

PALM BEACH COUNTY
 BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: May 06, 2008

Consent [X]
 Public Hearing []

Regular []

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

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file: Seven (7) Standard Development Agreements and one (1) Standard Development Renewal Agreement complete with executed documents received during the months of February and March, 2008.

Standard Development Agreement

- A) 8190 Investors, LLC (District 6) 01-01206-000
- B) Tidal Wave Management Corp and Tidal Wave Development Corp (District 6) 01-01207-000
- C) Lantana Plaza Development, LLC and EMM Enterprises Two, LLC (District 3) 02-01119-000
- D) Atlantis Reserve, LLLP (District 3) 02-01120-000
- E) GKK-Hagen Ltd. (District 3) 05-01090-000
- F) Kerekes Land Trust No. 9 U/A dtd 6/11/92 (District 3) 05-01095-000
- G) GKK-Hagen Ltd. (District 3) 05-90012-000

Standard Development Renewal Agreement

- H) Richard S. Pribell (District 3) 05-01052-R00

Summary: The terms and conditions for Standard Development Agreements are outlined in the Water Utilities Department's Uniform Policies and Procedures Manual. The Board of County Commissioners delegated the authority to execute various types of Standard Development Agreements to the Department Director including potable water and wastewater agreements (R93-1619); reclaimed water agreements (R96-0228); and additional conditions for potable water, wastewater, and reclaimed water agreements (R2003-0539). After these agreements are executed by the developer and the Department, they must be recorded by the County Clerk's Office. This agenda item recommends the Board receive and file the agreements so they may be properly recorded. (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
- 8190 Investors, LLC
- Tidal Wave Management Corp and Tidal Wave Development Corp
- Lantana Plaza Development, LLC and EMM Enterprises Two, LLC
- Atlantis Reserve, LLLP
- GKK-Hagen Ltd.
- Kerekes Land Trust No. 9 U/A dtd 6/11/92
- GKK-Hagen Ltd.
- Richard S. Pribell

Recommended By: _____ Burt Pearson _____ 4/14/08 _____
 Department Director Date

Approved By: _____ Sharon O. Bay _____ _____
 Assistant County Administrator Date



POTABLE WATER AND WASTEWATER

CFN 20080069212
OR BK 22463 PG 0616
RECORDED 02/26/2008 10:12:35
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 0616 - 623; (8pgs)

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

SDA # 01-01206-000

STANDARD POTABLE WATER AND WASTEWATER DEVELOPMENT AGREEMENT
(SDA)

THIS AGREEMENT made and entered into this 25th day of FEBRUARY, 2008, by and between **PALM BEACH COUNTY**, a subdivision of the State of Florida, hereinafter referred to as "Utility", and **8190 INVESTORS, 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

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

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

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

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

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

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

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

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

Potable Water:	\$140.76 per ERC x	<u>11.60</u>	ERCs =	<u>\$1,632.82</u>
Wastewater:	\$197.52 per ERC x	<u>11.60</u>	ERCs =	<u>\$2,291.23</u>
			Franchise Fee	<u>\$0.00</u>
			TOTAL	<u><u>\$3,924.05</u></u>

Upon receipt of the MAP, Utility agrees to reserve **11.60** ERCs of Potable Water and Wastewater system capacity for Property Owner until **February 28, 2013**, 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:

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- \$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:

**5201 Village Blvd.
West Palm Beach, FL 33407;**

and if to Utility, shall be mailed to Palm Beach County Water Utilities Department Contract Management Section, P.O. Box 16097, West Palm Beach, FL 33416-6097.
13. The rights, privileges, obligations, and covenants of Property Owner and Utility shall survive the completion of the work of Property Owner with respect to completing the potable water and wastewater facilities and services to any phased area and to the Property as a whole.
14. Unless Property Owner is requesting additional capacity for the property described in Exhibit "A", this Agreement shall supersede, null and void, all previous agreements or representations, either verbal or written, heretofore in effect between Property Owner and Utility, made with respect to the matter herein contained, and when duly executed, constitutes the entire agreement between Property Owner and Utility. No additions, alterations, or variations of terms of this Agreement shall be valid, nor can provisions of this Agreement be waived by either party, unless such additions, alterations, variations or waiver are expressed in writing and duly signed by the parties hereto. This Agreement shall be governed by the laws of the State of Florida and shall become effective upon execution by the parties hereto. The venue for actions arising out of this Agreement is in Palm Beach County, Florida.
15. Additional Conditions:

POTABLE WATER AND WASTEWATER

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

WITNESSES:

PALM BEACH COUNTY

Nancy M May
Signature
NANCY M. MAY

By: [Signature]
County Administrator or Designee

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

Typed or Printed Name

WITNESSES:

PROPERTY OWNER:

Bobbi Jo Franklin
Signature
Bobbi Jo Franklin

By: [Signature]
Signature
ROBERT NEEDLE

Typed or Printed Name
Shelle Chet
Signature
SHELLE CHET

Typed or Printed Name
member
Title

Typed or Printed Name

{ Corporate Seal }

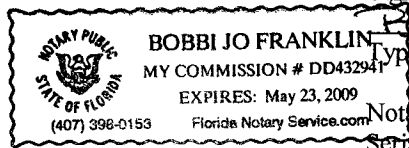
NOTARY CERTIFICATE

STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 8th day of February, 2008 by Robert Needle. He/she is personally known to me or has produced personally known as identification.

My Commission Expires: 5/23/09

Bobbi Jo Franklin
Signature of Notary



Bobbi Jo Franklin
Typed, Printed, or Stamped Name of Notary

Notary Public
Serial Number DD432941

WATER UTILITIES DEPARTMENT APPROVAL

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

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]
County Attorney

POTABLE WATER AND WASTEWATER

**EXHIBIT "A"
LEGAL DESCRIPTION**

PARCEL 1:

The West 112.06 feet of Tract 16, Block 1, PALM BEACH FARMS COMPANY PLAT NO. 9, as same is recorded in Plat Book 5, Page 58, of the Public Records of Palm Beach County, Florida; LESS AND EXCEPTING THEREFROM the South 590 feet thereof. TOGETHER WITH an easement for ingress-egress purposes over the North 30 feet of the South 620 feet of Tract 16, Block 1, PALM BEACH FARMS COMPANY PLAT NO. 9, as same is recorded in Plat Book 5, Page 58, of the Public Records of Palm Beach County, Florida, less and excepting therefrom the West 112.06 feet thereof.

PARCEL 2:

The Easterly 40 feet of the West 152.06 feet of Tract 16, Block 1, PALM BEACH FARMS COMPANY PLAT NO. 9, as same is recorded in Plat Book 5, Page 58, of the Public Records of Palm Beach County, Florida; LESS AND EXCEPTING THEREFROM the South 590 feet thereof. TOGETHER WITH an easement for ingress-egress purposes over the North 30 feet of the South 620 feet of Tract 16, Block 1, PALM BEACH FARMS COMPANY PLAT NO. 9, as same is recorded in Plat Book 5, Page 58, of the Public Records of Palm Beach County, Florida, less and excepting therefrom the West 152.06 feet thereof.

PARCEL 3:

The East 45.00 feet of the West 197.06 feet of Tract 16, Block 1, PALM BEACH FARMS COMPANY PLAT NO. 9, as same is recorded in Plat Book 5, Page 58, of the Public Records of Palm Beach County, Florida; LESS AND EXCEPTING THEREFROM the South 590 feet thereof. TOGETHER WITH an easement for ingress-egress purposes over the North 30 feet of the South 620 feet of Tract 16, Block 1, PALM BEACH FARMS COMPANY PLAT NO. 9, as same is recorded in Plat Book 5, Page 58, of the Public Records of Palm Beach County, Florida, less and excepting therefrom the West 197.06 feet thereof.

