

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: July 23, 2019

☐ Consent ☒ Regular
☐ Ordinance ☐ 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: an Agreement effective upon execution with West Jupiter Community Group, Inc. for the use of West Jupiter Park and Recreation Center for the implementation of out of school time programs for youth.

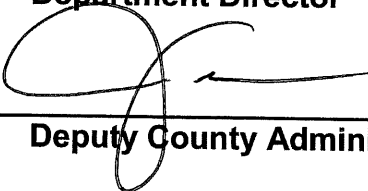
Summary: The West Jupiter Community Group, Inc. is a 501c3 organization that has provided out of school services in the West Jupiter community since 1986, similar to the out of school services offered by the County's Parks and Recreation Department. The West Jupiter Community Group and the Parks and Recreation Department have collaborated for more than 25 years on youth special events and out of school time youth program enrichment activities. This Agreement benefits the public and both organizations by minimizing the duplication of out of school time services in the West Jupiter area and allowing for the expansion of recreation services for youth in other areas of the County. The Agreement allows the West Jupiter Community Group, Inc. to utilize County parks facilities to offer youth out of school program services, while also allowing the Parks and Recreation Department to reassign staffing resources to unmet needs including recreation programming in the Glades Region of the County. The West Jupiter Community Group, Inc. shall be responsible for all operating expenses associated with the out of school time programs. The County shall allow the use of the facilities as well as custodial services and utilities. The term of this Agreement is for one year effective on the date of execution and shall be automatically renewed up to four (4) additional consecutive one (1) year terms, unless either party provides a written notice of intent to terminate the agreement to the other party thirty (30) days in advance. District 1 (AH)

Background and Justification: The Parks and Recreation Department's West Jupiter Park & Recreation Center opened in 1982 and is the location of youth, teen and adult recreation programs including K-8 youth after school, winter break, spring break and summer camp. The West Jupiter Community Group, Inc. is a 501c3 organization that has provided services in the West Jupiter community since 1986. The tutorial building, opened in 1993 and recently rededicated as the "Edna W. Runner Tutorial Center", is the location of after school, winter break, spring break and summer camp services for children in grades K-8. The youth program objectives are to provide educational support, increase grade point average and self-esteem while helping students develop interests, skill and knowledge in a variety of areas all within a safe, warm and nurturing environment. Both organizations run quality out of school time programs and it is an opportune time to work more collaboratively, utilize existing park facilities effectively, and meet additional needs within the County. This Agreement allows the West Jupiter Community Group, Inc. to assume the provision of an out of school youth program using parks facilities within the West Jupiter Park and Recreation Center at no cost to the County.

Attachment: West Jupiter Community Group Agreement

Recommended by: 
Department Director

7-8-19
Date

Approved by: 
Deputy County Administrator

7-16-19
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:


Fiscal Years	2019	2020	2021	2022	2023
Capital Expenditures					
Operating Costs	(12,850)	(33,540)			
External Revenues	12,850	33,540			
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	-0-	-0-	-0-	-0-	-0-
# ADDITIONAL FTE POSITIONS (Cumulative)					
Is Item Included in Current Budget:		Yes		No	X
Does this item include use of federal funds?		Yes		No	X

Budget Account No.: Fund 0001 Department 580 Unit 5233
Object Various / Revenue Source Various Program N/A

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


*There is no net fiscal impact associated with this item as a loss of revenue will be offset by a reduction in expenditures.

C. Departmental Fiscal Review:



III. REVIEW COMMENTS

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


OFMB 7/16/19
7/10
BR 7/19


Contract Development and Control 7/16/19
7-16-19TD

B. Legal Sufficiency:


Assistant County Attorney 7/16/19

C. Other Department Review:

Department Director

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

**AGREEMENT BETWEEN PALM BEACH COUNTY
AND THE WEST JUPITER COMMUNITY GROUP, INC.
FOR COORDINATION OF OUT OF SCHOOL TIME PROGRAMS**

This Agreement is made the _____ day of _____, 20____,
between Palm Beach County, a political subdivision of the State of Florida, ("County")
and The West Jupiter Community Group, Inc., a not-for-profit corporation ("Corporation").

