

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

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Meeting Date:	April 21, 2009	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
Department:	Palm Tran	<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing
Submitted By:	Palm Tran		
Submitted for:	Palm Tran		

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I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

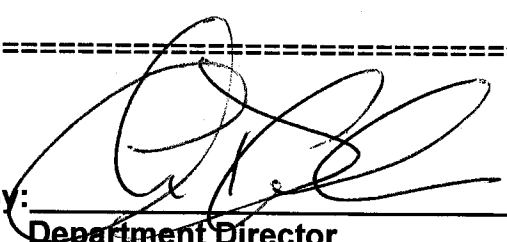
- A) Adopt** resolution authorizing the conveyance of three (3) 2000 Gillig Low Floor buses; and
- B) Approve** agreement regarding the conveyance of three (3) 2000 Gillig Low Floor buses to the Suwannee Valley Transit Authority (SVTA), Suwannee County, Florida.

Summary: Palm Tran needs to dispose of three (3) 2000 Gillig Low Floor buses. These buses have reached their useful life, and in accordance with the Federal Transit Administration (FTA) guidelines, may be disposed of. The Suwannee Valley Transit Authority (SVTA) has approached Palm Tran and expressed their desire to acquire these buses. SVTA has affirmed that it is an entity qualified and eligible to receive a conveyance of personal property from Palm Beach County in accordance with the requirements of Section 125.38, F.S., and that it desires to use the Buses for the public or community interest and welfare. These buses were purchased using 100% Federal funds. Countywide (DR)

Background and Justification: Transit coaches purchased through the use of FTA funds must be used for the purpose intended for the vehicle's useful life. The useful life of a transit coach is either twelve (12) years or 500,000 miles. The buses mentioned above have reached their useful life of 500,000 miles and may now be properly disposed of. Palm Beach County has determined that the Buses are not needed for any Palm Beach County purpose, that the Buses are required for use by SVTA, and that the Buses should be conveyed to SVTA for the sum of \$4,900 each for a total amount of \$14,700. There will be no residual interest in the sale of the coach. Suwannee Valley Transit Authority will be fully responsible for all transportation costs.

- Attachment(s):**
- 1. Resolution of the Board of County Commissioners
 - 2. Agreement with Suwannee Valley Transit Authority
 - 3. Request to Transfer Assets to Fixed Assets Management Office Palm Beach County

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Recommended By:  _____
Department Director

4/21/09
Date

Approved By:  _____
Assistant County Administrator

4/23/09
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	20012	200-
Grant Expenditures					
Operating Costs					
External Revenues	< \$14,700 >				
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	< \$14,700 >				
# ADDITIONAL FTE POSITIONS (Cumulative)	0				

Is Item Included In Current Budget? Yes _____ No X
 Budget Account No.: Fund 1340 Dep't. 540 Unit 5101 Object 6440
 Program _____ Reporting Category _____

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

C. Departmental Fiscal Review: John Murphy
 John Murphy, Finance Manager

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

John D. 4/7/09
4/16/09 OFMB CN
 4/13/09

John J. Jacobson 4/18/09
 Contract Dev. and Control
 E Jones 4/17/09

This item complies with current
 County policies.

B. Legal Sufficiency:

4/13/09
 Assistant County Attorney

C. Other Department Review:

 Department Director

RESOLUTION NO. R-

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, FINDING THAT CERTAIN COUNTY-OWNED BUSES ARE NOT NEEDED FOR THE COUNTY'S TRANSIT SYSTEM OR ANY OTHER COUNTY PURPOSE; AUTHORIZING THE SALE, CONVEYANCE AND TRANSFER OF THE BUSES TO THE SUWANNEE VALLEY TRANSIT AUTHORITY (SVTA); APPROVING AN AGREEMENT WITH THE SVTA REGARDING THE SALE, CONVEYANCE AND TRANSFER OF THE BUSES; ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Palm Beach County (County) has three (3) transit buses (Buses) that have reached the end of their useful service life and the County has determined that the Buses are not needed for the County's public transit system or any other County purpose; and

WHEREAS, the Board of County Commissioners (Board) and Palm Tran have determined that the Federal Transit Administration has no continuing interest in the Buses; and

WHEREAS, the SVTA has affirmed that it is an entity qualified and eligible to receive a conveyance of personal property from Palm Beach County in accordance with the requirements of Section 125.38, F.S., and that it desires to use the Buses for the public or community interest and welfare; and

