

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: April 15, 2014

☒ Consent

☐ Regular

☐ Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For: COUNTY ATTORNEY

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve: (a) Fourth Amendment to Legal Services Authorization 2011-0352-B with de la Parte & Gilbert, P.A., for legal services related to water policy issues; (b) Third Amendment to Legal Services Authorization 2011-0352-C with de la Parte & Gilbert, P.A., for miscellaneous legal services related to water utilities regulatory issues; (c) Third Amendment to Legal Services Authorization 2011-0353-A with Sundstrom & Mindlin LLP, for legal services related to the Water Utilities Department's sustainable business plan, modification of service availability policies, ratemaking, and related matters(collectively, the "Amendments").

**Summary:** On March 15, 2011, the Board of County Commissioners approved agreements with de la Parte & Gilbert, P.A. (R2011-0352) and Rose Sundstrom & Bentley, LLP (R2011-0353) for legal services related to water utilities issues. Pursuant to those agreements, work assignments were to be authorized by Legal Services Authorizations. The Amendments all extend the term of the applicable Legal Services Authorizations for one year to March 14, 2015. In addition, the Fourth Amendment to Legal Services Authorization 2011-0352-B with de la Parte & Gilbert, P.A., amends the not-to-exceed amount from \$116,800 to \$136,800. 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. 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 (n/k/a Sundstrom & Mindlin, 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 Fourth Amendment to Legal Services Authorizations 2011-0352-B
2. Two (2) Original Third Amendment to Legal Services Authorizations 2011-0352-C
3. Two (2) Original Third Amendment to Legal Services Authorizations 2011-0353-A
4. Budget Availability Statement

Recommended by:

County Attorney

Date

4/7/14

Approved by:

N/A

Date

## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2014	2015	2016	2017	2018
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	<u>20,000</u>	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u>20,000</u>	_____	_____	_____	_____
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

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

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

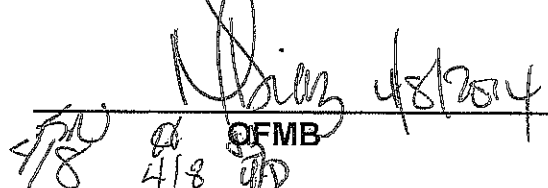
Reporting Category \_\_\_\_\_

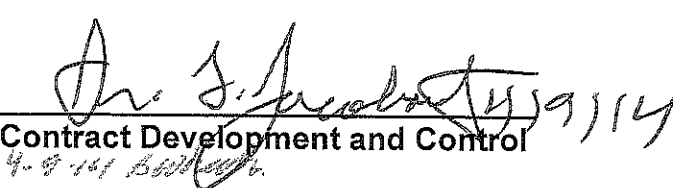
### B. Recommended Sources of Funds/Summary of Fiscal Impact:

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  
4/8/14

  
Contract Development and Control  
4-9-14 BSM

### B. Legal Sufficiency:

  
Assistant County Attorney  
4/7/14

### C. Other Department Review:

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

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

**FOURTH AMENDMENT TO LEGAL SERVICES  
AUTHORIZATION R2011-0352-B**

**THIS FOURTH AMENDMENT**, made and entered into this 15<sup>TH</sup> day of April, 2014, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "County," and de la Parte & Gilbert, P.A., a professional association, hereinafter referred to as "Outside Counsel".

**WHEREAS**, on May 3, 2011, County and Outside Counsel entered into Legal Services Authorization R2011-0352-B for Outside Counsel services related to water policy issues (hereinafter the "Water Policy LSA"); and

**WHEREAS**, on March 20, 2012, County and Outside Counsel entered into a First Amendment to Legal Services Authorization R2011-0352-B for Outside Counsel services related to water policy issues (hereinafter the "First Amendment"); and

**WHEREAS**, on December 4, 2012, County and Outside Counsel entered into a Second Amendment to Legal Services Authorization R2011-0352-B for Outside Counsel services related to water policy issues (hereinafter the "Second Amendment");

**WHEREAS**, on April 2, 2013, County and Outside Counsel entered into a Third Amendment to Legal Services Authorization R2011-0352-B for Outside Counsel services related to water policy issues (hereinafter the "Third Amendment");

**WHEREAS**, County and Outside Counsel wish to amend the Water Policy LSA to extend its term for one (1) additional year, and to increase the not-to-exceed amount to \$136,800.00.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements expressed herein, the parties hereby agree as follows:

1. The recitals set forth above are true and correct and are incorporated herein by specific reference.
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2. The section entitled "Deadline for Completion" of the Water Policy LSA is amended to reflect an expiration date of March 14, 2015.
  3. **Exhibit "A"** to the Water Policy LSA is hereby replaced in its entirety by the **Second Revised Exhibit "A"**, a copy of which is attached hereto and incorporated herein.
  4. The not-to-exceed amount of the Water Policy LSA is hereby amended to \$136,800.00.
  5. All other provisions of the Water Policy LSA, as amended by the First Amendment, the Second Amendment, and the Third Amendment, are hereby confirmed and, except as provided herein, are not otherwise altered or amended and shall remain in full force and effect.
-

IN WITNESS WHEREOF, the parties hereto have duly executed this Third Amendment this \_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

Sharon R. Bock, Clerk & Comptroller

**PALM BEACH COUNTY  
BOARD OF COUNTY  
COMMISSIONERS**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Priscilla A. Taylor, Mayor

**APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY**

By: \_\_\_\_\_  
Assistant County Attorney

Accepted by Outside Counsel:

**WITNESSES:**

**de la Parte & Gilbert, P.A.**

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Edward de la Parte, Jr.

