

Agenda Item #: 3-C-7

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: March 11, 2008	<input checked="" type="checkbox"/>	Consent	<input type="checkbox"/>	Regular
	<input type="checkbox"/>	Workshop	<input type="checkbox"/>	Public Hearing

Department:

Submitted By: Engineering & Public Works Department

Submitted For: Roadway Production Division

Project No. : 2003511

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: A Public Facilities Agreement (Agreement) with Toll FL VIII Limited Partnership (Developer) regarding drainage issues for Hypoluxo Road from Jog Road to Military Trail (Project).

Summary: The Developer owns a parcel of land located on the south side of Hypoluxo Road just west of Haverhill Road. The planned single family development is known as Vista Lago. The Developer is required to accept a portion of roadway drainage from the Project to Vista Lago's on-site drainage system as per the Development Order conditions. The Developer is also required to construct an outfall pipe from Hypoluxo Road, under the Lake Worth Drainage District's L-18 Canal (Siphon System), to Vista Lago's drainage system. Through this Agreement, the Developer would pay Palm Beach County (County) a lump sum of \$50,000 in exchange for the County taking over the maintenance of the Siphon System. If the Developer delays development, the Agreement also includes provisions for the County to construct the Siphon System (costs to be reimbursed by Developer) and a temporary drainage system within Vista Lago.

District: 3 (MRE)

Background and Justification: The Project is under design by the County to widen from the existing four-lanes to six-lanes. The Developer has plans for a single family development at the southwest corner of the intersection of Hypoluxo Road and Haverhill Road. The Developer has conditions to accept a portion of roadway drainage from the Project into Vista Lago's on-site drainage system. The Developer will be required to construct a Siphon System, and transfer its maintenance to the County. The Developer would pay the County a negotiated lump sum of \$50,000 in exchange for the County taking over the maintenance of the Siphon System in perpetuity. A provision is also made in the Agreement for the County to construct the Siphon System (with reimbursement) as well as a temporary drainage system for the Project, if the Developer delays construction of Vista Lago.

Attachments:

1. Location Sketch
2. Public Facilities Agreement (3 Originals) with Exhibits "A" and "B"

Recommended By:

ABIL

Ornelis A. Fernandez
Division Director

11/24/08
Date

Approved By:

S. J. Wild
County Engineer

2/12/08
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	\$ -0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$ -0-	-0-	-0-	-0-	-0-

ADDITIONAL FTE

POSITIONS (Cumulative) _____

Is Item Included in Current Budget? Yes X No _____

Budget Acct No.: Fund 3504 Dept. 361 Unit 0964 Object
Program

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

Road Impact Fee Fund - Zone 4
Hypoluxo Rd/Jog Rd to Military

This item has no immediate fiscal impact.

Circumstances could develop that would expose the County to an, as yet, unknown expense for construction of a Temporary Drainage System. Sufficient funds are available in the Road Program to handle these circumstances. Developer shall bear all costs to remove the Temporary Drainage System and connect it to the ultimate on-site pond system.

C. Departmental Fiscal Review: R.D. Ward 1/17/08

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments: *The \$50,000 will be received upon completion of construction and acceptance of permanent siphon system; the completion date is unknown at this time.*

[Signature] 2-26-08
OFMB *(WD) SN 2/26/08 CN 2/13/08*

[Signature] 2/27/08
Contract Dev. and Control
2/26/08

B. Approved as to Form
and Legal Sufficiency:

[Signature] 2/28/07
Assistant County Attorney

This Contract complies with our
contract review requirements.

