

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: November 7, 2017

Consent
 Ordinance

Regular
 Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Second Amendment to the Interlocal Agreement between Palm Beach County and the School Board of Palm Beach County for the delivery of transitional life skills to students with disabilities (R2007-2031), as amended on September 11, 2012 (R2012-1286).

Summary: On November 6, 2007, the County and School Board entered into an Agreement, which set forth the requirements and obligations of each party for the delivery of transitional life skills to students with disabilities. On September 11, 2012, the County amended the agreement to provide for the addition of a second location, Westgate Recreation Center, increased the number of students being served and extended the term. The parties desire to amend the Agreement by extending the term and further define each party's responsibilities under the Agreement. Countywide (AH)

Background and Justification: In 2007, the Parks and Recreation Department's Therapeutic Recreation Section and School Board of Palm Beach County entered into an agreement for the delivery of transitional life skills and education services to students with mild to moderate disabilities ages 18-22. In 2012, the agreement was amended to increase the number of students being served and provide for the addition of a second location. This Agreement has increased the students' opportunity to practice age appropriate life skills outside of the traditional classroom setting as well as provide life skills education to teach skills needed for independent living. Life skills education has consisted of money management, vocational training, leisure education, recreation and sports training, including introductions to the County Parks and Recreation Department's Therapeutic Recreation, Special Olympics and VSA programs. By providing these services in a public setting, outside the traditional classroom, students will be better prepared to transition themselves from the educational system to independent living and begin their adult lives with a solid balance of job, living, and lifelong leisure skills.

Attachment: Second Amendment to the Interlocal Agreement

Recommended by: _____


Department Director

10-2-17
Date

Approved by: _____


Deputy County Administrator

10-23-17
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2018	2019	2020	2021	2022
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>1,200</u>	<u>1,200</u>	<u>1,200</u>	<u>1,200</u>	<u>1,200</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>1,200</u>	<u>1,200</u>	<u>1,200</u>	<u>1,200</u>	<u>1,200</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Is Item Included in Current Budget? Yes X No
 Budget Account No.: Fund Department Unit
 Object Program N/A

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

The direct program costs are \$1,200 annually.

C. Departmental Fiscal Review: mf 10/3/17

III. REVIEW COMMENTS

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

<p><u>[Signature]</u> OFMB NG 1014 10/5/16 QAM 10/5</p>	<p><u>[Signature]</u> Contract Development and Control 10/20/17</p>
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B. Legal Sufficiency:

Anne Helgert 10-23-17
 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment

**SECOND AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN PALM
BEACH COUNTY AND THE SCHOOL BOARD OF PALM BEACH COUNTY
FOR THE DELIVERY OF TRANSITIONAL LIFE SKILLS TO STUDENTS WITH
DISABILITIES**

This SECOND AMENDMENT, dated _____, 20____, by and between Palm Beach County, a political subdivision of the State of Florida, ("County") and the School Board of Palm Beach County, Florida, a corporate body politic pursuant to the Constitution of the State of Florida ("Board"), each one constituting a public agency as defined in Part I of Chapter 163, Florida Statutes, and referred to collectively as "the parties".

WITNESSETH

WHEREAS, the parties have entered into that certain Interlocal Agreement dated November 6, 2007 (R2007-2031) and first amended on September 11, 2012 (R212-1286), hereinafter referred to as the "Agreement", whereas the Board and County utilize each other's personnel, expertise and services for the delivery of transitional life skills to students with disabilities; and

WHEREAS, the parties desire to amend the Agreement by extending the term of the Agreement; and

WHEREAS, the parties desire to amend the Agreement to clearly define each parties' responsibilities under the Agreement; and

WHEREAS, entering into this Second Amendment serves a public purpose.

NOW THEREFORE, in consideration of the mutual representations, terms, and covenants hereinafter set forth, the parties hereby agree to amend the agreement as follows:

1. The Board shall:

Section 4 (G) of the Agreement is amended to state: Operate curriculum programs without interference to the established CMAA Therapeutic Recreation Complex and the Westgate Recreation Center Program Schedules or Operations.