\_\_\_\_\_  
Print Name

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

## **Second Revised Exhibit A**

### **WATER POLICY ISSUES SCOPE OF WORK AND BUDGET Agreement Between Palm Beach County and De La Parte & Gilbert, P.A. for Legal Services – Fourth Amendment – March 28, 2014**

#### **Background**

Palm Beach County owns and operates one of the five largest water utilities in the State of Florida. The Palm Beach County Water Utilities Department (PBCWUD) manages significant potable water, wastewater and reclaimed water system serving more than 500,000 persons. The Florida Department of Environmental Protection (DEP) and the South Florida Water Management District (District) are currently considering complaints regarding PBCWUD's permitted water use and are developing or may in the future develop policy concerning issues, which could potentially impact the operation of the PBCWUD utility system. Some of the issues currently being discussed by DEP and the District are the scope of the 10-year Compliance Report under Section 373.236(4), Florida Statutes, permit duration, historic wetland impact, water demands and conservation, reclaimed water offsets and credits, conditions of issuance for consumptive use permits, minimum flows and levels and reservations and certification of surface water for consumptive use under the Lower East Coast Rule and the Lower East Coast Regional Water Supply Plan update.

#### **Description of the Scope of Work**

Palm Beach County requested De La Parte & Gilbert, P.A. (Firm) to provide advice and counsel regarding water policy issues currently under discussion or which be discussed by DEP and the District. The Firm has provided such services for the past thirty-six (36) months from March 2011 through March 2014. Now, Palm Beach County wishes the Firm to continue providing these services for an additional twelve (12) months. This work will consist of conferring with PBCWUD staff and consultants, developing comment letters and position papers, attending meetings with District staff and other interested stakeholders, appearing on behalf of the County at public hearings and workshops and drafting rule language, guidance reports and other similar documents, whenever required by the County.

**Second Revised Water Policy Issues Scope of Work – Fourth Amendment**  
**March 28, 2014**

**Agreement Between Palm Beach County and  
De La Parte & Gilbert, P.A. for Legal Services**

Task Description <sup>1</sup>	Personnel Hours					
	Ed de la Parte	Other Shareholders	Assoc. Atty	Law Clerk	Paralegal	Total <sup>2</sup>
Advise PBCWUD regarding DEP/District Consolidated CUP Rulemaking and related issues.	50	0	60	0	50	160
Advise PBCWUD regarding DEP rulemaking and related issues.	25	0	25	0	30	80
Advise PBCWUD regarding complaints and other issues concerning its permitted water use.	45	0	50	0	60	155
Advise PBCWUD regarding its DEP permits and related issues.	25	0	20	0	30	75
Advise PBCWUD regarding certification of surface water for consumptive use under the Lower East Coast Reservation Rule.	30	0	35	0	30	95
Advise PBCWUD regarding Lower East Coast Regional Water Supply Plan Update.	25	0	30	0	30	85
<b>Total</b>	<b>200</b>	<b>0</b>	<b>220</b>	<b>0</b>	<b>230</b>	<b>650</b>

<sup>1</sup> Task descriptions have been updated to better describe the work to be performed for Palm Beach County.

<sup>2</sup> None of these estimates include fees or costs associated with judicial or administrative litigation or appeals.

**DE LA PARTE & GILBERT, P. A.**  
**WATER POLICY ISSUES SCOPE OF WORK**  
**SECOND REVISED BUDGET SUMMARY**

<b>Position</b>	<b>Rate</b>	<b>Hours</b>	<b>Amount</b>
Edward de la Parte	300	200	60,000
Other Shareholders	250	0	0
Associate Attorneys	200	220	44,000
Law Clerks	140	0	0
Paralegals	120	230	27,600
<b>Subtotal</b>		<b>650</b>	<b>\$131,600</b>
<b>Expenses</b>			<b>\$5,200</b>
<b>Total</b>			<b>\$136,800</b>



**THIRD AMENDMENT TO LEGAL SERVICE AUTHORIZATION  
R2011-0352-C**

**THIS THIRD AMENDMENT**, made and entered into this 15<sup>th</sup> day of April, 2014, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "County," and de la Parte & Gilbert, P.A., a professional association, hereinafter referred to as "Outside Counsel".