WHEREAS, the SVTA has applied to the Board for the Buses and requested that they be conveyed to the SVTA for the purpose of promoting the public or community interest and welfare, and the Board is satisfied that the Buses are required for such purposes; and

WHEREAS, the Board has determined that the Buses will be used for the public or community interest and welfare as described herein and in an Agreement Regarding the Sale and Conveyance of Buses to the SVTA (Agreement), and that the Buses should be sold and conveyed to the SVTA for the sum of Four Thousand Nine Hundred Dollars (\$4,900.00) each and other good and valuable consideration in accordance with the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. The recitals set forth above are true and correct.
2. The Board does hereby authorize its Chairman, on behalf of the Board, to enter into the Agreement with the SVTA for the sale, conveyance and transfer of the Buses described below.

3. Following execution of the Agreement, title to the Buses is to be transferred and conveyed to the SVTA in accordance with the provisions of the Agreement. Palm Beach County's County Administrator or his designee is authorized to take all steps needed to effectuate the sale, conveyance and transfer of the Buses.

4. The Vehicle Manufacturer and Identification Number of the vehicles to be conveyed are as follows:

2000 Gillig Low Floor VIN 15GGD2112Y1071320; and
2000 Gillig Low Floor VIN 15GGD2114Y1071321; and
2000 Gillig Low Floor VIN 15GGD211XY1071324

5. This Resolution shall take effect upon its adoption.

The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Commissioner John F. Koons, Chairman	_____
Commissioner Burt Aaronson, Vice Chairman	_____
Commissioner Karen T. Marcus	_____
Commissioner Shelley Vana	_____
Commissioner Steven L. Abrams	_____
Commissioner Jess R. Santamaria	_____
Commissioner Addie L. Greene	_____

The Chairman thereupon declared this resolution duly passed and adopted this ____ day of _____, 2009.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA, by its
BOARD OF COUNTY COMMISSIONERS

Sharon R. Bock, Clerk and Comptroller

By: _____
County Attorney

By: _____
Deputy Clerk

**AGREEMENT REGARDING THE SALE AND CONVEYANCE
OF BUSES TO
SUWANNEE VALLEY TRANSIT AUTHORITY**

THIS AGREEMENT REGARDING THE SALE AND CONVEYANCE OF BUSES is made and entered into this ___ day of _____, 2009, by and between Palm Beach County, a political subdivision of the State of Florida, (hereinafter referred to as "Palm Beach County"), and the Suwannee Valley Transit Authority, a political subdivision of the State of Florida (also referred to herein as "SVTA").

WITNESETH:

WHEREAS, Palm Beach County's Department of Surface Transportation (also known as "Palm Tran") has determined that it has three (3) model year 2000 Gillig Low Floor buses (collectively referred to herein as "Buses") that are not needed for any County purpose, that the Buses are an uneconomical asset, and that Palm Beach County no longer has a public transit need for the Buses; and

WHEREAS, SVTA has advised Palm Tran, that SVTA is in need of additional buses and desires to acquire the Buses from Palm Beach County; and

WHEREAS, SVTA has represented that it will incorporate the Buses into SVTA's public transit system, and use them to promote the community interest and welfare by enhancing the public transit system; and

WHEREAS, SVTA has applied to Palm Beach County for the conveyance of the Buses to SVTA and affirms that it will use the Buses to accomplish the purposes described herein; and

WHEREAS, SVTA does hereby further represent and affirm that it is an entity qualified and eligible to receive a conveyance of personal property from Palm Beach County in accordance with the requirements of Section 125.38, F.S.; and

WHEREAS, Palm Beach County has determined that the Buses are not needed for any Palm Beach County purpose, that the Buses are required for use by SVTA, and that the Buses should be conveyed to SVTA for the sum of Four Thousand Nine Hundred Dollars (\$4,900.00) each; and

WHEREAS, Palm Beach County's Board of County Commissioners finds that the use SVTA will make of the Buses constitutes and will serve a valid public purpose.

NOW, THEREFORE, in consideration of the covenants and promises contained herein, the parties agree as follows:

1. Incorporation of Recitals: The foregoing recitals are true and correct and incorporated into and made a part of this Agreement.

