

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: June 19, 2018 Consent [ ] Regular [X]  
Public Hearing [ ]

Department: Water Utilities Department

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: a First Amendment to First Restated Interlocal Agreement (First Restated Agreement) between Palm Beach County (County) and Seacoast Utility Authority (Authority) for the Purchase and Sale of Bulk Potable Water and Wastewater Service.

**Summary:** The First Amendment to First Restated Agreement will accomplish the following:

1. Modifies Section 7.B to reduce the Additional Potable Water Capacity reservation increments from 100,000 gallons per day to 50,000 gallons per day.
2. Modifies Section 8.B to reduce the Additional Wastewater Capacity reservation increments from 100,000 gallons per day to 50,000 gallons per day.
3. Adds a new Section 8.C applying a one-time System Efficiency Credit (SEC) in the amount of \$582,446.00 for operational cost savings. This portion of the amendment to the agreement formalizes an administratively granted SEC on April 27, 2017 and is in accordance with the recommendation of Inspector General Report 2018-A-006 WB.
4. Adds a new Section 36 to apply the provisions of the Water Utilities Department (WUD) Uniform Policies and Procedures Manual (UPAP), notwithstanding anything to the contrary in the Restated Agreement. This Section clarifies that the provisions of UPAP applies to the agreement unless, it conflicts with the terms of the agreement. District 1 (MJ)

**Background and Justification:** On April 18, 2006, the County and Authority entered into an Interlocal Agreement (Original Agreement) for the Purchase and Sale of Bulk Potable Water and Wastewater Service (R2006-0687). On April 4, 2017, the Board of County Commissioners (BCC) approved the (First Restated Agreement) (R2017-0444). The First Restated Agreement was necessary to provide for the continued provision of Potable Water and Wastewater service pursuant to the Original Agreement and to provide for additional reservation of Potable Water and Wastewater capacity by Authority at updated Capacity Fees and Commodity Fees, and also included other necessary updates.

WUD seeks to increase connections at the north end of the system. The minimum Potable Water and Wastewater capacity reservation increments modification allows more flexibility to the Authority in future capacity reservations. Only a few customers are located in the north end of the system resulting in higher than average flushing requirements to maintain minimum pipeline chlorine residuals. The SEC to the Authority accounts for the expected operational costs savings that the County will accrue due to avoided water line flushing expenses. It was credited to the Additional Potable Water Capacity and Additional Wastewater Capacity reservation fees remitted by the Authority in October 2017. The calculation of the credit follows standard utility financial principles and it addresses real, measurable efficiencies in the operation of the system.

**Attachments:**

1. Two (2) First Amendment to First Restated Interlocal Agreement

Recommended By:

  
Department Director

6-7-18  
Date

Approved By:

  
Assistant County Administrator

6/15/18  
Date

## **II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2018	2019	2020	2021	2022
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Operating Costs	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<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 4000	DEPT 720	UNIT 4200	RSRC	6992

Is Item Included in Current Budget?                      Yes                      No                        X  

Does this item include the use of federal funds? Yes No X

Reporting Category **N/A**




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

This agenda item has no fiscal impact; however, WUD received a net amount, after SEC, of \$1,506,554.00 from Authority in FY2018 for Additional Potable Water Capacity and Additional Wastewater Capacity reservation fees.

C. Department Fiscal Review: \_\_\_\_\_

### **III. REVIEW COMMENTS**

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

6/6 OFMB 6/5 8 6/5 6/12/18  
 Contract Development and Control

### B. Legal Sufficiency:

 6/14/18  
Assistant County Attorney

**C. Other Department Review:**

Department Director

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

**FIRST AMENDMENT TO FIRST RESTATED INTERLOCAL AGREEMENT  
BETWEEN PALM BEACH COUNTY AND SEACOAST UTILITY AUTHORITY FOR  
THE PURCHASE AND SALE OF BULK POTABLE WATER AND WASTEWATER  
SERVICE**

**THIS FIRST AMENDMENT** is made and entered into this 23<sup>rd</sup> day of May, 2018, and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida (hereinafter "County"), and the **SEACOAST UTILITY AUTHORITY**, a separate legal public entity created pursuant to the provisions of chapter 163, Florida Statutes (hereinafter "Authority").

