

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date:	March 11, 2008	Consent [X] Public Hearing []	Regular []
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Submitted By: Water Utilities Department
Submitted For: Water Utilities Department

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I. EXECUTIVE BRIEF


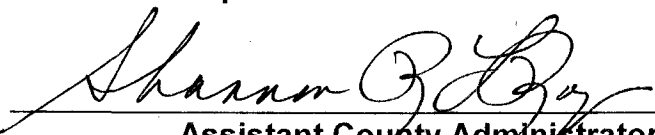
Motion and Title: Staff recommends motion to approve: a Potable Water and Wastewater Development Agreement (Agreement) with Aspen Square, LLC.

Summary: Aspen Square, LLC (Aspen) owns property located west of Sims Road, and south of Lake Ida Road. In order to provide potable water and wastewater concurrency reservations for new developments, the Department requires property owners to enter into a formal development agreement with the Department. While the Department Director has been delegated the authority to enter into Standard Development Agreements (SDA's), Board approval is being sought in this case due to the nature of the off-site improvements associated with this Agreement. The Department has requested that Aspen extend additional wastewater force main and related appurtenances not required to serve this property to meet the Utility Master Plan routing required to ensure the long-term operability and integrity of the County utility system. The special conditions in this Agreement require Aspen to design and install approximately 2,000 feet of 6" off-site wastewater force main and related appurtenances in the Lake Ida Road right-of-way. The Department will reimburse Aspen for 50% of the related cost of off-site improvements through the use of Connection Fee credits and/or cash payments of approximately \$23,000, calculated utilizing 50% of the actual quantities of pipe installed and documented by the developer's Engineer in accordance with the standard formulas previously approved by the Board in the Department's Uniform Policies and Procedures Manual (UPAP). District 5 (MJ)

Background and Justification: The Department's UPAP contains a SDA form that is utilized in most instances for concurrency reservations, and which can be executed at the Department level. The Department's master plan requires that approximately 2,000 linear feet of wastewater force main along Lake Ida Road from the NE corner of the Aspen Square property to the SE corner of the St. Nicholas Melkite Mission property, west of Sims Road, including 1,000 linear feet of 6" force main not required to serve this property, be installed in conjunction with the development of this property. Due to the complexity and cost of these off-site improvements, a non-standard agreement is required.

Attachments:

- 1. Three (3) Original Development Agreements - DA No. 03-01018-001
- 2. Location Map
- 3. Offsite Cash/Credit Calculations by Developer's Engineer

Recommended By:		12/20/07
	Department Director	Date
Approved By:		1-9-08
	Assistant County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	<u>\$23,000.00</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u><u>\$ 23,000.00</u></u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	0	0	0	0	0

Budget Account No.: Fund 4011 Dept. 721 Unit W006 Object 6543

Is Item Included in Current Budget?	Yes	No
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Reporting Category **N/A**

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


Credits and reimbursements for off-site improvements will total approximately \$23,000.

C. Department Fiscal Review: in light

III. REVIEW COMMENTS

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

OFMB Fiscal and/or Contract Development and Control Comments:
The mandatory agreement payment (MAP) of \$15,445.00 will be credited back at time of connection.

 1-4-08
 OFMB
 (NO) 1/4/08 Tm 01/03/08 ON 1/10/07

Jim J. Jacob
Contract Development and Control
6 Dec 1/8/08

B. Legal Sufficiency:

1/8/09
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.

POTABLE WATER AND WASTEWATER

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

SDA # 03-01018-001
Conversion from UCRA
dated April 2, 2004

POTABLE WATER AND WASTEWATER DEVELOPMENT AGREEMENT (DA)

THIS AGREEMENT made and entered into this _____ day of _____, 200____, by and between **PALM BEACH COUNTY**, a subdivision of the State of Florida, hereinafter referred to as "Utility", and **ASPEN SQUARE, LLC**, a **Florida limited liability company**, hereinafter referred to as "Property Owner."

