

34-10

Meeting Date:	December 15, 2015	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing
Department:	Facilities Development & Operations		

Motion and Title: Staff recommends motion to approve: a Second Restated Use Agreement (“Agreement”) with Ric L. Bradshaw, Sheriff, in his official capacity as the Sheriff of Palm Beach County (“PBSO”), for the continued operation of the Cabana Colony Youth Center.

Summary: On April 21, 2009 County entered into a First Restated Use Agreement (R-2009-0640) (“First Restated Agreement”) with PBSO for the operation of the Cabana Colony Youth Center (“Youth Center”), located at 12180 Alternate AIA, Palm Beach Gardens, which expires on January 9, 2016. This Agreement allows PBSO to continue to operate and manage the Youth Center and to provide Police Athletic League programs, tutoring, the Congressional Awards Program and community based law enforcement programs at the Youth Center. PBSO is responsible for all costs associated with operating the Youth Center including costs for utilities, custodial services, grounds maintenance and the costs of supervision of the youth. County is responsible for all interior and exterior facility maintenance costs. The Agreement commences upon execution, replaces the First Restated Agreement and extends to January 10, 2026. There are two (2) renewal options of five (5) years each. **(FDO) District 7 (MJ)**

Background and Justification: This Agreement provides the terms and conditions under which the Sheriff's Office will continue to occupy the building at Cabana Colony for operation of the Cabana Colony Youth Center. Cabana Colony is one of the County's Countywide Community Revitalization Team ("CCRT") areas and the Youth Center is operated from a building formerly used as a fire station. On January 10, 2007 the County entered into a Use Agreement with PBSO (R-2006-0082) to manage the newly created Cabana Colony Youth Center and to operate a Police Athletic League Program from the site. At the same time, County entered into a license agreement with the Partnership for a Drug Free Community to provide various programs and services to supplement PBSO's programs. Beginning in 2009, pursuant to the First Restated Use Agreement (R-2009-0640), PBSO assumed all programming at the Youth Center.

Second Restated Use Agreement

11/17/15
Date

12/9/15
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures					
Operating Costs					
External Revenues	(\$10)				
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	(\$10)				
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget: Yes x No

Budget Account No: Fund 0001 Dept 410 Unit 4240 Object
Program .

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

* The County's maintenance responsibilities are unmodified as a result, and are already included in FDO/Facilities Management's operating budget.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

OFMB Fiscal and/or Contract Development Comments:

Shen B
 OFMB ^{KP} 11/24 (11/24)

Dr. J. Jacob 12/7/15
 Contract Development and Control
B. Wheeler 12-7-15

B. Legal Sufficiency:

Legal Sufficiency: 12/9/15
Assistant County Attorney

C. Other Department Review:

Department Director

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

SECOND RESTATED USE AGREEMENT

THIS SECOND RESTATED USE AGREEMENT (the "Restated Agreement") made and entered into _____, by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and Ric L. Bradshaw, Sheriff, in his official capacity as Sheriff of Palm Beach County, a State constitutional officer ("Sheriff").

WITNESSETH:

WHEREAS, County is the owner of certain real property in Palm Beach County, Florida, known as the Cabana Colony Fire Station (the "Property") with an address of 12180 Alternate A1A, Palm Beach Gardens, FL, 33410; and

WHEREAS, Cabana Colony is one of the County's Countywide Community Revitalization Team ("CCRT") areas and the CCRT previously identified a need for a center for community based programs; and

WHEREAS, County and Sheriff entered into a Use Agreement (R2006-0082) under which Sheriff was to operate the Teen Center in partnership with community based not for profit agencies; and

WHEREAS, on April 21, 2009 the Sheriff entered into a First Restated Use Agreement (R2009-0640) replacing and amending the Use Agreement in order to assume full responsibility for the operation of the Teen Center for public outreach programs for a term extending to January 10, 2016; and

WHEREAS, County and Sheriff agree that the operation of the Teen Center furthers the goals and objectives of both agencies and the Cabana Colony area, and that operation of the Teen Center should be continued; and

WHEREAS, the County and Sheriff desire to amend and replace the First Restated Use Agreement with this new Restated Agreement in order to extend the term, update various provisions, and continue the operation of the Teen Center pursuant to the provisions of this Restated Agreement.