WITNESSETH

WHEREAS, the County owns and operates the West Jupiter Park and Recreation Center, a public facility dedicated to recreation, wellness, out of school time programs and civic engagement, hereinafter referred to as "Park and Recreation Center"; and

WHEREAS, the Corporation was established as a private not-for-profit organization in 1986 to provide services in the West Jupiter community; and

WHEREAS, the Edna W. Runner Tutorial Center, operated by the Corporation, is a provider of after school, winter break, spring break and summer camp services for children in grades K-8 with an objective to provide educational support, increase grade point average and self-esteem; and

WHEREAS, the County and Corporation desire to clearly define their respective roles for the effective and efficient support, management, operation, and use of said Recreation Center Premises for the provision of out of school time youth programs; and

WHEREAS, the County and Corporation, recognize the benefits to be derived by partnering together thereby serving more local children and minimizing the duplication of services; and

WHEREAS, the County and Corporation desire to provide youth an environment to further develop interests, skill and knowledge in a variety of areas all within a safe, warm and nurturing environment; and

WHEREAS, entering into this Agreement serves a public purpose.

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

1. Recitals: The foregoing recitals are true and correct and are incorporated herein by reference.
2. Purpose: The purpose of this Agreement is to enable the Corporation and County to define roles and responsibilities to provide year-round mutually agreed upon out of school time programs for youth and teens at the Park and Recreation Center.

3. Definitions:

- A. "County Facilities": facilities on real property owned or operated by the County, excluding facilities that are leased, licensed or under the contractual control of others.
- B. "West Jupiter Park & Recreation Center Premises": depicted on Exhibit "A" means County Facilities located at 6401 Indiantown Rd. Jupiter, FL 33458, and includes two multipurpose rooms, a gymnasium, offices, restrooms, a fenced garden area, outdoor basketball court, playground and surrounding property.
- C. "Department": the Palm Beach County Parks and Recreation Department, located at 2700 Sixth Avenue, South, Lake Worth, Florida 33461.

4. The Corporation shall:

- A. Provide direct funding for all operating expenses associated with approved youth out of school time programs (afterschool, winter and spring break camp, teacher work days, etc.) including but not limited to, personnel expenses, independent contractors, program supplies, laptop computers, field trips, and office supplies. In the event Corporation denies approval of funding, County shall not be liable for the above expenses.
- B. Operate youth out of school time programs (afterschool, winter and spring break camp, teacher work days, etc.) open to public registration and according to an annual program schedule pre-approved by the County.
- C. Conduct fundraising and accept monetary donations, personal property, and tangible objects to support Corporation programs co-sponsored by the County.

5. The County shall:

- A. Allow the Corporation use of the Park and Recreation Center Premises, as depicted in Attachment A, for youth out of school time programs, special events, and other related activities for the benefit of the public. All such functions and activities must follow the Department's established ordinances, policies and procedures. Any requests for functions, activities or uses of the Park or Recreation Center must receive prior approval from the Director of the Department. Any and all approvals requested of the Director of the Department shall not be unreasonably withheld.
- B. As budget permits, provide annual funding for custodial supplies and services, internet access, telephone use, fax use and utility expenses.

6. Insurance:

- A. The Corporation shall maintain, on a primary basis and at its sole expense, at all times during the term of this Agreement, the coverage and limits,

including endorsements, described herein. The requirements contained herein, as well as County's review or acceptance of insurance maintained by the Corporation, are not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by the Corporation under this Agreement. It shall be the responsibility of the Corporation to provide evidence of insurance in force and effect to County at Contract inception, and thereafter at least five (5) days prior to the expiration of any required coverage throughout the term of the Contract to County or County's designated representative. The Certificate Holder shall read:

Palm Beach County Board of County Commissioners
c/o JDi Data Corporation
100 W. Cypress Creek Road, Suite 1052
Fort Lauderdale, FL 33309

- B. Commercial General Liability: Corporation shall maintain Commercial General Liability at a limit of liability not less than \$1,000,000 each occurrence, and shall include participant liability Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by County's Risk Management Department. Corporation shall provide this coverage on a primary basis.
- C. Business Automobile Liability: Corporation shall maintain Business Automobile Liability insurance at a limit of not less than \$1,000,000 each accident including coverage for owned, hired and non-owned autos.
- D. Worker's Compensation Insurance & Employer's Liability: Corporation shall maintain Worker's Compensation and Employers Liability in accordance with Florida Statute Chapter 440.
- E. Additional Insured: Except as to Workers' Compensation and Employer's Liability the Certificate(s) of Insurance shall clearly confirm that coverage required by this Agreement has been endorsed to include County as Additional Insured. As such, said Certificate(s) shall specifically include: "Palm Beach County, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents."
- F. Waiver of Subrogation: Corporation hereby waives any and all rights of Subrogation against the County, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then Corporation shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of

Subrogation requirement shall not apply to any policy which includes a condition to the policy specifically prohibiting such an endorsement or voids coverage should Corporation enter into such an agreement on a pre-loss basis.

