

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

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Meeting Date:   October 6, 2009      [X] Consent      [ ] Regular
                                           [ ] Ordinance   [ ] Public Hearing

Department:    Palm Tran

Submitted By:  Palm Tran

Submitted for:  Palm Tran
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I. EXECUTIVE BRIEF

Motion and Title: Staff recommends a motion to approve: Two (2) year Agreement with the School District of Palm Beach County (School Board) to provide annual and semester bus passes available to certain students as a means of transportation services for the 2009 - 2010 school year at the annual pass rate of \$360.00 or \$180.00 per pass for the second semester. For the 2010-2011 school year, the annual pass rate will be \$370.00 or \$185.00 for the second semester.

Summary: The School Board has contracted for annual bus passes as a means of transportation for students since August 1998. Palm Tran historically has provided approximately 650 passes annually. The Agreement rates include annual increases of 3%. Payments for annual school passes are in lieu of School Board's students paying individual fares into the fare boxes on Palm Tran routes. The agreement will establish pricing for school bus passes through the end of school year 2011. Countywide (DR)

Background and Justification: Palm Tran fixed routes serve numerous schools in Palm Beach County. The School Board has entered into a Letter of Understanding with Palm Tran since August 1, 1998. The School Board desires to eliminate the necessity of providing school buses and students paying individual fares upon boarding Palm Tran buses. This type of agreement benefits Palm Tran by providing a guaranteed revenue stream while reducing the overall operating cost on routes by reducing the time associated with the acceptance and verification of individual fares. The School Board affixes the student's photo onto the pass for identification purposes. No bus operator intervention is required.

Attachment(s): Agreement with the School District of Palm Beach County (School Board)

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Recommended By: [Signature]                               Sept. 9, 2009
                  Department Director                        Date

Approved By: [Signature]                               9/24/09
               Assistant County Administrator                Date
    
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II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012-	200-	200-
Capital Expenditures					
Operating Costs					
External Revenues	<\$234,000>	<\$240,500>			
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	<\$234,000>	<\$240,500>			
# ADDITIONAL FTE POSITIONS (Cumulative)	0	0			

Is Item Included In ^{Proposed} ~~Current~~ Budget? Yes X No
 Budget Account No.: Fund 1340 Dep't. 540 Unit 5101 Object 4434
 Program

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

School year	Passes	Rate	Revenue
2009/2010	650	\$360	\$234,000
2010/2011	650	\$370	\$240,500

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

III. REVIEW COMMENTS

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

[Signature] akula
9/14/09 OFMB J 9/14 AK 9/11

[Signature] 9/16/09
 Contract Dev. and Control

B. Legal Sufficiency:

This Contract complies with our contract review requirements.

[Signature] 9/22/09
 Assistant County Attorney

C. Other Department Review:

 Department Director

**BUS PASS AGREEMENT
BY AND BETWEEN
PALM BEACH COUNTY, FLORIDA
AND
SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA**

THIS BUS PASS AGREEMENT is made and entered into this ___ day of _____, 2009, by and between Palm Beach County, Florida, a political subdivision of the State of Florida, by and through its Board of County Commissioners (referred to herein as "County") and the School Board of Palm Beach County, Florida (referred to herein as "Board").

WITNESSETH

WHEREAS, the County has established a fixed route public transportation system known as "Palm Tran" throughout much of Palm Beach County; and

WHEREAS, County operates its public transportation system, known as Palm Tran, for the benefit, use and enjoyment of the general public; and

WHEREAS, Board has requested the County to sell annual and semester bus passes to Board for certain Board students who desire to use Palm Tran as a means of transportation; and

WHEREAS, County is willing to make annual and semester bus passes available to the Board for use by certain of Board's students in accordance with the provisions of this Agreement; and

WHEREAS, County and the Board have determined to create and utilize a unique bus pass with digital photographs and magnetic encoding to be used as described in this Agreement.

NOW, THEREFORE, in consideration of the mutual terms, conditions, promises, covenants, and obligations set forth herein, the County and Board agree as follows:

Section 1. **Incorporation of Facts:** The facts set forth above, in the preamble to this Agreement, are true and correct and incorporated into this Agreement by reference.