C. Other Department Review:

Department Director

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



BEGIN PROJECT



VISTA LAGO

END PROJECT

LOCATION SKETCH

DESCRIPTION: RELOCATABLE DRAINAGE EASEMENT

A PORTION OF TRACTS 13 THROUGH 16 OF THE UNRECORDED PLAT OF HYPOLUXO FARMS, BEING A PORTION OF SECTION 11, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 11; THENCE S.04°29'07"W. ALONG THE EAST LINE THEREOF, A DISTANCE OF 105.01 FEET; THENCE N.88°55'14"W. ALONG THE SOUTH LINE OF THAT CERTAIN LAKE WORTH DRAINAGE DISTRICT EASEMENT RECORDED IN OFFICIAL RECORD BOOK 20690, PAGE 70 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, A DISTANCE OF 473.90 FEET TO THE POINT OF BEGINNING; THENCE S.00°59'25"W., A DISTANCE OF 363.13 FEET; THENCE N.87°24'56"E., A DISTANCE OF 25.03 FEET; THENCE S.33°10'41"W., A DISTANCE OF 782.29 FEET; THENCE N.89°23'17"W., A DISTANCE OF 83.41 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES S.85°23'42"E., A RADIAL DISTANCE OF 1,426.00 FEET; THENCE NORTHERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 02°54'40", A DISTANCE OF 72.46 FEET; THENCE N.07°30'58"E., A DISTANCE OF 73.14 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 1,774.00 FEET AND A CENTRAL ANGLE OF 09°10'48"; THENCE NORTHERLY ALONG THE ARC A DISTANCE OF 284.23 FEET; THENCE N.88°18'45"W., A DISTANCE OF 384.94 FEET TO A POINT OF INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF HYPOLUXO FARMS ROAD, AS RECORDED IN DEED BOOK 1057, PAGE 225 OF SAID PUBLIC RECORDS; THENCE N.01°41'15"E. ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 20.00 FEET; THENCE S.88°18'45"E., A DISTANCE OF 383.65 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S.87°41'20"W., A RADIAL DISTANCE OF 1,774.00 FEET; THENCE NORTHERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 01°49'48", A DISTANCE OF 56.66 FEET; THENCE N.04°08'28"W., A DISTANCE OF 145.32 FEET; THENCE S.89°00'25"E., A DISTANCE OF 38.87 FEET; THENCE N.00°59'25"E., A DISTANCE OF 381.10 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID LAKE WORTH DRAINAGE DISTRICT EASEMENT; THENCE S.87°57'55"E. ALONG SAID SOUTH LINE, A DISTANCE OF 40.01 FEET; THENCE S.00°59'25"W., A DISTANCE OF 380.37 FEET; THENCE S.89°00'25"E., A DISTANCE OF 210.87 FEET; THENCE N.87°24'56"E., A DISTANCE OF 139.58 FEET; THENCE N.00°59'25"E., A DISTANCE OF 365.69 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID LAKE WORTH DRAINAGE DISTRICT EASEMENT; THENCE S.88°55'14"E. ALONG SAID SOUTH LINE, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

CONTAINING 214,510 SQUARE FEET/4.925 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS AND RIGHTS-OF-WAY OF RECORD.

NOTES:

1. REPRODUCTIONS OF THIS SKETCH ARE NOT VALID UNLESS SEALED WITH AN EMBOSSED SURVEYOR'S SEAL.
2. LANDS SHOWN HEREON ARE NOT ABSTRACTED FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD.
3. BEARINGS SHOWN HEREON ARE RELATIVE TO AN ASSUMED BEARING OF S04°29'07"W ALONG THE EAST LINE OF SECTION 11, TOWNSHIP 45 SOUTH, RANGE 42 EAST
4. THE "LAND DESCRIPTION" HEREON WAS PREPARED BY THE SURVEYOR.
5. DATA SHOWN HEREON WAS COMPILED FROM THE INSTRUMENT OF RECORD AND DOES NOT CONSTITUTE A FIELD SURVEY AS SUCH.
6. L.W.D.D.-DENOTES LAKE WORTH DRAINAGE DISTRICT
7. O.R.B.-DENOTES OFFICIAL RECORD BOOK

CERTIFICATE:

I HEREBY CERTIFY THAT THE ATTACHED SKETCH OF DESCRIPTION OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION ON JANUARY 30, 2008. I FURTHER CERTIFY THAT THIS SKETCH OF DESCRIPTION MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH IN CHAPTER 61G17-6 ADOPTED BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS PURSUANT TO FLORIDA STATUTES 472.027.

