

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

=====

Meeting Date: August 22, 2023	[X] Consent	[] Regular
Department: Palm Tran	[] Ordinance	[] Public Hearing

=====

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) Adopt a Resolution of the Board of County Commissioners (BCC), of Palm Beach County, Florida, approving a Standard Grant Agreement (No. VW310) with the State of Florida Department of Environmental Protection (FDEP), in the amount of \$1,800,000, funded by the Diesel Emissions Mitigation Program – Volkswagen Settlement (CSFA 37.102) to provide assistance for the purchase of electric transit buses to replace higher-emitting diesel transit buses. This grant agreement will become effective upon FDEP execution with an expiration date of June 30, 2025; and

B) Approve a FY23 Budget Amendment of \$1,800,000.00 in Palm Tran’s Grant Fund 1341 to recognize the grant award.


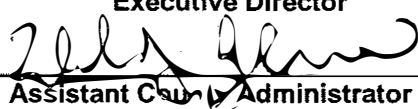
Summary: On April 11, 2022, Palm Tran on behalf of Palm Beach County submitted an application for funding under the Electric Transit Bus Program through the FDEP. The program offers reimbursement of \$300,000 per diesel bus replaced with an electric bus. Palm Tran will replace six (6) diesel transit buses, totaling \$1,800,000. The total cost for this project will be \$7,200,000; **the match for this grant is \$5,400,000 and will be provided from funding secured through the Palm Beach Transportation Planning Agency (TPA) Local Initiatives Grant Program (R-2019-0357 and R-2020-0379).** This grant agreement will be of no cost to the County and will become effective upon FDEP execution with an expiration date of June 30, 2025.

The grant requires broader indemnification by the County than that approved by PPM CW-F-049. The grant agreement indicates that the County shall be fully liable for the actions of its agents, employees, partners, or subcontractors and requires the County to fully indemnify, defend, and hold harmless FDEP and its officers, agents, and employees from suits, actions, damages, and costs of every name and description arising from or relating to (I) personal injury and damage to real or personal tangible property and (II) the County’s breach of the grant agreement or the negligent acts or omissions of the County. However, this indemnification does not extend to any loss or damages proximately caused by the negligent acts or omissions of FDEP, its employees and agents. Moreover, the agreement does not waive the County’s sovereign immunity or the provisions of Section 768.28, Florida Statutes. The Risk Management Department and County Attorney’s Office have reviewed the indemnification requirements of this grant. Given that liability is limited to County’s non-compliance or performance of this agreement and the statutory caps of Section 768.28, Florida Statutes, Palm Tran recommends Board approval. Countywide (MM)

Background and Justification: (continued on page 3)

- Attachments:**
- 1. Resolution (2)
 - 2. Standard Grant Agreement (No. VW310) (2)
 - 3. Budget Amendment
 - 4. TPA Local Initiatives Awards 2019-2020 funds available July 2024 & July 2025

=====

Recommended By:		<u>6/15/2023</u>
	Executive Director	Date
Approved By:		<u>7/7/2023</u>
	Assistant County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2023	2024	2025	2026	2027
Capital Expenditures	\$1,800,000	\$3,772,000		\$1,628,000	
Operating Costs					
External Revenues	(\$1,800,000)	(\$3,772,000)		(\$1,628,000)	
Program Income(County)					
In-Kind Match(County)					
NET FISCAL IMPACT	\$0	\$0		\$0	
#ADDITIONAL FTE					
POSITIONS (CUMULATIVE)					

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

Budget Account No:
 Fund Department Unit Object RSRC
 1341 542 5046 3449

B. Recommended Sources of Funds/Summary of Fiscal Impact:
 FY2023 funds from the FDEP, FY2024 and FY2026 Local Initiatives Grants. Match dollars will be received from the TPA in FY2026.


C. Departmental Fiscal Review: 
 Lyne Johnson, Director of Admin Services

III. REVIEW COMMENTS:

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

 6/20/23
 OFMB AFB 6/20

 6/28/23
 Contract Dev. & Control 7/6/23

B. Legal Sufficiency
 7/5/2023
 Assistant County Attorney

C. Other Department Review

 Department Director

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

Background and Justification: In October 2016, Volkswagen settled with the U.S. Government to resolve its violation of the Clean Air Act. Through this settlement, the State of Florida was awarded a share of \$166,000,000. On February 25, 2022, the FDEP announced a Notice of Funding Availability (NOFA) awarding more than \$68,000,000 to support the purchase of electric transit buses to replace eligible diesel transit buses in thirteen (13) counties across the state.