Section 2. **Purpose:** The purpose of this Agreement is to set forth the various duties,

rights and obligations of the parties regarding the Board's acquisition of bus passes for certain students of the Board and the Board's payment for, distribution and use of the bus passes.

Section 3. **Representatives:** The County's representative and monitor during the performance of this Agreement shall be Palm Tran's Executive Director, whose telephone number is (561)841-4200. The Board's representative and monitor during the performance of this Agreement is the Transportation Department's Director, whose telephone number is (561) 242-8312.

Section 4. **Purchase of Passes:** Palm Tran bus passes, usable only upon the Palm Tran fixed route public transit system, may be purchased by the Board for use by certain of Board's middle school and high school students at a cost of Three Hundred Sixty Dollars (\$360.00) per pass for the 2009-2010 School Year and Three Hundred Seventy Dollars (\$370.00) per pass for the 2010-2011 School Year. After the beginning of the second semester, passes may be purchased at a cost of One Hundred Eighty Dollars (\$180.00) per pass for the second semester of the 2009-2010 School Year and at a cost of One Hundred Eighty Five Dollars (\$185.00) per pass for the second semester of the 2010-2011 School Year.

Each school year normally commences in August and ends in May of the following year. Palm Tran's Executive Director may permit passes to be procured and used prior to August or after May for those students whose school year does not fall within the normal school year and may require an additional payment equivalent to the monthly pro-rata cost of an annual bus pass should the duration of the school year exceed ten (10) months.

Section 5. **Digital Images:** An ID card with a digital image will serve as the bus pass. Palm Tran will provide ID cards suitable for the Board to print the digital images the Board has captured, using a technology and methodology acceptable to County, of those students who are to receive an annual bus pass (after January 1 of each School Year, students will receive semester bus passes). The digital image of each student will also identify the student and the school the student is attending.

Section 6. **Invoicing:** County will invoice the Board for each ID card received by the Board under this Agreement. Within fifteen (15) days of the Board's receipt of each invoice, the Board will remit payment for the sum due and owing to the Palm Beach County Board of County Commissioners, c/o Palm Tran, 3201 Electronics Way, West Palm Beach, FL 33407, or to the address indicated on the invoice issued by Palm Beach County Finance.

Section 7. **Audit:** The County and Board agree to cooperate with each other in any audit relating to the bus passes either party may perform. If necessary, adjustments will be

invoiced or credited prior to June 30 of each year. Board will provide any information related to the bus passes and their usage by students requested by Palm Tran.

Section 8. Refunds and Replacements: An ID card with a digital image serves as the bus pass. No passes which are lost, stolen, misplaced or destroyed by the Board or any student shall be replaced or the cost refunded; provided, however, that Palm Tran will refund to the Board, the sum equivalent to the monthly pro rata portion of any months remaining on any pass issued to a student, who has withdrawn from school or who is no longer eligible for the continued provision of and use of a bus pass, or from whom Palm Tran has withdrawn a pass as a result of the termination of this agreement by either party, upon the return of the pass to Palm Tran. Notwithstanding the above, should the Board request and Palm Tran agree to issue a replacement pass, the Board will compensate Palm Tran for the replacement pass at a cost of ten dollars (\$10.00), to offset administrative costs. No more than one replacement pass per student may be made. Should the student need a second replacement pass and Palm Tran decide to make it available, the Board will pay twenty dollars (\$20.00) per month for any months remaining in the school year, including the month the second replacement pass is issued.

Section 9. Educational Rights and Privacy: If the provisions of Section 1002.22, Florida Statutes, and the Family Educational Rights and Privacy Act (FERPA), as amended, are applicable to the terms and conditions of this Agreement, the County will act in accordance with their provisions to the same extent it would any other state or federal law or regulation. Should the Board determine that the provisions of Section 1002.22, and FERPA are applicable to the public fixed route transit services provided hereunder, upon the request of County, the Board shall provide an opinion of counsel as to the application and effect of the provision of said Section and Act upon the County, including any action taken, requested of County or sought or proposed to be taken by County.

