

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: February 4, 2014 [X] Consent [] Regular
[] Ordinance [] Public Hearing
Department: Palm Tran

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) Adopt a Resolution of the Board of County Commissioners of Palm Beach County, Florida, finding that a certain County-owned bus is not needed for County's transit system or any other County purpose; authorizing the sale, conveyance and transfer of a bus to the City of Pahokee; approving an Agreement with the City of Pahokee regarding the sale, conveyance and transfer of a bus; establishing an effective date; and

B) Approve an Agreement for the sale, conveyance, and transfer of one (1) 2001 Gillig 35 ft. bus to the City of Pahokee, Florida, for the sum of \$1,516.67.

Summary: Palm Tran needs to dispose of one (1) 2001 Gillig 35 ft. bus that has reached its useful life and may be sold or transferred with the FTA's approval. The City of Pahokee has approached Palm Tran and expressed a desire to acquire the bus. Further, they have affirmed that they are 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 they desire to use the bus for the public or community interest and welfare. Palm Tran will submit the Board's Resolution to the FTA and request written approval to transfer the bus for the agreed sum of \$1,516.67. This bus was purchased using 100% Federal funds. Countywide (DR)

Background and Justification: Heavy-duty buses used by Palm Tran have a useful life of 500,000 miles or 12 years of service. On average, these buses reach 500,000 miles in 9 1/2 years and keeping these buses in service after reaching useful life has proven unproductive and costly for the County.

Attachments:

- 1. Resolution of the Board of County Commissioners (2 copies)
- 2. Agreement with the City of Pahokee, Florida (3 copies)
- 3. Request to Transfer Assets to Fixed Assets Management Office, Palm Beach County

Recommended By: Chris D. Jiri FOR 1/22/14
Executive Director Date

Approved By: [Signature] 1/29/14
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2014	2015	2016	2017	2018
Capital					
Expenditures					
Operating Costs					
External Revenues	(\$1,517)				
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	(\$1,517)				
No. ADDITIONAL FTE POSITIONS (Cumulative)	0				

Is Item Included In Current Budget? Yes X No

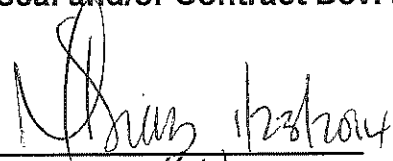
Budget Account No.: Fund 1340 Dep't. 540 Unit 5101
Object 6440 Reporting Category


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

C. Departmental Fiscal Review: 
John Murphy, Finance Manager

III. REVIEW COMMENTS

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


OFMB JP
1/23


Contract Dev. and Control
1-27-14

B. Legal Sufficiency:

 1/29/14
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 A CERTAIN COUNTY-OWNED BUS IS NOT NEEDED FOR THE COUNTY'S TRANSIT SYSTEM OR ANY OTHER COUNTY PURPOSE; AUTHORIZING THE SALE, CONVEYANCE AND TRANSFER OF A BUS TO THE CITY OF PAHOKEE; APPROVING AN AGREEMENT WITH THE CITY OF PAHOKEE REGARDING THE SALE, CONVEYANCE AND TRANSFER OF A BUS; ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Palm Beach County (County) has one (1) transit bus (Bus) that has reached the end of its useful service life and the County has determined that the Bus is not needed for the County's public transit system or any other County purpose; and

WHEREAS, the City of Pahokee, a Political subdivision of the State of Florida (referred to herein as "City") has applied to the Board for the Bus and requested that it be conveyed to the City for the purpose of promoting the public or community interest and welfare, and the Board is satisfied that the Bus is required for such purposes; and

WHEREAS, the City is an entity that is 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 it has advised Palm Tran that it desires to use the Bus for the public or community interest and welfare; and

WHEREAS, the Federal Transit Administration (FTA) has no continuing interest in the Bus; and

WHEREAS, the Board has determined that the Bus will be used for the public or community interest and welfare as described herein and in an Agreement Regarding the Sale, Conveyance and Transfer of Bus to the City of Pahokee (Agreement), and that the Bus should be sold and conveyed to the City for the sum of One Thousand Five Hundred Sixteen Dollars and Sixty-Seven Cents (\$1,516.67) and other good and valuable consideration.

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 Mayor, on behalf of the Board, to enter into the Agreement with the City for the sale, conveyance and transfer of the Bus described below.
3. Following execution of the Agreement, title to the Bus is to be transferred and conveyed to the City 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 Bus.

4. The Vehicle Identification Number of the vehicle to be conveyed is as follows:

PB0109 15GGB211611071347 Fixed Asset # 10137694

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 Priscilla A. Taylor, Mayor	_____
Commissioner Paulette Burdick, Vice Mayor	_____
Commissioner Hal R. Valeche	_____
Commissioner Shelley Vana	_____
Commissioner Steven L. Abrams	_____
Commissioner Mary Lou Berger	_____
Commissioner Jess R. Santamaria	_____

The Mayor thereupon declared this resolution duly passed and adopted this ____ day of _____, 2014.

