

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: September 10, 2019 Consent Regular
 Ordinance Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

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

- A) Standard Equipment Use Agreement with the Palm Beach County Sports Commission, Inc., for a period of July 12, 2019 through July 19, 2019, for the use of twenty (20) portable radios for their Kids Fitness Festival.

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 Agreement has been fully executed on behalf of the Board of County Commissioners (Board) by the County Administrator or designee. The Equipment Use Agreement was approved by the Board on October 1, 2013, Agenda 3H-2. These executed documents are now being submitted to the Board to receive and file. **(FDO Admin) Countywide (LDC)**

Background & Justification: The delegation of authority which provided authority for the County Administrator or 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:

- 1. Standard Equipment Use Agreement with the Palm Beach County Sports Commission, Inc., for a period of July 12, 2019 through July 19, 2019.

Recommended By: MB Army Wolf 7/23/19
 Department Director Date

Approved By: JCBaker 8/23/19
 County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2019	2020	2021	2022	2023
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	*	0.00	0.00	0.00	0.00
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes _____ No _____
 Does this item include the use of federal funds? Yes _____ No _____

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

B. Recommended Sources of Funds/Summary of Fiscal Impact:
 * There is no fiscal impact associated with this item

C. Departmental Fiscal Review: *[Signature]* 4/23/19

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature] 8/13
 OFMB KP
 LH 8/14

[Signature] 8/19/19
 Contract Development and Control

B. Legal Sufficiency:
[Signature] 8/19/19
 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 JUNE 11, 2019, by and between Palm Beach County, a political subdivision of the State of Florida ("County") and the Palm Beach County Sports Commission, Inc., a Florida not-for-profit corporation, whose Federal I.D. number is 65-0641013, 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 for 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 July 12, 2019 and ends on the earlier of July 19, 2019, 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, MBroderick@pbcgov.org with a copy to Palm Beach County, Attn: County Attorney, 301 North Olive Avenue, 6th Floor, West Palm Beach, FL 33401, (561) 355-6461(fax). All notices to the User shall be directed to Jared Fleet, Event Manager, Palm Beach County Sports Commission, Inc., 2195 Southern Blvd., Suite 550, West Palm Beach, FL 33406 at ADominguez@PalmBeachSports.com 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 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

The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the User warrants and represents that throughout the term of the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Agreement.

(Remainder of this page intentionally left blank)

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

WITNESS

PALM BEACH COUNTY SPORTS COMMISSION, INC., a Florida not-for-profit corporation

By: *Aniana Dominguez*
Witness Signature

By: *George Linley*
Signature

Aniana Dominguez
Witness Name

By: Executive Director, George Linley
Print Name and Title

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

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

By: *JDC*
County Attorney

By: *MIB Audrey Wolf*
Audrey Wolf, Director
Facilities Development & Operations

PALM BEACH COUNTY RISK MANAGEMENT DEPARTMENT

By: *Scott Marting*
Scott Marting, Director

EXHIBIT "A"

Equipment Inventory
(Subject to change)

Motorola Radios

SERIAL	ASSETT	MODEL	VALUED
205CKH5867	10179611	XTS-2500	\$1,073.00
205CJB0851	10174687	XTS-2500	\$1,073.00
205CGK0684	10167137	XTS-2500	\$1,073.00
205CJB0864	10174700	XTS-2500	\$1,073.00
205CLP0651	10182565	XTS-2500	\$1,073.00
205CLP0662	10182576	XTS-2500	\$1,073.00
205CLP0613	10182527	XTS-2500	\$1,073.00
205CGP1369	10167776	XTS-2500	\$1,073.00
205CLP0655	10182569	XTS-2500	\$1,073.00
205CKH5873	10179617	XTS-2500	\$1,073.00
205CLP0654	10182568	XTS-2500	\$1,073.00
205CLP0659	10182573	XTS-2500	\$1,073.00
205CLP0640	10182554	XTS-2500	\$1,073.00
205CJB0852	10174688	XTS-2500	\$1,073.00
205CKH5879	10179623	XTS-2500	\$1,073.00
205CLP0643	10182557	XTS-2500	\$1,073.00
205CJB0856	10174693	XTS-2500	\$1,073.00
205CLP0655	10182569	XTS-2500	\$1,073.00
205CJT6546	10178125	XTS-2500	\$1,073.00
205CLP0649	10182563	XTS-2500	\$1,073.00

Total Cost Replacement \$21,460.00

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 and that the County may have occasions when the Equipment is required 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/Electronic Services & Security Division, County shall email a notice of termination to ADominguez@PalmBeachSports.com 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/operations and agrees that User will not rely solely on the Equipment for its safety or security communications.

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. 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.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/05/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).


PRODUCER Plastridge Insurance Agency 10337 N. Military Trail Palm Beach Gardens, FL 33410	CONTACT NAME: PHONE (A/C, No, Ext): (561) 630-4955	FAX (A/C, No): (561) 630-4966	
	E-MAIL ADDRESS: palmbeachdocs@plastridge.com		
INSURED Palm Beach County Sports Commission, Inc. 2195 Southern Blvd., Suite 500 West Palm Beach, FL 33406-2339	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : Philadelphia Indemnity Ins Co.		18058
	INSURER B : Technology Insurance Company		
	INSURER C : Federal Insurance Company		20281
	INSURER D :		
	INSURER E :		

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		X	QPHPK1720431	10/01/2018	10/01/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 0 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COM/OP AGG \$ 3,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		X	QPHPK1720431	10/01/2018	10/01/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			11756463	10/01/2018	10/01/2019	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	TWC3741113	10/01/2018	10/01/2019	PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A	Directors & Officers			QPHSD1284496	10/01/2018	10/01/2019	Limit 1,000,000
C	Crime			82111718	10/01/2018	10/01/2019	Limit 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Palm Beach County Board of County Commissioners are included as Additional Insured with respects to General Liability as required by written contract

CERTIFICATE HOLDER Palm Beach County Board of County Commissioners c/o Glenn Jergensen 2195 Southern Blvd., Suite 500 West Palm Beach, FL 33406	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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