

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date:	September 14, 2010	<input checked="" type="checkbox"/> [X]	Consent	<input type="checkbox"/> []	Regular
		<input type="checkbox"/> []	Ordinance	<input type="checkbox"/> []	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 motion to approve a two-year agreement with Cen-West Communities, Inc. for provision of transportation service (via Palm Tran Routes 91 and 92) to residents of Century Village Boca Raton at the annual rates of \$181,105 for the fiscal year beginning October 1, 2010 and \$185,633 for the second fiscal year beginning October 1, 2011.

Summary: Cen-West Communities, Inc. has contracted for bus service for residents since the inception of the development of Century Village Boca Raton. The contract rate of \$181,105 during the first year of the proposed contract represents a 2.5% increase over the contract for the prior year ending September 30, 2010 and the second year rate of \$185,633 represents a 2.5% increase over the first year. Payment of the annual contract rates is in lieu of residents paying individual fares into the farebox on Palm Tran Routes 91 and 92. The commencement date of this new agreement is October 1, 2010 and the termination date is September 30, 2012.
District 5 (DR)

Background and Policy Issues: Palm Tran fixed Routes 91 and 92 serve Boca Raton on major arterials as they traverse east and west. Residents of Century Village have contracted with Palm Tran since October 1, 1988 through their homeowner's association, Cen-West Communities, Inc. Residents of Century Village desire to eliminate the necessity of paying individual fares upon boarding Palm Tran buses. This type of contract benefits Palm Tran by providing a guaranteed revenue stream while reducing the overall operating cost of the route by reducing time associated with acceptance and verification of individual fares. Residents are responsible for paying individual fares should they transfer from either Route 91 or 92 to another route that is beyond the boundaries of Boca Raton.

Attachment(s):
1. Agreement with Cen-West Communities, Inc. (3 copies)

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Recommended By:		<u>August 18, 2010</u>
	Department Director	Date
Approved By:		<u>8/26/10</u>
	Assistant County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2011	2012	200-	200-	200-
Capital Expenditures					
Operating Costs					
External Revenues	(\$181,105)	(\$185,633)			
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	(\$181,105)	\$185,633			
# ADDITIONAL FTE POSITIONS (Cumulative)	0	0			


Is Item Included In Proposed Budget? Yes X No

Budget Account No.: Fund 1340 Dep't. 540 Unit 5101 Object 4435

Program


B. Recommended Sources of Funds/Summary of Fiscal Impact: Cen-West Communities, Inc. will pay to the County through the collection of condominium fees. Acceptance of these annual contract fees are in lieu of residents of Century Village Boca Raton paying individual fees per trip.

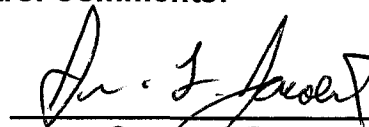
C. Departmental Fiscal Review:


John Murphy, Finance Manager


III. REVIEW COMMENTS

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


OFMB

 8/26/10
Contract Dev. and Control
E. Jones 8/27/10

B. Legal Sufficiency:

 8/27/10
Assistant County Attorney
Awaiting receipt of verification of corporate authority to execute agreement

This Contract complies with our contract review requirements.

C. Other Department Review:

Department Director

ATTACHMENT 1
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AGREEMENT FOR THE PROVISION OF TRANSPORTATION SERVICES
BETWEEN
THE BOARD OF COUNTY COMMISSIONERS
OF PALM BEACH COUNTY, FLORIDA
AND
CEN-WEST COMMUNITIES, INC.

THIS AGREEMENT is made and entered into this _____ day of _____, 2010, by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of County Commissioners (hereinafter referred to as "County"), and Cen-West Communities, Inc., a Florida corporation whose federal identification number is 59-1794084.

WHEREAS, the County, as part of its countywide public transit system (Palm Tran), has established routes in Boca Raton known as Routes 91 and 92; and

WHEREAS, Cen-West Communities, Inc. desires to enter into an agreement with the County allowing the residents of Century Village of Boca Raton (hereinafter referred to as "Residents") to use Palm Tran Routes 91 and 92 on an individual fare-free basis; and

WHEREAS, the Residents may access and use other Palm Tran fixed routes, on a fare-free basis, for Palm Tran trips that originate within the geographic boundaries of Boca Raton.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the County and Cen-West Communities, Inc. do hereby agree as follows:

1. The Residents may utilize Palm Tran Routes 91 and 92 on a non-exclusive and fare-free basis as further described in this Agreement. Except as expressly provided herein to the contrary, Route 91 and Route 92 fixed route public transportation services will be made available in the same manner that such services are made available to other members of the public.
2. At the time of boarding, Residents must present to the Palm Tran bus driver a current Century Village Identification Card which shall identify the person boarding.

3. The Residents will have non-exclusive, unlimited and fare-free access and use of other Palm Tran public transit routes for Palm Tran trips that originate within the geographical boundaries of Boca Raton. The Residents shall be liable for and shall pay the fare established by Palm Tran for any other fixed route transit trip that originates outside of the geographical boundaries of the City of Boca Raton.

