

36-3

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: September 10, 2013

Consent
 Workshop

Regular
 Public Hearing

Department: Office of Financial Management and Budget

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a negotiated settlement in the amount of \$228,372.00, inclusive of interest, to resolve the 2012 County public service tax dispute with AmeriGas Propane, L.P. (AmeriGas).

Summary: The Clerk & Comptroller's Audit Services Unit conducted an audit of AmeriGas' public service tax remittances to Palm Beach County for the period of January 1, 2012 thru December 31, 2012. After reviewing the data the County demanded \$250,580.62, inclusive of accrued interest. AmeriGas offered \$200,000.00 to resolve the outstanding public service tax dispute with the County to which the County submitted a counter offer of \$228,372.00, the principle amount due, which was agreed upon by both the County and AmeriGas. Staff recommends approval as this settlement recovers approximately 91% of the County's final demand for the year 2012 without the delay and cost of litigation. Countywide (PFK).

Background and Policy Issues: An audit of AmeriGas was performed by the Clerk & Comptroller's Audit Services Unit to determine if AmeriGas complied with the public service tax requirements of Florida Statute 166.234 and Palm Beach County Ordinance 89-13, as amended. The Clerk & Comptroller's Office audited sales transactions from January 1, 2012 thru December 31, 2012, and as a result of the audit, found that AmeriGas had underpaid Palm Beach County during this period. The County sent an assessment letter to AmeriGas relating the findings of the audit stating that the amount of \$250,580.62 is owed, by Amerigas, in unpaid public service taxes for the year in question inclusive of interest due for the period of January 1, 2012 thru December 31, 2012 with payment requested by September 30, 2013. On August 19, 2013 an agreement was reached for payment of the principle amount of \$228,372.00 to be paid no later than September 30, 2013.

The audit was initiated as a result of a request from the Director of the Office of Financial Management & Budget (OFMB), as a follow up to an audit of AmeriGas for 2009, 2010 and 2011. The first audit resulted in a settlement of \$350,000.00 which was approved by the Board of County Commissioners on January 15, 2013. As a result of the most recent audit, AmeriGas states that they have recently implemented changes to substantially reduce under-collection and remittance of public service tax payments to Palm Beach County in the future.

Attachments:

Recommended by: Elizabeth Brewer 8/30/13
Department Director Date

Approved by: [Signature] 8/21/13
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	<u>(\$228,372)</u>	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>(\$228,372)</u>	_____	_____	_____	_____

ADDITIONAL FTE
POSITIONS (Cumulative)

Is Item Included In Current Budget? Yes _____ No X
Budget Account No. Fund _____ Department _____ Unit _____ Object _____

Reporting Category _____

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

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

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

<p>_____ <i>[Signature]</i> 8/20/13 OFMB</p>	<p>_____ <u>N/A</u> _____ Contract Dev. and Control</p>
--------------------------------------------------	-------------------------------------------------------------

B. Legal Sufficiency:

_____ *[Signature]* 8/21/13
Assistant County Attorney

C. Other Department Review:

_____ N/A _____
Department Director