Parcel Identification Number: 00-42-43-28-16-001-0000

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

OK
02/12/08 (A)



POTABLE WATER AND WASTEWATER

CFN 20080104070
OR BK 22516 PG 1155
RECORDED 03/20/2008 09:23:22
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 1155 - 1167; (13pgs)

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

SDA # 01-01207-000

STANDARD POTABLE WATER AND WASTEWATER DEVELOPMENT AGREEMENT
(SDA)

THIS AGREEMENT made and entered into this 14th day of MARCH, 2008, by and between PALM BEACH COUNTY, a subdivision of the State of Florida, hereinafter referred to as "Utility", and TIDAL WAVE MANAGEMENT CORPORATION and TIDAL WAVE DEVELOPMENT 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

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POTABLE WATER AND WASTEWATER

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

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

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

POTABLE WATER AND WASTEWATER

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

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

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

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

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

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

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

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

Potable Water:	\$140.76 per ERC x	<u>11.60</u>	ERCs =	<u>\$1,632.82</u>
Wastewater:	\$197.52 per ERC x	<u>11.60</u>	ERCs =	<u>\$2,291.23</u>
			Franchise Fee	<u>\$0.00</u>
			TOTAL	<u><u>\$3,924.05</u></u>

Upon receipt of the MAP, Utility agrees to reserve **11.60** ERCs of Potable Water and Wastewater system capacity for Property Owner until **March 31, 2013**, 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:

**5915 Ponce DeLeon Blvd., Suite 60
Coral Gables, FL 33146-5800**

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: Burt Beards
County Administrator or Designee

WITNESSES:

Michael Marzano
Signature
Michael Marzano
Typed or Printed Name

Sandra Colon
Signature
SANDRA COLON
Typed or Printed Name

PROPERTY OWNER:

By: Jack Casagrande
Signature
Jack Casagrande
Typed or Printed Name

Title Tidal Wave Management Corp
Tidal Wave Development Corp
{ Corporate Seal }

NOTARY CERTIFICATE

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 12 day of FEB, 2008 by Jack Casagrande ~~He~~ she is personally known to me or has produced _____ as identification.

My Commission Expires: _____

Dana Vogel
Signature of Notary
Dana Vogel
Typed, Printed, or Stamped Name of Notary



Notary Public Serial Number DD527008

WATER UTILITIES DEPARTMENT APPROVAL

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

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: Marion Joy
County Attorney

POTABLE WATER AND WASTEWATER

EXHIBIT "A" LEGAL DESCRIPTION

Parcel 1 (139):

The East 216 feet of the West 328 feet of the North 450 feet of Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida.

Parcel 2 (132):

The North 450 feet of the East 332 feet of Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, together with: The East 21 feet of the South 210 feet of said Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida. LESS and EXCEPT the property contained in Warranty Deed recorded in O.R. Book 15233, Page 1563, Public Records of Palm Beach County, Florida.

Parcel 3 (142):

The North 360 feet of the West Quarter of Tract 54, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida, subject to and together with a 35 foot ingress and egress easement described as follows: The East 35 feet of the South 300 feet of the West Quarter of Tract 54, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida.

Parcel 4 (144):

The East one-half (E 1/2) of the West one-half (W 1/2) of Tract 54, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida. LESS and EXCEPT the property contained in Warranty Deed recorded in O.R. Book 15233, Page 1563, Public Records of Palm Beach County, Florida.

Parcel 5 (143):

The North 263 feet of the South 395.94 feet of the East one-half of Tract 54, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida. LESS and EXCEPT the property contained in Warranty Deed recorded in O.R. Book 11469, Page 33, Public Records of Palm Beach County, Florida.

Parcel 6 (1431):

The South 131.98 feet of the South 395.94 feet of the East one-half of Tract 54, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida. LESS and EXCEPT the property contained in Warranty Deeds recorded in O.R. Book 7639, Page 1367 and O.R. Book 9971, Page 555, Public Records of Palm Beach County, Florida.

POTABLE WATER AND WASTEWATER

Parcel 7 (145):

The South 300 feet of the West Quarter of Tract 54, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida. LESS and EXCEPT the property contained in Warranty Deed recorded in O.R. Book 15233, Page 1563, Public Records of Palm Beach County, Florida.

Parcel 8 (207):

The East 332 feet of Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Page 45, Public Records of Palm Beach County, Florida. LESS the West 103 feet of the South 210 feet; also LESS the East 21 feet of the South 210 feet; and also LESS the North 450 feet thereof. also LESS and EXCEPT the property contained in Warranty Deed recorded in O.R. Book 15233, Page 1563, Public Records of Palm Beach County, Florida.

Parcel 9 (133):

The South 210 feet of Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida. LESS and EXCEPT the West 119 feet thereof and LESS and EXCEPT the East 437 feet thereof, also LESS and EXCEPT the property contained in Warranty Deed recorded in O.R. Book 15233, page 1563, Public Records of Palm Beach County, Florida.

Parcel 10 (136):

The West 104 feet of the South 210 feet of Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida. LESS and EXCEPT the property contained in the Warranty Deed recorded in O.R. Book 15233, Page 1563, Public Records of Palm Beach County, Florida.

Parcel 11 (138):

The South 65 feet of the North 450 feet of the West 112 feet of Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida.

Parcel 12 (179):

A parcel of land located and situate in Section 34, Township 43 South, Range 42 East, Palm Beach County, Florida, more particularly described as follows:

Beginning at the Northeast corner of Tract 69, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the plat thereof, recorded in Plat Book 2, Page 45, Public Records of Palm Beach County, Florida, go South $00^{\circ} 37' 01''$ East along the Eastern boundary of said Tract 69, a distance of 660 feet to the Southeast corner of said Tract 69; thence continue South $00^{\circ} 37' 01''$ East along the Eastern boundary of Tract 72, of said Plat of The Palm Beach Farms Co. Plat No. 3, to the intersection of the Eastern boundary of said Tract 72 with the Northern Right-of-Way line of State Road 80 as established and laid out in Road Plat Book 2 Pages 11 through 18, inclusive; thence go North $88^{\circ} 06' 55''$ West, along the Northern Right-of-Way line of State Road 80, a distance of 230.22 feet to a point; thence go North $00^{\circ} 37' 01''$ West a distance of 310.06 feet, more or less; thence go South $89^{\circ} 22' 59''$ West, a distance of 100.13 feet to a point on the West line of the East one-half of Tract 69; thence go North $00^{\circ} 35' 57''$ West along the West line of the East one-half of Tract 69, a distance of 410.00 feet to a point on the North boundary line

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of said Tract 69; thence go North 89° 22' 59" East a distance of 330 feet to the POINT OF BEGINNING.

LESS and EXCEPTING that portion thereof for additional Right-of-Way for State Road 80 per the Order of Taking recorded in O.R. Book 13725, Page 1614, Public Records of Palm Beach County, Florida.

Parcel 13 (111):

Tracts 47 and 48, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida. LESS and EXCEPT the North 36.00 feet thereof as Right-of-Way for the Lake Worth Drainage District L-4 Canal. Also LESS and EXCEPT the property contained in the Right-of-Way Warranty Deed recorded in O.R. Book 7125, Page 1582, Public Records of Palm Beach County, Florida.

Parcel 14 (134):

The South 210 feet of Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida, LESS the West 223 feet thereof and LESS the East 333 feet thereof, more particularly described as follows:

Beginning at the Southeast corner of said Tract 53; thence run West along the South line of said Tract 53, 333 feet to a POINT OF BEGINNING; thence North a distance of 210 feet; thence West a distance of 104 feet; thence South a distance of 210 feet; thence East a distance of 104 feet to the POINT OF BEGINNING.

Parcel 15 (135):

The South 210 feet of Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida, LESS the West 327 feet thereof and LESS the East 229 feet thereof, more particularly described as follows:

Beginning at the Southeast corner of said Tract 53; thence run West along the South line of said Tract 53, 229 feet to a POINT OF BEGINNING; thence North a distance of 210 feet; thence West a distance of 104 feet; thence South a distance of 210 feet; thence East a distance of 104 feet to the POINT OF BEGINNING.

Parcel 16 (182):

The South 250 feet of the West 100 feet of the East 1/2 of Tract 69, Block 5, The Palm Beach Farms Co. Plat No. 3 and a parcel in Tract 72, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida, the POINT OF BEGINNING, being 330 feet East of the Northwest corner of said Tract; thence run East 100 feet along North line of said Tract; thence South parallel to the West boundary line of said Tract a distance of 60 feet, more or less to the North boundary of State Road 80 Right-of-Way; thence Westerly 100 feet along the North line of said road; thence North parallel to the West boundary line of said Tract a distance of 55 feet more or less to the POINT OF BEGINNING. LESS and EXCEPTING that certain parcel described in that Order of Taking recorded in O.R. Book 13789, Page 1847, Public Records of Palm Beach County, Florida.

Parcel 17 (1321):

The East 15 feet of the West 119 feet of the South 210 feet of Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida, LESS

POTABLE WATER AND WASTEWATER

and EXCEPTING the property contained in Warranty Deed recorded in O.R. Book 15233, Page 1563, Public Records of Palm Beach County, Florida.

Parcel 18 (140):

The North 264 feet of the East one-half of Tract 54, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, LESS the Easterly 25 feet thereof, being those portions conveyed to Palm Beach County in Right-of-Way Warranty Deeds recorded in O.R. Book 7639, Page 1694 and O.R. Book 9320, Page 1796, Public Records of Palm Beach County, Florida.

