

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

=====  
Meeting Date: February 24, 2009 Consent [X] Regular [ ]  
Public Hearing [ ]  
Submitted By: Water Utilities Department  
Submitted For: Water Utilities Department  
=====

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: a Reclaimed Water Agreement with 6595, LLC.


**Summary:** Reclaimed water agreements are required for those property owners seeking to obtain reclaimed water service from the County in order to comply with the requirements of the Florida Department of Environmental Protection and the Water Utilities Department. While the Department normally utilizes standard Agreements that are executed at the Department level, non-standard Agreements are sometimes required to handle special circumstances such as this where reclaimed water is not presently available. 6595, LLC has agreed to pay the County \$50,000 as a contribution toward construction of the future off-site reclaimed water main. Within 120 days of notification that reclaimed water is available within 300 feet of the property, 6595, LLC will be required to connect to the reclaimed system. Until that time, 6595, LLC will obtain necessary approvals to use non-reclaimed water for irrigation. District 5 (MJ)

**Background and Justification:** The Water Utilities Department is committed to promoting economically and technically feasible technologies for water conservation. One component of this effort is landscape irrigation utilizing reclaimed water from the Department's Southern Region Water Reclamation Facility (SRWRF). Reclaimed water systems offer significant advantages to consumers and to the environment by reducing the demand on potable water resources and facilities, and offering consumers an alternative to reducing irrigation frequency during time of drought. The SRWRF is capable of producing up to 22 million gallons per day (MGD) of reclaimed water. The Department is currently delivering an average of 12 million gallons per day (MGD) of reclaimed water.

**Attachments:**

1. Location Map
2. Two (2) Original Agreements
3. UPAP Chapter 3, Sections 3.3.1 through 3.3.2

Recommended By:  2/3/09  
Department Director Date

Approved By:  2/10/09  
Assistant County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	\$50,000.00	0	0	0	0
External Revenues	(\$ 50,000.00)	0	0	0	0
Program Income (County)	0	0	0	0	0
In-Kind Match County	0	0	0	0	0
<b>NET FISCAL IMPACT</b>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	0	0	0	0	0

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

Is Item Included in Current Budget? Yes  No

Reporting Category N/A

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

The County will receive \$50,000 in aid of construction of the required reclaimed water lines.

**C. Department Fiscal Review:** Selma M West

**III. REVIEW COMMENTS**

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

Jan Dink 2-5-09  
 OFMB  
 JD  
 2/5/09 2/2/09 2/4/09

Jim J. Javel 2/6/09  
 Contract Development and Control

**B. Legal Sufficiency:**

[Signature] 2/9/09  
 Assistant County Attorney

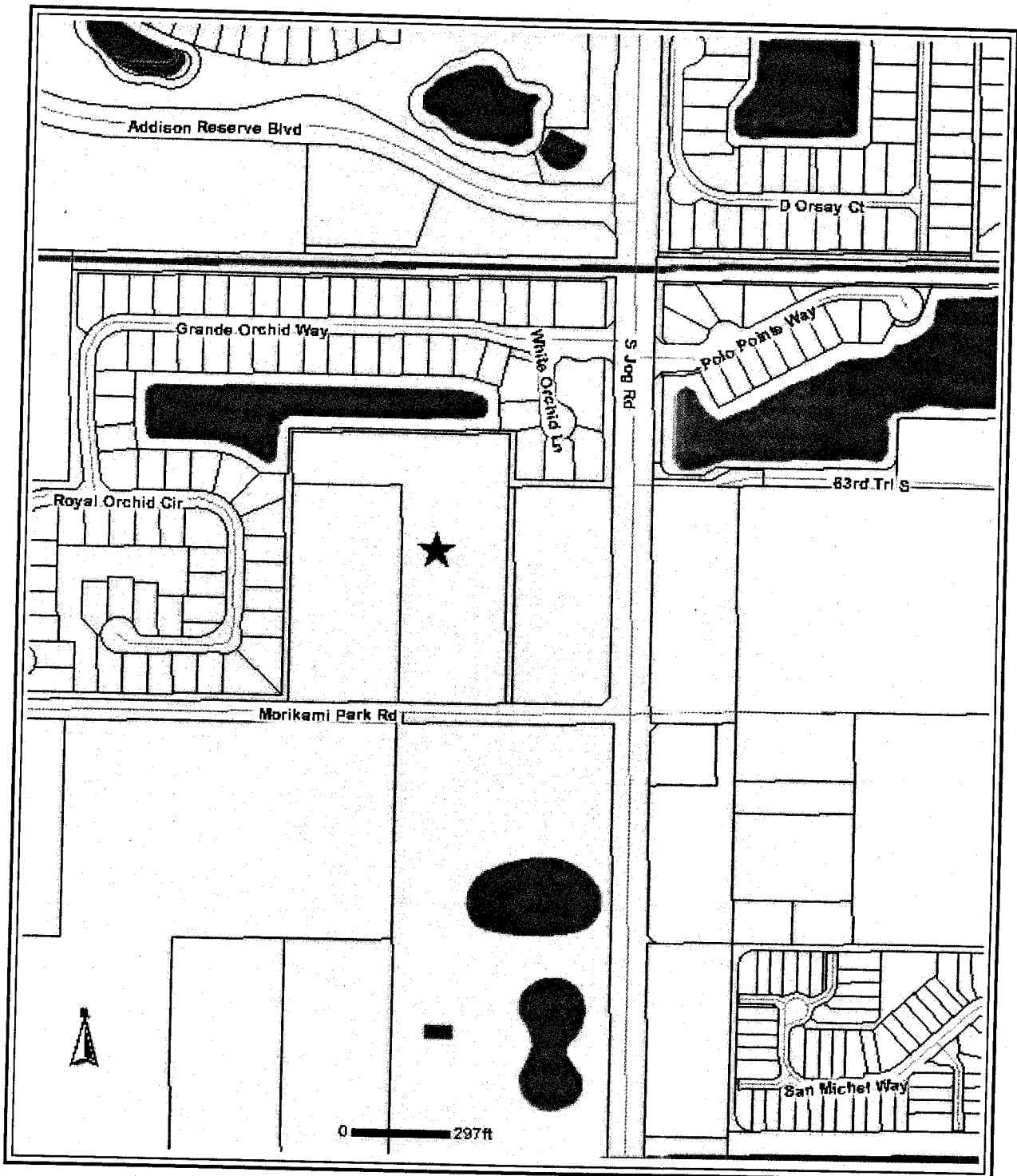
This Contract complies with our contract review requirements.

