

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: March 13, 2007

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: One (1) Standard Development Agreement and one (1) Standard Development Renewal Agreement complete with executed documents received during the months of December, 2006 and January, 2007.

Standard Development Agreement

A) Boynton Beach Associates XVIII, LLLP

05-90011-000

Standard Development Renewal Agreement

B) Windsor Place, LLC

05-01046-R01

Summary: 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 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). After these agreements are executed by the developer and the Department, they must be recorded by the County Clerk's Office. This agenda item recommends the Board receive and file the agreements so they may be properly recorded. (Countywide) (SF) **Original documents can be viewed in Minutes.**

Background and Justification: N/A

Attachments:

Original documents

Recommended By: _____

Lisha L. Pico
Department Director

02/14/07

Date

Approved By: _____

[Signature]
Assistant County Administrator

2/20/07

Date



CFN 20070017548
OR BK 21296 PG 1901
RECORDED 01/11/2007 11:01:22
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 1901 - 1904; (4pgs)

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

SDA # 05-01046-R01

STANDARD POTABLE WATER & WASTEWATER DEVELOPMENT RENEWAL
AGREEMENT

THIS AGREEMENT is made and entered into this 3RD day of JANUARY, 2007 by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "Utility", and WINDSOR PLACE, LLC, hereinafter referred to as "Property Owner."

WITNESSETH:

WHEREAS, the Utility and a predecessor in interest entered in to a Standard Potable Water and Wastewater Development Agreement on **December 28, 2001**, hereinafter referred to as "Agreement" (R2002-0411); and

WHEREAS, the Agreement was recorded in the Official Records of Palm Beach County, Florida, at **Official Record Book 13269, Page 794**; and

WHEREAS, the Agreement was assigned to current owner, **WINDSOR PLACE, LLC**, on December 22, 2006.

WHEREAS, Utility agreed to reserve a certain number of equivalent residential connections ("ERCs") of potable water and wastewater system capacity for Property Owner for a term of five (5) years from the effective date of the Agreement; and

WHEREAS, the five (5) year term provided for in the Agreement has expired or will expire on **December 31, 2006** ("Capacity Expiration Date"); and

WHEREAS, the five (5) year term may be extended in accordance with the Uniform Policies and Procedures Manual ("UPAP"), as may be amended from time to time, which is incorporated herein by reference; and

WHEREAS, portions of the ERCs of potable water and portions of the ERCs of wastewater capacity provided for in the Agreement have not been used by Property Owner; and

WHEREAS, Property Owner wishes to extend the capacity reservation for a certain number of the unused ERCs provided in the Agreement in accordance with the terms and conditions of this Standard Potable Water and Wastewater Development Renewal Agreement ("Renewal Agreement").

NOW THEREFORE, in consideration of the mutual covenants, promises and representations contained herein, the parties agree as follows:

1. Recitals

The recitals set forth above are true and correct and form a part of this Renewal Agreement. Terms not defined herein shall have the same meaning as ascribed to them in the UPAP as may be amended from time to time.

2. Renewal of Capacity Reservation

A. Utility agrees to extend the capacity reservation for the unused ERCs of potable water and the unused ERCs of wastewater system capacity for an additional five (5) years from the Capacity Expiration Date in accordance with the UPAP as may be amended from time to time. The number of unused ERCs being renewed and the Mandatory Agreement Payment (MAP) required upon submission of this Renewal Agreement is:

Potable Water:	\$140.76	per ERC x	18.85	ERCs =	\$2,653.33
Wastewater:	\$197.52	per ERC x	18.85	ERCs =	\$3,723.25
SUBTOTAL					\$6,376.58
FRANCHISE FEE					\$0.00
TOTAL MAP DUE					\$6,376.58

B. Property Owner acknowledges and agrees any and all future capacity reservations for the Property shall be in accordance with the terms and conditions of the UPAP, as may be amended from time to time.

C. Property Owner acknowledges and agrees Utility shall not refund or reimburse the MAP payments made for unused ERCs upon expiration of this Renewal Agreement.