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OK
03/05/08
A

CONSENT OF MORTGAGEE/LIENHOLDER

Wachovia Bank, NA, a(n) Corporation, existing under the laws of the State of North Carolina and authorized to do business in the State of Florida, hereby certifies that it is the mortgagee/lienholder under a mortgage from Tidal Wave Development Corp, a(n) _____, dated 8/22/2003, filed 10/21/2003 and recorded in Official Record Book 16058, Page, 215, 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 TIDAL WAVE MANAGEMENT CORPORATION and TIDAL WAVE DEVELOPMENT CORPORATION, for the provision of potable water, wastewater, and/or reclaimed water service to the property as described as Parcel 18 in Exhibit "A" to the Agreement and further consents to the granting of utility easements to Palm Beach County as provided for in the aforesaid agreement with Palm Beach County.

Wachovia Bank, N.A., 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 26 day of February, 2008.

WITNESSES:

Signature: [Signature]
Typed or Printed Name: Michelle Basile

Signature: [Signature]
Typed or Printed Name: Jason Dahigga

Wachovia Bank, N.A.
a(n) Corporation
authorized to do business in the State of Florida.

By: [Signature]
Title VICE PRESIDENT

John P. Carroll
Typed or Printed Name

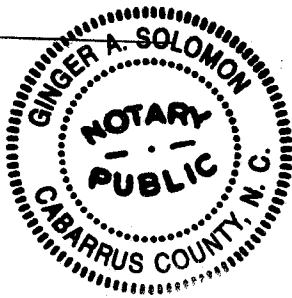
NOTARY CERTIFICATE

STATE OF North Carolina
COUNTY OF Cabarrus

The foregoing instrument was acknowledged before me this 26 day of February, 2008, by John P. Carroll. He/she is personally known to me or has produced _____ as identification.

My Commission Expires: AUG. 23, 2010
Serial Number: N/A

Ginger A. Solomon
Signature of Notary
Typed, Printed, or Stamped Name



CONSENT AND JOINDER OF MORTGAGEE/LIENHOLDER

FIRST SOUTHERN BANK, a(n) Florida banking corp., 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 TIDAL WAVE MANAGEMENT CORPOR., a(n) Florida corp., dated Nov. 9, 2005, filed Nov. 18, 2005, and recorded in Official Record Book 19551, Page, 1403, 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 **TIDAL WAVE MANAGEMENT CORPORATION and TIDAL WAVE DEVELOPMENT 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.

FIRST SOUTHERN BANK, as mortgagee aforesaid, consents to the recording by PALM BEACH COUNTY 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 20th day of February, 2008.

WITNESSES:

Terri Russo
Signature

Terri Russo
Typed or Printed Name

Gloria Palacio
Signature

GLORIA PALACIO
Typed or Printed Name

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

By: Donald B. Putnam

Title: Senior Vice President
and Chief Lending Officer
DONALD B. PUTNAM
Typed or Printed Name

NOTARY CERTIFICATE

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 20TH day of FEBRUARY, 2008 by DONALD B. PUTNAM. He/she is personally known to me or has produced _____ as identification.

My Commission Expires: March 6, 2009

DD402791
Serial Number

Jennifer L. Seely
Signature of Notary

Jennifer L. Seely
Typed, Printed, or Stamped Name



JENNIFER L. SEELY
MY COMMISSION # DD 402791
EXPIRES: March 6, 2009
Bonded Thru Budget Notary Services



POTABLE WATER AND WASTEWATER

CFN 20080069209
OR BK 22463 PG 0593
RECORDED 02/26/2008 10:12:35
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 0593 - 602; (10pgs)

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

SDA # 02-01119-000

STANDARD POTABLE WATER AND WASTEWATER DEVELOPMENT AGREEMENT
(SDA)

THIS AGREEMENT made and entered into this 19th day of FEBRUARY, 2008, by and between PALM BEACH COUNTY, a subdivision of the State of Florida, hereinafter referred to as "Utility", and LANTANA PLAZA DEVELOPMENT, LLC and EMM ENTERPRISES TWO, LLC, hereinafter referred to as "Property Owner."

WITNESSETH

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

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

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

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

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

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

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

POTABLE WATER AND WASTEWATER

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

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

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

POTABLE WATER AND WASTEWATER

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

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

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

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

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

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

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

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

Potable Water:	\$140.76 per ERC x	<u>11.15</u>	ERCs =	<u>\$1,569.47</u>
Wastewater:	\$197.52 per ERC x	<u>11.15</u>	ERCs =	<u>\$2,202.35</u>
			Franchise Fee	<u>\$0.00</u>
			TOTAL	<u><u>\$3,771.82</u></u>

Upon receipt of the MAP, Utility agrees to reserve 11.15 ERCs of Potable Water and Wastewater system capacity for Property Owner until **February 28, 2013**, 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:

**20533 Biscayne Blvd., Suite 135
Aventura, FL 33180**

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 33416-0097.

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:

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

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

PALM BEACH COUNTY

By: [Signature]
County Administrator or Designee

WITNESSES:

Signature [Signature]
Typed or Printed Name Lauren Whitmore

Signature [Signature]
Typed or Printed Name Moises Corchidi

PROPERTY OWNER:

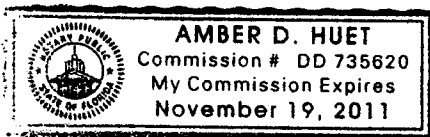
By: [Signature]
Signature Michael Levin
Typed or Printed Name Manager
Title Lantana Plaza Development, LLC
{Corporate Seal}

NOTARY CERTIFICATE

STATE OF Florida
COUNTY OF Dade

The foregoing instrument was acknowledged before me this 14 day of January, 2008 by Michael Levin. He/she is personally known to me or has produced as identification.

My Commission Expires: 11/19/2011



Signature of Notary Amber Huet
Typed, Printed, or Stamped Name of Notary Amber D Huet

Notary Public Serial Number DD 735620

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

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

WITNESSES:

PALM BEACH COUNTY

Signature Nancy M. May
NANCY M. MAY

By: [Signature]
County Administrator or Designee

Typed or Printed Name

Signature Anna M. Daniels
ANNA M. DANIELS

Typed or Printed Name

WITNESSES:

PROPERTY OWNER:

Signature [Signature]
Lauren N. Whitmore

By: [Signature]
Signature

Typed or Printed Name

Ben-David
Printed Name
Ident/Manager

Signature [Signature]
Erik Levin

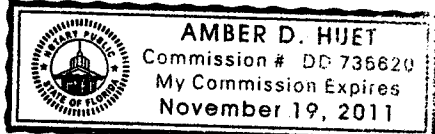
EM Enterprise Two, LLC
{Corporate Seal}

NOTARY CERTIFICATE
STATE OF Florida
COUNTY OF Dade

The foregoing instrument was acknowledged before me this 19 day of January 2008 by Ben-David. He/she is personally known to me or has produced as identification.

My Commission Expires: 11/19/2011

Signature of Notary [Signature]
Amber D. Huett



Typed, Printed, or Stamped Name of Notary
Notary Public
Serial Number DD 736620 (AP)

WATER UTILITIES DEPARTMENT APPROVAL

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

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]
County Attorney

POTABLE WATER AND WASTEWATER

**EXHIBIT "A"
LEGAL DESCRIPTION**

A PORTION OF TRACTS 14 AND 15, OF THE SOUTHWEST ONE-QUARTER, PLAT OF SECTION 36, TOWNSHIP 44 SOUTH, RANGE 42 EAST, AS RECORDED IN PLAT BOOK 3, PAGE 10 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, LYING IN, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 36, TOWNSHIP 44 SOUTH, RANGE 42 EAST; THENCE N.02°08'51"E. ALONG THE WEST LINE THEREOF, A DISTANCE OF 111.96 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N.02°08'51"E. ALONG THE EAST LINE OF SAID SECTION 36, SAID LINE BEING THE WEST LINE OF SAID TRACTS 14 AND 15, A DISTANCE OF 784.66 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE, CONCAVE TO THE EAST, OF WHICH THE RADIUS POINT LIES S.86°34'45"E., A RADIAL DISTANCE OF 18,154.93 FEET; THENCE NORTHERLY ALONG THE ARC OF THE WEST RIGHT-OF-WAY LINE OF HAVERHILL ROAD, AS RECORDED IN OFFICIAL RECORD BOOK 12022, PAGES 197 THROUGH 218 OF SAID PUBLIC RECORDS, THROUGH A CENTRAL ANGLE OF 01°14'51", A DISTANCE OF 398.09 FEET; THENCE N.04°40'06"E. ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 41.51 FEET; THENCE N.48°16'56"E. ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 34.49 FEET; THENCE S.88°06'15"E., A DISTANCE OF 296.29 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF LANTANA PALMS, P.U.D., AS RECORDED IN PLAT BOOK 77, PAGES 91 AND 92 OF SAID PUBLIC RECORDS; THENCE S.02°08'44"W. ALONG SAID WEST LINE, A DISTANCE OF 1,284.61 FEET TO A POINT OF INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF LANTANA ROAD, AS RECORDED IN OFFICIAL RECORD BOOK 14139, PAGES 1806 THROUGH 1808 OF SAID PUBLIC RECORDS; THENCE N.76°02'53"W. ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 7.28 FEET; THENCE N.88°30'01"W. ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 289.48 FEET; THENCE N.43°10'35"W. ALONG THE EAST RIGHT-OF-WAY LINE OF HAVERHILL ROAD, AS RECORDED IN OFFICIAL RECORD BOOK 12022, PAGES 197 THROUGH 218 OF SAID PUBLIC RECORDS, A DISTANCE OF 56.89 FEET TO THE POINT OF BEGINNING.