Palm Tran's fare structure shall apply to all trips which originate outside of the geographical boundaries of the City of Boca Raton.
4. Cen-West Communities, Inc. will pay to County one hundred eighty-one thousand one hundred five dollars (\$181,105.00) to access the level of service in effect for Routes 91 and 92, for the period beginning October 1, 2010 and ending September 30, 2011, and one hundred eighty-five thousand six hundred thirty-three dollars (\$185,633.00) for the period beginning October 1, 2011 and ending September 30, 2012. County will bill Cen-West Communities, Inc. on a monthly basis, for services provided under this Contract at 1/12 of the annual rate then in effect (October 1 through September 30).
5. This Agreement shall be in effect for a term of two (2) years commencing on October 1, 2010 and terminating on September 30, 2012, unless sooner terminated as provided under this Agreement.
6. That Cen-West Communities, Inc., will remit to County, within ten (10) days of its receipt of a Statement of Billing from County, the sum owed to County for public transportation services for the following month.
7. The transportation services will be rendered under the County's existing routing system, as it may be amended by County, from time to time, at its sole discretion, in accordance with the schedule for such services established by County. Cen-West Communities, Inc. acknowledges and agrees that the public transit services

contemplated under this Agreement are subject to change by the County, and that County may change its system, including but not limited to its routes, fares, eligibility requirements and stops as it, in its sole discretion, deems appropriate. County will make any changes in accordance with its policy for route modification(s).

8. Cen-West Communities, Inc. acknowledges that Routes 91 and 92 do not extend beyond the geographic boundaries of Boca Raton. Residents will be subject to applicable route transfer fares in accordance with Palm Tran's route transfer policy.
9. County will record each passenger trip by hand or mechanically, or other manner deemed appropriate by County, on a daily basis.
10. Cen-West Communities, Inc. shall save, defend, indemnify and hold harmless County, Palm Tran, Inc., and their respective officers, agents, employees and servants from and against any and all claims, liability, losses, and or causes of actions which are related to physical damage to Cen-West Communities, Inc.'s road network and which occurs as a result of the operation of the County's transit equipment on the Cen-West Communities, Inc.'s roadways, driveways and other adjoining paved surfaces; provided, however, that said agreement to save, defend, indemnify and hold harmless shall not apply to those grossly negligent acts or omissions of County. Cen-West represents that it has sustained no damage to its roadway network resulting from the prior operation of Palm Tran buses or vehicles and that its roadways are adequate for the purposes contemplated under this Agreement
11. Cen-West Communities, Inc. shall not assign, sublet, convey, transfer or otherwise encumber its interest in this Agreement, in whole or in part, without the

prior written consent of the County. Nothing contained herein shall be construed as creating any personal liability on the part of any officer, agent or employee of County, Palm Tran, Inc., or Cen-West Communities, Inc., nor shall it be construed as giving any rights or benefits hereunder to any other person or entity.

County's obligations shall be strictly limited to those expressly set forth in this Agreement. This Agreement is not intended to be a third party beneficiary contract and confers no rights on anyone other than the County or Cen-West Communities, Inc. The County shall have no obligation to any individual, Resident or other entity, association, or group who is in anyway associated with or might benefit from the terms of this Agreement. Nothing herein will constitute any imposition or acceptance of any obligation or liability not otherwise imposed by law upon County.

12. The County's performance and obligations under this Agreement are contingent upon an annual appropriation for the purposes described in this Agreement by the Board of County Commissioners.
13. This Agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement will be held in Palm Beach County. No remedy conferred herein 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, in equity, by statute, or otherwise. No single or partial exercise by any party of any right, power, or remedy, shall preclude any other or further exercise thereof.
14. Nothing contained in this Agreement shall create an agency relationship between the County and Cen-West Communities, Inc. or any Resident.

15. 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.
16. Cen-West Communities, Inc. warrants and represents that all of its employees and Residents are and will be treated equally by Cen-West Communities, Inc. without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity and expression.
17. The County has established the Office of the Inspector General in Ordinance 2009-049, as may be amended, which is authorized and empowered to review past, present and proposed County contracts, transactions, accounts and records. The Inspector general has power to subpoena witnesses, administer oaths and require the production of records, and audit, investigate, monitor and inspect the activities of any entity contracting with the County, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interference or impeding any investigation shall be in violation of Ordinance 2009-049, and punished pursuant to Section 125.69, Florida statutes, in the same manner as a second degree misdemeanor.
18. This Agreement may be canceled by Cen-West Communities, Inc., with or without cause, upon sixty (60) days prior written notice to County. This Agreement may be canceled by County, without cause, upon sixty (60) days prior written notice to Cen-West Communities, Inc. In the event Cen-West Communities, Inc. fails to perform, observe or has breached any provision of this Agreement, and has failed to cure any identified failure or breach within the time

allowed (normally ten (10) days unless additional time is granted) for the cure of any identified failure or breach, the County may immediately terminate this Agreement upon written notice to Cen-West Communities, Inc.

19. All notices required under this Agreement shall be sent by certified mail, return receipt requested. Notices shall be mailed to the County at the following address:

Palm Tran, Inc.
Attn: Executive Director
3201 Electronics Way
West Palm Beach, Florida 33407

Notices shall be mailed to Cen-West Communities, Inc. at the following address:

Cen-West Communities, Inc.
Attn: Joanne Jackson, VP, Administration
19296 Lyons Road
Boca Raton, Florida 33434

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County,

Florida has made and executed this Agreement on behalf of the County, and an officer of Cen-West Communities, Inc. with authority to bind the corporation has hereunto made and executed this Agreement, on behalf of Cen-West, and each has set its hand the day and year above written.

ATTEST:
Sharon R. Bock, Clerk & Comptroller

PALM BEACH COUNTY, by its
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Burt Aaronson - Chairman

Witnesses:

CEN-WEST COMMUNITIES, INC.

Shari Sahart
Signature

By: [Signature]
Signature

Shari Sahart
Name (type or print)

JOANNE JACKSON VICE PRESIDENT
Print or Type Name and Title

[Signature]
Signature

(CORPORATE SEAL)

Liz Needleman
Name (type or print)

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

County Attorney

[Signature]
Chuck Cohen, Executive Director
Palm Tran