

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

=====

Meeting Date:	October 17, 2006	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 approve:** **A)** the First Amendment to the Standard Potable Water and Wastewater Development Agreement with ANSCA Communities, LLC, and **B)** the First Amendment to the Standard Reclaimed Water Development Agreement with ANSCA Communities, LLC.

Summary: On December 14, 2004, the Department entered into a Standard Potable Water and Wastewater Development Agreement and a Standard Reclaimed Water Development Agreement (R2005-0163 & 0164 respectively) with ANSCA Communities, LLC (ANSCA). Subsequent to executing the Agreements, ANSCA sold a portion of their property and the Department adopted an Ordinance amending the boundaries of the Mandatory Reclaimed Water Service Area (R2006-015). Both agreements will be amended to revise the legal description of the ANSCA property. The Standard Reclaimed Water Agreement will also be amended to identify County-required off-site reclaimed water improvements and the corresponding oversizing credits and cash reimbursements entitled to ANSCA for completing the improvements. The Department and ANSCA agree that the oversizing credits and cash reimbursements shall not exceed \$86,400 for the work to be performed by ANSCA.

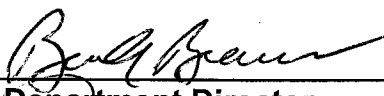

District 5

(MJ)

Background and Justification: While the Department Director has been delegated the authority to enter into Standard Development Agreements, Board approval is being sought in this case because amendments are needed to the existing Standard Potable Water and Wastewater Development Agreement and Standard Reclaimed Water Development Agreement (R2005-0163 & 0164). The property owner has sold a portion of his site to an adjacent property owner, and thus needs to revise the legal description associated with both original Development Agreements. Additionally, the project is located within the Department's Mandatory Reclaimed Water Service Area, as amended at the July 11, 2006 Board meeting (R2006-015). The property owner has agreed to construct reclaimed water infrastructure and the Department has agreed to reimburse the property owner for oversizing the pipeline.

Attachments:

1. Location Map
2. Three (3) Original First Amendment to Standard Potable Water and Wastewater Development Agreements
3. Three (3) Original First Amendment to Standard Reclaimed Water Development Agreements
4. One (1) copy of the original Standard Potable Water and Wastewater Development Agreement (#03-01021-000).
5. One (1) copy of the original Standard Reclaimed Water Development Agreement (#03-90001-000).

Recommended By:		<u>9/25/06</u>
	Department Director	Date
Approved By:		<u>10-12-06</u>
	Assistant County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	<u>\$86,400.00</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>(\$86,400.00)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u>\$0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Budget Account No.:	Fund 4011	Dept 721	Unit W006	Object 6543	

Is Item Included in Current Budget? Yes X No

Reporting Category **N/A**

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

No net fiscal impact. The developer will construct oversized lines and receive a credit against connection fees equal to the cost of oversizing.

C. Department Fiscal Review: *Debra M West*

III. REVIEW COMMENTS

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

[Signature] 10-4-08
OFMB
atw 10-3-08 *[Circular Stamp]* PM 10-3-06
Legal Sufficiency:
[Signature] 10/11/06

[Signature] - S. Jacobson 10/5/06
Contract Development and Control
10/5/06 These Amendments comply
with our review
requirements.

B. Legal Sufficiency:

W. W. W. 10/11/06
Assistant County Attorney

C. Other Department Review:

Department Director

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

SDA # 03-01021-000

**FIRST AMENDMENT TO STANDARD POTABLE WATER AND WASTEWATER
DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT, made and entered into this _____ day of _____, 2006, by and between **PALM BEACH COUNTY**, a subdivision of the State of Florida, hereinafter referred to as "County," and **ANSCA Communities, LLC**, hereinafter referred to as "Property Owner."

WITNESSETH

WHEREAS, County and Property Owner entered into a Standard Potable Water and Wastewater Development Agreement ("Agreement") on December 14, 2004, and recorded in the Official Records of Palm Beach County, Florida, at Official Records Book 17918, Page 337; and

WHEREAS, Property Owner has transferred ownership of a portion of the Property encumbered by the Agreement; and

WHEREAS, Property Owner and County wish to amend the Agreement to modify the legal description of the Property to reflect the transfer of ownership.