CONTAINING 427,861 SQUARE FEET OR 9.822 ACRES, MORE OR LESS.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

OK
02/05/08 G

CONSENT AND JOINDER OF MORTGAGEE/LIENHOLDER

Bank of Florida-Southeast, a(n) Florida Banking Corp, 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 Lantana Plaza and EMM Entrp Two, a(n) Florida LLC, dated Oct 17, 2005, filed 10/31/2005, and recorded in Official Record Book 19457, Page 0881, as modified by Mortgage Modification Agreement dated February 17, 2007; filed 04/03/2007 and recorded in Official Record Book 21581, Page 1762, 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 LANTANA PLAZA DEVELOPMENT, LLC and EMM ENTERPRISES TWO, LLC, 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.

Bank of Florida-Southeast, 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 15th day of JANUARY, 2008.

WITNESSES:

[Signature]
Signature
INGRID BRENER
Typed or Printed Name

[Signature]
Signature
MERELYN MANDEL
Typed or Printed Name

BANK OF FLORIDA - SE
a(n) FLORIDA BANKING CORP
authorized to do business in the
State of Florida.

By: [Signature]
Title SVP
JOHN MESSING
Typed or Printed Name

NOTARY CERTIFICATE

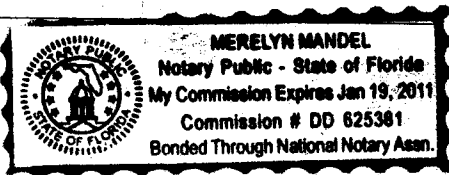
STATE OF Florida
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 15th day of January, 2008 by JOHN MESSING. He/she is personally known to me or has produced _____ as identification.

My Commission Expires: _____

[Signature]
Signature of Notary

Serial Number



Typed, Printed, or Stamped Name

POTABLE WATER AND WASTEWATER

CFN 20080069210
OR BK 22463 PG 0603
RECORDED 02/26/2008 10:12:35
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 0603 - 612; (10pgs)

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

SDA # 02-01120-000

STANDARD POTABLE WATER AND WASTEWATER DEVELOPMENT AGREEMENT
(SDA)

THIS AGREEMENT made and entered into this 19th day of FEBRUARY, 2008, by and between **PALM BEACH COUNTY**, a subdivision of the State of Florida, hereinafter referred to as "Utility", and **ATLANTIS RESERVE, LLLP, A Florida limited liability limited partnership**, hereinafter referred to as "Property Owner."

WITNESSETH

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

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

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

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

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

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

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

POTABLE WATER AND WASTEWATER

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

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

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

POTABLE WATER AND WASTEWATER

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

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

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

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

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

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

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

Potable Water:	\$140.76	per ERC	x	16.25	ERCs =	\$2,287.35
Wastewater:	\$197.52	per ERC	x	16.25	ERCs =	\$3,209.70
				Franchise Fee		\$0.00
				TOTAL		\$5,497.05

Upon receipt of the MAP, Utility agrees to reserve **16.25** ERCs of Potable Water and Wastewater system capacity for Property Owner until **February 28, 2013**, 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:

**C/o Chris O'Conner
4426 Hunting Trail
Lake Worth, FL 33467;**

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:

Anna M Daniels
Signature **ANNA M. DANIELS**

Typed or Printed Name

Nancy M May
Signature **NANCY M. MAY**

Typed or Printed Name

PALM BEACH COUNTY

By: [Signature]
County Administrator or Designee

WITNESSES:

Esmeralda Romero
Signature **ESMERALDA ROMERO**

Typed or Printed Name

[Signature]
Signature **Mark J Lynn**

Typed or Printed Name

Atlantis Reserve, LLLP
By: **Chris O'Connor, LLC, Managing General**
PROPERTY OWNER: Partner

By: Chris O'Connor
Signature
Chris O'Connor
Typed or Printed Name
Managing Partner
Title

{Corporate Seal}

NOTARY CERTIFICATE

STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 28 day of December, 2007
by Chris O'Connor. He/she is personally known to me or has produced
as identification.

My Commission Expires: _____

[Signature]
Signature of Notary



Typed, Printed, or Stamped Name of Notary

Notary Public
Serial Number _____

WATER UTILITIES DEPARTMENT APPROVAL

By: Selma M Vest
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

PARCEL 1:

From the Southeast corner of the Southwest quarter of Section 36, Township 44 South, Range 42 East, run North along the East line of said quarter section a distance of 1573.33 feet; thence run Westerly at an angle of 89 Degrees 50'17" from the last preceding course, measured from North to West, a distance of 50.00 feet to a **POINT OF BEGINNING**.

From the **POINT OF BEGINNING** run Westerly on a prolongation of the last preceding course a distance of 212.50 feet; thence Northerly on a line parallel to the East line of said quarter section a distance of 190.470 feet; thence Easterly on a line which forms an angle of 90 Degrees 13'18" with the East line of said quarter section measured from West to South, a distance of 212.50 feet; thence Southerly on a line parallel to the East line of said quarter section a distance of 190.250 feet to the **POINT OF BEGINNING**. **LESS** the East 3.00 feet of said Tract and Less and Except the following described land known as Parcel 221 contained in instruments recorded in Official Record Book 6048, Page 1155 and Official Record Book 6981, Page 1785:

A portion of the Southwest one-quarter (SW ¼) of Section 36, Township 44 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

COMMENCE at the South one-quarter (S ¼) of said Section 36; thence North 1 Degree 47'03" East, along the North-South one-quarter (N-S ¼) Section line of said 36, a distance of 1573.66 feet; thence North 88 Degrees 12'57" West as measured at right angles to said North-South one-quarter (N-S ¼) line of Section 36, a distance of 53.00 feet to a point on the existing Westerly right-of-way line of Military Trail, as recorded in Official Record Book 3735, Page 701, said point also being the **POINT OF BEGINNING**; thence North 88 Degrees 02'55" West, a distance of 14.00 feet; thence North 1 Degree 47'03" East, parallel with and 14.00 feet West of said existing Westerly right-of-way line of Military Trail, a distance of 190.34 feet; thence South 87 Degrees 59' 23" East, a distance of 14.00 feet, to a point on said existing Westerly right-of-way of Military Trail; thence South 1 Degree 47'03" West, along said existing Westerly right-of-way line of Military Trail, a distance of 190.32 feet to the **POINT OF BEGINNING**.

PARCEL 2:

Lot 3, **PINE RIDGE ESTATES**, an unrecorded subdivision, more particularly described as follows:

The East 106.0 feet of the following described parcel:

From the Southeast corner of the Southwest quarter of Section 36, Township 44 South, Range 42 East, run North along the East line of said quarter section a distance of 1573.22 feet; thence run Westerly at an angle of 90 Degrees 09'43" measured from South to West a distance of 50.00 feet to a point; thence running Westerly on a prolongation of the last preceding course, a distance of 530.50 feet to a **POINT OF BEGINNING** of the lands herein described thence Northerly on a line parallel to the East line of said quarter section, a distance of 190.80 feet; thence Easterly on a line which forms an angle of 89 Degrees 46'42" measured from South to East, a distance of 318 feet; thence Southerly on a line parallel to the East line of said quarter section, a distance of 190.47 feet; thence West on a line parallel to the next to the last course, a distance of 318 feet to the **POINT OF BEGINNING**, **LESS** the West 106 feet thereof.

