

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

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<b>Meeting Date:</b>	November 6, 2007	<b>Consent [X]</b>	<b>Regular [ ]</b>
		<b>Public Hearing [ ]</b>	

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

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**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to receive and file: Three (3) Standard Development Agreements and three (3) Standard Development Renewal Agreements complete with executed documents received during the months of August and September 2007.

**Standard Development Agreements**

A) Ranger Construction Industries, Inc	01-01199-000
B) United Pentecostal Church of West Palm Beach, Inc	01-01200-000
C) KRG/Atlantic Delray Beach, LLC	03-01024-001

**Standard Development Renewal Agreements**

D) Sterling Communities at Talavera, LLC	02-01059-R01
E) TLH-BOS Corp and TLH-BER Corp	02-01060-R01
F) Polo Realty, Inc	09-01030-R00

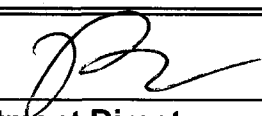
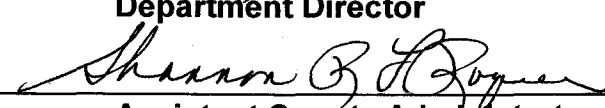
**Summary:** The terms and conditions for Standard Development Agreements and Renewals are outlined in the Water Utilities Department's Uniform Policies and Procedures Manual. The Board of County Commissioners delegated the authority to execute various types of Standard Development Agreements and Renewals to the Department Director including potable water and wastewater agreements (R93-1619); reclaimed water agreements (R96-0228); and additional conditions for potable water, wastewater, and reclaimed water agreements (R2003-0539). After these agreements are executed by the developer and the Department, they must be recorded by the County Clerk's Office. This agenda item recommends the Board receive and file the agreements so they may be properly recorded. (Countywide) (SF) **Original documents can be viewed in Minutes.**

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

**Attachments:**

Original documents	
Ranger Construction Industries, Inc	01-01199-000
United Pentecostal Church of West Palm Beach, Inc	01-01200-000
KRG/Atlantic Delray Beach, LLC	03-01024-001
Sterling Communities at Talavera, LLC	02-01059-R01
TLH-BOS Corp and TLH-BER Corp	02-01060-R01
Polo Realty, Inc	09-01030-R00

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<b>Recommended By:</b>	 Department Director	10/3/07 Date
<b>Approved By:</b>	 Assistant County Administrator	10-10-07 Date

POTABLE WATER AND WASTEWATER

CFN 20070434824  
OR BK 22109 PG 0813  
RECORDED 09/13/2007 15:24:22  
Palm Beach County, Florida  
Sharon R. Bock, CLERK & COMPTROLLER  
Pgs 0813 - 821; (9pgs)

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

STANDARD POTABLE WATER AND WASTEWATER DEVELOPMENT AGREEMENT  
(SDA)

THIS AGREEMENT made and entered into this 10th day of SEPTEMBER, 2007,  
by and between PALM BEACH COUNTY, a subdivision of the State of Florida, hereinafter  
referred to as "Utility", and RANGER CONSTRUCTION INDUSTRIES, INC., a Florida  
Corporation, 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	11.50	ERCs =	\$1,618.74
Wastewater:	\$197.52	per ERC x	11.50	ERCs =	\$2,271.48
			Franchise Fee		\$0.00
			TOTAL		\$3,890.22

Upon receipt of the MAP, Utility agrees to reserve 11.50 ERCs of Potable Water and Wastewater system capacity for Property Owner until SEPTEMBER 30, 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

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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:

**P O BOX 15065  
West Palm Beach, FL 33416-5065;**

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:

Nancy M May  
Signature  
NANCY M. MAY

Typed or Printed Name

Anna M Daniels  
Signature

ANNA M. DANIELS

Typed or Printed Name

PALM BEACH COUNTY

By: Bruce Beem  
County Administrator or Designee

WITNESSES:

Alex Hatch  
Signature

Alex Hatch

Typed or Printed Name

Francine E. Hines  
Signature

Francine E. Hines

Typed or Printed Name

PROPERTY OWNER:

