

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: August 25, 2020 [X] Consent [] Regular
[] Ordinance [] Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file: a Standard License Agreement for Use of County-Owned Property for a period of November 1, 2020 through October 31, 2023 with Ric L. Bradshaw in his official capacity as Sheriff of Palm Beach County to wash PBSO owned vehicles (Belle Glade Buswash).

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 Standard License Agreement was approved in accordance with R2010-0333, as amended and approved by the Board on October 1, 2013. The executed document is 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 license agreements was designed to expedite and streamline the process for commercial use of county owned property after submission of an application for use and after determination of whether a license fee should be charged for the use. There is no license fee 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:

Standard License Agreement for Use of County-Owned Property

Recommended By: MJB *Thomas C. Ayala-Velazquez* *7/24/20*
Deputy Director Department Director Date

Approved By: *J Baker* *8/11/2020*
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	(5,000)	(5,000)	(5,000)	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>0.00</u>	<u>(5,000)</u>	<u>(5,000)</u>	<u>(5,000)</u>	<u>0.00</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

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

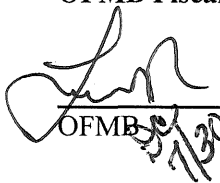
Budget Account No:
 Fund 1340 Dept 540 Unit 5101 Revenue Source 4900 (5,000)
 Fund _____ Dept _____ Unit _____ Revenue Source _____


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

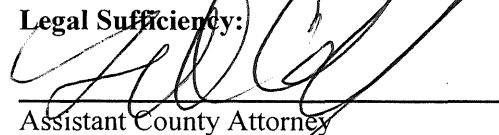
C. Departmental Fiscal Review:  _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

 7/30/2020
 OFMB BR 7130

 8/10/2020
 Contract Development and Control
8/16/2020

B. Legal Sufficiency:

 Assistant County Attorney

C. Other Department Review:

 Department Director

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

**STANDARD LICENSE AGREEMENT
FOR USE OF COUNTY-OWNED PROPERTY**

This License Agreement made and entered into JUNE 4, 2020, by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "County" and Rick L. Bradshaw in his official capacity as Sheriff of Palm Beach County, Florida, a constitutional officer, hereinafter referred to as "Licensee".

WITNESSETH:

WHEREAS, Licensee has applied for a License to Use County owned property via the Application for License to Use County-Owned Property (the "Application"), attached hereto as **Exhibit "A"** and incorporated herein by reference; and

WHEREAS, County is the owner of the real property and/or improvements described on the Application; and

WHEREAS, County is willing to grant Licensee a revocable license to use the property for the purposes described on the Application and hereinafter defined.

NOW THEREFORE, in consideration of the covenants and agreements hereinafter set forth on the part of the Licensee to be observed and performed, the County hereby permits Licensee to use the Premises, as hereinafter defined, upon the terms and conditions contained in this License Agreement.

1. **Premises**

The Premises, for the purpose of this License Agreement, is the real property and/or improvements identified on the Application. The Application, which may include special conditions of use as set forth in the Application, is hereby made a part of this License Agreement. The Licensee accepts the Premises in its "as is" condition. The County is in no way representing that the Premises is suitable for the Licensee's use and Licensee hereby accepts all risk relating to the use of the Premises.

Licensee shall use the Premises solely and exclusively for the use listed on the Application; Licensee shall not use, permit or suffer the use of the Premises for any other purpose whatsoever. Licensee shall be entitled to use the Premises only on the days and times listed on the Application. Licensee shall make no improvements, alterations or additions to the Premises. The use of the Premises by Licensee shall not interfere with County's use or operation of the Premises.

Licensee shall immediately report to a County representative any condition or activity on the Premises which poses a risk to persons or property. If directed by the County, Licensee shall postpone its activity until the County notifies the Licensee that it is safe to resume the activity.

2. **Length of Term and Commencement Date**

This License Agreement shall commence on November 1, 2020 (“the Commencement Date”). The term of this License Agreement shall continue until the earlier of, the time listed on the Application, three years from the Commencement Date, or termination in accordance to the terms of this License Agreement.

3. **License Fee**

The Sheriff shall pay the County an annual License Fee in the amount of Five Thousand Dollars 00/100 (\$5,000.00). The first payment of the License Fee shall be paid to the County within thirty (30) days of the Commencement Date of this Agreement. All subsequent annual payments of the License Fee shall be payable within fifteen (15) days of each anniversary of the Commencement Date during the Term of this Agreement. Payment of the License Fee will be made upon the receipt of an invoice from the County mailed to the Palm Beach County Finance Department at P.O. Box 4036, West Palm Beach, Florida 33402. Each invoice must be received at least fifteen (15) days but not more than thirty (30) days in advance of the date payment is due. Payments shall be made payable to the Palm Beach County Board of County Commissioners. All license fees shall be for the benefit of Palm Tran to offset operation and maintenance costs of the Bus Wash.