POTABLE WATER AND WASTEWATER

Degrees 13'18" from South to west a distance of 50 feet to the **POINT OF BEGINNING**; thence continue West on the last course a distance of 1292.71 feet to a point in the center of Military Trail; thence West on a angle of 90 Degrees 13'18" from

South to West a distance of 50 feet to the **POINT OF BEGINNING**; thence continue West on the last course a distance of 1292.71 feet to a point; thence South on an angle of 89 Degrees 37'15" from East to South a distance of 30 feet to a point; thence East on an angle of 90 Degrees 02'45" from North to East a distance of 1292.79 feet to a point; thence North on an angle 89 Degrees 46'42" from North a distance of 30 feet to the **POINT OF BEGINNING**.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

OIC
12/31/07 G

CONSENT AND JOINDER OF MORTGAGEE/LIENHOLDER

Florida Capital Bank, NA (n) Banking Institution, 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 ~~Florida Capital Bank~~ ^{ATLANTIS RESERVE}, a(n) Florida limited liability partnership, dated 8/23/07, filed 9/6/07, and recorded in Official Record Book 25886, Page 777, 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 ATLANTIS RESERVE, LLLP, 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.

Florida Capital 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 28th day of December, 2007.

WITNESSES:

[Signature]
Signature
Francine Fredricks
Typed or Printed Name

[Signature]
Signature
[Signature]
Typed or Printed Name

Florida Capital Bank
a(n) _____
authorized to do business in the State of Florida.

By: [Signature]
Title President & CEO
BART S. BISHOP
Typed or Printed Name

NOTARY CERTIFICATE

STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 28 day of December, 2007 by Bart Bishop. He/she is personally known to me or has produced _____ as identification.

My Commission Expires: _____

Serial Number _____

[Signature]
Signature of Notary

Christopher D. Kennedy
Typed, Printed, or Stamped Name

NOTARY PUBLIC-STATE OF FLORIDA
Christopher D. Kennedy
Commission # DD366800
Expires: OCT. 28, 2008
Bonded Thru Atlantic Bonding Co., Inc.



POTABLE WATER AND WASTEWATER

CFN 20080069207
OR BK 22463 PG 0576
RECORDED 02/26/2008 10:12:35
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 0576 - 584; (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 19th day of FEBRUARY, 2008, by and between PALM BEACH COUNTY, a subdivision of the State of Florida, hereinafter referred to as "Utility", and GKK-HAGEN, LTD., a Florida limited partnership, hereinafter referred to as "Property Owner."

WITNESSETH

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

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

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

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

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

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

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

SDA # 05-01090-000
Conversion from UCRA
dated 2/28/07

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	19.25	ERCs =	\$2,709.63
Wastewater:	\$197.52 per ERC x	19.25	ERCs =	\$3,802.26
	Less previous MAP payment from UCRA			(\$3,924.05)
		TOTAL		\$2,587.84

Upon receipt of the MAP, Utility agrees to reserve 19.25 ERCs of Potable Water and Wastewater system capacity for Property Owner until **February 28, 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 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:

**2901 Rigsby Lane
Safety Harbor, FL 34695-1026;**

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

13. The rights, privileges, obligations, and covenants of Property Owner and Utility shall survive the completion of the work of Property Owner with respect to completing the potable water and wastewater facilities and services to any phased area and to the Property as a whole.
14. Unless Property Owner is requesting additional capacity for the property described in **Exhibit "A"**, this Agreement shall supersede, null and void, all previous agreements or representations, either verbal or written, heretofore in effect between Property Owner and Utility, made with respect to the matter herein contained, and when duly executed, constitutes the entire agreement between Property Owner and Utility. No additions, alterations, or variations of terms of this Agreement shall be valid, nor can provisions of this Agreement be waived by either party, unless such additions, alterations, variations or waiver are expressed in writing and duly signed by the parties hereto. This Agreement shall be governed by the laws of the State of Florida and shall become effective upon execution by the parties hereto. The venue for actions arising out of this Agreement is in Palm Beach County, Florida.
15. Additional Conditions:

POTABLE WATER AND WASTEWATER

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

WITNESSES:

PALM BEACH COUNTY

Nancy M May
Signature
NANCY M. MAY

By: Bruce Bern
County Administrator or Designee

Typed or Printed Name

Anna M Daniels
Signature
ANNA M. DANIELS

Typed or Printed Name

WITNESSES:

PROPERTY OWNER:

Patti J. Davis
Signature
PATTI J. DAVIS

GKK-Hagen, Ltd., a Florida limited partnership
By: PDG V, Inc., a Florida corp., its General Partner
Signature

Typed or Printed Name

By: Spiro A. Comitos
Typed or Printed Name

Kathleen A. Brown
Signature

Spiro A. Comitos, Vice President
Title

Kathleen A. Brown
Typed or Printed Name

{ Corporate Seal }

NOTARY CERTIFICATE

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this 11th day of January, 2008 by Spiro A. Comitos **. He/she is personally known to me or has produced _____ as identification.

My Commission Expires: _____

Jennifer Hodges
Signature of Notary
JENNIFER HODGES

** Vice President of PDG V, Inc., a Florida corporation, the General Partner of GKK-Hagen, Ltd., a Florida limited partnership, on behalf of the corporation and the Partnership.

Typed, Printed, or Stamped Name of Notary

Notary Public

Serial Number _____

WATER UTILITIES DEPARTMENT APPROVAL

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



APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: Mark Toy
County Attorney

POTABLE WATER AND WASTEWATER

**EXHIBIT "A"
LEGAL DESCRIPTION**

Tract 105, Block 49, PALM BEACH FARMS COMPANY, PLAT NO. 3, according to the Plat thereof as recorded in Plat Book 2, Pages 45 through 54 of the Public Records of Palm Beach County, Florida, LESS the south 95 feet of said Tract for Boynton Beach Boulevard (State Road 804) as shown on the Florida Department of Transportation Right-of-Way Map, Section 97930-2317, last revised May 15, 2000 and LESS that easterly portion of said Tract 105 for Hagen Ranch Road as recorded in Official Records Book 8887, Page 266 and Official Records Book 8898, Page 220 of the Public Records of Palm Beach County, Florida.

Said lands situate in Palm Beach County, Florida and containing 161,194 square feet (3.70 acres) more or less.

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OK
01/14/08
G

CONSENT AND JOINDER OF MORTGAGEE/LIENHOLDER

Alabama banking doing business as AmSouth Bank to GKK-Hagen, Ltd. a Florida Limited Partnership

Regions Bank Alabama banking a(n) corporation, existing under the laws of the State of Alabama and authorized to do business in the State of Florida, hereby certifies that it is the mortgagee/lienholder under a mortgage from Regions Bank an corporation, dated Feb. 2, 2007 filed Feb. 6, 2007 and recorded in Official Record Book 21386, Page, 474, 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 GKK-HAGEN, LTD., a Florida limited partnership, 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.

Regions Bank, an Alabama banking corporation, as mortgagee aforesaid, consents to the recording by GKK-Hagen, Ltd. of 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 11th day of January, 2008.

WITNESSES: [Signature] Signature

LESLIE ANN MOORE Typed or Printed Name

[Signature] Signature LINDA MACKAY Typed or Printed Name

REGIONS BANK, an Alabama banking corporation a(n) authorized to do business in the State of Florida.

[Signature] Title Lynette Rumore Typed or Printed Name

NOTARY CERTIFICATE

STATE OF FLORIDA COUNTY OF Pinellas

The foregoing instrument was acknowledged before me this 11th day of January, 2008, by Lynette Rumore**. He/she is personally known to me or has produced as identification.

My Commission Expires:



Serial Number

[Signature] Signature of Notary

Linda Mackay Typed, Printed, or Stamped Name

** as VP of REGIONS BANK, an Alabama banking corporation, on behalf of the bank.



POTABLE WATER AND WASTEWATER

CFN 20080104069
OR BK 22516 PG 1146
RECORDED 03/20/2008 09:23:22
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 1146 - 1154; (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 # 05-01095-000

STANDARD POTABLE WATER AND WASTEWATER DEVELOPMENT AGREEMENT (SDA)

THIS AGREEMENT made and entered into this 3RD day of MARCH, 2008, by and between PALM BEACH COUNTY, a subdivision of the State of Florida, hereinafter referred to as "Utility", and KEREKES LAND TRUST NO. 9 U/A dated June 11, 1992, hereinafter referred to as "Property Owner."