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

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

ATTACHMENT # 1 - LOCATION MAP



6595, LLC

Map Scale 1:5519

Map produced on 1/7/2009

RECLAIMED WATER

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

RECLAIMED WATER DEVELOPMENT AGREEMENT (DA)

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **PALM BEACH COUNTY**, a subdivision of the State of Florida, hereinafter referred to as "Utility", and **6595, 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 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;

DA # 09-90007-000

## 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:

<b>Reclaimed Water:</b>	<b>\$0.00 per ERIC x (1-1/2")20.00 ERICs =</b>	<b>\$0.00</b>
	<b>Franchise Fee</b>	<b>\$0.00</b>
	<b>TOTAL</b>	<b>\$0.00</b>

Upon receipt of the MAP, Utility agrees to reserve **20.00** ERICs of Reclaimed Water system capacity for Property Owner until **February 28, 2014**, 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

## RECLAIMED WATER

greater than that specified herein requires a new Agreement to be signed. Upon written notice to 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 of 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:

**10800 Biscayne Blvd. # 600  
Miami, FL 33161-7482;**

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. Special Conditions:
  - a. Prior to potable water/wastewater Service Initiation or prior to the sale of the property or any portion thereof, Property Owner shall pay \$50,000.00 to County, as a contribution in lieu of construction for the installation of an off-site reclaimed water main.
  - b. Property Owner shall design and construct the irrigation system in accordance with all applicable reclaimed water system rules and regulations. Any modification, removal, installation, and addition of the irrigation system shall be the sole responsibility of Property Owner.
  - c. Property Owner may utilize, subject to any applicable usage rules and regulations, non-reclaimed water (such as well water, lake water or potable water) for irrigation purposes until a reclaimed water main is available for connection within 300 feet of the Property. Upon notification by Utility, Property Owner agrees to obtain all necessary approvals and permits, install, subject to payment of Service Initiation fees any required reclaimed water facilities to comply with County's regulations and connect to County's reclaimed water system for irrigation purposes within 120 days and to discontinue using the non-reuse water source, as approved by Utility. Any retrofitting or modifications of the irrigation system shall be the sole responsibility of Property Owner. Non-compliance may result in termination of potable water/wastewater service.
  - d. Property Owner agrees that the payment of the above fee does not constitute any commitment from County regarding the availability or timing of availability of reclaimed water.

**RECLAIMED WATER**

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.

