

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

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Meeting Date: July 11, 2017	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
	<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing

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Department: Facilities Development & Operations

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I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file:

- A) Standard Equipment Use Agreement with the Ric L. Bradshaw, Sheriff of Palm Beach County, Florida for a period of April 5, 2017 through April 8, 2017;
- B) Standard Equipment Use Agreement with Animal Care and Control for a period of April 28, 2017 through May 3, 2017;
- C) Standard Equipment Use Agreement with Palm Beach County Fire Rescue for a period of June 6, 2017 through June 8, 2017; and
- D) Standard Equipment Use Agreement with Palm Beach County Fire Rescue for a period of June 6, 2017 through June 9, 2017.

**Summary:** In accordance with County PPM CW-O-051, all delegated contracts, agreements and grants must be submitted by the initiating Department as a receive and file agenda item. The attached standard Agreements, dated from April 5, 2017 to June 9, 2017, have been fully executed on behalf of the Board of County Commissioners (Board) by the County Administrator or her designee. The Equipment Use Agreement was approved by the Board on October 1, 2013, Agenda 3H-2 (the "Resolution"). These executed documents are now being submitted to the Board to receive and file. **(FDO Admin) Countywide (LDC)**

**Background & Justification:** The Resolution which provided authority for the County Administrator or her designee to execute standard equipment use agreements was designed to expedite and streamline the process for use of county owned equipment for short-term use. There is usually no fee for use if the applicant demonstrates that (i) the activity is for the purpose of promoting community interest and welfare and (ii) the applicant will not realize a profit based on the use.

**Attachments:**

- A) Standard Equipment Use Agreement with the Ric L. Bradshaw, Sheriff of Palm Beach County, Florida for a period of April 5, 2017 through April 8, 2017;
- B) Standard Equipment Use Agreement with Animal Care and Control for a period of April 28, 2017 through May 3, 2017;
- C) Standard Equipment Use Agreement with Palm Beach County Fire Rescue for a period of June 6, 2017 through June 8, 2017; and
- D) Standard Equipment Use Agreement with Palm Beach County Fire Rescue for a period of June 6, 2017 through June 9, 2017.

Recommended By:		
	Department Director	Date
Approved By:		
	County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2017	2018	2019	2020	2021
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	* 0.	0	0	0.	0.
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget: Yes No

Budget Account No:  
Fund Dept Unit Revenue Source  
Fund Dept Unit Revenue Source

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

C. Departmental Fiscal Review: [Signature] 6/13/17

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

No Fees for use were incurred.  
[Signature] 6/19/17  
OFMB ET 6/15 # Cells

[Signature] 6/28/17  
Contract Development and Control  
6/27/17

B. Legal Sufficiency:  
[Signature] 6/29/17  
Assistant County Attorney

C. Other Department Review:  
\_\_\_\_\_  
Department Director

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

## **STANDARD EQUIPMENT USE AGREEMENT**

**THIS EQUIPMENT USE AGREEMENT** is made and entered into Palm Beach County Sheriff Office, by and between Palm Beach County, a political subdivision of the State of Florida ("County") and Ric L. Bradshaw, in his official capacity as Sheriff of Palm Beach County, Florida, a constitutional officer, hereinafter referred to as "User".

In consideration of the covenants and agreements hereinafter set forth the County hereby grants User the use of equipment as set forth herein.

### **SECTION ONE: EQUIPMENT USE AND TERM**

County hereby agrees to provide the use of the equipment identified on the attached Exhibit "A", incorporated herein by reference (the "Equipment") and User acknowledges receipt of said Equipment. This Equipment Use Agreement is subject to the Special Conditions of Use as set forth in Exhibit "B", attached hereto and incorporated by reference.

This Agreement commences on April 5, 2017 and ends on the earlier of April 8, 2017, or immediately upon County notice of termination as set forth herein (the "Term"). The User shall discontinue use/return the Equipment at the conclusion of the Term.

The User acknowledges that the County is providing use of the Equipment without charge for the benefit of the public, and that the County may have occasions when the Equipment is required for County purposes. Therefore, the parties agree that, in the event the Equipment is needed by the County during the Term, or if either party desires to terminate the Agreement, for any reason whatsoever, either party may immediately terminate this Agreement and the User shall immediately discontinue use/return the Equipment to the County following the notice of termination.

