

POTABLE WATER AND WASTEWATER

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

SDA # 05-01091-000

STANDARD POTABLE WATER AND WASTEWATER DEVELOPMENT AGREEMENT
(SDA)

THIS AGREEMENT made and entered into this 12th day of MARCH, 2007, by and between **PALM BEACH COUNTY**, a subdivision of the State of Florida, hereinafter referred to as "Utility", and **BOYNTON BEACH ASSOCIATES XXII, LLLP, a Florida limited liability, limited partnership**, hereinafter referred to as "Property Owner."

WITNESSETH

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

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

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

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

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

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

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

POTABLE WATER AND WASTEWATER

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

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

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

POTABLE WATER AND WASTEWATER

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

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

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

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

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

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

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

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

Potable Water:	\$140.76 per ERC x	<u>153.00</u>	ERCs =	<u>\$21,536.28</u>
Wastewater:	\$197.52 per ERC x	<u>153.00</u>	ERCs =	<u>\$30,220.56</u>
			Franchise Fee	<u>\$0.00</u>
			TOTAL	<u><u>\$51,756.84</u></u>

Upon receipt of the MAP, Utility agrees to reserve 153.00 ERCs of Potable Water and Wastewater system capacity for Property Owner until **MARCH 31, 2012**, which term may be extended in accordance with the UPAP, as may be amended from time to time, and upon payment of applicable fees. Property Owner acknowledges and agrees Utility shall not refund or reimburse the MAP upon expiration.

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

POTABLE WATER AND WASTEWATER

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

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

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

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

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

POTABLE WATER AND WASTEWATER

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

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

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

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

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

POTABLE WATER AND WASTEWATER

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

**1600 Sawgrass Corporate Parkway, Ste 300
Sunrise, FL 33323-2890;**

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:

POTABLE WATER AND WASTEWATER

IN WITNESS WHEREOF, Property Owner and Utility have executed or have caused this Agreement, with the named Exhibits attached, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement.

WITNESSES:

PALM BEACH COUNTY

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

By: Leisha S. Lucia
County Administrator or Designee

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

WITNESSES:

PROPERTY OWNER: Boynton Beach Associates XXII, LLLP, by: Boynton *

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

By: Kevin Ratterree, V.P.
Kevin Ratterree
Typed or Printed Name
Vice President
Title

Signature Sharolyn Webb
SHAROLYN WEBB
Typed or Printed Name

{ Corporate Seal }

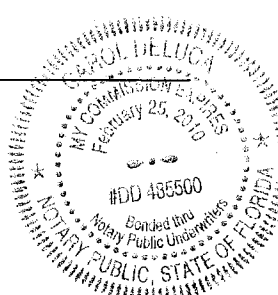
NOTARY CERTIFICATE

* Beach XXII Corporation, General Partner

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 26 day of Feb, 2007 by Kevin Ratterree. He/she is personally known to me or has produced as identification.

My Commission Expires: _____



Signature of Notary Carol DeLuca

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: Monica Jay
County Attorney