By: Michael Slade  
Signature

MICHAEL SLADE

Typed or Printed Name

President

Title

{ Corporate  
Seal }

NOTARY CERTIFICATE

STATE OF Florida  
COUNTY OF Palm Beach

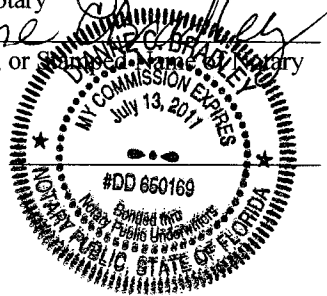
The foregoing instrument was acknowledged before me this 13 day of AUGUST, 2007  
by Michael Slade. He/she is personally known to me or has produced  
as identification.

My Commission Expires: 7/13/11

Deanne G. Bragg  
Signature of Notary

Deanne G. Bragg  
Typed, Printed, or Signed Name of Notary

Notary Public  
Serial Number



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: Mark J. [Signature]  
County Attorney



**POTABLE WATER AND WASTEWATER**

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**BEING A PORTION OF TRACTS 41 AND 32 AND A PORTION OF THE 30-FOOT WIDE ROADWAY LYING BETWEEN SAID TRACTS, BLOCK 7, PALM BEACH FARMS COMPANY PLAT NO. 3, PLAT BOOK 2, PAGES 45 THROUGH 54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:**

**COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF TRACT 29, BLOCK 7, SAID PALM BEACH FARMS COMPANY PLAT NO. 3 WITH THE WEST RIGHT-OF-WAY LINE OF SANBURY'S WAY, SAID WEST RIGHT-OF-WAY LINE ALSO BEING A LINE 40.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID TRACT 29, RUN THENCE SOUTH 00°56'48" EAST ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 1224.81 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 00°56'58" EAST ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 312.27 FEET; THENCE NORTH 88°30'44" WEST (DEPARTING FROM SAID WEST RIGHT-OF-WAY LINE), A DISTANCE OF 950.54 FEET TO A POINT ON THE WEST LINE OF SAID TRACT 41; THENCE NORTH 00°57'57" WEST ALONG SAID WEST LINE OF TRACT 41 AND THEN THE WEST LINE OF SAID TRACT 32, A DISTANCE OF 267.64 FEET; THENCE NORTH 88°47'49" EAST (DEPARTING FROM SAID WEST LINE OF TRACT 32), A DISTANCE OF 949.77 FEET TO THE POINT OF BEGINNING.**

**Containing 6.322 Acres, more or less**

**(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)**

OK  
08/22/07 (4)

CONSENT AND JOINDER OF MORTGAGEE/LIENHOLDER

SunTrust Bank, a(n) Georgia banking corporation, existing under the laws of the State of Georgia and authorized to do business in the State of Florida, hereby certifies that it is the mortgagee/lienholder under a mortgage from Ranger Construction Industries Inc., a(n) Florida Corporation, dated 12/28/2001, filed 12/31/2001, and recorded in Official Record Book 13259, Page, 1790, as modified by Mortgage Modification Agreement dated \_\_\_\_\_; filed \_\_\_\_\_ and recorded in Official Record Book \_\_\_\_\_, Page \_\_\_\_\_, all in the Public Records of Palm Beach County, Florida, and hereby consents to and joins in the execution of the Agreement between Palm Beach County and **RANGER CONSTRUCTION INDUSTRIES, INC., a Florida Corporation**, for the provision of potable water, wastewater, and/or reclaimed water service to the property described in **Exhibit "A"** to the Agreement and further consents to and joins in the granting of utility easements to Palm Beach County as provided for in the aforesaid agreement with Palm Beach County.

SunTrust Bank, as mortgagee aforesaid, consents to the recording by \_\_\_\_\_ or Palm Beach County, Florida, in the Public Records of Palm Beach County, Florida of the contract.

IN WITNESS WHEREOF, the undersigned has executed this instrument on this 13<sup>th</sup> day of August, 2007.

WITNESSES:

Signature

MANUEL MONAR JR.

Typed or Printed Name

Signature

PATRICIA MAYOR

Typed or Printed Name

SunTrust Bank

a(n) Georgia banking corporation authorized to do business in the State of Florida.