### **SECTION TWO: COSTS**

The User will not incur a fee for use or rental of the Equipment during the Term of this Agreement. However, User may incur other costs and expenses as further set forth in this Agreement or the Special Conditions of Use.

### **SECTION THREE: RISK OF LOSS AND DAMAGE**

User shall be responsible for risk of loss and damage to the Equipment to the extent set forth in the attached Special Conditions of Use.

### **SECTION FOUR: INSURANCE AND INDEMNIFICATION**

User shall provide the insurance and indemnity requirements as set forth in the attached Special Conditions of Use.

**SECTION FIVE: NOTICES**

All notices to the County concerning this Equipment Use Agreement shall be directed to the Business & Community Agreements Manager, Facilities Development & Operations, 2633 Vista Parkway, West Palm Beach, FL 33411-5603, (561) 233-0206 (Fax) with a copy to Palm Beach County, Attn: County Attorney, 301 North Olive Avenue, 6<sup>th</sup> Floor, West Palm Beach, FL 33401, (561) 355-6461(fax).

All notices to the User shall be directed to Ray Carlson, UASI Surveillance Systems Manager, Division Manager, Radio/Digital Services, Palm Beach Sheriff's Office, 3350 Gun Club Road, West Palm Beach, FL 33407 at (561) 688-3514 or (cell) 561-644-2074.

For purposes of this Agreement, notice shall be in writing, and may be provided by U.S. Mail, hand delivery, other delivery service, or by facsimile or email.

**SECTION SIX: INTENTIONALLY DELETED**

**SECTION SEVEN: NO THIRD PARTY BENEFICIARY**

No provision of this 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 Agreement, including but not limited to any citizen or employees of the County and/or User.

**SECTION EIGHT: NON-DISCRIMINATION**

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.

The User has submitted to County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as amended, or in the alternative, if the User does not have a written non-discrimination policy, or one that conforms to the County's policy, it has affirmed through a signed statement provided to County that User will conform to the County's non-discrimination policy as provided in R-2014-1421, as amended.

IN WITNESS WHEREOF, County and User have executed this Equipment Use Agreement, on the day and year first above written.

**RIC L. BRADSHAW, in his official capacity as  
SHERIFF OF PALM BEACH COUNTY,  
FLORIDA, a constitutional officer**

By:   
Witness Signature

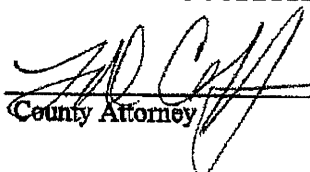
By:   
Signature

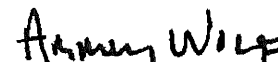
Jeffrey ALAN CUFFS  
Witness Name

By: LT. T.E. MURPHY #8420  
Print Name and Title

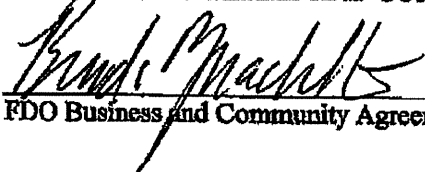
**APPROVED AS TO FORM AND  
subdivision LEGAL SUFFICIENCY**

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

By:   
County Attorney

By:   
Audrey Wolf, Director FDO

**APPROVED AS TO TERMS AND CONDITIONS**

By:   
FDO Business and Community Agreements Manager

**EXHIBIT "A"**

**Equipment Inventory**  
*(Subject to change)*

EQUIPMENT TYPE AND/OR SERIAL NO.	ASSET NUMBER	REPLACEMENT COST
Ingersoll Rand Light Tower	10194182	\$15,000
Ingersoll Rand Light Tower	10194183	\$15,000
Ingersoll Rand Light Tower	10194184	\$15,000
Ingersoll Rand light Tower	10196246	\$15,000
Variable Message Signboard	10193498	\$20,000
Variable Message Signboard	10179166	\$20,000
TOTAL REPLACEMENT COST		

**EXHIBIT "B"**  
**Special Conditions of Equipment Use Agreement**

1. The User acknowledges that the County is providing use of the Equipment without charge for the benefit of the public and that there is to be no private "for-profit" uses of the Equipment. This prohibition extends to private businesses, entities or persons who are providing services for a fee during a not-for profit or governmental event.

