

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

Meeting Date: 11/18/08 Consent Regular
 Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For: Water Utilities Department

I. EXECUTIVE BRIEF

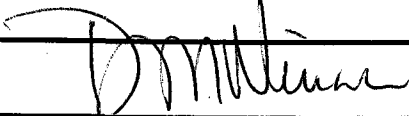
Motion and Title: Staff recommends motion to (A) conduct a TEFRA public hearing within the meaning of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), concerning the issuance by the County of its not to exceed \$90,000,000 Water and Sewer Revenue Bonds (FP&L Reclaimed Water Project), issued in one or more series (collectively, the "Water & Sewer Bonds"); and (B) adopt a resolution declaring the County's intent to seek reimbursement for itself and on behalf of Florida Power & Light Company ("FPL") for certain capital expenditures (the "Capital Expenditures") incurred and to be incurred by the County and FPL in connection with the reclaimed water project (the "Reclaimed Water Project") described in the Reclaimed Water Agreement by and between the County and FPL, from the proceeds of the County's Water & Sewer Bonds; providing for repealer and providing an effective date.

Summary: The County proposes to issue its Water & Sewer Bonds to finance and refinance the costs of the Reclaimed Water Project. Prior to the issuance of the Water & Sewer Bonds, the County and FPL incurred or will incur the Capital Expenditures. The County's Capital Expenditures have been paid or are to be paid from the County's water and sewer revenues and certain of the Capital Expenditures have been paid or are to be paid from FPL's general funds. The County reasonably expects to reimburse the Capital Expenditures from a portion of the proceeds of the Water & Sewer Bonds. The Resolution declares the County's intent with respect to the reimbursement of the Capital Expenditures as required by Section 1.150-2(e) of the Federal Code of Regulations (the "Regulations"). Prior to the issuance of the Water & Sewer Bonds the Code requires that the County conduct a public hearing. **Neither the taxing power nor the faith and credit of the County shall be pledged to pay principal or redemption premiums, if any, or interest on the Water & Sewer Bonds.** Countywide (PFK)

Background and Policy Issues: The adoption of this Resolution by the Board of County Commissioners would constitute the approval required by Section 147(f) of the Code and constitute the County's official intent as required under the Regulations.

Attachments:

- 1. Resolution

Recommended by:  10/29/08
County Attorney Date

Approved by: N/A _____
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	---	---	---	---	---
Operating Costs	---	---	---	---	---
External Revenues	---	---	---	---	---
Program Income (County)	---	---	---	---	---
In-Kind Match (County)	---	---	---	---	---
NET FISCAL IMPACT	---	---	---	---	---
# ADDITIONAL FTE POSITIONS (Cumulative)	---	---	---	---	---

Is Item Included in Current Budget? Yes ___ No X

Budget Account No.: Fund ___ Department ___ Unit ___ Object ___

Reporting Category ___

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

C. Departmental Fiscal Review: All costs to be reimbursed from the proceeds of the Water & Sewer Bonds.

III. REVIEW COMMENTS

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

OFMB: John A. Long 11/3/08
 Contract Development and Control: [Signature] 11/4/08
 Additional notes: 11/13, 11/3/08, 11/4/08

B. Legal Sufficiency:

Paul F. [Signature] 10/28/08
 Assistant County Attorney

C. Other Department Review:

 Department Director

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

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RESOLUTION NO. R-2008_____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA DECLARING PALM BEACH COUNTY'S OFFICIAL INTENT TO SEEK REIMBURSEMENT FOR ITSELF AND ON BEHALF OF FLORIDA POWER & LIGHT COMPANY FOR CERTAIN CAPITAL EXPENDITURES INCURRED AND TO BE INCURRED IN CONNECTION WITH THE RECLAIMED WATER PROJECT DESCRIBED IN THAT CERTAIN RECLAIMED WATER AGREEMENT BY AND BETWEEN PALM BEACH COUNTY, FLORIDA AND FLORIDA POWER & LIGHT COMPANY FROM THE PROCEEDS OF ITS NOT TO EXCEED \$90,000,000 WATER AND SEWER REVENUE BONDS (FP&L RECLAIMED WATER PROJECT) ISSUED IN ONE OR MORE SERIES (THE "BONDS"); APPROVING THE ISSUANCE OF THE BONDS WITHIN THE MEANING OF SECTION 147(f) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Palm Beach County, Florida (the "County") and Florida Power & Light Company ("FPL") have entered into a reclaimed water agreement whereby the County has agreed to finance certain reclaimed water facilities (herein, the "Project") that will serve, among other customers, FPL in connection with its operations of its gas fired generating units located on Southern Boulevard at 20 Mile Bend; and

