

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: March 11, 2008

Consent ☒]

Regular ☐]

Public Hearing ☐]

Submitted By: Water Utilities Department

Submitted For: Water Utilities Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: **A)** First Amendment to Agreement of Purchase and Sale of Water and Wastewater Assets between the County and Village of Royal Palm Beach; and **B)** First Amendment to Transition Agreement between the County and Village of Royal Palm Beach.

Summary: The County and Village entered into an Agreement of Purchase and Sale of Water and Wastewater Assets on February 26, 2006 (R2006-0410) in which Village agreed to sell the majority of its utility system assets to the County. The County and Village also entered a Transition Agreement (R2006-2660) regarding certain issues involved in the transition of the Village utility system assets to County. Under the terms of both agreements, the County was to abandon the Village's wastewater treatment plant by a certain date. Both of the agreements are being amended to extend the abandonment date until April 30, 2008. District 6 (MJ)

Background and Policy Issues: Under the terms of the Agreement, the Village permitted the County to operate the Village's water and wastewater treatment plants, and required the County to abandon the Village's existing wastewater treatment plant by the earlier of June 30, 2007, or when the County diverted the wastewater flow of the Village to its own facilities. The County requested, in accordance with its schedule for diverting wastewater flow of the Village, an extension until April 30, 2008, and the Village is agreeable.

Attachments:

1. Location Map
2. Two (2) Original First Amendments to Agreement of Purchase and Sale of Water and Wastewater Assets
3. Two (2) Original First Amendments to Transition Agreement

Recommended By:  2/24/08
Department Director Date

Approved By: 
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2009	2010	2011
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<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>
NET FISCAL IMPACT (Additional Revenues)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Budget Account No:

Fund _____ Agency _____ Org. _____ Object _____

Is Item Included in Current Budget? Yes No

Reporting Category N/A

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

N/A

C. Department Fiscal Review: Debra M. West

III. REVIEW COMMENTS

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

No fiscal impact.

[Signature] 2-21-08
OFMB [Signature] 2/21/08
Contract and Development Control [Signature] 2/21/08

B. Legal Sufficiency:

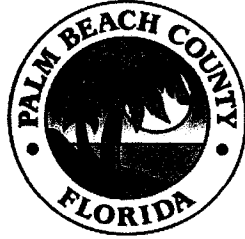
[Signature] 2/22/08
Assistant County Attorney

This amendment complies with
all review requirements.

