

II. FISCAL IMPACT ANALYSIS

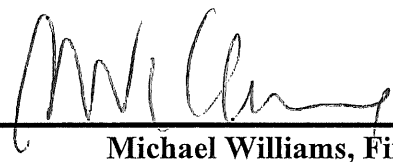
A. Five Year Summary of Fiscal Impact:

Fiscal Years	2018	2019	2020	2021	2022
Capital Expenditures					
Operating Costs					
External Revenues		(\$240,058.50)	(\$261,882.00)	(\$21,823.50)	
Program Income(County)					
In-Kind Match(County)					
NET FISCAL IMPACT		(\$240,058.50)	(\$261,882.00)	(\$21,823.50)	
#ADDITIONAL FTE POSITIONS (CUMULATIVE)					

Is Item Included in Proposed Budget? Yes X No
 Does this item include the use of federal funds? Yes No X

Budget Account No:
 Fund: 1340 Agency: 540 Organization: 5101 Object: 4435


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

C. Departmental Fiscal Review:  8/21/18
 Michael Williams, Finance Manager

III. REVIEW COMMENTS:

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

 8/31/18
 OFMB 8/30

 9/13/18
 Contract Dev. & Control
 9/13/18

B. Legal Sufficiency

 9/14/17
 Assistant County Attorney

C. Other Department Review

 Department Director

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.)

**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 _____, 2018, 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 throughout Palm Beach County; and

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

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 on a non-exclusive and fare-free basis as further described in this Agreement. Except as expressly provided herein to the contrary, 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. County shall provide Cen-West Communities, Inc. with uniquely identified color coded decals for authorized residents, not to exceed two (2) per

residential unit.

3. At the time of boarding, authorized Residents must present to the Palm Tran bus driver a current Century Village Identification Card with an affixed uniquely identified current County issued decal.
4. Cen-West Communities, Inc. shall assume sole responsibility for distribution and tracking of County issued color coded decals.
5. Cen-West Communities, Inc. shall be required to use the Palm Tran Issue Log Form (Exhibit A) to track all decals issued.
6. Cen-West Communities, Inc. shall, on a monthly basis, perform a complete monthly reconciliation using the Monthly Reconciliation Form (Exhibit B).
7. Cen-West Communities, Inc. shall provide to County a copy of both a completed Palm Tran Issue Log Form (Exhibit A) and the Monthly Reconciliation Form (Exhibit B) by the 10th of each month for the prior month.
8. The authorized Residents will have non-exclusive, unlimited and fare-free access and use of other Palm Tran public transit routes within the geographical boundaries of Palm Beach County. Nothing contained in this Agreement shall be construed to expand or modify the County's obligations under the Americans with Disability Act, prevent a suspension of service, or to require the provision of any service which the County would not otherwise be obligated to provide under its rules, policies or procedures, or state or federal law.
9. Cen-West Communities, Inc. shall pay to County Five Hundred Twenty Three Thousand Seven Hundred Sixty Four Dollars (\$523,764)

[\$21,823.50),per month] to access this level of service, for the period beginning November 1, 2018 and ending October 31, 2020. County will bill Cen-West Communities, Inc. on a monthly basis, for services provided under this Contract .

10. This Agreement shall be in effect for a term of 24 months commencing on November 1, 2018 and terminating on October 31, 2020, unless sooner terminated as provided under this Agreement.
11. That Cen-West Communities, Inc., will remit to County, within fifteen (15) days of its receipt of a Statement of Billing from County, the sum owed to County for public transportation services for the following month.
12. The transportation services will be rendered under the County's existing routing system, as it may be amended by County, from time to time, in 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), as it may be modified by County from time to time, in County's sole discretion.
13. County will record each passenger trip by hand or mechanically, or other manner deemed appropriate by County, on a daily basis.
14. 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 or failure (except in cases of emergencies or required detours) to operate the busses on the designated bus lanes within the community. Cen-West Communities, Inc. represents that it has sustained no damage, including but not limited 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.

15. 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.
16. 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.

17. 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. Moreover, no waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted. Any such waiver shall only be applicable to the specific instance to which it relates and shall not be deemed a continuing or future waiver.
18. Nothing contained in this Agreement shall create an agency relationship between the County and Cen-West Communities, Inc. or any Resident. Cen-West Communities, Inc. does not have the power or authority to bind the County to any promise, agreement or representation it may make.
19. 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. Should any provision of this Agreement be held invalid by a court of competent jurisdiction, such determination shall not affect the remaining portions of the Agreement.
20. The County is committed to assuring equal opportunity to others and complying with all laws prohibit discrimination. Pursuant to Palm Beach County Resolution No. R2017-1770, as it may be amended, Cen-West Communities, Inc. warrants and represents during the term of this

Agreement, and any renewals thereof, if applicable, 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, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered a default of this Agreement.

21. The County has established the Office of the Inspector General in Palm Beach County Code, Sections 2-421 - 2-440, as may be amended. The Inspector General's authority includes, but is not limited to, the power to review past, present and proposed County contracts, transactions, accounts and records, to 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 Palm Beach County Code Sections 2-421 – 2-440 and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

Cen-West Communities, Inc. further agrees that it shall maintain, in Palm Beach County, Florida, all records relating to this Agreement, including but not limited to any records pertaining to the issuance, distribution, tracking and use of the color coded decals issued to authorized users, for a period of at least five (5) years following the expiration of this Agreement or such additional period as may be directed by County; provided that such direction is made prior to the conclusion of said five (5) year period. All records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County. Such records shall be made available to County, Palm Tran, Inc. and state and federal

agencies, for the purpose of review, inspection, audit, and reproduction, during regular business hours, at the Cen-West Communities, Inc. address identified in Section 23 of this Agreement.