WITNESSETH

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

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

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

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

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

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

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

POTABLE WATER AND WASTEWATER

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

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

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

POTABLE WATER AND WASTEWATER

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

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

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

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

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

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

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

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

Potable Water:	\$140.76 per ERC x	<u>104.45</u>	ERCs =	<u>\$14,702.38</u>
Wastewater:	\$197.52 per ERC x	<u>104.45</u>	ERCs =	<u>\$20,630.96</u>
			Franchise Fee	<u>\$0.00</u>
			TOTAL	<u><u>\$35,333.34</u></u>

Upon receipt of the MAP, Utility agrees to reserve **104.45** of Potable Water and Wastewater system capacity for Property Owner until **March 31, 2013**, 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:

**600 East Camino Real, Unit 109
Boca Raton, FL 33432;**

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:

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

Signature Tammy Tragas
Typed or Printed Name TAMMY TRAGAS

PALM BEACH COUNTY

By: Beryl Beames
County Administrator or Designee

WITNESSES:

Signature Samuel A Moore Jr
Typed or Printed Name Samuel A Moore Jr

Signature Ted W. Paroly
Typed or Printed Name Ted W. Paroly

PROPERTY OWNER:

By: Maurice O Rhinehardt
Signature Maurice O. Rhinehardt
Typed or Printed Name Maurice O. Rhinehardt

Title Trustee

{ Corporate Seal }

NOTARY CERTIFICATE

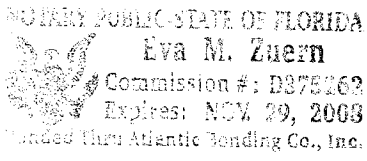
STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 15th day of February, 2008 by Maurice O. Rhinehardt. He/she is personally known to me or has produced as identification:

My Commission Expires: Nov 29, 2008

Signature of Notary Eva H. Zuern

Typed, Printed, or Stamped Name of Notary Eva H. Zuern



Notary Public Serial Number DD375262

WATER UTILITIES DEPARTMENT APPROVAL

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

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: Maura Fort
County Attorney

POTABLE WATER AND WASTEWATER

**EXHIBIT "A"
LEGAL DESCRIPTION**

PARCEL 1:

A PARCEL OF LAND SITUATED IN SECTION 22, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE AFORESAID SECTION 22; THENCE NORTH 00°41'06" WEST ALONG THE WEST LINE OF SAID SOUTHEAST ONE-QUARTER (SE 1/4) A DISTANCE OF 1331.34 FEET TO THE SOUTH LINE OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SOUTHEAST ONE-QUARTER (SE 1/4); THENCE NORTH 89°31'42" EAST ALONG SAID LINE, A DISTANCE OF 51.88 FEET TO THE EAST RIGHT-OF-WAY LINE OF JOG ROAD AS DESCRIBED IN OFFICIAL RECORDS BOOK 4224, PAGE 780, AND THE POINT OF BEGINNING; THENCE CONTINUE NORTH 89°31'42" EAST, A DISTANCE OF 615.46 FEET TO A POINT ON THE WEST LINE OF THE WEST ONE-HALF (W 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE SOUTHWEST ONE-QUARTER (1/4) OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SAID SECTION 22; THENCE SOUTH 00°30'38" EAST ALONG SAID LINE, A DISTANCE OF 1144.98 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF BOYNTON BEACH BOULEVARD (STATE ROAD 804) AS SHOWN IN COUNTY ROAD PLAT BOOK 2, PAGE 5, AND AS CONVEYED TO THE STATE OF FLORIDA IN OFFICIAL RECORDS BOOK 4251, PAGE 575 AND AS SHOWN ON FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION 97931-2347; THENCE NORTH 86°24'21" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 324.19 FEET; THENCE CONTINUE ALONG SAID NORTH RIGHT-OF-WAY LINE NORTH 88°18'58" WEST, A DISTANCE OF 270.97 FEET TO THE POINT OF BEGINNING OF A CURVE CONCAVE TO THE NORTH, HAVING A RADIUS OF 30.00 FEET AND A CENTRAL ANGLE OF 88°08'31"; THENCE NORTHWESTERLY AND NORTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 46.15 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF JOG ROAD; THENCE NORTH 00°10'27" WEST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 1081.68 FEET TO THE POINT OF BEGINNING. SAID LANDS LYING IN PALM BEACH COUNTY, FLORIDA.

CONTAINING 696,725 SQUARE FEET OR 15.995 ACRES, MORE OR LESS.

TOGETHER WITH: PARCEL 2:

A PARCEL OF LAND SITUATED IN SECTION 22, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE AFORESAID SECTION 22; THENCE NORTH 00°41'06" WEST ALONG THE WEST LINE OF SAID SOUTHEAST ONE-QUARTER (SE 1/4), A DISTANCE OF 1331.34 FEET TO THE SOUTH LINE OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SOUTHEAST ONE-QUARTER (SE 1/4); THENCE NORTH 89°31'42" EAST ALONG SAID LINE, A DISTANCE OF 51.88 FEET TO THE EAST RIGHT-OF-WAY LINE OF JOG ROAD, AS DESCRIBED IN OFFICIAL RECORDS BOOK 4224, PAGE 780; THENCE CONTINUE NORTH 89°31'42" EAST, A DISTANCE OF 615.46 FEET TO A POINT ON THE WEST LINE OF THE WEST ONE-HALF (W 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE SOUTHWEST ONE-QUARTER (SW 1/4) OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SAID SECTION 22 AND THE

POTABLE WATER AND WASTEWATER

POINT OF BEGINNING; THENCE CONTINUE NORTH 89°31'42" EAST, A DISTANCE OF 333.67 FEET TO A POINT ON THE EAST LINE OF THE WEST ONE-HALF (W 1/2) OF THE EAST ONE-HALF (E 1/2) OF THE SOUTHWEST ONE-QUARTER (SW 1/4) OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SAID SECTION 22; THENCE SOUTH 00°30'38" EAST ALONG SAID LINE, A DISTANCE OF 1168.61 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF BOYNTON BEACH BOULEVARD (STATE ROAD 804) AS SHOWN IN COUNTY ROAD PLAT BOOK 2, PAGE 5, AND AS CONVEYED TO THE STATE OF FLORIDA IN OFFICIAL RECORDS BOOK 4251, PAGE 575 AND AS SHOWN ON FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION 97931-2347; THENCE NORTH 86°24'01" WEST ALONG THE SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 333.36 FEET TO A POINT ON THE EAST LINE OF THE EAST ONE-HALF (E 1/2) OF THE SOUTHWEST ONE-QUARTER (SW 1/4) OF THE SOUTHWEST ONE-QUARTER (SW 1/4) OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SAID SECTION 22; THENCE NORTH 00°30'38" WEST ALONG SAID LINE, A DISTANCE OF 1144.98 FEET TO THE POINT OF BEGINNING, SAID LANDS LYING IN PALM BEACH COUNTY, FLORIDA.

CONTAINING 385,306 SQUARE FEET OR 8.845 ACRES, MORE OR LESS.

CONTAINING IN ALL 1,082,031 SQUARE FEET OR 24.840 ACRES, MORE OR LESS.

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OK
02/20/08 (A)



RECLAIMED WATER

CFN 20080069208
OR BK 22463 PG 0585
RECORDED 02/26/2008 10:12:35
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 0585 - 592; (8pgs)

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

STANDARD RECLAIMED WATER DEVELOPMENT AGREEMENT (SDA)

SDA # 05-90012-000
Conversion from UCRA
dated 2/28/07

THIS AGREEMENT made and entered into this 19th day of FEBRUARY, 2008, by and between PALM BEACH COUNTY, a subdivision of the State of Florida, hereinafter referred to as "Utility", and GKK-HAGEN, LTD., a Florida limited partnership, hereinafter referred to as "Property Owner."

WITNESSETH

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

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

WHEREAS, upon the conditions set forth herein, Utility will own the Facilities up to the Point of Service for operation and maintenance purposes; and

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

WHEREAS, Property Owner shall use only reclaimed water for irrigation purposes; and

WHEREAS, to encourage and facilitate conservation of water resources, the parties desires to enter into this Agreement.

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

1. The foregoing statements are true and correct.
2. The following definitions and references are given for the purpose of interpreting the terms as used in this Agreement and apply unless the context indicates a different meaning:
 - (a) "UPAP" - the Uniform Policies and Procedures Manual of the Palm Beach County Water Utilities Department as may be amended from time to time, which is incorporated herein by reference;
 - (b) "Service" - the readiness and ability on the part of Utility to furnish reclaimed water to the property;
 - (c) "Point of Service" - generally, the point where the pipes of Utility are connected with the pipes to be owned and operated by Property Owner as further defined in Chapter 1 of the UPAP;
 - (d) "Service Initiation" - the date a reclaimed water meter is requested;
 - (e) "Reclaimed Water" - water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a wastewater treatment facility;