**WHEREAS**, on May 3, 2011, County and Outside Counsel entered into Legal Services Authorization R2011-0352-C for miscellaneous legal services related to water utilities regulatory issues (hereinafter the "Miscellaneous LSA"); and

**WHEREAS**, on March 20, 2012, County and Outside Counsel entered into the First Amendment to Legal Services Authorization R2011-0352-C for miscellaneous legal services related to water utilities regulatory issues (hereinafter the "First Amendment"); and

**WHEREAS**, on April 2, 2013, County and Outside Counsel entered into the Second Amendment to Legal Services Authorization R2011-0352-C for miscellaneous legal services related to water utilities regulatory issues (hereinafter the "Second Amendment"); and

**WHEREAS**, County and Outside Counsel wish to amend the Miscellaneous LSA to extend its term for one (1) additional year.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements expressed herein, the parties hereby agree as follows:

1. The recitals set forth above are true and correct and are incorporated herein by specific reference.
  2. The section entitled "Deadline for Completion" of the Miscellaneous LSA is amended to reflect an expiration date of March 14, 2015.
  3. All other provisions of the Miscellaneous LSA, as amended by the First Amendment and the Second Amendment, are hereby confirmed and, except as provided herein, are not otherwise altered or amended and shall remain in full force and effect.
-

IN WITNESS WHEREOF, the parties hereto have duly executed this  
Second Amendment this \_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

Sharon R. Bock, Clerk & Comptroller

**PALM BEACH COUNTY  
BOARD OF COUNTY  
COMMISSIONERS**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Priscilla A. Taylor, Mayor

**APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY**

By: \_\_\_\_\_  
Assistant County Attorney

Accepted by Outside Counsel:

**WITNESSES:**

**de la Parte & Gilbert, P.A.**

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Edward de la Parte, Jr.

\_\_\_\_\_  
Linda K Foy  
Print Name

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Erin H. Griffith  
Print Name

**THIRD AMENDMENT TO LEGAL SERVICES AUTHORIZATION  
R2011-0353-A**

**THIS THIRD AMENDMENT**, made and entered into this 15<sup>TH</sup> day of April, 2014, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "County," and Sundstrom & Mindlin, LLP, a Florida limited liability partnership, hereinafter referred to as "Outside Counsel".

**WHEREAS**, on May 3, 2011, County and Outside Counsel entered into Legal Services Authorization R2011-0353-A for Outside Counsel services related to the Water Utilities Department's sustainable business plan, modification of service availability policies, ratemaking, and related matters (hereinafter the "Sustainable LSA"); and

**WHEREAS**, on March 20, 2012, County and Outside Counsel entered into the First Amendment to Legal Services Authorization R2011-0353-A for Outside Counsel services related to the Water Utilities Department's sustainable business plan, modification of service availability policies, ratemaking, and related matters (hereinafter the "First Amendment"); and

**WHEREAS**, on April 2, 2013, County and Outside Counsel entered into a Second Amendment to Legal Services Authorization R2011-0353-A for Outside Counsel services related to the Water Utilities Department's sustainable business plan, modification of service availability policies, ratemaking, and related matters (hereinafter the "Second Amendment"); and

**WHEREAS**, County and Outside Counsel wish to amend the Sustainable LSA to extend its term for one (1) additional year.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements expressed herein, the parties hereby agree as follows:

1. The recitals set forth above are true and correct and are incorporated herein by specific reference.
  2. The section entitled "Terms of Performance/Deadline for Completion" of the Sustainable LSA is amended to reflect an expiration date of March 14, 2015.
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3. All other provisions of the Sustainable LSA, as amended by the first Amendment and the Second Amendment, are hereby confirmed and, except as provided herein, are not otherwise altered or amended and shall remain in full force and effect.

**THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, the parties hereto have duly executed this Third Amendment this \_\_\_\_ day of \_\_\_\_\_, 2014.

ATTEST:

Sharon R. Bock, Clerk & Comptroller

PALM BEACH COUNTY  
BOARD OF COUNTY  
COMMISSIONERS

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Priscilla A. Taylor, Mayor

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By: \_\_\_\_\_  
Assistant County Attorney

Accepted by Outside Counsel:

WITNESSES:

SUNDSTROM & MINDLIN, LLP

By: Bronwyn S. Revell  
Signature

By: William Sundstrom  
William Sundstrom

Bronwyn S. Revell  
Print Name

By: Deana C. Crass  
Signature

Deana C. Crass  
Print Name

INTEROFFICE COMMUNICATION  
PALM BEACH COUNTY  
WATER UTILITIES DEPARTMENT  
BUDGET AVAILABILITY STATEMENT

DATE: April 7, 2014

TO: Michael Jones, Assistant County Attorney

FROM: Guy Eggertsson, Fiscal Manager 1 *Guy Eggertsson*  
Water Utilities Department

RE: Amendments to Legal Services with de la Parte & Gilbert, P.A., and  
Sundstrom & Mindlin LLP

FISCAL IMPACT ANALYSIS:

Summary of Fiscal Impact:

Is item included in current budget? Yes X No \_\_\_\_

Budget Account Number:

Fund	Agency	Organization	Object	Amount
4001	720	1110	3125	\$136,800.00

Source of Funds:  
Water Utility User Fees