

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2012	2013	2014	2015	2016
Capital Expenditures	0	0	0	0	0
Operating Costs	0	0	0	0	0
External Revenues	0	0	0	0	0
Program Income (County)	0	0	0	0	0
In-Kind Match (County)	*0	0	0	0	0
NET FISCAL IMPACT	0	0	0	0	0
# Additional FTE Positions (Cumulative)	0	0	0	0	0
Is Item Included in Current Budget:	Yes	_____	_____	No	_____

Budget Account No:

Reporting Category

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

* At least some costs incurred will be paid for by the County General Fund. Should the County receive the GUA through absorption or receivership, Water Utilities will reimburse the General Fund for any costs incurred as a result of litigation.

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

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

<p>OFMB</p> <p><i>[Handwritten signature]</i> 3/18/12</p> <p><i>[Handwritten notes: 5/2/12, 3/12/12, 2/1/12]</i></p>	<p>Contract Development & Control</p> <p><i>[Handwritten signature]</i> 3/13/12</p> <p><i>[Handwritten notes: 3-12-12, B. K. K. K.]</i></p>
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B. Legal Sufficiency:

[Handwritten signature: Amy Taylor Pettit]
 Assistant County Attorney

C. Other Department Review:

 Department Director

Background and Policy Issues: *(continued from page one)* On June 16, 2009, the BCC approved the Interlocal Agreement establishing the GUA pursuant to Chapter 163, Florida Statutes. The GUA is a regional partnership established for the purpose of providing water utility services to the residents of Belle Glade, Pahokee, South Bay, and the surrounding areas. The Utility has faced many challenges including a decline in utility revenues due to unemployment, housing unit vacancies and reduced business activity. Operational costs have been impacted by poor condition of the pipes and the need for more maintenance than planned. The combination of the two (2) issues has resulted in current and future projected annual operating losses of approximately \$2 Million per year, an unsustainable number.

RESOLUTION NO. R-2012-

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, DECLARING ITS INTENT TO INITIATE PRESUIT NOTICE AND DISPUTE RESOLUTION PROCEDURES PURSUANT TO SECTION 7.13 OF THE INTERLOCAL AGREEMENT, AND TO INITIATE INTERGOVERNMENTAL CONFLICT RESOLUTION PROCEDURES WITH THE GLADES UTILITY AUTHORITY, THE CITY OF SOUTH BAY, THE CITY OF BELLE GLADE, AND THE CITY OF PAHOKEE, PURSUANT TO CHAPTER 164, FLORIDA STATUTES (2012), IN THE EVENT IT IS DETERMINED TO BE APPLICABLE TO THE PRESENT CONFLICT; AND DECLARING THAT AN IMMEDIATE DANGER TO THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC REQUIRES IMMEDIATE ACTION, AND THAT SIGNIFICANT LEGAL RIGHTS WILL BE COMPROMISED IF A COURT PROCEEDING DOES NOT TAKE PLACE BEFORE COMPLYING WITH THE PROCEDURES OF THE FLORIDA GOVERNMENTAL CONFLICT RESOLUTION ACT (RESOLUTION NO. 012-XX).

WHEREAS, Palm Beach County, entered into an Interlocal Agreement (hereinafter the "Interlocal Agreement") on June 16, 2009, with the Cities of South Bay, Belle Glade, and Pahokee to form the Glades Utility Authority (County Resolution No. R-2009-1034); and

WHEREAS, the Interlocal Agreement created the Glades Utility Authority to implement a regional approach to water and wastewater service in the Glades Region; and

WHEREAS, the County transferred assets, including but not limited to the Lake Region Water Treatment Plant and associated wells and pipelines to the Glades Utility Authority, and provided a covenant to budget and appropriate non-ad valorem revenues for certain debt services, operations, and maintenance obligations of the Glades Utility Authority through the adoption of County Resolution No. R-2009-1559, in furtherance of the regional approach to water and wastewater service in the Glades Region; and

WHEREAS, pursuant to interlocal agreements with the City of Pahokee (County Resolution No. R-2009-0950) and the City of South Bay (County Resolution No. R-2009-0951) dated June 2, 2009, the County adopted covenants to budget and appropriate non-ad valorem revenues for debt service related to certain State Revolving Fund Loans; and