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

1. The foregoing statements are true and correct and are incorporated herein by specific reference.
2. Exhibit A to the Agreement is replaced by Revised Exhibit A, which is attached hereto and incorporated herein.
3. All other provisions of the Agreement, dated December 14, 2004, are hereby confirmed and, except as provided herein, are not otherwise altered or amended and shall remain in full force and effect.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK]

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.

ATTEST:

Clerk (or Deputy Clerk)

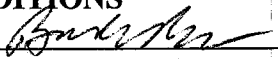
**PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY
COMMISSIONERS**

By: _____
Tony Masilotti, Chairman

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

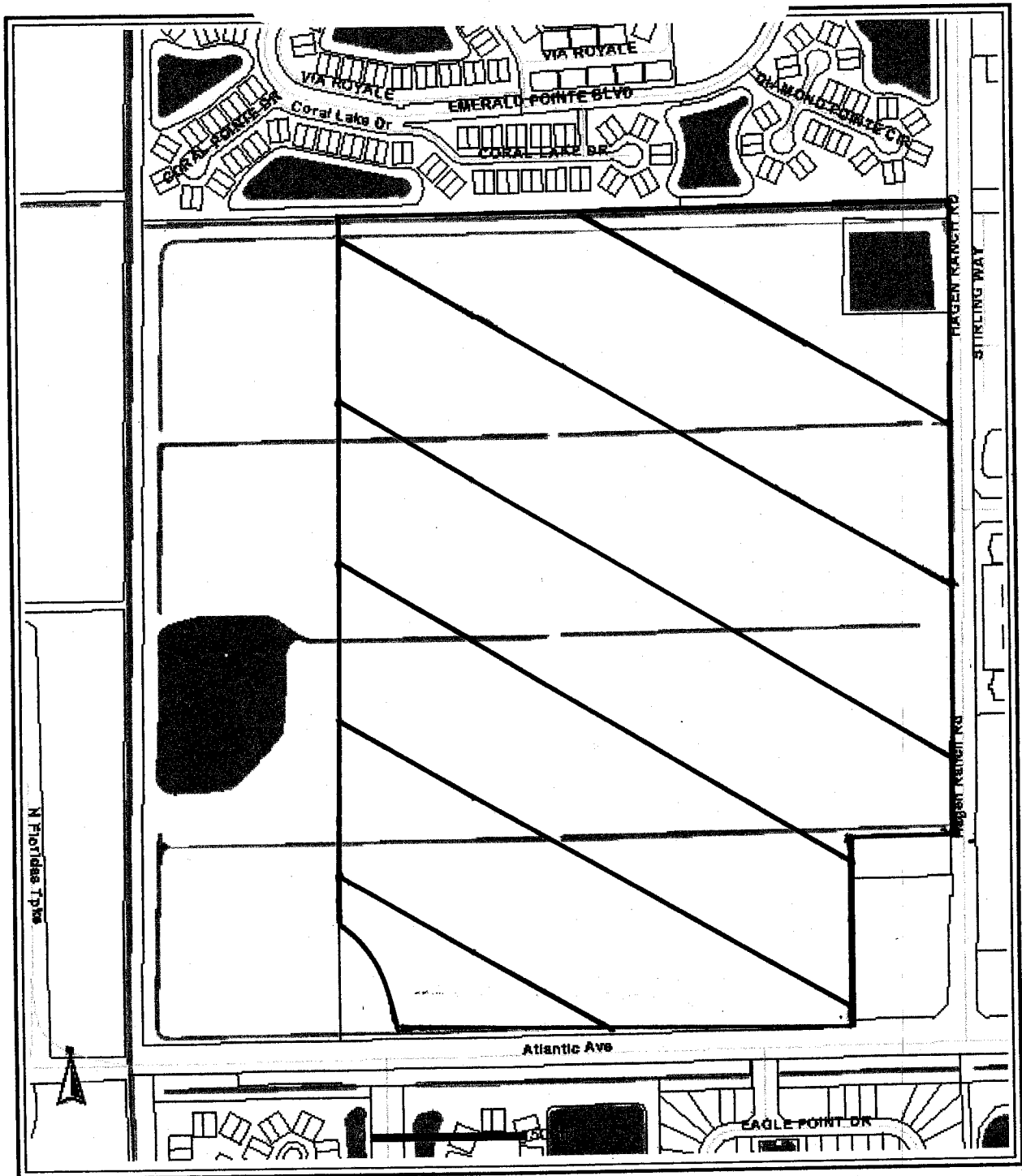
By: _____
County Attorney

**APPROVED AS TO TERMS AND
CONDITIONS**

By: 
Bevin A. Beaudet,
Department Director or Designee

PROPERTY OWNER:

SEE PAGE 2



ANSCA Communities, LLC

Map Scale 1:6066

Map produced on 9/1/2006

REVISED EXHIBIT "A"

THE SOUTHWEST $\frac{1}{4}$ OF SECTION 16, TOWNSHIP 46 SOUTH, RANGE 42 EAST, LESS THE EAST $\frac{1}{2}$ OF THE SOUTHEAST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF THE SOUTHWEST $\frac{1}{4}$ OF SAID SECTION 16, ALSO LESS THE EAST 20.00 FEET AND WEST 680.66 FEET THEREOF, AND ALSO LESS THE RIGHT-OF-WAY FOR STATE ROAD 806 (ATLANTIC AVENUE) AND ALSO LESS THAT PROPERTY DESCRIBED IN STIPULATE ORDER OF TAKING AND FINAL JUDGMENT RECORDED IN O.R. BOOK 13275, PAGE 1342, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPTING THE FOLLOWING DESCRIBED PARCEL:

A PORTION OF THE SOUTHWEST $\frac{1}{4}$ OF SECTION 16, TOWNSHIP 46 SOUTH, RANGE 42 EAST, SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 16; THENCE NORTH 89 DEGREES 22 MINUTES 44 SECONDS EAST, ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 680.81 FEET; THENCE NORTH 00 DEGREES 34 MINUTES 49 SECONDS EAST, A DISTANCE OF 98.34 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00 DEGREES 34 MINUTES 49 SECONDS EAST ALONG A LINE 680.66 FEET EAST OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE WEST LINE OF SAID SECTION 16, A DISTANCE OF 352.08 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT OF WHICH THE RADIUS POINT LIES SOUTH 32 DEGREES 03 MINUTES 32 SECONDS WEST, A RADIAL DISTANCE OF 340.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 48 DEGREES 31 MINUTES 18 SECONDS, A DISTANCE OF 287.93 FEET; THENCE SOUTH 09 DEGREES 25 MINUTES 11 SECONDS EAST, A DISTANCE OF 77.09 FEET; THENCE SOUTH 50 DEGREES 01 MINUTES 13 SECONDS EAST, A DISTANCE OF 45.55 FEET; THENCE NORTH 89 DEGREES 22 MINUTES 44 SECONDS EAST, A DISTANCE OF 280.00 FEET; THENCE SOUTH 77 DEGREES 07 MINUTES 31 SECONDS EAST, A DISTANCE OF 51.42 FEET TO A POINT OF INTERSECTION WITH THE PROPOSED NORTH RIGHT-OF-WAY LINE OF STATE ROAD 806 (ATLANTIC AVENUE), AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION 93030-2510; THENCE SOUTH 89 DEGREES 22 MINUTES 44 SECONDS WEST ALONG SAID PROPOSED RIGHT-OF-WAY LINE, A DISTANCE OF 536.18 FEET TO THE POINT OF BEGINNING.

IN WITNESS WHEREOF, Property Owner and Utility have executed or have caused this First Amendment, 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 First Amendment..

WITNESSES:

PALM BEACH COUNTY

Signature

By:

County Administrator or Designee

Typed or Printed Name

Signature

Typed or Printed Name

WITNESSES:

PROPERTY OWNER:

Signature

By:

Signature

Typed or Printed Name

Typed or Printed Name

Signature

Title

Typed or Printed Name

{ Corporate
Seal }

NOTARY CERTIFICATE

STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 24 day of August, 2006
by Charles Scardina. He/she is personally known to me or has produced
as identification.

My Commission
Expires:

Signature of Notary

Typed, Printed, or Stamped Name of Notary



Khristina N Iwasz
My Commission DD165879
Expires February 01, 2007

Notary Public
Serial Number

WATER UTILITIES DEPARTMENT APPROVAL

By:

Director of Finance and Administration
PBC Water Utilities Department

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By:

County Attorney

SDA # 03-90001-000

**FIRST AMENDMENT TO STANDARD RECLAIMED WATER
DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT, made and entered into this _____ day of _____, 2006, by and between **PALM BEACH COUNTY**, a subdivision of the State of Florida, hereinafter referred to as "County," and **ANSCA Communities, LLC**, hereinafter referred to as "Property Owner."