NOW THEREFORE, in consideration of the sum of Ten Dollars (\$10.00), the mutual terms and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The recitals contained above are true and correct and are incorporated herein by reference.
2. This Restated Agreement rescinds and replaces the First Restated Use Agreement (R2009-0640) in its entirety.

3. Sheriff shall offer at the Teen Center the programs and services identified in Exhibit “A”, attached hereto and made a part hereof, to this Restated Agreement (the “Approved Programs”). Sheriff shall not enter into any agreements with respect to the Approved Programs, nor offer any programs or services not identified in Exhibit “A”, without the written approval of County. Sheriff shall not permit or suffer the use of the Teen Center (i) for profitable use by any person, group or entity; or (ii) as a place of business for any person, group or entity; or (iii) for any use not directly related to Sheriff’s approved use of the Teen Center unless such use has been consented to by the Director of Facilities Development & Operations (the “Director”) on a special event basis as provided for in Section 13 of the Agreement.

Sheriff shall operate the Teen Center, at a minimum, according to the following schedule:

HOURS OF OPERATION

The Cabana Colony Youth Center’s normal operating hours are:

Administrative Office:

Monday – Friday

10:00 am – 7:00 pm

Youth Center Hours (In-school)

Monday – Friday

2:00 pm – 7:00 pm

(Out of School & Summer)

Monday - Friday

10:00 am – 6:00 pm

The Cabana Colony Youth Center observes the following official holidays: New Year’s Day, Martin Luther King Jr. Day, President’s Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran’s Day, Thanksgiving Day and the day following, and Christmas Day and the day following. Half days are observed for: Thanksgiving Eve, Christmas Eve and New Year’s Eve.

4. The access points and common areas of the Teen Center meet the requirements of Title III of the Americans with Disabilities which are applicable to this structure. However, the Sheriff shall be responsible for complying with any applicable Title I requirements of the Americans with Disabilities Act.
5. Sheriff shall submit any requests for modifications or changes to the Teen Center necessitated by this Restated Agreement to the Director for written approval. County shall perform any work approved by the Director at Sheriff’s sole cost and expense.
6. The Sheriff shall fund those improvements and purchase such equipment, including telephone service and equipment and supplies, required at the Teen Center in order to conduct its programs and services to be offered at the Center.
7. The County shall fund and perform all maintenance and operations at the Teen Center, both interior and exterior. The Sheriff shall not perform any maintenance work with its own or volunteer work forces without the written permission of the County. The Sheriff

shall adopt and enforce any reasonable operational rules and regulations necessary to assist the County in carrying out its maintenance responsibilities pursuant to this Section. The Sheriff shall also only use the appliances within the structure at the Property for their intended purposes.

8. Sheriff shall not commit waste upon the Teen Center, nor maintain, commit or permit the maintenance or commission of a nuisance thereon, which may result in damage or depreciation of value of the Teen Center or which may affect County's fee interest in the Teen Center. Sheriff acknowledges that its employees and the Teen Center shall, throughout the term of the Restated Agreement, be in full compliance with all federal, state, county and local statutes, laws, rules and regulations respecting the use and occupancy of the Teen Center. Sheriff shall comply with all applicable Federal, State and local laws, regulations and ordinances protecting the environment and natural resources and regulating hazardous substances.
9. The Sheriff shall be solely responsible for and promptly pay all costs and expenses related to providing utility service to the Teen Center including, without limitation, construction and connection charges. The Sheriff shall pay directly to the utility company, or the provider of the service, all charges and assessments for any utility services provided including, without limitation, water, sewer, gas, electricity, telephone service, trash collection and removal, or any other utility used or consumed at the Teen Center. In no event shall County be liable for any interruption or failure in the supply of any such utility to the Teen Center.
10. All refuse is to be removed from the Teen Center daily at Sheriff's sole cost and expense. Sheriff shall keep the access to the Teen Center, and the parking areas, driveways, and other contiguous areas to the Teen Center free and clear of obstruction. Sheriff, at its sole cost and expense, shall keep the Teen Center free of rodents, vermin and other pests.
11. County shall have the right to enter the Teen Center at any time necessary, without notice, to implement its responsibilities pursuant to this Restated Agreement and for the purposes of inspection of the Teen Center generally. Sheriff shall provide the County's Facilities Development & Operations/Facilities Management Division and Electronic Services and Security Division designees with keys and security passwords necessary for total and complete access throughout the Teen Center. County agrees to exercise reasonable efforts to minimize interference with or disruption of Sheriff's operations at the Teen Center; provided, however, County shall not be required to expend additional sums of money in order to comply with the foregoing requirement. In the event that a County work activity must take place within the Teen Center's operating hours and will disrupt or interfere with Sheriff's operations, County's designee will endeavor to provide 48 hours notice to Sheriff.
12. The term of this Restated Agreement commenced on January 10, 2006, the effective date of the original Use Agreement, and shall extend to January 10, 2026. The Restated Agreement may be extended for two (2) additional five year periods upon mutual written agreement between the Sheriff and the County.