RECLAIMED WATER

- (f) "Equivalent Residential Irrigation Connection (ERIC)" - a system capacity equivalency unit which corresponds to the peak reclaimed water demand of the $\frac{5}{8}$ " x $\frac{3}{4}$ " meter subcategory of the single family residential category of Customer usage. This system capacity equivalency unit is utilized to establish the reclaimed water system demand for various sized connections for the purpose of assessing fees and reserving capacity. For the purpose of this Agreement, one ERIC = 500 gallons/day;
 - (g) "Mandatory Agreement Payment (MAP)" - twelve months of Guaranteed Revenue Fees plus applicable Franchise Fees payable to Utility upon submission of an SDA or renewal agreement for each ERC (*or ERIC*) represented in the Agreement;
 - (h) "Guaranteed Revenue Fee" - the fee designated to recover the carrying costs of system capacity which has been or is being constructed in anticipation of future service requests. Carrying costs include fixed operating and renewal and replacement expenses necessary to maintain excess system capacity for future use. Guaranteed Revenue does not recover variable operating expenses;
 - (i) "Total Accrued Amount (TAA)" - At the time of Service Initiation for each ERIC, a TAA equal to sixty months Guaranteed Revenue Fees plus applicable Franchise Fees at the then current rate minus the MAP paid per each ERIC shall be due and payable for such ERIC. The TAA for each ERIC will be determined at the time of Service Initiation;
 - (j) "Standard Development Renewal Agreement (SDRA)" - an agreement between Utility and Property Owner extending the capacity reservation for unused ERCs/ERICs in a Standard Development Agreement for an additional five (5) years; and
 - (k) "Franchise Fee" - A percentage surcharge applied to all of Utility's fees for Customers within portions of Utility's Service Area with said fees collected by Utility and distributed to another governmental entity.
3. Property Owner hereby grants and gives to Utility the exclusive right and privilege to construct, own, maintain, operate and expand the reclaimed water facilities in, under, upon, over and across the present and future streets, roads, easements, reserved utility sites and public places as provided and dedicated to public use in the record plats, or as provided for in agreement, dedications or grants made otherwise and independent of said record plats. Utility covenants that it will use due diligence in ascertaining all easement locations; however, should Utility install any of its facilities outside a dedicated easement area, Property Owner covenants and agrees that Utility will not be required to move or relocate any facilities lying outside a dedicated easement area as long as the facilities do not interfere with the then or proposed use of the area in which the facilities have been installed. Property Owner shall obtain written approval from Utility prior to installing any structure or object, including, but not limited to, fences, gates, signs, trees or poles, within an easement area. In consideration of Utility's consent to an encroachment, Property Owner shall agree to indemnify and hold Utility harmless from and against all liabilities, damages, penalties, claims costs and expenses, including attorney's fees at all levels, which may be imposed upon or asserted against Utility as a result of or in any way connected to an encroachment approved by Utility. In the event Utility determines that it is necessary to construct, maintain, repair, remove, or replace any of its facilities located under, over or upon an easement, Property Owner shall immediately remove the encroachment from the easement upon the request of Utility at Property Owner's sole cost and expense. If Property Owner fails to remove the encroachment, Utility shall have the right to remove the encroachment from the easement. Property Owner shall pay all costs related to removing the encroachment from the easement incurred by Utility.

Property Owner hereby further agrees that the foregoing grants include the necessary rights of ingress and egress to any part of the Property which Utility requests for the maintenance, operation or expansion of the reclaimed water facilities; that in the event Utility is required or desires to install any of its reclaimed water facilities in lands within the Property lying outside the streets and easement areas described above, then Property Owner shall grant to Utility, without cost or expense to Utility, the necessary easement or easements for such installations; provided, all such installations by Utility shall be made in such a manner as not to interfere with the then primary use of such Property.

Property Owner, as further consideration of this Agreement, and in order to effectuate the foregoing grants to Utility, hereby places the following covenant, as a covenant running with the

RECLAIMED WATER

land, upon the Property and thereby subjecting it to a reservation, condition, limitation or restriction in favor of Utility, as follows:

Utility, or its successors, has the sole and exclusive right to provide all reclaimed water facilities and services to the Property described in **Exhibit "A"** and in addition to any property to which reclaimed water service is actually rendered by Utility. All occupants of any residential or non-residential improvement erected or located on the Property, and all subsequent or future owners or purchasers of the Property, or any portion thereof, shall exclusively receive their reclaimed water service from the aforesaid Utility, and shall pay for same and shall abide by the terms and intent of this Agreement and the UPAP for as long as the aforesaid Utility provides such services to the Property. Further, all occupants of any residential or non-residential improvement erected or located on the Property, and all subsequent or future owners or purchasers of the Property, or any portion thereof, agree by occupying any premises on the Property or by recording any deed of conveyance with respect to the Property, that they will not construct or otherwise make available or use reclaimed water service from any source other than that provided by Utility.

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

4. Upon the continued accomplishment of all the prerequisites contained in this Agreement to be performed by Property Owner, Utility covenants and agrees that it will allow the connection of the reclaimed water facilities installed by Property Owner to the reclaimed water facilities of Utility in accordance with the terms and intent of this Agreement. Such connection and reclaimed water usage shall be in accordance with rules and regulations of the Health Department, the Department of Environmental Protection and the UPAP.
5. Property Owner is required to pay Guaranteed Revenue Fees plus applicable Franchise Fees in order to support investment in plant facilities, as well as the fixed costs of maintaining such facilities and the unused capacity it represents. Therefore, Property Owner agrees to pay in accordance with the UPAP:
 - (a) a MAP per each ERIC for the requested capacity upon submission of this Agreement; and
 - (b) a TAA per each ERIC for the requested capacity upon Service Initiation.

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

The MAP required upon submission of this Reclaimed Water Agreement is:

Reclaimed Water:	\$0.00 per ERIC x	20.00 ERICs =	\$0.00
		Franchise Fee	\$0.00
		TOTAL	\$0.00

Upon receipt of the MAP, Utility agrees to reserve **20.00** ERICs of Reclaimed Water system capacity for Property Owner until **February 28, 2012**, which term may be extended in accordance with the UPAP, as may be amended from time to time, and upon payment of applicable fees. Property Owner acknowledges and agrees Utility shall not refund or reimburse the MAP upon expiration.

At the time of Service Initiation, the applicable ERICs will be deducted from said reservation. Upon approval of Utility, the total number of ERICs may be increased up to 10% of the original reservation or by ten (10) ERICs, whichever is greater, by an amendment to this Agreement. The MAP required for the amendment shall be paid at the rate applicable to the original Agreement. Any amendments to the SDA shall be binding upon both Utility and Property Owner and subject to all applicable rules and regulations of Utility. Any adjustment which is greater than that specified herein requires a new Agreement to be signed. Upon written notice to

RECLAIMED WATER

Utility, said ERICs may be adjusted downward however, no refund or credit will be given by Utility to Property Owner for said downward adjustment.

6. Property Owner shall cause to be prepared engineering plans and specifications prepared by and sealed by a professional engineer registered in the State of Florida showing the on-site and off-site reclaimed water systems for the Property. Utility will advise Property Owner's engineer of any sizing requirements as mandated by the UPAP. Such detailed plans may be limited to a phase of the Property, and subsequent phases may be furnished from time to time. However, each such phase shall conform to a master plan for the development of the Property and such master plan shall be submitted to Utility concurrent with or prior to submission of plans for the first phase. All such plans and specifications, including hard copy and electronic media, submitted to Utility's engineer shall be subject to the approval of Utility and shall conform to Utility's standards as set forth in the UPAP, and no construction shall commence until Utility has approved such plans and specifications in writing. After approval, Property Owner shall cause to be constructed, at Property Owner's expense, the reclaimed water system as shown on the plans and specifications. Fees, as set forth in the UPAP, shall be levied to cover the cost of the plan review and inspection. Property Owner shall be required to pay connection fees and installation fees as set forth in the UPAP for each connection.

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

Upon completion of said facilities, Utility hereby agrees to accept ownership of the reclaimed water facilities for operation and maintenance purposes. Property Owner also hereby covenants and agrees to design and/or modify his internal irrigation system, at his sole cost, to accept reclaimed water from Utility, and to design and operate said system within the guidelines for reclaimed water as outlined in the then current UPAP, the Palm Beach County Reclaimed Water Ordinance and State and Federal law.

Property Owner hereby agrees to transfer to Utility title to all reclaimed water distribution systems installed by Property Owner's contractor up to the point of service, pursuant to the provisions of this Agreement. Such conveyance is to take effect without further action upon the acceptance by Utility of said installation. As further evidence of said transfer of title, upon the completion of the installation and prior to the rendering of service by Utility, Property Owner shall convey to Utility in a form supplied by Utility the complete on-site and off-site reclaimed water distribution system as constructed by Property Owner and approved by Utility, along with the required Cost Documentation and Property Owner's No Lien Affidavit. Subsequent to construction of the facilities and prior to receiving a meter(s) from Utility, Property Owner shall convey to Utility all easements and/or rights-of-way covering areas in which reclaimed water lines are installed by a recordable document in a form supplied by Utility. All conveyance of easements or rights-of-way shall be accompanied by a paid title policy for the benefit of Utility in a minimum amount of \$50.00 per linear foot of any granted utility easement (based on the centerline of the easement). Said title policy shall confirm the Grantor's right to convey such easements or rights-of-way, and further, evidencing Utility's right to the continuous enjoyment of such easements or rights-of-way for those purposes set forth in this Agreement. The use of easements granted by Property Owner may be used by other utilities as long as such use is approved by Utility. Utility's acceptance of the reclaimed water system installed by Property Owner shall be in accordance with the provisions as set forth in the UPAP. All installations by Property Owner or its contractor shall be warranted for one year from date of Final DEP Certification. Mortgagees holding liens on such properties shall be required to release such liens, subordinate their position, or join in the granting of the easement or rights-of-way. All reclaimed water facilities shall be located within an easement if not located within platted or dedicated rights-of-way.