User hereby certifies that the Equipment will be used solely by governmental or not-for-profit agencies and employees or volunteers, and that the Equipment will not be provided to any "for-profit" business or entity, or its contractors or employees. If User authorizes other governmental agencies or not-for-profit entities to use the Equipment, the User certifies that this prohibition will be explained to each user and each user must also comply with this use restriction.

2. The User acknowledges that the County is providing use of the Equipment during the hurricane season or during a period when County operations may require that the County must use the Equipment for County purposes. In the event the Equipment is needed by the County during the Term, at the sole discretion of the Facilities Development & Operations Department, County shall fax a notice of termination to (561) 233-3125 (fax) with an email copy to CarlsonR@pbso.org and the User shall immediately discontinue use/return the Equipment, in no event later than within forty-eight (48) hours after email notice of termination. Notice of termination is final.

User understands that the Equipment would not be authorized for this proposed use, but for, User's agreement to return the Equipment as set forth herein in the event of a termination. User has accepted the Equipment being fully aware of the risk of this contingency. User takes full and complete responsibility for contingency planning to avoid disruption to its communications and/or operations and agrees that User will not rely solely on the Equipment for its safety or security communications and/or operations.

3. User is solely responsible for the performance and the operation of the Equipment and any damages or liability resulting from the use thereof. Should the County or User identify any malfunctioning Equipment, the User shall notify County and return the malfunctioning equipment to the County. In the case of stolen or lost Equipment, the User shall notify the County of the same, in writing or via e-mail, and shall include within such notice the serial number of the Equipment that is lost or stolen.

4. User assumes and shall bear the entire risk of loss and damage to the Equipment from any and every cause whatsoever. No loss or damage to the Equipment or any part thereof shall impair any obligation of User under this Agreement. In the event of loss or damage of any kind whatsoever to the Equipment, User shall, at County's option: (i) reimburse the County for the entire cost and expense of the repair of the Equipment; or (ii) pay to the County the full replacement cost of the Equipment without deduction for depreciation. User shall provide County with the

reimbursement of repair costs and/or the replacement cost, if applicable, within fourteen (14) calendar days of User's receipt of an invoice from the County regarding the same.

5. User acknowledges without waiving the right to sovereign immunity as provided by Florida Statutes 768.28, that User is self-insured for general liability and automobile liability under Florida sovereign immunity statutes with coverage limits of \$200,000 per person and \$300,000 per occurrence, or such monetary waiver limits that may change and be set forth by the legislature. In the event that User maintains third-party commercial general liability in lieu of exclusive reliance on self-insurance under Florida Statutes 768.28, then User shall maintain said insurance policy at limits not less than \$500,000 each occurrence. User shall add the County to the commercial general liability as an "additional insured" with a CG 2026 Additional Insured-Designated Person or Organization endorsement or similar endorsement. 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." The additional insured endorsement shall provide coverage on a primary basis. Compliance with the foregoing insurance requirements shall not relieve User of its liability and obligations under this License Agreement. User's self-insurance or general liability insurance shall be primary with respect to any coverage afforded to or maintained by the County.

6. Each party shall be liable for its own actions and negligence and to the extent permitted by law; User shall indemnify, defend and hold harmless the County against any actions, claims or damages arising out of the User's acts, errors or omissions in connection with this License Agreement. In the event the County shall be made a party to any litigation commenced against User or by User against any third party, then User shall protect and hold the County harmless in connection with such litigation and any appeals thereof. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's own negligent, willful or intentional acts or omissions. This Section shall survive termination of this Equipment Use Agreement.



## STANDARD EQUIPMENT USE AGREEMENT

THIS EQUIPMENT USE AGREEMENT is made and entered into by and between Palm Beach County, a political subdivision of the State of Florida ("County") and Animal Care and Control hereinafter referred to as "User".

In consideration of the covenants and agreements hereinafter set forth the County hereby grants User the use of equipment as set forth herein.

