

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

**Meeting Date: April 5, 2016**

**Consent [ ]**  
**Public Hearing [ ]**

## Regular [X]

**Department:** Water Utilities Department

## **I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve: an Interlocal Agreement Between Palm Beach County and Broward County Related to the Construction, Ownership, Operation, and Maintenance of a Regional Reclaimed Water System (Agreement).

**Summary:** The Broward County/Palm Beach County Reclaimed Water Project (Project) was developed by staff from both Counties to allow Broward County to meet the requirements of the Ocean Outfall Law and to allow the Palm Beach County Water Utilities Department (WUD) to expand the provision of reclaimed water to additional customers in southern Palm Beach County. The Agreement requires Broward County to construct and operate transmission and treatment capacity improvements to deliver reclaimed water from Broward County's northern wastewater treatment plant to the WUD reuse distribution system.

The Agreement additionally provides that Broward County will finance 100% of the cost to design, permit and construct those portions of the new system in Palm Beach County. It is anticipated that the total cost for this new system in Palm Beach County is \$44 Million. The initiation of reclaimed water service from Broward County to Palm Beach County is to occur within a minimum of five (5) years to a maximum of seven (7) years from the effective date of the Agreement, and is dependent upon the timing of completion of the required infrastructure by Broward County.

Palm Beach County's obligation to pay the established minimum charge for the reclaimed water being provided occurs at the time service is initiated, regardless of whether Palm Beach County has completed construction of its portion of the project. The established minimum charge is \$.05 per 1,000 gallons and a minimum reserve capacity of two (2) million gallons per day. Palm Beach County is required to repay Broward County the actual cost to design, permit and construct the system in Palm Beach County. Repayments will be made from revenues received from the sale of reclaimed water to users of the new system. There is no repayment term or penalty for failure to repay within a certain period. During the period of repayment, Broward County will own the entire system while Palm Beach County will operate and maintain the portion of the system residing in Palm Beach County. Once the total amount of the Project cost is repaid, the portion of the reclaimed system located in Palm Beach County will be turned over to Palm Beach County ownership. WUD has incurred \$303,326.17 in pre-agreement costs consisting of preliminary professional services expenses that will be invoiced and repaid by Broward County upon finalization of the Agreement.

The Project has the potential to provide environmental benefits to both Counties, including ground water recharge, mitigation of salt water intrusion and a reduced reliance on treated potable water for irrigation needs. Districts 4 and 5 (MJ)

**Background and Justification: Continued on Page 3**

**Attachments:**

1. Staff Presentation
2. Three (3) Original Interlocal Agreements

Recommended By:

**Department Director**

Date \_\_\_\_\_

Approved By:

Assistant County Administrator

Date \_\_\_\_\_

## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures	<u>0</u>	<u>7,250,000</u>	<u>0</u>	<u>40,153,000</u>	<u>0</u>
External Revenues	<u>0</u>	<u>(7,250,000)</u>	<u>0</u>	<u>(40,153,000)</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	<u>0</u>	<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 4011 Dept 721 Unit W039 Object 6543

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

Reporting Category N/A

\* Project budgeted in FY 2017

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

The County will procure design and construction services for the construction of that portion of the Project that will be undertaken in the County. Broward County will then reimburse the County for those expenditures. The County will then repay its portion of the Project costs through the revenues produced by the project.

C. Department Fiscal Review: debra m vest

## III. REVIEW COMMENTS

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

[Signature]  
3/23 3/23 OFMB

[Signature] 3/25/16  
Contract Development and Control

### B. Legal Sufficiency:

[Signature] 3/25/16  
Assistant County Attorney

### C. Other Department Review:

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

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

**Background and Justification:** Broward County currently utilizes ocean outfalls for the disposal of treated wastewater. In 2008, the Florida Legislature approved and the Governor signed the Ocean Outfall Law which requires all wastewater utilities in southeast Florida utilizing ocean outfalls for disposal of treated wastewater to reduce nutrient discharges by 2018, cease using the outfalls by 2025, and reuse 60% of the wastewater flows by 2025. As a result, Broward County needed to find a way to meet the requirements of the statute. Palm Beach County has additional demand for reclaimed water south of Clint Moore Rd. outside of its current reclaimed water service area. Palm Beach County and Broward County negotiated the proposed agreement that will allow Broward County to meet its legal obligations while allowing Palm Beach County to expand its customer base for reclaimed water. The project will additionally provide environmental benefits as well as regulatory benefits when WUD seeks to renew its existing consumptive use permit.

**INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY AND BROWARD  
COUNTY RELATED TO THE CONSTRUCTION, OWNERSHIP, OPERATION, AND  
MAINTENANCE OF A REGIONAL RECLAIMED WATER SYSTEM**

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between **PALM BEACH COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter "Palm Beach"), and **BROWARD COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter "Broward"). Palm Beach and Broward are hereinafter sometimes referred to as the "Parties" or individually referred to as a "Party".

**WITNESSETH**

**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**, due to changes in Florida law, it is necessary for Broward to curtail the use of ocean outfall for the disposal of treated effluent and to expand the reuse of domestic wastewater; and

**WHEREAS**, Reclaimed Water is an environmentally sound, sustainable, and cost effective method of providing alternative non-potable water supply to meet regional irrigation needs; and

**WHEREAS**, Broward wishes to sell, and Palm Beach wishes to purchase, Reclaimed Water pursuant to the terms and conditions of this Agreement; and

**WHEREAS**, Broward is in the process of expanding its Reclaimed Water treatment capabilities to further treat effluent; and

**WHEREAS**, Broward does not have sufficient customers located in the general vicinity of its Reclaimed Water treatment facilities to dispose of the required amount of Reclaimed Water; and

**WHEREAS**, Palm Beach is in need of additional Reclaimed Water to provide to its Customers in southern Palm Beach County; and

**WHEREAS**, Palm Beach seeks to provide a positive net benefit to the regional water system through the elimination of water withdrawals by currently permitted users in Palm Beach through the provision of Reclaimed Water within its service area; and

**WHEREAS**, Broward can provide Reclaimed Water to meet current and future reclaimed water demands of southern Palm Beach County; and



**WHEREAS**, Broward wishes to have Palm Beach construct the Regional Reclaimed Water System (“RRWS”) Facilities, to provide for the operation and maintenance of the RRWS Facilities by Palm Beach, and to own the RRWS Facilities until all Actual Project Costs have been fully reimbursed to Broward, at which time ownership of the RRWS Facilities will transfer to Palm Beach; and

**WHEREAS**, Palm Beach shall construct, operate, and maintain the RRWS Facilities; and

**WHEREAS**, the RRWS is in accordance with legislative direction supporting the development of regional water projects; and

**WHEREAS**, the South Florida Water Management District has publicly supported the RRWS; and

**WHEREAS**, the Parties agree that the construction and operation of the RRWS and the provision of Reclaimed Water to Customers of Palm Beach is beneficial to the citizens of both Broward and Palm Beach; and

**WHEREAS**, the Parties seek to set forth in this Agreement a framework for the Parties to accomplish the goals and tasks of the RRWS set forth above.

**NOW, THEREFORE**, for and in consideration of these premises, the mutual undertakings and agreements herein contained and assumed, Palm Beach and Broward hereby covenant and agree as follows:

1. Recitals. The foregoing statements are true and correct and are incorporated herein by reference.
2. Effective Date. This Agreement shall become effective upon approval by both Parties. The Effective Date of this Agreement shall be the date the later of the Board of County Commissioners of Palm Beach or Broward approves the Agreement.
3. Term. The Term of this Agreement shall commence on the Effective Date and shall continue in full force until terminated in accordance with Section 9 herein.
4. Definitions. The following definitions and references are given for the purpose of interpreting the terms as used in this Agreement and apply unless the context indicates a different meaning:

“Actual Project Costs” means all costs related to the construction of the RRWS Facilities, including the permitting, studies, land acquisition, designing, engineering, construction, testing, equipping, and commissioning of the RRWS Facilities. The Actual Project Costs shall include the Pre-Agreement Expenses and all other expenses (including finance costs incurred by Broward in the issuance of any bonds or other financing mechanism for the construction of the RRWS Facilities) related to the financing, planning and construction of the RRWS Facilities, regardless of whether such expenses were incurred prior to or subsequent to the Effective Date of this Agreement. Any grant received for the construction of the RRWS Facilities shall be deducted from the Actual Project Costs.

The total amount of Actual Project Costs shall be set forth on the Bill of Sale provided for in Section 5.4 hereof.

“Agreement” means this Interlocal Agreement between Palm Beach and Broward related to the construction, ownership, operation and maintenance and transfer of ownership of the RRWS.

“Annual Average Daily Flow” means the average daily flow through the Master Meter, calculated on an annual basis. For example, the Annual Average Daily Flow for a year in which 3,836,150,000 gallons of Reclaimed Water passed through the Master Meter would be 10.51 MGD (3,836,150,000 gallons/365 days = 10.51 MGD).

“Bill of Sale” has the meaning set forth in Section 5.4.

“Broward” has the meaning set forth in the preamble to this Agreement.

“Broward Master Bond Resolution” means Resolution No. 88-4066 duly adopted by the Board of County Commissioners of Broward on September 6, 1988, as amended and supplemented.

“Broward’s Reclaimed Water System” means the system owned and operated by Broward for the production and distribution of Reclaimed Water to all retail, wholesale, and bulk customers of Broward, said system being located on Broward’s side of the Regional Point of Connection.

“Bulk Reclaimed Water Minimum Charge” means the monthly minimum amount charged to Palm Beach, calculated by multiplying the Bulk Reclaimed Water Rate by the Minimum Reserve Capacity, expressed in 1,000 gallon units, in effect at the time. The Bulk Reclaimed Water Minimum Charge is required to be paid by Palm Beach regardless of whether Palm Beach accepts the Minimum Reserve Capacity. The Bulk Reclaimed Water Minimum Charge shall be used to determine the minimum monthly billing for Reclaimed Water set forth in Section 6.4, and shall be adjusted in accordance with Section 6.2 where the Reclaimed Water fails to meet the Reclaimed Water Quality Parameters.

“Bulk Reclaimed Water Rate” has the meaning set forth in Section 6.3.

“Customers” shall mean retail Reclaimed Water customers of Palm Beach who receive Reclaimed Water supplied by Broward County.

“Days” or “days” means the calendar days of the week, consisting of Sunday through Saturday.

“Effective Date” has the meaning set forth in Section 2.

“Effective Retail Rate” means Palm Beach’s standard rate for Customers, calculated as a blended rate per thousand gallons considering base fees, commodity fees, and any other fees directly contributing to the total charge per thousand gallons, as adopted from time to time by the Palm Beach Board of County Commissioners, and as generally applies to Customers in southern Palm Beach County, and as published in its Uniform Policies and Procedures. A sample of the calculation of the Effective Retail Rate is set forth in **Exhibit “A”**, which is attached hereto and incorporated herein.

“Estimated Project Costs” means the total estimated capital costs of the RRWS Facilities, including the permitting, siting, designing, engineering, construction, testing, equipping and commissioning of the RRWS Facilities, as more fully set forth in **Exhibit “B”**, which is attached hereto and incorporated herein. Should the Estimated Project Costs materially increase, Palm Beach shall notify Broward in writing within fifteen (15) days of such increase. Cumulative increases of 5% (five percent) or more, in Estimated Project Costs, are subject to approval by Broward.