SHEET 1 OF 2

CAULFIELD & WHEELER, INC.
CIVIL ENGINEERING - LAND PLANNING
LANDSCAPE ARCHITECTURE - SURVEYING
7301A W. PALMETTO PARK ROAD - SUITE 100A
BOCA RATON, FLORIDA 33433
PHONE (561)-392-1991 / FAX (561)-750-1452

**VISTA LAGO
RELOCATABLE DRAINAGE EASEMENT
SKETCH OF DESCRIPTION**

DAVID P. LINDLEY
REGISTERED LAND
SURVEYOR NO. 5005
STATE OF FLORIDA
L.B. 3591

DATE	1/30/08
DRAWN BY	JC
F.B./ PG.	N/A
SCALE	AS SHOWN
JOB NO.	4860POND

POINT OF COMMENCEMENT
N.E. CORNER SECTION 11-45-42
FOUND PALM BCH. CO. MONUMENT

POINT OF BEGINNING

HYPOLUXO ROAD

NORTH LINE OF SECTION 11-45-42

L.W.D.D. CANAL L-18

S04°29'07"W
105.01'

S88°55'14"E
40.00'

S87°57'55"E
40.01'

N88°55'14"W 473.90'
L.W.D.D. EASEMENT
(O.R.B. 20690, PAGE 70)

N00°59'25"E
381.10'

S00°59'25"W
380.37'

N00°59'25"E
365.69'

S00°59'25"W
363.13'

TRACT 16

S89°00'25"E
38.87'

N87°24'56"E
139.58'

N87°24'56"E
25.03'

N04°08'28"W
145.32'

S89°00'25"E
210.87'

TRACT 15

$\Delta=1°49'48"$
 $R=1774.00'$
 $L=56.66'$

S88°18'45"E
383.65'

S87°41'20"W
(RADIAL)

782.29'

N88°18'45"W
384.94'

$\Delta=9°10'48"$
 $R=1774.00'$
 $L=284.23'$

N07°30'58"E
73.14'

$\Delta=2°54'40"$
 $R=1426.00'$
 $L=72.46'$

S85°23'42"E
(RADIAL)

N89°23'17"W
83.41'

TRACT 13

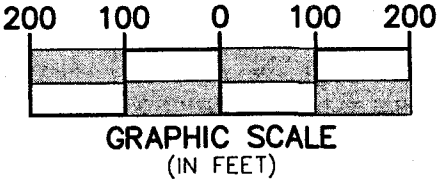
TRACT 14
UNRECORDED PLAT OF HYPOLUXO FARMS

EAST LINE OF SECTION 11-45-42
(BEARING BASIS)

HYPOLUXO FARMS ROAD
50' RIGHT-OF-WAY
(DEED BOOK 1057, PAGE 225)

N01°41'15"E
20.00'

E. RIGHT-OF-WAY LINE



SHEET 2 OF 2



CAULFIELD & WHEELER, INC.
CIVIL ENGINEERING - LAND PLANNING
LANDSCAPE ARCHITECTURE - SURVEYING
7301A W. PALMETTO PARK ROAD - SUITE 100A
BOCA RATON, FLORIDA 33433
PHONE (561)-392-1991 / FAX (561)-750-1452

