

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: West Seminole Pony Baseball Agreement

DEPARTMENT: Library & Leisure Services **DIVISION:** Administration

AUTHORIZED BY: *J. Goldman* **CONTACT:** J. Suzy Goldman **EXT.** 1600

Agenda Date <u>12/20/05</u> Regular <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Work Session <input type="checkbox"/> Briefing <input type="checkbox"/>
Public Hearing – 1:30 <input type="checkbox"/> Public Hearing – 7:00 <input type="checkbox"/>

MOTION/RECOMMENDATION:

Approve and authorize the Chairman to execute grant agreement with West Seminole Pony Baseball, Inc. II and Forest City Community Association, Inc. for the purchase of replacement bleachers and playground equipment.

BACKGROUND:

The FY 2005/06 Park & Recreation Budget includes \$42,000 for a grant to West Seminole Pony Baseball for the replacement of bleachers. In that replacement bleachers are projected to cost less than previously indicated, the representatives of West Seminole Pony Baseball and the Forest City Community Association have requested that the remainder of the allocated funds be used for replacement playground equipment. The attached agreement authorizes procurement of said bleachers and playground equipment in an amount not to exceed \$42,000.

Cost Breakdown

Items	Amount
Bleachers	\$16,871.00
Bleacher awnings	\$18,479.75
Subtotal	\$35,350.75
Playground equipment	\$12,630.41
Total*	\$47,981.16

According to the representatives of West Seminole Pony Baseball, they will pay the \$6,649.25 in excess of \$42,000 which is the amount of the County's grant to the organization.

Reviewed by: <u><i>[Signature]</i></u> Co Atty: <u><i>[Signature]</i></u> DFS: <u><i>[Signature]</i></u> Other: <u><i>[Signature]</i></u> DCM: <u><i>[Signature]</i></u> CM: <u><i>[Signature]</i></u>
File No. <u>RLLA01</u>

AGREEMENT FOR INSTALLATION OF BLEACHERS AND PLAYGROUND EQUIPMENT

THIS AGREEMENT is made and entered this ____ day of _____, 20____, by and between **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as the "COUNTY," **WEST SEMINOLE PONY BASEBALL, INC. II**, a Florida non-profit corporation whose mailing address is P.O. Box 915364, Longwood, Florida 32779, hereinafter referred to as "WEST SEMINOLE" and **FOREST CITY COMMUNITY ASSOCIATION, INCORPORATED**, a Florida non-profit corporation whose mailing address is 172 Alder Court, Altamonte Springs, Florida 32714, hereinafter referred to as "FOREST CITY".

W I T N E S S E T H:

WHEREAS, in 1964, the COUNTY conveyed by County Deed certain property (hereinafter referred to as "Property") to the Forest City Community Association Incorporated pursuant to Chapter 125.38, Florida Statutes; and

WHEREAS, the County Deed expressed that the Property be used for community interest and that the Property be open to all of the citizens of Seminole County; and

WHEREAS, the County Deed stated that in the event said Property ceased to be used for the aforementioned purposes, said Property shall revert to the County of Seminole, State of Florida, by operation of law; and

WHEREAS, West Seminole Pony Baseball has operated youth recreational baseball activities on the Property since that time; and

WHEREAS, West Seminole Pony Baseball, Inc. II has successfully provided youth recreational baseball activities and made continuous improvements to the premises on the Property; and

WHEREAS, the parties desire to enter into an agreement to enable the parties to continue to enjoy the mutual benefit of providing youth recreational baseball activities to the residents of Seminole County through further improvements to the premises on the Property,

NOW, THEREFORE, in consideration of the mutual understandings, promises, representations, and covenants set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. Recitals. The above recitals are true, correct, and are incorporated herein as fully as if set forth hereafter.

Section 2. Term. The term of this Agreement is from December 20, 2005 through December 20, 2006, the date of signature by the parties notwithstanding, unless earlier terminated as provided herein.

Section 3. Services. WEST SEMINOLE shall use funds from this Agreement to purchase and install bleachers and playground equipment at three (3) baseball fields owned by FOREST CITY and located on the above described Property, as set forth in Exhibit "A" attached hereto and incorporated herein.