WHEREAS, the County entered into an operating agreement with the Glades Utility Authority on August 18, 2009 (R-2009-1345), to operate the Glades Utility Authority; and

WHEREAS, the Interlocal Agreement provides that the Glades Utility Authority will adopt a balanced budget prior to October 1 of each year, and to provide for a renewal and replacement fund that is adequate to provide for necessary renewal and replacement of the Utility System;

WHEREAS, the Glades Utility Authority has failed to adopt a balanced budget for the current fiscal year, and has failed to provide for a renewal and replacement fund adequate to maintain the Utility System; and

WHEREAS, the Glades Utility Authority has collected insufficient funds to meet its financial obligations in the current fiscal year and is projected to collect insufficient funds in the next fiscal year; and

WHEREAS, the Glades Utility Authority's failure to adequately budget for the ongoing financial obligations of the Authority and for the renewal and replacement needs of the Utility System places in jeopardy the investments made into the system by the County; and

WHEREAS, the Glades Utility Authority's failure to adequately budget for the ongoing financial obligations of the Authority and for the renewal and replacement needs of the Utility System places the County at risk of not receiving compensation for its services as operator of the Lake Region Water Treatment Plant; and

WHEREAS, the County has offered to absorb the Glades Utility Authority's system into the County's Water Utilities Department, assume the debts of the Utility Authority, and provide water and wastewater service to the Glades Region with no rate increase until such time as the rates for Glades customers are equivalent to an amount equal to the rate for County customers plus seven percent (7 %); and

WHEREAS, the City of South Bay has rejected the County's proposal to date; and

WHEREAS, the Glades Utility Authority's inability to adopt a balanced budget and provide for adequate renewal and replacement needs for the Utility System jeopardizes the

health, safety, and welfare of the citizens in the Glades Region, and threatens a serious loss to the assets of the Authority; and

WHEREAS, Section 7.13 of the Interlocal Agreement provides for Dispute Resolution in the event of a default, including meetings between the parties at mutually agreeable times and places after written notice to the parties; and

WHEREAS, Section 7.13 of the Interlocal Agreement constitutes an alternative dispute resolution process that exempts the conflicts set forth herein from the dispute resolution requirements of Chapter 164, Florida Statutes (2012) (hereinafter "the Act"); and

WHEREAS, Section 164.1052, Florida Statutes (2012), in the event it is later determined to be applicable to the conflicts set forth herein, requires the passage of a resolution, declaring the local government's intent to initiate government conflict resolution procedures; and

WHEREAS, Section 164.1041(2), Florida Statutes (2012), provides that litigation may be initiated prior to the completion of intergovernmental dispute resolution procedures in the event that the local governmental finds that an immediate danger to the health, safety, or welfare of the public requires immediate action or that significant legal rights will be compromised if a court proceeding does not take place before the parties comply with provisions of the Act.

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

1. The recitals above are true and correct and form a part of this Resolution.
2. It is the intent of the Board of County Commissioners of Palm Beach County to initiate presuit notice and dispute resolution requirements, as set forth in Section 7.13 of the Interlocal Agreement.
3. If it is determined that the Act applies to the present conflict, it is the intent of the Board of County Commissioners of Palm Beach County to initiate intergovernmental conflict resolution procedures pursuant to the Act to resolve the conflict over the Glades Utility Authority's inability to meet its obligations under the Interlocal Agreement to adopt a balanced budget and to provide for adequate renewal and replacement funds.
4. For the reasons set forth in this Resolution, this Board finds that there is an immediate danger to the health, safety, and welfare of the public and that significant legal rights of the

County will be compromised if a court proceeding does not take place before complying with the provisions of the Act.

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

- Commissioner Shelley Vana, Chair
- Commissioner Steven L. Abrams, Vice Chairman
- Commissioner Karen T. Marcus
- Commissioner Paulette Burdick
- Commissioner Burt Aaronson
- Commissioner Jess R. Santamaria
- Commissioner Priscilla A. Taylor

The Chairperson thereupon declared the Resolution duly passed and adopted this _____ day of _____, 2012.

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

SHARON R. BOCK,
CLERK & COMPTROLLER

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: 
Assistant County Attorney