

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: June 18, 2013

Consent Regular
 Public Hearing

Department: Water Utilities Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Amendment No. 1 to the Interlocal Agreement with East Central Regional Wastewater Treatment Facilities Operation Board (ECR) and the City of West Palm Beach (WPB) related to the construction, operation, and maintenance of reclaimed water facilities (Interlocal Agreement).

Summary: On May 20 2008, the Palm Beach County Board of County Commissioners (BCC) approved multiple agreements related to the construction and operation of a reclaimed water plant located on the ECR property, certain reclaimed water facilities located at the Florida Power and Light (FPL) West County Energy Center (WCEC), and a reclaimed water pipeline connecting the ECR facilities to the WCEC facilities. The changes in Amendment No.1 to the Interlocal Agreement are to allow the County to upgrade storage facilities at the ECR onsite reclaimed water facilities, which will be paid from bond proceeds and reimbursed by FPL. District 7 (MJ)

Background and Justification: On May 20, 2008, the BCC approved the following: **A)** a Reclaimed Water Agreement (R2008-0906) with FPL to supply reclaimed water for the WCEC; **B)** an Interlocal Agreement with the ECR and WPB related to the construction, operation and maintenance of reclaimed water facilities (R2008-0907); and **C)** an Interlocal Agreement with WPB related to reclaimed water service (R2008-0908). The project is complete and has been operating for over two years. In order to improve operations of the reclaimed facility the County desires to upgrade the ECR onsite reclaimed water facilities by adding an additional building within the footprint of the onsite water reclamation facility, for the purpose of storing inventory, chemicals, parts and equipment as required for the reclaimed water production facilities.

Attachments:

- 1. Three (3) Original Amendment No. 1
- 2. Location Map

Recommended By:  6/5/13
Department Director Date

Approved By:  6/10/13
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2013	2014	2015	2016	2017
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>
NET FISCAL IMPACT	0	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</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** **Object**

Is Item Included in Current Budget? Yes No

Reporting Category N/A

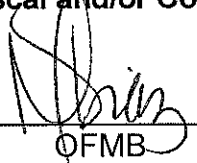
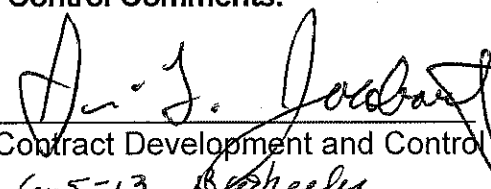
B. Recommended Sources of Funds/Summary of Fiscal Impact:

~~X~~ The costs for this project are indeterminable at this time. The proposed upgrade will be paid for from bond proceeds in Fund 4043. FPL pays debt service on these bonds which results in no net fiscal impact to the County.

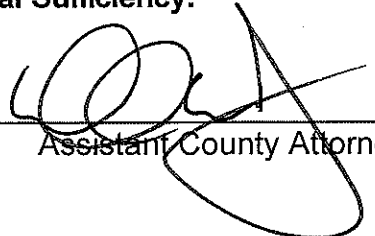
C. Department Fiscal Review: Delmar West

III. REVIEW COMMENTS

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

 _____ OFMB	5/30/2013 CB 5/28 PM 5/24/13	 _____ Contract Development and Control 6-5-13 Becheles	6/5/13
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B. Legal Sufficiency:



 Assistant County Attorney 6/7/13

C. Other Department Review:

 Department Director

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

RESOLUTION NO. 131-13

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE INTERLOCAL AGREEMENT AMONG THE EAST CENTRAL REGIONAL WASTEWATER TREATMENT FACILITIES OPERATIONS BOARD, THE CITY OF WEST PALM BEACH, AND PALM BEACH COUNTY RELATED TO CONSTRUCTION, OPERATION AND MAINTENANCE OF RECLAIMED WATER FACILITIES; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969" authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, by Resolution No. 179-08, the City Commission of the City of West Palm Beach approved that Interlocal Agreement Among the East Central Regional Wastewater Treatment Facility Operations Board, the City of West Palm Beach, and Palm Beach County Related to Construction, Operation and Maintenance of Reclaimed Water Facilities, dated May 20, 2008 ("Original Agreement"), pursuant to which the County constructed certain Reclaimed Water Production Facilities at the ECR plant (the "On-Site Reclaimed Water Facilities") for transmission of reclaimed water to FPL; and