WHEREAS, the County proposes to issue Water and Sewer Revenue Bonds (FP&L Reclaimed Water Project), in one or more series, in the aggregate principal amount of not exceeding \$90,000,000 (the "Bonds") to finance and refinance the costs of the Project; and

WHEREAS, it is intended by the County that the interest on the Bonds will be excludable from gross income for federal income tax purposes; and

WHEREAS, the County and FPL have each incurred or will incur certain expenditures relating to the Project prior to the issuance of the Bonds; and

WHEREAS, certain of the expenditures of the County were paid or will be paid from the water and sewer revenues of the County and certain of the expenditures paid and to be paid by FPL were and will be derived from its own general funds; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code") and applicable regulations (the "Regulations") require the County to declare its official intent in connection with incurring certain capital expenditures on behalf of itself and on behalf of FPL in

WHEREAS, it is intended by the Board of County Commissioners of Palm Beach County, Florida, the governing body of the County (the "Board") that this Resolution constitutes such official intent with respect to the reimbursement of the certain capital expenditures incurred or to be incurred prior to the issuance of the Bonds; and

WHEREAS, there was published, at least fourteen (14) days prior to the Public Hearing, (as defined below), a notice of such Public Hearing; and

WHEREAS, on this date, the Board held a public hearing (the "Public Hearing") regarding the proposed financing of the Project through the issuance by the County of the Bonds, as required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, it is intended that this Resolution shall constitute the approval of the issuance of the Bonds required by Section 147(f) of the Code; now therefore,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA:

Section 1: The recitals set forth above are adopted by the Board as the findings of the County and are incorporated herein.

Section 2: The statements contained in this Resolution with respect to the reimbursement of the capital expenditures referred to in this Resolution are intended to be statements of official intent as required by, and in conformance with, the provisions of Section 1.150-2(e) of the Regulations.

Section 3: The expenditures to be reimbursed pursuant to this Resolution have been incurred or will be incurred.

Section 4: The maximum principal amount of Bonds expected to be issued for the project is \$90,000,000.

Section 5: The County reasonably expects to reimburse the expenditures contemplated under this Resolution with a portion of the proceeds of the Bonds of the County subsequent to the date hereof, and no funds from sources other than the "reimbursement bond issue" (as such term has the meaning assigned to it under the Regulations) portion of the Bonds are, or are reasonably expected to be reserved, allocated on a long term basis, or otherwise set aside by the County pursuant to the County's budget or financial policies to pay for such expenditures.

Section 6: The County will, upon receipt of the proceeds of the Bonds (or within 30 days thereof), allocate in writing the amount of proceeds of the Bonds (i.e., the reimbursement bond issue) used to reimburse the prior capital expenditures incurred in connection with the Project (herein, the "Prior Expenditures"). Such allocation will be accomplished within the later of 18 months from the date such Prior Expenditures were paid or the date the Project is placed in service (but in no event later than 3 years after the Prior Expenditures were paid).

Section 7: The Bonds are hereby approved within the meaning of Section 147(f) of the Code.

Section 8: If any section, subsection, clause or provision of this resolution is held invalid, the remainder shall not be affected by such invalidity.

Section 9: All resolutions or part of resolutions in conflict herewith shall be and hereby are repealed.

Section 10: This Resolution shall take effect immediately upon adoption.

The foregoing Resolution was offered by Commissioner _____, who moved for its adoption. The motion was seconded by Commissioner _____ and upon being put to vote, the motion passed as follows:

District 1: Karen T. Marcus
District 2: John F. Koons
District 3:
District 4: Mary McCarty
District 5:
District 6: Jess R. Santamaria
District 7:

The Chair thereupon declared the Resolution duly passed and adopted this _____ day of _____, 2008.

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

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: Paul F. [Signature]
County Attorney