires all contractors doing business with the Town to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Town will not enter into a contract unless each party to the contract registers with and uses the E-Verify system. The contracting entity must provide its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>. By entering into this Agreement, the Contractor acknowledges that it has read Section 448.095, Florida Statutes; will comply with the E-Verify requirements imposed by Section 448.095, Florida Statutes, including but not limited to obtaining E-Verify affidavits from subcontractors; and has executed the required affidavit attached hereto and incorporated herein.

[Remainder of page intentionally left blank; Signature page and E-Verify Affidavit follows.]

E-VERIFY AFFIDAVIT

In accordance with Section 448.095, Florida Statutes, the Town requires all contractors doing business with the Town to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Town will not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

The contracting entity must provide of its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>

By signing below, the contracting entity acknowledges that it has read Section 448.095, Florida Statutes and will comply with the E-Verify requirements imposed by it, including but not limited to obtaining E-Verify affidavits from subcontractors.

☐ **Check here to confirm proof of enrollment in E-Verify has been attached to this Affidavit.**

In the presence of:

Signed, sealed and delivered by:

Witness #1 Print Name: _____

Print Name: _____

Witness #2 Print Name: _____

Title: _____

Entity Name: _____

ACKNOWLEDGMENT

State of Florida

County of _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 20____, by _____
(name of person) as _____ (type of authority) for _____
_____ (name of party on behalf of whom instrument is executed).

Notary Public (Print, Stamp, or Type as
Commissioned)

_____ Personally known to me; or

_____ Produced identification (Type of Identification: _____)

_____ Did take an oath; or

_____ Did not take an oath

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date written below their signatures.

PADL, LLC Address: 951 Crandon Blvd 491346 Key Biscayne, Florida 33149	By: _____ Name: Andres Avello Title: CEO, Founding Town
Town of Surfside 9293 Harding Avenue Surfside, FL 33154	By: _____ Name: Mark Blumstein Title: Town Manager