

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date: January 13, 2009 Consent [X] Regular [ ]  
Public Hearing [ ]

Submitted By: Water Utilities Department  
Submitted For: Water Utilities Department  
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I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to receive and file: Termination and Release of Standard Potable Water and Wastewater Development Agreements Due to Zoning Denial/Withdrawal for the following property owner:

Termination of Standard Development Agreements  
A) Asacol, Inc. (District 2) 01-01203-000

**Summary:** The terms and conditions for Standard and Non-Standard Development Agreements (Development Agreement) are outlined in the Water Utilities Department's Uniform Policies and Procedures Manual (UPAP). The developer has requested refund of the Mandatory Agreement Payment required at the time of submittal of the Development Agreement. The refund request met the refund requirements as defined in the Department's UPAP and the Department Director's execution of the Termination of Standard Development Agreement is the final step in the process to terminate and release the original Development Agreement. The Department recommends the Board receive and file the attached Termination and Release document. (Countywide) (SF) **Original document can be viewed in Minutes.**

**Background and Justification:** The Water Utilities Department's UPAP provides for the termination of Development Agreements and refund of the Guaranteed Revenue Fees upon receipt of a request for refund in writing, and documentation from the appropriate zoning agency of the date of the withdrawal or zoning denial within 12 months of the execution of the Development Agreement. The terms and conditions for such agreements, including provisions for termination are contained in the UPAP. The attached termination has been executed by the Department Director and the County Attorney's Office and has been recorded in the official records of Palm Beach County. They are being provided to the Board to receive and file.

**Attachments:**  
Original documents:  
ASACOL, Inc 01-01203-000

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Recommended By: *Bruce B. Bann* 12/16/08  
Department Director Date  
Approved By: *Sharon J. B...* 12/18/08  
Assistant County Administrator Date



CFN 20080436402  
 OR BK 22982 PG 1221  
 RECORDED 12/08/2008 11:29:05  
 Palm Beach County, Florida  
 Sharon R. Bock, CLERK & COMPTROLLER  
 Pgs 1221 - 1222; (2pgs)

CHARGE #1023 ATTN: MARK FALLON, PBC WATER UTILITIES DEPT, 8100 FOREST HILL BLVD, WPB, FL 33413	RETURN VIA WILL CALL #133 LON, CONTRACT MANAGEMENT, PBC WATER UTILITIES DEPT, 8100 FOREST HILL BLVD, WPB, FL 33413
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SDA # 01-01203-000

**TERMINATION AND RELEASE OF STANDARD POTABLE WATER AND  
 WASTEWATER DEVELOPMENT AGREEMENT DUE TO ZONING  
 DENIAL/WITHDRAWAL**

**THIS TERMINATION AND RELEASE OF STANDARD POTABLE WATER AND  
 WASTEWATER DEVELOPMENT AGREEMENT DUE TO ZONING  
 DENIAL/WITHDRAWAL** is made and entered into this 25th day of NOVEMBER  
 2008, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida,  
 hereinafter referred to as "County" and **ASACOL, LLC**, hereinafter referred to as "Property  
 Owner."

**WITNESSETH**

**WHEREAS**, on **November 6, 2007 (R08-0067)**, County and Property Owner entered into a  
 Standard Potable Water And Wastewater Development Agreement, hereinafter referred to as the  
 "SDA", for the provision of Potable Water And Wastewater service to property owned by Property  
 Owner as part of Property Owner's **Zoning Petition No. Z-2007-1621**; and

**WHEREAS**, Property Owner has paid to the County a total amount of **\$4,059.36** as required  
 pursuant to the SDA; and

**WHEREAS**, the SDA was recorded in the Official Records at **Book 22257 and Page 120**; and

**WHEREAS**, Property Owner did not receive zoning approval for the subject property, or said  
 zoning petition was denied, and said Property Owner was subsequently refunded the total amount of  
**\$4,059.36** from County; and

**WHEREAS**, neither the County nor Property Owner have any rights, duties or obligations  
 existing under the SDA; and

**WHEREAS**, termination of the SDA is necessary in order to clear the title to the subject  
 property.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements expressed  
 herein, the parties hereby agree as follows:

1. The SDA executed by and between County and Property Owner dated **November 6, 2007, (R08-0067)** is hereby terminated.
2. Property Owner hereby acknowledges receipt of the total amount of **\$4,059.36** paid to the County in accordance with the SDA.
3. The parties agree that the County and Property Owner are no longer bound by any rights, duties or obligations existing under the SDA and the parties are hereby released from any such rights, duties, or obligations.
4. The County shall duly record this Termination and Release of Standard Potable Water and Wastewater Development Agreement Due to Zoning Denial/Withdrawal.

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

IN WITNESS WHEREOF, the County, by and through its fully authorized agent, and Property Owner have hereunto set their hands and seals on the date first above written.

WITNESSES:

PALM BEACH COUNTY

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

By: [Signature]  
County Administrator or Designee

Linda M. Collins  
Signature  
Linda M. Collins  
Typed or Printed Name

WITNESSES:

PROPERTY OWNER:

\* Frank Bernal  
Signature  
Frank Bernal  
Typed or Printed Name

By: [Signature]  
Signature  
Frank Bernal  
Typed or Printed Name  
Pres.  
Title

\* [Signature]  
Signature  
Maura Flores Hernandez  
Typed or Printed Name

{ Corporate }  
Seal

NOTARY CERTIFICATE

STATE OF Florida  
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 5 day of November, 2008 by Frank Bernal. He/she is personally known to me or has produced \_\_\_\_\_ as identification.

My Commission Expires: 4/15/2012

[Signature]  
Signature of Notary  
JUAN I. GONZALEZ  
Notary Public  
Serial Number \_\_\_\_\_  
Stamp: Notary Public, Expires 4/15/2012, Florida Notary Assn., Inc.

WATER UTILITIES DEPARTMENT APPROVAL

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

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]  
County Attorney