**ATTEST:**

\_\_\_\_\_  
Clerk & Comptroller (or Deputy Clerk)

**PALM BEACH COUNTY, FLORIDA, BY  
ITS BOARD OF COUNTY  
COMMISSIONERS**

By: \_\_\_\_\_

Chair

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

By: [Signature]  
County Attorney

**APPROVED AS TO TERMS AND  
CONDITIONS**

By: [Signature]  
Bevin A. Beaudet,  
Department Director or Designee (u)

**WITNESSES:**

[Signature]

[Signature]  
Typed or Printed Name

[Signature]

Frederick Fauth  
Typed or Printed Name

**PROPERTY OWNER:**

By: [Signature]  
Signature

Abraham Shaulson  
Typed or Printed Name

\_\_\_\_\_  
Title

[ Corporate  
Seal ]

**NOTARY CERTIFICATE**

STATE OF Florida  
COUNTY OF Dade

The foregoing instrument was acknowledged before me this 11 day of Nov., 2008  
by Abraham Shaulson, of 6595 LLC, a  
Manager, on behalf of the \_\_\_\_\_, He/she is personally  
known to me or has produced \_\_\_\_\_ as identification.

[Signature]  
Signature of Notary

Sherie Reda  
Typed, Printed, or Stamped Name  
of Notary

Notary Public  
Serial Number \_\_\_\_\_

NOTARY PUBLIC-STATE OF FLORIDA  
Sherie Reda  
Commission # DD713761  
Expires: OCT. 12, 2009  
BONDED THRU ATLANTIC BONDING CO., INC.

**RECLAIMED WATER**

**EXHIBIT "A"  
LEGAL DESCRIPTION**

A PARCEL OF LAND SITUATE IN SECTION 27, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST ONE-HALF (E ½) OF THE NORTHWEST ONE-QUARTER (NW ¼) OF THE NORTHEAST ONE-QUARTER (NE ¼) OF THE SOUTHWEST ONE-QUARTER (SW ¼) OF SAID SECTION 27, LESS THE NORTH 525.56 FEET THEREOF.

TOGETHER WITH: THE WEST ONE-HALF (W ½) OF THE EAST ONE-HALF (E ½) OF THE NORTHEAST ONE-QUARTER (NE ¼) OF THE SOUTHWEST ONE-QUARTER (SW ¼) OF SAID SECTION 27, LESS THE FOLLOWING THREE (3) PARCELS: THE NORTH 525.56 FEET THEREOF; THE SOUTH 30 FEET THEREOF, AND THE EAST 20 FEET THEREOF.

TOGETHER WITH: A PARCEL OF LAND SITUATE IN SECTION 27, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE SOUTH 680.41 FEET OF THE EAST 20 FEET OF THE WEST ONE-HALF (W ½) OF THE EAST ONE-HALF (E ½) OF THE NORTHEAST ONE-QUARTER (NE ¼) OF THE SOUTHWEST ONE-QUARTER (SW ¼) OF SECTION 27, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS THE SOUTH 30 FEET THEREOF.

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

OK  
12/11/08 (G)

CONSENT AND JOINDER OF MORTGAGEE/LIENHOLDER

Regions Bank, a(n) Alabama Banking Corp., 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 6595, LLC, a(n) LLC, dated 3-24-08, filed 4-3-08, and recorded in Official Record Book 22549, Page, 0210, 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 6595, LLC, a Florida Limited Liability Company., 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, 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 17<sup>th</sup> day of November, 2008.

WITNESSES:

Signature \_\_\_\_\_  
Typed or Printed Name Juan Antonio

Signature \_\_\_\_\_  
Typed or Printed Name Kristina Puerto

Erin Knight  
a(n) SVP - Regions Bank  
authorized to do business in the State of Florida.

By: SVP  
Title  
Erin Knight  
Typed or Printed Name

NOTARY CERTIFICATE

STATE OF FLORIDA  
COUNTY OF DADE

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of NOVEMBER, 2008 by ERIN KNIGHT. He/she is personally known to me or has produced FL DL as identification.

My Commission Expires: 3-18-2011  
15651757  
Serial Number

Signature of Notary \_\_\_\_\_  
T. C. de ONA  
Typed, Printed, or Stamped Name



### 3.2 SERVICE INITIATION FEES AND APPROVAL OF SERVICE

Connection Fees, Guaranteed Revenue Fees, Service Installation Fees, and applicable Franchise Fees shall be paid for each connection to the Potable Water, Reclaimed Water and/or Wastewater system prior to Service Initiation. The connection must be approved for service by the Department. The Department reserves the right to deny connection to the Department's system when it is subsequently determined that it is not economically, environmentally or technically feasible. In those instances, the Department shall refund all Service Initiation Fees paid.