By:

Martin E. Sapp  
Title Vice President

Martin E. Sapp  
Typed or Printed Name

NOTARY CERTIFICATE

STATE OF Florida  
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 13 day of August, 2007, by Martin Sapp. He/she is personally known to me or has produced \_\_\_\_\_ as identification.

My Commission

Expires: \_\_\_\_\_



Barbara Herrera  
My Commission DD364505  
Expires October 20 2008

Serial Number \_\_\_\_\_

Signature of Notary

Typed, Printed, or Stamped Name

POTABLE WATER AND WASTEWATER

CFN 20070434823  
OR BK 22109 PG 0804  
RECORDED 09/13/2007 15:24:22  
Palm Beach County, Florida  
Sharon R. Bock, CLERK & COMPTROLLER  
Pgs 0804 - 812; (9pgs)

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

STANDARD POTABLE WATER AND WASTEWATER DEVELOPMENT AGREEMENT  
(SDA)

THIS AGREEMENT made and entered into this 10th day of SEPTEMBER, 2007, by and between **PALM BEACH COUNTY**, a subdivision of the State of Florida, hereinafter referred to as "Utility", and **UNITED PENTECOSTAL CHURCH OF WEST PALM BEACH, INC., a non-profit corporation**, 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  $\frac{5}{8}$ " x  $\frac{3}{4}$ " 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	22.05	ERCs =	\$3,103.76
Wastewater:	\$197.52	per ERC x	22.05	ERCs =	\$4,355.32
			Franchise Fee		\$0.00
			TOTAL		\$7,459.08

Upon receipt of the MAP, Utility agrees to reserve 22.05 ERCs of Potable Water and Wastewater system capacity for Property Owner until SEPTEMBER 30, 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:

**PO Box 17500  
West Palm Beach, FL 33416-7500;**

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

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



POTABLE WATER AND WASTEWATER

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

WITNESSES:

Nancy M May  
Signature  
NANCY M. MAY

Typed or Printed Name

Anna M Daniels  
Signature

ANNA M. DANIELS

Typed or Printed Name

PALM BEACH COUNTY

By: Burt Ben  
County Administrator or Designee

WITNESSES:

Robert Beninati  
Signature

Robert Beninati

Typed or Printed Name

Larry Cummins  
Signature

Larry Cummins

Typed or Printed Name

PROPERTY OWNER:

By: Daniel R. Kyle  
Signature

Daniel R. Kyle

Typed or Printed Name

President

Title

{ Corporate  
Seal }

NOTARY CERTIFICATE

STATE OF Florida  
COUNTY OF Palm Beach

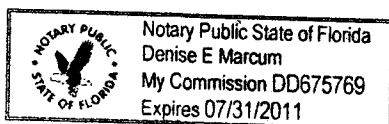
The foregoing instrument was acknowledged before me this 28 day of August, 2007  
by Daniel Kyle. He/she is personally known to me or has produced  
as identification.

My Commission

Expires: 7-31-11

Denise E Marcum  
Signature of Notary

Typed, Printed, or Stamped Name of Notary



Notary Public

Serial Number \_\_\_\_\_

WATER UTILITIES DEPARTMENT APPROVAL

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

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: Monica T  
County Attorney

**POTABLE WATER AND WASTEWATER**

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**TRACT 19 AND TRACT 20, BLOCK 10, PALM BEACH FARMS CO. PLAT NO. 3, RECORDED IN PLAT BOOK 2, PAGE 45; PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**BEGINNING AT THE POINT OF INTERSECTION OF THE WEST LINE OF TRACT 19 AND THE SOUTH LINE OF PARCEL 9, WESTWOODS PUD, AS RECORDED IN PLAT BOOK 34, PAGES 131-134 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.**

**THENCE ON A BEARING OF N 89°22'39" E ALONG THE SOUTH LINE OF THE AFOREMENTIONED PARCEL 9 OF WESTWOODS AND THE NORTHERLY LINE OF TRACT 19 AND TRACT 20, A DISTANCE OF 1181.74 FEET TO A POINT AT THE NORTHEAST CORNER OF TRACT 20.**