“Master Meter” means that meter located at the Regional Point of Connection utilized to measure the amount of Reclaimed Water provided by Broward to the RRWS. The Master Meter and meter box is not a part of the RRWS Facilities and shall be paid for, supplied by, installed by, owned, operated, and maintained by Broward at Broward’s cost.

“MGD” means million gallons per day.

“Minimum Reserve Capacity” means the minimum amount of Reclaimed Water that Broward guarantees to be able to provide the RRWS for the sole use of Palm Beach, expressed as an Average Daily Flow calculated on an annual basis. The Minimum Reserve Capacity is also the minimum amount of Reclaimed Water that Palm Beach is required to pay for, unless Broward fails to meet the Reclaimed Water Quality Parameters set forth in Section 6.2 and **Exhibit “F”** hereto.

“Operation and Maintenance Costs” has the meaning set forth in Section 7.1.

“Operations Plan” has the meaning set forth in Section 8.2.

“Palm Beach” has the meaning set forth in the preamble to this Agreement.

“Palm Beach’s Reclaimed Water System” means the system operated by Palm Beach for the distribution of Reclaimed Water to Palm Beach’s Customers, said system being located on Palm Beach’s side of the Regional Point of Connection.

“Parties” has the meaning set forth in the preamble to this Agreement.

“Party” has the meaning set forth in the preamble to this Agreement.

“Peak Flow Rate” has the meaning set forth in Section 6.1.

“Plant” means the “Broward County North Regional Wastewater Treatment Plant”

“Pre-Agreement Expenses” are those expenses incurred by Palm Beach related to the development and financing of the RRWS prior to the Effective Date of this Agreement. The Pre-Agreement Expenses shall be limited to: legal costs of Palm Beach (both internal and external); costs incurred by consultants of Palm Beach in creating the business terms of the RRWS; and costs incurred by consultants of Palm Beach related to the preliminary design of the RRWS. The Pre-Agreement expenses are set forth in **Exhibit “E”**, which is attached hereto and incorporated herein.

“Reclaimed Water” means effluent derived in any part from a wastewater treatment system that has been adequately and reliably treated, so that as a result of that treatment, it is suitable for a beneficial use. Reclaimed Water: (i) has received at least secondary treatment and high level disinfection; (ii) complies with all regulatory standards, including, without limitation, those set forth in Florida Administrative Code Section 62-610 and **Exhibit “F”** hereto, and (iii) is reused after flowing out of the Plant or other Broward County reclamation facility.

“Reclaimed Water Quality Parameters” means the water quality levels set forth in **Exhibit “F”** hereto.

“Regional Point of Connection” means the location where Broward’s Reclaimed Water System is connected to the RRWS. The point of delineation between Broward’s Reclaimed Water System and Palm Beach’s Reclaimed Water System is as depicted in **Exhibit “C”**, which is attached hereto and incorporated herein. Broward shall attempt and make every good faith effort necessary to provide the minimum pressure at the Regional Point of Connection of **45 psi**.

“Regional Reclaimed Water System” or “RRWS” means Palm Beach’s construction, operation, and maintenance of a Reclaimed Water transmission system designed to deliver Reclaimed Water from the Regional Point of Connection to Customers located in southern Palm Beach County.

“Regional Reclaimed Water System Facilities” or “RRWS Facilities” means the Reclaimed Water transmission facilities being constructed in accordance with this Agreement. The preliminary location and route of the RRWS Facilities is attached hereto and incorporated herein as **Exhibit “D”** for information purposes only.

“Service Initiation Date” means the date that Reclaimed Water service from Broward to Palm Beach is initiated in accordance with this Agreement (excepting any testing procedures as set forth in Section 6.1.) Unless otherwise agreed to by the parties, the Service Initiation Date shall occur five (5) years after the Effective Date, provided that Broward is able to provide Reclaimed Water at the Regional Point of Connection in accordance with this Agreement. Should Broward not be able to provide Reclaimed Water within five (5) years, the Service Initiation Date shall be the date that Broward is able to provide Reclaimed Water at the Regional Point of Connection in accordance with this Agreement, which shall occur no later than seven (7) years following the Effective Date. Palm Beach’s obligation to pay the Bulk Reclaimed Water Minimum Charge shall begin on the Service Initiation Date, regardless of whether the System Completion Date has occurred.

“System Completion Date” means the date that all construction and regulatory approvals, if any, related to the RRWS Facilities are completed and this system is ready to receive Reclaimed Water from Broward.

“System Revenues” has the meaning set forth in Section 8.

5. **Construction of RRWS Facilities.** In accordance with the terms and conditions specified in this Agreement, Palm Beach shall be responsible for all aspects of the construction of the RRWS

Facilities, including the permitting, siting, designing, engineering, construction, testing, equipping, and commissioning of the RRWS, as more specifically set forth below.

**5.1 Construction Services.** Palm Beach shall be responsible for:

- a. obtaining any required approvals and permits necessary for designing, engineering, procuring, constructing, commissioning, operating and maintaining the RRWS Facilities in such manner and pursuant to such schedule as will enable the commencement of the operation of the RRWS ;
- b. acquiring all lands and easements necessary for the construction, operation and maintenance of the RRWS, provided, to the maximum extent possible, Palm Beach shall utilize public lands and, as permitted by law, shall exercise its power of eminent domain to obtain such lands and easements;
- c. those activities necessary to design, engineer, and procure all necessary construction services, and procuring all necessary materials for the construction and commissioning of the RRWS.

**5.2 Procurement of Construction Services and Materials.** The procurement of any necessary services and materials shall be in accordance with the Palm Beach Procurement Code (Section 2-51 *et seq*, Palm Beach County Code) and applicable Florida Statutes. Broward shall be named as a beneficiary on any payment and performance bonds and as an additional insured on all required insurance policies. Award of the construction contract by Palm Beach is subject to review and approval by Broward, and such approval shall not be unreasonably withheld.

**5.3 Reimbursement of Actual Project Costs.** Broward shall be responsible for funding the construction of the RRWS and Broward shall reimburse Palm Beach for all Actual Project Costs during the design and construction of the RRWS Facilities. In order to receive reimbursement of Actual Project Costs, Palm Beach shall provide monthly invoices to Broward detailing Palm Beach's costs for the previous month. An invoice for Pre-Agreement Expenses may be submitted any time after the Effective Date of this Agreement. Following receipt of each proper invoice, Broward shall have thirty (30) days to provide reimbursement. However, should Broward dispute any invoice, Broward shall provide payment to Palm Beach of the undisputed invoice amount in a timely manner, and simultaneously provide notice to Palm Beach of the disputed item(s). All disputes related to reimbursements of Actual Project Costs shall be resolved by the dispute resolution process set forth in Section 15. To the extent that the dispute resolution process results in a mutually agreed decision that an invoice was correct, Broward shall pay Palm Beach the agreed upon disputed amount within thirty (30) days of the mutually agreed decision.

**5.4 Ownership of RRWS Facilities.** During the construction of the RRWS and until such time that ownership is transferred to Broward in accordance with the procedure set forth below, Palm Beach shall own the unfinished RRWS Facilities and shall be responsible for the work site. Within thirty (30) days after the System Completion Date, and consistent with any financing requirements, Palm Beach shall deliver, or cause to be delivered, to Broward, a fully executed document, in a form reasonably acceptable to the Parties, which transfers ownership of the RRWS Facilities to Broward

(the “Bill of Sale”). While Broward shall hold legal title to the RRWS Facilities, Palm Beach shall have the right and obligation to operate and maintain the RRWS Facilities. The consideration for delivering the Bill of Sale and transfer of ownership to Broward is the provision of Reclaimed Water to Palm Beach by Broward.

**5.5 Real Property Ownership.** In the event that Palm Beach is required to purchase real property in order to locate RRWS Facilities, and the purchase of said real property is reimbursed as an Actual Project Cost in accordance with Section 5.3 above, such real property shall be owned by Broward and titled in Broward’s name until such time that the Actual Project Costs have been fully reimbursed, at which time ownership of said real property shall transfer to Palm Beach in accordance with Section 9 below. Prior to any acquisition of real property by Palm Beach, Palm Beach shall obtain approval from Broward of the proposed purchase price. In the event that Broward owns any real estate as set forth in this Section 5.5, Broward shall grant, in a form acceptable to the parties, to Palm Beach all necessary rights to occupy and use of such property in furtherance of Palm Beach’s obligation to operate and maintain the RRWS Facilities, at no cost to Palm Beach.

**5.6 Construction Milestones.** This Agreement is contingent upon the construction of (a) the RRWS Facilities by Palm Beach and (b) certain facilities on Broward’s side of the Regional Point of Connection by Broward, including modifications to the Plant and a transmission pipeline from the Plant to the Regional Point of Connection. In order for the Parties to provide good faith assurances that said construction is being completed in a timely manner, and in order to enhance the ability to coordinate timing of financial and project development activities outside the scope of the RRWS, Broward and Palm Beach agree to provide each other with written notice of the completion of the construction milestones set forth in **Exhibit “K”**, which is attached hereto and incorporated herein.

**6. Bulk Reclaimed Service.** Broward agrees to set aside and reserve sufficient capacity of Reclaimed Water and to sell Reclaimed Water to Palm Beach, and Palm Beach agrees to purchase Reclaimed Water from Broward in accordance with the following terms and conditions:

**6.1 Minimum Reserve Capacity.** Broward agrees to make available Reclaimed Water to Palm Beach at the Regional Point of Connection in accordance with the following table:

Table 1 – Minimum Reserve Capacity Schedule	
YEAR	Minimum Reserve Capacity
Years 1 through 7 following Service Initiation Date	2 MGD
Year 8 until full reimbursement of Actual Project Costs	10.51 MGD

Broward shall provide the Minimum Reserve Capacity set forth above, and Palm Beach shall pay the Bulk Reclaimed Water Minimum Charge for that year, which shall be reduced only in accordance with Section 6.2 below. Palm Beach may also elect to pay for the Minimum Reserve Capacity but not to accept the Reclaimed Water. The parties acknowledge that the Minimum Reserve Capacity is defined on an Annual Average Daily Flow basis, and that, based on climatic conditions and other demand factors, that daily flow rates may be significantly higher or lower throughout the year. In order to meet the peak needs of Palm Beach, Broward shall provide

Reclaimed Water to Palm Beach at a rate of up to 1.5 times the Minimum Reserve Capacity on any given day during the Term of this Agreement (the "Peak Flow Rate"). While Broward cannot guarantee the availability of effluent, Broward reasonably believes that it shall have sufficient effluent to meet the Peak Flow Rate, and agrees that it shall: (a) design and construct the Plant in order to meet the Peak Flow Rate; and (b) not enter into any agreements for the sale of Reclaimed Water which will jeopardize its ability to meet the Peak Flow Rate. Broward shall prioritize the delivery of Reclaimed Water to Palm Beach, up to the Peak Flow Rate, over any other customers receiving Reclaimed Water from the Plant. Broward's agreement to meet the Peak Flow Rate does not modify the Minimum Reserve Capacity reserved under this Agreement. Broward shall make all reasonable efforts to make Reclaimed Water in excess of the Minimum Reserve Capacity available to Palm Beach. The Minimum Reserve Capacity may be modified by letter agreement signed by the Directors of the Broward Water & Wastewater Services and the Palm Beach Water Utilities Department. Broward agrees that testing of the RRWS Facilities will need to occur prior to the System Completion Date, and that, to the extent that Broward is able to do so, Broward will provide Reclaimed Water to Palm Beach at flow rates lower than the Minimum Reserve Capacity to assist with this testing, to be paid for by Palm Beach at the Bulk Reclaimed Water Rate.

