

**ORDER OF BUSINESS
BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA**

OCTOBER 28, 2008

**TUESDAY
9:30 A.M.**

COMMISSION CHAMBERS

1. CALL TO ORDER

- A. Roll Call
- B. Invocation
- C. Pledge of Allegiance

2. AGENDA APPROVAL

- A. Additions, Deletions, Substitutions
- B. Adoption

WORKSHOP SESSION

- 3. 9:30 A.M.** **Staff recommends motion to approve:** the following Community Development funding priorities for FY 2009-2010: **A)** Continuation of the Special Area of Hope Program for the Glades municipalities; **B)** Continuation of the 10% set-aside for local Economic Development activities; **C)** Continuation of the competitive funding process for the unincorporated area designated funds; **D)** Setting aside 50% of Community Development Block Grant (CDBG) Public Service funding for homeless and housing counseling services; and **E)** Expanding the CDBG Evaluation Process to include agency certification by the “Nonprofits First Agency”. **SUMMARY:** Palm Beach County receives annually an average of \$7.4 million in CDBG funds (based on past 5 fiscal years’ entitlements). Historically funds have been allocated among the following major categories, based on the CDBG Local Entitlement Methodology: Administrative and Implementation Costs, Grants to Participating Municipalities, Public Services (cannot exceed 15% of the annual grant), 10% Set-aside for Economic Development, and Unincorporated Area Projects. Continuation of the Special Area of Hope Program (SAHP) will allow each of the three (3) Glades municipalities to receive \$400,000 on a rotating basis. The receipt of the SAHP funds is in addition to their annual local entitlement. Under the Local Entitlement Methodology, participating municipalities with CDBG Target Areas receive an annual allocation provided an application is submitted to HCD. The 10% set-aside for local economic development activities is utilized and administered by the Office of Economic Development. The unincorporated area allocation is allocated via a competitive process. On average, funds under the Public Service category have been allocated among eight (8) subcategories as follows: 21% towards homeless related services; 14% towards special needs services; 13.6% towards youth services; 13% towards abused and neglected children; 10.6% towards housing and financial counseling; 10.1% towards fair housing; 9.2% towards victims of domestic abuse; and 7.7% towards health services. Due to the current housing market, staff recommends redistributing the Public Service funding as follows: 25% towards homeless related activities; 25% towards housing counseling activities; and the remaining 50% to be distributed among the remaining aforementioned subcategories. Staff also recommends expanding the CDBG Evaluation Process to require non-profit agency applicants to either be certified by the “Nonprofits First Agency” or to have initiated the certification process by October 1, 2009. A transition period of no more than three (3) years would be incorporated into the Evaluation Process to provide greater flexibility to new applicants that may require additional time in meeting the requirements of the “Nonprofits First Agency” certification process. Countywide (TKF)

OCTOBER 28, 2008

4. REGULAR AGENDA

A. CLERK AND COMPTROLLER

1. **Staff recommends motion to approve:** Warrant List.
2. **Staff recommends motion to approve:** Contracts (regular) and claim settlements list as submitted by various departments to the Clerk & Comptroller's Office.
Countywide

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BOARD OF COUNTY COMMISSIONERS

**BOARD MEETING
PALM BEACH COUNTY, FLORIDA**

ADDITIONS, DELETIONS, & SUBSTITUTIONS

OCTOBER 28, 2008

PAGE
2

ITEM
4B-1

ADD-ON: Staff recommends motion to:

A) authorize a demand for full payment in the total amount of \$750,000 against, under and in compliance with the Irrevocable Standby Letter of Credit No. BMCH202563OS dated January 8, 2008, as amended by Amendment No. 1 dated April 16, 2008 and Amendment No. 2 dated July 15, 2008, issued by the Bank of Montreal, Chicago, in the amount of \$750,000 and the presentment of the demand for payment to the Bank of Montreal, Chicago;

B) direct the Chair, on behalf of the Palm Beach County Board of County Commissioners, to send a letter to the Bank of Montreal, Chicago (Bank) presenting the County's demand for payment against, under and in compliance with the Bank's Letter of Credit No. BMCH202563OS and to provide any other information or document required by the Bank to honor the County's demand for payment; and

C) authorize Palm Beach County Office of Financial Management and Budget (OFMB) to prepare budget amendments necessary to account for the Letter of Credit transactions.

SUMMARY: On November 23, 2004, the Board awarded a seven (7) year contract to Palm Beach Metro Transportation LLC (PBMT), to provide paratransit services within the County. PBMT has failed to perform as required under the Contract and Palm Tran, through the Director of Purchasing, has advised PBMT of such on several occasions. PBMT has incurred liquidated damages in excess of \$100,000 in a twelve (12) month period which constitutes substandard performance under the Contract's requirements, exceeded the limitation on the number of at-fault accidents in 10 of the previous 12 months, and had more than one (1) road call per 10,000 miles of service in nine (9) out of the prior 12 months. Recently, on the 8th of September, PBMT was again notified that it was not performing as required. PBMT and Palm Tran staff met to discuss a partial termination of the Contract, but were unable to agree upon a mutually acceptable resolution. Thereafter, the Director of Purchasing notified PBMT that it was in default of the Contract, and demanded that PBMT cure its performance failures. The Director also notified PBMT that it had not furnished a Letter of Credit (LOC) in accordance with the Contract requirements. The current LOC expires on October 31, 2008 and a renewed LOC has not been received. The Contract requires that an annually renewable LOC be furnished at least 60 days in advance of the expiration date of the then current LOC. The Director also advised PBMT that if the defaults were not cured, the County currently intended to initiate a partial termination (*i.e.*, the removal of 15 routes or approximately 150 hours of service). PBMT has failed to cure, and as a result of the September 29th discussion, Palm Tran is concerned that PBMT may seek to "cancel the contract" in its entirety. Palm Tran will need the funds covered by the LOC, which expires on the 31st of October, to recover its damages such as the excess costs of service. The Bank of

2

4B-1

ADD-ON SUMMARY CONTINUED:

Montreal, Chicago has advised staff that it must receive a written demand for payment from the Board and presentment of the original LOC, as amended, by the 31st of October to issue the proceeds under the LOC. It is necessary for the County to demand payment against the LOC, in its total amount, to ensure that the County has sufficient funds to cover the excess cost of performance of a partial breach, or a total breach if PBMT advises that it no longer will perform the Contract. In the event costs exceed the Letter of Credit amount of \$750,000, Palm Tran will return to the Board for additional funding. Staff further recommends, at this time, that the funds obtained from the Letter of Credit be placed in a separate interest bearing account and not be co-mingled with any other County funds. Countywide (DR) (Palm Tran)

2

4B-2

ADD-ON: Staff recommends motion to approve: a Consent to Assignment and Assumption of Agreement with NextMedia Group Inc., and CBS Outdoor Group, Inc. **SUMMARY:** On December 4, 2001, the Board awarded a ten (10) year contract to NextMedia Outdoor, Inc., (R2001-2140) for the supply, installation and maintenance of up to 490 new and replacement bus stop shelters. On August 29, 2008, NextMedia Group, Inc. (NextMedia) and CBS Outdoor group, Inc., (CBS) entered into to a purchase agreement wherein CBS has purchased all of NextMedia's Palm Beach County operations. A part of the buy-out includes the County's bus shelter program. A review of CBS' experience and financial capacity reveals that CBS has the technical and financial capacity to satisfactorily complete the contract as written. Countywide (DR) (Palm Tran)

NOTE: Items that were revised, added, deleted, or backup submitted and were not listed on the preliminary addition/deletion sheet distributed to the Board the prior day are noted with an asterisk (*).