VISTA LAGO
RELOCATABLE DRAINAGE EASEMENT
SKETCH OF DESCRIPTION

DATE	1/30/08
DRAWN BY	JC
F.B./ PG.	N/A
SCALE	AS SHOWN
JOB NO.	4860POND

DESCRIPTION: TEMPORARY CONSTRUCTION EASEMENT

A PORTION OF TRACTS 13 THROUGH 16 OF THE UNRECORDED PLAT OF HYPOLUXO FARMS, BEING A PORTION OF SECTION 11, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 11; THENCE S.04°29'07"W. ALONG THE EAST LINE THEREOF, A DISTANCE OF 105.01 FEET; THENCE N.88°55'14"W. ALONG THE SOUTH LINE OF THAT CERTAIN LAKE WORTH DRAINAGE DISTRICT EASEMENT RECORDED IN OFFICIAL RECORD BOOK 20690, PAGE 70 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, A DISTANCE OF 423.90 FEET TO THE POINT OF BEGINNING; THENCE S.00°59'25"W., A DISTANCE OF 309.83 FEET; THENCE N.87°24'56"E., A DISTANCE OF 69.44 FEET; THENCE S.33°10'41"W., A DISTANCE OF 907.32 FEET; THENCE N.89°23'17"W., A DISTANCE OF 163.44 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES S.87°28'26"E., A RADIAL DISTANCE OF 1,476.00 FEET; THENCE NORTHERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 04°59'25", A DISTANCE OF 128.55 FEET; THENCE N.07°30'58"E., A DISTANCE OF 73.14 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 1,724.00 FEET AND A CENTRAL ANGLE OF 07°36'50"; THENCE NORTHERLY ALONG THE ARC A DISTANCE OF 229.10 FEET; THENCE N.88°18'45"W., A DISTANCE OF 337.13 FEET TO A POINT OF INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF HYPOLUXO FARMS, AS RECORDED IN DEED BOOK 1057, PAGE 225 OF SAID PUBLIC RECORDS; THENCE N.01°41'15"E. ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 120.00 FEET; THENCE S.88°18'45"E., A DISTANCE OF 329.20 FEET; THENCE N.04°08'28"W., A DISTANCE OF 201.40 FEET; THENCE S.89°00'25"E., A DISTANCE OF 43.56 FEET; THENCE N.00°59'25"E., A DISTANCE OF 332.01 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID LAKE WORTH DRAINAGE DISTRICT EASEMENT; THENCE S.87°57'55"E. ALONG SAID SOUTH LINE, A DISTANCE OF 140.02 FEET; THENCE S.00°59'25"W., A DISTANCE OF 329.46 FEET; THENCE S.89°00'25"E., A DISTANCE OF 159.31 FEET; THENCE N.87°24'56"E., A DISTANCE OF 91.04 FEET; THENCE N.00°59'25"E., A DISTANCE OF 319.23 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID LAKE WORTH DRAINAGE DISTRICT EASEMENT; THENCE S.87°57'55"E. ALONG SAID SOUTH LINE, A DISTANCE OF 26.03 FEET; THENCE S.88°55'14"E. ALONG SAID SOUTH LINE, A DISTANCE OF 113.98 FEET TO THE POINT OF BEGINNING.


SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.
CONTAINING 419,374 SQUARE FEET/9.628 ACRES MORE OR LESS.
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS AND RIGHTS-OF-WAY OF RECORD.

NOTES:

- 1. REPRODUCTIONS OF THIS SKETCH ARE NOT VALID UNLESS SEALED WITH AN EMBOSSED SURVEYOR'S SEAL.
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- 4. THE "LAND DESCRIPTION" HEREON WAS PREPARED BY THE SURVEYOR.
- 5. DATA SHOWN HEREON WAS COMPILED FROM THE INSTRUMENT OF RECORD AND DOES NOT CONSTITUTE A FIELD SURVEY AS SUCH.
- 6. L.W.D.D.-DENOTES LAKE WORTH DRAINAGE DISTRICT
- 7. O.R.B.-DENOTES OFFICIAL RECORD BOOK

CERTIFICATE:

I HEREBY CERTIFY THAT THE ATTACHED SKETCH OF DESCRIPTION OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION ON JANUARY 30, 2008. I FURTHER CERTIFY THAT THIS SKETCH OF DESCRIPTION MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH IN CHAPTER 61G17-6 ADOPTED BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS PURSUANT TO FLORIDA STATUTES 472.027.



CAULFIELD & WHEELER, INC.