4. **Termination**

The County may terminate this License Agreement at any time upon written notice to the Licensee. Upon Licensee’s receipt of written notice from the County, this License Agreement shall terminate and County shall be relieved of all further obligations hereunder accruing subsequent to the date of such termination. Licensee may terminate this License Agreement upon written notice to the County. Notwithstanding such termination, Licensee shall remain obligated to surrender and restore the Premises as required by this License Agreement and for any obligations arising prior to such termination.

5. **Waste or Nuisance**

Licensee shall not commit or suffer to be committed any waste upon the Premises or any nuisance or other act or thing which may result in damage or depreciation of value of the Premises or which may affect County's fee interest in the Premises. Licensee shall keep the access to the Premises, the parking areas, driveways and other contiguous areas to the Premises free and clear of obstruction.

6. **Governmental Regulations**

Licensee shall, at Licensee's sole cost and expense, secure any required permits and comply with all regulations of all county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to Licensee or its use of the Premises, and shall faithfully observe in the use of the Premises all municipal and county ordinances and state and federal statutes now in force or which may hereafter be in force and all applicable association/governing body rules and regulations pertaining to the Licensee’s use of the Premises. Licensee shall not store or dispose any contaminants including, but not limited to, hazardous or toxic substances, chemicals or other agents, including any petroleum products, used or produced in Licensee's activity, on the Premises or in any manner not permitted by law. Licensee shall indemnify, defend and save County, its agents, officers, and employees harmless from any and all penalties, fines, costs, expenses,

suits, claims, or damages resulting from Licensee's failure to perform its obligations specified in this Section. Licensee's indemnification obligations set forth in the foregoing shall survive termination or expiration of this License Agreement.

7. **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 Licensee 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.

8. **Surrender of Premises**

Upon termination of each use of the Premises by the Licensee, Licensee, at its sole cost and expense, shall remove all of its personal property from the Premises and shall surrender the Premises to the County in at least the same condition the Premises were in at the start of each period of use.

9. **Maintenance and Repair**

County shall conduct all maintenance or repairs to the Premises. In the event that Licensee damages the Premises, County shall complete the necessary repairs and Licensee shall reimburse County for all expenses incurred by County in doing so.

10. **Indemnification of County**

To the extent permitted by law, Licensee shall indemnify, defend and save County, its agents, officers, and employees harmless from and against any and all claims, actions, damages, liability and expense, whether at trial or appellate level or otherwise, in connection with loss of life, personal injury and/or damage to or destruction of property arising from or out of the occupancy or use by Licensee of the Premises or any part thereof; or any act, error or omission of Licensee, its agents, contractors, employees, volunteers or invitees. In case County shall be made a party to any litigation commenced against Licensee or by Licensee against any third party, then Licensee shall protect and hold County, its agents, officers, and employees harmless and pay all costs and attorney's fees incurred by County in connection with such litigation, whether at trial or appellate level or otherwise. This Section shall survive termination or expiration of this License Agreement. Nothing herein shall be construed as a waiver of sovereign immunity or the statutory limits of liability set forth in Section 768.28, Florida Statutes.

11. **Insurance**

If the Licensee is a government entity, Licensee acknowledges, without waiving the right to sovereign immunity as provided by Section 768.28, Florida Statutes, that Licensee is self-insured for general 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 Licensee maintains third-party commercial general liability in lieu of exclusive reliance on self-insurance under Section 768.28, Florida Statutes, Licensee shall

maintain said insurance policy at limits not less than \$500,000 each occurrence. Licensee 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, c/o Facilities Development & Operations Department. The additional insured endorsement shall provide coverage on a primary basis.

Licensee shall maintain or be self-insured for Worker’s Compensation & Employer’s Liability insurance in accordance with Chapter 440 Florida Statutes.

If requested, Licensee shall provide a statement or certificate of insurance evidencing insurance, self-insurance and/or sovereign immunity status which the County agrees to recognize as acceptable for the above mentioned coverages.

Compliance with the foregoing insurance requirements shall not relieve Licensee of its liability and obligations under this License Agreement.

Licensee’s self-insurance or general liability insurance shall be primary with respect to any coverage afforded to or maintained by the County.

12. **Utilities**

The County shall be solely responsible for, and promptly pay to the utility or other provider of such service, all charges and assessments for water, gas, electricity, trash collection and removal or any other utility used or consumed on the Premises unless the responsibility for utilities is listed by the County as a special condition of use on the Application. In no event shall County be liable for an interruption or failure in the supply of any utilities to the Premises.