**THENCE S 00°39'05" E ALONG THE EAST LINE OF TRACT 20, A DISTANCE OF 660.00 FEET TO A POINT AT THE SOUTHEAST CORNER OF TRACT 20 AND THE NORTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT CANAL NO. 5.**

**THENCE S 89°24'33" W ALONG THE SOUTHERLY LINE OF TRACT 20, TRACT 19 AND THE NORTH RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL NO. 5, A DISTANCE OF 1211.84 FEET TO A POINT OF THE SOUTHWEST CORNER OF TRACT 19, SAID POINT ALSO BEING THE EAST RIGHT-OF-WAY OF THE LAKE WORTH DRAINAGE DISTRICT CANAL E-1.**

**THENCE N 01°57'46" E FOLLOWING THE WEST BOUNDS OF TRACT 19 AND THE EAST RIGHT-OF-WAY OF THE LAKE WORTH DRAINAGE DISTRICT CANAL E-1, A DISTANCE OF 660.00 FEET MORE OR LESS TO THE POINT OF BEGINNING.**

**ALSO;**

**THAT PORTION OF THE 30' ROAD RIGHT-OF-WAY, AS PER PALM BEACH FARMS CO. PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, ABANDONED BY RESOLUTION NO. 06-05, BY THE VILLAGE OF ROYAL PALM BEACH, MARCH 2, 2006.**

**CONTAINING 18.35 ACRES, MORE OR LESS**

**(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)**

OK  
08/30/07  
C

CONSENT AND JOINDER OF MORTGAGEE/LIENHOLDER

UNITED PENTECOSTAL CHURCH OF West Palm Beach, a(n) FLORIDA Corporation, existing under the laws of the State of FLORIDA and authorized to do business in the State of Florida, hereby certifies that it is the mortgagee/lienholder under a mortgage from Riverside National Bank, a(n) NATIONAL BANK, dated July 30, 2007, filed 7/31/07, and recorded in Official Record Book 21982, Page, 1821, as modified by Mortgage Modification Agreement dated n/a; filed n/a and recorded in Official Record Book n/a, Page n/a, all in the Public Records of Palm Beach County, Florida, and hereby consents to and joins in the execution of the Agreement between Palm Beach County and **UNITED PENTECOSTAL CHURCH OF WEST PALM BEACH, INC., a non-profit corporation**, for the provision of potable water, wastewater, and/or reclaimed water service to the property described in **Exhibit "A"** to the Agreement and further consents to and joins in the granting of utility easements to Palm Beach County as provided for in the aforesaid agreement with Palm Beach County.

UNITED PENTECOSTAL CHURCH, as mortgagee aforesaid, consents to the recording by Palm Beach County Water Utilities Dept. or Palm Beach County, Florida, in the Public Records of Palm Beach County, Florida of the contract.

IN WITNESS WHEREOF, the undersigned has executed this instrument on this 29 day of AUGUST, 2007.

WITNESSES:

Kathleen L. Pope  
Signature  
KATHLEEN L. POPE  
Typed or Printed Name

Larry Cummins  
Signature  
LARRY CUMMINS  
Typed or Printed Name

Riverside National Bank  
a(n) National Bank  
authorized to do business in the State of Florida.

By: Melissa Chaple  
Title Vice President  
Melissa Chaple  
Typed or Printed Name

NOTARY CERTIFICATE

STATE OF Florida  
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of August, 2007 by Melissa Chaple. He/she is personally known to me or has produced \_\_\_\_\_ as identification.