### SECTION ONE: EQUIPMENT USE AND TERM

County hereby agrees to provide the use of the equipment identified on the attached Exhibit "A", incorporated herein by reference (the "Equipment") and User acknowledges receipt of said Equipment. This Equipment Use Agreement is subject to the Special Conditions of Use as set forth in Exhibit "B", attached hereto and incorporated by reference.

This Agreement commences on 04/28/2017 and ends on the earlier of 5/03/2017 or upon County notice of termination as set forth herein (the "Term"). The User shall discontinue use/return the Equipment at the conclusion of the Term.

The User acknowledges that the County is providing use of the Equipment without charge for the benefit of the public, and that the County may have occasions when the Equipment is required for County purposes. Therefore, the parties agree that, in the event the Equipment is needed by the County during the Term, or if either party desires to terminate the Agreement, for any reason whatsoever, either party may immediately terminate this Agreement and the User shall immediately discontinue use/return the Equipment to the County following the notice of termination.

### SECTION TWO: COSTS

The User will not incur a fee for use or rental of the Equipment during the Term of this Agreement. However, User may incur other costs and expenses as further set forth in this Agreement or the Special Conditions of Use.

### SECTION THREE: RISK OF LOSS AND DAMAGE

User shall be responsible for risk of loss and damage to the Equipment to the extent set forth in the attached Special Conditions of Use.

### SECTION FOUR: INSURANCE AND INDEMNIFICATION

User shall provide the insurance and indemnity requirements as set forth in the attached Special Conditions of Use. Proof of insurance is required prior to delivery of the Equipment.



#### **SECTION FIVE: NOTICES**

All notices to the County concerning this Equipment Use Agreement shall be directed to the Business & Community Agreements Manager, Facilities Development & Operations, 2633 Vista Parkway, West Palm Beach, FL 33411-5603, (561) 233-0206 (Fax) with a copy to Palm Beach County, Attn: County Attorney, 301 North Olive Avenue, 6<sup>th</sup> Floor, West Palm Beach, FL 33401, (561) 355-6461(fax). All notices to the User shall be directed to Daisy Blakeman at [dblakeman@pbcgov.org](mailto:dblakeman@pbcgov.org). For purposes of this Agreement, notice shall be in writing, and may be provided by U.S. Mail, hand delivery, other delivery service, or by facsimile or email.

#### **SECTION SIX: PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL**

Pursuant to Palm Beach County Code, Sections 2-421 through 2-440, as amended, Palm Beach County's Office of Inspector General is authorized to have the power to review past, present and proposed County contracts, transactions, accounts and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 through 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

#### **SECTION SEVEN: NO THIRD PARTY BENEFICIARY**

No provision of this 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 Agreement, including but not limited to any citizen or employees of the County and/or User.

#### **SECTION EIGHT: NON-DISCRIMINATION**

User assures and certifies that it shall comply with Title VII of the Civil Rights Act of 1964, as amended, and Palm Beach County Resolution No. R92-13, and shall not discriminate against any individual on the basis of their race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, disability, or gender identity or expression, during their performance of this Agreement.

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IN WITNESS WHEREOF, County and User have executed this Equipment Use Agreement, on the day and year first above written.

USER:

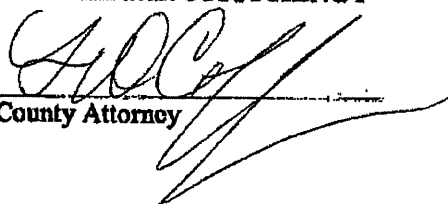
By:   
Witness Signature

Daisy Blakeman  
Witness Name

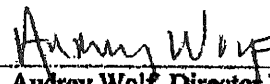
By:   
Signature

By: Stanne M. Savre, Director  
Print Name and Title

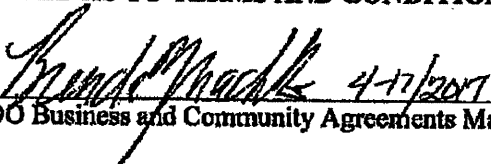
APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By:   
County Attorney

PALM BEACH COUNTY, a political  
of the State of Florida

By:   
Audrey Wolf, Director FDO

APPROVED AS TO TERMS AND CONDITIONS

By:  4-17-2017  
FDO Business and Community Agreements Manager

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**Equipment Inventory**  
*(Subject to change)*

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EXHIBIT "B"  
SPECIAL CONDITIONS OF USE

1. Costs.

The User acknowledges that the County is providing use of the Equipment without charge for the benefit of the public and that there is to be no private "for-profit" uses of the Equipment. This prohibition extends to private businesses, entities or persons who are providing services for a fee during a not-for profit or governmental event.