WITNESSETH

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

WHEREAS, Property Owner desires to construct 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	125.50	ERCs =	\$17,665.38
Wastewater:	\$197.52	per ERC x	125.50	ERCs =	\$24,788.76
Less credit for MAP payment from UCRA					(\$27,008.53)
TOTAL					<u>\$15,445.61</u>

Upon receipt of the MAP, Utility agrees to reserve 125.50 ERCs of Potable Water and Wastewater system capacity for Property Owner until **APRIL 30, 2009**, which term may be extended in accordance with the UPAP, as may be amended from time to time, and upon payment of applicable fees. Property Owner acknowledges and agrees Utility shall not refund or reimburse the MAP upon expiration.

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:

**5350 W Atlantic Ave., Ste 100
Delray Beach, FL 33484-8112**

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. Special Conditions:
 - (a) Prior to the first permanent Service Initiation, Property Owner shall design and construct the following off-site wastewater force mains, including all related appurtenances, per the design standards set forth in the UPAP:
 - (1) Approximately 2,000 linear feet of wastewater force main along Lake Ida Road from the NE corner of the Aspen Square property to the SE corner of the St. Nicholas Melkite Mission property, west of Sims Road, including 1,000 linear feet of 6" wastewater force main and related appurtenances not required to serve the Property. The total connection fee credit amount and/or cash reimbursement for this additional 1,000 feet shall not exceed \$23,000.00, which equals 50 percent of Property Owner's Engineer's estimate.
 - (2) All other facilities associated with the 1,000 linear feet of 6" wastewater force main, and 1,000 linear feet of 4" wastewater force main including canal aerial crossing(s) along Lake Ida Road and two connections to existing force mains.
 - (b) Construction shall be deemed complete upon acceptance of legal documents (Bill of Sale, Cost Documentation, and Property Owner's Affidavit) and approved record drawings by Utility, passing of final inspection by Utility and the receipt of a Health Department final project release. Reimbursement will be made after completion of construction and within sixty (60) days of request for cash reimbursement.

POTABLE WATER AND WASTEWATER

- (c) Pipeline oversizing connection fee credit/cash reimbursement calculations and payment terms shall be in accordance with the then current UPAP, except as otherwise provided in this agreement.

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POTABLE WATER AND WASTEWATER

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

WITNESSES:

PALM BEACH COUNTY

Signature

By:

Addie L. Greene, Chairperson

Typed or Printed Name

Signature

Typed or Printed Name

WITNESSES:

PROPERTY OWNER:

Signature

By:

Signature

RICHARD SWARTZ

Typed or Printed Name

Typed or Printed Name

MGR

Title

Signature

Melissa Teller

Typed or Printed Name

{Corporate
Seal}

NOTARY CERTIFICATE

STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 12th day of December, 2007
by Richard Swartz. He/she is personally known to me or has produced

N/A

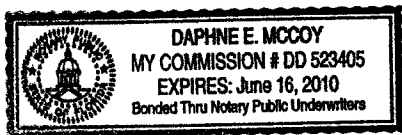
as identification.

My Commission

Expires: June 16, 2010

Signature of Notary

Typed, Printed, or Stamped Name of Notary



Notary Public

Serial Number DD 523405

WATER UTILITIES DEPARTMENT APPROVAL

By:

Director of

PBC Water Utilities Department

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By:

County Attorney

POTABLE WATER AND WASTEWATER

EXHIBIT "A" LEGAL DESCRIPTION

PARCEL NO. 1

THE SOUTH 260 FEET OF THE FOLLOWING DESCRIBED PROPERTY: THE NE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, EXCEPT ANY PART THEREOF LYING WITHIN THE RIGHT-OF-WAY OF SIMS ROAD.

PARCEL NO. 2

THE EAST $\frac{1}{2}$ OF THE SOUTHEAST $\frac{1}{4}$ OF THE NORTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA; EXCEPT ANY PART THEREOF LYING WITHIN THE RIGHT-OF-WAY OF SIMS ROAD.