POTABLE WATER AND WASTEWATER

**EXHIBIT "A"
LEGAL DESCRIPTION**

BEING ALL OF TRACTS 46 THROUGH 57, TRACTS 60 THROUGH 66, TRACTS 79 THROUGH 85 AND TRACTS 88 THROUGH 94, AND A PORTION OF TRACTS 31 THROUGH 43, TRACT 46, TRACTS 58 AND 59, TRACTS 86 AND 87 AND TRACTS 105 THROUGH 112, AND A PORTION OF ROAD, DYKE AND DITCH RESERVATIONS, 30 FEET IN WIDTH, ALL LYING WITHIN BLOCK 51, PALM BEACH FARMS CO. PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF TRACT 44, SAID BLOCK 51; THENCE SOUTH 00°56'47" EAST, ALONG THE WEST LINE OF SAID TRACT 44, A DISTANCE OF 270.00 FEET TO A POINT ON THE SOUTH LINE OF A 160.00 FOOT FLORIDA POWER AND LIGHT COMPANY EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 480, PAGE 6 OF SAID PUBLIC RECORDS; THENCE NORTH 89°03'05" EAST, ALONG SAID SOUTH LINE THROUGH THE FOLLOWING TWO COURSES, A DISTANCE OF 679.01 FEET TO THE POINT OF BEGINNING OF HEREIN DESCRIBED PARCEL OF LAND; THENCE NORTH 89°03'05" EAST, A DISTANCE OF 4,591.99 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF LYONS ROAD AS DESCRIBED IN OFFICIAL RECORDS BOOK 10416, PAGE 1789, SAID PUBLIC RECORDS; THENCE SOUTH 00°57'00" EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 3,606.25 FEET; THENCE SOUTH 44°02'44" WEST, A DISTANCE OF 56.57 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF BOYNTON BEACH BOULEVARD AS DESCRIBED IN OFFICIAL RECORDS BOOK 13861, PAGE 1310, OFFICIAL RECORDS BOOK 13861, PAGE 1320, OFFICIAL RECORDS BOOK 13905, PAGE 554, OFFICIAL RECORDS BOOK 13905, PAGE 579 AND OFFICIAL RECORDS BOOK 13861, PAGE 990, SAID PUBLIC RECORDS, FOR THE FOLLOWING SEVEN COURSES, SOUTH 89°02'44" WEST, A DISTANCE OF 437.53 FEET; THENCE SOUTH 87°08'11" WEST, A DISTANCE OF 345.20 FEET; THENCE SOUTH 89°02'44" WEST, A DISTANCE OF 109.45 FEET; THENCE NORTH 00°57'00" WEST, A DISTANCE OF 12.00 FEET; THENCE SOUTH 89°02'44" WEST, A DISTANCE OF 330.00 FEET; THENCE SOUTH 00°57'00" EAST, A DISTANCE OF 12.00 FEET; THENCE SOUTH 89°02'44" WEST, A DISTANCE OF 1,350.01 FEET; THENCE, DEPARTING SAID NORTH RIGHT-OF-WAY OF BOYNTON BEACH BOULEVARD, NORTH 00°57'00" WEST, ALONG THE EAST LINE OF TRACT 95 AND 104, SAID BLOCK 51, A DISTANCE OF 1,229.21 FEET; THENCE NORTH 89°02'58" EAST, ALONG THE EASTERLY PROLONGATION OF THE NORTH LINE OF SAID TRACT 95, A DISTANCE OF 15.00 FEET; THENCE NORTH 00°57'00" WEST, A DISTANCE OF 1,380.06 FEET; THENCE SOUTH 89°03'00" WEST, ALONG THE SOUTH LINE OF SAID TRACTS 46 THROUGH 50 AND ITS EASTERLY PROLONGATION THEREOF, A DISTANCE OF 1,994.99 FEET; THENCE NORTH 00°57'00" WEST, ALONG THE WEST LINE OF SAID TRACT 46, A DISTANCE OF 1,048.80 FEET TO THE POINT OF BEGINNING.

CONTAINING 266.253 ACRES, MORE OR LESS.

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OK
03-05-07
A

CONSENT AND JOINDER OF MORTGAGEE/LIENHOLDER

BANK OF AMERICA, N.A., a national banking association, as Agent, existing under the laws of the United States of America and authorized to do business in the State of Florida (the "Lender"), hereby certifies that it is the mortgagee/lienholder under that certain Amended and Restated Real Estate Mortgage, Assignment, and Security Agreement in favor of FLORIDA RESIDENTIAL FUNDING, LLC, a Florida limited liability company ("FRF"), recorded in Official Records Book 18953, Page 1734 of the Public Records of Palm Beach County, Florida, as assigned to Lender by FRF pursuant to that certain Assignment of Mortgage and Other Loan Documents recorded in Official Records Book 18953, Page 1765 of the Public Records of Palm Beach County, Florida, and hereby consents to and joins in the execution of the Standard Potable Water and Wastewater Development Agreement (the "Agreement") between PALM BEACH COUNTY, FLORIDA and BOYNTON BEACH ASSOCIATES XXII, LLLP, a Florida limited liability limited partnership ("BBAXXII"), for the provision of potable water, wastewater and/or reclaimed water service to the property described in Exhibit "A" attached to the Agreement and further consents to BBAXXII's granting of utility easements in favor of Palm Beach County, Florida as provided for in the Agreement.

