

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: September 13, 2011 Consent [X] Regular [ ]  
Public Hearing [ ]

Submitted By: Water Utilities Department  
Submitted For: Water Utilities Department

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to receive and file: executed Agreements received during the months of June and July, 2011:

- A) Standard Indemnity Agreement with Arrigo Enterprises, Inc.; SDA # 01-00594-002 (District 2);
- B) Standard Water and Wastewater Development Agreement with Legend Lakes Center 18, LLC; SDA # 02-01124-001 (District 6);
- C) Standard Water and Wastewater Development Agreement with Mission Lakes I & II, LLC; SDA # 02-01127-000 (District 2); and
- D) Standard Water and Wastewater Development Agreement with Civic Development Group, LLC; SDA # 05-01108-000 (District 3).

**Summary:** In accordance with County PPM CW-0-051, all delegated contracts/agreements/grants/procurement items must be submitted by the initiating Department as a receive and file agenda item. The attached Standard Development Agreement and Indemnity Agreements have been fully executed on behalf of the Board of County Commissioners (Board) by the County Administrator/Director/Deputy Director of the Water Utilities Department in accordance with Resolutions R93-1619, R96-0228, and R2003-0539 and are now being submitted to the Board to receive and file. (SF) **Original documents can be viewed in Minutes.**

**Background and Justification:** Water Utilities Department's Uniform Policies and Procedures require Standard Development Agreements to obtain concurrency for water and/or wastewater service. The terms and conditions for Standard Development Agreements are outlined in the Water Utilities Department's Uniform Policies and Procedures Manual. The Board of County Commissioners delegated the authority to execute various types of Standard Development Agreements, and related documents including Standard Indemnity Agreements to the Department Director including potable water and wastewater agreements (R93-1619); reclaimed water agreements (R96-0228); and additional conditions for potable water, wastewater, and reclaimed water agreements (R2003-0539).

The Agreements attached have been executed on behalf of the Board by the County Administrator/Director/Deputy Director of the Water Utilities Department in accordance with the authority delegated by the Board, and are now being submitted to the Board to receive and file.

**Attachments:**

- 1. One (1) Original Indemnity Agreement
- 2. Two (2) Original Standard Water and Wastewater Development Agreement SDA # 02-01124-001
- 3. Two (2) Original Standard Water and Wastewater Development Agreement SDA # 02-01127-000
- 4. Two (2) Original Standard Water and Wastewater Development Agreement SDA # 05-01108-000

Recommended By:  8/15/2011  
Department Director Date

Approved By:  8/29/11  
Assistant County Administrator Date





IN WITNESS WHEREOF, the parties have caused this Indemnification Agreement to be executed on the day and year first written above.

WITNESSES:

PALM BEACH COUNTY

Anna M Daniels  
Witness Signature

By: [Signature]  
County Administrator or Designee

**ANNA M. DANIELS**  
Typed or Printed Name

Nancy M May  
Witness Signature

NANCY M. MAY  
Typed or Printed Name

WITNESSES:

INDEMNITOR:

[Signature]  
Witness Signature

By: [Signature]  
Signature

Virginia A. Ludlum  
Typed or Printed Name

President  
Title

[Signature]  
Witness Signature

James J. Argo  
Typed or Printed Name

Kristine Argo  
Typed or Printed Name

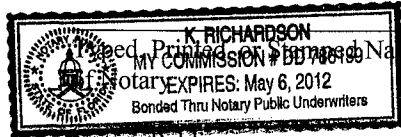
{ Corporate Seal }

STATE OF Florida  
COUNTY OF Palm Beach

NOTARY CERTIFICATE

The foregoing instrument was acknowledged before me this 3 day of June, 2011 by James J. Argo. He/she is personally known to me or has produced as identification.

[Signature]  
Signature of Notary



Notary Public  
Serial Number

WATER UTILITIES DEPARTMENT APPROVAL

By: Delma m West  
Director of Finance and Administration  
PBC Water Utilities Department

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]  
County Attorney

EXHIBIT "A"

08032890  
WU#68



UNIVERSAL LAND TITLE, INC.  
1555 PALM BEACH LAKES BLVD.  
SUITE 100  
WEST PALM BEACH, FL 33401

02/02/2004 12:15:22 20040057603  
OR BK 16501 PG 0991  
Palm Beach County, Florida  
AMT 12,650,047.00  
Doc Stamp 88,550.70  
Dorothy H Wilken, Clerk of Court

SPECIAL WARRANTY DEED

**CHRYSLER REALTY COMPANY LLC**, a Delaware limited liability company, formerly known as Chrysler Realty Corporation, whose address is 1000 Chrysler Drive, West T-4000, CIMS# 485-04-25, Auburn Hills, Michigan 48326-2766 ("Grantor"), for consideration paid, grants and conveys to **ARRIGO ENTERPRISES, INC.**, a Florida corporation, whose address is 2101 Okeechobee Boulevard, West Palm Beach, Florida 33409 ("Grantee"), all that certain land, situated in Palm Beach County, Florida described on Exhibit "A" attached hereto and made a part hereof, together with all the tenements, hereditaments and appurtenances thereto belonging or anywise appertaining ("Property") for and in consideration of One and 00/100 (\$1.00) Dollar receipt of which is hereby acknowledged.

This conveyance is made subject to the following: non-delinquent, ad valorem taxes and current installments of special assessments against the Property which are not due and payable; to highways, rights-of-way, easements, rights, covenants, mineral reservations and licenses and restrictions of record generally; to zoning ordinances, building and use restrictions and other governmental limitations; to restrictions, not currently of record, which any governmental agency may impose so as to satisfy governmental requirements; and to matters which might be disclosed by an accurate inspection and architectural survey of the Property.

Grantor does hereby bind itself and its successors to warrant and forever defend ownership of the Property unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through, or under Grantor, but not otherwise.

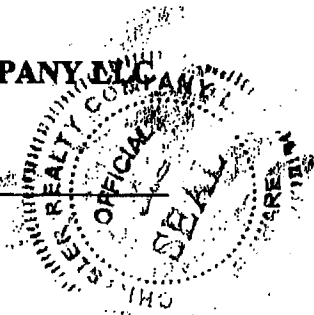
WITNESS its hand and seal this 27th day of January, 2004.

SIGNED IN PRESENCE OF:

Lisa Kalam  
LISA KALAM  
Cynthia M. Foster  
Cynthia M. Foster

CHRYSLER REALTY COMPANY LLC

By: F.H. Noles  
Its: Vice President



STATE OF MICHIGAN )  
 ) SS  
COUNTY OF OAKLAND )

On this ~~27th~~ day of January, 2004, before me personally appeared T.H. Noles to me personally known, whom being by me sworn, said that he is the Vice President of Chrysler Realty Company LLC; a Delaware limited liability company ("Company") who executed this instrument; that this instrument was signed on behalf of the Company by authority of its Board of Directors; and that this instrument is acknowledged as the free act and deed of the Company.

Shirley Pranger  
Notary Public  
Oakland County, Michigan  
My Commission expires: 6/15/04

SHIRLEY PRANGER  
Notary Public, Oakland County, Michigan  
My Commission Expires June 15, 2004

**THIS INSTRUMENT PREPARED BY:**

Sally A. Rutledge, Esq.  
Howard & Howard Attorneys, P.C.  
39400 Woodward Ave., Suite 101  
Bloomfield Hills, MI 48304-5151  
(248) 645-1483

**RETURN TO:**

Kevin F. Richardson, Esq.  
Clyatt & Richardson, P.A.  
1551 Forum Place, Suite 300 F  
West Palm Beach, Florida 33401  
(561) 471-9600

**EXHIBIT "A"**

**Legal Description**

The following real estate located in the County of Palm Beach, Florida:

All of the ~~Plat~~ of AUTONATION OF PALM BEACH, according to the plat thereof, recorded in Plat Book 83, Page 92, Public Records of Palm Beach County, Florida.

TOGETHER WITH the reservation of the right of ingress and egress contained in that certain deed recorded in Official Records Book 2279, Page 1407, Public Records of Palm Beach County, Florida.

