

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date:	December 21, 2021	Consent <input checked="" type="checkbox"/>	Regular <input type="checkbox"/>
		Public Hearing <input type="checkbox"/>	
Department:	Water Utilities Department		

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a General Release, Hold Harmless and Indemnification Agreement (Agreement) with the City of Belle Glade (Belle Glade).

Summary: The payment drop box located at Belle Glade City Hall, 110 Dr. M.L.K Blvd W, Belle Glade, can only be accessed by Belle Glade staff from Monday through Thursday. To better serve Palm Beach County Water Utilities Department (PBCWUD) customers and minimize the potential loss or misplacement of payments, PBCWUD is proposing to install a stand-alone payment drop box outside Belle Glade City Hall. The installation of this drop box will allow PBCWUD to access and collect payments from Monday through Friday. Belle Glade has agreed to the installation of the stand-alone payment drop box to be located on their property contingent upon the execution of this Agreement. The Agreement requires the County to indemnify, hold harmless, and release Belle Glade from certain liabilities in relation to the stand-alone payment drop box, and utilizes language which differs from the County standard language set forth in Countywide PPM CW-F-049. The Risk Management Department and the County Attorney's Office have reviewed the terms and agree to the deviations. District 6 (MJ)

Background and Justification: On May 1, 2013, the County absorbed the operations of the Glades Utility Authority (GUA). The absorption was deemed to be in the best interest of the Glades Region utility customers. Since the GUA's absorption the County has actively sought out ways to better serve our customers by providing a variety of convenient payment methods.

Attachments:

1. Two (2) Originals of the Indemnification Agreement
2. Location Map

Recommended By:	<u>Ali Bayat</u>	<u>11/19/21</u>
	Department Director	Date

Approved By:	<u>[Signature]</u>	<u>12/7/2021</u>
	Assistant County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2022	2023	2024	2025	2026
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	0	<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 Dept Unit Object

Is Item Included in Current Budget? Yes ___ No ___

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

Reporting Category N/A

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

No Fiscal impact

C. Department Fiscal Review:

[Signature]

III. REVIEW COMMENTS

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

[Signature] 11/23/21
OFMB *[Signature]* 11-23-21
[Handwritten notes: favorable decision 11/23/21]

[Signature] 12/3/21
Contract Development and Control
12-3-21 *[Signature]*

B. Legal Sufficiency:

[Signature] 12/3/21
Assistant County Attorney

C. Other Department Review:

Department Director

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

GENERAL RELEASE, HOLD HARMLESS AND INDEMNIFICATION

In consideration for allowing Palm Beach County Water Utilities ("PBC") to use the City of Belle Glade's ("City") property located at 110 Dr. Martin Luther King, Jr. Blvd., W., Belle Glade, Florida ("property"), to place a stand-alone payment box for utility customers of PBC to use, PBC hereby agrees to hold harmless and indemnify the City in accordance with this General Release, Hold Harmless and Indemnification ("General Release") as follows:

1. To the fullest extent permitted by law, PBC hereby releases, waives, and agrees to hold harmless and indemnify the City for any and all claims, demands, damages, actions, causes of action, suits in equity of whatever kind or nature, appeals, liability, losses, costs and expenses (including, but not limited to, reasonable costs, collection expenses, and attorneys' fees), including, but not limited to, personal injury, loss of life and property damage involving PBC, its contractors, employees or agents in installing a stand-alone payment box on City property.
2. To the fullest extent permitted by law, PBC hereby releases, waives, and agrees to hold harmless and indemnify the City for any and all claims, demands, damages, actions, causes of action, suits in equity of whatever kind or nature, appeals, liability, losses, costs and expenses (including, but not limited to, reasonable costs, collection expenses, and attorneys' fees), including, but not limited to, personal injury, loss of life and property damage to any person using the stand-alone payment box or any person injured by or because of the stand-alone payment box.

Notwithstanding the above, PBC shall not be liable for the actions or negligence of the City, its employees or agents. To the extent authorized by law, the City agrees to indemnify PBC from liability that arises out of the negligence of the City or its employees acting within the course and scope of their employment as it relates to this General Release.

3. Nothing in this General Release shall be construed by either party as consent to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes, nor as a waiver of any defense the parties may have under such statute.
4. If any damage to the City's property is caused or permitted to be caused by PBC, its contractors, employees, or agents, or users of the stand-alone payment box, PBC agrees to pay for the repair of such damage upon invoice by the City. In such event PBC agrees to reimburse the City for the total cost of such repairs, and/or for the replacement cost of all property so destroyed or damage.
5. If any damage to PBC's stand-alone payment box is caused by any person (other than a City employee), or act of God, PBC agrees that the City shall not be responsible for the repair or cost of repair of said stand-alone payment box. PBC shall promptly repair or remove said damaged stand-alone payment box by no later than thirty (30) days after notification from the City that said stand-alone payment box is in need of repair or removal.

If PBC does not promptly repair or remove the stand-alone payment box the City may remove it with ten (10) days' notice to PBC. The City may then charge PBC for the removal and storage of said stand-alone payment box and any related property associated with the stand-alone payment box and PBC shall immediately pay all costs for the removal and storage upon demand by the City. Further, if the City removes and/or stores the stand-alone payment box and related property, to the fullest extent permitted by law, PBC agrees to indemnify and hold the City harmless for any damages to or loss of the stand-alone payment box and related property in accordance with this General Release.

6. The City may terminate the use of the City's property by PBC with forty-five (45) days' notice to PBC, with or without cause. PBC shall remove the stand-alone payment box no later than sixty (60) days from the date of the City's notice. If PBC does not promptly remove the stand-alone payment box in that timeframe, then the City may remove the stand-alone payment box and store it and PBC shall immediately pay all costs for the removal and storage upon demand by the City. Further, if the City removes and/or stores the stand-alone payment box and related property, to the fullest extent permitted by law, PBC agrees to indemnify and hold the City harmless for any damages to or loss of the stand-alone payment box and related property in accordance with this General Release.
7. Whenever the stand-alone payment box is removed, PBC agrees to leave the City's property in the same condition it was prior to the placement of the stand-alone payment box there. If PBC fails to repair the property or repair any damages to the City's property upon demand, the City is authorized to repair the property and charge PBC for such costs. PBC shall pay all costs upon demand.
8. County is a political sub-division of the State of Florida subject to the limitations of Florida Statutes 768.28 as amended. County shall maintain a fiscally prudent liability program with regard to its obligations under this Agreement. Nothing herein shall serve as a waiver of sovereign immunity.
9. This General Release shall be in effect beginning on the date that PBC executes the General Release. Access to the City's property to place the stand-alone payment box can occur only with forty-eight (48) hours' notice to the City. PBC will place the stand-alone payment box at a location approved by the City.
10. PBC hereby acknowledges and states that it has read and understands the above information. No promise, inducement, or agreement not expressed herein has been made to PBC.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.
SIGNATURE PAGE FOLLOWS.]**

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

ATTEST:

**Joseph Abruzzo, Clerk of the Circuit
Court & Comptroller, Palm Beach County**

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

By: _____
Deputy Clerk

By: _____
RS Robert S. Weinroth, Mayor
A13

(SEAL)

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

By: _____
County Attorney

ATTEST:

CITY OF BELLE GLADE, FLORIDA

By: *Jessica Figueroa*
for Debra R. Buff, MMC, City Clerk

By: *Steve B. Wilson*
Steve B. Wilson, Mayor

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

By: *Glen J. Torcivia*
Glen J. Torcivia, City Attorney

**Location Map
ATTACHMENT – 2**

General Release, Hold Harmless and Indemnification Agreement