2. Purpose: The purpose of this Agreement is to set forth the various duties, rights and obligations of the parties regarding the transfer of the Buses to SVTA and SVTA's use of the Buses to promote the community's interest and welfare by utilizing the Buses in SVTA's public transit system as contemplated in this Agreement. The Buses to be transferred to SVTA consist of three (3) 2000 Gillig Low Floor buses with the following Vehicle Identification Numbers:

15GGD2112Y1071320
15GGD2114Y1071321
15GGD211XY1071324

3. Representatives: Palm Beach County's representative following the execution of this Agreement will be Palm Tran's Assistant Executive Director whose telephone number is (561)-841-4200, or her designee. SVTA's representative following the execution of this

Agreement will be James Swisher, Administrator, whose telephone number is (386)-362-5332 or such other representative designated by SVTA.

4. Transfer of Title: Palm Beach County agrees to transfer title, relinquish possession and deliver the Buses to SVTA at Palm Tran's main facility located at 3201 Electronics Way, West Palm Beach, Florida or such other location in Palm Beach County, Florida, on such date and time specified by Palm Beach County's Representative; provided, that, Palm Beach County has received from SVTA the total sum of Fourteen Thousand Seven Hundred Dollars (\$14,700.00). SVTA shall be solely responsible for and shall bear all costs arising out of and related to the conveyance, transfer of title, delivery and acceptance of the Buses, of whatsoever kind or nature. SVTA acknowledges that the Buses have been fully depreciated, that each bus has attained at least 500,000 miles and that for Federal Transit Administration's (FTA) purposes all buses have reached their useful service life. Palm Beach County is willing to release ownership and control of the Buses to SVTA following Palm Beach County's receipt of the sum of \$14,700.00, and SVTA's release of Palm Beach County from any future liability or responsibility for the Buses. SVTA acknowledges that with the execution of this Agreement it accepts responsibility for the continued satisfactory safety, maintenance and control of the Buses.

5. Acceptance of Buses "As Is" and Disclaimer of Warranty: It is understood between the parties that Palm Beach County is conveying the Buses to SVTA "as is" and that no representations are made as to the maintenance, design, safety, operability or condition of the Buses or any equipment associated therewith. No warranties are made, of any kind or nature, and none shall be deemed to be in effect, including but not limited to any warranty with respect to the maintenance, design, condition, safety or operability of the Buses, their quality or capacity, their conformity to or compliance with any requirement of

law (whether state, federal or local), or any rule, specification or contract pertaining to the Buses. No warranties are made regarding patent infringement, any latent defect or the Buses' fitness for any or a particular purpose or any an implied purpose. SVTA's execution of this Agreement shall act as its acknowledgment that it has performed a detailed inspection of the Buses and accepts them in their "as is" condition. SVTA further acknowledges and agrees that no representations or warranties have been made regarding the Buses, and that it has not relied upon any statement or representation, of any kind or nature, made by Palm Beach County or Palm Tran, Inc. or their respective officers, employees, servants or agents regarding the Buses, their condition, or any equipment that may or not may be located thereon. SVTA shall inspect the Buses and correct any and all conditions that may interfere with or affect the safe operation or use of the Buses or create a danger to any person or property prior to it or any other person or entity using or operating the Buses.

Palm Beach County is not the manufacturer of the Buses or any equipment associated therewith. Palm Beach County is not the agent of the manufacturer, and no warranty against patent or latent defects in material, workmanship, or capacity is given. Palm Beach County does not warrant the Buses or any equipment associated therewith as being fit for any purpose, an implied purpose or a particular purpose, or as having been maintained or adjusted to a certain condition, level or degree of safety, or as required by law. No oral or written statement, representation, information or advice from Palm Beach County, Palm Tran, Inc. or any of their respective officers or employees whether given before, during or after delivery of the Buses shall create a warranty, including any warranty as to maintenance, safety, operability or reliability, and SVTA expressly acknowledges that it is not entitled to rely on any such statement, representation, information or advice, if

such was made or given.

NO WARRANTIES, WHETHER EXPRESS OR IMPLIED, ARE GIVEN. ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY, AN IMPLIED OR PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED. PALM BEACH COUNTY SHALL NOT BE LIABLE FOR ANY GENERAL, SPECIAL, DIRECT OR INDIRECT DAMAGES, INCLUDING WITHOUT LIMITATION, ANY LOST PROFITS, SAVINGS OR OTHER CONSEQUENTIAL, EXEMPLARY OR INCIDENTAL DAMAGES ARISING OUT OF THIS AGREEMENT AND/OR SVTA'S USE OR OPERATION OF THE BUSES. NEITHER PALM BEACH COUNTY NOR PALM TRAN, INC. SHALL BE LIABLE FOR ANY CLAIM FOR DAMAGES, INCLUDING WITHOUT LIMITATION, PERSONAL INJURY OR PROPERTY DAMAGE, BASED UPON A CLAIM IN CONTRACT, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, STRICT LIABILITY OR BREACH OF WARRANTY.