13. The Sheriff may make the Teen Center available for not-for-profit or community law enforcement uses, other than the Approved Programs, on a special event basis only with the prior written consent of the Director of Facilities Development & Operations or her designee. The County reserves the right to deny and/or reject any request for any reason whatsoever, and/or to add conditions to the approval of the use. In the event that the Sheriff requests that the Teen Center be used for uses other than those established above and such approval is granted, the Sheriff has the right to establish and enforce reasonable rules and regulations, and to charge fees to recover the operating expenses incurred by the Sheriff as described below.

The Sheriff shall have the right to charge an hourly rate for the use of the Teen Center for purposes other than its programs as may be required to offset the cost of providing building supervision and custodial services. Said fees shall not exceed \$60.00 per hour of use for the first term of this Restated Agreement. Said fees may be increased with the mutual consent of the parties upon the Sheriff providing adequate documentation.

14. The Sheriff hereby assumes all responsibility for providing, maintaining, or facilitating continuous, adequate and appropriate staffing for the Approved Programs. Staffing shall be provided by PBSO employees, contractual employees, or volunteers.
15. No alcoholic beverages or drugs shall be permitted at the Teen Center or on the Property at any time.
16. Without waiving the right to sovereign immunity as provided by Florida Statutes, Section 768.28, Sheriff acknowledges and represents that Sheriff is self-insured for General Liability and Automobile Liability under Florida sovereign immunity statutes with coverage limits of \$100,000 Per Person and \$200,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature.

In the event Sheriff maintains third-party Commercial General Liability and Business Auto Liability, in lieu of exclusive reliance of self-insurance under Florida Statutes, Section 768.28, Sheriff agrees to maintain said insurance policies at limits not less than \$500,000 each occurrence. Sheriff agrees to add the County as "Additional Insured" with a CG 2026 Additional Insured – Designated Person or Organization endorsement, or similar endorsement, to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents, c/o Property & Real Estate Management Division." Sheriff agrees the Additional Insured endorsement provides coverage on a primary basis. Claims-bill indemnification style coverage shall not be considered third-party liability for the purpose of this paragraph.

Sheriff agrees to maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Florida Statute 440.

When requested, Sheriff agrees to provide a statement or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which County agrees to recognize as acceptable for the above mentioned coverages.

Compliance with the foregoing requirements shall not relieve Sheriff of its liability and obligations under the Agreement.

Sheriff agrees its self-insurance, general liability, automobile liability, and property insurance shall be primary as respects to any coverage afforded to or maintained by County, except as to the physical structure of the Property.

17. Prior to commencing any PAL Program activity, the Sheriff shall ensure that Palm Beach County PAL, Inc. secures and maintains the Liability Insurance Program of the National Association of Police Athletic Leagues, Inc., in an amount no less than \$1,000,000 General Liability per occurrence, \$1,000,000 Participant Legal Liability, \$300,000 Fire Damage Legal Liability, \$5,000 Medical Expense Payments and \$1,000,000 Products/Completed Operations Aggregate. The insurance policy shall have Palm Beach County listed as Additional Insured and a copy of same shall be provided to the County prior to the Sheriff commencing any PAL Program activity. In addition, Palm Beach County PAL, Inc. will maintain Director's and Officer's Liability Insurance for Police Athletic Leagues issued by the National Association of Police Athletic Leagues, Inc., naming Palm Beach County as Additional Insured.

