

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: January 15, 2013 Consent [ ] Regular [ ]  
Public Hearing [ X ]  
Department: Water Utilities Department

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends, contingent upon the approval and execution of 2 and 3 below by the City of South Bay, a motion to: 1) adopt a Resolution determining that the purchase of the Glades Utility Authority (GUA) water and wastewater system is in the public interest, as required under Section 125.3401, Florida Statutes; 2) approve the Stipulated Settlement Agreement with the Cities of Belle Glade, Pahokee, and South Bay, and the GUA settling the case styled *Palm Beach County v. Glades Utility Authority, et. al.*, Case No.: 50-2012-CA-009640XXXMB; 3) approve the First Amendment to the Interlocal Agreement with the Cities of Belle Glade, Pahokee, and South Bay establishing the GUA; 4) approve the First Amendment to the Service Agreement with the GUA for Operations, Maintenance, Administration and Management of the Glades Utility Authority Utility System; 5) approve the Escrow Agreement between the County and the Clerk of the Circuit Court and authorize the deposit of a maximum of \$2.5 Million in the account to pay off certain debt obligations of the GUA as of the closing of the transfer of the GUA assets to the County; and 6) authorize the County Administrator or his designee to execute any and all documents necessary to carry out the closing of the transfer of the GUA water and wastewater system to the County.

**Summary:** In 2009, the GUA was formed by Interlocal Agreement between the Cities of Pahokee, Belle Glade, South Bay, and the County to provide sustainable infrastructure for water and wastewater service to the Tri-Cities area. The formation of the GUA resulted in many successes, including the receipt of more than \$18 Million in grants and the development of a well-managed, integrated utility system. The economic downturn, including the loss of its biggest customer, the Glades Correctional Institution, along with the discovery that existing infrastructure is in much worse condition than originally anticipated will result in GUA operating with negative cash balances by early 2013. This problem is exacerbated by the GUA Board's inability to adopt balanced budgets for FY 2012 and 2013. The above Agreements allow the GUA to be absorbed into the County's Water Utilities Department (PBCWUD) in order to begin the process of rebuilding the deteriorating infrastructure. **Continues on Page 3**

**Attachments:**

1. [Resolution](#)
2. [Five \(5\) Original Stipulated Settlement Agreement](#)
3. [Four \(4\) Original First Amendment to the Interlocal Agreement](#)
4. [Two \(2\) Original First Amendment to the Service Agreement](#)
5. [Two \(2\) Original Escrow Agreements](#)

Recommended By: Brent Beaulieu 1/3/2013  
Department Director Date

Approved By: [Signature] 1/14/13  
FOR Assistant County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2013 (6 months)	2014	2015	2016	2017
Capital Expenditures	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000
External Revenues	(7,165,145)	(14,580,290)	(14,580,290)	(14,830,290)	(14,830,290)
Operating Expenses	5,948,152	12,031,318	12,427,882	12,986,344	13,407,059
Annual Entity Transfers	468,748	1,020,620	1,020,620	1,038,120	1,038,120
Debt Service	<u>3,460,617</u>	<u>2,042,356</u>	<u>2,556,333</u>	<u>2,553,693</u>	<u>2,549,170</u>
<b>NET FISCAL IMPACT</b>	<b><u>(\$7,712,372)</u></b>	<b><u>(5,514,004)</u></b>	<b><u>(6,424,545)</u></b>	<b><u>(6,747,867)</u></b>	<b><u>(7,164,059)</u></b>
# Additional FTE Positions (Cumulative)	0	0	0	0	0

**Budget Account No.:** Fund          Dept          Unit          Object \*\*\*\* Various\*\*\*\*

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

Reporting Category N/A

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

Expenditures will be funded from user fees and balance brought forward. Water Utilities will defer \$2.5 Million annually from the existing WUD Capital Improvement Plan to offset the net annual fiscal impact.

**C. Department Fiscal Review:** Delra M. Vest

**III. REVIEW COMMENTS**

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

<p><u>[Signature]</u> OFMB</p> <p>1/8/2013 11:30 AM 1-4-13</p>	<p><u>[Signature]</u> Contract Development and Control</p> <p>At the time of our review, the documents were not executed.</p>
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**B. Legal Sufficiency:**

[Signature]  
Assistant County Attorney

1/10/13\*

**C. Other Department Review:**

While the Stipulated Settlement Agreement and the First Amendment to the Service Agreement have been approved by the GUA Board, those approvals are contingent upon the approval of the Stipulated Settlement Agreement by the City of South Bay. Therefore, the original GUA-executed versions are being held by the GUA attorney pending said approval by South Bay.

\_\_\_\_\_  
Department Director

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

**Continued from Page 1:**

The First Amendment to the Interlocal Agreement terminates the 2009 Interlocal Agreement, transfers the GUA Service Area rights to the County, and memorializes the "Seven Point Plan." The First Amendment to the Service Agreement terminates the Service Agreement upon transfer of the GUA to Palm Beach County. The Stipulated Settlement Agreement provides for the dismissal of the lawsuit with prejudice, once the Amended Interlocal Agreement and Service Agreement have been executed by all appropriate parties and assets have been transferred. The Escrow Agreement allows the Clerk to escrow the money needed to retire certain unfavorable debt obligations. The Cities of Belle Glade and Pahokee, and the GUA Board have approved the Agreements. The County's approval will be contingent upon approval and execution by the City of South Bay. Failure by the City of South Bay to approve these agreements resulted in the GUA customers seeing a 6.5% increase in their bill, effective January 1, 2013. The County has attempted to resolve the dispute through the Chapter 164 Dispute Resolution Process, and the above-styled lawsuit was abated while the Chapter 164 negotiations proceeded. County staff recommends that the County continue to pursue relief through prosecution of the lawsuit, unless and until the City of South Bay approves the Stipulated Settlement Agreement. District 6 (MJ/ATP)

**Background and Justification:** In 2012, the County, which has a significant financial stake in GUA and which has guaranteed approximately \$10.5 Million in debt service, operation costs, and loan backups, sued GUA and the three (3) Glades Cities asking that a receiver be appointed to begin the process of stabilizing the finances of GUA and to compel the adoption of an appropriate budget. To settle that suit, the County agreed to absorb the GUA into the County's Water Utility Department and begin the process of financing the replacement of aging infrastructure to improve the GUA's financial condition.