

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: January 11, 2011

Consent ☒   
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: The following two (2) documents:

A) a Standard Indemnity Agreement with BR Osprey Acquisition LLC - SDA # 05-01085-000  
District 3 (SF)

B) a Contract with All Webb's Enterprises, Inc. in the amount of \$57,580 to perform mechanical integrity testing of a Class 1 Deep Injection Well (IW-1) at the Southern Region Water Reclamation Facility. (WUD 10-073) District 5 (JM)

**Summary:** In accordance with County PPM CW-0-051, all delegated contracts, agreements and grants must be submitted by the initiating Department as a receive and file agenda item. The attached Standard Development Agreement, Contracts and Indemnity Agreements have been fully executed on behalf of the Board of County Commissioners (Board) by the County Administrator/Director/Deputy Director of the Water Utilities Department in accordance with Resolutions R93-1619, R96-0228, and R2003-0539 and are now being submitted to the Board to receive and file. **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, and related documents including Standard Indemnity 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). On December 28, 2010 the Director of the Water Utilities Department approved a contract with All Webb's Enterprises, Inc. to perform mechanical integrity tests for Deep Injection Wells which are required by the Florida Department of Environmental Protection at five (5) year intervals. The deadline for the mechanical integrity testing at the Southern Region Pumping Facility Deep Injection Well (IW-1) is February 14, 2011. All Webb's Enterprises, Inc. is a local Palm Beach County Company.

The Agreements attached have been executed on behalf of the Board by the County Administrator/Director/Deputy Director of the Water Utilities Department in accordance with the authority delegated by the Board, and are now being submitted to the Board to receive and file.

**Attachments:**

1. One (1) Indemnity Agreement
2. Two (2) Original Contracts

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

Department Director

12/29/10  
Date

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

Assistant County Administrator

12/30/10  
Date

**INDEMNITY AGREEMENT**

**THIS INDEMNITY AGREEMENT** made and entered into this 6th day of October, 2010, by and between BR Osprey Acquisition LLC (hereinafter referred to as "Indemnitor") whose address is 102 NE 2<sup>nd</sup> Street, #203, Boca Raton, FL 33432, and Palm Beach County, (hereinafter referred to as "County"), whose address is c/o Palm Beach County Water Utilities Department, P. O. Box 16097, West Palm Beach, Florida 33416-6097.

**WITNESSETH**

**WHEREAS**, Indemnitor holds title to a certain parcel of real property more particularly described as follows:

**SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF**

(hereinafter referred to as the "Property"); and

**WHEREAS**, a Potable Water & Wastewater Development Agreement for the Property was entered into on the 18<sup>th</sup> day of May, 2007 (R2007-1135), (hereinafter referred to as "Agreement"); and

**WHEREAS**, Indemnitor has not been assigned the Agreement nor any of the water or wastewater ERC capacity associated with the Agreement; and

**WHEREAS**, all or portions of the potable water and wastewater ERC capacity provided for in the Agreement have not been used on the Property; and

**WHEREAS**, Indemnitor wishes to use the unused ERCs provided in the Agreement; and

**WHEREAS**, Indemnitor wishes to indemnify the County in as set forth herein.

**NOW THEREFORE**, for and in consideration of the covenants set forth herein, Indemnitor hereby agrees as follows:

1. The foregoing recitals are true and correct and are incorporated herein by reference.
2. Indemnitor may use 204.20 potable water ERCs and 204.20 wastewater ERCs which were reserved in the Agreement and have not been used on the Property, in accordance with the terms and conditions of the Agreement.
3. Indemnitor, its successor, heirs and/or assigns, hereby agrees to indemnify, release and hold County harmless from and against any and all liabilities, damages, penalties, claims, costs, and expenses whatsoever, including attorney's fees at all levels, which may be imposed upon or asserted against County as a result of or in any way connected to County approving and accepting Indemnitor to use the unused ERCs from the Agreement.
4. This Indemnification Agreement shall not extend the term of the Agreement, and this Indemnification Agreement shall survive the termination of the Agreement.
5. This Indemnity Agreement shall be binding upon Indemnitor, its heirs, successors, legal representatives and assigns. This Agreement will run with the land and shall be recorded in the Public Records of Palm Beach County, Florida.

(The remainder of this page intentionally left blank)

IN WITNESS WHEREOF, the parties have caused this Indemnification Agreement to be executed on the day and year first written above.

