

Agenda Item #:

3D-1

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: December 4, 2007 [X] Consent [ ] Regular

Department [ ] Public Hearing

Submitted By: County Attorney's Office

Submitted For: Solid Waste Authority

=====

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: Amendment #2 to Interlocal Agreement (R2000-0249) as amended by the first Amendment (R2004-2012) with the Solid Waste Authority for the provision of legal services to the Authority by the County Attorney's Office.

**Summary:** Under this Amendment, the County Attorney's Office will continue to provide legal services for the Authority with the hourly rate for attorneys' time increased from \$125 to \$200. Countywide (MC)

**Background and Justification:** The County Attorney's Office has been providing legal services for the Solid Waste Authority under an Interlocal Agreement since 2000. This is the first increase to the original \$125 hourly rate in eight years. This Amendment will increase the rate to \$200 per hour as of October 1, 2007.

**Attachments:**

- 1. Amendment #2 to Interlocal Agreement
- 2. Amendment to Interlocal dated 9/30/04
- 3. Interlocal Agreement dated 2/15/00

Recommended by: \_\_\_\_\_

*DMN Terman*  
Department Director

*11/19/07*  
Date

Approved by: \_\_\_\_\_

*N/A*  
Assistant County Administrator

\_\_\_\_\_  
Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact: No net change to fund.**

	Fiscal Years 2007	2008	2009	2010	2011
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	(85,000)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
<b>NET FISCAL IMPACT</b>	<u>-0-</u>	(85,000)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

Is Item Included in Current Budget? Yes  No

Budget Account No.: Fund \_\_\_\_\_ Agency \_\_\_\_\_ Org. \_\_\_\_\_ Object \_\_\_\_\_

Reporting Category \_\_\_\_\_

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

**C. Departmental Fiscal Review:** \_\_\_\_\_

**III. REVIEW COMMENTS**

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

This item will have a positive fiscal impact to the County. The amount of additional revenue will be determined by the quantity of work performed by the County Attorney's Office.

The FY 2008 budget was developed with an estimate of \$85,000 revenue from this agency.

*11/14/2007*  
*11-14-07* OFMB *11-15-07*  
*11-14-07* *11/13/07*  
 Contract Dev. and Control *11/16/07*

**B. Legal Sufficiency:**

*On 11/13/07 - SWA Bd approved this Amendment # 2 that exceeded copy will be provided for BCC execution before 12/14/07*  
*Maureen Cullen*  
 County Attorney

This amendment complies with our review requirements.

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

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

**AMENDMENT #2 TO  
INTERLOCAL AGREEMENT BETWEEN  
PALM BEACH COUNTY AND  
THE SOLID WASTE AUTHORITY OF PALM BEACH COUNTY  
FOR LEGAL SERVICES**

**THIS AMENDMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2007, to the **INTERLOCAL AGREEMENT** for legal services (hereinafter "Interlocal") dated February 15, 2000, by and between the **SOLID WASTE AUTHORITY OF PALM BEACH COUNTY** (hereinafter "Authority"), and the **BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA** (hereinafter "County").

**WITNESSETH:**

**WHEREAS**, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969" authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

**WHEREAS**, Part I of Chapter 163, Florida Statutes, permits public agencies as defined therein to enter into interlocal agreements with each other to jointly exercise any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

**WHEREAS**, on February 15, 2000, the County and Authority entered into an Interlocal Agreement ("Interlocal") whereby the Office of the County Attorney would provide legal services for the Authority; and

**WHEREAS**, the parties have agreed to increase the hourly rate for attorneys' services and wish to amend the Interlocal to provide for such change.

**NOW, THEREFORE**, in consideration of the mutual representations, the parties hereby agree as follows:

1. The first sentence of Section 6 of the Interlocal is deleted and substituted with a new first sentence which shall read:

"The Authority shall pay the County for services provided under the terms of

**ITEM** \_\_\_\_\_  
**Page #** \_\_\_\_\_

this Agreement based upon a hourly rate of \$200.00 for attorneys and \$60.00 for paralegals.”

2. This Amendment shall be effective October 1, 2007, and shall continue until terminated pursuant to the terms of this Agreement.

3. All other terms and conditions of the Interlocal shall remain in full force and effect.

ATTEST:

SHARON R. BOCK  
CLERK & COMPTROLLER

By: \_\_\_\_\_  
Deputy Clerk

(SEAL)

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By:   
County Attorney

AS TO COUNTY:

PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

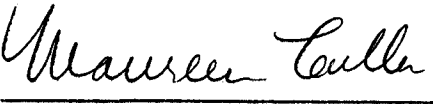
By: \_\_\_\_\_  
Addie L. Greene, Chairperson

ATTEST:

By: 

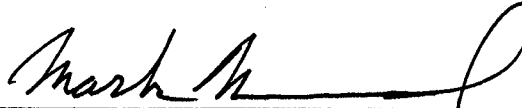
(SEAL)

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By:   
General Counsel

AS TO AUTHORITY:

SOLID WASTE AUTHORITY OF  
PALM BEACH COUNTY

By:   
Mark Hammond, Executive Director

R2004 2012

AMENDMENT TO  
INTERLOCAL AGREEMENT BETWEEN  
PALM BEACH COUNTY AND  
THE SOLID WASTE AUTHORITY OF PALM BEACH COUNTY  
FOR LEGAL SERVICES

THIS AMENDMENT is made and entered into this \_\_\_\_\_ day of SEP 30 2004, 2004, to the INTERLOCAL AGREEMENT for legal services (hereinafter "INTERLOCAL") dated February 15, 2000, by and between the SOLID WASTE AUTHORITY OF PALM BEACH COUNTY (hereinafter "AUTHORITY"), and the BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA (hereinafter "COUNTY").