WITNESSETH

WHEREAS, County and Property Owner entered into a Standard Reclaimed Water Development Agreement ("Reclaimed Agreement") on December 14, 2004, and recorded in the Official Records of Palm Beach County, Florida, at Official Records Book 17918, Page 346;

WHEREAS, Property Owner has transferred ownership of a portion of the Property encumbered by the Agreement; and

WHEREAS, Property Owner and County wish to amend the Agreement to modify the legal description of the Property encumbered by the Agreement; and

WHEREAS, the parties wish to amend a condition of the Agreement increasing the size of an oversized pipe requirement and modifying related reimbursement conditions.

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

1. The foregoing statements are true and correct and are incorporated herein by specific reference.
2. Exhibit A to the Agreement is replaced by Revised Exhibit A, which is attached hereto and incorporated herein.
3. Paragraph 15, Additional Conditions, Paragraph A, of the Agreement shall be amended to read as follows:
 - A. Prior to the first potable water, wastewater, or reclaimed water Service Initiation on the Property, the Property Owner shall design and construct approximately 1800 linear feet of 20" reclaimed water main from along the north right-of-way line of Atlantic Avenue from the existing main at the intersection of Hagen Ranch Road and Atlantic Avenue to the west Property line. *For the purpose of determination of oversizing credits the development required pipe size shall be 12 inch. The total oversizing connection fee credit amount and/or cash reimbursement shall not exceed \$48.00 per linear foot of installed pipe.*
 - B. Construction shall be deemed complete upon acceptance of legal documents (Bill of Sale, Cost Documentation, and Property Owner's Affidavit) and approved record drawings by Utility, passing of final inspection by Utility and the receipt of a Health Department final project release. Reimbursement will be made after completion of construction and within sixty (60) days of request for cash reimbursement.
 - C. Pipeline oversizing connection fee credit/cash reimbursement calculations and payment terms shall be in accordance with the then current UPAP, except as otherwise provided in this agreement.

4. All other provisions of the Agreement, dated December 14, 2004, are hereby confirmed and, except as provided herein, are not otherwise altered or amended and shall remain in full force and effect.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK]

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.

ATTEST:

Clerk (or Deputy Clerk)


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

By: _____
Tony Masilotti, Chairman

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
County Attorney

**APPROVED AS TO TERMS AND
CONDITIONS**

By: 
Bevin A. Beaudet,
Department Director or Designee

PROPERTY OWNER:
See Page 3

IN WITNESS WHEREOF, Property Owner and Utility have executed or have caused this First Amendment, 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 First Amendment..

WITNESSES:

PALM BEACH COUNTY

Signature

By:

County Administrator or Designee

Typed or Printed Name

Signature

Typed or Printed Name

WITNESSES:

PROPERTY OWNER:

Signature

By:

Signature

Typed or Printed Name

Typed or Printed Name

Signature

Title

Typed or Printed Name

{ Corporate
Seal }

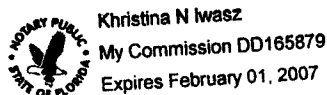
NOTARY CERTIFICATE

STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 24th day of August, 2006
by Charles Scardina. He/she is personally known to me or has produced
as identification.

My Commission
Expires: _____

Signature of Notary



Typed, Printed, or Stamped Name of Notary

Notary Public

Serial Number _____

WATER UTILITIES DEPARTMENT APPROVAL

By: _____
Director of Finance and Administration
PBC Water Utilities Department

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
County Attorney

REVISED EXHIBIT "A"

THE SOUTHWEST $\frac{1}{4}$ OF SECTION 16, TOWNSHIP 46 SOUTH, RANGE 42 EAST, LESS THE EAST $\frac{1}{2}$ OF THE SOUTHEAST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF THE SOUTHWEST $\frac{1}{4}$ OF SAID SECTION 16, ALSO LESS THE EAST 20.00 FEET AND WEST 680.66 FEET THEREOF, AND ALSO LESS THE RIGHT-OF-WAY FOR STATE ROAD 806 (ATLANTIC AVENUE) AND ALSO LESS THAT PROPERTY DESCRIBED IN STIPULATE ORDER OF TAKING AND FINAL JUDGMENT RECORDED IN O.R. BOOK 13275, PAGE 1342, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPTING THE FOLLOWING DESCRIBED PARCEL:

A PORTION OF THE SOUTHWEST $\frac{1}{4}$ OF SECTION 16, TOWNSHIP 46 SOUTH, RANGE 42 EAST, SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 16; THENCE NORTH 89 DEGREES 22 MINUTES 44 SECONDS EAST, ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 680.81 FEET; THENCE NORTH 00 DEGREES 34 MINUTES 49 SECONDS EAST, A DISTANCE OF 98.34 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00 DEGREES 34 MINUTES 49 SECONDS EAST ALONG A LINE 680.66 FEET EAST OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE WEST LINE OF SAID SECTION 16, A DISTANCE OF 352.08 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT OF WHICH THE RADIUS POINT LIES SOUTH 32 DEGREES 03 MINUTES 32 SECONDS WEST, A RADIAL DISTANCE OF 340.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 48 DEGREES 31 MINUTES 18 SECONDS, A DISTANCE OF 287.93 FEET; THENCE SOUTH 09 DEGREES 25 MINUTES 11 SECONDS EAST, A DISTANCE OF 77.09 FEET; THENCE SOUTH 50 DEGREES 01 MINUTES 13 SECONDS EAST, A DISTANCE OF 45.55 FEET; THENCE NORTH 89 DEGREES 22 MINUTES 44 SECONDS EAST, A DISTANCE OF 280.00 FEET; THENCE SOUTH 77 DEGREES 07 MINUTES 31 SECONDS EAST, A DISTANCE OF 51.42 FEET TO A POINT OF INTERSECTION WITH THE PROPOSED NORTH RIGHT-OF-WAY LINE OF STATE ROAD 806 (ATLANTIC AVENUE), AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION 93030-2510; THENCE SOUTH 89 DEGREES 22 MINUTES 44 SECONDS WEST ALONG SAID PROPOSED RIGHT-OF-WAY LINE, A DISTANCE OF 536.18 FEET TO THE POINT OF BEGINNING.

SDA # 03-01021-000

Mark Fallon, PBC Water Utilities Dept.
8100 Forest Hill Blvd., WPB
Contract Management - Charge # 1023
Return Via Will Call Box # 133

STANDARD POTABLE WATER AND WASTEWATER DEVELOPMENT
R2005 0163 AGREEMENT (SDA)
FEB 01 2005

THIS AGREEMENT made and entered into this 14th day of DECEMBER, 2004, by and between PALM BEACH COUNTY, a subdivision of the State of Florida, hereinafter referred to as "Utility", and ANSCA Communities, LLC, 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 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 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; and

(i) "Standard Development Renewal Agreement (SDRA)" - an agreement between the County and Property Owner extending the capacity reservation for unused ERCs (ERICs) in a Standard Development Agreement for an additional five (5) years.

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 the 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 the 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 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

POTABLE WATER AND WASTEWATER

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 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 the Utility.

5. Property Owner is required to pay Guaranteed Revenue 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. The 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:	\$99.24 per ERC x	392.85 ERCs =	\$38,986.43
Wastewater:	\$183.72 per ERC x	392.85 ERCs =	\$72,174.40
TOTAL			<u>\$111,160.83</u>

Upon receipt of the MAP, Utility agrees to reserve 392.85 ERCs of potable water and wastewater system capacity for Property Owner until DECEMBER 31, 2009, which term may be extended in accordance with the UPAP, as may be amended from time to time, and upon payment of applicable fees.

POTABLE WATER AND WASTEWATER

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, Utility shall execute and record a "Termination and Partial Release of Standard or Non Standard Potable Water and Wastewater Development Agreement Due to Non-Renewal."

At the time of Service Initiation, the applicable ERCs will be deducted from said reservation. Upon approval of the 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 the 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 the 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 the 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

POTABLE WATER AND WASTEWATER

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 the 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:

- \$50.00 per linear foot of any granted utility easement (based on the centerline of the easement); and
- \$50,000.00 for a Department-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 the 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, 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 the Utility. A 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.

POTABLE WATER AND WASTEWATER

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.

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 the 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. The sale, conveyance, transfer, or assignment of this Agreement by Property Owner shall only be performed in accordance with the provisions of UPAP.