WITNESSES:

Anna M Daniels  
Witness Signature

**ANNA M. DANIELS**  
Typed or Printed Name

Nancy M May  
Witness Signature

NANCY M. MAY  
Typed or Printed Name

PALM BEACH COUNTY

By: [Signature]  
County Administrator or Designee

WITNESSES:

[Signature]  
Witness Signature

JOHN MARKEY  
Typed or Printed Name

[Signature]  
Witness Signature

Adam Freedman  
Typed or Printed Name

INDEMNITOR:

By: [Signature]  
Signature

Manager  
Title  
James S. Giolda  
Typed or Printed Name

{ Corporate }  
Seal }

NOTARY CERTIFICATE

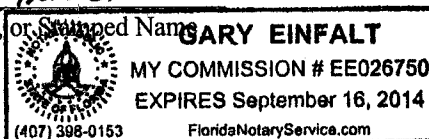
STATE OF FLORIDA  
COUNTY OF PALM BEACH Co

The foregoing instrument was acknowledged before me this 6 day of October, 2010 by GARY EINFALT He/she is personally known to me or has produced DRIVER LIC ID. as identification.

[Signature]  
Signature of Notary

GARY EINFALT  
Typed, Printed, or Stamped Name of Notary

Notary Public



Serial Number EE026750

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

**EXHIBIT "A"**

A PARCEL OF LAND LYING WITHIN THE NORTHEAST ONE-QUARTER (NE 1/4) OF SECTION 10, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 10; THENCE SOUTH 03°46'16" WEST (AS A BASIS OF BEARINGS) ALONG THE EAST LINE OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF SAID SECTION 10, A DISTANCE OF 722.09 FEET; THENCE SOUTH 89°25'34" WEST, A DISTANCE OF 40.11 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 03°46'16" WEST, A DISTANCE OF 1,323.64 FEET; THENCE SOUTH 89°43'39" WEST, A DISTANCE OF 2,558.91 FEET; THENCE NORTH 43°41'50" WEST, A DISTANCE OF 43.54 FEET; THENCE NORTH 02°51'06" EAST, A DISTANCE OF 566.54 FEET; THENCE NORTH 02°51'02" EAST, A DISTANCE OF 428.30 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE TO THE LEFT; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 7,699.44 FEET, A CENTRAL ANGLE OF 00°30'49" FOR A DISTANCE OF 69.02 FEET; THENCE NORTH 02°20'10" EAST, A DISTANCE OF 59.61 FEET; THENCE NORTH 03°21'14" EAST, A DISTANCE OF 153.44 FEET; THENCE NORTH 89°25'34" EAST, A DISTANCE OF 462.58 FEET; THENCE SOUTH 03°27'31" WEST, A DISTANCE OF 312.92 FEET; THENCE NORTH 89°30'04" EAST, A DISTANCE OF 170.41 FEET; THENCE NORTH 03°27'31" EAST, A DISTANCE OF 313.14 FEET; THENCE NORTH 89°25'34" EAST, A DISTANCE OF 336.54 FEET; THENCE SOUTH 03°30'39" WEST, A DISTANCE OF 199.04 FEET; THENCE NORTH 89°28'37" EAST, A DISTANCE OF 605.39 FEET; THENCE NORTH 03°36'17" EAST, A DISTANCE OF 199.60 FEET; THENCE NORTH 89°25'34" EAST, A DISTANCE OF 201.92 FEET; THENCE SOUTH 03°38'09" WEST, A DISTANCE OF 659.51 FEET; THENCE NORTH 89°34'36" EAST, A DISTANCE OF 201.54 FEET; THENCE NORTH 03°40'03" EAST, A DISTANCE OF 660.06 FEET; THENCE NORTH 89°25'34" EAST, A DISTANCE OF 632.97 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

CONTAINING 71.390 ACRES MORE OR LESS.

TOGETHER WITH:

A PARCEL OF LAND LYING WITHIN THE NORTHEAST ONE-QUARTER (NE 1/4) OF SECTION 10, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 10; THENCE SOUTH 03°46'16" WEST (AS A BASIS OF BEARINGS) ALONG THE EAST LINE OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF SAID SECTION 10, A DISTANCE OF 2,106.09 FEET; THENCE SOUTH 89°43'39" WEST, A DISTANCE OF 1,340.63 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 03°33'48" WEST, A DISTANCE OF 658.22 FEET; THENCE SOUTH 89°52'47" WEST, A DISTANCE OF 669.00 FEET; THENCE NORTH 03°27'31" EAST, A DISTANCE OF 343.21 FEET; THENCE SOUTH 89°48'06" WEST, A DISTANCE OF 612.00 FEET; THENCE NORTH 02°13'27" EAST, A DISTANCE OF 283.85 FEET; THENCE NORTH 46°18'10" EAST, A DISTANCE OF 40.90 FEET; THENCE NORTH 89°43'39" EAST, A DISTANCE OF 1,260.63 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

CONTAINING 14.483 ACRES MORE OR LESS.