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

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**AGREEMENT REGARDING THE SALE, CONVEYANCE
AND TRANSFER OF BUS TO
THE CITY OF PAHOKEE, FLORIDA**

THIS AGREEMENT REGARDING THE SALE, CONVEYANCE AND TRANSFER OF BUSES is made and entered into this ___ day of _____, 2013, by and between Palm Beach County, a political subdivision of the State of Florida, (hereinafter referred to as "Palm Beach County"), and the City of Pahokee, a political subdivision of the State of Florida (hereinafter referred to as "City").

WITNESSETH:

WHEREAS, Palm Beach County's Department of Surface Transportation (also known as "Palm Tran") has determined that it has one (1) 2001 and Gillig bus is not needed for any County purpose, that the Bus is an uneconomical asset, and that Palm Beach County no longer has a public transit need for the Bus; and

WHEREAS, City has advised Palm Tran that it desires to acquire the Bus from Palm Beach County; and

WHEREAS, The City has represented that it will use the Bus for transportation by its Parks and Recreation Department and use it to promote the community interest and welfare.; and

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

WHEREAS, The City represents and affirms 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 Bus is not needed for any Palm Beach County purpose, that the Bus is required for use by the City, and that the Bus should be conveyed to the City for the agreed sum of \$1,516.67; and

WHEREAS, Palm Beach County's Board of County Commissioners finds that the use the City will make of the Bus constitutes and will serve a valid public purpose; and

WHEREAS, Palm Beach County is willing to transfer the Bus to the City for use as contemplated hereunder.

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 the City and City's use of the Bus to promote the community's interest and welfare. contemplated in this Agreement. The Bus to be transferred to City is a Gillig 35' with the following Vehicle Identification Numbers:

PB0109 15GGB211611071347 Fixed Asset # 10137694

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3. Representatives: Palm Beach County's representative following the execution of this Agreement will be Palm Tran's Executive Director whose telephone number is 561-841-4200, or his designee. Sarasota County's representative following the execution of this Agreement will be Mr. Derrek Moore -City Manager, whose telephone number is 561 924-5534 or such other representative designated by City.

4. Transfer of Title: Palm Beach County agrees to transfer title, relinquish possession and deliver the Bus to the City, 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, the Federal Transit Administration (FTA) has notified Palm Beach County that it has approved the transfer of the Buses to the City, and Palm Beach County has received from City the sum of \$1,516.67. City 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 Bus, of whatsoever kind or nature. City acknowledges that the Bus has attained at least 500,000 miles and that for Federal Transit Administration's (FTA) purposes all the bus has reached its useful service life. Palm Beach County is willing to release its ownership and control of the Bus to the City following Palm Beach County's receipt of the City's payment, FTA approval of this transfer, and City's release of Palm Beach County from any and all future liability or responsibility for the Bus. City acknowledges that with the execution of this Agreement it accepts responsibility for the continued satisfactory safety, maintenance and control of the Bus.

5. Acceptance of Bus "As Is" and Disclaimer of Warranty: It is understood between the parties that Palm Beach County is conveying the Bus to the City "as is", and without tires or electronics. No representations are made as to the maintenance, design, safety, operability or condition of the Bus 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 Bus, its quality or capacity, conformity to or compliance with any requirement of law (whether state, federal or local), or any rule, specification or contract pertaining to the Bus. No warranties are made regarding patent infringement, any latent defect, or the Buses fitness for any or a particular purpose or any implied purpose. City's execution of this Agreement shall act as its acknowledgment that it has performed a detailed inspection of the Bus and accepts it in "as is" condition. City further acknowledges and agrees that no representations or warranties have been made regarding the Bus, 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 Bus, their condition, or any equipment that may or not may be located thereon. City shall inspect the buses and correct any and all conditions that may interfere with or affect the safe operation or use of the Bus or create a danger to any person or property prior to it or any other person or entity using or operating the Bus.

Palm Beach County is not the manufacturer of the Bus 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 Bus 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 Bus shall create a warranty, including any warranty as to maintenance, safety, operability or reliability, and City 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 OR AN IMPLIED OR PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED. PALM

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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 BUYERS USE OR OPERATION OF THE BUS. NEITHER PALM BEACH COUNTY NOR PALM TRAN, INC. SHALL BE LIABLE FOR ANY CLAIM FOR DAMAGES, INCLUDING BUT NOT LIMITED TO PERSONAL INJURY, PROPERTY DAMAGE OR DEATH, BASED UPON A CLAIM IN CONTRACT, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, STRICT LIABILITY OR BREACH OF WARRANTY.