User hereby certifies that the Equipment will be used solely by governmental or not-for-profit agencies and employees or volunteers, and that the Equipment will not be provided to any "for-profit" business or entity, or its contractors or employees. If User authorizes other governmental agencies or not-for-profit entities to use the Equipment, the User certifies that this prohibition will be explained to each user and each user must also comply with this use restriction.

2. Return of Equipment. The User acknowledges that the County is providing use of the Equipment during the hurricane season or during a period when County operations may require that the County must use the Equipment for County purposes. In the event the Equipment is needed by the County during the Term, at the sole discretion of the Facilities Development & Operations Department, County shall email a notice of termination to Daisy Blakeman at [DBlakema@pbcgov.org](mailto:DBlakema@pbcgov.org) and the User shall immediately discontinue use/return the Equipment, in no event later than within forty-eight (48) hours after email notice of termination. Notice of termination is final.

User understands that the Equipment would not be authorized for this proposed use, but for, User's agreement to return the Equipment as set forth herein in the event of a termination. User has accepted the Equipment being fully aware of the risk of this contingency. User takes full and complete responsibility for contingency planning to avoid disruption to its communications and/or operations and agrees that User will not rely solely on the Equipment for its safety or security communications and/or operations.

User is solely responsible for the performance and the operation of the Equipment and any damages or liability resulting from the use thereof. Should the County or User identify any malfunctioning Equipment, the User shall notify County and return the malfunctioning equipment to the County. In the case of stolen or lost Equipment, the User shall notify the County of the same, in writing or via e-mail, and shall include within such notice the serial number of the Equipment that is lost or stolen.

3. Risk of Loss and Damage. User assumes and shall bear the entire risk of loss and damage to the Equipment from any and every cause whatsoever. No loss or damage to the Equipment or any part thereof shall impair any obligation of User under this Agreement. In the event of loss or damage of any kind whatsoever to the Equipment, User shall, at County's option: (i) reimburse the County for the entire cost and expense of the repair of the Equipment; or (ii) pay to the County

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the full replacement cost of the Equipment without deduction for depreciation. User shall provide County with the reimbursement of repair costs and/or the replacement cost, if applicable, within fourteen (14) calendar days of User's receipt of an invoice from the County regarding the same.

4. Insurance and Indemnity. Florida Government Entity: User acknowledges without waiving the right to sovereign immunity as provided by Florida Statutes 768.28, that User is self-insured for general liability and automobile liability under Florida sovereign immunity statutes with coverage limits of \$200,000 per person and \$300,000 per occurrence, or such monetary waiver limits that may change and be set forth by the legislature. In the event that User maintains third-party commercial general liability in lieu of exclusive reliance on self-insurance under Florida Statutes 768.28, then User shall maintain said insurance policy at limits not less than \$500,000 each occurrence. User shall add the County to the commercial general liability as an "additional insured" with a CG 2026 Additional Insured-Designated Person or Organization endorsement or similar endorsement. 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." The additional insured endorsement shall provide coverage on a primary basis. Compliance with the foregoing insurance requirements shall not relieve User of its liability and obligations under this License Agreement. User's self-insurance or general liability insurance shall be primary with respect to any coverage afforded to or maintained by the County.

Each party shall be liable for its own actions and negligence and to the extent permitted by law; User shall indemnify, defend and hold harmless the County against any actions, claims or damages arising out of the User's acts, errors or omissions in connection with this License Agreement. In the event the County shall be made a party to any litigation commenced against User or by User against any third party, then User shall protect and hold the County harmless in connection with such litigation and any appeals thereof. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's own negligent, willful or intentional acts or omissions. This Section shall survive termination of this Equipment Use Agreement.

5. Other: Additional Special Conditions may be determined and required by County at time of Agreement. None.

*Byle*

## STANDARD EQUIPMENT USE AGREEMENT

THIS EQUIPMENT USE AGREEMENT is made and entered into by and between Palm Beach County, a political subdivision of the State of Florida ("County") and Palm Beach County Fire Rescue hereinafter referred to as "User".