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:

3333 S Congress Ave. Ste 401
Delray Beach, FL 33445-7346;

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:

- A. The Property Owner shall design and construct a wastewater force main connection to the existing 42" wastewater force main near the intersection of the west right-of-way line of Lake Worth Drainage District E-2E canal and the north right-of-way of Atlantic Avenue. The connection shall be performed by a pipe manufacturer certified contractor. The connection shall be sized as follows: 42" X 20" tapping sleeve and valve pointing west, 20" X 8" tee, 20" X 16" reducer, 16" gate valve with plug, and 8" gate valve with plug. *For the purpose of*

POTABLE WATER AND WASTEWATER

determination of oversizing credits, the Development required pipe size shall be 8". The oversizing credits shall not exceed \$30,380.00.

- B. The Property Owner shall design and construct, at no cost to the County, a dual cradle cap aerial canal crossing over the Lake Worth Drainage District E-2-E Canal to accommodate a new 8" force main and a future 8" pipe.
- C. The Property Owner shall be required to design and construct approximately 600 linear feet of 8" force main from the west property line to the point of connection to the existing 42" force main. *For the purpose of determination of oversizing credits, the Development required pipe size shall be 6". The oversizing credits shall not exceed \$4.00 per linear foot of installed pipe.*
- C. The Property Owner shall design and construct, at no cost to the County, a gravity wastewater stubout to serve the outparcels near the southeast corner of the property.
- D. The Property Owner shall design and construct, at no cost to the County, an 8" potable water main stub-out near the northwest corner of the property.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

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
NANCY M. MAY

Typed or Printed Name
Anna M Daniels

ANNA M. DANIELS

Typed or Printed Name

PALM BEACH COUNTY

By: [Signature]
County Administrator or Designee

R2005.0163

FEB 01 2005

WITNESSES:

Sandra Hoogland
Sandra Hoogland

Typed or Printed Name
Elizabeth M Nero

Elizabeth M Nero
Typed or Printed Name

PROPERTY OWNER:

By: [Signature]
Signature

Charles Scardina
Typed or Printed Name

Managing Member
Title

{ Corporate
Seal }

NOTARY CERTIFICATE

STATE OF FLORIDA
COUNTY PALM BEACH

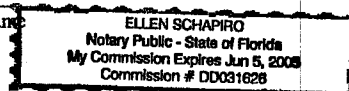
The foregoing instrument was acknowledged before me this 30 day of Nov, 2004
by Charles Scardina, of a Managing Member, on behalf of the
as identification. [Signature]
He/she is personally known to me or has produced

Signature of Notary

Typed, Printed, or Stamped Name
of Notary

Notary Public

Serial Number



WATER UTILITIES DEPARTMENT APPROVAL

By: Fred W Jenkins
Director of Finance and Administration
PBC Water Utilities Department

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: Anne Helgent
County Attorney

EXHIBIT "A"
LEGAL DESCRIPTION

THE SOUTHWEST 1/4 OF SECTION 16, TOWNSHIP 46 SOUTH, RANGE 42 EAST,
LESS THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE
SOUTHWEST 1/4 OF SAID SECTION 16, ALSO LESS THE EAST 20.00 FEET AND
WEST 680.66 FEET THEREOF, AND ALSO LESS THE RIGHT-OF-WAY FOR STATE
ROAD 806 (ATLANTIC AVENUE) AND ALSO LESS THAT PROPERTY
DESCRIBED IN STIPULATE ORDER OF TAKING AND FINAL JUDGMENT
RECORDED IN O.R. BOOK 13275, PAGE 1342, PUBLIC RECORDS OF PALM
BEACH COUNTY, FLORIDA.

OK
10/29/46

Return
Via Will
Call Box
133

CFN 20040720853
OR BK 17918 PG 0346
RECORDED 12/22/2004 09:25:42
Palm Beach County, Florida
Dorothy H Wilken, Clerk of Court
Pgs 0346 - 353; (8pgs)

RECLAIMED WATER

R2005 0164 FEB 01 2005

STANDARD RECLAIMED WATER DEVELOPMENT AGREEMENT (SDA)

THIS AGREEMENT made and entered into this 14th day of DECEMBER, 2004, by and between PALM BEACH COUNTY, a subdivision of the State of Florida, hereinafter referred to as "Utility", and ANSCA Communities, LLC, 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 reclaimed water facilities hereinafter referred to as "facilities"; and

WHEREAS, upon the conditions set forth herein, Utility will own the Facilities up to the Point of Service for operation and maintenance purposes; and

WHEREAS, Property Owner understands that this Agreement 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, Property Owner shall use only reclaimed water for irrigation purposes; and