### 3.3 FACILITIES EXTENSION

#### 3.3.1 GENERAL

On-site and off-site transmission, distribution and other Potable Water, Reclaimed Water and Wastewater Facilities and easements required to provide service to the Property will be provided by the Property Owner at no cost to the County pursuant to the requirements and specifications of the Department. Facilities up to the Point of Service shall be conveyed to the County by a bill of sale, free and clear of all encumbrances, the related cost documentation, the no-lien affidavit, perpetual rights-of-ways and easements for said Facilities, and the completed as-built drawings for all such Facilities prior to acceptance by the Department and the initiation of service thereto.

In the event that construction of certain off-site facilities is necessary to provide service to the Property, the Property Owner may be required to pay for the design, construction and inspection of such facilities with said design, construction and inspection to be conducted under the auspices of the Department.

In order to facilitate utility service to all properties within the Department's service area, Potable Water mains, Reclaimed Water mains, Wastewater gravity mains and Wastewater force mains shall be extended along the full length of the property frontage for properties obtaining said Potable Water, Reclaimed Water, and/or Wastewater service. Furthermore, the Department may require utility line extensions through said property if an adjacent property is to be served in the future.

Property Owners intending to retrofit existing irrigation systems with Reclaimed Water service shall only be required to extend Reclaimed Water mains up to the Point of Service. The costs associated with the conversion of the irrigation system and any modifications to Potable Water service backflow prevention devices shall be the responsibility of the Property Owner requesting Reclaimed Water service.

#### 3.3.2 CREDIT/REIMBURSEMENT FOR OVERSIZED FACILITIES

If the Potable Water, Reclaimed Water and/or Wastewater Facilities can reasonably be expected to serve other areas than those of the Property Owner, the Department may require that they be oversized and/or constructed in such a manner to facilitate and to enable service to be provided to additional areas.

As outlined herein below, the Property Owner shall be credited/reimbursed for a portion of the cost of construction of oversized Facilities. It is the Property Owner's responsibility to request credit/reimbursement from the Department. The amount of the credit/reimbursement shall be determined by the Department based upon the data that is supplied by the Property Owner's engineer. The Department will make every effort to properly evaluate the oversizing, but in the

event of a disagreement, the decision of the Department Director will be final. In the event that Utility chooses to install oversized pipelines and related appurtenances that will directly benefit a Property Owner, the Utility may add additional conditions in the Development Agreement requiring the Property Owner to reimburse the Utility for the oversized portion of the pipelines pursuant to the cost factors identified in Section 3.3.4 below with payment made to Utility prior to construction of said improvements.

In order to determine the size of the Property Owner required pipe, a maximum peak instantaneous design velocity (including fire flows) of three (3) feet per second shall be utilized. In addition, there will be no credit/reimbursement for the construction of 12" Potable Water mains, 12" Reclaimed Water mains, 8" force mains or 8" Wastewater gravity mains, which are the minimum standard sizes, even if these sizes exceed the Property Owner's own requirements.

### **3.3.3 METHOD OF CREDIT/REIMBURSEMENT**

The approved amount of the oversizing credit/reimbursement as determined in Section 3.3.4 shall be applied as follows:

- For pipelines 20" and smaller and all other facilities, the entire amount of the oversizing credit shall be credited toward Connection Fees with any excess credits to be cash reimbursed by the Department at project build-out.
- For pipelines larger than 20", the Property Owner may request at the time of final acceptance of the pipeline by the Department, a cash reimbursement for that portion of oversizing credit in excess of those

credits associated with a 20" pipeline. The balance of the amount shall be credited toward Connection Fees. Any excess credits shall be cash reimbursed by the Department at project build-out.

- Any applicable Franchise Fees shall be applied to the amount due before applying oversizing credits or reimbursements.

There shall not be a line extension fee, a line oversizing fee, or third party reimbursement fee due from a third party for any connection into a Property Owner constructed main/facility. The Department shall not credit/reimburse any Property Owner for amounts exceeding the calculations below.

### **3.3.4 OVERSIZE CREDIT/REIMBURSEMENT DETERMINATION**

(a) Pipelines (includes costs associated with upsized fittings, valves, hydrants, services, pavement cuts, landscape restoration, engineering fees, and related appurtenances).

The maximum allowable credit/reimbursement provided by the Department is the difference between the Department required oversized pipe and the pipe size required by the Property Owner (or minimum pipe sizes identified in Section 3.3.2), if applicable multiplied by the factors listed below:

#### Oversized Potable and Reclaimed Water Mains

12" and smaller: \$3.50 per inch diameter per linear foot.  
24": \$4.50 per inch diameter per linear foot.  
30": \$5.00 per inch diameter per linear foot.  
36" and larger: \$5.50 per inch diameter per linear foot.

#### Oversized Wastewater Mains