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This is not a certified copy





## POTABLE WATER AND WASTEWATER

- (f) "Service Initiation" - the date a potable water meter or wastewater connection is requested;
  - (g) "Guaranteed Revenue Fee" - the fee designed to recover the carrying costs of system capacity which has been or is being constructed in anticipation of future service requests. Carrying costs include fixed operating and renewal and replacement expenses necessary to maintain excess system capacity for future use. Guaranteed Revenue does not recover variable operating expenses;
  - (h) "Total Accrued Amount (TAA)" - At the time of Service Initiation for each ERC, a TAA equal to sixty months of Guaranteed Revenue Fees plus applicable Franchise Fees at the then current rate minus the MAP paid per each ERC shall be due and payable for such ERC. The TAA for each ERC will be determined at the time of Service Initiation;
  - (i) "Standard Development Renewal Agreement (SDRA)" - an agreement between Utility and Property Owner extending the capacity reservation for unused ERCs/ERICs in a Standard Development Agreement for an additional five (5) years; and
  - (j) "Franchise Fee" - A percentage surcharge applied to all of the Utility's fees for Customers within portions of the Utility's Service Area with said fees collected by Utility and distributed to another governmental entity.
3. Property Owner hereby grants and gives to Utility the exclusive right and privilege to construct, own, maintain, operate and expand the potable water and wastewater facilities in, under, upon, over and across the present and future streets, roads, easements, reserved utility sites and public places as provided and dedicated to public use in the record plats, or as provided for in agreement, dedications or grants made otherwise and independent of said record plats. Utility covenants that it will use due diligence in ascertaining all easement locations; however, should Utility install any of its facilities outside a dedicated easement area, Property Owner covenants and agrees that Utility will not be required to move or relocate any facilities lying outside a dedicated easement area as long as the facilities do not interfere with the then or proposed use of the area in which the facilities have been installed. Property Owner hereby further agrees that the foregoing grants include the necessary rights of ingress and egress to any part of the Property which Utility requests for the maintenance, operation or expansion of the potable water and wastewater facilities; that in the event Utility is required or desires to install any of its potable water and wastewater facilities in lands within the Property lying outside the streets and easement areas described above, then Property Owner shall grant to Utility, without cost or expense to Utility, the necessary easement or easements for such installation; provided, all such installations by Utility shall be made in such a manner as not to interfere with the then primary use of such Property. Property Owner shall obtain written approval from Utility prior to installing any structure or object, including, but not limited to, fences, gates, signs, trees or poles, within an easement area. In consideration of Utility's consent to an encroachment, Property Owner shall agree to indemnify and hold Utility harmless from and against all liabilities, damages, penalties, claims costs and expenses, including attorney's fees at all levels, which may be imposed upon or asserted against Utility as a result of or in any way connected to an encroachment approved by Utility. In the event Utility determines that it is necessary to construct, maintain, repair, remove, or replace any of its facilities located under, over or upon an easement, Property Owner shall immediately remove the encroachment from the easement upon the request of Utility at Property Owner's sole cost and expense. If Property Owner fails to remove the encroachment, Utility shall have the right to remove the encroachment from the easement. Property Owner shall pay all costs related to removing the encroachment from the easement incurred by Utility.

Property Owner, as further consideration of this Agreement, and in order to effectuate the foregoing grants to Utility, hereby places the following covenant, as a covenant running with the land, upon the Property and thereby subjecting it to a reservation, condition, limitation or restriction in favor of Utility, as follows:

Utility, or its successors, has the sole and exclusive right to provide all potable water and wastewater facilities and services to the Property described in **Exhibit "A"** and in addition to any property to which potable water and wastewater service is actually rendered by Utility. All occupants of any residence or non-residential improvement erected or located on the Property and all subsequent or future owners or purchasers of the Property, or any portion thereof, shall exclusively receive their potable water and wastewater service from the aforesaid Utility and shall pay for the

**POTABLE WATER AND WASTEWATER**

same and shall abide by the terms and intent of this Agreement, and the UPAP, for as long as the aforesaid Utility provides such services to the property. Further, all occupants of any residence or non-residential improvement erected or located on the Property and all subsequent or future owners or purchasers of the property, or any portion thereof, agree, by occupying any premises on the Property or by recording any deed of conveyance with respect to the Property, that they will not construct or otherwise make available or use potable water and wastewater service from any source other than that provided by Utility.

Any water well or water source used solely for the purpose of supplying irrigation for the Property is excluded from this restriction unless the Property is required to utilize reclaimed water in accordance with the Palm Beach County Reclaimed Water Ordinance.

Further, in order to give an additional and supplementary notice to all the future Property Owners of any of the Property of the rights of Utility to provide the Property with potable water and wastewater facilities and services, Property Owner hereby covenants and agrees to have the above restrictive covenant or its equivalent included in the general subdivision restrictions and to place the same of record in the Public Records of Palm Beach County, Florida.

4. Upon the continued accomplishment of all the prerequisites contained in this Agreement to be performed by Property Owner, Utility covenants and agrees that it will allow the connection of the potable water distribution and wastewater collection facilities installed by Property Owner to the potable water and wastewater facilities of Utility in accordance with the terms and intent of this Agreement. Such connection shall be in accordance with rules, and regulations of the Health Department, the UPAP, and other governmental agencies having jurisdiction over the water supply and wastewater collection and disposal operation of Utility.
5. Property Owner is required to pay Guaranteed Revenue Fees plus applicable Franchise Fees in order to support investment in plant facilities, as well as the fixed costs of maintaining such facilities and the unused capacity it represents. Therefore, Property Owner agrees to pay in accordance with the UPAP:

- (a) a MAP per each ERC for the requested capacity upon submission of this Agreement; and
- (b) a TAA per each ERC for the requested capacity upon Service Initiation.

Utility has advised Property Owner that construction of additional potable water and wastewater facilities will be completed in phases designed to coincide with the need for service to Property Owner and other Property Owners in the service area. Utility should not be expected to provide service to connections in excess of those reserved as evidenced by proper payment of Guaranteed Revenue.

The MAP required upon submission of this Potable Water and Wastewater Agreement is:

<b>Potable Water:</b>	<b>\$182.23</b>	<b>per ERC x</b>	<b>14.4</b>	<b>ERCs =</b>	<b>\$2,624.12</b>
<b>Wastewater:</b>	<b>\$255.78</b>	<b>per ERC x</b>	<b>13.75</b>	<b>ERCs =</b>	<b>\$3,516.98</b>
<b>TOTAL</b>					<b>\$6,141.09</b>

Upon receipt of the MAP, Utility agrees to reserve 14.4 ERCs of Potable Water and 13.75 ERCs of Wastewater system capacity for Property Owner until **July 31, 2016**, which term may be extended in accordance with the UPAP, as may be amended from time to time, and upon payment of applicable fees. Property Owner acknowledges and agrees Utility shall not refund or reimburse the MAP upon expiration.

Property Owner acknowledges that it is the sole responsibility of Property Owner to provide payment of a new MAP at the then current fees thirty (30) days before the expiration of the original five-year term. Should multiple assignments exist for this Agreement, each assignee must submit the appropriate MAP for any unconnected ERCs related to the assignee's ERCs. Should Property Owner or assignee fail to submit a new MAP payment for their respective

## POTABLE WATER AND WASTEWATER

unconnected ERCs, Property Owner acknowledges and agrees that Utility may unilaterally execute a document evidencing termination and partial release of this Agreement except for the rights, duties, or obligations as set forth in Paragraphs 3, 4, 8, 9, 10, 13, and 14 of this Agreement and record the document in the public records of Palm Beach County, Florida.

At the time of Service Initiation, the applicable ERCs will be deducted from said reservation. Upon approval of Utility, the total number of ERCs may be increased up to 10% of the original reservation or by ten (10) ERCs, whichever is greater, by an amendment to this Agreement. The MAP required for the amendment shall be paid at the rate applicable to the original Agreement. Any amendments to the SDA shall be binding upon both Utility and Property Owner and subject to all applicable rules and regulations of Utility; however, any amendments will not extend the original five (5) year term of the Agreement. Any adjustment which is greater than that specified herein requires a new Agreement to be signed. Upon written notice to Utility, said ERCs may be adjusted downward however, no refund or credit will be given by Utility to Property Owner for said downward adjustment.

6. Property Owner hereby agrees to construct and to transfer ownership and control up to the Point of Service to Utility, at no cost, the on-site and off-site potable water distribution, and wastewater collection systems referred to herein. Upon acceptance of said facilities, Utility hereby agrees to accept ownership of the potable water and wastewater facilities for operation and maintenance purposes. Property Owner shall cause to be prepared engineering plans and specifications prepared by and sealed by a professional engineer registered in the State of Florida, showing the on-site and off-site potable water distribution and wastewater collection systems for the Property. Utility will advise Property Owner's engineer of any sizing requirements as mandated by the UPAP. Such detailed plans may be limited to a phase of the Property, and subsequent phases may be furnished from time to time. However, each such phase shall conform to a master plan for the development of the Property and such master plan shall be submitted to Utility concurrent with or prior to submission of plans for the first phase. All such plans and specifications, including hard copy and electronic media, submitted to Utility's engineer shall be subject to the approval of Utility and shall conform to Utility's standards as set forth in the UPAP, and no construction shall commence until Utility has approved such plans and specifications in writing. After approval, Property Owner shall cause to be constructed, at Property Owner's expense, the potable water distribution, and wastewater collection systems as shown on the plans and specifications. Fees, as set forth in the UPAP, shall be levied by Utility to cover the cost of plan review and inspection. Property Owner shall also be required to pay Guaranteed Revenue Fees, Connection Fees, Installation Fees, and other fees as set forth in the UPAP.