CIVIL ENGINEERING - LAND PLANNING
LANDSCAPE ARCHITECTURE - SURVEYING

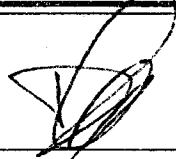
7301A W. PALMETTO PARK ROAD - SUITE 100A
BOCA RATON, FLORIDA 33433

PHONE (561)-392-1991 / FAX (561)-750-1452

VISTA LAGO

TEMPORARY CONSTRUCTION EASEMENT

SKETCH OF DESCRIPTION



DAVID P. LINDLEY

REGISTERED LAND

SURVEYOR NO. 5005

STATE OF FLORIDA

L.B. 3591

DATE	1/30/08
DRAWN BY	JC
F.B. / PG.	N/A
SCALE	AS SHOWN
JOB NO.	4860POND

POINT OF COMMENCEMENT

N.E. CORNER SECTION 11-45-42
FOUND PALM BCH. CO. MONUMENT

HYPOLUXO ROAD

NORTH LINE OF SECTION 11-45-42

S88°55'14"E
113.98'

POINT OF BEGINNING

S04°29'07"W
105.01'

08 L.W.D.D. CANAL L-18

S87°57'55"E
140.02'

S87°57'55"E
26.03'

N88°55'14"W 423.90'

L.W.D.D. EASEMENT
(O.R.B. 20690, PAGE 70)

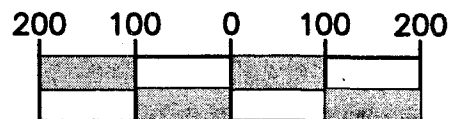
TRACT 16

N87°24'56"E
69.44'

TRACT 15

TRACT 14
UNRECORDED PLAT OF HYPOLUXO FARMS

TRACT 13



GRAPHIC SCALE
(IN FEET)

EAST LINE OF SECTION 11-45-42
(BEARING BASIS)

HYPOLUXO FARMS ROAD
50' RIGHT-OF-WAY
(DEED BOOK 1057, PAGE 225)

E. RIGHT-OF-WAY LINE

S89°00'25"E
43.56'

N04°08'28"W
201.40'

S88°18'45"E
329.20'

N88°18'45"W
337.13'

Δ=7°36'50"
R=1724.00'
L=229.10'

N07°30'58"E
73.14'

Δ=4°59'25"
R=1476.00'
L=128.55'

S87°28'26"E
(RADIAL)

N89°23'17"W
163.44'

S33°10'41"W

907.32'

N00°59'25"E
332.01'

S00°59'25"W
329.46'

N00°59'25"E
319.23'

S00°59'25"W
309.83'

CAULFIELD & WHEELER, INC.

CIVIL ENGINEERING - LAND PLANNING

LANDSCAPE ARCHITECTURE - SURVEYING

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BOCA RATON, FLORIDA 33433

PHONE (561)-392-1991 / FAX (561)-750-1452

VISTA LAGO
TEMPORARY CONSTRUCTION EASEMENT
SKETCH OF DESCRIPTION

SHEET 2 OF 2

DATE 1/30/08

DRAWN BY JC

F.B./ PG. N/A

SCALE AS SHOWN

JOB NO. 4860POND

PUBLIC FACILITIES AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2008, by and between **TOLL FL VIII LIMITED PARTNERSHIP**, a Florida limited partnership (hereinafter referred to as "**DEVELOPER**") and **PALM BEACH COUNTY**, a political subdivision of the State of Florida (hereinafter referred to as "**COUNTY**"). **DEVELOPER** and **COUNTY** are sometimes referred to hereinafter individually as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, DEVELOPER owns and is developing real property in Palm Beach County, Florida, located at the intersection of Hypoluxo Road and Haverhill Road known as "Vista Lago"; and

WHEREAS, COUNTY intends to widen Hypoluxo Road to six (6) lanes from Jog Road to Military Trail (the "Hypoluxo Road Project"); and

WHEREAS, DEVELOPER has development conditions to accept drainage for the portion of the Hypoluxo Road Project that fronts the Vista Lago development plus upto an additional eight hundred (800) feet; and

WHEREAS, DEVELOPER is also responsible for the design, permitting and construction of Vista Lago's ultimate on-site drainage system (including ponds) servicing the above referenced portion of the Hypoluxo Road Project, including pipes and structures, from Hypoluxo Road's south right-of-way line to the ponds, and to the ultimate positive outfall (the "Hypoluxo Road Drainage") in addition to Vista Lago's drainage; and