In consideration of the covenants and agreements hereinafter set forth the County hereby grants User the use of equipment as set forth herein.

### SECTION ONE: EQUIPMENT USE AND TERM

County hereby agrees to provide the use of the equipment identified on the attached Exhibit "A", incorporated herein by reference (the "Equipment") and User acknowledges receipt of said Equipment. This Equipment Use Agreement is subject to the Special Conditions of Use as set forth in Exhibit "B", attached hereto and incorporated by reference.

This Agreement commences on June 6, 2017 and ends on the earlier of June 8, 2017 or upon County notice of termination as set forth herein (the "Term"). The User shall discontinue use/return the Equipment at the conclusion of the Term.

The User acknowledges that the County is providing use of the Equipment without charge for the benefit of the public, and that the County may have occasions when the Equipment is required for County purposes. Therefore, the parties agree that, in the event the Equipment is needed by the County during the Term, or if either party desires to terminate the Agreement, for any reason whatsoever, either party may immediately terminate this Agreement and the User shall immediately discontinue use/return the Equipment to the County following the notice of termination.

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By 1

**SECTION FIVE: NOTICES**

All notices to the County concerning this Equipment Use Agreement shall be directed to the Business & Community Agreements Manager, Facilities Development & Operations, 2633 Vista Parkway, West Palm Beach, FL 33411-5603, (561) 233-0206 (Fax) with a copy to Palm Beach County, Attn: County Attorney, 301 North Olive Avenue, 6<sup>th</sup> Floor, west Palm Beach, FL 3340], (561) 355-6461(fax). All notices to the User shall be directed to Chief Nigel Baker at (561) 616-7066. For purposes of this Agreement, notice shall be in writing, and may be provided by U.S. Mail, hand delivery, other delivery service, or by facsimile or email.

**SECTION SIX: PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL**

Pursuant to Palm Beach County Code, Sections 2-421 through 2-440, as amended, Palm Beach County's Office of Inspector General is authorized to have the power to review past, present and proposed County contracts, transactions, accounts and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 through 2440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

**SECTION SEVEN: NO THIRD PARTY BENEFICIARY**

No provision of this 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 Agreement, including but not limited to any citizen or employees of the County and/or User.

**SECTION EIGHT: NON-DISCRIMINATION**

User assures and certifies that it shall comply with Title VII of the Civil Rights Act of 1964, as amended, and Palm Beach County Resolution No. R92-13, and shall not discriminate against any individual on the basis of their race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, disability, or gender identity or expression, during their performance of this Agreement.

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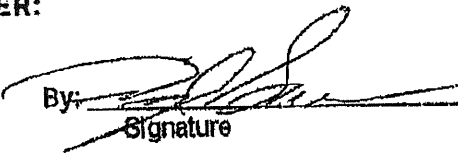
IN WITNESS WHEREOF, County and User have executed this Equipment Use Agreement, on the day and year first above written.

*3 Light towers*

USER:

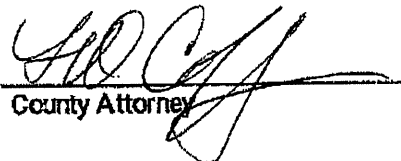
By:   
Witness Signature

Jennifer Baker  
Witness Name

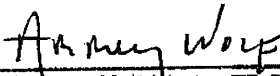
By:   
Signature

By: NIGEL BAKER  
Print Name and Title

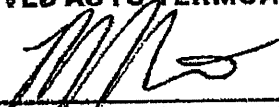
APPROVED AS TO FORM AND  
~~substantive~~ LEGAL SUFFICIENCY

By:   
County Attorney

PALM BEACH COUNTY, a political  
of the State of Florida

By:   
Audrey Wolf, Director FDO

APPROVED AS TO TERMS AND CONDITIONS

By:   
FDO Business and Community Agreements Manager

*pg 3*

**Equipment Inventory**  
*(Subject to change)*

B4

EXHIBIT "B"  
SPECIAL CONDITIONS OF USE

1. Costs. The User acknowledges that the County is providing use of the Equipment without charge for the benefit of the public and that there is to be no private "for-profit" uses of the Equipment. This prohibition extends to private businesses, entities or persons who are providing services for a fee during a not-for profit or governmental event.