My Commission Expires: 08-09-09  
DD460074  
Serial Number

Melissa L. Gliedman  
Signature of Notary  
Melissa L. Gliedman  
Typed, Printed, or Stamped Name





POTABLE WATER AND WASTEWATER

CFN 20070434822  
OR BK 22109 PG 0795  
RECORDED 09/13/2007 15:24:22  
Palm Beach County, Florida  
Sharon R. Bock, CLERK & COMPTROLLER  
Pgs 0795 - 803; (9pgs)

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

SDA # 03-01024-001  
Conversion from UCRA  
dated July 1, 2005

STANDARD POTABLE WATER AND WASTEWATER DEVELOPMENT AGREEMENT  
(SDA)

THIS AGREEMENT made and entered into this 27<sup>th</sup> day of AUGUST, 2007,  
by and between PALM BEACH COUNTY, a subdivision of the State of Florida, hereinafter  
referred to as "Utility", and KRG/ATLANTIC DELRAY BEACH, 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

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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  
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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  
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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	216.85	ERCs =	\$30,523.81
Wastewater:	\$197.52	per ERC x	216.85	ERCs =	\$42,832.21
Credit for UCRA MAP Payment (invoice # 39732)					(\$56,181.71)
TOTAL					\$17,174.31

Upon receipt of the MAP, Utility agrees to reserve **216.85** ERCs of Potable Water and Wastewater system capacity for Property Owner until **July 31, 2010**, which term may be extended in accordance with the UPAP, as may be amended from time to time, and upon payment of applicable fees. Property Owner acknowledges and agrees Utility shall not refund or reimburse the MAP upon expiration.

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

## POTABLE WATER AND WASTEWATER

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

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

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

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

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

## POTABLE WATER AND WASTEWATER

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

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

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

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

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



## POTABLE WATER AND WASTEWATER

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

**30 S MERIDIAN, SUITE 1100  
INDIANAPOLIS, IN 46204-3565 ;**

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:

Nancy M May  
Signature  
NANCY M. MAY  
Typed or Printed Name  
Anna M Daniels  
Signature  
ANNA M. DANIELS  
Typed or Printed Name

PALM BEACH COUNTY

By: [Signature]  
County Administrator or Designee

WITNESSES:

Janice Stevanovic  
Signature  
Janice STEVANOVIC  
Typed or Printed Name  
Meg Yates  
Signature  
Meg Yates  
Typed or Printed Name

PROPERTY OWNER:

By: [Signature]  
Signature KRB/Atlantic Delray Beach, LLC  
ES Thomas K. McGowan  
Typed or Printed Name  
Chief Operating Officer  
Title

{ Corporate }  
Seal }

NOTARY CERTIFICATE

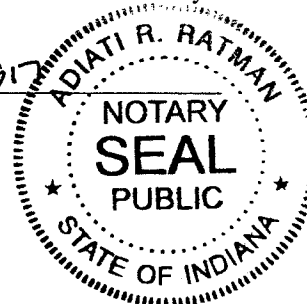
STATE OF INDIANA  
COUNTY OF MARION

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of August, 2007 by Thomas K. McGowan, COO. He/~~she~~ is personally known to me or has produced \_\_\_\_\_ as identification.

My Commission  
Expires: July 20, 2014

[Signature]  
Signature of Notary  
Adiati Ratman  
Typed, Printed, or Stamped Name of Notary

Notary Public  
Serial Number 550917



WATER UTILITIES DEPARTMENT APPROVAL

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

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: [Signature]  
County Attorney

**POTABLE WATER AND WASTEWATER**

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**LEGAL DESCRIPTION:(DEVELOPMENT AREA)**

TRACT 97, LESS THE EAST 195.0 FEET THEREOF, TRACTS 98, 99 AND THAT PORTION OF TRACT 100 LYING WITHIN 365.00 FEET OF THE EAST LINE OF SAID TRACT 99, TRACTS 124, 125, 126 LESS THE SOUTH 40.0 FEET THEREOF; TRACT 127 LESS THE SOUTH 81.0 FEET THEREOF; AND TRACT 128 LESS THE SOUTH 40.00 FEET, THE EAST 195.00 FEET AND THE SOUTH 240.0 FEET OF THE WEST 210.0 FEET THEREOF ALL BEING IN BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA,