PARCEL NO. 3

THE EAST THREE (3) ACRES OF THE WEST $\frac{1}{2}$ OF THE SOUTHEAST $\frac{1}{4}$ OF THE NORTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST; LESS THE SOUTH 12.5 FEET THEREOF, SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

PARCEL NO. 4

THE NORTH 200 FEET OF THE WEST TWO ACRES OF THE WEST $\frac{1}{2}$ OF THE SE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST AND EXCEPTING THEREFROM ANY EXISTING RIGHT-OF-WAY FOR ANY AND ALL PUBLIC UTILITIES, TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS OVER THE WEST 20 FEET OF THE EAST THREE ACRES OF THE WEST $\frac{1}{2}$ OF THE SE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH A PARCEL OF LAND BOUNDED AS FOLLOWS:

ON THE NORTH BY THE NORTH LINE OF THE SOUTHEAST $\frac{1}{4}$ OF THE NORTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST;

ON THE EAST BY THE WEST LINE OF THE EAST 3 ACRES OF THE WEST $\frac{1}{2}$ OF THE SOUTHEAST $\frac{1}{4}$ OF THE NORTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST;

ON THE SOUTH BY THE SOUTH LINE OF THE NORTH 200 FEET OF THE WEST $\frac{1}{2}$ OF THE SE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST;

ON THE WEST BY THE EAST LINE OF THE WEST TWO ACRES OF THE WEST $\frac{1}{2}$ OF THE SE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST;

PARCEL NO. 5

THE SOUTH 330 FEET OF THE NORTH 530 FEET OF THE FOLLOWING DESCRIBED PARCEL OF LAND:

THE WEST 2 ACRES OF THE WEST $\frac{1}{2}$ OF THE SOUTHEAST $\frac{1}{4}$ OF THE NORTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH A PARCEL OF LAND BOUNDED AS FOLLOWS:

ON THE NORTH BY THE SOUTH LINE OF THE NORTH 200 FEET OF THE WEST $\frac{1}{2}$ OF THE SE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST;

POTABLE WATER AND WASTEWATER

ON THE EAST BY THE WEST LINE OF THE EAST 3 ACRES OF THE WEST $\frac{1}{2}$ OF THE SOUTHEAST $\frac{1}{4}$ OF THE NORTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST;

ON THE SOUTH BY THE SOUTH LINE OF THE NORTH 530 FEET OF THE WEST $\frac{1}{2}$ OF THE SE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST;

ON THE WEST BY THE EAST LINE OF WEST TWO ACRES OF THE WEST $\frac{1}{2}$ OF THE SE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST;

PARCEL NO. 6

THE E $\frac{1}{2}$ OF THE W $\frac{1}{5}$ OF THE SE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$, LESS THE NORTH 530 FEET AND THE SOUTH 12.5 FEET THEREOF FOR ROAD RIGHT-OF-WAY, LYING IN SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, SAID LAND LYING IN PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH A PARCEL OF LAND BOUNDED AS FOLLOWS:

ON THE NORTH BY THE SOUTH LINE OF THE NORTH 530 FEET OF THE WEST $\frac{1}{2}$ OF THE SOUTHEAST $\frac{1}{4}$ OF THE NORTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