Section 10. No rights nor Interest Created: The Board acknowledges and agrees that neither this Agreement nor the provision, possession or use of a bus pass by any student creates any right, interest, license or permit in or to a pass in the Board or any student, parent, guardian, or any other person or entity to the continued use of the County's public transit system. Moreover, the County may revoke any pass issued hereunder to any student, for any reason whatsoever, with or without prior notice or a hearing of any kind, and neither the student nor the Board shall have any claim or cause of action, of any kind whatsoever, against County or Palm Tran, except for the Board's right to a refund as provided for in Section 8 above.

Section 11. Middle and High School Students: The Board acknowledges and agrees that it shall not seek, request or endeavor in any manner to obtain a pass for any student who

is not a middle or high school student. The Board further acknowledges and agrees that passes will not be provided to any student, regardless of grade level, who is eight (8) years of age or younger, unless such student is accompanied, at all times (*i.e.*, from boarding to disembarkation) by a parent who is a participant in Board's Teenage Parent Program. In such cases the student/parent's pass and the pass of the child of the student/parent shall indicate, in a manner acceptable to Palm Tran, the relationship and/or exception to the condition set forth herein.

Section 12. **Convenience:** The Board acknowledges and agrees that the County is providing the bus passes solely for the convenience of the Board, and that the County has no duty or obligation to the Board or to any student which is in addition to, or different or distinguishable from that owed to the public at large.

Section 13. **Compliance with Palm Tran's and the School Board's Policies:** The Board represents and affirms that its students will be subject to and adhere to the Board's Policy 5.186. Additionally, Board represents and warrants that it will provide its students with the Student Riders Safety Rules and Regulations, attached hereto as Exhibit "A", and that its students shall be subject to and adhere to said rules and regulations. Board's students shall also comply with all Palm Tran rules, regulations, policies or laws regulating or pertaining to Palm Tran's passengers, as they may be adopted or amended from time to time. Board further acknowledges and agrees that Palm Tran may remove any student from a Palm Tran bus in the same manner that members of the general public may be removed, and that any student may be temporarily or permanently refused service in accordance with Palm Tran's rules, regulations, policies or procedures.

Section 14. **Termination:** This Agreement may be terminated by either party, with or without cause upon thirty (30) days notice to the other. In the event a party has failed to perform, observe, or has breached any provision of this Agreement, the other party may terminate this Agreement immediately upon written notice to the other party. No liability shall inure to either party as a result of the termination of this Agreement, except that the County shall reimburse the Board for the value equivalent to the monthly pro rata cost for the months remaining for each pass purchased hereunder.

Section 15. **No Agency Relationship:** Nothing contained herein shall create an agency relationship between Board and County or Board and Palm Tran, Inc.

Section 16. **Limit of Obligations:** The County shall have no obligations to the Board, its students, or any other entity or person who is in anyway associated with or might benefit from the terms of this Agreement. County is acting, under this Agreement, solely in its capacity as a political subdivision of the State. County is not and shall not be deemed to

be acting for or on behalf of the Board or to have stepped into the “shoes of the Board” or to have assumed any of the duties, responsibilities or obligations of the Board relating, in any manner whatsoever, to the transportation of any Board student.

Section 17. **Remedies:** This Agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to construe or enforce the Agreement will be held in Palm Beach County. 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.

Section 18. **Enforcement Costs:** Any costs or expenses, including reasonable attorney fees, associated with the enforcement of the terms and conditions of this Agreement shall be borne by the respective parties; provided, however, that this clause pertains only to the parties to this Agreement.

Section 19. **Captions:** The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

Section 20. **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 constraint, be construed more severely against one of the parties than the other.

Section 21. **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.

Section 22. **Notice:** All notices required under this Agreement shall be in writing and sent by certified mail, return receipt requested, and if sent to the County shall be mailed to:

Executive Director
Palm Tran
3201 Electronics Way
West Palm Beach, FL 33407-4618

and if sent to the Board shall be mailed to:

Director of Transportation
The School District of Palm Beach County
2275 Homewood Road
West Palm Beach, FL 33406

Each party may change its address upon notice to the other.

Section 23. **Entirety of Agreement and Modifications:** The County and Board 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.

Section 24. **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.

Section 25. **Annual Appropriation:** Each party's obligations under this Agreement are contingent upon an annual budgetary appropriation by its governing body for the purposes described herein.