Lender consents to the recordation of the Agreement by Palm Beach County, Florida or BBAXXII in the Public Records of Palm Beach County, Florida.

IN WITNESS WHEREOF, the undersigned has executed this instrument on the 28 day of February, 2007.

WITNESSES:

Signature: [Handwritten Signature]
Typed or Printed Name: [Handwritten Name]

Signature: [Handwritten Signature]
Typed or Printed Name: [Handwritten Name]

BANK OF AMERICA, N.A., a national banking association, as Agent

By: [Handwritten Signature]
Evita E. Francuz, Senior Vice President

NOTARY CERTIFICATE

STATE OF FLORIDA
COUNTY OF MIAMI DADE

The foregoing instrument was acknowledged before me this 28 day of Feb., 2007 by EVITA FRANCUZ. He/she is personally known to me or has produced as identification.

My Commission Expires: June 8, 2007

[Handwritten Signature]
Signature of Notary: Nellie Lima
Typed, Printed, or Stamped Name of Notary

Notary Public Serial Number: DD 199581



RECLAIMED WATER

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

SDA # 05-90013-000

STANDARD RECLAIMED WATER DEVELOPMENT AGREEMENT (SDA)

THIS AGREEMENT made and entered into this 8th day of March, 2007,
by and between PALM BEACH COUNTY, a subdivision of the State of Florida, hereinafter
referred to as "Utility", and INDIAN TRAIL, LLC, a Florida limited liability company,
hereinafter referred to as "Property Owner."

WITNESSETH

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

WHEREAS, Property Owner desires to construct 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 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;
 - (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	50.00 ERICs =	\$0.00
		Franchise Fee	\$0.00
		TOTAL	\$0.00

Upon receipt of the MAP, Utility agrees to reserve **50.00** ERICs of Reclaimed Water system capacity for Property Owner until **March 31, 2012**, 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:

**5791 Harrington Way
Boca Raton, FL 33496-2510;**

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 1,300 linear feet of 18" reclaimed water main and related appurtenances along Jog Road right-of-way from the North property line to the south boundary of "Jog Estates PUD". 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 \$39.00 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:

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

Linda L. Collins
Signature
LINDA L. COLLINS
Typed or Printed Name

PALM BEACH COUNTY

By: Lisha L. Pica
County Administrator or Designee

WITNESSES:

Paul Sheldon
Signature
Paul Sheldon
Typed or Printed Name

Sheri Kesten
Signature
SHERI KESTEN
Typed or Printed Name

PROPERTY OWNER:

By: Wendy Sheldon
Signature
WENDY SHELDON
Typed or Printed Name
MGM DR
Title

{ Corporate Seal }

NOTARY CERTIFICATE

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 22 day of February, 2007 by Wendy Sheldon. He/she is personally known to me or has produced _____ as identification.

My Commission Expires: _____

Belinda G. Harper
Signature of Notary

Typed, Printed, or Stamped Name of Notary



Belinda G. Harper
Commission # DD347130
Expires: AUG. 16, 2008
Bonded Thru Atlantic Bonding Co., Inc.

Notary Public
Serial Number _____

WATER UTILITIES DEPARTMENT APPROVAL

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

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: Monroe
County Attorney

RECLAIMED WATER

**EXHIBIT "A"
LEGAL DESCRIPTION**

ALL OF THE PLAT OF CARLTON CLUB COMMUNITY OF BOYNTON, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 105, PAGE 60, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

OK
02/28/07 G

POTABLE WATER AND WASTEWATER

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

SDA # 13-01018-000

STANDARD POTABLE WATER AND WASTEWATER DEVELOPMENT AGREEMENT (SDA)