During the construction of the potable water distribution and wastewater collection systems by Property Owner, Utility may from time to time inspect such installation to determine compliance with the plans and specifications, adequacy of the quality of the installation, and further, shall be entitled to perform standard tests for pressure, infiltration, line and grade, and all other normal engineering tests to determine that the system has been installed in accordance with the approved plans and specifications and the UPAP. Inspection by Utility shall in no way relieve Property Owner of his responsibility to install the facilities in accordance with the approved plans and specifications and the UPAP. Complete as-built plans, including hard copy and electronic media when utilized, shall be submitted to Utility upon completion of construction.

Property Owner hereby agrees to transfer to Utility title to all potable water distribution and wastewater collection systems installed by Property Owner's contractor pursuant to the provisions of this Agreement. Such conveyance is to take effect without further action upon the acceptance by Utility of the said installation. As further evidence of said transfer of title, upon the completion of the installation and prior to the rendering of service by Utility, Property Owner shall convey to Utility by Bill of Sale in a form supplied by Utility the complete on-site and off-site potable water distribution and wastewater collection system as constructed by Property Owner and approved by Utility, along with the required Cost Documentation and Property Owner's No Lien Affidavit. Subsequent to construction of the facilities and prior to receiving a meter(s) from Utility, Property Owner shall convey to Utility all easements and/or rights-of-way covering areas in which potable water and wastewater lines are installed by a recordable document in a form supplied by Utility. All conveyance of easements or rights-of-way shall be accompanied by a paid title policy for the benefit of Utility in a minimum amount of:

## POTABLE WATER AND WASTEWATER

- \$50.00 per linear foot of any granted utility easement (based on the centerline of the easement); and
- \$150,000 for a Utility-owned wastewater lift station (if not constructed within an existing utility easement).

Said title policy shall confirm the Grantor's rights to convey such easements or rights-of-way, and further, evidencing Utility's right to the continuous enjoyment of such easements or rights-of-way for those purposes set forth in this Agreement. The use of easement(s) granted by Property Owner may be used by other utilities as long as such is approved by Utility. Utility's acceptance of the potable water distribution and wastewater collection system installed by Property Owner shall be in accordance with the provisions as set forth in the UPAP. All installations by Property Owner or its contractor shall be warranted for one year (or five years in the case of lift station pumps and motor assemblies) from date of Final DEP Certification. Mortgagees holding liens on such properties shall be required to release such liens, subordinate their position, or join in the granting of the easements or rights-of-way. All potable water distribution and wastewater collection facilities shall be located within an easement if not located within platted or dedicated rights-of-way.

Property Owner hereby agrees to pay to Utility Guaranteed Revenue Fees, Connection Fees, Service Installation Fees, Franchise Fees, and any other applicable fees as set forth in the UPAP at the then current rate.

The timely payment by Property Owner of all fees in accordance with the terms set forth herein shall be considered essential to the continued performance by Utility of the terms and conditions of this Agreement. The construction and transfer of ownership of the potable water distribution and wastewater collection system does not and will not result in Utility waiving or offsetting any of its fees, rules or regulations. Property Owner shall not have any present or future right, title, claim, or interest in and to the potable water and wastewater facilities transferred to or owned by Utility.

7. Upon submission of this Agreement, Property Owner, at his expense, agrees to furnish Utility with a copy of the recorded Warranty Deed for the purpose of establishing ownership of the Property. Any mortgagee or lien holder having an interest in the Property shall be required to execute a Consent and Joinder of Mortgagee/Lienholder as supplied by Utility. Property Owner must submit either a title policy or a letter from an attorney licensed to do business in Florida confirming that there is no mortgage or lien on the Property. The title policy or letter must be issued within thirty (30) days of submittal of the SDA.
8. Property Owner agrees with Utility that all potable water and wastewater facilities conveyed to Utility for use in connection with providing potable water and wastewater service to the Property, shall at all times remain in the complete and exclusive ownership of Utility, and any entity owning any part of the Property or any residence or building constructed or located thereon, shall not have the right, title, claim or interest in and to such facilities, or any part of them, for any purpose. In addition, Utility shall have the exclusive right and privilege to provide potable water and wastewater services to the Property and to the occupants of each residence or building constructed thereon.
9. Notwithstanding any provision in this Agreement, Utility may establish, revise, modify, and enforce rules, regulations, and fees covering the provision of potable water and wastewater service to the Property. Such rules, regulations, and fees are subject to the approval of the Palm Beach County Board of County Commissioners. Such rules, regulations, and fees shall be reasonable and subject to regulation as may be provided by law or contract. Fees charged to Property Owner or Customers located upon the Property shall be identical to fees charged for the same classification of service in the particular service area. All rules, regulations and fees as set forth in the UPAP, shall be binding upon Property Owner, upon any other entity holding by, through or under Property Owner, and upon any Customer of the potable water and wastewater service provided to the Property by Utility. Said rules and regulations include, but are not limited to, Service Initiation, oversizing of facilities, use of previously oversized facilities or extension of facilities. Any fee or rate delinquent more than 120 days will automatically void this Standard Development Agreement.

## POTABLE WATER AND WASTEWATER

10. Property Owner or his assignee shall not have the right to and shall not connect to the potable water and wastewater facilities of Utility until approval for such connection has been granted by Utility. The parties hereto further agree that the expense of construction, operation, and maintenance of all improvements beyond the Point of Service shall be the sole cost and expense of Property Owner or other than Utility.
11. Property Owner acknowledges and agrees that the transfer or assignment of this Agreement upon the sale, conveyance, transfer or assignment of the Property, or any portion thereof, as described in Exhibit "A" of this Agreement by Property Owner shall only be performed in accordance with the provisions of UPAP. Property Owner further acknowledges and agrees that documenting the transfer or assignment of this Agreement in a form acceptable to Utility is the sole responsibility of Property Owner. Failure to provide documentation to Utility of an assignment or transfer within thirty (30) days after the sale, conveyance, transfer, or assignment of the Property, or any portion thereof, may result in the cancellation of the capacity reserved and/or loss of the Mandatory Agreement Payment identified herein.
12. All notices provided for herein shall be in writing and transmitted by mail or by courier and, if to Property Owner shall be mailed or delivered to Property Owner at:

**7900 Glades Road, Suite 320  
Boca Raton, FL 33434**

and if to Utility, shall be mailed to Palm Beach County Water Utilities Department Contract Management Section, P.O. Box 16097, West Palm Beach, FL 33416-6097.

13. The rights, privileges, obligations, and covenants of Property Owner and Utility shall survive the completion of the work of Property Owner with respect to completing the potable water and wastewater facilities and services to any phased area and to the Property as a whole.
14. Unless Property Owner is requesting additional capacity for the property described in Exhibit "A", this Agreement shall supersede, null and void, all previous agreements or representations, either verbal or written, heretofore in effect between Property Owner and Utility, made with respect to the matter herein contained, and when duly executed, constitutes the entire agreement between Property Owner and Utility. No additions, alterations, or variations of terms of this Agreement shall be valid, nor can provisions of this Agreement be waived by either party, unless such additions, alterations, variations or waiver are expressed in writing and duly signed by the parties hereto. This Agreement shall be governed by the laws of the State of Florida and shall become effective upon execution by the parties hereto. The venue for actions arising out of this Agreement is in Palm Beach County, Florida.
15. Additional Conditions:  
None
16. **Inspector General.** Pursuant to Ordinance No. 2009-049, as amended, Palm Beach County's Officer of Inspector General is authorized to review past, present and proposed 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.

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**POTABLE WATER AND WASTEWATER**

**IN WITNESS WHEREOF**, Property Owner and Utility 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.

**WITNESSES:**

Nancy M. May  
Signature  
NANCY M. MAY  
Typed or Printed Name

Judy D. Provence  
Signature  
Judy D. Provence  
Typed or Printed Name

**PALM BEACH COUNTY**

By: [Signature]  
County Administrator or Designee

**WITNESSES:**

[Signature]  
Signature  
David Weinstein  
Typed or Printed Name

[Signature]  
Signature  
Harold B. Jacobsohn  
Typed or Printed Name

**PROPERTY OWNER:**

By: [Signature]  
Signature  
Gary R. Koolik  
Typed or Printed Name  
Manager member  
Title

Mission Lakes I, LLC & Mission Lakes II, LLC

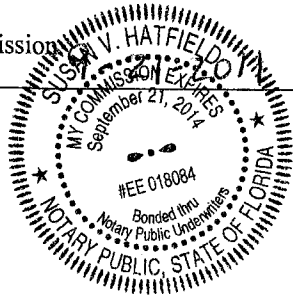
{ Corporate Seal }

**NOTARY CERTIFICATE**

STATE OF Florida  
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 10 day of June, 2011 by Gary R. Koolik. He/she is personally known to me or has produced \_\_\_\_\_ as identification.