**6.2 Reclaimed Water Quality Requirements.** Broward shall use its best efforts to ensure that the Reclaimed Water supplied to Palm Beach at the Regional Point of Connection meets the Reclaimed Water Quality Parameters set forth in **Exhibit "F,"** which is attached hereto and incorporated herein. Broward shall be responsible for having the Reclaimed Water sampled and tested at the Regional Point of Connection, as required by any regulatory agencies, and also at any facility which produces Reclaimed Water which is then provided to Palm Beach through the Regional Point of Connection. Broward's daily Plant and Regional Point of Connection samples shall be based on a composite sample created from three sampling events at both the Plant and the Regional Point of Connection obtained over an 8 hour period. Palm Beach shall be responsible for any required sampling or testing on the Palm Beach side of the Regional Point of Connection. Broward and Palm Beach shall only use State Certified Laboratories. Palm Beach shall have no obligation to accept or pay for any Reclaimed Water which fails to meet the Reclaimed Water Quality Parameters at any facility which produces Reclaimed Water or at the Regional Point of Connection, and the Bulk Reclaimed Water Minimum Charge shall be reduced based on the number of days that Broward is unable to meet the Reclaimed Water Quality Parameters. Broward shall notify Palm Beach of any failure to meet the Reclaimed Water Quality Parameters in a timely manner upon notice of such failure.

**6.3 Bulk Reclaimed Water Rate.** On the Service Initiation Date, the Bulk Reclaimed Water Rate for Reclaimed Water delivered through the Master Meter up to the Minimum Reserve Capacity shall be **\$.05 per one thousand (1,000) gallons.** This rate shall also apply to Reclaimed Water in excess of the Minimum Reserve Capacity, except that, if any Reclaimed Water provided in excess of the Minimum Reserve Capacity is produced at a treatment facility other than that facility located at the Plant or requires a material expansion to the Plant, then Broward may base the rate for Reclaimed Water greater than the Minimum Reserve Capacity on those rates that Broward charges to other similarly situated large users of the other facility or the expanded Plant, with adjustments based on generally accepted cost of service ratemaking methods accounting for the operating costs incurred by Broward County. The Bulk Reclaimed Water Rate shall remain effective until the Actual Project Costs are fully reimbursed, at which time the Parties shall

negotiate a new mutually agreed Bulk Reclaimed Water Rate, which shall be based on the rate that Broward charges to other similarly situated large users of Reclaimed Water, with adjustments based on generally accepted cost of service ratemaking methods to reflect those operating costs incurred by Broward exclusive of Palm Beach's operating costs for the RRWS.

**6.4 Payment Terms.** Broward will invoice Palm Beach monthly based on the actual Reclaimed Water supplied to the RRWS multiplied by the Bulk Reclaimed Water Rate. Palm Beach shall make payment within thirty (30) days of receipt of the invoice. Should Palm Beach fail to pay an invoice within thirty (30) days of receipt, Palm Beach shall pay a penalty of one percent (1%) per month past due until paid in full, or at the highest rate allowable by law, whichever is less. If Palm Beach disputes an invoice, Palm Beach shall notify Broward in writing of its disagreement with such invoice within fifteen (15) calendar days of receipt of said invoice, but Palm Beach shall still be required to pay the disputed invoice to Broward in accordance with this Section, and will be subject to any applicable penalties for non-payment. Disputes shall be resolved in accordance with the dispute resolution process set forth in Section 15. Upon resolution of the billing dispute, Palm Beach shall be reimbursed (or credited) for any funds paid to Broward in excess of the final decision of such dispute and billed penalties for non-payment in accordance with this section.

**6.5 Determination of Annual Average Daily Flow/True-up.** Following October 1 of each year, Broward will determine the prior year's Annual Average Daily Flow through the Master Meter, and will true up the prior year's billing, including whether an additional charge is required based on whether the Annual Average Daily Flow exceeds the Minimum Reserve Capacity. An example of the annual true-up calculation is attached hereto and incorporated herein as **Exhibit "G"**. The true-up calculation will then be utilized in the distribution of System Revenues as set forth in Article 8.1 and will be included in November billings.

**6.6 Meter Accuracy.** Broward shall be responsible for an annual inspection and report prepared regarding the condition and accuracy of the Master Meter. A copy of the annual report on meter inspection shall be furnished to Palm Beach. Palm Beach shall have the right to make its own meter inspection, or to have an independent company inspect the metering equipment at any time; provided, however, no such inspection shall be made unless Palm Beach provides written notice to Broward of the date and time of its intent to have the inspection made, nor shall any such inspection be made prior to twenty-four (24) hours subsequent to the receipt of said notice by Broward. "Receipt" by Broward under the prior sentence may only occur Monday-Friday during business hours, excluding all Broward County holidays. All costs and expenses of Palm Beach's interim inspection shall be borne by Palm Beach. If the meter is found not to be in reasonably good working order, Broward shall reimburse Palm Beach the cost incurred as a result of the interim inspection.

**6.7 Time Period Limitation In Case of Master Meter Inaccuracy.** Should the Master Meter be found to be inaccurate beyond applicable industry standards, the Master Meter will be assumed to have been inaccurate since the time of the meter accuracy failure or since the last meter inspection or for a period of three months, whichever time should be less, and the next monthly billing shall be adjusted accordingly, with either an additional charge or a credit.

**6.8 Presumed Flow and Required Payment In Case of Master Meter Inaccuracy.** If at any time the Master Meter is inaccurate with respect to the quantity of Reclaimed Water flow as provided



in Section 6.7, the Parties will agree to an appropriate amount of flow to be utilized for determining the additional charge or credit, and shall consider all appropriate factors in determining the approximate flow through the Master Meter, including, but not limited to, flow through the Master Meter during the same period of time in prior years.

**6.9 Security.** The Parties shall be responsible jointly and severally for security of the Regional Point of Connection, including provision of access locking features so that each Party can have keyed access to the valve vaults. The Master Meter will be controlled by valves which can only be operated by representatives of either Broward or Palm Beach County's respective utilities. Only authorized employees of either Broward or Palm Beach will operate the valves at the Master Meter. Broward and Palm Beach shall provide 1 hour prior notice, except in emergency situations, to each other prior to operating valves at the Master Meter or any valve in the RRWS, or on Broward's transmission main, that would stop flow through the meter.

**6.10 Regulatory Credits/Benefits of Reuse.** The parties agree that any water supply regulatory benefits and reuse credits that accrue as a result of the provision of Reclaimed Water from the RRWS within Palm Beach County will be retained by Palm Beach County for utilization in any applicable water supply regulatory processes with the exception that Broward will receive credit towards meeting Broward's 60% reuse goal in accordance with F.S. 403.086(9)(c)(1).

**7. Operation of System.** Palm Beach shall be responsible for operation and maintenance of the RRWS Facilities as well payment of operation and maintenance costs. Broward agrees that Palm Beach shall so operate and maintain the RRWS as a manager on its behalf in accordance with Florida Administrative Code 62-610. The Parties agree to execute an Operation and Maintenance Agreement, substantially in the form of Exhibit J, on or before October, 2017. The requirements set forth in Subsection 7.1, below, shall be incorporated into the Operation and Maintenance Agreement.

**7.1 Operation and Maintenance Costs** - Operation and maintenance (O&M) services shall include proper verification, documentation and preventative maintenance (PM) meant to assess and measure the integrity and continued performance of the RWWS Facilities. Maintenance costs shall include but not be limited to all labor and materials required to provide corrective and preventive maintenance activities for the RRWS Facilities costing up to \$200,000 per incident. Corrective maintenance activities costing more than \$200,000 per incident which are not part of the approved Operations Plan for that fiscal year and which are either (a) not eligible for reimbursement from the R&R fund or (b) for which there are insufficient funds within the R&R Fund to pay for, shall first be approved by the Director of Broward Water & Wastewater Services. The Director of Broward Water and Wastewater Services shall act on any such request within 48 hours of receipt of request for approval, and shall not unreasonably withhold such approval. Operating costs shall include the electrical cost for RRWS Facilities re-pump station(s) and a twenty-five (25) percent charge to cover actual supervisory, administrative and office overhead costs related to the Operation and Maintenance Costs defined above. The derivation method for the Operation and Maintenance Costs is set forth in **Exhibit "H"** hereto.

Verification and documentation of facility operations shall include all sampling, data retrieval, data recording, data sample analysis, laboratory sample analysis, daily, monthly and any other operational reports as required to properly maintain complete operation of the RWWS Facilities

and meet all compliance criteria set forth by the Florida Department of Environmental Protection (FDEP), Florida Administrative Code (FAC) Chapter 62-610, the Palm Beach Health Department (PBCHD), the South Florida Water Management District (SFWMD), Palm Beach County, Broward County or other regulatory entities.

Preventative maintenance shall include routine and non-routine maintenance activities associated with the proper upkeep of the RWWS Facilities. Routine maintenance shall be performed as prescribed per the manufacturer's published O&M manual(s) at a minimum. PM schedules shall be prepared and updated and be made part of the RWWS Facilities verification and documentation requirements. PM shall also include facilities observation, data recording and making of necessary adjustments as a result of such data. Non-routine PM shall include abnormal maintenance associated with any RWWS Facilities components and shall include response to alarm or emergency situations. RWWS Facilities PM shall include but not be limited to:

- Distribution system & pressure readings
- Meter and instrument calibrations/readings
- Emergency generator readings, exercising and data logging
- SCADA system checks
- Air compressors
- Seal water systems
- Pumps
- Vibration analysis
- Valve operation; manual and motorized
- Electric motors
- Electric control panels
- Chemical feed apparatus
- Chlorination facilities
- Facility landscaping
- Facility Security
- Facility general housekeeping
- Annual Environmental Protection (DEP) mandated inspections of Customer irrigation systems

**7.2 Compliance** - Palm Beach shall comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may later be in force, relating to, or arising from the use of the RWWS Facilities. If Palm Beach receives notice of the violation or intent of notice of violation of any such law, statute, ordinance, or governmental rule, regulation or requirement, it shall notify Broward of such notice of violation within 24 hours.

Palm Beach shall conduct required tests, file such reports, and take all actions necessary to be in compliance with all applicable state, federal and local laws and regulations. Palm Beach shall furnish to Broward results of all tests and, at Broward's request, other information, pertaining to the use of the RWWS Facilities.

**7.3 Revenues** - Palm Beach shall be responsible for collecting payment from its Customers in accordance with Palm Beach's standard policies and procedures.

7.4 **Audit** - Broward reserves the right to audit Palm Beach's records that pertain to Palm Beach's operation and maintenance of the RRWS Facilities.