3. Notifications

All notices concerning this Renewal Agreement shall be in writing and transmitted by mail or courier and if to Property Owner, shall be mailed or delivered to Property Owner at:

**7593 Boynton Beach Blvd, Ste 220
Boynton Beach, FL 33437-6162**

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, or delivered to 8100 Forest Hill Blvd., West Palm Beach, FL 33413.

4. Applicable Law

Any litigation arising from or relating to this Renewal Agreement shall be governed by the laws of the State of Florida and venue in any such proceeding shall be exclusively in Palm Beach County, Florida.

5. Severability

In the event that any section, paragraph, sentence, clause, or provision of this Renewal Agreement is held to be invalid by a court of competent jurisdiction, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

6. Enforcement Costs

Any costs or expenses, including reasonable attorney's fees, associated with the enforcement of the terms or conditions of this Renewal Agreement shall be borne by the respective parties.

7. Entirety of Agreement

This Renewal Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreement, either written or oral, relating to this Renewal Agreement.

8. Successors in Interest

This Renewal Agreement shall be binding upon and shall inure to the benefit of Utility and Property Owner and their assigns and successors by merger, consolidation, conveyance or otherwise.

9. Counterparts

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

10. Filing

Copy of this Renewal Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County, Florida.

11. Modification of Agreement and Standard Renewal Agreement

A. No additions, alterations, or variations from the terms of this Renewal Agreement shall be valid, nor can the provisions of this Renewal Agreement be waived by either party, unless such addition, alteration, variation, or waiver is expressed in writing and signed by the parties hereto.

B. Except as set forth herein, the Agreement remains unmodified and in full force and effect, and parties hereby ratify, confirm, and adopt the Agreement as amended hereby.

12. Captions

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

13. Effective Date

The provisions of this Renewal Agreement shall become effective upon execution by the parties hereto.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

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

WITNESSES:

Nancy M May
Signature
NANCY M. MAY
Print Name

Linda L Collins
Signature
LINDA L. COLLINS
Print Name

PALM BEACH COUNTY

By: [Signature]
Director, Water Utilities Department

WITNESSES:

Betty Levi
Signature
Betty Levi
Print Name

Elizabeth M Nero
Signature
Elizabeth M Nero
Print Name

PROPERTY OWNER

By: [Signature]
Title: Manager

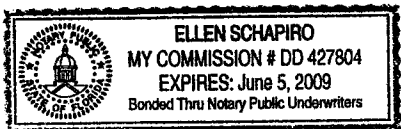
(Seal)

NOTARY CERTIFICATE

STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 12th day of December 2006 by Charles Scardina who is personally known to me or who has produced as identification.

My Commission Expires: 6/5/09



[Signature]
Signature of Notary

Ellen Schapiro
Typed, Printed or Stamped Name of Notary

WATER UTILITIES DEPARTMENT APPROVAL:

By: [Signature]
Director, Finance and Administration

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: [Signature]
County Attorney

RECLAIMED WATER

CFN 20070017549
OR BK 21296 PG 1905
RECORDED 01/11/2007 11:01:22
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 1905 - 1914; (10pgs)

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

STANDARD RECLAIMED WATER DEVELOPMENT AGREEMENT (SDA)

THIS AGREEMENT made and entered into this 20th day of DECEMBER, 2006, by and between **PALM BEACH COUNTY**, a subdivision of the State of Florida, hereinafter referred to as "Utility", and **BOYNTON BEACH ASSOCIATES XVIII, LLLP and BOYNTON BEACH ASSOCIATES X, LLLP**, Florida limited liability limited partnerships, 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) "Service Initiation" - the date a reclaimed water meter is requested;
 - (e) "Reclaimed Water" - water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a wastewater treatment facility;

RECLAIMED WATER

- (f) "Equivalent Residential Irrigation Connection (ERIC)" - a system capacity equivalency unit which corresponds to the peak reclaimed water demand of the $\frac{5}{8}$ " x $\frac{3}{4}$ " 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;
 - (g) "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;
 - (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 plus applicable Franchise 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;
 - (j) "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
 - (k) "Franchise Fee" - A percentage surcharge applied to all of Utility's fees for Customers within portions of 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 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 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 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.