My Commission Expires: \_\_\_\_\_



[Signature]  
Signature of Notary  
Susan V. Hatfield  
Typed, Printed, or Stamped Name of Notary

Notary Public  
Serial Number EE 018084

**WATER UTILITIES DEPARTMENT APPROVAL**

By: [Signature]  
Director of Finance and Administration  
PBC Water Utilities Department

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY**

By: [Signature]  
County Attorney

POTABLE WATER AND WASTEWATER

EXHIBIT "A"  
LEGAL DESCRIPTION

A PARCEL OF LAND BEING PART OF TRACTS "C" AND "O", MISSION LAKES M.U.P.D. ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 106, PAGE 129, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PLAT; THENCE NORTH 01°27'15" EAST, ALONG THE WEST BOUNDARY OF SAID PLAT, A DISTANCE OF 557.05 FEET; THENCE, SOUTH 89°56'33" EAST, DEPARTING SAID PLAT BOUNDARY, A DISTANCE OF 343.40 FEET; THENCE, SOUTH 00°03'27" WEST, A DISTANCE OF 572.55 FEET TO THE INTERSECTION THEREOF WITH THE SOUTH BOUNDARY OF SAID PLAT THENCE, NORTH 88°23'30" WEST, ALONG SAID SOUTH BOUNDARY, A DISTANCE OF 74.32 FEET; THENCE, NORTH 69°36'25" WEST, CONTINUING ALONG SAID SOUTH BOUNDARY, A DISTANCE OF 18.63 FEET; THENCE, NORTH 88°23'30" WEST, CONTINUING ALONG SAID SOUTH BOUNDARY, A DISTANCE OF 265.31 FEET TO THE POINT OF BEGINNING.

CONTAINING: 197,237 SQUARE FEET OR 4.53 ACRES, MORE OR LESS

AND

A PARCEL OF LAND BEING PART OF TRACTS "C" AND "O", MISSION LAKES M.U.P.D. ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 106, PAGE 129, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PLAT; THENCE, NORTH 01°27'15" EAST, ALONG THE WEST BOUNDARY OF SAID PLAT, A DISTANCE OF 557.05 FEET FOR A POINT OF BEGINNING;

THENCE, CONTINUE NORTH 01°27'15" EAST, ALONG SAID WEST BOUNDARY, A DISTANCE OF 363.30 FEET; THENCE, SOUTH 88°24'14" EAST, DEPARTING SAID WEST BOUNDARY, A DISTANCE OF 334.66 FEET TO THE INTERSECTION THEREOF WITH THE WESTERLY BOUNDARY OF SAID TRACT "RA"; THENCE, SOUTH 00°03'27" WEST, ALONG SAID WESTERLY BOUNDARY OF TRACT "RA" AND ITS SOUTHERLY PROLONGATION, A DISTANCE OF 354.20 FEET; THENCE NORTH 89°56'33" WEST, A DISTANCE OF 343.40 FEET TO THE POINT OF BEGINNING.

CONTAINING 121,607 SQUARE FEET OF 2.79 ACRES, MORE OR LESS

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OK  
06/15/11 (4)





## POTABLE WATER AND WASTEWATER

- (f) "Service Initiation" - the date a potable water meter or wastewater connection is requested;
  - (g) "Guaranteed Revenue Fee" - the fee designed to recover the carrying costs of system capacity which has been or is being constructed in anticipation of future service requests. Carrying costs include fixed operating and renewal and replacement expenses necessary to maintain excess system capacity for future use. Guaranteed Revenue does not recover variable operating expenses;
  - (h) "Total Accrued Amount (TAA)" - At the time of Service Initiation for each ERC, a TAA equal to sixty months of Guaranteed Revenue Fees plus applicable Franchise Fees at the then current rate minus the MAP paid per each ERC shall be due and payable for such ERC. The TAA for each ERC will be determined at the time of Service Initiation;
  - (i) "Standard Development Renewal Agreement (SDRA)" - an agreement between Utility and Property Owner extending the capacity reservation for unused ERCs/ERICs in a Standard Development Agreement for an additional five (5) years; and
  - (j) "Franchise Fee" - A percentage surcharge applied to all of the Utility's fees for Customers within portions of the Utility's Service Area with said fees collected by Utility and distributed to another governmental entity.
3. Property Owner hereby grants and gives to Utility the exclusive right and privilege to construct, own, maintain, operate and expand the potable water and wastewater facilities in, under, upon, over and across the present and future streets, roads, easements, reserved utility sites and public places as provided and dedicated to public use in the record plats, or as provided for in agreement, dedications or grants made otherwise and independent of said record plats. Utility covenants that it will use due diligence in ascertaining all easement locations; however, should Utility install any of its facilities outside a dedicated easement area, Property Owner covenants and agrees that Utility will not be required to move or relocate any facilities lying outside a dedicated easement area as long as the facilities do not interfere with the then or proposed use of the area in which the facilities have been installed. Property Owner hereby further agrees that the foregoing grants include the necessary rights of ingress and egress to any part of the Property which Utility requests for the maintenance, operation or expansion of the potable water and wastewater facilities; that in the event Utility is required or desires to install any of its potable water and wastewater facilities in lands within the Property lying outside the streets and easement areas described above, then Property Owner shall grant to Utility, without cost or expense to Utility, the necessary easement or easements for such installation; provided, all such installations by Utility shall be made in such a manner as not to interfere with the then primary use of such Property. Property Owner shall obtain written approval from Utility prior to installing any structure or object, including, but not limited to, fences, gates, signs, trees or poles, within an easement area. In consideration of Utility's consent to an encroachment, Property Owner shall agree to indemnify and hold Utility harmless from and against all liabilities, damages, penalties, claims costs and expenses, including attorney's fees at all levels, which may be imposed upon or asserted against Utility as a result of or in any way connected to an encroachment approved by Utility. In the event Utility determines that it is necessary to construct, maintain, repair, remove, or replace any of its facilities located under, over or upon an easement, Property Owner shall immediately remove the encroachment from the easement upon the request of Utility at Property Owner's sole cost and expense. If Property Owner fails to remove the encroachment, Utility shall have the right to remove the encroachment from the easement. Property Owner shall pay all costs related to removing the encroachment from the easement incurred by Utility.

Property Owner, as further consideration of this Agreement, and in order to effectuate the foregoing grants to Utility, hereby places the following covenant, as a covenant running with the land, upon the Property and thereby subjecting it to a reservation, condition, limitation or restriction in favor of Utility, as follows:

Utility, or its successors, has the sole and exclusive right to provide all potable water and wastewater facilities and services to the Property described in **Exhibit "A"** and in addition to any property to which potable water and wastewater service is actually rendered by Utility. All occupants of any residence or non-residential improvement erected or located on the Property and all subsequent or future owners or purchasers of the Property, or any portion thereof, shall exclusively receive their potable water and wastewater service from the aforesaid Utility and shall pay for the

**POTABLE WATER AND WASTEWATER**

same and shall abide by the terms and intent of this Agreement, and the UPAP, for as long as the aforesaid Utility provides such services to the property. Further, all occupants of any residence or non-residential improvement erected or located on the Property and all subsequent or future owners or purchasers of the property, or any portion thereof, agree, by occupying any premises on the Property or by recording any deed of conveyance with respect to the Property, that they will not construct or otherwise make available or use potable water and wastewater service from any source other than that provided by Utility.

Any water well or water source used solely for the purpose of supplying irrigation for the Property is excluded from this restriction unless the Property is required to utilize reclaimed water in accordance with the Palm Beach County Reclaimed Water Ordinance.

Further, in order to give an additional and supplementary notice to all the future Property Owners of any of the Property of the rights of Utility to provide the Property with potable water and wastewater facilities and services, Property Owner hereby covenants and agrees to have the above restrictive covenant or its equivalent included in the general subdivision restrictions and to place the same of record in the Public Records of Palm Beach County, Florida.

4. Upon the continued accomplishment of all the prerequisites contained in this Agreement to be performed by Property Owner, Utility covenants and agrees that it will allow the connection of the potable water distribution and wastewater collection facilities installed by Property Owner to the potable water and wastewater facilities of Utility in accordance with the terms and intent of this Agreement. Such connection shall be in accordance with rules, and regulations of the Health Department, the UPAP, and other governmental agencies having jurisdiction over the water supply and wastewater collection and disposal operation of Utility.
5. Property Owner is required to pay Guaranteed Revenue Fees plus applicable Franchise Fees in order to support investment in plant facilities, as well as the fixed costs of maintaining such facilities and the unused capacity it represents. Therefore, Property Owner agrees to pay in accordance with the UPAP:

- (a) a MAP per each ERC for the requested capacity upon submission of this Agreement; and
- (b) a TAA per each ERC for the requested capacity upon Service Initiation.