- G. Certificate of Insurance: Within forty-eight (48) hours of the County's request to do so, the Corporation shall deliver to the County via the Insurance Company/Agent a signed Certificate(s) of Insurance evidencing that all types and amounts of insurance coverage required by this Contract have been obtained and are in full force and effect.
 - H. Right to Revise or Reject: County, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject, or accept any required policies of insurance, including limits, coverage, or endorsements, herein from time to time throughout the term of this Agreement. County reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.
- 7. Indemnification: Corporation shall protect, defend, reimburse, indemnify and hold County, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages, or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this Agreement or due to the acts or omissions of Corporation.
 - 8. Default: The parties agree that, in the event either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party thirty (30) days written notice to cure the default. In the event the defaulting party fails to cure the default within the thirty (30) day cure period, the non-defaulting party shall be entitled to seek any remedy available to it at law or equity, including, but not limited to, the right to terminate this Agreement and seek damages, if any.
 - 9. Term: The term of this Agreement shall be for a period of one (1) year and shall be automatically renewed up to four (4) additional consecutive one (1) year terms, unless either party provides a written notice of intent to terminate the agreement to the other party thirty (30) days in advance.
 - 10. Availability of Funds: Each party's performance and obligations under this Agreement shall be contingent upon an annual budgetary appropriation by its respective governing body for subsequent fiscal years.
 - 11. Notice: All notices required in this Agreement are to be hand delivered or sent by certified mail, return receipt requested.

IF TO COUNTY:

Palm Beach County Department of Parks and Recreation
Attn: Director of Parks and Recreation
2700 Sixth Avenue South
Lake Worth, Florida 33461

IF TO CORPORATION:

Executive Director
West Jupiter Community Partners, Inc.
7187 Church St.
Jupiter, FL 33458

12. Public Entity Crimes: As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, Corporation certifies that it, its affiliates, suppliers, subcontractors and Contractors who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).
13. Criminal History Records Check: The Corporation, Corporation's employees, subcontractors of the Corporation and employees of subcontractors shall comply with Palm Beach County Code, Section 2-371 – 2-377, the Palm Beach County Criminal History Records Check Ordinance ("Ordinance"), for unescorted access to critical facilities ("Criminal Facilities") or criminal justice information facilities ("CJI Facilities") as identified in Resolution R2003-1274, as amended. The Corporation is solely responsible for the financial, schedule, and/or staffing implications of this Ordinance. Further, the Corporation acknowledges that its Contract price includes any and all direct or indirect costs associated with compliance with this Ordinance, except for the applicable FDLE/FBI fees that shall be paid by the County.

This Contract may include sites and/or buildings which have been designated as either "critical facilities" or "criminal justice information facilities" pursuant to the Ordinance and Resolution R2003-1274, as amended. County staff representing the County department will contact the Corporation(s) and provide specific instructions for meeting the requirements of this Ordinance. Individuals passing the background check will be issued a badge. The Corporation shall make every effort to collect the badges of its employees and its subcontractors' employees upon conclusion of the contract and return them to the County. If the Corporation or its subcontractor(s) terminates an employee who has been issued a badge, the Corporation must notify the County within two (2) hours. At the time of termination,

the Corporation shall retrieve the badge and shall return it to the County in a timely manner.

The County reserves the right to suspend the Corporation if the Corporation 1) does not comply with the requirements of County Code Section 2-371 – 2-377, as amended; 2) does not contact the County regarding a terminated Corporation employee or subcontractor employee within the stated time; or 3) fails to make a good faith effort in attempting to comply with the badge retrieval policy.