C. Other Department Review:

Department Director

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



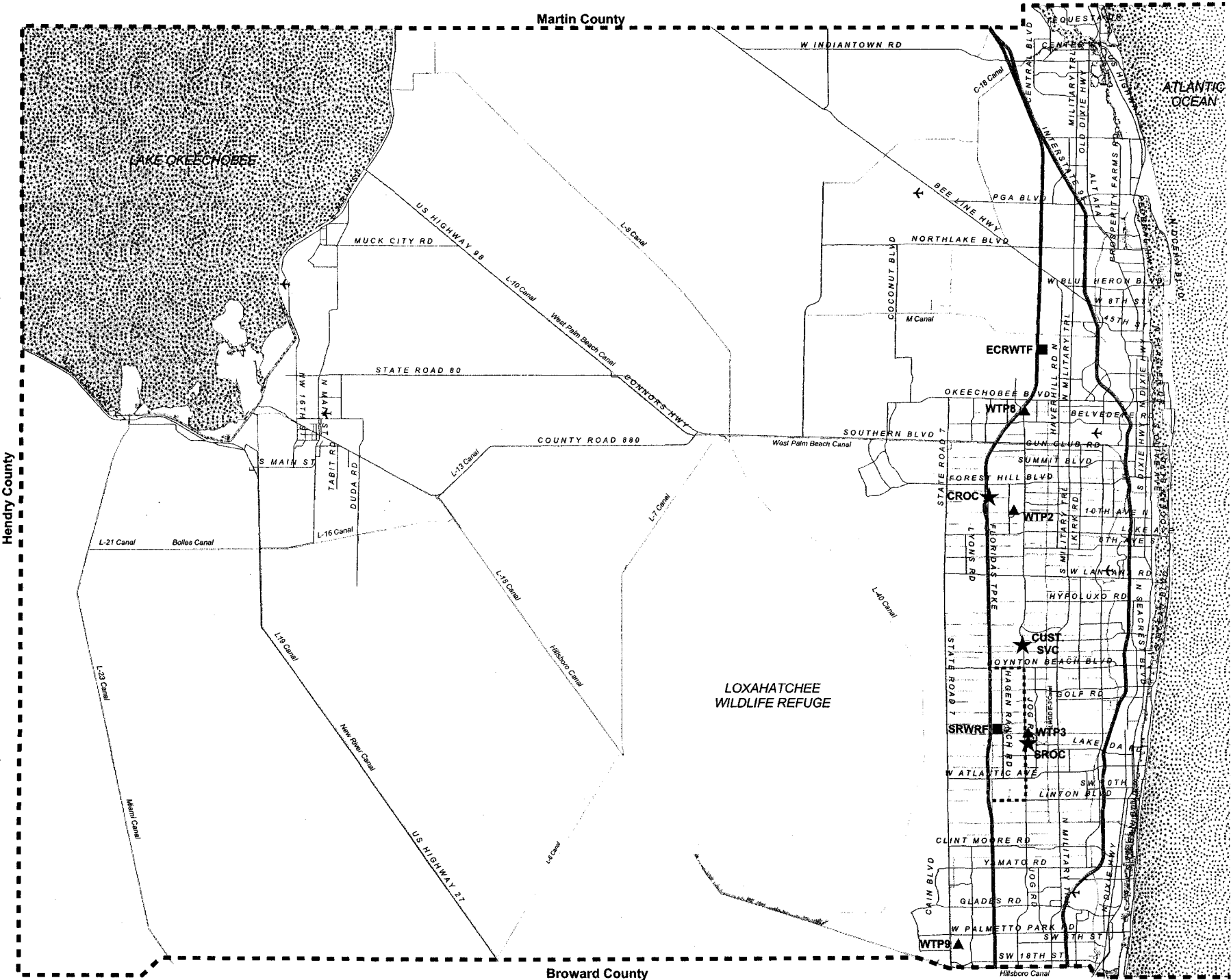
Palm Beach County
Water Utilities
Department
Service Area (SA) and
Major Facilities

Attachment 1

- Legend
- P.B.C.W.U.D. SA
 - MANDATORY RECLAIMED SA
 - COUNTY LIMITS
 - Administration
 - Water Reclamation Plant
 - Water Treatment Plant
 - Wetlands



NOT TO SCALE



**FIRST AMENDMENT TO AGREEMENT OF PURCHASE AND SALE OF WATER
AND WASTEWATER ASSETS**

THIS FIRST AMENDMENT is made and entered into this _____ day of _____, 2008, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida (hereinafter "County"), and the **VILLAGE OF ROYAL PALM BEACH**, a Florida municipal corporation (hereinafter "Village".)

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 economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, County and Village entered into an Agreement of Purchase and Sale of Water and Wastewater Assets on February 28, 2006, in which the County agreed to purchase, and the Village agreed to sell, the Village's Water and Wastewater system (County Resolution No. 2006-0410)(hereinafter "Agreement"); and

WHEREAS, under the terms of the Agreement, the County was to continue operating the Village's water and wastewater treatment plants for a certain period of time; and

WHEREAS, in order to permit the County to operate the Village's water and wastewater treatment plants, the Village leased certain portions of the real property on which the plants are located to the County; and

WHEREAS, the Agreement required that the County abandon the Village's existing wastewater treatment plant by the earlier of June 30, 2007 or when the County diverted the wastewater flow of the Village to its own facilities; and

WHEREAS, County requests the extension of the abandonment date for the wastewater treatment plant until April 30, 2008; and

WHEREAS, Village is agreeable to this extension.