Utility has advised Property Owner that construction of additional potable water and wastewater facilities will be completed in phases designed to coincide with the need for service to Property Owner and other Property Owners in the service area. Utility should not be expected to provide service to connections in excess of those reserved as evidenced by proper payment of Guaranteed Revenue.

The MAP required upon submission of this Potable Water and Wastewater Agreement is:

<b>Potable Water:</b>	<b>\$182.23</b>	<b>per ERC</b>	<b>x</b>	<b>40.00</b>	<b>ERCs =</b>	<b>\$7,289.20</b>
<b>Wastewater:</b>	<b>\$255.78</b>	<b>per ERC</b>	<b>x</b>	<b>40.00</b>	<b>ERCs =</b>	<b>\$10,231.20</b>
				<b>Less MAP Payment Previously Paid</b>		<b>(\$16,579.20)</b>
				<b>TOTAL</b>		<b>\$941.20</b>

Upon receipt of the MAP, Utility agrees to reserve 40.00 ERCs of Potable Water and Wastewater system capacity for Property Owner until **May 31, 2015** which term may be extended in accordance with the UPAP, as may be amended from time to time, and upon payment of applicable fees. Property Owner acknowledges and agrees Utility shall not refund or reimburse the MAP upon expiration.

Property Owner acknowledges that it is the sole responsibility of Property Owner to provide payment of a new MAP at the then current fees thirty (30) days before the expiration of the original five-year term. Should multiple assignments exist for this Agreement, each assignee must submit the appropriate MAP for any unconnected ERCs related to the assignee's ERCs. Should Property Owner or assignee fail to submit a new MAP payment for their respective unconnected ERCs, Property Owner acknowledges and agrees that Utility may unilaterally

## POTABLE WATER AND WASTEWATER

execute a document evidencing termination and partial release of this Agreement except for the rights, duties, or obligations as set forth in Paragraphs 3, 4, 8, 9, 10, 13, and 14 of this Agreement and record the document in the public records of Palm Beach County, Florida.

At the time of Service Initiation, the applicable ERCs will be deducted from said reservation. Upon approval of Utility, the total number of ERCs may be increased up to 10% of the original reservation or by ten (10) ERCs, whichever is greater, by an amendment to this Agreement. The MAP required for the amendment shall be paid at the rate applicable to the original Agreement. Any amendments to the SDA shall be binding upon both Utility and Property Owner and subject to all applicable rules and regulations of Utility; however, any amendments will not extend the original five (5) year term of the Agreement. Any adjustment which is greater than that specified herein requires a new Agreement to be signed. Upon written notice to Utility, said ERCs may be adjusted downward however, no refund or credit will be given by Utility to Property Owner for said downward adjustment.

6. Property Owner hereby agrees to construct and to transfer ownership and control up to the Point of Service to Utility, at no cost, the on-site and off-site potable water distribution, and wastewater collection systems referred to herein. Upon acceptance of said facilities, Utility hereby agrees to accept ownership of the potable water and wastewater facilities for operation and maintenance purposes. Property Owner shall cause to be prepared engineering plans and specifications prepared by and sealed by a professional engineer registered in the State of Florida, showing the on-site and off-site potable water distribution and wastewater collection systems for the Property. Utility will advise Property Owner's engineer of any sizing requirements as mandated by the UPAP. Such detailed plans may be limited to a phase of the Property, and subsequent phases may be furnished from time to time. However, each such phase shall conform to a master plan for the development of the Property and such master plan shall be submitted to Utility concurrent with or prior to submission of plans for the first phase. All such plans and specifications, including hard copy and electronic media, submitted to Utility's engineer shall be subject to the approval of Utility and shall conform to Utility's standards as set forth in the UPAP, and no construction shall commence until Utility has approved such plans and specifications in writing. After approval, Property Owner shall cause to be constructed, at Property Owner's expense, the potable water distribution, and wastewater collection systems as shown on the plans and specifications. Fees, as set forth in the UPAP, shall be levied by Utility to cover the cost of plan review and inspection. Property Owner shall also be required to pay Guaranteed Revenue Fees, Connection Fees, Installation Fees, and other fees as set forth in the UPAP.

During the construction of the potable water distribution and wastewater collection systems by Property Owner, Utility may from time to time inspect such installation to determine compliance with the plans and specifications, adequacy of the quality of the installation, and further, shall be entitled to perform standard tests for pressure, infiltration, line and grade, and all other normal engineering tests to determine that the system has been installed in accordance with the approved plans and specifications and the UPAP. Inspection by Utility shall in no way relieve Property Owner of his responsibility to install the facilities in accordance with the approved plans and specifications and the UPAP. Complete as-built plans, including hard copy and electronic media when utilized, shall be submitted to Utility upon completion of construction.

Property Owner hereby agrees to transfer to Utility title to all potable water distribution and wastewater collection systems installed by Property Owner's contractor pursuant to the provisions of this Agreement. Such conveyance is to take effect without further action upon the acceptance by Utility of the said installation. As further evidence of said transfer of title, upon the completion of the installation and prior to the rendering of service by Utility, Property Owner shall convey to Utility by Bill of Sale in a form supplied by Utility the complete on-site and off-site potable water distribution and wastewater collection system as constructed by Property Owner and approved by Utility, along with the required Cost Documentation and Property Owner's No Lien Affidavit. Subsequent to construction of the facilities and prior to receiving a meter(s) from Utility, Property Owner shall convey to Utility all easements and/or rights-of-way covering areas in which potable water and wastewater lines are installed by a recordable document in a form supplied by Utility. All conveyance of easements or rights-of-way shall be accompanied by a paid title policy for the benefit of Utility in a minimum amount of:

## POTABLE WATER AND WASTEWATER

- \$50.00 per linear foot of any granted utility easement (based on the centerline of the easement); and
- \$150,000 for a Utility-owned wastewater lift station (if not constructed within an existing utility easement).

Said title policy shall confirm the Grantor's rights to convey such easements or rights-of-way, and further, evidencing Utility's right to the continuous enjoyment of such easements or rights-of-way for those purposes set forth in this Agreement. The use of easement(s) granted by Property Owner may be used by other utilities as long as such is approved by Utility. Utility's acceptance of the potable water distribution and wastewater collection system installed by Property Owner shall be in accordance with the provisions as set forth in the UPAP. All installations by Property Owner or its contractor shall be warranted for one year (or five years in the case of lift station pumps and motor assemblies) from date of Final DEP Certification. Mortgagees holding liens on such properties shall be required to release such liens, subordinate their position, or join in the granting of the easements or rights-of-way. All potable water distribution and wastewater collection facilities shall be located within an easement if not located within platted or dedicated rights-of-way.

Property Owner hereby agrees to pay to Utility Guaranteed Revenue Fees, Connection Fees, Service Installation Fees, Franchise Fees, and any other applicable fees as set forth in the UPAP at the then current rate.

The timely payment by Property Owner of all fees in accordance with the terms set forth herein shall be considered essential to the continued performance by Utility of the terms and conditions of this Agreement. The construction and transfer of ownership of the potable water distribution and wastewater collection system does not and will not result in Utility waiving or offsetting any of its fees, rules or regulations. Property Owner shall not have any present or future right, title, claim, or interest in and to the potable water and wastewater facilities transferred to or owned by Utility.

7. Upon submission of this Agreement, Property Owner, at his expense, agrees to furnish Utility with a copy of the recorded Warranty Deed for the purpose of establishing ownership of the Property. Any mortgagee or lien holder having an interest in the Property shall be required to execute a Consent and Joinder of Mortgagee/Lienholder as supplied by Utility. Property Owner must submit either a title policy or a letter from an attorney licensed to do business in Florida confirming that there is no mortgage or lien on the Property. The title policy or letter must be issued within thirty (30) days of submittal of the SDA.
8. Property Owner agrees with Utility that all potable water and wastewater facilities conveyed to Utility for use in connection with providing potable water and wastewater service to the Property, shall at all times remain in the complete and exclusive ownership of Utility, and any entity owning any part of the Property or any residence or building constructed or located thereon, shall not have the right, title, claim or interest in and to such facilities, or any part of them, for any purpose. In addition, Utility shall have the exclusive right and privilege to provide potable water and wastewater services to the Property and to the occupants of each residence or building constructed thereon.
9. Notwithstanding any provision in this Agreement, Utility may establish, revise, modify, and enforce rules, regulations, and fees covering the provision of potable water and wastewater service to the Property. Such rules, regulations, and fees are subject to the approval of the Palm Beach County Board of County Commissioners. Such rules, regulations, and fees shall be reasonable and subject to regulation as may be provided by law or contract. Fees charged to Property Owner or Customers located upon the Property shall be identical to fees charged for the same classification of service in the particular service area. All rules, regulations and fees as set forth in the UPAP, shall be binding upon Property Owner, upon any other entity holding by, through or under Property Owner, and upon any Customer of the potable water and wastewater service provided to the Property by Utility. Said rules and regulations include, but are not limited to, Service Initiation, oversizing of facilities, use of previously oversized facilities or extension of facilities. Any fee or rate delinquent more than 120 days will automatically void this Standard Development Agreement.