8. **System Revenues/Payment Hierarchy**. On or after October 1 of each year, the Parties will calculate the annual System Revenues for the previous fiscal year (October 1-September 30). For purposes of this Agreement, System Revenues shall be calculated by multiplying the annual amount of Reclaimed Water measured at the Master Meter by the Effective Retail Rate in effect at the time the Reclaimed Water flows through the meter. For example, if the Master Meter registers 4,000,000,000 gallons for the prior year, and the Effective Retail Rate for that year is \$.60 per thousand gallons, the System Revenues for said year are 2,400,000. The calculation of System Revenues is unrelated to the Minimum Reserve Capacity. The yearly System Revenues shall be distributed in accordance with the hierarchy set forth in sections 8.1, 8.2, 8.3 and 8.4 below. This payment hierarchy shall terminate following full reimbursement of the Actual Project Costs and conveyance of the RRWS Facilities to Palm Beach in accordance with Section 9, and will be replaced by a payment by Palm Beach to Broward of the negotiated Bulk Reclaimed Water Rate multiplied by the annual amount of Reclaimed Water measured at the Master Meter in accordance with Section 6.3.

8.1 **Bulk Reclaimed Water Rate Payments**. Payment for Reclaimed Water delivered and recorded at the Master Meter, at the applicable Bulk Reclaimed Water Rate as represented in Article 6.3, shall have first priority for payment from the System Revenues. True-up costs for flow below the Minimum Reserve Capacity shall also have a first priority of payment. Palm Beach will receive a credit for monthly payments made during the prior year in accordance with Section 6.4 above. Palm Beach shall be responsible for the payment of the Bulk Reclaimed Water Minimum Charge following the Service Initiation Date, regardless of whether there are sufficient System Revenues.

8.2 **RRWS Facilities Actual Operation and Maintenance Costs**. Operation and Maintenance Costs as defined in Section 7.1 for the RRWS Facilities shall have second priority for payment from the System Revenues. The RRWS's plan of operation and associated Operation and Maintenance Costs ("Operations Plan") shall be documented annually as set forth on **Exhibit "H"**, which is attached hereto and incorporated herein. This plan shall be submitted to Broward's Water and Wastewater Services Director no less than ninety (90) days prior to the beginning (October 1) of each fiscal year. Within thirty (30) days of receipt, Broward shall review the plan for concurrence. Broward agrees that such concurrence will not be unreasonably withheld. Any funds expended by Palm Beach in excess of the Operations Plan which has been approved by Broward shall be initially paid in their entirety by Palm Beach, and any such excess costs shall be included in the next fiscal years' Operation Plan, unless Broward disputes such costs. In the case of such a dispute, the parties agree to utilize the dispute resolution procedures set forth in Section 15 to reach agreement on the amount of costs.

8.3 **Renewal and Replacement Fund**. A renewal and replacement fund ("R&R Fund") for renewal and replacement of the RRWS Facilities shall be established, held and maintained by Palm Beach. Within ninety (90) days following 8 years after the Service Initiation Date, and continuing annually thereafter, an amount equal to 1.33% of the Actual Project Costs shall be transferred from the System Revenues into the R&R Fund. The R&R Fund will be limited to a maximum amount of \$5,000,000. The transfers into the R&R Fund shall have third priority from the System Revenues. Expenditures from the R&R Fund shall be limited to repairs and replacements in excess of \$50,000 which preserve or extend the useful life or change the underlying nature of assets. Palm Beach shall

provide Broward with notice of expenses to be charged to the R&R Fund for Broward's review and concurrence. Broward agrees that such concurrence will not be unreasonably withheld and that any dispute regarding such expenditures shall be resolved in accordance with Section 15 hereof.

**8.4 Actual Project Costs Reimbursement Payments** –Contingent upon sufficient System Revenues, Broward shall be reimbursed for the Actual Project Costs annually with payments beginning one year following the Service Initiation Date. Actual Project Costs reimbursement payments shall have a fourth priority from the System Revenues, and shall encompass all System Revenues after the payment of those costs set forth in Sections 8.1-8.3. To the extent that Palm Beach collects any Reclaimed Water connection fees from Customers receiving the Reclaimed Water provided under this Agreement, said connection fees shall be transferred to Broward and applied to the Actual Project Costs.

**9. Transfer of Ownership** The term of the Agreement shall begin on the Effective Date and continue until such time that the Actual Project Costs are fully reimbursed to Broward. Upon the full payment of the Actual Project Costs by Palm Beach to Broward, ownership of the RRWS Facilities shall be transferred to Palm Beach. Within thirty (30) days of the full payment of the Actual Project Costs, Broward shall deliver to Palm Beach a fully executed Bill of Sale, in a form reasonably acceptable to the Parties. Following said transfer, Broward shall have no interest in the RRWS Facilities, nor shall Broward have any authority or discretion in regards to the operation, maintenance, replacement, or renewal of the RRWS Facilities. At the same time, Broward shall transfer all interests in any real property purchased by Palm Beach under Section 5.5 and included in the Actual Project Costs to Palm Beach. Thereafter, and subject to the Parties negotiating a new agreement including an acceptable Bulk Reclaimed Water Rate in accordance with Section 6.3, this Agreement shall automatically renew for consecutive thirty (30) year terms, unless terminated by either Party by providing the other Party with written notice at least one year prior to the expiration of the then current term. However, any such termination shall only be based upon one of the following reasons: (a) Palm Beach no longer needing the Reclaimed Water; (b) Broward no longer needing to dispose of the Reclaimed Water; (c) the Reclaimed Water can no longer be distributed in accordance with this Agreement due to any applicable State or Federal law or regulation; or (d) the Parties cannot agree on the Bulk Reclaimed Water Rate. Nothing herein shall prohibit a termination based upon the provisions of Section 9.1 and 9.2 below. In addition, notwithstanding the foregoing, in no event shall ownership of the RRWS Facilities be transferred from Broward to Palm Beach prior to satisfaction of the requirements of the Broward Master Bond Resolution, particularly Section 715 thereof. Broward County shall make reasonable efforts to convey RRWS Facilities to Palm Beach in accordance with this Agreement. Attached hereto and incorporated herein as **Exhibit "I"** is a report of the Broward County Consulting Engineer which finds, based on the assumptions set forth therein, that the conveyance of RRWS Facilities to Palm Beach County shall not have an adverse impact on the Net Revenues (as defined in the Broward Master Bond Resolution). To the extent that Broward is unable to convey the RRWS Facilities in accordance with this Agreement, the parties shall attempt to negotiate an extension to this Agreement with a Bulk Reclaimed Water Rate acceptable to both parties. In no event shall Broward have the right to directly provide Reclaimed Water service to Customers within Palm Beach County.

9.1 **Termination for Convenience.** The Agreement may be terminated by a mutual cancellation agreement between Palm Beach and Broward, which will be a written document executed with the same formality and of equal dignity herewith. Broward acknowledges that should this Agreement be terminated in accordance with this Section 9.1 prior to the full reimbursement of the Actual Project Costs, the RRWS Facilities will be declared by Broward as not needed or serving no useful purpose in connection with Broward's operation and maintenance of its Water and Sewer Utility (as defined in the Broward Master Bond Resolution) and, if permitted under the Broward Master Bond Resolution and related documents securing Broward's bond issues, the assets will be sold to Palm Beach for \$500,000 or the difference between Actual Project Costs and the Actual Project Cost reimbursement to date, whichever is greater.

9.2 **Termination for Cause** This Agreement may be terminated for cause for reasons including, but not limited to, either Party's repeated (whether negligent or intentional) failure to suitably perform their obligations; or failure to continuously perform their obligations in a manner calculated to meet or accomplish the objectives as set forth in this Agreement. Before the Agreement may be terminated for cause, the Party alleging the underlying violation(s) must provide the other Party with notice of the alleged violation(s), proposed cure for the violations(s) and allow at least thirty (30) days from the date of notice for the other Party to correct the violation(s).

10. **No Transfer of Powers.** Nothing contained in this Agreement shall be construed to constitute a transfer of powers in any way whatsoever. This Agreement is solely an Agreement to provide services as authorized in Florida Statutes, Chapter 163. The governing bodies for Palm Beach and Broward shall each maintain all legislative authority with regard to their respective political subdivision. All of the privileges and immunities from liability, exemption from laws, ordinances, and rules, and pensions and relief, disability, workers compensation and other benefits which apply to the activity of officers, agents or employees of any public agents or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, or employees extra-territorially under the provisions of this Agreement.

11. **Indemnification.** Broward and Palm Beach acknowledge the waiver of sovereign immunity for liability in tort contained in Florida Statutes 768.28, the State of Florida's partial waiver of sovereign immunity, and acknowledge that such statute permits actions at law to recover damages in tort for money damages up to the limits set forth in such statute for death, personal injury or damage to property caused by the negligent or wrongful acts or omissions of an employee acting within the scope of the employee's office or employment. Broward and Palm Beach agree to be responsible for all such claims and damages, to the extent and limits provided in Florida Statutes Section 768.28, arising from the actions of their respective employees. The parties acknowledge that the foregoing shall not constitute an agreement by either party to indemnify the other, nor a waiver of sovereign immunity, nor a waiver of any defense the parties may have under such statute, nor as consent to be sued by third parties.

12. **Force Majeure.** In the event that the performance of this Agreement by either Party to this Agreement is prevented or interrupted in consequence of any cause beyond the control of either Party, including, but not limited to, Acts of God or of the public enemy, war, national emergency, allocation of or other governmental restrictions upon the use or availability of labor or materials, rationing, civil

insurrection, riot, disorder or demonstration, terrorism, strike, embargo, flood, tidal wave, fire, explosion, bomb detonation, nuclear fallout, windstorm, hurricane, earthquake, or other casualty or disaster or catastrophe or water plant failures and sewer main breaks, neither party shall be liable for such non-performance.

**13. 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 the county of the defendant to the action. 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.

**14. Successors and Assigns.** Broward and Palm Beach 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 Broward nor Palm Beach shall assign, sublet, convey, or transfer its interest in this Agreement without prior written consent of the other.

**15. Dispute Resolution.** The Parties shall utilize the following dispute resolution process to resolve billing or other disputes. All disputes shall be resolved first by negotiation between the Directors of the Broward Water & Wastewater Services and Palm Beach Water Utilities Department or their designees, then by non-binding mediation with a mutually agreed upon mediator with each Party responsible for their own costs and sharing the costs of the mediator. The Parties agree that, as to disputes related to billing only, this dispute resolution process meets the requirements of an alternative dispute resolution procedure set forth in Section 164.1041, Florida Statutes, and that, following completion of this dispute resolution process, either Party may resort to any available legal remedies that it may have without completing the conflict resolution process set forth in Chapter 164, Florida Statutes.

**16. Broward Access to Palm Beach Records.** Palm Beach agrees to maintain accounting records for the RRWS, and to have said records audited annually. Palm Beach will furnish to Broward a copy of Palm Beach's annual Audit, and the most recently adopted annual budget for review. Palm Beach agrees to maintain information in sufficient detail to permit Broward to ascertain the costs, as defined in Section 7.1 and revenues, as defined in Section 8 of the RRWS separate and apart from the costs and revenues of other services of Palm Beach. Upon reasonable notice given by Broward, Palm Beach will make available to Broward, at Palm Beach offices, its books and records regarding operation of the RRWS.