14. Regulation: Licensing Requirements: Corporation shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. Corporation is presumed to be familiar with all federal, state, and local laws, ordinances, codes and regulations that may in any way affect the services offered.
15. Nondiscrimination: The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Corporation warrants and represents that throughout the term of the Contract, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, national origin, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity or expression, disability, or genetic information. Failure to meet this requirement shall be considered default of the contract.
16. Severability: If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision, to any person or circumstance other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.
17. Termination: Notwithstanding any provision of this Agreement to the contrary, this Agreement may be terminated, in whole or in part, by either party, with or without cause, upon thirty (30) days written notice to the other party. Upon termination of this Agreement, any and all permanent improvements or additions made by Corporation to Parks and Recreation Center Premises shall remain the property of the County. Supplies and equipment either donated by Corporation or purchased with Corporation funds are considered Corporation property and shall remain with the Corporation.
18. Dispute Resolution: In the event an issue arises which cannot be resolved between Corporation and the County's Director of Recreation Services regarding the use or availability of a County Facility, the dispute shall be referred to the Executive Director of West Jupiter Community Group, Inc. and the Director of the County's

Parks and Recreation Department who shall both make a good faith effort to resolve the dispute.

19. Entirety of Agreement: County and Corporation 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. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.
20. Access and Audits: If applicable, should any portion of the payments made to Corporation include Corporation's charges, expenses, and costs incurred in estimating and performing the services to be performed hereunder, Corporation will maintain adequate records to justify all such charges, expenses, and costs for at least three (3) years after the expiration or termination of this Agreement. The County shall have access to all such books, records, and documents for the purpose of inspection or audit during normal business hours at Corporation's place of business.

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 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 to audit, investigate, monitor, and inspect the activities of the Corporation, 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 interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

21. Independent Contractor: The Corporation is, and shall be, in the performance of provisions pursuant to this Agreement, an Independent Contractor, and not an employee, agent, or servant of the County. The Corporation does not have the authority to bind the County in any promise, agreement or representation other than specifically provided for in this Agreement. The County shall have no contractual obligation to any person or entity retained or engaged by the Corporation to perform any services pursuant to this Agreement. Any disputes, claims, or liability that may arise as a result of the Corporation's procurement of such services is solely the responsibility of the Corporation and the Corporation hereby holds the County harmless for same to the extent permitted by law.
22. No Third Party Beneficiaries: 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 Corporation.

23. Remedies: This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will be held in a court of competent jurisdiction located in Palm Beach County, Florida. 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, 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.
24. Public Records: Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the Corporation: (i) provides a service; and (ii) acts on behalf of the County as provided under Section 119.011(2) F.S., the Corporation shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time the Corporation is specifically required to:
- A. Keep and maintain public records required by the County to perform services as provided under this Contract
 - B. 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 Corporation 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
 - C. 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 Contract, if the Corporation does not transfer the records to the public agency
 - D. Upon completion of the Contract the Corporation shall transfer, at no cost to the County, all public records in possession of the Corporation unless notified by 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 Corporation transfers all public records to the County upon completion of the Contract, the Corporation shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the Corporation keeps and maintains public records upon completion of the Contract, the Corporation shall meet all applicable requirements for retaining public records. All records stored electronically by the Corporation 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 County

Failure of the Corporation to comply with the requirements of this article shall be a material breach of this Contract. 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. Corporation 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 CORPORATION HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CORPORATION'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, 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 E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed 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: _____
Mack Bernard, Mayor

WITNESSES:

WEST JUPITER COMMUNITY GROUP, INC.

By: [Signature] 7/10/19
Signature Date

By: [Signature] 7-10-19
Signature Date

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: [Signature]
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By: [Signature]
Director, Parks & Recreation Dept.

EXHIBIT "A"

DESCRIPTION OF "PREMISES"

West Jupiter Recreation Center is a 14,540 square foot facility located within an 8.62 acre park at 6401 Indiantown Road Jupiter, FL 33458. The premises includes the recreation center facility and adjacent outdoor fenced play space. During out of school time program hours, this facility is secure and dedicated to this youth program purpose. During times the out of school programs are not operating, this facility continues to function as a public recreation center and hosts other recreation programs and special events for youth and adults. Storage areas and office spaces are shared and specific out of school time storage and desk space is allocated by the County Parks and Recreation Director. Agreement holders shall be respectful of each other's space and property.