## POTABLE WATER AND WASTEWATER

10. Property Owner or his assignee shall not have the right to and shall not connect to the potable water and wastewater facilities of Utility until approval for such connection has been granted by Utility. The parties hereto further agree that the expense of construction, operation, and maintenance of all improvements beyond the Point of Service shall be the sole cost and expense of Property Owner or other than Utility.
11. Property Owner acknowledges and agrees that the transfer or assignment of this Agreement upon the sale, conveyance, transfer or assignment of the Property, or any portion thereof, as described in Exhibit "A" of this Agreement by Property Owner shall only be performed in accordance with the provisions of UPAP. Property Owner further acknowledges and agrees that documenting the transfer or assignment of this Agreement in a form acceptable to Utility is the sole responsibility of Property Owner. Failure to provide documentation to Utility of an assignment or transfer within thirty (30) days after the sale, conveyance, transfer, or assignment of the Property, or any portion thereof, may result in the cancellation of the capacity reserved and/or loss of the Mandatory Agreement Payment identified herein.
12. All notices provided for herein shall be in writing and transmitted by mail or by courier and, if to Property Owner shall be mailed or delivered to Property Owner at:

**1150 East Hallandale Beach Blvd., Ste B  
Hallandale Bch., FL 33009;**

and if to Utility, shall be mailed to Palm Beach County Water Utilities Department Contract Management Section, P.O. Box 16097, West Palm Beach, FL 33416-6097.

13. The rights, privileges, obligations, and covenants of Property Owner and Utility shall survive the completion of the work of Property Owner with respect to completing the potable water and wastewater facilities and services to any phased area and to the Property as a whole.
14. Unless Property Owner is requesting additional capacity for the property described in **Exhibit "A"**, this Agreement shall supersede, null and void, all previous agreements or representations, either verbal or written, heretofore in effect between Property Owner and Utility, made with respect to the matter herein contained, and when duly executed, constitutes the entire agreement between Property Owner and Utility. No additions, alterations, or variations of terms of this Agreement shall be valid, nor can provisions of this Agreement be waived by either party, unless such additions, alterations, variations or waiver are expressed in writing and duly signed by the parties hereto. This Agreement shall be governed by the laws of the State of Florida and shall become effective upon execution by the parties hereto. The venue for actions arising out of this Agreement is in Palm Beach County, Florida.
15. Additional Conditions:  
None
16. **Inspector General.** Pursuant to Ordinance No. 2009-049, as amended, Palm Beach County's Officer of Inspector General is authorized to review past, present and proposed 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.

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POTABLE WATER AND WASTEWATER

IN WITNESS WHEREOF, Property Owner and Utility 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.

WITNESSES:

Signature Nancy M. May  
Typed or Printed Name **NANCY M. MAY**

Signature Judy D. Provence  
Typed or Printed Name **Judy D. Provence**

PALM BEACH COUNTY

By: [Signature]  
County Administrator or Designee

WITNESSES:

Signature M. Amata  
Typed or Printed Name **MILAGROS AMATA**

Signature [Signature]  
Typed or Printed Name **FREDY BOUNN**

PROPERTY OWNER:

By: [Signature]  
Signature  
HARRY DOMBUSCH  
Typed or Printed Name

Title

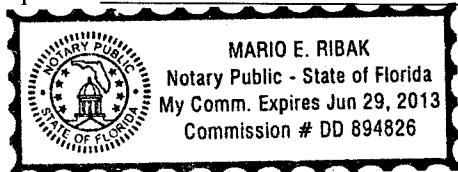
{ Corporate Seal }

NOTARY CERTIFICATE

STATE OF Florida  
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 15 day of JUNE, 20 11 by HARRY DOMBUSCH. He/she is personally known to me or has produced \_\_\_\_\_ as identification.

My Commission Expires:



[Signature]  
Signature of Notary

Typed, Printed, or Stamped Name of Notary

Notary Public  
Serial Number \_\_\_\_\_

WATER UTILITIES DEPARTMENT APPROVAL

By: Selma M. Vest  
Director of Finance and Administration  
PBC Water Utilities Department

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]  
County Attorney

**POTABLE WATER AND WASTEWATER**

**EXHIBIT "A"  
LEGAL DESCRIPTION**

**THE SOUTH 2/3 OF TRACT 22, BLOCK 27, PALM BEACH FARMS CO., PLAT NO. 3,  
ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45  
OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.**

**CONTAINING 9.234 ACRES, MORE OR LESS**

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POTABLE WATER AND WASTEWATER

CFN 20110254450  
OR BK 24625 PG 0997  
RECORDED 07/11/2011 10:45:37  
Palm Beach County, Florida  
Sharon R. Bock, CLERK & COMPTROLLER  
Pgs 0997 - 1004; (8pgs)

CHARGE #1023 RETURN VIA WILL CALL #133  
ATTN: CRAIG WILLIAMS, CONTRACT MANAGEMENT,  
PBC WATER UTILITIES DEPT,  
8100 FOREST HILL BLVD, WPB, FL 33413

SDA # 05-01108-000

STANDARD POTABLE WATER AND WASTEWATER DEVELOPMENT AGREEMENT  
(SDA)

THIS AGREEMENT made and entered into this 17th day of JUNE, 20 11,  
by and between **PALM BEACH COUNTY**, a subdivision of the State of Florida, hereinafter  
referred to as "Utility", and **CIVIC DEVELOPMENT GROUP, LLC**, a Florida limited liability  
company, hereinafter referred to as "Property Owner."

WITNESSETH

WHEREAS, Property Owner owns property located in Palm Beach County, Florida, and as  
more fully described in **Exhibit "A"**, attached hereto and made a part hereof and hereinafter referred  
to as "Property", whereupon Property Owner has or is about to develop the Property by erecting  
thereon residential or non-residential improvements; and

WHEREAS, Property Owner desires to construct potable water and wastewater facilities  
hereinafter referred to as "facilities"; and

WHEREAS, upon the conditions set forth herein, Utility desires to accept ownership of the  
completed potable water and wastewater facilities for operation and maintenance purposes; and

WHEREAS, Property Owner understands that this contract for service in no way entitles  
Property Owner to densities which are greater than those allowed under the density provisions of the  
Comprehensive Plan of Palm Beach County, or to densities or development rights as may otherwise  
be limited by the Board of County Commissioners; and

WHEREAS, in the interest of public health and to encourage the use of central water and  
wastewater facilities, Utility desires to enter into this Agreement.

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

1. The foregoing statements are true and correct.
2. 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:
  - (a) "UPAP" - the Uniform Policies and Procedures Manual of the Palm Beach County Water  
Utilities Department as may be amended from time to time, which is incorporated herein by  
reference;
  - (b) "Service" - the readiness and ability on the part of Utility to furnish potable water to and to  
collect wastewater from the property;
  - (c) "Point of Service" - generally, the point where the pipes or meters of Utility are connected  
with pipes of Property Owner as further defined in Chapter 1 of the UPAP;
  - (d) "Equivalent Residential Connection (ERC)" - a system capacity equivalency unit which  
corresponds to the peak demand of the 5/8" x 3/4" meter sub-category of the single-family  
residential category of Customer usage. This system capacity equivalency unit is utilized to  
establish the system demand for various sized connections for the purpose of assessing fees;
  - (e) "Mandatory Agreement Payment (MAP)" - twelve months of Guaranteed Revenue Fees  
plus applicable Franchise Fees payable to Utility upon submission of an SDA or renewal  
agreement for each ERC (or ERIC) represented in the Agreement;