User hereby certifies that the Equipment will be used solely by governmental or not-for-profit agencies and employees or volunteers, and that the Equipment will not be provided to any "for-profit" business or entity, or its contractors or employees. If User authorizes other governmental agencies or not-for-profit entities to use the Equipment, the User certifies that this prohibition will be explained to each user and each user must also comply with this use restriction.

2. Return of Equipment. The User acknowledges that the County is providing use of the Equipment during the hurricane season or during a period when County operations may require that the County must use the Equipment for County purposes. In the event the Equipment is needed by the County during the Term, at the sole discretion of the Facilities Development & Operations Department, County shall fax a notice of termination to (561) 233-3125 (fax) with an email copy to [nbaker@pbcgov.org](mailto:nbaker@pbcgov.org) and the User shall immediately discontinue use/return the Equipment, in no event later than within forty-eight (48) hours after email notice of termination. Notice of termination is final.

User understands that the Equipment would not be authorized for this proposed use, but for, User's agreement to return the Equipment as set forth herein in the event of a termination. User has accepted the Equipment being fully aware of the risk of this contingency. User takes full and complete responsibility for contingency planning to avoid disruption to its communications and/or operations and agrees that User will not rely solely on the Equipment for its safety or security communications and/or operations.

User is solely responsible for the performance and the operation of the Equipment and any damages or liability resulting from the use thereof. Should the County or User identify any malfunctioning Equipment, the User shall notify County and return the malfunctioning equipment to the County. In the case of stolen or lost Equipment, the User shall notify the County of the same, in writing or via e-mail, and shall include within such notice the serial number of the Equipment that is lost or stolen.

3. Risk of Loss and Damage. User assumes and shall bear the entire risk of loss and damage to the Equipment from any and every cause whatsoever. No loss or damage to the Equipment or any part thereof shall impair any obligation of User under this Agreement. In the event of loss or damage of any kind whatsoever to the Equipment, User shall, at County's option: (i) reimburse the County for the entire cost and expense of the repair of the Equipment; or (ii) pay to the County the full replacement cost of the Equipment without deduction for depreciation. User shall provide County with the reimbursement of repair costs and/or the replacement cost, if applicable, within fourteen (14) calendar days of User's receipt of an invoice from the County regarding the same.

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4. Insurance and Indemnity. Florida Government Entity: User acknowledges without waiving the right to sovereign immunity as provided by Florida Statutes 768.28, that User is self-insured for general liability and automobile liability under Florida sovereign immunity statutes with coverage limits of \$200,000 per person and \$300,000 per occurrence, or such monetary waiver limits that may change and be set forth by the legislature. In the event that User maintains third-party commercial general liability in lieu of exclusive reliance on self-insurance under Florida Statutes 768.28, then User shall maintain said insurance policy at limits not less than \$500,000 each occurrence. User shall add the County to the commercial general liability as an "additional insured" with a CG 2026 Additional Insured-Designated Person or Organization endorsement or similar endorsement. 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." The additional insured endorsement shall provide coverage on a primary basis. Compliance with the foregoing insurance requirements shall not relieve User of its liability and obligations under this License Agreement. User's self-insurance or general liability insurance shall be primary with respect to any coverage afforded to or maintained by the County.

Each party shall be liable for its own actions and negligence and to the extent permitted by law; User shall indemnify, defend and hold harmless the County against any actions, claims or damages arising out of the User's acts, errors or omissions in connection with this License Agreement. In the event the County shall be made a party to any litigation commenced against User or by User against any third party, then User shall protect and hold the County harmless in connection with such litigation and any appeals thereof. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's own negligent, willful or intentional acts or omissions. This Section shall survive termination of this Equipment Use Agreement.

5. Other: Additional Special Conditions may be determined and required by County at time of Agreement.

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## STANDARD EQUIPMENT USE AGREEMENT

THIS EQUIPMENT USE AGREEMENT is made and entered into by and between Palm Beach County, a political subdivision of the State of Florida ("County") and Palm Beach County Fire Rescue hereinafter referred to as "User".

