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Venice of America

City of Fort Lauderdale Police Department

1300 West Broward Boulevard
Fort Lauderdale, Florida 33312
(954)828-5700

<http://ci.ftlaud.fl.us/police/index.html>



MEMORANDUM

To: Aixa D. Penedo, Administrative Assistant to Lee R. Feldman, City Manager

From: Bradley H. Weissman, Esquire

Date: May 6, 2015

Re: Agreement Between the City of Fort Lauderdale and the Sheriff of Broward County for the Use of the City's Compost Site for Law Enforcement Training

● **Message:**

Dear Aixa:

On April 7, 2015, the City Commission approved the Agreement Between the City of Fort Lauderdale and the Sheriff of Broward County for the Use of the City's Compost Site for Law Enforcement Training [CAM #15-0337]. On May 5, 2015, duplicate originals of the agreement were signed by Sheriff Scott Israel and Ronald M. Gunzburger.

If the document meets with the approval of Mr. Feldman, please obtain his signature on both original documents where indicated, and then obtain the signatures of Mayor John P. "Jack" Seiler and City Clerk Jonda K. Joseph. Upon execution of both documents, please return same to me.

If you have any questions, please do not hesitate to contact me. Thank you.

Bradley H. Weissman, Esquire – ext. 5622

5/21

15-0337

**AGREEMENT BETWEEN THE CITY OF FORT LAUDERDALE, FLORIDA, AND THE SHERIFF OF
BROWARD COUNTY, FLORIDA, FOR THE USE OF THE CITY'S COMPOST SITE FOR LAW
ENFORCEMENT TRAINING**

THIS AGREEMENT, made and entered into this 21st day of May, 2015, by and between the CITY OF FORT LAUDERDALE, FLORIDA, a Florida municipality, (hereinafter "CITY") and Scott Israel, Sheriff of Broward County, Florida, (hereinafter referred to as "SHERIFF" or "FACILITY USER").

WITNESSETH:

WHEREAS, CITY owns, operates and maintains a Dania Beach Compost site, (hereinafter referred to as "FACILITY"), located at 4030 South State Road 7, Dania Beach, Florida, 33314, which is the FACILITY USER has determined is suitable for police SWAT and tactical driving (PIT); and

WHEREAS, the Sheriff in order to provide more efficient law enforcement training for the protection of the citizens is desirous of using the FACILITY for SWAT and tactical driving (PIT) training of his deputies,

NOW THEREFORE, IN CONSIDERATION for the SHERIFF permitting the CITY's use, at no cost to the CITY, upon similar terms and conditions as provided in this Agreement, of the SHERIFF's training facilities, including but not limited to the Markham Park Shoot House, Obstacle/Confidence Course and K9 Search Area, the Defensive Tactics "Matt-room" and any and all classroom space and computer labs and in consideration of the covenants and conditions herein expressed and of the faithful performance of all such covenants and conditions, CITY and SHERIFF do mutually agree as follows:

Section 1. TERM OF AGREEMENT

1.01 The term of this Agreement shall be from January 1, 2015, through December 31, 2015. However, either party may terminate this Agreement by providing five (5) days prior written notice.

Section 2. DUTIES AND RESPONSIBILITIES OF FACILITY USER

2.01 FACILITY USER shall submit to City of Fort Lauderdale's Police Training Sergeant or his/her designee a written description of the training to take place at the Facility no later than 15 days prior to the date of the desired use of the FACILITY. The written description shall identify the date/time SHERIFF desires to use the FACILITY and the type of training to be conducted. Additionally, the description shall identify the number of personnel along with the type and amount of equipment involved in the training.

Upon receiving the written description, the Training Sergeant or his/her designee shall determine if the desired training is appropriate for the FACILITY. In the event the Training Sergeant or his/her designee determines that the proposed training is appropriate for the FACILITY, the Training Sergeant or his/her designee shall contact the FACILITY to schedule said training activity. If the FACILITY is available for training on the desired date, the Training Sergeant or his/her designee shall notify the SHERIFF of the availability along with any limitations or restrictions regarding the use of the Facility.