AND LESS THAT PORTION OF TRACTS 124, 125, 126 AND 127 DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT 124; THENCE NORTH 01°06'19" WEST, ALONG THE WEST LINE OF SAID TRACT 124, A DISTANCE OF 40.0 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 01°06'19" WEST, ALONG SAID WEST LINE, A DISTANCE OF 70.00 FEET TO A POINT ON A LINE 110.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACTS 124 AND 125; THENCE ALONG SAID PARALLEL LINE NORTH 89°32'49" EAST, A DISTANCE OF 615.66 FEET; THENCE NORTH 01°04'09" WEST, A DISTANCE OF 12.50 FEET TO A POINT ON A LINE 1320.0 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF TRACTS 98, 99 AND 100, BLOCK 18, OF SAID PLAT OF PALM BEACH FARMS COMPANY PLAT NO. 1; THENCE NORTH 89°00'55" EAST, ALONG SAID PARALLEL LINE, A DISTANCE OF 691.41 FEET TO A POINT ON THE EAST LINE OF SAID TRACT 127; THENCE SOUTH 01°02'51" EAST, ALONG SAID EAST LINE, A DISTANCE OF 47.92 FEET TO A POINT ON A LINE 81.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACT 127; THENCE SOUTH 89°32'49" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 326.41 FEET TO A POINT ON THE WEST LINE OF SAID TRACT 127; THENCE SOUTH 01°04'09" EAST, ALONG SAID WEST LINE, A DISTANCE OF 41.00 FEET TO A POINT ON A LINE 40.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACTS 124, 125 AND 126; THENCE SOUTH 89°32'49" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 980.64 FEET TO THE POINT OF BEGINNING.

**AND LESS THAT PORTION OF TRACT 124 DESCRIBED AS FOLLOWS:**

BEGINNING AT THE NORTHWEST CORNER OF TRACT 124, BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 89°08'50" EAST, ALONG THE NORTH LINE OF SAID TRACT 124, A DISTANCE OF 133.94; THENCE SOUTH 01°03'00" EAST, A DISTANCE OF 669.45 FEET TO A POINT ON A LINE 110.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACT 124; THENCE SOUTH 89°32'49" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 133.30 FEET TO A POINT ON THE WEST LINE OF SAID TRACT 124; THENCE NORTH 01°06'19" WEST, ALONG SAID WEST LINE, A DISTANCE OF 668.52 FEET TO THE POINT OF BEGINNING.

**CONTAINING 32.45 ACRES, MORE OR LESS.**

TOGETHER WITH THAT PORTION OF TRACT 128 DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LYING IN SECTIONS 17 AND 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST, BEING A PORTION OF TRACT 128, BLOCK 18 OF THE PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 26 THROUGH 28 OF THE PUBLIC

## POTABLE WATER AND WASTEWATER

RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

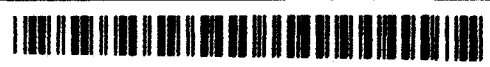
COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST; THENCE SOUTH  $89^{\circ}32'49''$  WEST, ALONG THE SOUTH LINE OF SAID SECTION 18, A DISTANCE OF 100.35 FEET TO THE SOUTHWEST CORNER OF SAID TRACT 128, BLOCK 18; THENCE ALONG THE WEST LINE OF SAID TRACT 128, BLOCK 18 NORTH  $01^{\circ}02'51''$  WEST, A DISTANCE OF 40.00 FEET; THENCE CONTINUE ALONG SAID WEST LINE NORTH  $01^{\circ}02'51''$  WEST, A DISTANCE OF 88.92 FEET TO A POINT ON A LINE 1320.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF TRACT 97, BLOCK 18 OF SAID PALM BEACH FARMS COMPANY PLAT NO. 1, SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID WEST LINE NORTH  $01^{\circ}02'51''$  WEST, A DISTANCE OF 111.09 FEET TO THE NORTH LINE OF THE SOUTH 240.00 FEET OF THE AFOREMENTIONED TRACT 128, BLOCK 18; THENCE ALONG SAID NORTH LINE NORTH  $89^{\circ}32'49''$  EAST, A DISTANCE OF 103.83 FEET; THENCE CONTINUE ALONG SAID NORTH LINE SOUTH  $89^{\circ}58'59''$  EAST, A DISTANCE OF 42.44 FEET TO THE WEST LINE OF THE EAST 195.00 FEET OF SAID TRACT 128; THENCE ALONG SAID WEST LINE SOUTH  $01^{\circ}03'00''$  EAST, A DISTANCE OF 109.38 FEET TO A LINE 1320.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF THE AFOREMENTIONED TRACT 97, BLOCK 18; THENCE ALONG SAID PARALLEL LINE SOUTH  $89^{\circ}00'55''$  WEST, A DISTANCE OF 146.26 FEET TO THE POINT OF BEGINNING.

