

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: October 4, 2011 Consent Regular
 Public Hearing
Department
Submitted By: COUNTY ATTORNEY
Submitted For: COUNTY ATTORNEY

I. EXECUTIVE BRIEF

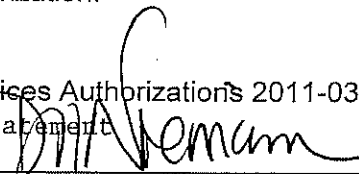
Motion and Title: Staff recommends motion to approve: Legal Services Authorization 2011-0353-C for a not-to-exceed amount of \$50,000.00 with Rose Sundstrom & Bentley, LLP for legal services related to the Glades Utility Authority.

Summary: On March 15, 2011, the Board of County Commissioners approved an Agreement with Rose Sundstrom & Bentley, LLP for legal services (R2011-0353) related to complex utility projects/agreements Pursuant to the Agreements, legal services are to be assigned pursuant to task specific Legal Services Authorizations. The Glades Utility Authority (GUA) is currently facing a financial crisis and, to date, has failed to adopt a balanced budget for fiscal year 2012. This failure to adopt a balanced budget will affect the County as a member of the GUA, as the contract service provider to the GUA, and as the guarantor to certain GUA debt. This Legal Services Authorization will be utilized to seek advice and counsel as to the course of action that the County undertakes in relation to the GUA. Countywide (MWJ).

Background and Justification: Pursuant to Palm Beach County Administrative Code Section 305.04, the County Attorney's Office may utilize the services of outside counsel on matters requiring special legal expertise. The Water Utilities Department has a number of ongoing and upcoming legal issues which will require such expertise. Pursuant to the Administrative Code, the County Attorney's Office issued a Request for Proposals seeking outside counsel services for water utilities regulatory issues and complex utility projects/agreements. A selection committee reviewed and ranked the proposals, and recommended award to de la Parte & Gilbert, P.A., and Rose Sundstrom Bentley, LLP. Pursuant to the Request for Proposals, legal services are to be assigned pursuant to a task specific legal services authorization.

Attachments:

- 1. Two (2) Original Legal Services Authorizations 2011-0353-C.
- 2. Budget Availability Statement

Recommended by:  Date 9/27/11
County Attorney Date

Approved by: N/A Date _____

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2012	2013	2014	2015	2016
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	\$ <u>50,000</u>	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	\$ <u>50,000</u>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes X No _____

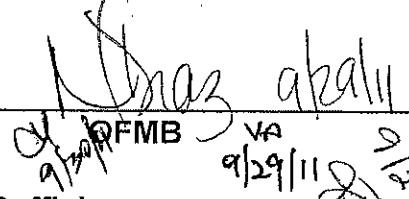
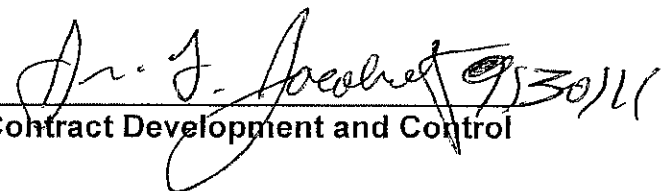
Budget Account No.: Fund 4001 Department 720 Unit 1110 Object 3125
 Reporting Category _____

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

C. Departmental Fiscal Review: Attorney fees and costs will be paid from the Water Utilities Department funds.

III. REVIEW COMMENTS

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

 OFMB VA Contract Development and Control
 9/29/11 9/23/11

B. Legal Sufficiency:



 Assistant County Attorney
 9/23/11

C. Other Department Review:

 Department Director

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

LEGAL SERVICES AUTHORIZATION

Date: August 1, 2011

Legal Services Authorization Number: R-2011-0353-C

Scope of Work relative to Glades Utility Authority:

See **Exhibit "A"** for detailed description of Scope of Work.

Terms of Performance/Deadline for Completion:

This Legal Services Authorization shall be performed subject to and in accordance with the terms and conditions of the Agreement between Palm Beach County and Rose, Sundstrom and Bentley, LLP for legal services as described hereinabove, dated March 15, 2011 ("Agreement") (County Resolution No. R R-2011-0353.) This scope of services shall expire on December 31, 2012, unless terminated or extended in accordance with the Agreement.

Not-to Exceed Amount: \$50,000.00

Hourly Rates: The hourly rates for this Legal Services Authorization shall be those rates set forth in the Agreement.

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BLANK; SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement this ____ day of _____, 2011.