WHEREAS, DEVELOPER is required to plat and/or dedicate drainage easements over Vista Lago's on-site drainage system; and

WHEREAS, DEVELOPER and **COUNTY** agree to enter into this Agreement to provide for a Siphon System (defined as the pipe under the future relocated Lake Worth Drainage District (LWDD) L-18 Canal from Hypoluxo Road's south right-of-way line to and including the "step-up" manhole immediately south of the future relocated LWDD L-18 Canal's south right-of-way line) as part of the Hypoluxo Road Drainage and the ongoing maintenance of such Siphon System as hereinafter provided;

NOW, THEREFORE, for and in consideration of these premises, mutual undertakings and agreements herein contained and assumed and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, the Parties hereby agree as follows:

Section 1: Recitals

The above recitations are true and correct and are incorporated herein by this reference.

Section 2: DEVELOPER obligations

- 2.1 **DEVELOPER** shall permit and relocate the LWDD L-18 Canal to the south along the Vista Lago's frontage as planned and approved by LWDD.
 - 2.2 **DEVELOPER** shall include in the design and permitting of the ultimate drainage system (involving the Hypoluxo Road Drainage and Vista Lago's drainage), a minimum of 48" pipe from Hypoluxo Road's south right-of-way line under the future relocated LWDD L-18 Canal to the Vista Lago's on-site pond system. The Siphon System requires manholes within the road right-of-way and within the Vista Lago property to facilitate maintenance and which shall be included in the design of the ultimate drainage system. The drainage design and permitting shall be by **DEVELOPER**'s engineer and shall comply with all **COUNTY** requirements and be approved by **COUNTY** prior to construction.
-

- 2.3 The parties acknowledge that either **DEVELOPER** or **COUNTY** may construct all or portions of the ultimate drainage system (including pipes, structures and ponds) related only to the Hypoluxo Road Drainage based upon timing of commencement of construction of either the Hypoluxo Road Project by the **COUNTY** or development of Vista Lago by the **DEVELOPER**. In the event that **DEVELOPER** cannot complete construction of a portion of the Vista Lago's ultimate drainage system adequate to handle the Hypoluxo Road Drainage by the Hypoluxo Road Project's Notice to Proceed date, the **DEVELOPER** shall provide **COUNTY** with a relocatable drainage easement within Vista Lago for a temporary detention system within the approved water management/drainage tracts and associated outfall to the LWDD L-18 canal sufficient to satisfy all permitting requirements for the Hypoluxo Road Drainage (the "Temporary Drainage System") so as to allow the **COUNTY** to commence construction of the Hypoluxo Road Project. Notwithstanding the above timeframe, the relocatable drainage easement shall be provided no later than March 31, 2008.
- 2.4 All costs and permitting associated with the Temporary Drainage System shall be the responsibility of the **COUNTY**. **DEVELOPER** will assist the **COUNTY** with any permitting requirements. The location of the relocatable drainage easement, if required, is described on Exhibit "A", but this location is subject to change to a location mutually agreed upon by the parties if significant permitting issues and/or substantial environmental costs arise.
- 2.5 The fill material from the temporary detention system shall be stockpiled on the Vista Lago property adjacent to the temporary detention system. The **DEVELOPER** shall provide a temporary construction easement for stockpiling areas and construction activities. The location of the temporary construction easement, if required, is described in Exhibit "B". The relocatable drainage easement shall include adequate areas for access and maintenance and shall remain in force until the ultimate drainage easements are provided and the Temporary Drainage System is replaced by the ultimate on-site pond system in Vista Lago by **DEVELOPER**. The Temporary Drainage System shall remain operational until the ultimate on-site pond system and Hypoluxo Road Drainage conveyance to pond and outfall to canal are in operation. **DEVELOPER** shall bear all costs to remove the Temporary Drainage System and connect to the ultimate on-site pond system. **DEVELOPER** shall reimburse **COUNTY** the cost of the Siphon System. This reimbursement payment for the Siphon System will be based on the actual amount paid on the Hypoluxo Road Project. **COUNTY** shall provide supporting documentation of the cost of the Siphon System and, the reimbursement payment shall be made prior to the issuance of the first building permit.
- 2.6 If **DEVELOPER** constructs the Hypoluxo Road Drainage, **DEVELOPER** shall transfer maintenance of the Siphon System to **COUNTY** for maintenance in perpetuity upon completion and **COUNTY**'s certification. Regardless of who constructs the Siphon System, **DEVELOPER** will pay \$50,000 to **COUNTY** for future maintenance costs of the Siphon System prior to issuance of Vista Lago's first building permit. The \$50,000 payment relates only to the perpetual maintenance for the Siphon System and has no relationship to any other costs or fees. The utilization of said funds will be at the discretion of **COUNTY**, with no responsibility or repercussions to **DEVELOPER** and its successors and/or assigns (e.g. the development Owners Association). **DEVELOPER** and its successors and/or assigns shall be responsible for maintenance of the remainder of the Hypoluxo Road Drainage in perpetuity within the Vista Lago property per **COUNTY**'s standard policy.