Section 26. **Limit of Obligations:** The County's obligations to Board shall be strictly limited to those expressly set forth in this Agreement. The County shall have no obligations to any person, student or entity that is in anyway associated with or might benefit from the terms of this Agreement and the usage of a bus pass. Nothing contained in this Agreement shall be construed as a waiver of the County's or Board's sovereign immunity except as expressly set forth in Section 768.28, Florida Statutes. Moreover, this Agreement is not intended to be a third party beneficiary contract and confers no rights on anyone other than the parties hereto. Nothing herein shall be deemed to constitute an imposition or acceptance by County or Board of any obligation, duty, responsibility or liability, not otherwise imposed by the express and unequivocal language of this Agreement.

REMAINDER OF PAGE INTENTIONALL LEFT BLANK

IN WITNESS WHEREOF, the County and Board have hereunto set their hands the day and year above written.

Attest:
Sharon R. Bock, Clerk & Comptroller

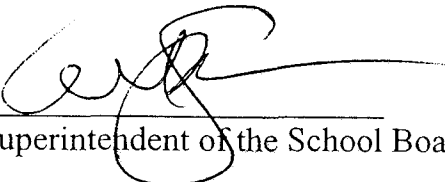
PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS


By: _____
Deputy Clerk

By: _____
John F. Koons - Chairman

Attest:

SCHOOL BOARD OF PALM BEACH
COUNTY


By: 
Superintendent of the School Board

By: 
Chairman

Approved as to Form
and Legal Sufficiency

Approved as to Terms and Conditions

By: _____
County Attorney

By: 
Executive Director, Palm Tran

Approved as to Form
and Legal Sufficiency

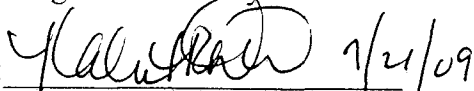
By: 

Exhibit "A"

STUDENT RIDERS SAFETY RULES AND REGULATIONS

SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA

While riding on a Palm Tran bus students must understand that Palm Tran provides service to the entire general public **not** just school-age riders. Therefore, students are expected to be well-behaved at all times, and be respectful of the other patrons that are riding on the bus.

For everyone's benefit, students are expected to observe ALL OF Palm Tran's rules and regulations and the following School Board rules and regulations:

WHILE WAITING FOR THE ARRIVAL OF THE BUS:

- Wait at a Palm Tran bus stop sign standing well off the roadway at all times.
- Do not rough-house, fight, skateboard, roller blade or shove while at the bus stop.
- Wait until the bus has come to a complete stop and passengers, trying to leave, have gotten off the bus before approaching to board.
- Have your bus pass with you. If you do not have your bus pass, you will have to pay a bus fare that day. Students are eligible for a one-way 60 cent half fare.
- Follow the instructions of the bus drivers and other Palm Tran personnel.
- Enter the Palm Tran bus at the front door. Enter carefully, never run or jump onto the bus.

WHILE ON BOARD THE BUS:

- Do not run in the aisle or move from seat to seat.
- Do not play radios, CD's or cassette players without headsets.
- No yelling, loud talking or singing, or any other inappropriate behavior.
- Do not use profanity.
- Keep the aisle clear of books, art supplies, instruments, and sports equipment.
- Place items under the seat or on your lap. Do not place them on a seat that can be utilized by another passenger.
- Do not bring open food or drinks on the bus.
- Remain seated if seats are available. Standees must move to the rear of the bus as far as possible. **DO NOT** stand in the entrance or exit area.

- Give up designated seats to Senior citizens and disabled passengers.
- Ring the “stop request bell” **at least one block** from your desired stop, and remain seated until the bus comes to a complete stop.
- Exit the bus with care. Exit at the rear door whenever possible. Never run or jump from the bus.
- **DO NOT CROSS THE STREET IN FRONT OF THE BUS. WAIT UNTIL THE BUS HAS LEFT THE BUS STOP AND CROSS AT THE NEAREST CROSSWALK.**

REMEMBER, PALM TRAN BUSES ARE NOT SCHOOL BUSES. TRAFFIC WILL NOT STOP AND WAIT FOR YOU TO CROSS THE STREET.

Failure to follow these rules and regulations may result in loss of privilege to ride Palm Tran. Palm Tran Drivers may keep bus passes and have unruly passengers removed from the bus.

Each individual school may have additional rules and regulations.

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