

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

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Meeting Date:	June 8, 2010	Consent [X]	Regular []
		Public Hearing []	

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

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I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file: One (1) Utility Concurrency Reservation Agreement complete with executed documents received during the month of May, 2010.

Utility Concurrency Reservation Agreement

A) H & M Development, L.L.C. (District 6) 02-01124-000



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 Utility Concurrency Reservation Agreement with H & M Development L.L.C., for the project known as Legend Lakes Center is located in Lake Worth.) This agenda item recommends the Board receive and file the agreements so they may be properly recorded. (Countywide) (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
H & M Development, L.L.C.

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Recommended By:	 Department Director	5/21/2010 Date	
Approved By:	 Assistant County Administrator	5/26/10 Date	

UTILITY CONCURRENCY RESERVATION AGREEMENT

THIS UTILITY CONCURRENCY RESERVATION AGREEMENT is made and entered into this 10th day of MAY, 2009 by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "Utility" and **H & M DEVELOPMENT, L.L.C.**, a Florida limited liability company, hereinafter referred to as "Developer."

WITNESSETH:

WHEREAS, Developer plans to develop property located in Palm Beach County, Florida, as more fully described in Exhibit "A," attached hereto and made a part hereof and hereinafter referred to as "Property"; and

WHEREAS, Developer does not own all portions of Property, but must demonstrate reservation of:

Potable Water ☒ Wastewater ☒ Reclaimed Water ☐

capacity in Utility system ("Capacity") in order to obtain concurrency and proceed with the developmental approvals for the Property; and

WHEREAS, Utility warrants that Capacity, identified in terms of Equivalent Residential Connections (ERC) as defined in the Utility's Uniform Policies and Procedures Manual (UPAP), will be reserved for Developer for up to five (5) years upon execution of this Utility Concurrency Reservation Agreement ("UCRA") and payment of a Utility Concurrency Fee ("UCF"); and

WHEREAS, in the interest of public health and to encourage the use of central potable water, wastewater, and/or reclaimed water facilities, Utility desires to enter into this UCRA.

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

1. Developer certifies that he is currently under contract to purchase, or has an option to purchase, those portions of Property that he does not already own.
2. The Capacity reserved by this UCRA is temporary in nature and will expire in five (5) years of the date this UCRA is executed and the applicable UCF is paid.
3. This UCRA will not be recorded in the official Public Records against Property.
4. The UCF may be credited toward the Mandatory Agreement Payment (MAP) as defined in the UPAP and as required by Utility in order to obtain a Standard or Non-Standard Development Agreement (DA) on Property before the expiration of this UCRA. In the case of a rate increase after execution of this UCRA, additional MAP funds will be due at the time of entering into a DA. Once a DA has been entered into for Property, then this UCRA shall automatically expire.
5. Developer may assign his interests in and under this UCRA to a Successor Developer who meets the requirements in Section 1 above. Upon such assignment, (i) the assignee shall assume and be bound by all of the terms, conditions, duties, obligations and liabilities of and under this UCRA and become the "Successor Developer" hereunder; and (ii) Developer shall be released from all of the terms and conditions of this UCRA and have no further duty, obligation and/or liability hereunder. The assignment of this UCRA shall not extend the term of the original UCRA.

The number and type of ERCs reserved through, and the UCF due upon submission of, this UCRA are:

Potable Water:	\$172.44 per ERC x	40.00 ERCs =	\$6,897.60
Wastewater:	\$242.04 per ERC x	40.00 ERCs =	\$9,681.60
Reclaimed Water:	\$0.00 per ERC x	0.00 ERCs =	\$0.00
UCF DUE			<u>\$16,579.20</u>

- 6. UCF payments are not refundable, not reimbursable, and not assignable except as identified above or as allowable in UPAP.
- 7. This UCRA must be converted to a DA prior to final site plan approval by Palm Beach County's Development Review Committee.
- 8. The UCRA's Approval Date shall be used to determine the DA's five-year expiration date if the UCF payment is credited against the DA's MAP.
- 9. Developer agrees that Utility shall be the sole and exclusive provider of retail and/or wholesale Potable Water, Wastewater, and Reclaimed Water service to the Property and that Developer shall not seek to obtain retail and/or wholesale Potable Water, Wastewater, or Reclaimed Water service for the property from another public or private utility service provider.
- 10. All notices concerning this UCRA shall be in writing and transmitted by mail or courier, and if to Developer, shall be mailed or delivered to Developer at:

1150 E. Hallandale Beach Blvd, Suite B
Hallandale Bch., FL 33009

And if to Utility, shall be mailed 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.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties, by and through their fully authorized agents, have hereunto set their hands and seals on the date first above written.

WITNESSES:

Anna M Daniels

ANNA M. DANIELS

Type or Print Name

Nancy M May

NANCY M. MAY

Type or Print Name

PALM BEACH COUNTY

By: [Signature]

County Administrator or Designee

WITNESSES:

M. Amann

[Signature] [Signature]

Type or Print Name

[Signature]

Irela Camero

Type or Print Name

DEVELOPER:

By: [Signature]

Signature

Title

Harry Dornbusch

Typed or Printed Name

NOTARY CERTIFICATE

STATE OF Florida
COUNTY Broward

The foregoing instrument was acknowledged before me this 3 day of May, 2010 by Harry Dornbusch. He/she is personally known to me or has produced _____ as identification.

My Commission Expires: 5/3/2011

Signature of Notary [Signature]

Irela Camero

Typed, Printed, or Stamped Name of Notary

Notary Public
Serial Number



Irela Camero
COMMISSION # DD670346
EXPIRES: MAY 03, 2011
WWW.AARONNOTARY.com

WATER UTILITIES DEPARTMENT APPROVAL:

By: [Signature]
Director, Finance and Administration
PBC Water Utilities

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: [Signature]
County Attorney

EXHIBIT "A"
LEGAL DESCRIPTION

**THE SOUTH 2/3 OF TRACT 22, BLOCK 27, PALM BEACH FARMS CO., PLAT NO. 3,
ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45
OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.**

CONTAINING 9.234 ACRES, OR 402267.8 SQ. FT.

OK G
05/05/10