2.02 FACILITY USER and his full time deputies shall have use of the FACILITY on the approved date for the sole use as identified in the written description. FACILITY USER understands that this Facility is an active waste disposal site and therefore certain areas of the FACILITY may not be available for training purposes. The SHERIFF acknowledges that he will abide by all restrictions and limitations on the FACILITY's use to ensure that the FACILITY can operate in a safe manner.

2.03 FACILITY USER agrees to provide certified instructors and all necessary safety and operational equipment required to carry out the desired training.

2.04 FACILITY USER shall not store any equipment at the FACILITY without the express written approval of the City Manager.

Section 3. DUTIES AND RESPONSIBILITIES OF THE CITY.

3.01 CITY agrees to permit FACILITY USER to utilize the FACILITY by granting permission for FACILITY USER'S full time deputies to conduct SWAT and tactical driving (PIT) training at the Facility. However, all vehicle used during said training must be owned or leased by the Sherriff.

Section 4. ACKNOWLEDGMENTS

4.01 FACILITY USER acknowledges that SWAT and tactical driving training can be a dangerous activity and expressly assumes any risk of any harm while the FACILITY USER or any of his deputies, agents, employees, members, or guests are present at or using the FACILITY.

4.02 FACILITY USER acknowledges that CITY maintains control and ownership over the FACILITY at all times.

4.03 FACILITY USER acknowledges that this Agreement does not create any relationship with, or any rights in favor of, any third party.

Section 5. INDEMNIFICATION

5.01 In consideration for the use of the Facility, FACILITY USER agrees to defend at FACILITY USER's expense, counsel being subject to the CITY's approval, and indemnify and hold harmless the CITY and the CITY's officials, officers, agents, employees, designees, and appointees from any and all claims, judgments, costs, liabilities, damages, fines, settlements, and expenses of any kind, including any award of attorney fees and any award of costs, arising in connection with the FACILITY USER's use of the FACILITY under this Agreement. Nothing in this section is intended to alter or waive the FACILITY USER's entitlement to sovereign immunity, or to extend the FACILITY USER's liability beyond the limits established in Section 768.28, Florida Statutes (2014), as may be amended.

Section 6. INSURANCE.

6.01 FACILITY USER shall furnish proof of insurance requirements as indicated below. The coverage is to remain in force at all times during the agreement period. The following minimum insurance coverage is required. The commercial general liability insurance policy shall name the City of Fort Lauderdale, a Florida municipality, as an "additional insured." This MUST be written in the description section of the insurance certificate, even if there is a check-off box on the insurance certificate. Any costs incurred for adding the City as "additional insured" shall be at the FACILITY USER'S expense.

- i) Automobile Liability Insurance covering all owned hired and non-owned automobile equipment. The policy shall contain the following limits:
 - Bodily injury: \$250,000 each person,
\$500,000 each occurrence
 - Property damage: \$100,000 each occurrence
- ii) Workers' Compensation Insurance limits shall comply with Chapter 440, Florida Statute.
- iii) General Liability Insurance covering premises operations, products operations and FACILITY USER'S employee liability coverage. The coverage limit shall consist of \$1,000,000 for combined single limit bodily injury/property damage.
- iv) If FACILITY USER is a qualified self-insurer pursuant to Section 768.28, Florida Statutes (2014), FACILITY USER shall provide a letter from its Risk

Management Division of the Human Resources Department informing
CITY of same.

v) Certificate holder should be addressed as follows:

City of Fort Lauderdale
Attention: Guy Hine
Risk Manager
100 N. Andrews Avenue
Fort Lauderdale, FL 33301

Section 7. ASSIGNMENT

7.01 FACILITY USER shall not assign this Agreement nor permit the premises to be used by any other party.

Section 8. USE OF PREMISES

8.01 FACILITY USER shall allow no waste or injury to the premises other than normal wear and tear to the FACILITY. In the event such waste or injury does occur upon the premises of the FACILITY, FACILITY USER shall be responsible for all necessary repairs to the FACILITY. CITY shall determine the extent of repairs deemed necessary.