**17. 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.

**18. 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.

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

Broward County Water and Wastewater Services  
2555 W. Copans Road  
Pompano Beach, FL 33069  
Attention: WWS Director

with a copy not to constitute notice to:

Broward County Attorney  
115 S. Andrews Avenue Room 423  
Fort Lauderdale, FL 33301

and if to Palm Beach, 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

with a copy not to constitute notice to:

County Attorney  
301 North Olive Ave.  
Suite 601  
West Palm Beach, FL 33401

**20. Filing.** This Agreement shall be filed with the Clerk of the Circuit Court for Palm Beach County and the County Records Division of Broward County.

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

**22. Entirety of Agreement.** Broward and Palm Beach 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.

**23. Palm Beach County Office of the Inspector General.** Pursuant to Palm Beach County Code, Sections 2-421 through 2-440, as amended, Palm Beach County's Office of Inspector General is authorized to have the power to review past, present and proposed Palm Beach County contracts, transactions, accounts and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with Palm Beach County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 through 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

**24. 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 Broward or Palm Beach.

**25. Non-Discrimination.**

Broward and Palm Beach each warrant and represent that all of their 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.

Broward has submitted to Palm Beach 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 Broward does not have a written non-discrimination policy or one that conforms to Palm Beach's policy, it has acknowledged through a signed statement provided to Palm Beach that Broward will conform to Palm Beach's non-discrimination policy as provided in R-2014-1421, as amended.

**(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)**



IN WITNESS WHEREOF, Broward and Palm Beach 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.

PALM BEACH

**ATTEST:**  
**SHARON R. BOCK**  
**CLERK AND COMPTROLLER**

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

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

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor

(SEAL)

**APPROVED AS TO FORM AND TO**  
**LEGAL SUFFICIENCY**

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

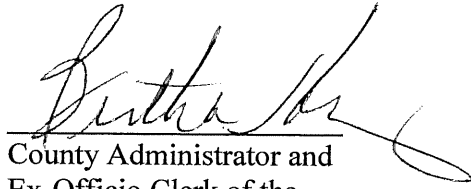
**APPROVED AS TO TERMS AND**  
**CONDITIONS**


By: Jim Stiles  
Director of Water Utilities

BROWARD

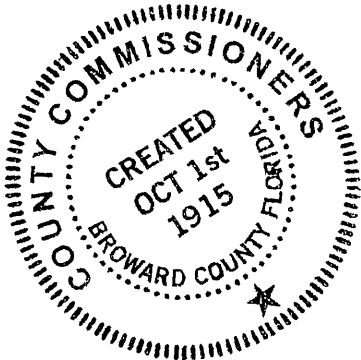
ATTEST:

**BROWARD COUNTY, by and through its  
BOARD OF COUNTY COMMISSIONERS**

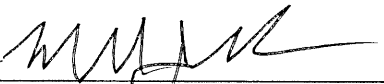
  
County Administrator and  
Ex-Officio Clerk of the  
Board of County Commissioners  
of Broward County, Florida

By:   
Marty Kiar, Mayor

Date: 2/9/16



Approved as to form by  
**Office of the County Attorney  
for Broward County, Florida**  
Joni Armstrong Coffey,  
County Attorney  
Governmental Center, Suite 423  
115 South Andrew Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-7641

By:   
Michael J. Kerr  
Deputy County Attorney

Date: 1/27/16

**EXHIBIT LIST – REGIONAL RECLAIMED WATER PROJECT INTERLOCAL AGREEMENT**

- A: Palm Beach County Effective Retail Rate Calculation
- B: Estimated Project Costs
- C: Point of Connection
- D: Recommended Route, South County Reclaimed Pipeline Route Study
- E: Palm Beach County, Broward County Reclaimed Agreement Expenses
- F: Regional Reclaimed Water Project Target Water Quality Criteria
- G: Palm Beach County Annual True-Up Usage Examples
- H: Palm Beach County Operation and Maintenance Costs Derivation Method
- I: No Adverse Impact Letter and Final Report from Broward County's Consulting Engineer
- J: Draft: Agreement between Palm Beach County Board of County Commissioners and Broward County Board of County Commissioners for Operation & Maintenance of Reclaimed Water Facilities
- K: Construction Milestones Requiring Notice per Section 5.6

**EXHIBIT “A”  
PALM BEACH COUNTY  
EFFECTIVE RETAIL RATE CALCULATION**

$$\frac{BF}{\left(\frac{ERIC}{1000}\right) \times 30.4} + CF + OF = ERWR$$

where

BF = Monthly Reclaimed Water Base Fee for 5/8-in Residential Customers, \$ per month

ERIC = ERIC Equivalency for 5/8-in Residential Customers, gallons per day

30.4 = average days per month

CF = Commodity Fee, \$ per thousand gallons

OF = other fees directly contributing to the total charge per thousand gallons, \$ per month

ERWR = Effective Reclaimed Water Rate, \$ per thousand gallons

BF, ERIC, CF and OF are as published in the Palm Beach County Water Utilities Uniform Policies and Procedures for those reclaimed water customers who have not paid connection fees. Subject to change and revision from time to time.

**EXHIBIT B**  
**ESTIMATED PROJECT COSTS**

Item	Capital Cost, \$M
Transmission Pipeline	\$35.0
Booster Station	\$2.0
Storage Tank and Pump Station	\$5.0
SUBTOTAL	\$42.0
Engineering, Admin and Soft Costs (15%)	\$6.0
TOTAL PROJECT COST	\$48.0



## EXHIBIT C

### POINT OF CONNECTION





G:\pbc\pbc\curw\_Overall Recommended Route.mxd



#### Legend

-  Golf Courses
- Recommended Route**
-  Primary
-  Alternate

EXHIBIT E			
PALM BEACH COUNTY			
Broward County Reclaimed Agreement Expenses			
Date of Invoice	Entity Name	Amount	Description
5/17/2013	Sundstrom, Friedman & Fumero, LLP	\$ 2,902.50	Legal Services
6/20/2013	Sundstrom, Friedman & Fumero, LLP	\$ 8,752.50	Legal Services
11/4/2013	Sundstrom, Friedman & Fumero, LLP	\$ 315.00	Legal Services
Total Legal Services		\$ 11,970.00	
Date of Invoice	Entity Name	Amount	Description
7/16/2012	Matthews Consulting Inc.	\$ 8,625.38	Financial Analysis Phase I
8/7/2012	Matthews Consulting Inc.	\$ 6,373.13	Financial Analysis Phase I
10/8/2012	Matthews Consulting Inc.	\$ 6,311.25	Financial Analysis Phase I
11/7/2012	Matthews Consulting Inc.	\$ 9,528.75	Financial Analysis Phase I
12/5/2012	Matthews Consulting Inc.	\$ 4,640.63	Financial Analysis Phase I
1/8/2013	Matthews Consulting Inc.	\$ 2,475.00	Financial Analysis Phase I
2/8/2013	Matthews Consulting Inc.	\$ 618.75	Financial Analysis Phase I
3/19/2013	Matthews Consulting Inc.	\$ 4,207.50	Financial Analysis Phase I
6/3/2013	Matthews Consulting Inc.	\$ 6,249.38	Financial Analysis Phase I
Total Financial Analysis Phase I		\$ 49,029.77	
Date of Invoice	Entity Name	Amount	Description
4/16/2013	Matthews Consulting Inc.	\$ 24,688.13	Financial Analysis Phase II
5/15/2013	Matthews Consulting Inc.	\$ 11,446.88	Financial Analysis Phase II
6/17/2013	Matthews Consulting Inc.	\$ 6,311.25	Financial Analysis Phase II
Total Financial Analysis Phase II		\$ 42,446.26	
Date of Invoice	Entity Name	Amount	Description
9/16/2014	Matthews Consulting Inc.	\$ 1,208.80	Hydraulic Modeling
10/16/2014	Matthews Consulting Inc.	\$ 1,655.54	Hydraulic Modeling
11/18/2014	Matthews Consulting Inc.	\$ 16,013.25	Hydraulic Modeling
12/16/2014	Matthews Consulting Inc.	\$ 737.30	Hydraulic Modeling
Total Hydraulic Modeling Invoiced to Date		\$ 19,614.89	
Date of Invoice	Entity Name	Amount	Description
3/18/2015	Mock, Roos and Associates, Inc.	\$ 15,722.50	Route Study
4/9/2015	Mock, Roos and Associates, Inc.	\$ 34,431.00	Route Study
5/11/2015	Mock, Roos and Associates, Inc.	\$ 15,913.25	Route Study
6/17/2015	Mock, Roos and Associates, Inc.	\$ 13,700.75	Route Study
7/23/2015	Mock, Roos and Associates, Inc.	\$ 5,804.50	Route Study
10/15/2015	Mock, Roos and Associates, Inc.	\$ 11,508.80	Route Study
11/17/2015	Mock, Roos and Associates, Inc.	\$ 5,250.00	Route Study
12/18/2015	Mock, Roos and Associates, Inc.	\$ 11,729.20	Route Study
Total Route Study Invoiced to Date		\$ 114,060.00	
Date of Invoice	Entity Name	Amount	Description
01/01/2013 thru 10/31/2013	County Attorney	\$ 20,130.00	Legal Services
11/01/2013 thru 02/28/2014	County Attorney	\$ 2,205.00	Legal Services
03/01/2014 thru 09/30/2015	County Attorney	\$ 24,150.00	Legal Services
10/01/2015 thru 12/31/2015	County Attorney	\$ 2,985.00	Legal Services
Total County Attorney		\$ 49,470.00	
Date of Invoice	Entity Name	Amount	Description
	Hazen & Sawyer	\$ 12,629.00	Engineering Services
Total Engineering Services		\$ 12,629.00	
Date of Invoice	Entity Name	Amount	Description
1/28/2015 thru 9/1/2015	Environmental Financial Group Inc.	\$ 4,106.25	Financial Analysis
Total Financial Analysis		\$ 4,106.25	
Total All Services		\$ 303,326.17	
*Costs may increase based on future negotiations.			