WHEREAS, to encourage and facilitate conservation of water resources, the parties 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 reclaimed water to the property;
 - (c) "Point of Service" - generally, the point where the pipes of Utility are connected with the pipes to be owned and operated by Property Owner as further defined in Chapter 1 of the UPAP;
 - (d) "Reclaimed Water" - water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a wastewater treatment facility;

SDA #03-90001-000

Mark Fallon, PBC Water Utilities Dept.
3100 Forest Hill Blvd., WPB
Contract Management - Charge # 1023
Return Via Will Call Box # 133

RECLAIMED WATER

- (e) "Equivalent Residential Irrigation Connection (ERIC)" - a system capacity equivalency unit which corresponds to the peak reclaimed water demand of the 5/8" x 3/4" meter subcategory of the single family residential category of Customer usage. This system capacity equivalency unit is utilized to establish the reclaimed water system demand for various sized connections for the purpose of assessing fees and reserving capacity. For the purpose of this Agreement, one ERIC = 500 gallons/day;
- (f) "Mandatory Agreement Payment (MAP)" - twelve months of Guaranteed Revenue Fees payable to Utility upon submission of an SDA or renewal agreement for each ERC (or ERIC) represented in the agreement;
- (g) "Service Initiation" - the date a reclaimed water meter is requested;
- (h) "Guaranteed Revenue Fee" - the fee designated 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;
- (i) "Total Accrued Amount (TAA)" - At the time of Service Initiation for each ERIC, a TAA equal to sixty months Guaranteed Revenue Fees at the then current rate minus the MAP paid per each ERIC shall be due and payable for such ERIC. The TAA for each ERIC will be determined at the time of Service Initiation; and
- (j) "Standard Development Renewal Agreement (SDRA)" - an agreement between the County and Property Owner extending the capacity reservation for unused ERCs (ERICs) in a Standard Development Agreement for an additional five (5) years.

3. Property Owner hereby grants and gives to Utility the exclusive right and privilege to construct, own, maintain, operate and expand the reclaimed water 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 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 the 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 the Utility.

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 reclaimed water facilities; that in the event Utility is required or desires to install any of its reclaimed water 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 installations; 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.

RECLAIMED WATER

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 reclaimed water facilities and services to the Property described in Exhibit "A" and to any property to which reclaimed water service is actually rendered by Utility. All occupants of any residential 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 reclaimed water service from the aforesaid Utility, and shall pay for 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 residential 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 reclaimed water service from any source other than that provided by Utility.

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 reclaimed water 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 reclaimed water facilities installed by Property Owner to the reclaimed water facilities of Utility in accordance with the terms and intent of this Agreement. Such connection and reclaimed water usage shall be in accordance with rules and regulations of the Health Department, the Department of Environmental Protection, and the UPAP.

5. Property Owner is required to pay Guaranteed Revenue 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 ERIC for the requested capacity upon submission of this Agreement; and

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

Utility has advised Property Owner that construction of additional reclaimed water 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. The Utility will not provide service to connections in excess of those reserved as evidenced by proper payment of Guaranteed Revenue.

The MAP required upon submission of this Reclaimed Water Agreement is:

Reclaimed Water:	\$0.00 per ERC x 2,400.00 ERICs	\$0.00
	TOTAL	\$0.00

Upon receipt of the MAP, Utility agrees to reserve 2,400.00 ERICs of reclaimed water system capacity for Property Owner until **DECEMBER 31, 2009**, 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.

RECLAIMED WATER

At the time of Service Initiation, the applicable ERICs will be deducted from said reservation. Upon approval of the Utility, the total number of ERICs may be increased up to 10% of the original reservation or by ten (10) ERICs, 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 the Utility. Any adjustment which is greater than that specified herein requires a new Agreement to be signed. Upon written notice to Utility, said ERICs may be adjusted downward however, no refund or credit will be given by Utility to Property Owner for said downward adjustment.

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 reclaimed water 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 the 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 reclaimed water system as shown on the plans and specifications. Fees, as set forth in the UPAP, shall be levied to cover the cost of the plan review and inspection. Property Owner shall be required to pay connection fees and installation fees as set forth in the UPAP for each connection.

During the construction of the reclaimed water system 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 the 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.

Upon completion of said facilities, Utility hereby agrees to accept ownership of the reclaimed water facilities for operation and maintenance purposes. Property Owner also hereby covenants and agrees to design and/or modify his internal irrigation system, at his sole cost, to accept reclaimed water from the Utility, and to design and operate said system within the guidelines for reclaimed water as outlined in the then current UPAP, the Palm Beach County Reclaimed Water Ordinance and State and Federal law.