Section 4. Termination. This Agreement may be terminated by any party at any time, with or without cause, upon not less than thirty (30) days written notice delivered to the other parties, or at the option of the COUNTY, immediately in the event that WEST SEMINOLE or FOREST CITY fails to fulfill any of the terms, understandings or cove-

nants of this Agreement. The COUNTY shall not be obligated to pay for any services provided or costs incurred by WEST SEMINOLE or FOREST CITY after WEST SEMINOLE or FOREST CITY has received notice of termination. Upon said termination, WEST SEMINOLE shall immediately refund to the COUNTY, or otherwise utilize as the COUNTY directs, any unused funds provided hereunder. Any requirements set forth in Sections 5, 8 and 10, hereunder shall survive the term of this Agreement as a whole.

Section 5. Indemnity.

(a) The COUNTY, its commissioners, officers, employees and agents shall not be deemed to assume any liability for the acts, omissions, or negligence of WEST SEMINOLE or FOREST CITY, their officers, employees or agents. WEST SEMINOLE and SEMINOLE shall indemnify and hold harmless the COUNTY, its commissioners, officers, employees and agents from and against all claims, damages, costs and expenses, including reasonable attorney fees and attorney fees on appeal, arising out of or resulting from their operations under this Agreement.

(b) WEST SEMINOLE and FOREST CITY shall indemnify and save harmless the COUNTY, its commissioners, officers, employees, and agents from and against any and all claims, suits, actions, damages or causes of action of any kind arising from this Agreement and resulting or accruing from any negligent act, omission or error of WEST SEMINOLE or FOREST CITY, their officers, agents or employees.

(c) The parties further agree that nothing contained herein shall be construed or interpreted as denying to either party any remedy or defense available to such party under the laws of the State of

Florida, nor as a waiver of sovereign immunity by the COUNTY beyond that waiver provided for in *Section 768.28, Florida Statutes*.

(d) The waiver of a provision herein by either party shall not constitute the further waiver of said provision or the waiver of any other provision.

Section 6. Funding. The COUNTY hereby agrees to provide financial assistance to WEST SEMINOLE up to the amount of FORTY-TWO THOUSAND AND NO/100 DOLLARS (\$42,000.00) for the services depicted in Exhibit "A".

Section 7. Payment. Funds shall be paid by the COUNTY upon the following:

(a) receipt from WEST SEMINOLE of a written commitment from a State of Florida and Seminole County licensed general contractor to provide for the installation of bleachers and playground equipment as set forth in Exhibit "A";

(b) receipt from WEST SEMINOLE of invoices from the vendors evidencing completion of project milestones related to the purchase and installation of the required bleachers and playground equipment as set forth in Exhibit "A";

(c) verification by the COUNTY that WEST SEMINOLE has complied with the requirements as contained in this Agreement;

(d) subject to the COUNTY's receipt of aforementioned documentation and verification required and a written request from WEST SEMINOLE, the COUNTY shall pay the vendors supplying the bleachers and playground equipment; and

(e) WEST SEMINOLE shall send an original and one (1) copy of the payment request to Director, Library & Leisure Services, Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771.

Section 8. Reporting Requirements.

(a) In the performance of this Agreement, WEST SEMINOLE and FOREST CITY shall maintain books, records and accounts of all activities in compliance with standard accounting procedures.

(b) WEST SEMINOLE and FOREST CITY shall provide monthly reports to the COUNTY in a form acceptable to and approved by the COUNTY.

Section 9. Access to Records. WEST SEMINOLE and FOREST CITY shall allow the COUNTY, its duly authorized agents and the public access to such of WEST SEMINOLE and FOREST CITY's records as are pertinent to all services provided hereunder at reasonable times and under reasonable conditions for inspection and examination in accordance with *Chapter 119, Florida Statutes*.

Section 10. Audit. WEST SEMINOLE and FOREST CITY shall submit to the COUNTY an annual audit report for the term of the Agreement. WEST SEMINOLE and FOREST CITY shall submit the annual audit reports to the COUNTY within ninety (90) days following the termination of this Agreement as set forth in Section 4 herein, whichever occurs earlier.