22. This Agreement may be terminated by Cen-West Communities, Inc., with or without cause, upon sixty (60) days prior written notice to County. This Agreement may be terminated by County, without cause and for the convenience of County, 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 period allowed by County for the cure of any identified failure or breach, the County may immediately terminate this Agreement upon written notice to Cen-West Communities, Inc. County will normally endeavor to provide five (5) days' notice of the breach prior to termination.
23. 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: Judy Millington, VP, Administration
19296 Lyons Road
Boca Raton, Florida 33434

24. The parties agree that this Agreement sets forth the entire agreement between them, and that there are no promises or understandings other than those stated herein. No provisions, terms or conditions of the Agreement may be added to, modified, or otherwise altered, except by written instrument executed by the parties. Nothing contained in this Agreement shall interfere with, delay or prevent the County from modifying or restructuring its public transit system or any aspect thereof, including but not limited to any route, fare, stop, schedule, service or suspension thereof, as the County deems appropriate in its sole discretion.

25. As provided in Section 287.135, F.S., by entering into this Agreement or performing any work in furtherance hereof, Cen-West Communities, Inc. certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that Boycott Israel List, or engaged in a boycott of Israel, as defined in Section 215.4725, F.S. If the County determines, using credible information available to the public, that a false certification has been submitted by Cen-West Communities, Inc., this Agreement may be terminated by County for cause and a civil penalty equal to the greater of two million dollars (\$2,000,000) or twice the amount of this Agreement shall be imposed pursuant to Section 287.135, F.S. Said certification must also be submitted at the time this Agreement is renewed, if applicable.

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 Communities, Inc., 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: _____
Melissa McKinlay, Mayor

CEN-WEST COMMUNITIES, INC.

By: Judy Millington V-Pres.
Signature
Judy Millington V-Pres.
Print or Type Name and Title

(CORPORATE SEAL)

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

[Signature]
County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

[Signature]
Clinton B. Forbes, Executive Director
Palm Tran

EXHIBIT B

Monthly Reconciliation of Cen-West/Palm Tran Decals

Location: Cen-West

Prepared By: _____

For Period: _____

Date Prepared: _____

		Cen-West Passes	
Quantity at the beginning of the month	A		
Sequence numbers in beginning inventory		From	To
Quantity received during the current month	B		
Sequence numbers received during the month		From	To
Quantity issued, per Issue Log sheet	C		
Pass numbers issued during the month		From	To
Quantity on hand at month end (A + B - C = D)	D		
Physical count of passes at the end of the month			
Difference. (If not zero, please explain.)			

**ASSISTANT SECRETARY'S CERTIFICATE OF
CEN-WEST COMMUNITIES, INC.**

Laura Friedman, as Assistant Secretary of Cen-West Communities, Inc., having been duly sworn under oath, deposes and says:

1. That she is the Assistant Secretary of **CEN-WEST COMMUNITITES, INC.** (the "Company"), a corporation organized and existing under the laws of the State of Florida. That the following is a true and correct copy of Resolutions passed by the Board of Directors of the Company pursuant to an Action of the Board of Directors of Cen-West Communities, Inc. by Unanimous Written Consent in Lieu of Meeting dated as of the 5th day of September, 2018:

WHEREAS, the Board of Directors has determined that it is in the best interests of the Corporation to enter into an Agreement between Palm Beach County, a political subdivision of the State of Florida and the Corporation to provide bus services to the Boca Raton Century Village;

NOW THEREFORE, be it

RESOLVED, that the Corporation shall enter into that certain Agreement between Palm Beach County, a political subdivision of the State of Florida and the Corporation, a copy of which is attached hereto; and be it

FURTHER RESOLVED, that Judy Millington, the Vice President of the Corporation, is hereby authorized and instructed to execute such Agreement and such other instruments as may be necessary and appropriate for the Corporation to fulfill its obligations under the Agreement.

2. That she certifies that the Resolutions set forth herein are still in full force and effect as of the date of this Certificate and that same have not been revoked and/or amended.

3. That she knows of her own personal knowledge that the Resolutions set forth herein are a true and correct Copy of the Resolutions passed by the Company's Board of Directors by reason of the fact that, as the Assistant Secretary of the Company, she has custody of, and access to, the Company's original documents and all amendments thereof to date.

Dated this 5th day of September, 2018.

CEN-WEST COMMUNITIES, INC.

(Corporate Seal)

By: Laura J. Friedman
Laura Friedman, as Assistant Secretary

STATE OF FLORIDA)
)SS.
COUNTY OF PALM BEACH)

SWORN TO AND SUBSCRIBED BEFORE ME, that on this day, an officer duly authorized in the State aforesaid and in the county aforesaid to take acknowledgments, appeared Laura Friedman, who is personally well known to me to be the person described herein and who did take an oath and who executed the foregoing instruments as Assistant Secretary of Cen-West Communities, Inc., a Florida corporation, and she acknowledged before me that she executed the same freely and voluntarily under authority duly vested in her by said corporation.

WITNESS my hand and official seal in the county and state aforesaid this 5 day of September, 2018.

Susan Stifter
NOTARY PUBLIC

My Commission expires: 4/5/22