THIS AGREEMENT made and entered into this 12th day of MARCH, 2007, by and between PALM BEACH COUNTY, a subdivision of the State of Florida, hereinafter referred to as "Utility", and MINTO 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 plus applicable Franchise Fees payable to Utility upon submission of an SDA or renewal agreement for each ERC (or ERIC) represented in the Agreement;

POTABLE WATER AND WASTEWATER

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

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

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

POTABLE WATER AND WASTEWATER

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

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

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

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

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

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

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

Potable Water:	\$140.76 per ERC x	451.70	ERCs =	\$63,581.29
Wastewater:	\$197.52 per ERC x	451.70	ERCs =	\$89,219.78
			Franchise Fee	\$0.00
			TOTAL	\$152,801.07

Upon receipt of the MAP, Utility agrees to reserve 451.70 ERCs of Potable Water and Wastewater system capacity for Property Owner until **MARCH 31, 2012**, which term may be extended in accordance with the UPAP, as may be amended from time to time, and upon payment of applicable fees. Property Owner acknowledges and agrees Utility shall not refund or reimburse the MAP upon expiration.

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

POTABLE WATER AND WASTEWATER

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

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

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

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

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

POTABLE WATER AND WASTEWATER

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

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

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

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

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

POTABLE WATER AND WASTEWATER

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

**4400 West Sample Rd., # 200
Coconut Creek, FL 33073;**

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:

POTABLE WATER AND WASTEWATER

IN WITNESS WHEREOF, Property Owner and Utility have executed or have caused this Agreement, with the named Exhibits attached, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement.

WITNESSES:

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

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

PALM BEACH COUNTY

By: Lisha L. Pica
County Administrator or Designee

WITNESSES:

Signature Linda Yonke
LINDA YONKE
Typed or Printed Name

Signature Jaime A. Jackson
Jaime A. Jackson
Typed or Printed Name

PROPERTY OWNER:

By: MM
Signature
Harry L. Posin
Typed or Printed Name
President
Title

{ Corporate Seal }

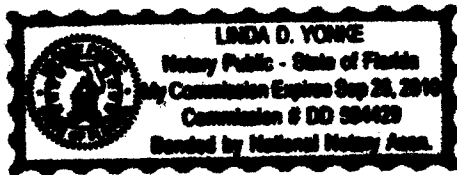
NOTARY CERTIFICATE

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 26th day of February, 2007 by Harry L. Posin. He/she is personally known to me or has produced _____ as identification.

My Commission Expires: 9-26-10

Signature of Notary Linda D. Yonke
LINDA D. YONKE
Typed, Printed, or Stamped Name of Notary



Notary Public
Serial Number DD584429

WATER UTILITIES DEPARTMENT APPROVAL

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

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: Monica Joy
County Attorney

(M)