**WITNESSETH:**

**WHEREAS**, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969" authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

**WHEREAS**, Part I of Chapter 163, Florida Statutes, permits public agencies as defined therein to enter into interlocal agreements with each other to jointly exercise any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

**WHEREAS**, on February 15, 2000, the COUNTY and AUTHORITY agreed that the Office of the County Attorney would provide legal services for the AUTHORITY; and

**WHEREAS**, the parties entered into an INTERLOCAL AGREEMENT setting forth the terms and conditions for the provision of such legal services; and

**WHEREAS**, the parties wish to continue the relationship set forth in the INTERLOCAL by entering into this Amendment.

**NOW, THEREFORE**, in consideration of the mutual representations, the parties hereby agree as follows:

1. Section 4 of the INTERLOCAL is deleted in its entirety and substituted with a new Section 4 which shall read as follows:

**Section 4. Effective Date/Term**

This Amendment shall be effective October 1, 2004, and shall continue until terminated pursuant to Section 9.

2. All other terms and conditions of the INTERLOCAL shall remain in full force and effect.

R2004 2012

ATTEST:

SEP 30 2004

DOBOTHY H. WILKEY, CLERK  
Board of County Commissioners

By: [Signature]

By: [Signature]  
DEPUTY CLERK  
COUNTY  
Deputy Clerk  
FLORIDA

(SEAL)

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By: [Signature]  
County Attorney

AS TO COUNTY:

PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

By: [Signature]  
Karen F. Marcus, Chair

ATTEST:

AS TO AUTHORITY:

SOLID WASTE AUTHORITY OF  
PALM BEACH COUNTY

By: [Signature]

By: [Signature]  
John D. Booth, Executive Director

(SEAL)

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By: [Signature]  
General Counsel

R2000 0249

**INTERLOCAL AGREEMENT BETWEEN  
PALM BEACH COUNTY AND  
THE SOLID WASTE AUTHORITY OF PALM BEACH COUNTY  
FOR LEGAL SERVICES**

**THIS INTERLOCAL AGREEMENT** for legal services is made this FEB 15 2000 day of \_\_\_\_\_, 2000, between the Solid Waste Authority of Palm Beach County, a dependent special taxing district created pursuant to Chapter 75-473, Laws of Florida, as amended, (hereinafter "Authority"), and Palm Beach County, a political subdivision of the State of Florida, (hereinafter "County"), each one constituting a public agency as defined in Part I of Chapter 163, Florida Statutes.

**WITNESSETH:**

**WHEREAS**, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969" authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

**WHEREAS**, Part I of Chapter 163, Florida Statutes, permits public agencies as defined therein to enter into interlocal agreements with each other to jointly exercise any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

**WHEREAS**, the County, through the County Attorney's Office, has the ability to provide legal services to the Authority, and the Authority desires to utilize such services; and

**WHEREAS**, the Authority and the County have determined that providing such services to the Authority is cost-effective and in the best interests of the citizens of Palm Beach County.

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

### **Section 1. Purpose**

The purpose of this Agreement is to provide legal service to the Solid Waste Authority of Palm Beach County.

### **Section 2. Definitions**

The following definitions shall apply to this Agreement:

“Act” means Part I of Chapter 163, Florida Statutes.

“Agreement” means this Interlocal Agreement for legal services, including any amendments or supplements hereto, executed and delivered in accordance with the terms hereof.

“County” means Palm Beach County and its Board of County Commissioners.

“County Attorney” means the chief legal officer of Palm Beach County as established in its Charter.

“County Attorney’s Office” means that office established by the Palm Beach County Charter which provides all legal services to the County and as directed by the Board of County Commissioners under the direction of the County Attorney.

“Outside Counsel” means Florida licensed attorneys engaged in the private practice of law who are not members of the County Attorney’s Office.

### **Section 3. Representative/Monitoring Position**

The County’s representative/contract monitor during the term of this Agreement shall be the County Attorney, whose telephone number is (561) 355-2225. The District’s representative/contract monitor during the term of this Agreement shall be the Executive Director, whose telephone number is (561) 640-4000.

### **Section 4. Effective Date/Term**

This Agreement shall be effective January 1, 2000, and shall continue through September 30, 2000. Thereafter, this Agreement shall be renewed automatically for four (4) one-year terms commencing October 1, 2000, subject to the provision of Section 9.