**CONTAINING 0.37 ACRES, MORE OR LESS.**

TOTAL DEVELOPMENT AREA CONTAINING 32.82 ACRES, MORE OR LESS.

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OK  
08/21/07 (A)



CFN 20070434825  
OR BK 22109 PG 0822  
RECORDED 09/13/2007 15:24:22  
Palm Beach County, Florida  
Sharon R. Bock, CLERK & COMPTROLLER  
Pgs 0822 - 825; (4pgs)

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

SDRA # 02-01059-R01

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

**THIS AGREEMENT** is made and entered into this 10th day of SEPTEMBER, 2007 by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "Utility", and **STERLING COMMUNITIES AT TALAVERA, LLC** hereinafter referred to as "Property Owner."

**WITNESSETH:**

**WHEREAS**, the parties entered in to a Potable Water & Wastewater Development Agreement on **August 14, 2002**, hereinafter referred to as "Agreement" (**R2002-1658**); and

**WHEREAS**, the Agreement was recorded in the Official Records of Palm Beach County, Florida, at Official Record Book 14039, Page 1830; 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 **August 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	10.00	ERCs =	<u>\$1,407.60</u>
Wastewater:	\$197.52 per ERC x	10.00	ERCs =	<u>\$1,975.20</u>
			SUBTOTAL	<u>\$3,382.80</u>
			FRANCHISE FEE	<u>\$0.00</u>
			TOTAL MAP DUE	<u>\$3,382.80</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:

**2700 N Military Trl, Suite 360  
Boca Raton, FL 33431-6394**

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: Burt Barr  
Director, Water Utilities Department (M)

WITNESSES:

Kristin Tai  
Signature  
KRISTIN TAI  
Print Name  
Rosemary P. Dodson  
Signature  
Rosemary P. Dodson  
Print Name

PROPERTY OWNER  
STERLING COMMUNITIES AT  
TALAVERA LLC  
By: Paul W. Asfahl  
Title: MANAGING MEMBER

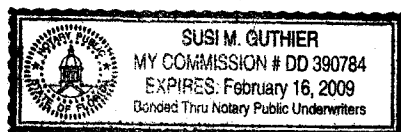
(Seal)

NOTARY CERTIFICATE

STATE OF Florida  
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 30 day of August, 2007, by Paul W. Asfahl who is personally known to me or who has produced \_\_\_\_\_ as identification.

My Commission Expires: 2-16-09



Susi M. Guthier  
Signature of Notary

Susi M. Guthier  
Typed, Printed or Stamped Name of Notary

WATER UTILITIES  
DEPARTMENT APPROVAL:

By: Debra M West  
Director, Finance and Administration (M)

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

By: Mark J. [Signature]  
County Attorney





CFN 20070447024  
OR BK 22131 PG 0208  
RECORDED 09/24/2007 09:42:21  
Palm Beach County, Florida  
Sharon R. Bock, CLERK & COMPTROLLER  
Pgs 0208 - 211; (4pgs)

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

SDRA # 02-01060-R01

## STANDARD POTABLE WATER & WASTEWATER DEVELOPMENT RENEWAL AGREEMENT

THIS AGREEMENT is made and entered into this 13<sup>th</sup> day of SEPTEMBER, 2007 by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "Utility", and **TLH-BOS CORP and TLH-BER CORP.**, hereinafter referred to as "Property Owner."