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

RECLAIMED WATER

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

7. Upon submission of this Agreement, Property Owner, at his expense, agrees to furnish Utility with a copy of the recorded Warranty Deed for the purpose of establishing ownership of the Property. Any mortgagee or lien holder having an interest in the Property shall be required to execute a Consent and Joinder of Mortgagee/Lienholder as supplied by Utility. Property Owner must submit either a title policy or a letter from an attorney licensed to do business in Florida confirming that there is no mortgage or lien on the Property. The title policy or letter must be issued within thirty (30) days of submittal of the SDA.
8. Property Owner agrees with Utility that all reclaimed water facilities conveyed to Utility to use in connection with providing reclaimed water service to the Property, shall at all times remain in the complete and exclusive ownership of Utility, and any entity owning any part of the Property or any residence or building constructed or located thereon, shall not have the right, title, claim or interest in and to such facilities, or any part of them, for any purpose. In addition, Utility shall have the exclusive right and privilege to provide reclaimed water service to the Property and to the occupants of each residence or building constructed thereon.
9. Notwithstanding any provision in this Agreement, Utility may establish, revise, modify, and enforce rules, regulations, and fees covering the provision of reclaimed water service to the Property. Such rules, regulations, and fees are subject to the approval of the Palm Beach County Board of County Commissioners. Such rules, regulations, and fees shall be reasonable and subject to regulation as may be provided by law or contract. Fees charged to Property Owner or Customers located upon the Property shall be identical to fees charged for the same classification of service in the particular service area. All rules, regulations and fees as set forth in the UPAP, shall be binding upon Property Owner, upon any other entity holding by, through or under Property Owner, and upon any Customer of the reclaimed water service provided to the Property by Utility. Said rules and regulations include, but are not limited to, Service Initiation, oversizing of facilities, use of previously oversized facilities or extension of facilities. Any fee or rate delinquent more than 120 days will automatically void this Standard Development Agreement.
10. Property Owner or his assignee shall not have the right to and shall not connect to the reclaimed water facilities of Utility until approval for such connection has been granted by Utility. The parties hereto further agree that the expense of construction, operation, and maintenance of all improvements beyond the Point of Service shall be the sole cost and expense of Property Owner or other than Utility. In addition, Property Owner or his Assignee agrees to comply with all rules and regulations of the UPAP, HRS, and DEP pertaining to the Reclaimed Water Irrigation Systems.
11. Property Owner acknowledges and agrees that the transfer or assignment of this Assignment upon the sale, conveyance, transfer or assignment of the Property, or any portion thereof, as described in Exhibit "A" of this Agreement by Property Owner shall only be performed in accordance with the provisions of UPAP. Property Owner further acknowledges and agrees that documenting the transfer or assignment of this Agreement in a form acceptable to Utility is the sole responsibility of Property Owner. Failure to provide documentation to Utility of an assignment or transfer within thirty (30) days after the sale, conveyance, transfer, or assignment of the Property, or any portion thereof, may result in the cancellation of the capacity reserved and/or loss of the Mandatory Agreement Payment identified herein.
12. All notices provided for herein shall be in writing and transmitted by mail or by courier, and, if to Property Owner shall be mailed or delivered to Property Owner at:

**2901 Rigsby Lane
Safety harbor, FL 34695-4828;**

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

RECLAIMED WATER

13. The rights, privileges, obligations, and covenants of Property Owner and Utility shall survive the completion of the work of Property Owner with respect to completing the reclaimed water facilities and services to any phased area and/or to the Property as a whole.
14. Unless Property Owner is requesting additional capacity for the property described in Exhibit "A", this Agreement shall supersede, null and void all previous agreements or representations either verbal or written heretofore in effect between Property Owner and Utility made with respect to the matter contained herein, and when duly executed, constitutes the entire agreement between Property Owner and Utility. No additions, alterations, or variations of terms of this Agreement shall be valid, nor can provisions of this Agreement be waived by either party, unless such additions, alterations, variations or waiver are expressed in writing and duly signed by the parties hereto. This Agreement shall be governed by the laws of the State of Florida and shall become effective upon execution by the parties hereto. The venue for actions arising out of this Agreement is in Palm Beach County, Florida.
15. Additional Conditions:

RECLAIMED WATER

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

WITNESSES:

PALM BEACH COUNTY

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

By: Bond Bunn
County Administrator or Designee

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

WITNESSES:

PROPERTY OWNER:

Michelle R Fair
Signature
MICHELLE R. FAIR
Typed or Printed Name

GKK-Hagen, Ltd., a Florida limited partnership
By: PDG V, Inc., a Florida corp.
Signature its General Partner

By: Spiro A Comitos
Typed or Printed Name
Spiro A. Comitos, VP
Title

Kathleen A Brown
Signature
Kathleen A. Brown
Typed or Printed Name

{ Corporate }
Seal

NOTARY CERTIFICATE

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this 21st day of January, 2008 by Spiro A. Comitos **. He/she is personally known to me or has produced _____ as identification.

My Commission Expires: _____

Jennifer Hodges
Signature of Notary
JENNIFER HODGES

Typed, Printed, or Stamped Name of Notary

** a Vice President of PDG V, Inc., a Florida corp., the General Partner of GKK-Hagen, Ltd., a Florida limited partnership, on behalf of the corporation and the partnership.

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: [Signature]
County Attorney

RECLAIMED WATER

**EXHIBIT "A"
LEGAL DESCRIPTION**

Tract 105, Block 49, PALM BEACH FARMS COMPANY, PLAT NO. 3, according to the Plat thereof as recorded in Plat Book 2, Pages 45 through 54 of the Public Records of Palm Beach County, Florida, LESS the south 95 feet of said Tract for Boynton Beach Boulevard (State Road 804) as shown on the Florida Department of Transportation Right-of-Way Map, Section 97930-2317, last revised May 15, 2000 and LESS that easterly portion of said Tract 105 for Hagen Ranch Road as recorded in Official Records Book 8887, Page 266 and Official Records Book 8898, Page 220 of the Public Records of Palm Beach County, Florida.

Said lands situate in Palm Beach County, Florida and containing 161,194 square feet (3.70 acres) more or less.

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OK
01/14/08 (7)

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

SDRA # 05-01052-R00

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

THIS AGREEMENT is made and entered into this 28th day of FEBRUARY, 2008 by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "Utility", and **RICHARD S. PRIBELL** hereinafter referred to as "Property Owner."

WITNESSETH:

WHEREAS, the parties entered in to a Potable Water & Wastewater Development Agreement on **February 20, 2003**, hereinafter referred to as "Agreement" (R2003-0572); and

WHEREAS, the Agreement was recorded in the Official Records of Palm Beach County, Florida, at Official Record Book **14889**, Page **579**; and

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

WHEREAS, the five (5) year term provided for in the Agreement has expired or will expire on **February 29, 2008** ("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	5.80	ERCs =	<u>\$816.41</u>
Wastewater:	\$197.52 per ERC x	5.80	ERCs =	<u>\$1,156.62</u>
			SUBTOTAL	<u>\$1,962.03</u>
			FRANCHISE FEE	<u>\$0.00</u>
			TOTAL MAP DUE	<u>\$1,962.03</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:

**1633 S.E. 5th St
Deerfield Beach, FL 33441-4929**

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.

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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

Nancy M May
Signature
NANCY M. MAY
Print Name

By: Richard J. Pribell
Title: owner

Judy Provence
Signature
Judy Provence
Print Name

(Seal)

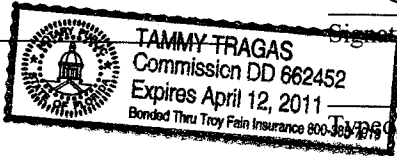
NOTARY CERTIFICATE

STATE OF FL
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 22nd day of Feb., 2008 by Richard Pribell who is personally known to me or who has produced FL/DL as identification.

My Commission Expires:

[Signature]
Signature of Notary



Printed or Stamped Name of Notary

WATER UTILITIES DEPARTMENT APPROVAL:

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: Selma M West
Director, Finance and Administration
[Signature]

By: [Signature]
County Attorney