Should Sheriff or Palm Beach County PAL secure legal liability waivers from the participants in the PAL Program, the Sheriff shall ensure that the waiver includes the same protection for the County as that provided to the Sheriff or Palm Beach County Pal, Inc. through the waiver. Sheriff shall also ensure that Palm Beach County PAL, Inc. maintains full and complete records of the legal liability waivers for the PAL program conducted at the Teen Center. The records shall be maintained for at least four (4) years after the termination or expiration of this Restated Agreement. The County shall have the right to examine the records for any purpose reasonably related to this Restated Agreement.

18. Pursuant to Resolution R-2014-1421, as amended, it is the policy of the Board of County Commissioners of Palm Beach County that Palm Beach County shall not conduct business with nor appropriate any funds to any organization that practices discrimination on the basis of race, color, national origin, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity and expression, disability, or genetic information. Sheriff has submitted a copy of its non-discrimination policy which is consistent with the above policy as contained in R-2014-1421, as amended, or in the alternative, if the Sheriff does not have a written non-discrimination policy or one that conforms to the County's policy, it has acknowledged through a signed statement provided to County that Sheriff will conform to the County's non-discrimination policy as provided in R-2014-1421, as amended.

19. The Teen Center is identified as a “critical facility” by Palm Beach County Resolution No. R2013-1470, and is therefore subject to a heightened level of security. Any person not employed by County or Sheriff requiring unescorted access in the Teen Center, including volunteers and independent contractors, is subject to a fingerprint based criminal history records check and must receive clearance for unescorted access from County as provided for in Palm Beach County Ordinance 2003-030, and from Sheriff.
20. Upon termination or expiration of the Restated Agreement, Sheriff, at its sole cost and expense, if so directed by County, shall remove Sheriff’s personal property, removable fixtures, and equipment from the Teen Center and shall surrender the Teen Center to the County in the same condition the Teen Center was in as January 10, 2006, reasonable wear and tear excepted. Upon surrender of the Teen Center, title to any and all remaining improvements or property within the Teen Center shall, at the option of the County, vest in County.
21. No provision of this Restated Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Restated Agreement, including but not limited to any citizen of the County and/or employees of the Sheriff and/or County.
22. This Restated Agreement shall take effect when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have caused this Restated Agreement to be signed on the day and year first above written.

SHARON R. BOCK
CLERK & COMPTROLLER

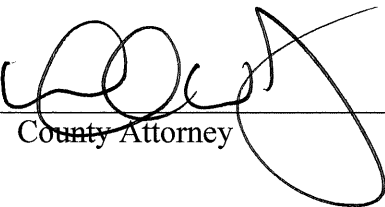
PALM BEACH COUNTY, a political
subdivision of the State of Florida

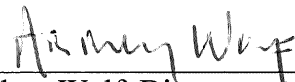

By: _____
Deputy Clerk

By: _____

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

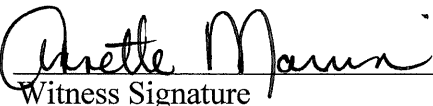
**APPROVED AS TO TERMS AND
CONDITIONS:**

By:  _____
County Attorney

By:  _____ 
Audrey Wolf, Director
Facilities Development & Operations

ATTEST:

**RIC L. BRADSHAW, IN HIS OFFICIAL
CAPACITY AS SHERIFF OF PALM BEACH
COUNTY, a State Constitutional Officer**

By:  _____
Witness Signature

By:  _____
Ric L. Bradshaw, Sheriff

By: Annette Marvin
Witness Print Name

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


By:  # 7008
PBSO Legal Advisor

EXHIBIT “A”
APPROVED PROGRAMS

1. Police Athletic League (PAL) Programs
 2. Administration of the Congressional Awards Program. Youths involved in the PBSO Eagle Academy may be sponsored to be candidates for the Congressional Awards. Program Administrators will insure that participants' applications are properly filled out with goals that will be accepted, and are then sent to Washington DC. Each youth will have an Advisor and the youth's progress will be reviewed monthly with the Advisor. Files will be maintained for the applications and status reports.
 3. Tutoring
 4. Recreation programs provided by the Palm Beach County Parks & Recreation Department
 5. Community based law enforcement programs
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