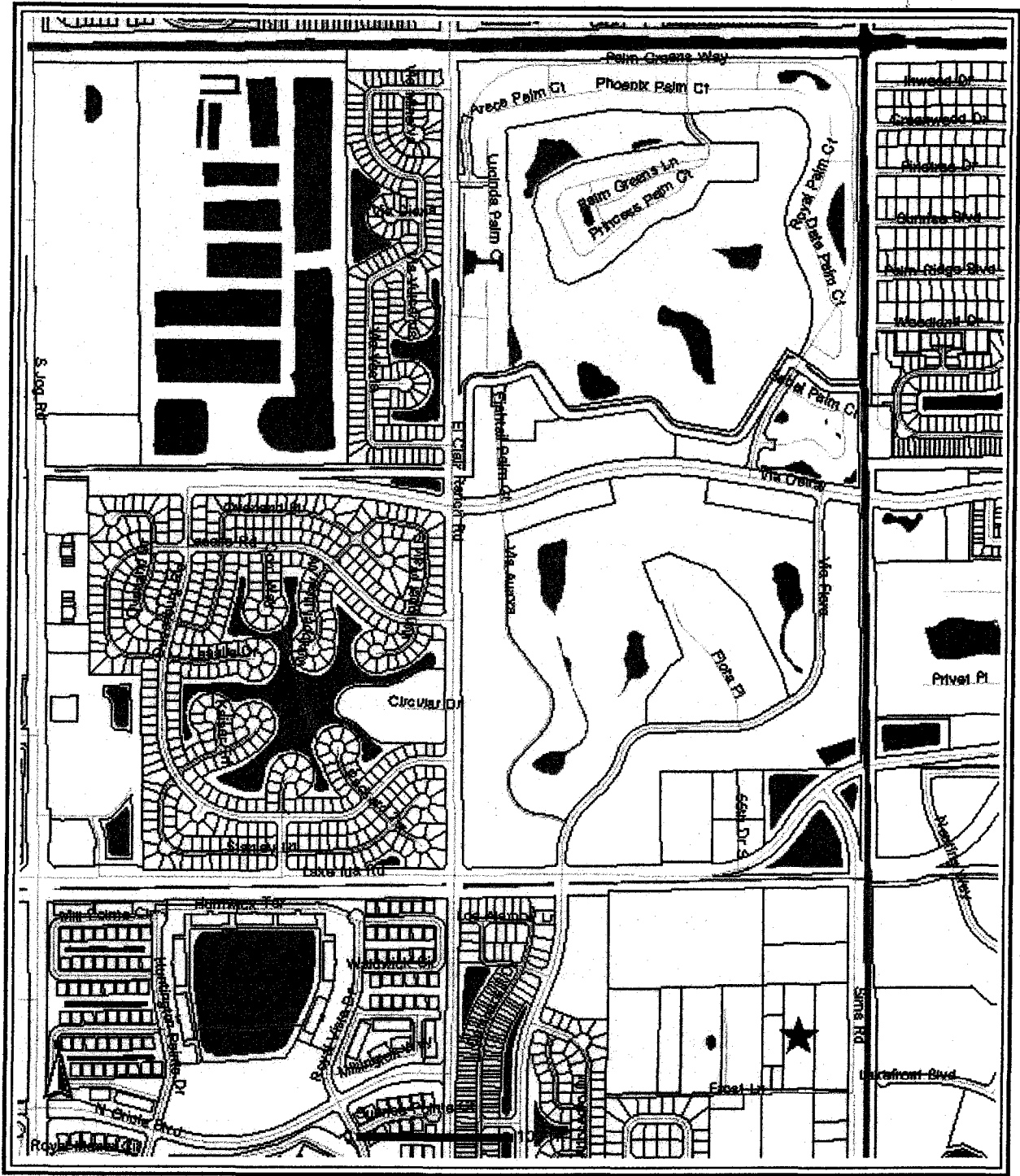
ON THE EAST BY THE WEST LINE OF THE EAST 3 ACRES OF THE WEST $\frac{1}{2}$ OF THE SOUTHEAST $\frac{1}{4}$ OF THE NORTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST.

ON THE SOUTH BY A LINE BEING 12.5 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST;

CONTAINING 11.854 ACRES, MORE OR LESS

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Aspen Square, LLC

Map Scale 1:12132

Map produced on 12/18/2007

ATTACHMENT 3

ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COSTS FOR:
ASPEN SQUARE (Delray Beach) - OFFSITE FORCE MAIN UTILITY IMPROVEMENTS
Palm Beach County (S14, T46S, R42E)

OFFSITE SEWER FORCE MAIN ITEMS				
DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION
CONNECT TO EXISTING FM @ CHURCH	1	EA	\$5,000	\$5,000
6" PVC FM LAKE IDA ROAD CROSSING AT CHURCH	1	EA	\$5,000	\$5,000
6" PVC FM (LAKE IDA - CHURCH E. TO SIMS ROAD)	1,000	LF	\$36	\$36,000
			Total	\$46,000

50% of Total
(\$23,000.00)

Notes:

- 1. Assumes no unsuitable materials located within route of proposed utilities.
- 2. Assumes one time mobilization and continuous work.
- 3. Assumes adequate right-of-way exists for proposed utilities to be located within these road rights-of-way.
- 4. Permit fees estimated based on PBC R/W fees, LWDD canal crossing fees, & PBCWUD review/inspection fees.
- 5. Assumes pipe installed in a dry trench without the need for long term dewatering operations.