

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: April 21, 2015 Consent [X] Regular []
Public Hearings []

Department: Water Utilities Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a Settlement/Service Agreement with PFBG, LLC (Owner).

Summary: The old Belle Glade hospital was recently purchased by PFBG, LLC who plans to develop the property, which will result in significant economic benefits to the Glades Region of the County. The previous property owner incurred water and wastewater charges of \$289,565.88 dating back to 2010 that were never paid. The vast majority of the charges resulted from base charges and late fees that were incurred prior to the absorption of the Glades Utility Authority (GUA) by the County in May of 2013. According to County Policy, liens were placed on the property. Based on the age of the unpaid potable water and wastewater service charges it is in the County's best interest to negotiate a settlement of these liens. Staff is recommending a Settlement in the amount of \$144,782.94 due to the age of the charges and the fact that they were incurred prior to assumption of the GUA. District 6 (MJ)

Background and Justification: The Glade Region has been plagued with high unemployment and low economic opportunities. The Owner of the subject property is planning to provide employment and other economic opportunities with the planned development on the former Glades General Hospital site. Reducing the water and wastewater charges associated with this property will provide benefits to the County, WUD, the Owner, and the Glades Region. PPM #CW-F-048 regarding Receivables Corrections and Write-Offs allows for the proposed settlement and reduction in charges.

Attachment:

- 1. Two (2) Original Settlement/Service Agreement with PFBG, LLC.

Recommended By: Jim Stets Department Director Date 4-8-15

Approved By: [Signature] Assistant County Administrator Date 4/16/15

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2015	2016	2017	2018	2019
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	\$144,786.00	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Operating Expenses	\$289,566.00	<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	\$144,780.00	<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 4001 Dept 720 Unit 3334 Object 5602

Is Item Included in Current Budget? Yes No ___

Reporting Category N/A

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

PBCWUD will be receiving \$144,785.50 to satisfy the existing \$289,565.88 in outstanding charges, resulting in a net fiscal impact of \$144,780.

C. Department Fiscal Review: Selma M West

III. REVIEW COMMENTS

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

[Signature]
OFMB K10 4/10 4TB 5B 4/15

[Signature] 4/14/15
Contract Development and Control
4-14-15 B. Wheeler

B. Legal sufficiency:

[Signature] 4/16/15
Assistant County Attorney

C. Other Department Review:

Department Director

**SETTLEMENT AGREEMENT FOR
POTABLE WATER/WASTEWATER SERVICE CHARGES**

THIS AGREEMENT, made and entered into this _____ day of _____, _____, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida (hereinafter "County"), and **PFBG, LLC**, a Florida limited liability company (hereinafter "Property Owner").

WITNESSETH

WHEREAS, Property Owner purchased a property located in Belle Glade, which is more fully described and depicted in **Exhibit "A"** attached hereto and incorporated herein (hereinafter referred to as the "Property"); and

WHEREAS, potable water and wastewater service to the Property has been provided by the County since May 2013 and was provided by the Glades Utility Authority ("GUA") prior to May 2013; and

WHEREAS, the Property Owner is in arrears for potable water and wastewater service provided by the County and by the GUA to the Property; and

WHEREAS, liens have been placed on the Property for the unpaid potable water and wastewater service charges; and

WHEREAS, based on the age of the unpaid potable water and wastewater service charges and the uncertainty of collecting the full amount of the service charges, it is in the County's best interests to negotiate a settlement of the service charges; and

WHEREAS, the parties have negotiated and agreed upon a settlement amount to satisfy the unpaid potable water and wastewater service charges and to remove any liens from the Properties; and

NOW, THEREFORE, for and in consideration of these premises, the mutual undertakings and agreements herein contained and assumed, County and Property Owner hereby covenant and agree as follows:

1. **Recitals.** The foregoing statements are true and correct.
2. **Effective Date.** This Agreement shall become effective upon approval and execution by both parties. The Effective Date of this Agreement shall be the date the Agreement is approved and executed by the Palm Beach County Board of County Commissioners.
3. **Term.** Unless otherwise set forth herein, this Agreement shall commence on the Effective Date and continue until all obligations of the parties set forth herein are completed.
4. **Payment of Unpaid Service Charges.** Property Owner hereby agrees to pay County \$144,782.94 as full payment and satisfaction for all unpaid service charges on the Property through the effective date of this agreement. This payment shall not affect any unpaid service charges accruing after the effective date of this agreement. Said payment shall be made within thirty (30) days following

the Effective Date of this Agreement. Within thirty (30) days of verification of receipt of the funds from Property Owner, County shall execute and record a document satisfying all existing liens on the Property.