Section 4 (K) - of the Agreement is amended to state:

The Board's use of the Facilities shall be subject to and in accordance with: (i) the terms and conditions of this Agreement; (ii) County's rules, regulations and policies governing the use of the Facilities; and(iii) all applicable local, state and federal laws, ordinances, rules and regulations. The Board agrees to provide to the County on an annual basis the following information for each of its employees or subcontractors who meet the criteria set forth in local, state and federal laws, ordinances, rules and regulations related to critical facilities: 1) an Affidavit stating the Board, or its employee or subcontractor underwent a Level 2 screening pursuant to Chapter 2, Article IX of the Palm Beach County Code, the Criminal History Records Check; 2) a copy of the employee's or subcontractor's Affidavit of Good Moral Character. The Board shall keep the criminal history records check affidavit up to date and provide the County names of any subsequent employees or subcontractors that utilize County facilities.

Section 4 (L) is added to the Agreement to state: Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the Board: (i) provides a service; and (ii) acts on behalf of the County as provided under Section 119.011(2) F.S., the Board shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time the Board is specifically required to:

1. Keep and maintain public records required by the County to perform services as provided under this Agreement.
2. Upon request from the County's Custodian of Public Records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. The Board further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with

Public Records Requests, as it may be amended or replaced from time to time.

3. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Agreement, if the Board does not transfer the records of the public agency.
4. Upon completion of the Agreement the Board shall transfer, at no cost to the County, all public records in possession of the Board unless notified by the County's representative/ liaison, on behalf of the County's Custodian of Public Records, to keep and maintain public records required by the County to perform the service. If the Board transfers all public records to the County upon completion of the Agreement, the Board shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the Board keeps and maintains public records upon completion of the Agreement, the Board shall meet all applicable requirements for retaining public records. All records stored electronically by the CONTRACTOR must be provided to County, upon request of the County's Custodian of Public Records, in a format that is compatible with the information technology systems of County, at no cost to the County.

Failure of the Board to comply with the requirements of this article shall be a material breach of this Agreement. County shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate for cause. Board acknowledges that it has familiarized itself with the requirements of Chapter 119, F.S., and other requirements of state law applicable to public records not specifically set forth herein.

IF THE BOARD HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT RECORDS REQUEST, PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT, 301 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY EMAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.

2. The County shall:

Section 5 (B) of the Agreement is amended to state: The County's employees and subcontractors who have direct contact with students must undergo Level 2 screening as described in section 1012.32, Florida Statutes. Level 2 screening consists of fingerprinting and a background check. In the event that the Level 2 screening is conducted by the County, Florida school district, or the Agency of Persons with Disabilities, the County shall provide to the Board on an annual basis the following information for each of its employees or subcontractors who meet the criteria set forth in section 1012.465: 1) an Affidavit stating the County, or its employee or subcontractor underwent a Level 2 screening pursuant to section 435.04, Florida Statutes for licensure, certification, employment, or other purposes; a copy of the employee's or subcontractor's Affidavit of Good Moral Character. The County shall keep the background screening affidavit up to date and provide the Board names of any subsequent employees or subcontractors that have direct contact with students.

Section 5 (G) of the Agreement is added to state: In the County's sole discretion and when available, provide transportation to locations within the community to implement recreational instruction.

Section 5 (H) of the Agreement is added to state: Be subject to all School Board obligations relating to compliance with student records confidentiality laws. By signing this Agreement, County shall comply with the Family Educational Rights and Privacy Act (FERPA) and all State and Federal Laws relating to the confidentiality of student records. County will receive student information. Since parental consent will not be obtained and County has legitimate educational interests in the information, County shall be deemed a "school official" in accordance with School Board Policy 5.50 and shall enter into the Addendum

concerning student information (PBSD 2220) which is attached hereto and incorporated herein as Exhibit C.

Section 5 (I) of the Agreement is added to state: Keep and maintain public records that ordinarily and necessarily would be required by the School Board of Palm Beach County in order to perform the service to the Board under this Agreement.