ATTEST:
Sharon R. Bock, Clerk & Comptroller

PALM BEACH COUNTY
BOARD OF COUNTY
COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Karen T. Marcus, Chair

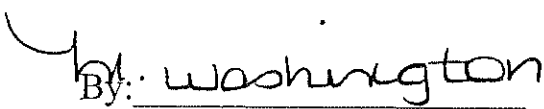
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 
Assistant County Attorney

Accepted by Outside Counsel:

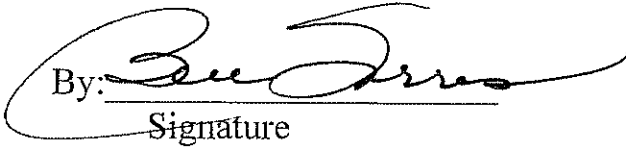
WITNESSES:

ROSE, SUNDSTROM & BENTLEY, LLP

By: 
Signature

By: 
John Fumero

M. Washington
Print Name

By: 
Signature

BERNICE TORRES
Print Name

Exhibit A

GLADES UTILITY AUTHORITY RELATED MATTERS LEGAL SERVICES SCOPE OF WORK AND BUDGET Agreement between Palm Beach County and Rose, Sundstrom & Bentley, LLP, for Legal Services – August 1, 2011

Background

Palm Beach County ("County") previously entered into an agreement with each of the Glades cities (City of Belle Glade, City of Pahokee and City of South Bay) regarding the obligation of each city to repay the County for money the County spent to construct the Lake Region Water Treatment Plant, which is a reverse osmosis treatment plant that provides quality water to Glades residents. The debt of the Glades cities was subsequently assumed by the Glades Utility Authority ("Authority") when the Glades cities transferred their operable utility assets to the Authority on October 1, 2009 pursuant to the Interlocal Agreement, dated June 16, 2009 that created the Authority.

The Board of Directors of the Authority ("GUA Board") is composed of representatives of the four member entities: the County and the three Glades cities. On August 18, 2009, the County and Authority entered into a Service Agreement for Operations, Maintenance, Administration and Management of the Glades Utility Authority System ("Service Agreement"). The Palm Beach County Water Utilities Department ("Department") has been performing under the Service Agreement on behalf of the County pursuant to the annual budget adopted by the GUA Board.

The Authority has experienced a decrease in revenue for a variety of reasons, including an across-the-board decrease in water consumption, meter downsizing and the failure of certain Authority customers to pay the perpetuity of service/readiness to serve charge adopted by the GUA Board last year and that went into effect on October 1, 2010. As a result, this fiscal year the Authority is operating at a deficit in excess of \$2 million dollars. This deficit is projected to continue into the next fiscal year unless the Board adopts the rate surcharge that has been recommended by Authority staff. To-date the GUA Board has failed to adopt a rate surcharge, which has frustrated efforts by Authority staff to present a balanced budget for the upcoming fiscal year to the GUA Board for consideration and approval. The failure of the GUA Board to adopt a balanced budget has serious ramifications to the County under both the Interlocal Agreement and the Service Agreement.

Description of the Scope of Work

The County Attorney's Office has requested that Rose, Sundstrom & Bentley, LLP ("Firm"), provide advice and counsel regarding Authority compliance with its contractual and financial obligations. This work will consist of conferring with Department staff and consultants, attending meetings and teleconferences, conducting legal research and preparing documents, whenever required by the Department and authorized by the County Attorney's Office.

**Glades Utility Authority Related Matters Legal Services
August 1, 2011**

**Agreement Between Palm Beach County and
Rose, Sundstrom & Bentley, LLP, for Legal Services**

Task Description ¹	Personnel Hours			
	Attorneys	Paralegals	Law Clerks	Total
Advise the Department regarding Glades Utility Authority contractual and financial obligation compliance issues.	172	20	80	272
Total	172	20	80	272

¹ None of these estimates include fees or costs associated with judicial or administrative litigation or appeals.

ROSE, SUNDSTROM & BENTLEY, LLP
GLADES UTILITY AUTHORITY RELATED MATTERS LEGAL SERVICES SCOPE OF
WORK
BUDGET SUMMARY

Position	Rate	Hours	Amount
Attorneys*	225	172	38,700
Paralegals	90	20	1,800
Law Clerks	60	80	4,800
Subtotal		272	45,300
Expenses			4,700
Total			50,000

* There is a blended rate for all RSB attorneys pursuant to the Agreement for Legal Services, dated March 15, 2011.

INTEROFFICE COMMUNICATION
PALM BEACH COUNTY

BUDGET AVAILABILITY STATEMENT

DATE: September 29, 2011
TO: Aaron Maharaj , Budget Analyst
Office of Financial Management & Budget
FROM: Guy Eggertsson, Fiscal Manager I
Water Utilities Department *Guy Eggertsson*
RE: Legal Fees for County Attorney Board Agenda Item

FISCAL IMPACT ANALYSIS:

Budget Account Number:

Fund	Agency	Organization	Object	Amount
4001	720	1110	3125	\$50,000.00

Recommended Sources of Funds:

Water Utility User Fees