POTABLE WATER AND WASTEWATER

EXHIBIT "A"
LEGAL DESCRIPTION

A PARCEL OF LAND LYING WITHIN SECTIONS 13 AND 24, TOWNSHIP 43 SOUTH, RANGE 41 EAST, IN PALM BEACH COUNTY, FLORIDA, WHICH LIES WITHIN THE BOUNDARY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 24, TOWNSHIP 43 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA; THENCE NORTH 89 DEGREES, 21 MINUTES, 44 SECONDS WEST ALONG THE NORTH LINE OF SAID SECTION 24, A DISTANCE OF 200.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF STATE ROAD 7, AS DESCRIBED IN DEED BOOK 992, PAGES 123 THROUGH 126, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 00 DEGREES, 40 MINUTES, 34 SECONDS WEST ALONG SAID WEST RIGHT-OF-WAY LINE OF STATE ROAD 7, A DISTANCE OF 1532.82 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 00 DEGREES, 40 MINUTES, 34 SECONDS WEST ALONG SAID WEST RIGHT-OF-WAY LINE OF STATE ROAD 7, A DISTANCE OF 1267.34 FEET; THENCE NORTH 88 DEGREES, 47 MINUTES, 21 SECONDS WEST ALONG THE NORTH LINE OF FOX PROPERTIES PLAT AS RECORDED IN PLAT BOOK 83, PAGES 65 THROUGH 67, INCLUSIVE, OF SAID PUBLIC RECORDS, A DISTANCE OF 1949.50 FEET; THENCE SOUTH 01 DEGREES, 12 MINUTES, 39 SECONDS WEST ALONG THE WEST LINE OF SAID FOX PROPERTIES PLAT, A DISTANCE OF 1300.68 FEET; THENCE NORTH 88 DEGREES, 47 MINUTES, 21 SECONDS WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF OKEECHOBEE BOULEVARD AS DESCRIBED IN OFFICIAL RECORDS BOOK 6320, PAGE 1285 OF SAID PUBLIC RECORDS, A DISTANCE OF 1772.18 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTH WITH A RADIUS OF 3225.60 FEET; THENCE WESTERLY ALONG SAID NORTH RIGHT-OF-WAY LINE OF OKEECHOBEE BOULEVARD AND THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01 DEGREE, 02 MINUTES, 27 SECONDS, A DISTANCE OF 58.60 FEET TO A NON-RADIAL INTERSECTION; THENCE NORTH 02 DEGREES, 08 MINUTES, 44 SECONDS EAST ALONG THE WEST LINE OF THE EAST THREE QUARTERS OF SAID SECTION 24 AND THE NORTHERLY EXTENSION THEREOF, SAID WEST LINE OF THE EAST THREE QUARTERS OF SECTION 24 ALSO BEING THE EAST LINE OF LA MANCHA PLAT AS RECORDED IN PLAT BOOK 29, PAGES 165 THROUGH 170, INCLUSIVE, OF SAID PUBLIC RECORDS, A DISTANCE OF 4463.07 FEET; THENCE SOUTH 63 DEGREES, 34 MINUTES, 44 SECONDS EAST ALONG THE PROPOSED SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 7, A DISTANCE OF 3771.65 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST WITH A RADIUS OF 584.00 FEET; THENCE SOUTHEASTERLY ALONG SAID PROPOSED SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 7 AND THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 40 DEGREES, 25 MINUTES, 36 SECONDS, A DISTANCE OF 412.06 FEET TO THE POINT OF BEGINNING.

CONTAINING: 250.51 ACRES MORE OR LESS.

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OK
01/08/07 G

SDRA # 02-01045-R01

**STANDARD POTABLE WATER & WASTEWATER DEVELOPMENT
RENEWAL AGREEMENT**

THIS AGREEMENT is made and entered into this 15th day of FEBRUARY, 2007 by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "Utility", and **BURSICO, LLC, a Florida limited liability company**, hereinafter referred to as "Property Owner."

WITNESSETH:

WHEREAS, the parties entered in to a Potable Water & Wastewater Development Agreement on **January 23, 2002**, hereinafter referred to as "Agreement" (**R2002-0415**); and

WHEREAS, the Agreement was recorded in the Official Records of Palm Beach County, Florida, at **Official Record Book 13339, Page 1956**; and

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 **January 31, 2007** ("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	7.25	ERCs =	\$1,020.51
Wastewater: \$197.52 per ERC x	7.25	ERCs =	\$1,432.02
		SUBTOTAL	\$2,452.53
		FRANCHISE FEE	\$0.00
		TOTAL MAP DUE	\$2,452.53

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:

**3230 Lake Worth Rd
Palm Springs, FL 33461-3694**

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 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 Renewal Agreement to be executed on the day and year first written above.

WITNESSES:

Nancy M May
Signature
NANCY M. MAY
Print Name

Anna M Daniels
Signature
ANNA M. DANIELS
Print Name

PALM BEACH COUNTY

By: Leisha L. Piva
Director, Water Utilities Department

WITNESSES:

Tom Quitugua
Signature
TOM QUITUGUA
Print Name

Rachel Delfino
Signature
Rachel Delfino
Print Name

PROPERTY OWNER

By: [Signature]
Title: partner LLC

(Seal)

NOTARY CERTIFICATE

STATE OF Florida
COUNTY OF Palm Beach



Susan E Hendsbee
My Commission DD184584
Expires April 25, 2007

The foregoing instrument was acknowledged before me this 23rd day of January, 2007 by Robert Burger who is personally known to me or who has produced _____ as identification.