WHEREAS, the Palm Beach County desires to upgrade, at the County's expense, the Onsite Reclaimed Water Facilities by adding an additional building within the footprint of the Onsite Water Reclamation Facility described on Exhibit "C" to the Original Agreement, for the purpose of storing inventory, chemicals, parts and equipment as required for the Reclaimed Water Production Facilities, and requests the East Central Regional Wastewater Treatment Facility Operations Board and the City of West Palm Beach to amend the Original Agreement to permit the County to construct such upgrade in accordance with the terms provided in the Original Agreement for the original construction of the Onsite Reclaimed Water Facilities; and

WHEREAS, the East Central Regional Wastewater Treatment Facility Operations Board approved the Amendment to the Original Agreement on April 10, 2013;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:

SECTION 1: The City Commission of the City of West Palm Beach, Florida, hereby authorizes the Mayor to execute that Amendment to Interlocal Agreement Among the East Central Regional Wastewater Treatment Facility Operations Board, the City of West Palm Beach, and Palm Beach County Related to Construction, Operation and Maintenance of Reclaimed Water Facilities (the "Amendment"), in form and

RESOLUTION NO. 131-13

substance similar to that attached as Exhibit A. The Mayor is further authorized to execute any ancillary documents required under the Amendment or necessary to accomplish the purposes of the Amendment.

SECTION 2: The Mayor is hereby authorized to execute three (3) originals of the Amendment.

SECTION 3: All originals shall be provided to the Director of Public Utilities to obtain execution by Palm Beach County. The Director of Public Utilities shall ensure that one fully-executed original of the Amendment is provided to the City Clerk for retention as a public record of the City.

SECTION 4: This Resolution shall take effect as provided by law. The Amendment shall be effective the date the Amendment is filed with the Clerk of the County Court pursuant to 163.01(11), Florida Statutes.

PASSED AND ADOPTED THIS 29 DAY OF April, 2013.

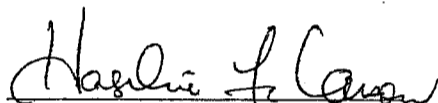
(CORPORATE SEAL)

CITY OF WEST PALM BEACH
BY THE CITY COMMISSION

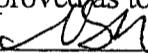
ATTEST:



PRESIDING OFFICER



CITY CLERK

CITY ATTORNEY'S OFFICE
Approved as to form and legality
By:  _____

AMENDMENT TO
INTERLOCAL AGREEMENT AMONG THE EAST CENTRAL REGIONAL
WASTEWATER TREATMENT FACILITIES OPERATION BOARD, CITY
OF WEST PALM BEACH AND PALM BEACH COUNTY RELATED TO
CONSTRUCTION, OPERATION, AND MAINTENANCE OF RECLAIMED
WATER FACILITIES

WPB Res. No. 131-13
WPB# 05932.002

THIS AMENDMENT TO INTERLOCAL AGREEMENT AMONG THE EAST CENTRAL REGIONAL WASTEWATER TREATMENT FACILITIES OPERATION BOARD, CITY OF WEST PALM BEACH AND PALM BEACH COUNTY RELATED TO CONSTRUCTION, OPERATION, AND MAINTENANCE OF RECLAIMED WATER FACILITIES (hereinafter "Amendment") is made and entered into this _____ day of _____, 2013, by and among **PALM BEACH COUNTY**, a political subdivision of the State of Florida (hereinafter "COUNTY"), the **EAST CENTRAL REGIONAL WASTEWATER TREATMENT FACILITIES OPERATION BOARD**, through its agent, the City of West Palm Beach (hereinafter "ECR") and the **CITY OF WEST PALM BEACH**, a municipality organized under the laws of the State of Florida (hereinafter "WPB").