### **Section 5. Services Rendered**

**5.01 Legal Services.** The Office of the County Attorney shall provide legal services for the



Authority under the direction and supervision of the County Attorney who shall designate an attorney as General Counsel to the Authority and provide the assistance of such other attorneys as necessary to ensure full legal representation for the Authority, its governing body, departments and boards.

The County Attorney may engage the services of outside counsel as necessary for the Authority consistent with the Authority's policies and procedures and subject to its budget.

**Section 6. Payments/Invoicing and Reimbursement**

The Authority agrees to pay to the County for services provided under the terms of this Agreement based upon an hourly rate of \$125.00 for attorneys and \$60.00 for paralegals. The County shall bill the Authority monthly based on the actual time spent on services provided to the Authority. Any incidental or out-of-pocket costs incurred by the County are included in the average hourly rate and shall not be separately billed to the Authority provided, however, that the cost of any travel required outside the geographical boundaries of Palm Beach County, the costs of litigation such as expert witness fees, depositions, court reporter, filing and other court related expenses, and extraordinary copying charges, which will be reimbursed to the County by the Authority at actual cost. Billing will be in tenth-hour increments, and the County shall provide appropriate documentation to support each quarterly billing.

**Section 7. Access and Audits**

The County shall maintain adequate records to justify all charges, expenses, and costs incurred in performing the work for at least three (3) years after completion of the audits. The Authority shall have access to all books, records and documents as required in this section for the purpose of inspection or audit during normal business hours.

**Section 8. Breach/Opportunity to Cure**

The parties hereto expressly covenant and agree that in the event either party is in default of its obligations herein, the party not in default shall provide to the party in default thirty (30) days written notice to cure said default before exercising any of its rights as provided for in this Agreement.

**Section 9. Termination**

This Agreement may be terminated by either party to this Agreement upon 30 days written notice to the other party. In the event the Authority so terminates this Agreement, such termination shall be contingent upon the Authority paying the County for all services rendered by the County to the Authority up to and including the date of the termination.

**Section 10. Enforcement Costs**

Any costs or expenses (including reasonable attorney's fees) associated with the enforcement of the terms and/or conditions of this Agreement shall be borne by the respective parties, provided, however, that this clause pertains only to the parties to this Agreement.

**Section 11. Annual Appropriation**

Each party's performance and obligation to pay under this Agreement is contingent upon an annual budgetary appropriation by its respective governing body for subsequent fiscal years.

**Section 12. Notice**

All notices required to be given under this Agreement shall be deemed sufficient to each party when delivered by United States Mail to the following:

**County:**

Name	County Attorney
Address	P. O. Box 1989
City State Zip	West Palm Beach, Florida 33402

**District:**

Name	Executive Director
Address	7501 N. Jog Road
City State Zip	West Palm Beach, Florida 33412

**Section 13. Delegation of Duty**

Nothing contained herein shall be deemed to authorize the delegation of the constitutional or

statutory duties of state, county, or city officers.

**Section 14. Filing**

A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

**Section 15. Liability**

The parties to this Agreement and their respective officers and employees shall not be deemed to assume any liability for the acts, omissions, and negligence of the other party. Further, nothing herein shall be construed as a waiver of sovereign immunity by either party, pursuant to Section 768.28, Florida Statutes.

**Section 16. Indemnification**

Each party shall be liable for its own actions and negligence and, to the extent permitted under Florida law, the County shall indemnify, defend and hold harmless the Authority against any actions, claims or damages arising out of the County's negligence in connection with this Agreement, and the Authority shall indemnify, defend and hold harmless the County against any actions, claims or damages arising out of the Authority's negligence in connection with this Agreement. However, nothing in this paragraph shall be interpreted as a waiver of the Authority's or the County's sovereign immunity.

**Section 17. Amendments**

This Agreement may not be amended except by written instrument signed by both parties hereto.

**Section 18. Remedies**

This Agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County.

**Section 19. Equal Opportunity Provision**

The County and the Authority agree that no person shall, on the grounds of race, color, sex, national origin, disability, religion, ancestry, marital status, or sexual orientation be excluded from the benefits of, or be subjected to any form of discrimination under any activity carried out by the performance of this Agreement.

**Section 20. Captions**

The captions and section designations herein set forth are for convenience only and shall be no substantive meaning.

**Section 21. Severability**

In the event that any section, paragraph, sentence, clause, or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

**Section 22. Entirety of Agreement**

This Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreement, either written or oral, relating to this Agreement.

ATTEST:

AS TO COUNTY:

PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

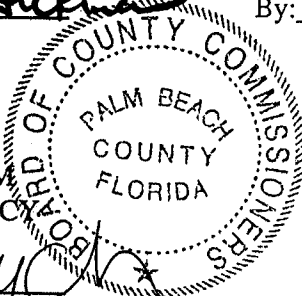
By: Linda C. Hickman  
Deputy Clerk

By: Maudie Ford Lee  
Chair

FEB 15 2000

(SEAL)

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY



R2000 0249

By: [Signature]  
County Attorney

AS TO AUTHORITY:

SOLID WASTE AUTHORITY OF  
PALM BEACH COUNTY

By: [Signature]

X By: [Signature]

(SEAL)

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By: Maureen Ludden  
General Counsel