Section 11. Notices. Whenever a party desires to give notice unto the others, it shall be given in writing by certified United States mail, with return receipt requested or by hand delivery and sent to:

For COUNTY: Director, Library & Leisure Services
Seminole County Services Building
1101 East First Street
Sanford, Florida 32771

For WEST SEMINOLE: West Seminole Pony Baseball, Inc. II
P.O. Box 915364
Longwood, Florida 32779

For FOREST CITY: Forest City Community Association, Incorporated
172 Alder Court
Altamonte Springs, Florida 32714

The parties may change, by written notice as provided above, the person or address for receipt of notice.

Section 12. Assignments. No party to this Agreement shall assign this Agreement, nor any interest arising herein, without the written consent of the other. Nothing in this Agreement, either express or implied, is intended or shall be construed to confer upon any person, firm, bank, lending institution, or corporation any right, remedy, or claim, legal or equitable, under or by reason of this Agreement or any covenant, condition, or stipulation hereof, as this Agreement and all its covenants, conditions and stipulations is intended to be for the sole and exclusive benefit of the parties hereto.

Section 13. Entire Agreement.

(a) It is understood and agreed that the entire agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof, as well as any previous agreements presently in effect between the parties relating to the subject matter hereof.

(b) Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the parties.

Section 14. Compliance with Laws and Regulations. In providing all services pursuant to this Agreement, all parties shall abide by all statutes, ordinances, rules and regulations pertaining to or regulating the provisions of such services, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules or regulations shall constitute a material breach of this Agreement and shall entitle the COUNTY to terminate this Agreement immediately upon delivery of written notice of termination to the other parties as provided hereinabove.

Section 15. Conflict of Interest.

(a) WEST SEMINOLE and FOREST CITY agree that they will not engage in any action that would create a conflict of interest in the performance of their obligations pursuant to this Agreement with the COUNTY or which would violate or cause others to violate the provisions of *Part III, Chapter 112, Florida Statutes*, relating to ethics in government.

(b) WEST SEMINOLE and FOREST CITY hereby certify that no officer, agent or employee of the COUNTY has any material interest (as defined in *Section 112.312(15), Florida Statutes*, as over 5%) either directly or indirectly, in the business of WEST SEMINOLE and FOREST CITY to be conducted here, and that no such person shall have any such interest at any time during the term of this Agreement.

(c) Pursuant to *Section 216.347, Florida Statutes*, WEST SEMINOLE and FOREST CITY hereby agree that monies received from the COUNTY pursuant to this Agreement will not be used for the purpose of lobbying the Legislature or any other State or Federal agency.

IN WITNESS WHEREOF, the parties to this Agreement have caused their names to be affixed hereto by the proper officers thereof for the purpose herein expresses on the day and year first above written.

WEST SEMINOLE PONY BASEBALL, INC. II

Witness

By: _____
JENNINGS R. LITCHFIELD, President

Witness

Date: _____

(CORPORATE SEAL)

ATTEST:

FOREST CITY COMMUNITY
ASSOCIATION, INCORPORATED

(CORPORATE SEAL)

By: _____

Date: _____

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
CARLTON HENLEY, Chairman

Date: _____

For the use and reliance
of Seminole County only.

As authorized for execution by
the Board of County Commissioners
at their _____, 20____
regular meeting.

Approved as to form and
legal sufficiency.

County Attorney
AC/lpk
11/22/05 11/29/05
pony baseball

Attachment:
Exhibit "A" - Scope of Services

Exhibit A

Bleacher and Playground Equipment Replacement

Bleachers

A contractor will provide all labor, materials, equipment, and coordination necessary to successfully replace bleachers at West Seminole Pony Baseball with the following requirements.

Scope of Installation

Design Plans & Permitting

Engineering and site plans to be submitted for permitting by contractor

Permitting to be arranged by West Seminole Pony Baseball

Take down all existing bleachers.

Install new bleachers

Playground equipment

A contractor will provide all labor, materials, equipment, and coordination necessary to successfully replace playground equipment at West Seminole Pony Baseball with the following requirements.

Scope of Installation

Design Plans & Permitting

Engineering and site plans to be submitted for permitting by contractor

Permitting to be arranged by West Seminole Pony Baseball

Take down existing playground.

Install new playground equipment.