**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 economic, population and other factors influencing the needs and development of local communities; and

**WHEREAS**, on April 18, 2006, County and Authority entered into an Interlocal Agreement for the Purchase and Sale of Bulk Potable Water and Wastewater Service ("Original Agreement")(County Resolution No. R2006-0687); and

**WHEREAS**, on April 4, 2017, County and Authority entered into a First Restated Interlocal Agreement for the Purchase and Sale of Bulk Potable Water and Wastewater Service (the "First Restated Agreement")(County Resolution No. R2017-0444); and

**WHEREAS**, the First Restated Agreement was necessary to provide for the continued provision of Potable Water and Wastewater service pursuant to the Original Agreement and to provide for additional reservation of Potable Water and Wastewater capacity by Seacoast at updated Capacity Fees and Commodity Fees, and also included other necessary updates; and

**WHEREAS**, County and Authority wish to amend the First Restated Agreement to incorporate a system efficiency credit to the Authority to account for the expected operational costs savings that the County will accrue due to avoided water line flushing expenses; and

**WHEREAS**, County and Authority also wish to amend the First Restated Agreement in order to modify the minimum Potable Water and Wastewater capacity reservation increments in order to provide the Authority with more flexibility in future capacity reservations.

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

1. The foregoing statements are true and correct and are incorporated herein.

2. A new Section 8.C is incorporated into the First Restated Agreement, as follows:

C. System Efficiency Credit. The County has determined that the Authority's purchase of 400,000 gallons per day of Additional Potable Water Capacity in October 2017, the majority of which will be used by a single, large, low peak, stable industrial customer, are expected to have beneficial effects on the County's operations. These beneficial effects include the reduction of the flushing of Potable Water currently required to maintain Potable Water quality in the northern portion of the County's Potable Water System. The County expects to achieve operational cost savings due to the avoided water flushing. Based on these expected operational cost savings, the County is applying a one-time system efficiency credit in the amount of \$582,446.00 to the Authority. The amount of the system efficiency credit was credited to the Additional Potable Water Capacity and Additional Wastewater Capacity reservation fees remitted by the Authority in October 2017. Therefore, no further payment by or credit to the Authority is necessary to apply the system efficiency credit.

3. Section 7.B of the First Restated Agreement is hereby amended to modify the Additional Potable Water Capacity reservation increments from 100,000 gallons per day to 50,000 gallons per day.

4. Section 8.B of the First Restated Agreement is hereby amended to modify the Additional Wastewater Capacity reservation increments from 100,000 gallons per day to 50,000 gallons per day.

5. A new Section 36 is incorporated into the First Restated Agreement, as follows:

36. Uniform Policies and Procedures Manual. Pursuant to Section 27-86 of the Palm Beach County Code, the Palm Beach County Board of County Commissioners has adopted by resolution the Palm Beach County Water Utilities Department (PBCWUD) Uniform Policies and Procedures Manual (UPAP), which is a codification of the fees, standards, standard legal documents, policies and procedures for PBCWUD. Notwithstanding anything to the contrary in this Agreement, the parties agree and acknowledge that, absent any conflict with the terms of this Agreement, the provisions of the UPAP shall apply to all services and transactions contemplated under this Agreement.

6. Except as specifically modified above, the terms and conditions of the First Restated Agreement dated April 4, 2017 are hereby confirmed and remain in full force and effect.

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

IN WITNESS WHEREOF, County and Authority have executed or have caused this First Amendment, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this First Amendment.

AS TO COUNTY:

ATTEST:

Sharon R. Bock, Clerk and Comptroller

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

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

By: \_\_\_\_\_  
Melissa McKinlay, Mayor

(SEAL)

APPROVED AS TO FORM AND TO  
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND  
CONDITIONS

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

By: \_\_\_\_\_  
Department Director of Water Utilities  
For

AS TO AUTHORITY:

ATTEST:

SEACOAST UTILITY AUTHORITY

By: \_\_\_\_\_  
Jessica Moore, Authority Clerk

By: \_\_\_\_\_  
John D'Agostino, Vice-Chair

APPROVED AS TO FORM AND TO LEGAL  
SUFFICIENCY

By: \_\_\_\_\_  
Authority Attorney, Nathan Nason