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

RECLAIMED WATER

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 in addition 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 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 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. 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	200.00	ERICs =	\$0.00
				Franchise Fee	\$0.00
				TOTAL	\$0.00

Upon receipt of the MAP, Utility agrees to reserve **200.00** ERICs of Reclaimed Water system capacity for Property Owner until **DECEMBER 31, 2011**, 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.

At the time of Service Initiation, the applicable ERICs will be deducted from said reservation. Upon approval of 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 Utility. Any adjustment which is

RECLAIMED WATER

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.

6. 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 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 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 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.

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 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 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 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, Franchise Fees, and other fees as set forth in the UPAP at the then current rate.

RECLAIMED WATER

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 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 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 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.
11. Property Owner acknowledges and agrees that the transfer or assignment of this Assignment 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:

**1600 Sawgrass Corporate Pkwy Ste 300
Sunrise, FL 33323-2821;**

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.

RECLAIMED WATER

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:
Prior to the first permanent Service Initiation, Property Owner shall design and construct the following additional oversized reclaimed water mains, including all related appurtenances, per the design standards set forth in the UPAP:
 - (a) Approximately 1300 linear feet of 16" reclaimed water main and related appurtenances along Property's frontage on Lyons Road. For the purpose of determining oversizing connection fee credit amount and/or cash reimbursement, the Development-required pipe size shall be 12". The total oversizing connection fee credit amount and/or cash reimbursement shall not exceed \$30.00 per linear foot of installed pipe.
 - (b) Approximately 1400 linear feet of 16" reclaimed water main and related appurtenances along the South Property line. For the purpose of determining oversizing connection fee credit amount and/or cash reimbursement, the Development-required pipe size shall be 12". The total oversizing connection fee credit amount and/or cash reimbursement shall not exceed \$30.00 per linear foot of installed pipe.
16. 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.
17. 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.

RECLAIMED WATER

IN WITNESS WHEREOF, Property Owner and Utility have executed or have caused this Agreement, with the named Exhibit 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

ANNA M. DANIELS
Signature
Anna M Daniels
Typed or Printed Name

PALM BEACH COUNTY

By: Luisa L. Ruiz
County Administrator or Designee

WITNESSES:

Gladys A. DiGirolamo
Signature
GLADYS A. DIGIROLAMO
Typed or Printed Name

Sharolyn Webb
Signature
SHAROLYN WEBB
Typed or Printed Name

PROPERTY OWNER:

Boynton Beach Associates XVIII, LLLP*

By: Kevin Ratterree
Signature
KEVIN RATTERREE
Typed or Printed Name
VICE PRESIDENT

Title

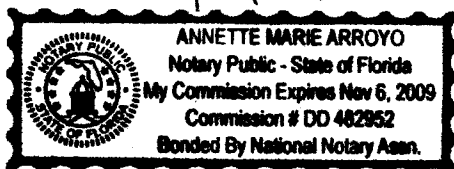
*By: Boynton Beach XVIII Corporation,
General Partner
Corporate Seal

NOTARY CERTIFICATE

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 21 day of November, 2006
by Kevin Ratterree. He/she is personally known to me or has produced
as identification.

My Commission Expires: 11/6/09



Annette Arroyo
Signature of Notary
Annette Arroyo
Typed, Printed, or Stamped Name of Notary

Notary Public
Serial Number _____

WATER UTILITIES DEPARTMENT APPROVAL

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

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: [Signature]
County Attorney

RECLAIMED WATER

IN WITNESS WHEREOF, Property Owner and Utility have executed or have caused this Agreement, with the named Exhibit 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
Anna M Daniels
Signature
ANNA M. DANIELS
Typed or Printed Name

PALM BEACH COUNTY

By: [Signature]
County Administrator or Designee

WITNESSES:

Gladys A. DiGirolamo
Signature
GLADYS A. DIGIROLAMO
Typed or Printed Name
Sharon Webb
Signature
SHAROLYN WEBB
Typed or Printed Name

PROPERTY OWNER:

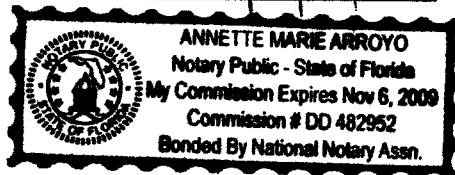
Boynton Beach Associates X, LLLP*
By: [Signature] J.P.
Signature
Kevin Ratterree
Typed or Printed Name
Vice President
Title
By: Boynton Beach X Corporation,
General { Partner }
Corporate }
Seal }

NOTARY CERTIFICATE

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 21 day of November, 20 06
by Kevin Ratterree. He/she is personally known to me or has produced
_____ as identification.