6. Discrimination Prohibited: SVTA represents and warrants that it will not discriminate in any use made of the Buses and that their employees will be treated equally without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender or gender identity or expression.

7. Responsibility: SVTA shall be solely responsible for all costs associated with or related to the conveyance, delivery, transfer of title and its use of the Buses. SVTA agrees that Palm Beach County has no responsibility or duty, of any kind or nature, to any person or entity, relating to the Buses. SVTA expressly waives and releases Palm Beach County and Palm Tran, Inc. from any responsibility or liability, of any kind or nature whatsoever, that Palm Beach County or Palm Tran, Inc, had, has or may have to SVTA or any other person or entity, related to Palm Beach County's conveyance of the Buses to SVTA or SVTA's ownership, use, operation, maintenance or possession of the Buses.

8. No Agency Relationship: Palm Beach County is transferring title to the Buses for the sum of Four Thousand Nine Hundred Dollars (4,900.00) each, and as a result, is merely a seller of the Buses. SVTA is not an agent, servant or employee of Palm Beach

County or Palm Tran, Inc. Neither Palm Beach County nor Palm Tran, Inc. is an agent, servant or employee of SVTA. SVTA acknowledges and agrees that neither Palm Beach County nor Palm Tran, Inc. has any control over the actions, activities or decisions of SVTA. Nothing contained herein shall create an agency relationship between SVTA and Palm Beach County or SVTA and Palm Tran, Inc.

9. SVTA shall not assign, transfer or otherwise encumber this Agreement, in whole or in part, without first having obtained the prior written consent of Palm Beach County.

10. Hold Harmless and Indemnification: To the extent permitted by law, SVTA agrees to protect, defend, reimburse, save, indemnify and hold Palm Beach County, Palm Tran, Inc., their successors or assigns, and their respective directors, officers, servants, agents or employees, free and harmless, at all times, from and against any and all suits, actions, damages, liabilities, interest attorney's fees, costs and expenses of any kind or nature, including all costs of appeals, arising out of or related, in any manner whatsoever, to SVTA's acquisition, inspection, acceptance, possession, use, operation or maintenance of the Buses, any intentional or negligent act or omission of SVTA, or any intentional or negligent act or omission of Palm Beach County or Palm Tran, Inc. that relates, in any manner, to SVTA's acquisition, ownership, operation, maintenance, possession or use of the Buses. SVTA expressly agrees that neither Palm Beach County or Palm Tran, Inc. has a duty to SVTA, the public, any member of the public, any passenger being transported on one of the Buses, or any other third party to notify SVTA or any other person of any defect or dangerous condition or to correct any defect or dangerous condition which may exist or affect, in any way whatsoever, SVTA's use, maintenance or operation of the Buses. The foregoing indemnification shall survive the expiration or termination of this Agreement and

shall remain in effect at all times during which SVTA owns, possesses, uses, maintains or has an interest in the Buses.

12. Remedies and Venue: This Agreement shall be governed by the laws of the State of Florida and any and all legal action necessary to enforce this Agreement shall be held in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

13. Entirety of Agreement: This Agreement sets forth the entire agreement between the parties and supersedes all other negotiations, representations, or agreements, whether written or oral, relating to this Agreement. The Agreement may be modified and amended only by written instrument executed by the parties hereto.

14. No Third Party Beneficiaries Created: This Agreement is not intended to be a third party beneficiary contract and creates no right in anyone other than SVTA, Palm Beach County and Palm Tran, Inc. No other person or entity shall have any rights, interest, or claims against the County or Palm Tran, Inc. as a result of this Agreement or SVTA's acquisition, ownership, use, operation or maintenance of the Buses, or be entitled to any benefits under or on account of this Agreement as a third-party beneficiary or otherwise. SVTA expressly acknowledges and agrees that neither Palm Beach County nor Palm Tran, Inc. has a duty, of any kind or nature, to SVTA or any third party as a result of SVTA's acquisition, ownership, operation, maintenance, possession or use of the Buses.