**EXHIBIT F**  
**REGIONAL RECLAIMED WATER PROJECT**  
**TARGET WATER QUALITY CRITERIA**

Constituent	Units	Target Value
Chloride (Cl)	mg/L	300
Sodium (Na)	mg/L	160
TDS	mg/L	600
SAR	mEq/L	< 5.0
Turbidity	NTU	< 2.0
Chlorine	mg/L	> 3.0

mg/L       milligrams per liter  
TDS       Total dissolved solids,  
SAR       Sodium absorption ratio expressed in millequivalents per liter (mEq/L)

EXHIBIT G  
PALM BEACH COUNTY  
ANNUAL TRUE-UP USAGE EXAMPLES

Usage Month	Estimated Usage	Actual Usage	Variance
Oct	325.81	383.55	57.74
Nov	315.30	474.47	159.17
Dec	325.81	735.07	409.26
Jan	325.81	489.37	163.56
Feb	294.28	635.14	340.86
Mar	325.81	810.16	484.35
Apr	315.30	549.37	234.07
May	325.81	128.83	-196.98
Jun	315.30	120.92	-194.38
Jul	325.81	449.25	123.44
Aug	325.81	556.55	230.74
Sep	315.30	142.45	-172.85
Total	3,836.15	5,475.13	1,638.98
Minimum Reserve Capacity (10.51 MGD x \$0.05)			\$191,807.50
Mgals usage in Fiscal Year			5,475.13
Mgals in excess of Min Res. Cap.			1,638.98
Rate for excess usage over Min. Res. Cap.			\$0.05
Due for Usage over Min. Res. Cap			\$81,949.00
Total Due Broward County			\$273,756.50
Total Paid to Broward County			\$273,756.50
True-up due to Broward County			\$0.00

Usage Month	Estimated Usage	Actual Usage	Variance
Oct	325.81	225.44	-100.37
Nov	315.30	280.15	-35.15
Dec	325.81	158.55	-167.26
Jan	325.81	340.00	14.19
Feb	294.28	224.16	-70.12
Mar	325.81	150.23	-175.58
Apr	315.30	325.12	9.82
May	325.81	128.83	-196.98
Jun	315.30	120.92	-194.38
Jul	325.81	449.25	123.44
Aug	325.81	556.55	230.74
Sep	315.30	142.45	-172.85
Total	3,836.15	3,101.65	-734.50
Minimum Reserve Capacity (10.51 MGD x \$0.05)			\$191,807.50
Mgals usage in Fiscal Year			3,101.65
Mgals in excess of Min Res. Cap.			-734.50
Rate for excess usage over Min. Res. Cap.			\$0.05
Due for Usage over Min. Res. Cap			\$0.00
Total Due Broward County			\$191,807.50
Total Paid to Broward County			\$155,082.50
True-up due to Broward County			\$36,725.00

**EXHIBIT “H”**  
**PALM BEACH COUNTY OPERATION AND MAINTENANCE COSTS DERIVATION**  
**METHOD**

Expense Object Code[1]		Service[2]	Cost Apportionment[3]
2425	Lines and Lifts Administration	Reclaimed Water	Cost per 1000 gal[4]
2460	Line Crews - South Region	Reclaimed Water	Cost per 1000 gal[4]
2470	Lift Stations - South Region	Reclaimed Water	Cost per 1000 gal[4]
XXX	RRWP Pump Station(s)	Reclaimed Water	Cost per 1000 gal[5]
XXX	RRWP Storage	Reclaimed Water	Cost per 1000 gal[5]
XXX	RRWP Other	Reclaimed Water	Cost per 1000 gal[5]
2582	Southern Region WRF		Not Included[6]
SUBTOTAL COST			Sum of the Above
Administration[7]			25% of SUBTOTAL
TOTAL COST			Dollars per 1000 gal

- 1 – Expense Object Codes subject to change, but shall include those expenses directly related to RRWS reclaimed water service.
- 2 – Expenses shall be apportioned between services (wastewater, reclaimed water).
- 3 – Apportioned costs shall include direct costs including electrical power, chemicals (if any), maintenance materials, and the like.
- 4 – Costs are calculated on a dollars per 1000 gallons basis for total reclaimed water produced at the Southern Region WRF plus the total annual flow metered through the RRWP Master Meter.
- 5 - Costs are calculated on a dollars per 1000 gallons basis for total annual flow metered through the RRWP Master Meter.
- 6 – Direct reclaimed water production expenses at the Southern Region WRF are not included in the calculation.
- 7 – Administration costs are defined as 25% of direct RWS expenses and reflect allocations of Materials Management, Support Services, Regulatory Compliance, and Safety, Testing and Laboratory, Accounting and Customer Service expenses.

EXHIBIT I

# Hazen

Hazen and Sawyer  
4000 Hollywood Boulevard, Suite 750N • Hollywood, FL 33021 • 954.987.0066

October 2, 2015

Mr. Greg Balicki, Director  
Water and Wastewater Engineering Division  
Broward County Water and Wastewater Service  
2555 West Copans Road  
Pompano Beach, FL 33069

Re: No Adverse Impact Letter

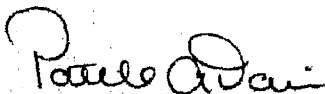
Dear Mr. Balicki:

At your request, Hazen and Sawyer, acting as Consulting Engineer, has analyzed the question of whether or not there would be an *Adverse Impact* on the Net Revenues of the Utility System, in the event Broward County entered into an Agreement with Palm Beach County wherein Broward County would finance the construction and equipping of an expanded reclaimed wastewater treatment/distribution facility, including construction of certain facilities within Palm Beach County; and presuming transfer of ownership of the portion of reclaimed water facilities physically located within Palm Beach County upon repayment by Palm Beach County to Broward County for all of Broward County's actual costs of acquiring, constructing and equipping the reclaimed water improvements (such transfer of ownership being a condition of the agreement between the counties). The question of *Adverse Impact* as analyzed is specific to the use of the term as included in Resolution No. 88-4066 (Appendix D) attached to the Official Statement of the Series 2012A Water and Sewer Revenue Bonds.

Hazen and Sawyer conducted this analysis by comparing the Net Revenue impacts of the Ocean Outfall Legislation compliance options described in the Effluent Disposal and Reclaimed Water Conceptual Master Plan (Hazen and Sawyer, 2010) versus the impacts that would result from implementing the joint plan described within the Interlocal Agreement between Palm Beach County and Broward County, including Exhibits (draft dated May 14, 2015).

The result of our analysis indicates that there is no *Adverse Impact* on the Utility's Net Revenues. Please refer to the attached report for more detail relative to this conclusion. Also note that the data, analysis and opinions expressed are limited in scope to engineering advice. Hazen and Sawyer is not providing any advice as a Municipal Advisor relative to financing or refinancing any improvements.

Very Truly Yours,  
**HAZEN AND SAWYER**



Patrick A. Davis, PE  
FL PE 37167  
10.2.15



**FINAL**

# **Sale or Other Disposition of the Water and Sewer Authority**

**Report of the Consulting Engineer Relative to  
Impact on Net Revenue of the System**

**October 2015**

# **Hazen**

## Issue

Broward County Water and Wastewater Services ("Broward County") has commissioned Hazen and Sawyer, acting as Consulting Engineer, to analyze the question of whether or not there would be an *Adverse Impact on the Net Revenues of the Utility System*, in the event Broward County entered into an Agreement with Palm Beach County ("Palm Beach Agreement") wherein Broward County would finance the construction and equipping of an expanded reclaimed wastewater treatment/distribution facility, including construction of storage, pumping and distribution facilities within Palm Beach County; and presuming transfer of ownership of the portion of reclaimed water improvements physically located within Palm Beach County upon repayment by Palm Beach County to Broward County of all of Broward County's actual costs of acquiring, constructing and equipping the reclaimed water improvements. The question of *Adverse Impact* as analyzed herein is specific to the use of the term as included in Resolution No. 88-4066 (Appendix D) attached to the Official Statement of the Series 2012A Water and Sewer Revenue Bonds.

## Background

Broward County, Florida, owns and operates a Water and Wastewater Utility (herein referred to as the "Utility"). The Utility is comprised of a retail water and wastewater system, a regional raw water supply system and the North Regional Wastewater System, the latter of which provides wastewater transmission, treatment, disposal and reuse services to the County and other utilities on a wholesale basis.

The North Regional Wastewater Treatment Plant ("NRWWTP") is an integral component of the Regional Wastewater System. The NRWWTP is a nominal 95 mgd facility which utilizes an activated sludge treatment process for liquid treatment and an anaerobic digestion process for stabilizing the biosolids produced from the liquid treatment process. The effluent from the liquid treatment process is either pumped through a 54-inch diameter outfall pipe for disposal to the open ocean, disposed of in on-site Class I deep injection wells, or filtered and reused via Broward County's nominal 10 mgd reclaimed water system. The reclaimed water is used for various irrigation purposes and as industrial process water at the North Resource Recovery Plant (solid waste energy recovery incinerator) and the NRWWTP.

Operations of the NRWWTP are regulated by various agencies, notably the Federal Environmental Protection Agency, the Florida Department of Environmental Protection and the Broward County Environmental Protection and Growth Management Department. Regulatory agency rules and requirements are subject to change over time, and Broward County regularly plans for capital improvements necessary to maintain continuous compliance with all applicable regulations.

The Utility develops a five-year Capital Improvement Program for the water and wastewater system recognizing costs associated with future growth and regulatory requirements. Funding for such capital improvements are generally met by net revenues, debt proceeds, capital recovery charges, contributions from large users (other utility customers), grants and future borrowings.

Included within the Utility's funding strategy is the use of proceeds from outstanding Water and Sewer Revenue Bonds, Series 2012A (the "2012A Bonds").

Appendix C to Official Statement of the 2012 Bond issuance was a report of the Consulting Engineer, Hazen and Sawyer. Included within that Appendix was (among other information): a description of the Utility, an explanation of certain regulatory agency directives known at that time, a tabulation of capital improvements necessary over a five year period, an alert relative to certain possible future capital improvements, and a schedule of Historical and Projected Net Revenues (Table 7.7). Net Revenues was defined within Appendix D, Resolution, as "...the amount of the excess of the Revenues for such period over the Current Expenses for such period". The projected period as referenced therein was the Year 2012 through the Year 2016.

As noted, Appendix C included a discussion of certain regulatory actions that could be expected to affect the Utility in the future (beyond the Year 2016). Specifically, Section 4.4 of Appendix C described legislation (hereinafter referred to as the Ocean Outfall Legislation, or "OOL") relative to the use of open ocean outfalls for effluent disposal. In general, the use of such outfalls, including the outfall owned and operated by the Utility, would be significantly curtailed after the Year 2025. Beyond curtailment of use, utilities that employ ocean outfalls would be required to reuse 60% of the wastewater flowrate that had been disposed of to the ocean. The Appendix included a further description of the possible impacts of such legislation in Section 6.7, noting that "These regulations may result in plant process improvements with estimated costs ranging from \$766 million to \$899 million in accordance with the Effluent Disposal Master Plan."

The cost estimates for compliance with the OOL were derived within a report titled Effluent Disposal and Reclaimed Water Conceptual Master Plan, dated November, 2010, by Hazen and Sawyer. The lower cost of \$766 million considered the direct and indirect compliance costs associated with a reclaimed water system that largely recharged the Floridan Aquifer and irrigated certain turfgrass areas within the Broward County. The higher cost of \$899 million reflected the direct and indirect compliance costs associated with a system that largely irrigated turfgrasses within Broward County.

Subsequent to development of the Effluent Disposal Master Plan, Broward County and Palm Beach County began exploring the possibility of creating a new OOL compliance option by considering a plan

which included reclaiming Broward County wastewater within the jurisdictions of both counties. The counties expected such an option to be advantageous to both, as Palm Beach County had a demand for reclaimed water which was unmet by their supply, and Broward County had a potential supply which exceeded low(er) cost demand within their service area. Hence, the counties developed an interlocal agreement (Palm Beach Agreement) describing the specific issues of such a collaboration. One such specific issue involves transfer of ownership of certain portions of a resultant reclaimed water system; giving rise to the question described in the Issue section above.