In consideration of the covenants and agreements hereinafter set forth the County hereby grants User the use of equipment as set forth herein.

### SECTION ONE: EQUIPMENT USE AND TERM

County hereby agrees to provide the use of the equipment identified on the attached Exhibit "A", incorporated herein by reference (the "Equipment") and User acknowledges receipt of said Equipment. This Equipment Use Agreement is subject to the Special Conditions of Use as set forth in Exhibit "B", attached hereto and incorporated by reference.

This Agreement commences on June 6, 2017 and ends on June 9, 2017 or upon County notice of termination as set forth herein (the "Term"). The User shall discontinue use/return the Equipment at the conclusion of the Term.

The User acknowledges that the County is providing use of the Equipment without charge for the benefit of the public, and that the County may have occasions when the Equipment is required for County purposes. Therefore, the parties agree that, in the event the Equipment is needed by the County during the Term, or if either party desires to terminate the Agreement, for any reason whatsoever, either party may immediately terminate this Agreement and the User shall immediately discontinue use/return the Equipment to the County following the notice of termination.

### SECTION TWO: COSTS

The User will not incur a fee for use or rental of the Equipment during the Term of this Agreement. However, User may incur other costs and expenses as further set forth in this Agreement or the Special Conditions of Use.

### SECTION THREE: RISK OF LOSS AND DAMAGE

User shall be responsible for risk of loss and damage to the Equipment to the extent set forth in the attached Special Conditions of Use.

### SECTION FOUR: INSURANCE AND INDEMNIFICATION

User shall provide the insurance and indemnity requirements as set forth in the attached Special Conditions of Use. Proof of insurance is required prior to delivery of the Equipment.

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#### **SECTION FIVE: NOTICES**

All notices to the County concerning this Equipment Use Agreement shall be directed to the Business & Community Agreements Manager, Facilities Development & Operations, 2633 Vista Parkway, West Palm Beach, FL 33411-5603, (561) 233-0206 (Fax) with a copy to Palm Beach County, Attn: County Attorney, 301 North Olive Avenue, 6<sup>th</sup> Floor, West Palm Beach, FL 33401, (561) 355-6461(fax). All notices to the User shall be directed to Chief Nigel Baker at 561 616-7006. For purposes of this Agreement, notice shall be in writing, and may be provided by U.S. Mail, hand delivery, other delivery service, or by facsimile or email.

#### **SECTION SIX: PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL**

Pursuant to Palm Beach County Code, Sections 2-421 through 2-440, as amended, Palm Beach County's Office of Inspector General is authorized to have the power to review past, present and proposed County contracts, transactions, accounts and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 through 2440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

#### **SECTION SEVEN: NO THIRD PARTY BENEFICIARY**

No provision of this 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 Agreement, including but not limited to any citizen or employees of the County and/or User.

#### **SECTION EIGHT: NON-DISCRIMINATION**

User assures and certifies that it shall comply with Title VII of the Civil Rights Act of 1964, as amended, and Palm Beach County Resolution No. R92-13, and shall not discriminate against any individual on the basis of their race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, disability, or gender identity or expression, during their performance of this Agreement.

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IN WITNESS WHEREOF, County and User have executed this Equipment Use Agreement, on the day and year first above written.

USER:

By: Jeffrey Alan Chalas  
Witness Signature

Jeffrey Alan Chalas  
Witness Name

By: [Signature]  
Signature

By: Nigel Baker, Division Chief  
Print Name and Title

APPROVED AS TO FORM AND  
subdivision LEGAL SUFFICIENCY

By: [Signature] 4/3/17  
County Attorney

PALM BEACH COUNTY, a political  
of the State of Florida

By: Audrey Wolf 4/10/17  
Audrey Wolf, Director FDO

APPROVED AS TO TERMS AND CONDITIONS

By: [Signature] 4-3-2017  
FDO Business and Community Agreements Manager

Bj3

**Equipment Inventory**  
*(Subject to change)*

EQUIPMENT TYPE AND/OR SERIAL NO.	ASSET NUMBER	REPLACEMENT COST
FORT	10195526	\$80,000
TOTAL REPLACEMENT COST		

34



EXHIBIT "B"  
SPECIAL CONDITIONS OF USE

1. Costs.

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pg 5

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