15. Representations: SVTA acknowledges Palm Beach County's intent to sale the Buses to SVTA in accordance with the requirements of Section 125.38, F.S. SVTA affirms its representation to County that it is an entity eligible to receive personal property from Palm Beach County under Section 125.38, F.S. To the extent permitted by law, SVTA shall save, defend, indemnify and hold harmless Palm Beach County for any and all liability or responsibility that Palm Beach County had, has or may have as a result of a determination that SVTA is not an entity eligible to receive personal property from Palm Beach County under Section 125.38, F.S.

16. Notices: Any notice given pursuant to the terms of this Agreement shall be in writing and hand delivered or sent by U.S. Mail. All notices shall be addressed to the following:

As to Palm Beach County:

Executive Director, Palm Tran
3201 Electronics Way
West Palm Beach, FL 33407

As to SVTA:

James Swisher
Administrator
Suwannee Valley Transit Authority
1907 Voyles Street
Live Oak, FL 32060

17. Waiver: No waiver of any provisions of this Agreement shall be effective unless it is in writing and signed by the party against whom it is asserted. Any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed a continuing or future waiver.

18. Captions: The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

19. Joint Preparation: The preparation of this Agreement has been a joint effort of the parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

20. Severability: Should any section, paragraph, sentence, clause or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement.

21. Entirety of Contract and Modifications: Palm Beach County and SVTA agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and equality of dignity herewith.

22. Survivability: Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the undersigned parties have signed this Agreement on
the date first above written.

Attest:

Sharon R. Bock, Clerk & Comptroller

PALM BEACH COUNTY, FLORIDA, by its
BOARD OF COUNTY COMMISSIONERS

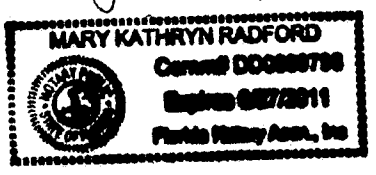
By: _____
Deputy Clerk

By: _____
John F. Koons, Chairman

Attest:

SUWANNEE VALLEY TRANSIT AUTHORITY

By: Mary Kathryn Radford



By: [Signature]
Administrator

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

County Attorney

APPROVED AS TO TERMS AND CONDITIONS

[Signature]
Chuck Cohen, Executive Director
Palm Tran



REQUEST TO TRANSFER ASSETS TO FIXED ASSETS MGT OFFICE
PALM BEACH COUNTY

(Please type or print clearly in black or blue pen)

OFMB/ FINANCIAL MANAGEMENT DIVISION
FIXED ASSETS MANAGEMENT OFFICE
FORM #2

DEPARTMENT/DIVISION NAME <u>Palm Tran</u>	CUSTODIAN CODE	DATE <u>April 21, 2009</u>
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ASSET NUMBER	DESCRIPTION	REASON CODE	CONDITION CODE	FAMO UPDATE REFERENCE	Z # ASSIGNED	ASSIGNED TO		
						INV	STORE	SCRAP
<u>10133433</u>	<u>2000 Gillig LowFloor Vin15 GGD2112Y1071320</u>	<u>4</u>	<u>2</u>					
<u>10133434</u>	<u>2000 Gillig LowFloor Vin15 GGD2114Y1071321</u>	<u>4</u>	<u>2</u>					
<u>10134741</u>	<u>2000 Gillig LowFloor Vin15 GGD211XY1071324</u>	<u>4</u>	<u>2</u>					

REASON CODES
1. - EXCESS 2. - OBSOLETE 3. - OTHER SURPLUS (specify) _____ 4. - STATUTORY/PUBLIC PURPOSE/BCC ACTION (Describe in Comments Section Below)

CONDITION CODES
1. - NEW 2. - GOOD 3. - FAIR 4. - POOR 5. - BROKEN/SERVICEABLE 6. - BROKEN/BEYOND REPAIR 7. - OTHER _____ (specify)

COMMENTS (details on Reason 4 Transfers, Trade-ins, Scrapping and Thefts Required Here)

REQUESTED BY - ORIGINATING DEPARTMENT		APPROVAL - FIXED ASSETS MANAGEMENT OFFICE	
ORIGINATOR <u>Lorraine Szyns</u>	DATE <u>4/1/09</u>	INVENTORY OFFICER _____	DATE _____
INVENTORY OFFICER <u>Lorraine Szyns</u>	DATE <u>4/1/09</u>	WAREHOUSE _____	DATE _____
CUSTODIAN <u>[Signature]</u>	DATE <u>4-1-09</u>		