## Analysis

The possibility of a sale of a portion of the Utility is addressed in Section 715 of the Bond Resolution of the 2012A Bonds. Pursuant to this section, there are three relevant situations in which physical reclaimed water system assets existing within Palm Beach County could be conveyed. The second of these, Paragraph (b) of Section 715, states that such conveyance is lawful if such disposition "...will not have an adverse impact on the Net Revenues..." As previously noted, the Bond Resolution defines Net Revenues as the amount of excess of the Revenues for a period of time over the Current Expenses for the same period of time.

Should conveyance of a Utility reclaimed water system asset occur, it would be at a period of time at which compliance with the OOL had been achieved. In other words, the Utility would have caused the construction of assets that met the 60 % reuse requirement of the OOL (which currently do not exist). Hence, consideration of any impact to the Net Revenues of the Utility at that time requires a comparison of the various options the Utility might have employed to achieve such compliance. There is not an option in which Broward County could choose to not build an expanded reclaimed water system. [Note: It is also a basic presumption of this analysis that transference of ownership is an absolute precondition of the agreement between the counties. It is presumed that there is no option wherein Broward County maintains ownership of the assets and continues to sell reclaimed water to customers located within Palm Beach County.]

In the absence of the Palm Beach Agreement, Broward County would still be faced with construction of an expanded reclaimed water system ranging in capital cost from \$766 million to \$899 million. These estimates, however, include both direct and indirect compliance costs, complicating direct comparison to the Palm Beach County option.

In order to directly compare the options, Hazen and Sawyer has prepared Table 1 which denotes the capital costs of three alternatives. The costs for the two Broward County options are derived from Tables 1.3 and 1.4 of the Conceptual Master Plan, and are modified to eliminate costs that would be incurred by



the Utility regardless of the reclaimed water method chosen (largely disregarding the cost associated with future High level Disinfection construction). The costs for the Palm Beach County option were derived from Exhibit "B" of the draft Palm Beach County agreement. As shown, the normalized capital cost comparison results in capital costs ranging from approximately \$108 million for the Palm Beach option, to \$458 million for the turfgrass irrigation option located within the service area of Broward County.

Each of these three options would have a different impact on both the revenues and expenses of the Utility. Hazen and Sawyer has prepared Table 2 to examine the overall impact on Net Revenues of the options. This Table includes a notable assumption that deserves discussion. In order to create a conservative analysis, Hazen and Sawyer used \$0.60/1000 gallons as the rate for sale of reclaimed water within Broward County (resulting in Revenues to the Utility). This is equivalent to the highest rate charged by a reclaimed water utility in SE Florida. It is noted that only a single utility charges such a rate (the Loxahatchee River District) and there is no evidence to suggest that such a rate could be charged in Broward County (and in fact, no Broward County area utility currently approaches such a rate). Hence, this assumption probably overstates the Revenues for the Broward County options.

As illustrated in the Table, should Broward County enter into an agreement with Palm Beach County, under the conditions set forth in the Palm Beach Agreement, it is expected that there would be no *Adverse Impact* to the Utility's Net Revenues. Rather, it is expected that such an agreement will positively affect the Net Revenues by as much as \$20 to \$30 million per year.

## Disclaimer

The data, analysis and opinions expressed herein are limited in scope to engineering advice. Hazen and Sawyer is not providing any advice as a Municipal Advisor as defined and regulated by the Securities and Exchange Commission. Hazen and Sawyer is not providing any advice relative to the issuance of municipal securities, including the timing and terms of debt service payments; nor any advice relative to restructuring or refinancing of any existing securities.

TABLE 2 - Financial Evaluation of Alternative Options for Wastewater Effluent Management in Broward County

Item	BC Option 1	BC Option 2	PBC Option	Data Source
Amount of Reclaimed Water Sold in Broward County - MGD	7.80	22.50	1.66	The 7.8 and 22.5 is from Effluent Disposal and Reclaimed Water Conceptual Master Plan, Broward County Florida, December 2010, prepared by Hazen, page 5-16
Amount of Reclaimed Water Sold in Palm Beach County - MGD			10.51	TM - Final Broward County / Palm Beach County Reuse Feasibility Study Phase 1, dated Feb. 15, 2012, prepared by Hazen, Table 1 page 2.
Retail Customers Rate per 1,000 gallons - Broward County	\$0.60	\$0.60	\$0.60	Upper end of reclaimed water rate range in south Florida
Retail Customers Rate per 1,000 gallons - PBC			\$0.44	draft Interlocal Agreement between PBC and Broward County
Bulk Reclaimed Water Rate Paid to Broward County for facilities up to the master meter			\$0.05	draft Interlocal Agreement between PBC and Broward County
O&M Costs per 1,000 gallons	\$0.30	\$0.30	\$0.30	General in-house estimate
Construction Cost estimate	\$322,200,000	\$458,200,000	\$108,200,000	Effluent Disposal and Reclaimed Water Conceptual Master Plan, 2010; updated costs with actual bid prices and updated CIP budgets (Refer to Table 2).
Engineering and Finance Cost estimate (25% of Construction Cost)	\$80,550,000	\$114,550,000	\$27,050,000	
Total Capital Cost estimate (construction, engineering and finance cost)	\$402,750,000	\$572,750,000	\$135,250,000	
Annual Values				
Revenue				
Broward County customers	\$1,708,200	\$4,927,500	\$363,540	
Palm Beach County customers	\$0	\$0	\$537,061	
Total	\$1,708,200	\$4,927,500	\$900,601	
Debt Service on the construction cost (20 years @ 4%) (a)	\$29,635,050	\$42,143,948	\$9,951,932	
O&M Cost to Broward County estimate	\$854,100	\$2,463,750	\$181,770	For PBC Option the \$181K = 1.66 x 0.30 x 365 x 1,000
Net Revenue	-\$28,780,950	-\$39,680,198	-\$9,233,101	

Interest rate	0.04	Based on 2014 yield on High-grade municipal bond data from U.S. Economic Report of the President 2014 which is from Standard & Poor's.
Debt Service Period in Years	20	

Total Debt Service and O&M Cost Annual	\$30,489,150	\$44,607,698
Total Cost per 1,000 gallons of reclaimed water sold	\$10.71	\$5.43

Total Debt Service Payments	\$592,700,999	\$842,878,950	\$199,038,635
Total Principal	\$322,200,000	\$458,200,000	\$108,200,000
Total Interest	\$270,500,999	\$384,678,950	\$90,838,635
	-\$151,960,799	-\$216,103,160	-\$51,030,908



Hazen and Sawyer  
4000 Hollywood Boulevard, Suite 750N • Hollywood, FL 33021 • 954.987.0066

October 2, 2015

Mr. Greg Balicki, Director  
Water and Wastewater Engineering Division  
Broward County Water and Wastewater Service  
2555 West Copans Road  
Pompano Beach, FL 33069

Re: No Adverse Impact Letter

Dear Mr. Balicki:

At your request, Hazen and Sawyer, acting as Consulting Engineer, has analyzed the question of whether or not there would be an *Adverse Impact* on the Net Revenues of the Utility System, in the event Broward County entered into an Agreement with Palm Beach County wherein Broward County would finance the construction and equipping of an expanded reclaimed wastewater treatment/distribution facility, including construction of certain facilities within Palm Beach County; and presuming transfer of ownership of the portion of reclaimed water facilities physically located within Palm Beach County upon repayment by Palm Beach County to Broward County for all of Broward County's actual costs of acquiring, constructing and equipping the reclaimed water improvements (such transfer of ownership being a condition of the agreement between the counties). The question of *Adverse Impact* as analyzed is specific to the use of the term as included in Resolution No. 88-4066 (Appendix D) attached to the Official Statement of the Series 2012A Water and Sewer Revenue Bonds.

Hazen and Sawyer conducted this analysis by comparing the Net Revenue impacts of the Ocean Outfall Legislation compliance options described in the Effluent Disposal and Reclaimed Water Conceptual Master Plan (Hazen and Sawyer, 2010) versus the impacts that would result from implementing the joint plan described within the Interlocal Agreement between Palm Beach County and Broward County, including Exhibits (draft dated May 14, 2015).

The result of our analysis indicates that there is no *Adverse Impact* on the Utility's Net Revenues. Please refer to the attached report for more detail relative to this conclusion. Also note that the data, analysis and opinions expressed are limited in scope to engineering advice. Hazen and Sawyer is not providing any advice as a Municipal Advisor relative to financing or refinancing any improvements.

Very Truly Yours,

**HAZEN AND SAWYER**

Patrick A. Davis, PE

FL PE 37167

10.2.15

**DRAFT**

**AGREEMENT BETWEEN PALM BEACH COUNTY BOARD OF COUNTY  
COMMISSIONERS AND BROWARD COUNTY BOARD OF COUNTY  
COMMISSIONERS  
FOR THE OPERATION AND MAINTENANCE OF  
RECLAIMED WATER FACILITIES**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between Palm Beach County, a political subdivision of the State of Florida ("Palm Beach") and Broward County, a political subdivision of the State of Florida ("Broward").

**WITNESSETH:**

WHEREAS, Broward has authority to provide reclaimed services as set forth in the Inter-local Agreement, approved on \_\_\_\_\_ between Palm Beach and Broward; and

WHEREAS, Broward currently desires to have Palm Beach continue to operate the existing water and wastewater facilities which may be expanded in the future in accordance with the 2015 Inter-local Agreement; and

WHEREAS, Palm Beach, through its Water Utilities Department ("WUD"), agrees to continue operating and maintaining the Facilities to better serve the citizens of Palm Beach; and

WHEREAS, Palm Beach and Broward desire to enter into this Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereby covenant and agree:

**1. Recitals.**

The recitals set forth above are true and correct and form a part of this Agreement. All terms used in this Agreement and not otherwise defined herein are given meaning in the 2016 Inter-local Agreement.

**2. Definitions.**

A "Facilities" means the reclaimed facilities owned by Broward and operated & maintained by Palm Beach, which are more fully described in Appendix \_\_\_\_ to this Agreement.

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B. "Inter-local Agreement" means the INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY AND BROWARD COUNTY RELATED TO THE CONSTRUCTION, OWNERSHIP, OPERATION, AND MAINTENANCE OF A REGIONAL RECLAIMED WATER SYSTEM, approved \_\_\_\_\_, 2016.

B. "O & M Services" or "Operation and Maintenance Services" means those services described in Appendix \_\_\_\_ to this Agreement.

C. "Laboratory Testing and Reporting Services" means those services described in Appendix \_\_\_\_ to this Agreement.

D. "Routine Facility Housekeeping Services" shall include normal, everyday activities associated with keeping work areas clean, neat, and safe and do not include grounds keeping, painting, welding, or construction activities.

E. "Utility" means the reclaimed water distribution system as defined in the Inter-local Agreement and specifically referring to the real property and improvements described in Appendix \_\_\_\_ of this Agreement.

### **3. Operation and Maintenance Services**

Palm Beach agrees to provide O & M Services for the Facilities in accordance with the terms and conditions of this Agreement and in accordance with Section 7 of the Inter-local Agreement and Exhibit \_\_ attached hereto. In addition to O & M Services, Palm Beach shall perform Laboratory Testing and Reporting Services and Routine Facility Housekeeping Services. Palm Beach will perform Laboratory Testing and Reporting Services in accordance with Federal, State and local environmental laws and regulations, specifically the Florida Administrative Code Ch.2-610, and shall retain responsibility for required program development and implementation of Federal, State and local environmental laws and regulations and compliance with all other Federal, State or local laws or regulations that affect the Facilities.