Section 3: COUNTY obligations.

- 3.1 **COUNTY** shall maintain the Siphon System referenced in Sections 2.2 and 2.6 above.
- 3.2 **COUNTY** retains the right but not the obligation to maintain the drainage system through the Vista Lago property to the ultimate outfall.
- 3.3 **COUNTY** shall require all of its contractors providing any work on the Hypoluxo Road Project to maintain: (a) workers compensation insurance in accordance with Florida Law; (b) commercial general liability naming the **DEVELOPER** as an additional insured party with minimum limits of One Million and No/100 (\$1,000,000) Dollars per occurrence and Three Million and No/100 (\$3,000,000) Dollars
-

in the aggregate; (c) automobile insurance with minimum limits of One Million and 1/10/100 (\$1,000,000) Dollars per occurrence combined single limits.

3.4 **COUNTY** agrees to require any contractor performing work for the **COUNTY** within **DEVELOPER's** property identified in Exhibits "A" and "B" to unconditionally and irrevocably indemnify, hold harmless and defend the **DEVELOPER** from and against any and all claims, liabilities, damages, personal injuries and/or deaths, fines, liens, encumbrances, penalties, losses, suits and judgments, and expenses (including, but not limited to, reasonable attorneys' fees and costs at all trial and appellate proceedings and whether or not a lawsuit is commenced) arising out of, caused by or in any way resulting from claims by one or more of the contractors concerning any work related to the Hypoluxo Road Drainage within **DEVELOPER's** property. This paragraph shall survive the completion of the Hypoluxo Road Project until such time as the **DEVELOPER** replaces the Temporary Drainage System with the ultimate drainage system within Vista Lago.

3.5 **COUNTY** agrees to provide **DEVELOPER** a copy of construction plan and specification prior to commencement of work.

Section 4: Governing Law

The Agreement and the rights and obligations created hereunder shall be interpreted, construed and enforced in accordance with the laws of the United States and the State of Florida. This Agreement shall not be construed against the party who drafted it as all parties have consulted experts and attorneys of their choice. If any litigation should be brought in connection with this Agreement, venue shall lie in Palm Beach County, Florida.

Section 5: Attorney's Fees and Costs

The parties hereto agree that in the event it becomes necessary for either party to defend or institute legal proceedings as a result of the failure of either party to comply with the terms, covenants and provisions of this agreement, each party in such litigation shall bear its own cost and expenses incurred and expended in connection therewith including, but not limited to, reasonable attorney's fees and court costs through all trial and appellate levels.

Section 6: Agreement

This Agreement contains the entire agreement between the parties. No right, duties or obligations of the parties shall be created unless specifically set forth in this Agreement and will not be binding and valid unless in writing and executed and approved by both parties or their successors or assigns.

Section 7: Amendment

No modification or amendment of this Agreement shall be of any legal force or effect unless in writing and executed by all parties.

Section 8: Binding Agreement

This Agreement shall inure to the benefit of and shall bind the parties, heir successors and assigns.