## POTABLE WATER AND WASTEWATER

- (f) "Service Initiation" - the date a potable water meter or wastewater connection is requested;
  - (g) "Guaranteed Revenue Fee" - the fee designed to recover the carrying costs of system capacity which has been or is being constructed in anticipation of future service requests. Carrying costs include fixed operating and renewal and replacement expenses necessary to maintain excess system capacity for future use. Guaranteed Revenue does not recover variable operating expenses;
  - (h) "Total Accrued Amount (TAA)" - At the time of Service Initiation for each ERC, a TAA equal to sixty months of Guaranteed Revenue Fees plus applicable Franchise Fees at the then current rate minus the MAP paid per each ERC shall be due and payable for such ERC. The TAA for each ERC will be determined at the time of Service Initiation;
  - (i) "Standard Development Renewal Agreement (SDRA)" - an agreement between Utility and Property Owner extending the capacity reservation for unused ERCs/ERICs in a Standard Development Agreement for an additional five (5) years; and
  - (j) "Franchise Fee" - A percentage surcharge applied to all of the Utility's fees for Customers within portions of the Utility's Service Area with said fees collected by Utility and distributed to another governmental entity.
3. Property Owner hereby grants and gives to Utility the exclusive right and privilege to construct, own, maintain, operate and expand the potable water and wastewater facilities in, under, upon, over and across the present and future streets, roads, easements, reserved utility sites and public places as provided and dedicated to public use in the record plats, or as provided for in agreement, dedications or grants made otherwise and independent of said record plats. Utility covenants that it will use due diligence in ascertaining all easement locations; however, should Utility install any of its facilities outside a dedicated easement area, Property Owner covenants and agrees that Utility will not be required to move or relocate any facilities lying outside a dedicated easement area as long as the facilities do not interfere with the then or proposed use of the area in which the facilities have been installed. Property Owner hereby further agrees that the foregoing grants include the necessary rights of ingress and egress to any part of the Property which Utility requests for the maintenance, operation or expansion of the potable water and wastewater facilities; that in the event Utility is required or desires to install any of its potable water and wastewater facilities in lands within the Property lying outside the streets and easement areas described above, then Property Owner shall grant to Utility, without cost or expense to Utility, the necessary easement or easements for such installation; provided, all such installations by Utility shall be made in such a manner as not to interfere with the then primary use of such Property. Property Owner shall obtain written approval from Utility prior to installing any structure or object, including, but not limited to, fences, gates, signs, trees or poles, within an easement area. In consideration of Utility's consent to an encroachment, Property Owner shall agree to indemnify and hold Utility harmless from and against all liabilities, damages, penalties, claims costs and expenses, including attorney's fees at all levels, which may be imposed upon or asserted against Utility as a result of or in any way connected to an encroachment approved by Utility. In the event Utility determines that it is necessary to construct, maintain, repair, remove, or replace any of its facilities located under, over or upon an easement, Property Owner shall immediately remove the encroachment from the easement upon the request of Utility at Property Owner's sole cost and expense. If Property Owner fails to remove the encroachment, Utility shall have the right to remove the encroachment from the easement. Property Owner shall pay all costs related to removing the encroachment from the easement incurred by Utility.

Property Owner, as further consideration of this Agreement, and in order to effectuate the foregoing grants to Utility, hereby places the following covenant, as a covenant running with the land, upon the Property and thereby subjecting it to a reservation, condition, limitation or restriction in favor of Utility, as follows:

Utility, or its successors, has the sole and exclusive right to provide all potable water and wastewater facilities and services to the Property described in **Exhibit "A"** and in addition to any property to which potable water and wastewater service is actually rendered by Utility. All occupants of any residence or non-residential improvement erected or located on the Property and all subsequent or future owners or purchasers of the Property, or any portion thereof, shall exclusively receive their potable water and wastewater service from the aforesaid Utility and shall pay for the

## POTABLE WATER AND WASTEWATER

same and shall abide by the terms and intent of this Agreement, and the UPAP, for as long as the aforesaid Utility provides such services to the property. Further, all occupants of any residence or non-residential improvement erected or located on the Property and all subsequent or future owners or purchasers of the property, or any portion thereof, agree, by occupying any premises on the Property or by recording any deed of conveyance with respect to the Property, that they will not construct or otherwise make available or use potable water and wastewater service from any source other than that provided by Utility.

Any water well or water source used solely for the purpose of supplying irrigation for the Property is excluded from this restriction unless the Property is required to utilize reclaimed water in accordance with the Palm Beach County Reclaimed Water Ordinance.

Further, in order to give an additional and supplementary notice to all the future Property Owners of any of the Property of the rights of Utility to provide the Property with potable water and wastewater facilities and services, Property Owner hereby covenants and agrees to have the above restrictive covenant or its equivalent included in the general subdivision restrictions and to place the same of record in the Public Records of Palm Beach County, Florida.

4. Upon the continued accomplishment of all the prerequisites contained in this Agreement to be performed by Property Owner, Utility covenants and agrees that it will allow the connection of the potable water distribution and wastewater collection facilities installed by Property Owner to the potable water and wastewater facilities of Utility in accordance with the terms and intent of this Agreement. Such connection shall be in accordance with rules, and regulations of the Health Department, the UPAP, and other governmental agencies having jurisdiction over the water supply and wastewater collection and disposal operation of Utility.
5. Property Owner is required to pay Guaranteed Revenue Fees plus applicable Franchise Fees in order to support investment in plant facilities, as well as the fixed costs of maintaining such facilities and the unused capacity it represents. Therefore, Property Owner agrees to pay in accordance with the UPAP:

(a) a MAP per each ERC for the requested capacity upon submission of this Agreement; and

(b) a TAA per each ERC for the requested capacity upon Service Initiation.

Utility has advised Property Owner that construction of additional potable water and wastewater facilities will be completed in phases designed to coincide with the need for service to Property Owner and other Property Owners in the service area. Utility should not be expected to provide service to connections in excess of those reserved as evidenced by proper payment of Guaranteed Revenue.

The MAP required upon submission of this Potable Water and Wastewater Agreement is:

Potable Water:	\$182.23	per ERC x	204.00	ERCs =	\$37,174.92
Wastewater:	\$255.78	per ERC x	204.00	ERCs =	\$52,179.12
			Franchise Fee		\$0.00
			<b>TOTAL</b>		<b>\$89,354.04</b>

Upon receipt of the MAP, Utility agrees to reserve 204.00 ERCs of Potable Water and Wastewater system capacity for Property Owner until **June 30, 2016**, which term may be extended in accordance with the UPAP, as may be amended from time to time, and upon payment of applicable fees. Property Owner acknowledges and agrees Utility shall not refund or reimburse the MAP upon expiration.

Property Owner acknowledges that it is the sole responsibility of Property Owner to provide payment of a new MAP at the then current fees thirty (30) days before the expiration of the original five-year term. Should multiple assignments exist for this Agreement, each assignee must submit the appropriate MAP for any unconnected ERCs related to the assignee's ERCs. Should Property Owner or assignee fail to submit a new MAP payment for their respective

## POTABLE WATER AND WASTEWATER

unconnected ERCs, Property Owner acknowledges and agrees that Utility may unilaterally execute a document evidencing termination and partial release of this Agreement except for the rights, duties, or obligations as set forth in Paragraphs 3, 4, 8, 9, 10, 13, and 14 of this Agreement and record the document in the public records of Palm Beach County, Florida.

At the time of Service Initiation, the applicable ERCs will be deducted from said reservation. Upon approval of Utility, the total number of ERCs may be increased up to 10% of the original reservation or by ten (10) ERCs, whichever is greater, by an amendment to this Agreement. The MAP required for the amendment shall be paid at the rate applicable to the original Agreement. Any amendments to the SDA shall be binding upon both Utility and Property Owner and subject to all applicable rules and regulations of Utility; however, any amendments will not extend the original five (5) year term of the Agreement. Any adjustment which is greater than that specified herein requires a new Agreement to be signed. Upon written notice to Utility, said ERCs may be adjusted downward however, no refund or credit will be given by Utility to Property Owner for said downward adjustment.

6. Property Owner hereby agrees to construct and to transfer ownership and control up to the Point of Service to Utility, at no cost, the on-site and off-site potable water distribution, and wastewater collection systems referred to herein. Upon acceptance of said facilities, Utility hereby agrees to accept ownership of the potable water and wastewater facilities for operation and maintenance purposes. Property Owner shall cause to be prepared engineering plans and specifications prepared by and sealed by a professional engineer registered in the State of Florida, showing the on-site and off-site potable water distribution and wastewater collection systems for the Property. Utility will advise Property Owner's engineer of any sizing requirements as mandated by the UPAP. Such detailed plans may be limited to a phase of the Property, and subsequent phases may be furnished from time to time. However, each such phase shall conform to a master plan for the development of the Property and such master plan shall be submitted to Utility concurrent with or prior to submission of plans for the first phase. All such plans and specifications, including hard copy and electronic media, submitted to Utility's engineer shall be subject to the approval of Utility and shall conform to Utility's standards as set forth in the UPAP, and no construction shall commence until Utility has approved such plans and specifications in writing. After approval, Property Owner shall cause to be constructed, at Property Owner's expense, the potable water distribution, and wastewater collection systems as shown on the plans and specifications. Fees, as set forth in the UPAP, shall be levied by Utility to cover the cost of plan review and inspection. Property Owner shall also be required to pay Guaranteed Revenue Fees, Connection Fees, Installation Fees, and other fees as set forth in the UPAP.

During the construction of the potable water distribution and wastewater collection systems by Property Owner, Utility may from time to time inspect such installation to determine compliance with the plans and specifications, adequacy of the quality of the installation, and further, shall be entitled to perform standard tests for pressure, infiltration, line and grade, and all other normal engineering tests to determine that the system has been installed in accordance with the approved plans and specifications and the UPAP. Inspection by Utility shall in no way relieve Property Owner of his responsibility to install the facilities in accordance with the approved plans and specifications and the UPAP. Complete as-built plans, including hard copy and electronic media when utilized, shall be submitted to Utility upon completion of construction.