5. **Remedies.** This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter.

6. **Successors and Assigns.** The County and the Property Owner each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither the County nor the Property Owner shall assign, sublet, convey, or transfer its interest in this Agreement without prior written consent of the other.

7. **Waiver.** The failure of either party to insist on the strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that said party may have for any subsequent breach, default, or non-performance, and said party's right to insist on strict performance of this Agreement shall not be affected by any previous waiver of course or dealing.

8. **Severability.** If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable by any court of competent jurisdiction, then the remainder of this Agreement, or the application of such terms or provision, to persons 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 Agreement shall be deemed valid and enforceable to the extent permitted by law.

9. **Notice.** All notices provided for herein shall be in writing and transmitted by mail or by courier, and, if to the Property Owner, shall be mailed or delivered to the Property Owner at:

PFBG, LLC
1615 Forum Place, Suite 3A
West Palm Beach, FL 33401

and if to County, shall be mailed or delivered at:

Palm Beach County Water Utilities Department
8100 Forest Hill Boulevard
P.O. Box 16097
West Palm Beach, FL 33416-6097.
Attn: Department Director

10. **Amendment and Modification.** This Agreement may only be amended modified, changed, supplemented or discharged by an instrument in writing signed by the parties hereto.

11. **Entirety of Agreement.** The County and the Property Owner agree that this Agreement and any Exhibits hereto set forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties.

12. **Palm Beach County Office of the Inspector General.** Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

13. **No Third Party Beneficiary.** No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the County and/or the Property Owner.

14. **Non-Discrimination.** Property Owner warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information.

Property Owner has submitted to County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as amended, or in the alternative, if Property Owner does not have a written non-discrimination policy or one that conforms to County's policy, it has acknowledged through a signed statement provided to County that it will conform to County's non-discrimination policy as provided in R-2014-1421, as amended.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, County and Property Owner have executed or have caused this Agreement, with the named Exhibits attached, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement.

ATTEST:

SHARON R. BOCK, CLERK AND
COMPTROLLER

PALM BEACH COUNTY, BY ITS BOARD OF
COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Shelley Vana, Mayor

(SEAL)

APPROVED AS TO FORM AND TO
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: _____
County Attorney

By: Jim Stiles
Director of Water Utilities

WITNESSES:

[Signature]
Richard Zaritsky
Type or Print Name

Susan M. Hetzel
Susan M. Hetzel
Type or Print Name

PROPERTY OWNER: PEBG, LLC

By: Chris Prentiss
Signature
MANAGER Florida PASSAGERS LLC
Title
Chris Prentiss
Typed or Printed Name

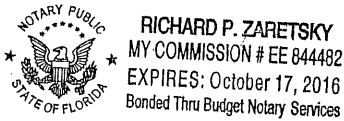
[Corporate
Seal]

NOTARY CERTIFICATE

STATE OF FLORIDA
COUNTY PALM BEACH

The foregoing instrument was acknowledged before me this 17 day of March, 2005 by Chris Prentiss. He/she is personally known to me or has produced _____ as identification.

[Signature]
Signature of Notary



Typed, Printed, or Stamped Name
of Notary

Notary Public

Serial Number

Exhibit "A"

Beginning at the Northwest corner of the NW 1/4 of the SW 1/4 of Section 5, Township 44 South, Range 37 East, thence North 89 degrees, 38 minutes East, a distance of 688.93 feet, thence South 01 degrees, 05 minutes West, a distance of 990.21 feet, thence South 89 degrees, 39 minutes West, a distance of 690.93 feet, thence North 01 degrees, 12 minutes East, a distance of 990.02 feet to the Point of Beginning.

LESS AND EXCEPT, the North 30 feet thereof as conveyed to the City of Belle Glade in Official Records Book 1495, Page 53;

and also LESS AND EXCEPT that part conveyed to the State of Florida Department of Transportation in Deed recorded in Official Records Book 2336, Page 795, of the Public Records of Palm Beach County, Florida.

Having Parcel Control Number: 04-37-44-05-01-023-0040

Having General Street Address of : 1201 S. Main Street, Belle Glade, Florida