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

7. Responsibility: The City shall be solely responsible for all costs associated with or related to the conveyance, delivery, transfer of title and its use of the Bus. City agrees that Palm Beach County has no responsibility or duty, of any kind or nature, to any person or entity, relating to the Buses. The City 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 City or any other person or entity, related to Palm Beach County's conveyance of the Bus to City or its ownership, use, operation, maintenance or possession of the Bus..

8. No Agency Relationship: Palm Beach County intends to transfer title to the Buses for the sum of \$1,516.67, after receiving FTA approval. City 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 the City. City acknowledges and agrees that neither Palm Beach County nor Palm Tran, Inc. has any control over the actions, activities or decisions of City or any agency, entity or third party with which it may have a relationship. Nothing contained herein shall create an agency relationship between City and Palm Beach County or City and Palm Tran, Inc.

9. City 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, City 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 City's acquisition, inspection, acceptance, possession, use, operation or maintenance of the Bus, any intentional or negligent act or omission of City, or any intentional or negligent act or omission of Palm Beach County or Palm Tran, Inc. that relates, in any manner, to City's acquisition, ownership, operation, maintenance, possession or use of the Buses. City expressly agrees that neither Palm Beach County nor Palm Tran, Inc. has a duty to City, the public, any member of the public, any passenger being transported on one of the Bus, or any other third party to notify City 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, City's use, maintenance or operation of the Bus. The foregoing indemnification shall survive the expiration or termination of this Agreement and shall remain in effect at all times during which City owns, possesses, uses, maintains or has an interest in the Bus..

11. 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

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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.

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

13. Representations: City acknowledges Palm Beach County's intent to sell and convey the Buses to the City in accordance with the requirements of Section 125.38, F.S., and this Agreement. City 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, City shall save, defend, indemnify and hold harmless Palm Beach County and Palm Tran, Inc. for any and all liability or responsibility that Palm Beach County or Palm Tran, Inc., had, has or may have as a result of a determination that City is not an entity eligible to receive personal property from Palm Beach County under Section 125.38, F.S.

14. 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
(561) 841-4210

As to the City of Pahokee:

Mr. Derrek Moore -- City Manager
City of Pahokee
207 Bacom Point Rd.
Pahokee, Fl. 33478

15. 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.

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

17. 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.

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18. 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.

19. Entirety of Contract and Modifications: Palm Beach County and City 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.

20. 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.

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IN WITNESS WHERE OF, the parties have executed this Agreement and it is effective on the date first above written.

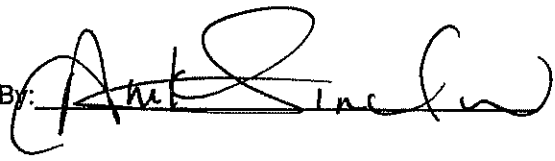
Palm Beach County, Florida, by its Board of County Commissioners

City of Pahokee, Florida,

By: _____
Mayor


By: 
Title: _____

Attest:
Sharon R. Block, Clerk & Comptroller

Attest:


By: _____
Deputy Clerk

Approved as to Terms and Conditions

By: 
Chuck Cohen, Executive Director
Palm Tran

Approved as to Form and Legal Sufficiency

Approved as to Form and Legal Sufficiency

Palm Beach County Attorney

City Attorney

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



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

DEPARTMENT/DIVISION NAME Palm Tran/Maintenance Department	CUSTODIAN CODE 7320	DATE 11/27/2013
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ASSET NUMBER	DESCRIPTION	REASON CODE	CONDITION CODE	FAMO UPDATE REFERENCE	Z # ASSIGNED	ASSIGNED TO		
						INV	STORE	SCRAP
10137694	Gillig 2001 Low Floor 35' Bus	4	3					

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 (Provide details on Reason Code #4), **Bus (PB0109) is being sold to City of Pahokee - VIN# - 15GGB211611071347**
AIS 3AA3 - Feb. 4, 2014

REQUESTED BY - ORIGINATING DEPARTMENT ORIGINATOR <u>Jonathan Kavaliunas - Maintenance Manager</u> DATE <u>11/27/2013</u> INVENTORY OFFICER <u>Jonathan Kavaliunas</u> DATE <u>11/27/2013</u> CUSTODIAN <input checked="" type="checkbox"/> <u>Chuck Cohen, Executive Director, Palm Tran</u> DATE <u>11/27/2013</u>	APPROVAL - FIXED ASSETS MANAGEMENT OFFICE <i>FAMO checked Asset #, UDN, and description.</i> INVENTORY OFFICER <u><i>[Signature]</i></u> DATE <u>12/9/13</u> WAREHOUSE _____ DATE _____
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