6. Property Owner hereby agrees to transfer to Utility title to all reclaimed water distribution systems installed by Property Owner's contractor up to the point of service, pursuant to the provisions of this Agreement. Such conveyance is to take effect without further action upon the acceptance by Utility of 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 in a form supplied by the Utility the complete on-site and off-site reclaimed water distribution 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 reclaimed water 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 \$50.00 per linear foot of any granted utility easement (based on the centerline of the easement). Said title policy shall confirm the Grantor's right to convey such easements

RECLAIMED WATER

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 easements granted by Property Owner may be used by other utilities as long as such use is approved by the Utility. Utility's acceptance of the reclaimed water 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 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 easement or rights-of-way. All reclaimed water 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, and other 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 reclaimed water facilities 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 reclaimed water 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 the Utility. A 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 reclaimed water facilities conveyed to Utility to use in connection with providing reclaimed water 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 reclaimed water service 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 reclaimed water 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 reclaimed water 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.

10. Property Owner or his assignee shall not have the right to and shall not connect to the reclaimed water facilities of Utility until approval for such connection has been granted by the 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. In addition, Property Owner of his Assignee agrees to comply with all rules and regulations of the UPAP, HRS and DEP pertaining to the Reclaimed Water Irrigation Systems.

RECLAIMED WATER

11. The sale, conveyance, transfer, or assignment of this Agreement by Property Owner shall only be performed in accordance with the provisions of UPAP.

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:

333 S Congress Ave., Suite 401
Delray Bch., FL 33445-7346;

and if to Utility, shall be mailed to Palm Beach County Water Utilities Department Contract Management Section, P.O. Box 16097, West Palm Beach, Florida 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 reclaimed water facilities and services to any phased area and/or 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 contained herein, 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:

A. Prior to the first potable water and/or wastewater service initiation, the Property Owner shall design and construct approximately 2,000 linear feet of 8" reclaimed water main along the north right-of-way line of Atlantic Avenue from the existing main at the intersection of Hagen Ranch Road to the west property line. *For the purpose of determination of oversizing credits, the development required pipe size shall be 8 inch.*

B. The entire on-site reclaimed water irrigation system shall be privately owned and maintained utilizing a master reclaimed water meter connected to Palm Beach County Water Utilities Department's reclaimed water distribution system.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

RECLAIMED WATER

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
NANCY M. MAY
Typed or Printed Name

Anna M Daniels
ANNA M. DANIELS
Typed or Printed Name

PALM BEACH COUNTY

By: [Signature]
County Administrator or Designee

R2005 0164

FEB 01 2006

WITNESSES:

Sandra Hoagland
Sandra Hoagland
Typed or Printed Name
Elizabeth M Nero
Elizabeth M Nero
Typed or Printed Name

PROPERTY OWNER:

By: [Signature]
Signature
Charles Scardina
Typed or Printed Name
Title Managing member
{Corporate Seal}

NOTARY CERTIFICATE

STATE OF FLORIDA
COUNTY PALM BEACH

The foregoing instrument was acknowledged before me this 30 day of Nov, 2004 by Charles Scardina of a Managing member, on behalf of the [Entity] as identification. He/she is personally known to me or has produced [Identification]

[Signature]
Signature of Notary

Typed, Printed, or Stamped Name
of Notary

Notary Public

Serial Number



WATER UTILITIES DEPARTMENT APPROVAL

By: Fred W. Jenkins
Director of Finance and Administration
PBC Water Utilities Department (N)

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: Anne Delmont
County Attorney

RECLAIMED WATER

EXHIBIT "A"
LEGAL DESCRIPTION

THE SOUTHWEST 1/4 OF SECTION 16, TOWNSHIP 46 SOUTH, RANGE 42 EAST, LESS THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 16, ALSO LESS THE EAST 20.00 FEET AND WEST 680.66 FEET THEREOF, AND ALSO LESS THE RIGHT-OF-WAY FOR STATE ROAD 806 (ATLANTIC AVENUE) AND ALSO LESS THAT PROPERTY DESCRIBED IN STIPULATE ORDER OF TAKING AND FINAL JUDGMENT RECORDED IN O.R. BOOK 13275, PAGE 1342, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.