

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: December 07, 2010 Consent [X] 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 Reclaimed Water Service Agreement with Pine Ridge at Delray Beach Master Association, Inc.

**Summary:** On June 16, 2009 (R2009-0999) The Board of County Commissioners (Board) received and filed a Reclaimed Water Service Agreement – Lake Discharge Irrigation System (Agreement) between Palm Beach County and Pine Ridge at Delray Beach Master Association, Inc. (Pine Ridge). The Effective Date of the Agreement was March 27, 2009. As part of the Agreement, service initiation was to occur within twelve (12) months of the Effective Date of the Agreement, or the Agreement would automatically terminate. On March 17, 2009, the Board adopted a new Water Utilities rate ordinance, which included, for the first time, connection fees for reclaimed water service. The reclaimed water connection fees became effective April 1, 2009. In order to facilitate reclaimed water customers who entered into Agreements prior to the effective date of the reclaimed water connection fees, the Water Utilities Department (Department) adopted a policy exempting customers from the payment of reclaimed water connection fees who executed reclaimed water service agreements prior to April 1, 2009 and who connected to the County's reclaimed water system prior to April 1, 2010. Due to extenuating circumstances outside of the control of Pine Ridge, including delays in the DEP permitting process and negotiation with the Department related to the cost to replace potable water meters, Pine Ridge was unable to connect to the County's reclaimed water system prior to either the Agreement deadline of March 27, 2010, or the Department policy deadline of April 1, 2010. This First Amendment extends the deadline for initiation of service to January 1, 2011 and also provides for a waiver of reclaimed water connection fees if service initiation occurs in a timely manner. (WUD Project No.08-587/RWSA 03-90009-000) District 5 (MJ)

**Background and Justification:** Due to extenuating circumstances beyond the control of Pine Ridge associated with the DEP permitting process, negotiation with the Department related to the cost to replace potable water meters, and associated unanticipated delays not within their control, reclaimed water service initiation did not occur within the timeframes as outlined above. The Pine Ridge has requested a waiver of the fees and the Department, upon review, agrees that said fees should be waived.

**Attachments:**

- 1. Two (2) Originals First Amendment to Reclaimed Water Service Agreement with Pine Ridge at Delray Beach Master Association, Inc. (2 copies).

Recommended By:  11/17/10  
Department Director Date

Approved By:  12/1/10  
Assistant County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2011	2012	2013	2014	2015
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>
<b>NET FISCAL IMPACT</b>	<u><b>0</b></u>	<u><b>0</b></u>	<u><b>0</b></u>	<u><b>0</b></u>	<u><b>0</b></u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

**Budget Account No.:** Fund \_\_\_\_\_ Dept. \_\_\_\_\_ Unit \_\_\_\_\_ /0 Rev Source \_\_\_\_\_

Is Item Included in Current Budget? Yes \_\_\_\_\_ No X

Reporting Category N/A

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

The Service Initiation fees would have totaled \$35,940.00 had they not been waived.

**C. Department Fiscal Review:** Alumamout

**III. REVIEW COMMENTS**

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

[Signature] 11/22/10  
OFMB  
11/18/10  
11/15/10

[Signature] 11/22/10  
Contract Development and Control

**B. Legal Sufficiency:**

[Signature] 11/23/10  
Assistant 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.

**FIRST AMENDMENT TO RECLAIMED WATER SERVICE AGREEMENT**

**THIS FIRST AMENDMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between **PALM BEACH COUNTY**, a subdivision of the State of Florida, hereinafter referred to as "Utility," and **PINE RIDGE AT DELRAY BEACH MASTER ASSOCIATION, INC.**, hereinafter referred to as "Manager."

**WITNESSETH**

**WHEREAS**, Utility and Manager entered into a Reclaimed Water Service Service Agreement ("Agreement") on March 27, 2009 (County Resolution No. R2009-0999)(WUD Project No. 08-587); and

**WHEREAS**, pursuant to the terms of the Agreement, Service Initiation to the Property was to occur by March 27, 2010, or the Agreement would automatically terminate; and

**WHEREAS**, in order to qualify for a waiver of Reclaimed Water connection fees, Service Initiation to the Property was to occur by April 1, 2010; and

**WHEREAS**, due to extenuating circumstances outside of Manager's control, Service Initiation did not occur prior to March 27, 2010 nor April 1, 2010; and

**WHEREAS**, Utility and Manager wish to revive the Agreement and continue to be bound by its terms; and

**WHEREAS**, Utility and Manager wish to modify the Agreement to change the deadline for Service Initiation, and to confirm the waiver of Reclaimed Water connection fees; and

**WHEREAS**, Utility and Manager wish to modify the Agreement to include language related to the audit rights of the County's Inspector General.

**NOW, THEREFORE**, for and in consideration of these premises, the mutual undertakings and agreements herein contained and assumed, Utility and Manager hereby covenant and agree as follows:

1. The foregoing statements are true and correct and are incorporated herein by specific reference.
2. The Agreement is revived in its entirety and the Utility and Manager agree to be continuously bound by its terms.
3. Section 17 of the Agreement, is hereby amended to read:

17. Service Initiation to occur by January 1, 2011. Manager shall not be subject to Reclaimed Water connection fees if Service Initiation is made in a timely manner.

4. A new Section 18 is added to the Agreement, to read as follows:

18. Pursuant to Ordinance No. 2009-049, as amended, Palm Beach County's Office of Inspector General is authorized to review past, present and proposed County contracts, transactions, accounts, and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with Palm Beach County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud.

5. All other provisions of the Agreement are hereby confirmed and, except as provided herein, are not otherwise altered or amended and shall remain in full force and effect. All capitalized terms herein shall have the same meaning as defined in the Agreement.

**THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, Manager and Utility have executed or have caused this Agreement, with the named Exhibits attached, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement.

ATTEST:  
SHARON R. BOCK, CLERK  
AND COMPTROLLER

Deputy Clerk

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

By: \_\_\_\_\_

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: \_\_\_\_\_  
County Attorney

APPROVED AS TO TERMS AND  
CONDITIONS

By: [Signature]  
Bevin A. Beaudet,  
Department Director or Designee

WATER UTILITIES DEPARTMENT  
FINANCE AND ADMINISTRATION  
APPROVAL

By: [Signature]  
Director of Finance and Administration  
PBC Water Utilities Department

WITNESSES:

X Linda M. Collins

X Linda M. Collins  
Typed or Printed Name

[Signature]

X HASSAN HADJIMIRY  
Typed or Printed Name

MANAGER:

By: [Signature]

Signature  
EDWIN GOLDWASSER

Typed or Printed Name  
PRESIDENT

Title

[ Corporate Seal ]

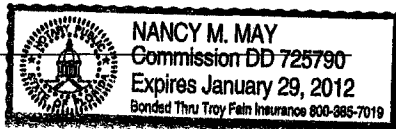
X NOTARY CERTIFICATE

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 8th day of NOVEMBER, 2010, by EDWIN GOLDWASSER. He/she is personally known to me or has produced FDL as identification.

My Commission Expires: \_\_\_\_\_

Serial Number



[Signature]  
Signature of Notary

Nancy M May  
Typed, Printed, or Stamped Name