13. **Rules of Premises**

Licensee shall strictly adhere to the Rules that govern the Premises as set forth in the Application, at all times. Licensee also acknowledges that any violation of the Rules governing the use of the Premises may result in the suspension or termination of this License Agreement.

14. **Subcontracting**

The Licensee may not subcontract or assign any rights, responsibilities or obligations of this License Agreement.

15. **Entire Agreement**

This License Agreement and any Exhibits attached hereto and forming a part thereof as if fully set forth herein, constitute all agreements, conditions and understandings between County and Licensee. All representations, either oral or written, shall be deemed to be merged into this License Agreement. Except as herein otherwise provided, no subsequent alteration, waiver, change or addition to this License Agreement shall be binding upon County or Licensee unless reduced to writing and signed by them.

16. **Notices**

All notices and elections (collectively, "Notices") to be given or delivered by or to any party hereunder shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service, or national overnight delivery service, telecopied or faxed, or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any Notice shall be the date of delivery of the Notice if by personal delivery, courier services, or national overnight delivery service, or on the date of transmission with confirmed answer back if by telecopier or fax if transmitted before 5PM on a business day and on the next business day if transmitted after 5PM or on a non-business day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designate the following addresses as the addresses to which Notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

(a) If to the County at:

FDO Business & Community Agreements Manager
2633 Vista Parkway
West Palm Beach, FL 33411
Fax: (561) 233-0206

with a copy to:

Palm Beach County
Attn: County Attorney
301 North Olive Avenue
West Palm Beach, FL 33401
Fax: (561) 355-6461

(b) If to the Licensee at:

George Forman, Chief Operating Officer
Palm Beach County Sheriff's Office
3228 Gun Club Road
West Palm Beach, FL 33406
Fax (561) 688-3691

Either party hereto may change the address for service of Notices required or permitted hereunder upon three (3) days' prior written notice to the other party.

17. **Severability**

If any term or provision of this License Agreement shall be held invalid or unenforceable, the remainder of this License Agreement shall not be affected and every other term and provision of this License Agreement shall be deemed valid and enforceable to the extent permitted by law.

18. **WAIVER OF JURY TRIAL**
THE PARTIES HERETO WAIVE TRIAL BY JURY IN CONNECTION WITH PROCEEDINGS OR COUNTERCLAIMS BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER, IN CONNECTION WITH THIS LICENSE AGREEMENT.
19. **Governing Law and Venue**
This License Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the License Agreement will be held in a court of competent jurisdiction located in Palm Beach County, Florida.
20. **Recording**
Licensee shall not record this License Agreement, or any memorandum or short form thereof in the public records of Palm Beach County. Any such recording shall constitute a default hereunder and shall result in immediate termination of this License Agreement.
21. **Time of Essence**
Time is of the essence with respect to the performance of every provision of this License Agreement in which time of performance is a factor.
22. **No Third Party Beneficiary**
No provision of this License 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 License Agreement, including but not limited to any citizen or employees of the County and/or Licensee.

Remainder of this page left intentionally blank

IN WITNESS WHEREOF, County and Licensee have executed this License Agreement, or have caused the same to be executed as of the day and year first above written.

WITNESS:

LICENSEE:

By: Mike Sadecki
Signature

By: Terence Feeney
Signature

Mike Sadecki
Printed Name

Terence Feeney
Printed Name

**PALM BEACH COUNTY, a Political
Subdivision of the State of Florida**

By: M.B. Anthony Wolf
Director, Facilities Development & Operations

**APPROVED AS TO LEGAL
SUFFICIENCY**

By: [Signature]
County Attorney

Exhibit "A"

APPLICATION FOR LICENSE TO USE
COUNTY-OWNED PROPERTY

**APPLICATION FOR LICENSE TO USE
COUNTY-OWNED PROPERTY**

This application may be used to apply for a License to use County owned property. The application must be submitted at least twenty (20) days prior to the proposed date of the requested use. Please send the completed application to:

Facilities Development & Operations Department (FDO)
PBCFacilityUsePermit@pbcgov.org
2633 Vista Parkway
West Palm Beach, FL 33411-5603
ATTN: Director
Telephone: 561-233-0220 / Fax: 561-233-0206

Upon approval of the application by FDO, the property will be reserved and the user will be informed of any Special Conditions of Use, and fees for the Use as defined herein. Any fees are due prior to the Use.