1. Upon request from the Board's custodian of public records, provide the Board with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.
2. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if County does not transfer the records to the Board.
3. Upon completion of the Agreement, transfer, at no cost, to the Board all public records in possession of County or keep and maintain public records required by the Board to perform the service. If County transfers all public records to the Board upon completion of the Agreement, County shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If County keeps and maintains public records upon completion of the Agreement, County shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Board, upon request from the Board's custodian of public records., in a format that is compatible with the information technology systems of the Board. Failure of County to abide by the terms of this provision shall be deemed a material breach of this Agreement. This provision shall survive any

termination or expiration of this Agreement.

IF COUNTY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO COUNTY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, HE OR SHE MUST CONTACT THE PUBLIC RECORDS MANAGEMENT COORDINATOR FOR THE SCHOOL DISTRICT OF PALM BEACH COUNTY AT 561-629-8585, 3300 FOREST HILL BLVD., SUITE C-110, WEST PALM BEACH, FL, 33406 OR PUBLICRECORDS@PALMBEACHSCHOOLS.ORG.

3. Section 16 is amended to add as another paragraph:

The Board has submitted to County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as amended, or in the alternative, if the Board does not have a written non-discrimination policy or one that conforms to the County's policy, it has acknowledged through a signed statement provided to County that the Board will conform to the County's non-discrimination policy as provided in R-2014-1421, as amended.

4. Section 24 of the Agreement is amended to state:

The term of this Agreement shall be for a period of one (1) year and shall be automatically renew annually unless either party provides written notice of its intent to terminate the Agreement to the other party thirty (30) days in advance.

5. Section 27 No Third Party Beneficiaries, is added to the Agreement to state:

No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the County and/or Board.

6. Section 28 No Agency Relationship is added to the Agreement to state:

Neither party is an agent or servant of the other. No person employed by either party to this Agreement, shall in connection with the performance of this Agreement or any services or functions contemplated hereunder, at any time, be considered the employee of the other party, nor shall an employee claim any right in or entitlement to any pension, worker's compensation benefit, unemployment compensation, civil service, or other employee rights or privileges granted by operation of law or otherwise, except through and against the party by whom they are employed.

7. Section 29 Records is added to the Agreement to state:

Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public records request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.

8. Section 30 Survival is added to the Agreement to state:

Provisions contained in this Agreement that, by their sense and context, are intended to survive the suspension or termination of this Agreement, shall so survive.

9. Section 31 Waiver of Jury Trial is added to the Agreement to state:

Each of the parties hereto hereby knowingly, voluntarily, and intentionally waives the right either of them may have to a trial by jury in respect of any litigation based hereon, or arising out of, under or in connection with this Agreement.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures on the day and year first above written.

ATTEST:

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

Sharon R. Bock
Clerk & Comptroller

By: _____
Deputy Clerk

By: _____
Paulette Burdick, Mayor

(SEAL)

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: _____
County Attorney

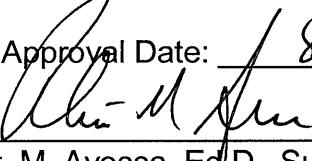
By: Jennifer E. Ciullo
Director, Parks & Recreation Dept.

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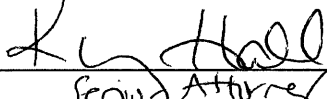
THE SCHOOL BOARD OF PALM BEACH
COUNTY, FLORIDA

BY 
Chuck Shaw, Chairman

Board Approval Date: 8/16/2017

BY 
Robert M. Avossa, Ed.D., Superintendent

REVIEWED AND APPROVED AS TO LEGAL
SUFFICIENCY


Senior Attorney
School Board Attorney

Date: 7/10/17



THE SCHOOL DISTRICT OF PALM BEACH COUNTY

Contract/Agreement Addendum
Concerning Student Information

ADDENDUM, Concerning Student Information, to the Contract/Agreement ("the Contract") dated, between the school (named below) or The School Board of Palm Beach County, Florida (named below) and Vendor/Partner (named below).