8.02 In the event that the training activities result in any personal injury and/or property damage to any of the FACILITY USER' s personnel or property and/or the FACILITY, the SHERIFF shall notify the FLPD Training Sergeant within 48 hours of the incident.

Section 9. ACCEPTANCE OF PREMISES

9.01 In executing this Agreement, FACILITY USER agrees that he has made a full examination and inspection of the FACILITY and that said FACILITY is adequate for the uses contemplated. CITY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, AS TO THE CONDITION OF THE FACILITY OR THE USE AND OCCUPANCY AUTHORIZED OTHER THAN THOSE CONTAINED IN THIS AGREEMENT.

Section 10. LICENSE, NOT A LEASE

10.01 This Agreement shall not be deemed to be a lease of the facilities by the CITY, but rather a license granted to FACILITY USER to use and occupy the premises under the terms and conditions stated herein. No leasehold interest in the premises is conferred upon FACILITY USER under the provisions hereof.

Section 11. ENTIRE AGREEMENT; NO ORAL MODIFICATION

11.01 This Agreement represents the entire agreement between the CITY and SHERIFF and supersedes all prior negotiations, representations or agreements, either written or verbal. This Agreement may not be altered, amended, modified or otherwise changed nor may any of the terms hereof be waived, except by a written instrument executed by both parties. The failure of a party to seek redress for violation of or to insist on strict performance of any of the covenants of this Agreement shall not be construed as a waiver or relinquishment for the future of any covenant, term, condition or election but the same shall continue and remain in full force and effect.

Section 12. GOVERNING LAW AND VENUE

12.01 The validity, construction and effect of this Agreement shall be governed by the laws of the State of Florida. Any claim, objection or dispute arising out of the terms of this Agreement shall be litigated in the Seventeenth Judicial Circuit in and for Broward County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida.

12.02 The SHERIFF shall comply with all applicable federal and State of Florida laws, policies, and regulations, and all applicable Broward County, City of Fort Lauderdale, Florida, and City of Dania Beach, Florida, ordinances, policies, and regulations in connection with his use of the FACILITY.

Section 13. SEVERABILITY

13.01 Should any part, term or provision of this Agreement be held by a court of competent jurisdiction to be illegal or invalid, the validity of the remaining portions or provisions shall not be affected thereby.

Section 14. NOTICES

14.01 All notices or other communications, excluding the training descriptions, required by this Agreement shall be in writing and deemed delivered upon mailing by certified mail, return receipt requested to the following persons and address unless otherwise specified herein:

AS TO CITY:

Lee R. Feldman
City Manager
100 N. Andrews Avenue
Fort Lauderdale, FL 33301

AS TO SHERIFF: Broward Sheriff's Office
Office of the General Counsel
2601 W. Broward Blvd.
Fort Lauderdale, Florida 33312

IN WITNESS WHEREOF, the parties execute this Agreement as follows:

SHERIFF:

SCOTT ISRAEL, SHERIFF OF BROWARD COUNTY, FLORIDA

By: Scott J. Israel Date: 5/5/15
Print Name:
Title:
(If signed by someone other than the Sheriff, please
attach proof of authorization.)

Approved as to form and legal sufficiency
Subject to execution by the parties:

By: [Signature] Date: 5/5/15
Ronald M. Gunzburger
General Counsel

CITY OF FORT LAUDERDALE, a Florida municipality

By: [Signature] Date: _____
John P. "Jack" Selzer, Mayor
By: [Signature] Date: 5/7/15
Lee R. Feldman, City Manager

ATTEST:

Jonda K. Joseph Date: 5-21-15
Jonda K. Joseph, City Clerk

Approved as to form:

[Signature] Date: 05-06-15
Bradley Weissman, Assistant City Attorney