My Commission
Expires: 11/6/09



[Signature]
Signature of Notary
Annette Arroyo
Typed, Printed, or Stamped Name of Notary

Notary Public
Serial Number _____

WATER UTILITIES DEPARTMENT APPROVAL

By: Debra M West
Director of Finance and Administration
PBC Water Utilities Department (M)

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: [Signature]
County Attorney

RECLAIMED WATER

EXHIBIT "A"
LEGAL DESCRIPTION

A PORTION OF TRACTS 12 THROUGH 16, AND TRACTS 17 THROUGH 21, INCLUSIVE, ALL LYING WITHIN BLOCK 54, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF TRACT "BT3", CANYON LAKES - PLAT SIX, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 103, PAGES 27 THROUGH 37, SAID PUBLIC RECORDED OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH $00^{\circ}23'24''$ WEST, ALONG A LINE 155.00 FEET EAST OF (AS MEASURED AT RIGHT ANGLES) AND PARALLEL WITH THE WEST LINE OF SAID BLOCK 54, A DISTANCE OF 140.04 FEET TO THE POINT OF CURVATURE OF A CIRVE, CONCAVE WESTERLY, HAVING A RADIUS OF 15,155.00 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $01^{\circ}36'32''$, A DISTANCE OF 425.56 FEET TO A POINT OF TANGENCY; THENCE NORTH $01^{\circ}59'56''$ WEST, A DISTANCE OF 248.87 FEET; THENCE NORTH $11^{\circ}29'49''$ EAST, A DISTANCE OF 51.42 FEET; THENCE NORTH $01^{\circ}59'56''$ WEST, A DISTANCE OF 373.29 FEET; THENCE NORTH $89^{\circ}02'44''$ EAST, ALONG A LINE 77.88 FEET SOUTH OF (AS MEASURED AT RIGHT ANGLES) AND PARALLEL WITH THE NORTH LINE OF SAID TRACTS 12 THROUGH 16, A DISTANCE OF 1,319.95 FEET; THENCE SOUTH $00^{\circ}23'24''$ EAST, ALONG A LINE 117.04 FEET EAST OF (AS MEASURED AT RIGHT ANGLES) AND PARALLEL WITH THE WEST LINE OF SAID TRACT 12, A DISTNCE OF 436.47 FEET; THENCE SOUTH $01^{\circ}18'14''$ EAST, A DISTANCE OF 812.54 FEET; THENCE SOUTH $89^{\circ}26'03''$ WEST, A DISTANCE OF 99.22 FEET; THENCE NORTH $00^{\circ}23'24''$ WEST, A DISTANCE OF 2.18 FEET; THENCE SOUTH $89^{\circ}26'03''$ WEST, ALONG THE NORTH LINE OF CANYON LAKES - PLAT SIX, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 103, PAGES 27 THROUGH 37, SAID PUBLIC RECORDS AND ITS EASTERLY EXTENSION THEREOF, A DISTANCE OF 1220.78 FEET TO THE POINT OF BEGINNING.

CONTAINING 37.55 ACRES, MORE OR LESS.

OK
12/12/6
Q

CONSENT AND JOINDER OF MORTGAGEE/LIENHOLDER

Bank of America, N.A., as mortgagee aforesaid, consents to the recording by Boynton Beach Associates X, LLLP, Boynton Beach Associates XVIII, LLLP or Palm Beach County, Florida, in the Public Records of Palm Beach County, Florida, of the SDA to which this Consent and Joinder of Mortgage/Lienholder is attached.

WITNESSES:

By: [Signature]
Name: SVITA E. FRANKUZ
Title: SR. VICE PRESIDENT

NOTARY CERTIFICATE

My Commission Expires 6/8/07

Serial Number: DD 199581