School or School Board School Board of Palm Beach County

Vendor or Partner Palm Beach County

Pursuant to School Board Policy 5.50, receipt of which is acknowledged by the Vendor's/Partner's signature below, the School Board of Palm Beach County, Florida (the "School Board") hereby designates [vendor/partner] ("the Receiving Party") as an "other school official" for the purpose of receiving limited personally identifiable information from education records of students under the Family Education Rights and Privacy Act (20 U.S.C. s. 1232g) and 34 C.F.R. s. 99.31(a)(1)(i)(B), and sections 1002.22 and 1002.221, Florida Statutes, because the School Board recognizes the Receiving Party has a legitimate educational interest in receiving this information in order to fulfill the Receiving Party's responsibilities for the school or School Board under the Contract. (All other terms of the Contract remain the same.)

As a condition precedent to receiving personally identifiable information from education records of students, the Receiving Party warrants and agrees that the Receiving Party:

- 1. will limit the use of, or access to, personally identifiable information from education records of students to the limited scope of information actually needed to complete the Receiving Party's duties and/or services under the Contract. The School Board has determined that the Receiving Party has a legitimate educational interest in receiving only the following fields of student data, for example: name, grade-level, school attending, etc. (indicate fields of data requesting below); and

educational evaluation, educational placement, educational programming including IEP and curriculum information, education progress information contained in the cumulative and exceptional student education file including attendance, grades, test scores and discipline, contact information including name, grade level, school attending, phone numbers, addresses and parent/guardian information.

- 2. will limit the access to personally identifiable information from education records of students to its employees and/or agents who actually have a legitimate educational interest in the information (i.e., they legitimately need to access the information in order to fulfill the Receiving Party's responsibilities under the Contract); and
3. shall avoid, and shall instruct applicable employees/agents to avoid, accessing personally identifiable information from education records of students, except for the legitimate purposes recognized under this Addendum, and shall require that all employees/agents accessing the data must be trained in, and sign an acknowledgement regarding, the confidentiality requirements; and
4. is under the direct control of the School Board with respect to the use and maintenance of education records; and
5. is subject to the requirements of 34 C.F.R. s. 99.33(a) governing the use and redisclosure of personally identifiable information from an education record of a student, meaning the Receiving Party may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent or eligible student as those terms are defined in 34 C.F.R. s. 99.3, and the officers, employees, and agents of a party that receives information from the Receiving Party may use the information, subject to the limitations described in paragraph 2 above, but only for the purposes for which the disclosure was made; and
6. shall not use any of the personally identifiable information from education records of students that is received pursuant to this Addendum in violation of any applicable federal or state law, rule, regulation, or School Board policy; and
7. will store and process personally identifiable information from education records of students in accordance with industry best practices. This includes appropriate administrative, physical, and technical safeguards to secure personally identifiable information from unauthorized access, disclosure, and use. Receiving Party will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. Receiving Party will also have a written incident response plan, to include prompt notification of the School Board in the event of a security or privacy incident, as well as best practices for responding to a breach of personally identifiable information. Receiving Party agrees to share its incident response plan with the School Board upon request; and
8. will dispose of all information disclosed to it by the school or the School Board (and any copies thereof), after the purpose for which the information is disclosed has been served, or five years after the receipt of the information (whichever is sooner), by shredding paper documents finely enough to prevent possible recovery of information, and by totally erasing and over-writing (or physically destroying) any electronic media such as computer files, tapes, or diskettes, unless the information in the possession of the Receiving Party constitutes a "record copy" required to be retained by the School District's Records Retention Schedule (available online at the District's Records Management website, http://www.palmbeachschools.org/records/), in which case the Receiving Party will return the information to the School Board rather than disposing of it.

The parties acknowledge that the terms contained in this Addendum supersede any inconsistent terms in the Contract. IN WITNESS WHEREOF, the parties hereto have executed this Addendum.

Legal Name of the Receiving Party (Vendor/Partner)

Palm Beach County Vendor or Partner

Signature of person having authority to enter legally binding agreements on behalf of Receiving Party. Date

The School School Board of Palm Beach County For the School Board of Palm Beach County, Florida

Signature of person having authority to enter legally binding agreements on behalf of the School or The School Board of Palm Beach County, Florida. Date