WITNESSETH:

WHEREAS, COUNTY, ECR and WPB entered into an INTERLOCAL AGREEMENT AMONG THE EAST CENTRAL REGIONAL WASTEWATER TREATMENT FACILITIES OPERATION BOARD, CITY OF WEST PALM BEACH AND PALM BEACH COUNTY RELATED TO CONSTRUCTION, OPERATION, AND MAINTENANCE OF RECLAIMED WATER FACILITIES, dated May 20, 2008 (hereinafter "Original Agreement"); and

WHEREAS, the County desires to upgrade, at the County's expense, the Onsite Reclaimed Water Facilities by adding an additional building within the footprint of the Onsite Water Reclamation Facility described on Exhibit "C" to the Original Agreement, for the purpose of storing inventory, chemicals, parts and equipment as required for the Reclaimed Water Production Facilities, and requests ECR and WPB to amend the Original Agreement to permit the County to construct such upgrade in accordance with the terms provided in the Original Agreement for the original construction of the Onsite Reclaimed Water Facilities.

NOW THEREFORE, in consideration of the recitals, covenants, agreements and promises herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged by the parties, the parties covenant and agree as follows:

SECTION 1. ACKNOWLEDGMENTS.

1.1 The parties acknowledge and agree that the preceding premises of this Agreement are true and correct and are incorporated herein by reference.

1.2 Each of the parties hereto hereby represents and warrants that it has all requisite power and authority to enter into this Amendment and to carry out its obligations hereunder.

1.3 The definitions utilized in the Original Agreement shall have the same meaning when used in this Amendment.

SECTION 2. AMENDMENTS. The parties agree to amend the Original Agreement as set forth below:

2.1 Section 2.7 of the Original Agreement is amended to read as follows [deletions are crossed through; additions are underlined].

2.7. "Onsite Reclaimed Water Facilities" shall mean the Reclaimed Water Production Facilities, the STE Metering Facilities, the RW Metering Facilities, the Transmission Facilities, and the Storage Facilities which ~~are being constructed~~ have been constructed by COUNTY on the ECR Property, and the RW Ancillary Building which will be constructed by COUNTY on the ECR Property in accordance with this Agreement, and which shall be owned by the ECR and operated and maintained by WPB, in accordance with the Interlocal Agreement.

2.2 Section 2.115 is added to the Original Agreement to read as follows .

2.115 "RW Ancillary Building" means the ancillary building, in addition to the Reclaimed Water Production Facilities, used to store inventory, chemicals, parts and equipment for the Reclaimed Water Production Facilities and constructed pursuant to this Agreement.

SECTION 3. MISCELLANEOUS PROVISIONS.

3.1 Except as amended by this Amendment, the Original Agreement remains in full force and effect. This Amendment incorporates and includes all prior and contemporaneous negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this First Amendment that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior contemporaneous representatives or agreements, whether oral or written.

3.2 This Amendment may be amended only by written agreement of the parties. A party requesting amendment of the Amendment must propose such

amendment in writing to the other party at least forty-five (45) days prior to the proposed effective date of the amendment.

3.3 If any term or provision of this Amendment or the application thereof to any person or circumstance shall, to any extent be held invalid or unenforceable for the remainder of this Amendment, then the application of such term or provision to person or circumstances other than those as to which it is held invalid or unenforceable shall not be affected, and every other term and provision of this Amendment shall be deemed valid and enforceable to the extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day, month and year aforesaid.

[Signature page follows]

ATTEST:

Hazel F. Carson
City Clerk

CITY ATTORNEY'S OFFICE
Approved as to form
And legal sufficiency

By: AS

Date: 4-25-13

**EAST CENTRAL REGIONAL
WASTEWATER TREATMENT
FACILITIES OPERATION BOARD**

By: THE CITY OF WEST PALM BEACH
Its: Agent

By: Geraldine Muoio
Geraldine Muoio, Mayor

Dated: 4/29, 2013

ATTEST:
SHARON R. BOCK

By: _____
Clerk and Comptroller

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

BY: _____
Steven L. Abrams, Mayor

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

Date: _____, 2013

By: _____
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS:

By: Bruce Beamb
Department Director

ATTEST:

Hazel F. Carson
City Clerk

CITY ATTORNEY'S OFFICE
Approved as to form
And legal sufficiency

By: AS

Date: 4-25-13

THE CITY OF WEST PALM BEACH

By: Geraldine Muoio
Geraldine Muoio, Mayor

Dated: 4/29, 2013

Exhibit "C"

Location Onsite Water Reclamation Facility