1. USER/APPLICANT

Name of Applicant: Rick L. Bradshaw in his official capacity as Sheriff of Palm Beach
County, Florida, a constitutional officer
Name of Organization/Licensee: See Applicant
Address: 3228 Gun Club RD
City: West Palm Beach State: FL Zip: 33406
Phone: (561) 688 – 3691 Email: _____
Name of the Authorized Representative : George Forman, COO
Type of Entity: Public Agency Non-Profit Other
(Specify) _____

2. REQUESTED PROPERTY

Name of Property: See attached Exhibit "A-2" for depiction
(Please include room or area requested)
Address: 38601 James Wheeler Way
City: Belle Glade State: FL Zip: 33430

3. NATURE OF USE: (Please check one)

Training Educational Recreational Meeting
 Non-profit Event Other Carwash

Does Use include the sale of Goods and/or Services? Yes No

Will User charge an Admission Fee and/or Participation Fee? Yes No

Amount to be charged for Admission Fee and/or Participation Fee: _____

Detailed description of the nature and purpose of use (attach additional sheets as necessary):

Bus wash. See Exhibit "A-1" – Special Conditions of Use

4. FOOD AND BEVERAGE

Use includes food and/or beverage? Yes No

Use includes the sale, use or consumption of alcohol? Yes No

Note: A custodial fee may be imposed if the Use involves food and/or beverages.

5. DATE AND TIME OF USE

Date(s) of Use: November 1, 2020 through 11:59pm on October 31, 2023 as set forth in Exhibit "A-1" – Special Conditions of Use

Time(s) of Use: _____ : _____ AM/PM - _____ : _____ AM/PM

6. EQUIPMENT

Amount of Equipment Requested: _____ n/a _____ Tables _____ n/a _____ Chairs

All equipment contained or used within the Facility is subject to approval by the Department.

7. ADDITIONAL USERS

Organization(s)/individual(s) participating in use, if other than Applicant (attach additional pages to list more organization(s)/individual(s)):

Name: _____ n/a _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: () - Email: _____

Contact Person: _____ , _____

Type of Entity: Public Agency Non-Profit Other (Specify) _____

8. VENDORS

List all vendors of the Event: _____ n/a _____

9. ADVERTISING

Will the event be advertised to the Public? Yes No
If yes, by what means?: Radio TV Other _____

TO BE PROVIDED BY FDO (After evaluation of the Application):

1. FEES AND ADDITIONAL CHARGES

<input checked="" type="checkbox"/>	License Fees	\$	<u>5,000.00*</u>
<input type="checkbox"/>	Custodial Fees	\$	_____
<input type="checkbox"/>	Service Costs	\$	_____
<input type="checkbox"/>	Other Costs	\$	_____

*Annually per License Agreement

2. Special Conditions of Use: See attached Exhibit A-1

By signing below, I certify that I have the authority to represent and obligate the Licensee and I agree on behalf of the Licensee to comply with the terms of this Application.

Terence Feeney
Signature of Authorized Representative

Date: 5/27/2020

Terence Feeney CPO
Printed Name and Title of Authorized Representative

APPROVED BY:

MB Anthony Wong
Director, Facilities Development & Operations Department

Date: 6/4/2020

OTHER DEPARTMENTAL REVIEW (If necessary):

Signature of Director of Department

Date: _____

EXHIBIT "A-1"
Special Conditions of Use

- 1) Sheriff shall have the non-exclusive use of the Premises on an as needed basis, solely and exclusively to utilize the Bus Wash to wash Sheriff owned vehicles used by sworn law enforcement or corrections personnel. This Agreement does not allow for use of the Premises by civilian employees or volunteers even in the event that they are assigned Sheriff owned vehicles nor does it allow the Sheriff access to any other structure on the Property, but for the Bus Wash. Sheriff shall not use, permit or suffer the use of the Premises for any other business or purpose whatsoever, nor permit any non-Sheriff personnel to use the Premises. The use of the Premises by the Sheriff shall not interfere with the County's use or operation of the Premises. Sheriff shall immediately report to a County representative any condition or activity on the Premises which poses a risk to persons or property. If directed by the County, the Sheriff shall postpone its use of the Premises until the County notifies the Sheriff that it is safe to resume use of the Premises. Under no circumstance shall any improvements, alterations or additions to the Premises be performed by the Sheriff.

- 2) County shall maintain, repair and keep the Premises in good condition and repair at County's sole cost and expense. Throughout the Term of this Agreement, County shall be responsible for all operating costs for the Premises, including all utilities. Sheriff agrees to adopt and enforce any reasonable access and operational rules and regulations necessary to assist the County in carrying out its maintenance responsibilities pursuant to this Section.

- 3) The Term of this Agreement shall commence on November 1, 2020 ("Effective Date"), and shall extend to 11:59 pm on October 31, 2023 (the "Term"), unless sooner terminated pursuant to the provisions of this Agreement. The Premises shall be available for use seven (7) days a week, three hundred and sixty-five (365) days a year.

Exhibit "A-2"

PREMISES DEPICTION