My Commission Expires: April 25, 2007

Susan E. Hendsbee
Signature of Notary

SUSAN E. HENDSBEE
Typed, Printed or Stamped Name of Notary

WATER UTILITIES DEPARTMENT APPROVAL:

By: Nelva M West
Director, Finance and Administration

(M)

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: Manon Fox
County Attorney

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

SDRA # 01-01078-R00

**STANDARD POTABLE WATER & WASTEWATER DEVELOPMENT
RENEWAL AGREEMENT**

THIS AGREEMENT is made and entered into this 12th day of MARCH, 2007 by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "Utility", and **Ranch House Properties, Inc., a Florida corporation, and C.H.S. Properties, Inc., a Florida general partnership**, hereinafter referred to as "Property Owner."

WITNESSETH:

WHEREAS, the parties entered in to a Standard Potable Water & Wastewater Development Agreement on **February 19, 2002**, hereinafter referred to as "Agreement" (R2002-0626); and

WHEREAS, the Agreement was recorded in the Official Records of Palm Beach County, Florida, at Official Record **Book 13435, Page 1237**; and

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 **February 28, 2007** ("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	46.40	ERCs =	<u>\$6,531.26</u>
Wastewater: \$197.52 per ERC x	46.40	ERCs =	<u>\$9,164.93</u>
		SUBTOTAL	<u>\$15,696.19</u>
		FRANCHISE FEE	<u>\$0.00</u>
		TOTAL MAP DUE	<u>\$15,696.19</u>

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:

**218 Datura Street
West Palm Beach, FL 33401-5604**

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 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 Renewal Agreement to be executed on the day and year first written above.

WITNESSES:

Nancy M May
Signature
NANCY M. MAY

Print Name

Anna M Daniels
Signature
ANNA M. DANIELS

Print Name

PALM BEACH COUNTY

By: Lisha L. Pica
Director, Water Utilities Department

WITNESSES:

Lynne H Duckett
Signature
Lynne H Duckett

Print Name

Cindy A. Collins
Signature
Cindy A. Collins

Print Name

PROPERTY OWNER

By: Christopher H Cook
Title: Vice president

(Seal)

NOTARY CERTIFICATE

STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 16th day of February, 2007, by Christopher H. Cook who is personally known to me or who has produced _____ as identification.

My Commission Expires: 7-25-08

Cindy A. Collins
Signature of Notary
CINDY A. COLLINS
Notary Public - State of Florida
My Commission Expires Jul 25, 2008
Typed Name or Stamped Name of Notary
Commission # 00938297

WATER UTILITIES DEPARTMENT APPROVAL:

By: Debra M West
Director, Finance and Administration

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: Marion J P
County Attorney

(2)

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

WITNESSES:

Nancy M May
Signature
NANCY M. MAY

Print Name

Anna M Daniels
Signature
ANNA M. DANIELS

Print Name

PALM BEACH COUNTY

By: Lisla L. Pica
Director, Water Utilities Department

WITNESSES:

Lynne H Rickett
Signature
Lynne H Rickett

Print Name

Cindy A. Collins
Signature
Cindy A. Collins

Print Name

PROPERTY OWNER

By: Christopher H Cook

Title: partner CHS properties

(Seal)

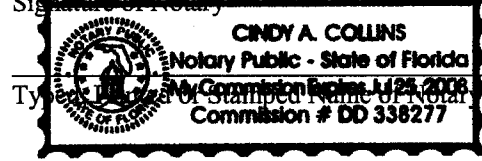
NOTARY CERTIFICATE

STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 16th day of February, 2007, by Christopher H. Cook who is personally known to me or who has produced _____ as identification.

My Commission Expires: 7-25-08

Cindy A. Collins
Signature of Notary



WATER UTILITIES DEPARTMENT APPROVAL:

By: Debra Moxest
Director, Finance and Administration

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: Manor Jay
County Attorney

@