Section 9: Assignment

This Agreement may not be assigned without the prior written consent of the other party (such consent not being unreasonably withheld) and all of the terms and conditions set for herein shall inure to the benefit of and shall bind all assignees.

Section 10: Waiver

Failure to enforce any provision of this Agreement by either party shall not be considered a waiver of the right to later enforce that or any provision of this Agreement.

Section 11: Notices

Any notice, request, demand, instruction or other communication to be given to either party hereunder shall be in writing and shall be hand-delivered, telecopied, sent by federal Express or a comparable overnight mail service, or by U.S. registered or certified mail, return receipt requested, postage prepaid to **COUNTY** and to **DEVELOPER** at their respective addresses below.

As to **COUNTY**: Steve Carrier, P.E.
Assistant County Engineer
Engineering & Public Works Department
2300 North Jog Road, 3rd Floor
West Palm Beach, FL 33411

As to **COUNTY's**
Legal Representative: Marlene R. Everitte, Esquire
Palm Beach County Attorney's Office
301 N. Olive Avenue, Suite 601
West Palm Beach, FL 33401

As to **DEVELOPER**: Toll FL VIII Limited Partnership
3970 West Indiantown Road
Jupiter, FL 33478
Attention: Corey Clive
Facsimile: (561) 741-7511

As to **DEVELOPER's**
Legal Representative: Harvey E. Oyer III, Esquire
800 Claremore Drive
West Palm Beach, FL 33401

Section 12: Effective Date

This Agreement shall be effective when executed by all parties and approved by the Board of County Commissioners of Palm Beach County, Florida.

Section 13: Counterparts

This Agreement may be executed by the parties in any number of counterparts, each of which shall be deemed to be an original, and all of which shall be deemed to be one and the same Agreement.

Section 14: State Law

This Agreement will be interpreted and enforced in accordance with the internal laws of the State of Florida without giving effect to the principles of conflicts of laws. The Parties hereby irrevocably and unconditionally stipulate and agree that the Federal Courts in the State of Florida or the Circuit Court of the State of Florida with jurisdiction over Palm Beach County, shall have exclusive jurisdiction to hear and finally determine any dispute, claim, or controversy or action arising out of or connected (directly or indirectly) with this Agreement.

Section 15: No Third-Party Beneficiaries

This Agreement is entered into solely for the benefit of **DEVELOPER** and **COUNTY**. No other person or entity is intended to be a third-party beneficiary of this Agreement.

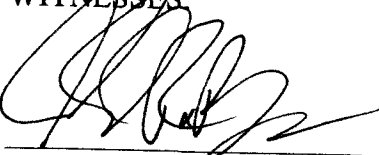
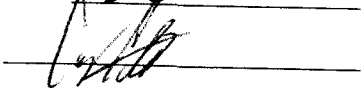
Section 16: Divisibility

If any article, section or exhibit of this Agreement is deemed illegal or unlawful, the same will be struck from this Agreement and all other articles, sections and exhibits will remain valid and in full force and effect.

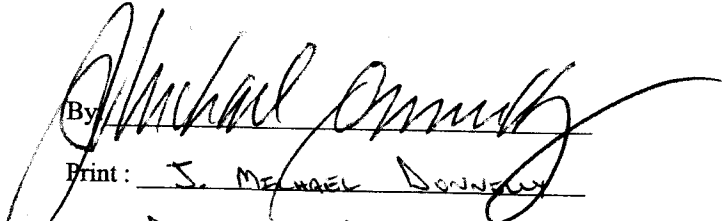
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

DEVELOPER

WITNESSES:


Print: D. BARNES

Print Name: COREY CLIVE

TOLL FL VIII LIMITED PARTNERSHIP,
a Florida Limited Partnership

By: 
Print: J. MICHAEL DOWNEY
Its: DEVELOPER PRESIDENT

PALM BEACH COUNTY

PALM BEACH COUNTY, FLORIDA,
a Political Subdivision of the State of Florida

ATTEST:

BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

By: _____
Deputy Clerk

By: _____
Addie L. Greene, Chairperson

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: _____
Assistant County Attorney

Approved: As To Terms And Conditions

By: AK