Property Owner hereby agrees to transfer to Utility title to all potable water distribution and wastewater collection systems installed by Property Owner's contractor pursuant to the provisions of this Agreement. Such conveyance is to take effect without further action upon the acceptance by Utility of the said installation. As further evidence of said transfer of title, upon the completion of the installation and prior to the rendering of service by Utility, Property Owner shall convey to Utility by Bill of Sale in a form supplied by Utility the complete on-site and off-site potable water distribution and wastewater collection system as constructed by Property Owner and approved by Utility, along with the required Cost Documentation and Property Owner's No Lien Affidavit. Subsequent to construction of the facilities and prior to receiving a meter(s) from Utility, Property Owner shall convey to Utility all easements and/or rights-of-way covering areas in which potable water and wastewater lines are installed by a recordable document in a form supplied by Utility. All conveyance of easements or rights-of-way shall be accompanied by a paid title policy for the benefit of Utility in a minimum amount of:

## POTABLE WATER AND WASTEWATER

- \$50.00 per linear foot of any granted utility easement (based on the centerline of the easement); and
- \$150,000 for a Utility-owned wastewater lift station (if not constructed within an existing utility easement).

Said title policy shall confirm the Grantor's rights to convey such easements or rights-of-way, and further, evidencing Utility's right to the continuous enjoyment of such easements or rights-of-way for those purposes set forth in this Agreement. The use of easement(s) granted by Property Owner may be used by other utilities as long as such is approved by Utility. Utility's acceptance of the potable water distribution and wastewater collection system installed by Property Owner shall be in accordance with the provisions as set forth in the UPAP. All installations by Property Owner or its contractor shall be warranted for one year (or five years in the case of lift station pumps and motor assemblies) from date of Final DEP Certification. Mortgagees holding liens on such properties shall be required to release such liens, subordinate their position, or join in the granting of the easements or rights-of-way. All potable water distribution and wastewater collection facilities shall be located within an easement if not located within platted or dedicated rights-of-way.

Property Owner hereby agrees to pay to Utility Guaranteed Revenue Fees, Connection Fees, Service Installation Fees, Franchise Fees, and any other applicable fees as set forth in the UPAP at the then current rate.

The timely payment by Property Owner of all fees in accordance with the terms set forth herein shall be considered essential to the continued performance by Utility of the terms and conditions of this Agreement. The construction and transfer of ownership of the potable water distribution and wastewater collection system does not and will not result in Utility waiving or offsetting any of its fees, rules or regulations. Property Owner shall not have any present or future right, title, claim, or interest in and to the potable water and wastewater facilities transferred to or owned by Utility.

7. Upon submission of this Agreement, Property Owner, at his expense, agrees to furnish Utility with a copy of the recorded Warranty Deed for the purpose of establishing ownership of the Property. Any mortgagee or lien holder having an interest in the Property shall be required to execute a Consent and Joinder of Mortgagee/Lienholder as supplied by Utility. Property Owner must submit either a title policy or a letter from an attorney licensed to do business in Florida confirming that there is no mortgage or lien on the Property. The title policy or letter must be issued within thirty (30) days of submittal of the SDA.
8. Property Owner agrees with Utility that all potable water and wastewater facilities conveyed to Utility for use in connection with providing potable water and wastewater service to the Property, shall at all times remain in the complete and exclusive ownership of Utility, and any entity owning any part of the Property or any residence or building constructed or located thereon, shall not have the right, title, claim or interest in and to such facilities, or any part of them, for any purpose. In addition, Utility shall have the exclusive right and privilege to provide potable water and wastewater services to the Property and to the occupants of each residence or building constructed thereon.
9. Notwithstanding any provision in this Agreement, Utility may establish, revise, modify, and enforce rules, regulations, and fees covering the provision of potable water and wastewater service to the Property. Such rules, regulations, and fees are subject to the approval of the Palm Beach County Board of County Commissioners. Such rules, regulations, and fees shall be reasonable and subject to regulation as may be provided by law or contract. Fees charged to Property Owner or Customers located upon the Property shall be identical to fees charged for the same classification of service in the particular service area. All rules, regulations and fees as set forth in the UPAP, shall be binding upon Property Owner, upon any other entity holding by, through or under Property Owner, and upon any Customer of the potable water and wastewater service provided to the Property by Utility. Said rules and regulations include, but are not limited to, Service Initiation, oversizing of facilities, use of previously oversized facilities or extension of facilities. Any fee or rate delinquent more than 120 days will automatically void this Standard Development Agreement.

## POTABLE WATER AND WASTEWATER

10. Property Owner or his assignee shall not have the right to and shall not connect to the potable water and wastewater facilities of Utility until approval for such connection has been granted by Utility. The parties hereto further agree that the expense of construction, operation, and maintenance of all improvements beyond the Point of Service shall be the sole cost and expense of Property Owner or other than Utility.
11. Property Owner acknowledges and agrees that the transfer or assignment of this Agreement upon the sale, conveyance, transfer or assignment of the Property, or any portion thereof, as described in Exhibit "A" of this Agreement by Property Owner shall only be performed in accordance with the provisions of UPAP. Property Owner further acknowledges and agrees that documenting the transfer or assignment of this Agreement in a form acceptable to Utility is the sole responsibility of Property Owner. Failure to provide documentation to Utility of an assignment or transfer within thirty (30) days after the sale, conveyance, transfer, or assignment of the Property, or any portion thereof, may result in the cancellation of the capacity reserved and/or loss of the Mandatory Agreement Payment identified herein.
12. All notices provided for herein shall be in writing and transmitted by mail or by courier and, if to Property Owner shall be mailed or delivered to Property Owner at:

**7593 Boynton Beach Blvd., # 220  
Boynton Beach, FL 33437;**

and if to Utility, shall be mailed to Palm Beach County Water Utilities Department Contract Management Section, P.O. Box 16097, West Palm Beach, FL 33416-6097.

13. The rights, privileges, obligations, and covenants of Property Owner and Utility shall survive the completion of the work of Property Owner with respect to completing the potable water and wastewater facilities and services to any phased area and to the Property as a whole.
14. Unless Property Owner is requesting additional capacity for the property described in **Exhibit "A"**, this Agreement shall supersede, null and void, all previous agreements or representations, either verbal or written, heretofore in effect between Property Owner and Utility, made with respect to the matter herein contained, and when duly executed, constitutes the entire agreement between Property Owner and Utility. No additions, alterations, or variations of terms of this Agreement shall be valid, nor can provisions of this Agreement be waived by either party, unless such additions, alterations, variations or waiver are expressed in writing and duly signed by the parties hereto. This Agreement shall be governed by the laws of the State of Florida and shall become effective upon execution by the parties hereto. The venue for actions arising out of this Agreement is in Palm Beach County, Florida.
15. Additional Conditions:  
  
None
16. **Inspector General.** Pursuant to Ordinance No. 2009-049, as amended, Palm Beach County's Officer of Inspector General is authorized to review past, present and proposed 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.

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POTABLE WATER AND WASTEWATER

IN WITNESS WHEREOF, Property Owner and Utility 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.

WITNESSES:

PALM BEACH COUNTY

Nancy M May  
Signature

By: [Signature]  
County Administrator or Designee

NANCY M. MAY  
Typed or Printed Name

Anna M Daniels  
Signature

ANNA M. DANIELS  
Typed or Printed Name

WITNESSES:

PROPERTY OWNER:

Elizabeth M Nero  
Signature

By: [Signature]  
Signature

Elizabeth M Nero  
Typed or Printed Name

ROBERTO MEOLA  
Typed or Printed Name

[Signature]  
Signature

Title

Jonathan Reinsvold  
Typed or Printed Name

{ Corporate Seal }

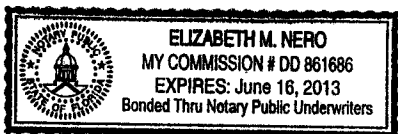
NOTARY CERTIFICATE

STATE OF Florida  
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 17 day of May, 20 11 by Roberto Meola. He/she is personally known to me or has produced as identification.

My Commission Expires: June 16, 2013

Elizabeth M Nero  
Signature of Notary



Elizabeth M Nero  
Typed, Printed, or Stamped Name of Notary

Notary Public Serial Number DD 861686

WATER UTILITIES DEPARTMENT APPROVAL

By: Allura M West  
Director of Finance and Administration  
PBC Water Utilities Department

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]  
County Attorney

**POTABLE WATER AND WASTEWATER**

**EXHIBIT "A"  
LEGAL DESCRIPTION**

**TRACTS CV, CV1 AND CV2, VILLAGES OF WINDSOR PLAT TWO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 97, PAGES 148 THROUGH 152 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.**

**SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.  
CONTAINING 980,100 SQUARE FEET OR 22.500 ACRES, MORE OR LESS.  
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS AND RIGHTS-OF-WAY OF RECORD.**

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OK  
06/07/11 (A)