### WITNESSETH:

WHEREAS, the parties entered in to a Potable Water & Wastewater Development Agreement on **August 22, 2002**, hereinafter referred to as "Agreement" (R2002-1798); and

WHEREAS, the Agreement was recorded in the Official Records of Palm Beach County, Florida, at Official Record Book 14096, Page 0606; 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 **August 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	77.45	ERCs =	<u>\$10,901.86</u>
Wastewater:	\$197.52 per ERC x	77.45	ERCs =	<u>\$15,297.92</u>
			SUBTOTAL	<u>\$26,199.78</u>
			FRANCHISE FEE	<u>\$0.00</u>
			TOTAL MAP DUE	<u>\$26,199.78</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:

**8910 Wendy Lane, W.  
West Palm Beach, FL 33411-6525**

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: Bug Boy  
Director, Water Utilities Department

WITNESSES:

Nancy M May  
Signature  
NANCY M MAY  
Print Name

Janet L Smith  
Signature  
Janet L Smith  
Print Name

PROPERTY OWNER

TLH-Bos Corp and TLH-Ber Corp

By: [Signature]  
Title: MEMBER

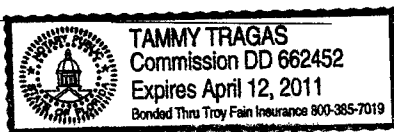
(Seal)

NOTARY CERTIFICATE

STATE OF Florida  
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 31st day of Aug,  
2007 by Brien Richard Tuttle who is personally known to me or who has  
produced FL DL as identification.

My Commission  
Expires:



Tammy Tragas  
Signature of Notary

Typed, Printed or Stamped Name of Notary

WATER UTILITIES  
DEPARTMENT APPROVAL:

By: Delra M West  
Director, Finance and Administration

(M)

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

By: Mark J. T.  
County Attorney



CFN 20070434826  
OR BK 22109 PG 0826  
RECORDED 09/13/2007 15:24:22  
Palm Beach County, Florida  
Sharon R. Bock, CLERK & COMPTROLLER  
Pgs 0826 - 829; (4pgs)

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

SDRA # 09-01030-R00

## STANDARD POTABLE WATER & WASTEWATER DEVELOPMENT RENEWAL AGREEMENT

**THIS AGREEMENT** is made and entered into this 10th day of SEPTEMBER, 2007 by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "Utility", and **POLO REALTY, INC.**, hereinafter referred to as "Property Owner."

### WITNESSETH:

**WHEREAS**, the parties entered in to a Potable Water & Wastewater Development Agreement on **AUGUST 30, 2002**, hereinafter referred to as "Agreement" (R2002-1800); and

**WHEREAS**, the Agreement was recorded in the Official Records of Palm Beach County, Florida, at Official Record Book **14115**, Page **1722**; 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 **AUGUST 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	370.80	ERCs =	<u>\$52,193.81</u>
Wastewater:	\$197.52 per ERC x	370.80	ERCs =	<u>\$73,240.42</u>
			SUBTOTAL	<u>\$125,434.23</u>
			FRANCHISE FEE	<u>\$0.00</u>
			TOTAL MAP DUE	<u>\$125,434.23</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:

**18000 Jog Rd.  
Boca Raton, FL 33496-3101**

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.

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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.

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## **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**

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## **13. Effective Date**

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**(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:

PALM BEACH COUNTY

Nancy M May  
Signature  
NANCY M. MAY  
Print Name

By: [Signature]  
Director, Water Utilities Department

Anna M Daniels  
Signature  
ANNA M. DANIELS  
Print Name

WITNESSES:

PROPERTY OWNER

Barbara Walker  
Signature  
Barbara Walker  
Print Name

By: [Signature]  
Title VICE PRESIDENT

Joyce Wolfe  
Signature  
Joyce Wolfe  
Print Name

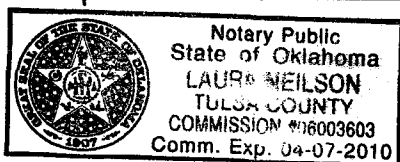
(Seal)

NOTARY CERTIFICATE

STATE OF Oklahoma  
COUNTY OF Tulsa

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of July, 2007, by Thomas E. Rains who is personally known to me or who has produced \_\_\_\_\_ as identification.

My Commission Expires: April 7, 2010



[Signature]  
Signature of Notary  
Laura Neilson  
Typed, Printed or Stamped Name of Notary

WATER UTILITIES  
DEPARTMENT APPROVAL:

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

By: Debra M West  
Director, Finance and Administration

By: [Signature]  
County Attorney

(14)