**DRAFT**

**4. Effective Date/Term.**

The term of this Agreement shall be for the duration of the Inter-local Agreement beginning \_\_\_\_\_. Each party reserves the right to terminate this Agreement per Section 9 of the Inter-local Agreement.

**5. Operation and Maintenance Cost.**

A. Operation and Maintenance Costs shall be in accordance with Exhibit \_\_\_\_.

**6. Additional Services.**

Broward reserves the right to request Palm Beach to perform additional services not within the scope of the O & M Services, Laboratory and Reporting Services and/or Routine Facility Housekeeping Services. Normal requests for additional services shall be submitted in writing to Palm Beach. Palm Beach shall verbally notify Broward of its intent to perform the work within two (2) working days of receipt and in writing within seven (7) working days.

**7. Plan Review/Inspections and Monitoring.**

- A. Broward may review design construction documents including, but not limited to, plans and technical specifications for proposed improvements or expansion to the Facilities.
- B. During construction or expansion of improvements to the Facilities, Broward, its agents and employees may observe such construction, improvements or expansion.
- C. Palm Beach agrees that any expansion of the Facilities shall be in accordance with the Inter-local Agreement.

**8. Inventory Requirements.**

A. Palm Beach shall provide and pay for all inventory, parts, equipment, chemicals, power and standby generator diesel fuel, and all other items or materials necessary for the operation and maintenance of the Facilities.



**DRAFT**

B. Palm Beach shall maintain copies of all necessary operating and maintenance manuals and copies of all required permits for the operation of the Facilities with copies of each to be provided to Broward.

**9. Default.**

The occurrence of any of the following shall be a default of this Agreement:

A. The failure by Palm Beach to perform its agreed upon services under this Agreement, if such failure is not cured within ten (10) days of receipt of written notice from Broward specifying the nature of the default. If such default cannot reasonably be cured within the ten (10) day period, and Palm Beach is diligently pursuing a cure of the default, the default period shall be extended to such time as the default could be reasonably cured.

**10. Notice.**

Any notice given under the provisions of this Agreement shall be in writing and shall be delivered personally or sent by certified or registered mail:

To Palm Beach:

To Broward:

---

Director,  
Water Utilities Department  
P O Box 16097  
West Palm Beach, FL 33416-6097

---

Director,  
Water & Wastewater Services  
Pompano Beach, FL 33069

**11 Indemnification and Insurance.**

A. Each party shall be liable for its own actions and negligence and, to the extent permitted by law, Palm Beach shall indemnify, defend and hold harmless Broward against any actions, claims or damages arising out of Palm Beach's negligence in connection with this Agreement, and Broward shall indemnify, defend and hold harmless Palm Beach against any actions, claims, or damages arising out of Broward's negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by

**DRAFT**

either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions. The provisions of this indemnification clause shall survive termination of this Agreement.

B. Palm Beach shall maintain, during the life of this Agreement, Commercial General Liability, including contractual liability insurance in the amount of \$1,000,000 per occurrence to protect Broward and Palm Beach from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damage which may arise from any operations under this Agreement, whether such operations be by Broward or by anyone directly employed by or contracting with Broward. Palm Beach shall endorse Broward as an "Additional Insured" to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents." Palm Beach agrees that Broward shall be named as an additional named insured, on insurance provided by Palm Beach.

C. During the term of this Agreement, Palm Beach and Broward shall maintain, at limits set forth in Section 768.28, Florida Statutes, comprehensive automobile liability insurance for each party's respective vehicles as utilized in carrying out the terms of this Agreement. In addition, Palm Beach shall be responsible for providing Workers' Compensation Insurance and Employer's Liability Insurance for Palm Beach personnel carrying out the terms of this Agreement.

D. Prior to execution of this Agreement, Palm Beach shall deliver to Broward a Certificate(s) of Insurance evidencing the types and amounts of insurance coverage required by the Agreement have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum of thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage.

### **13. Venue/Enforcement Costs.**

The laws of the State of Florida shall govern any litigation arising from or relating to this Agreement and venue in any such proceeding shall be exclusively in Palm Beach County, Florida. Any costs or expenses, including reasonable attorney's fees,

associated with the enforcement of the terms or conditions of this Agreement shall be borne by the respective parties.

**14. Entirety of Agreement.**

This Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreements, either written or oral, with respect to matters contained herein.

**15. Counterparts.**

This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original; all of which together shall constitute one (1) and the same instrument.

**16. Captions.**

The captions and section designations set forth herein are for convenience only and shall have no substantive meaning.

**17. Nondiscrimination.**

Palm Beach and Broward represent and warrant that it will not discriminate, and that its employees and members of the public will be treated equally and without regard to race, color, age, sex, national origin, ancestry, marital status, sexual orientation, handicap, disability, familial status, gender identity or expression, or religion and shall not be excluded from the benefits of, or be subjected to any form of discrimination under any activity carried out under this Agreement.

**18. Joint Preparation.**

The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not, solely as a matter of judicial interpretation, be construed more severely against one of the parties than the other.

**19. Waiver.**

**DRAFT**

No waiver of any provision(s) of this Agreement shall be effective unless it is in writing signed by the party against whom it is asserted and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed a continuing or future waiver.

**20. Survivability.**

Any provision of this Agreement which is a continuing nature or imposes an obligation which extends beyond the expiration or termination of this Agreement shall survive its expiration or termination.

**21. Renewal.**

Palm Beach and Broward acknowledge and agree that this contract refers to and defines the Facilities as and where they generally and currently exist including any normally planned extensions and expansions. Should wholesale modifications to the Palm Beach service area be approved and implemented and such modifications cause major expansion to the current Facilities, this Agreement will be remain in force per the terms stipulated in the Inter-local Agreement.

**22. Incorporation by Reference.**

All Appendices attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

**23. Filing.**

A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach and Broward Counties.

**24. Access and Audits.**

Palm Beach shall maintain adequate records related to all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion or termination of this Contract and per Section 7.4 of the Inter-local Agreement. Broward shall have access to such books, records, and documents as

**DRAFT**

required in this section for the purpose of inspection or audit during normal business hours, at Palm Beach's place of business.

**25. Inspector General Audit Requirements.**

Pursuant to Palm Beach County Code, Section 2-421 – 2-244, as amended, Palm Beach County's Office of Inspector General is authorized to review past, present and proposed Palm Beach contracts, transactions, accounts, and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with Palm Beach, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a 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.

**THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK;  
SIGNATURE PAGE FOLLOWS**

**DRAFT**

**IN WITNESS WHEREOF**, the parties, by and through their duly authorized agents, have set their hands and seals on the date indicated above.

**ATTEST:**  
**SHARON R. BOCK**  
Clerk and Comptroller

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

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

By: \_\_\_\_\_  
, Chair

(SEAL)

**ATTEST:**

**BROWARD COUNTY, FLORIDA**  
**BY ITS BOARD OF COUNTY COMMISSIONERS**

By: \_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
, Chair

Name (Type or Print)

\_\_\_\_\_  
(SEAL)

**APPROVED AS TO FORM AND**  
**LEGAL SUFFICIENCY**

**APPROVED AS TO TERMS AND**  
**CONDITIONS**

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

By: \_\_\_\_\_  
Department Director



**DRAFT**

**APPENDIX \_\_**  
**Reclaimed Facilities Description and Design Data**

Broward Description

Palm Beach Reclaimed Facilities are located in Section\_\_\_\_, Township\_\_\_\_, Range\_\_\_\_, Palm Beach County, Florida. Facilities include reclaimed water distribution,\_\_\_\_\_. A complete legal description of the property also is provided below.

Property Legal Description

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A parcel of land lying

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## Exhibit \_\_

**Operation and Maintenance** - Operation and maintenance (O&M) services shall include proper verification, documentation and preventative maintenance (PM) meant to assess and measure the integrity and continued performance of the RWWS Facilities. Maintenance costs shall include but not be limited to all labor and materials required to provide corrective and preventive maintenance activities for the RWWS Facilities costing up to \$200,000 per incident. Corrective maintenance activities costing more than \$200,000 per incident which are not part of the approved Operations Plan for that fiscal year and which are either (a) not eligible for reimbursement from the R&R fund or (b) for which there are insufficient funds within the R&R Fund to pay for, shall first be approved by the Director of Broward Water & Wastewater Services. The Director of Broward Water and Wastewater Services shall act on any such request within 48 hours of receipt of request for approval, and shall not unreasonably withhold such approval. Operating costs shall include the electrical cost for RWWS Facilities re-pump station(s) and a twenty-five (25) percent charge to cover actual supervisory, administrative and office overhead costs related to the Operation and Maintenance Costs defined above. The derivation method for the Operation and Maintenance Costs is set forth in **Exhibit "H"** hereto.

Verification and documentation of facility operations shall include all sampling, data retrieval, data recording, data sample analysis, laboratory sample analysis, daily, monthly and any other operational reports as required to properly maintain complete operation of the RWWS Facilities and meet all compliance criteria set forth by the Florida Department of Environmental Protection (FDEP), Florida Administrative Code (FAC) Chapter 62-610, the Palm Beach Health Department (PBCHD), the South Florida Water Management District (SFWMD), Palm Beach County, Broward County or other regulatory entities.

Preventative maintenance shall include routine and non-routine maintenance activities associated with the proper upkeep of the RWWS Facilities. Routine maintenance shall be performed as prescribed per the manufacturer's published O&M manual(s) at a minimum. PM schedules shall be prepared and updated and be made part of the RWWS Facility verification and documentation requirements. PM shall also include facilities observation, data recording and making of necessary adjustments as a result of such data. Non-routine PM shall include abnormal maintenance associated with any RWWS Facility components and shall include response to alarm or emergency situations. RWWS Facility PM(s) shall include but not be limited to:

- Distribution system & pressure readings
- Meter and instrument calibrations/readings
- Emergency generator readings, exercising and data logging
- SCADA system checks
- Air compressors
- Seal water systems
- Pumps
- Vibration analysis
- Valve operation; manual and motorized
- Electric motors
- Electric control panels

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- Chemical feed apparatus
- Chlorination facilities
- Facility landscaping
- Facility Security
- Facility general housekeeping
- Annual Environmental Protection (DEP) mandated inspections of Customer irrigation systems

## **EXHIBIT “K”**

### **CONSTRUCTION MILESTONES REQUIRING NOTICE PER SECTION 5.6**

#### **Palm Beach County Construction Milestones:**

- Request for Qualifications for designer
- Award Design Contract
- 30% Design Complete
- 60% Design Complete
- 90% Design Complete
- 100% Design Complete
- All permits received
- Advertise for Construction Bids
- Award Construction Contracts
- Phase 1 Substantial Completion
- Phase 2 Substantial Completion
- Phase 3 Substantial Completion
- Phase 1 Final Completion
- Phase 2 Final Completion
- Phase 3 Final Completion

#### **Broward County Construction Milestones**

- Request for Proposals for Consultant Engineering Services
- Award Consultant Engineering Services Agreement
- 30% Design Complete
- 60% Design Complete
- 90% Design Complete
- 100% Design Complete
- All permits received
- Advertise for Construction Bids
- Award Construction Contracts
- Substantial Completion
- Final Completion