NOW THEREFORE, for and in consideration of these premises, the mutual undertakings and agreements herein contained and assumed, County and Village covenant and agree as follows:

- I. The foregoing statements are true and correct and are incorporated herein by specific reference.

- II. Section 4.5 of the Agreement, "County Lease of Village's Existing Plants and Underlying Real Estate," is hereby amended to read as follows:

4.5 County Lease of Village's Existing Plants and Underlying Real Estate. The County shall enter into a lease of the underlying real estate with respect to the Village's Plants for one dollar (\$1.00) per year, a copy of which is attached to and incorporated in this Agreement as Exhibit K. The County shall operate the Village's Plants and assume all operational and maintenance obligations associated with the Plants. County shall abandon the Village's Wastewater Treatment Plant on or before April 30, 2008. Notwithstanding the foregoing, the County may continue to use and operate at its expense the Village's Water Treatment Plant until such time as the County completes construction of its regional water plant, or for a period not to exceed ten years from the Closing Date, whichever first occurs or until such other time as the parties may agree. Upon the County's abandonment of a Village Plant, the Village will, at its own expense, decommission the Plant. After the County's abandonment of both Village Plants, the lease shall expire and be of no further force and effect. The County agrees not to install fluoridation equipment at the existing Village water treatment plant during the entire term of the lease. The Village acknowledges that the County will fluoridate the potable water at its new regional water treatment plant. In addition, the Village acknowledges that the County fluoridates water at all of its water treatment plants and that fluoridated water may be distributed from these plants to customers within the Royal Palm Beach Retained Utility Service Area following the Closing Date. The Village's three million gallons water storage tank located at the Village's wastewater plant site shall be decommissioned at the County's expense no later than April 30, 2008.

- III. Section 2, "Term," of Exhibit K to the Agreement, "Commercial Lease Agreement," is hereby amended to read as follows:

2. Term.

The term of this Agreement shall be until Lessee abandons both the wastewater and water treatment plant located on the Premises ("Lease Term"), provided, however, that on or before April 30, 2008, Lessee shall abandon use of Lessor's wastewater treatment plant, after which Lessor, at its sole expense, shall decommission the wastewater treatment plant. Notwithstanding Lessee's abandonment of the wastewater treatment plant, Lessee may, nevertheless, continue to use and operate Lessor's water treatment plant until such time as Lessee completes construction of its regional water treatment plant or for a period not to exceed ten (10) years from the date of this Agreement, whichever first occurs, or until such other time as Lessor and Lessee agree. Thereafter, Lessor, at its sole expense, shall decommission its water treatment plant.

- IV. This Amendment shall become effective upon execution by both parties and filing with the Clerk of the Circuit Court for Palm Beach County.
- V. All other provisions of the Agreement dated February 28, 2006, including all exhibits thereto, are hereby confirmed and, except as provided herein, are not otherwise altered or amended and shall remain in full force and effect.

IN WITNESS WHEREOF, County and Village have executed or have caused this Amendment to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Amendment.

ATTEST:

PALM BEACH COUNTY, BY ITS
BOARD OF COUNTY
COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Addie L. Greene, Chairperson

(SEAL)

BAJ 2/14/08

APPROVED AS TO FORM AND TO
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: _____
County Attorney

By: _____
Director of Water Utilities

ATTEST:

VILLAGE OF ROYAL PALM BEACH,
FLORIDA

By: Diane DiSanto
Diane DiSanto, Village Clerk

By: David A. Lodwick
David A. Lodwick, Mayor

(SEAL)

APPROVED AS TO FORM AND TO
LEGAL SUFFICIENCY

By: Trela J. White
Trela J. White, Village Attorney