

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: July 19, 2011

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 receive and file: executed Agreement received during the month of May, 2011

A) Standard Indemnity Agreement with GH Savannah Lake, LLC; SDA # 05-01084-000 (District 3)

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 and Indemnity Agreements have been fully executed on behalf of the Board of County Commissioners (Board) by the County Administrator; Director; and 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. District 3 (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, 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).

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. Indemnity Agreement (1)

Recommended By: _____

Department Director

6/17/11

Date

Approved By: _____

Assistant County Administrator

6/28/11

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u>0</u> <i>* see below</i>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Budget Account No.: Fund _____ Dept. _____ Unit _____ Object _____

Is Item Included in Current Budget? Yes _____ No _____

Reporting Category N/A

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

** No* No Fiscal Impact

C. Department Fiscal Review: Debra M West

III. REVIEW COMMENTS

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

[Signature]
OFMB *6/21/11*
6/21/11

[Signature]
Contract Development and Control
6-22-11 Bushnell

B. Legal Sufficiency:

[Signature]
Assistant County Attorney

C. Other Department Review:

Department Director

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

INDEMNITY AGREEMENT

THIS INDEMNITY AGREEMENT made and entered into this 11th day of MAY, 2011, by and between GH Savannah Lake, LLC (hereinafter referred to as "Indemnitor") whose address is 111 SW 3rd Street, PH, Miami, FL 33130, 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 January 31, 2006 (R2006-2476), (hereinafter referred to as "Agreement"); and

WHEREAS, the 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 88.9 potable water ERCs and 88.9 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)

FROM SDA #: 05-01084-000
TO SDA#: 05-01084-001

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

WITNESSES:

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

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

PALM BEACH COUNTY

By: [Signature]
County Administrator or Designee

WITNESSES:

[Signature]
Witness Signature
Karin Santaniz
Typed or Printed Name
[Signature]
Witness Signature
Joshua Law
Typed or Printed Name

INDEMNITOR:

By: [Signature]
Signature
Managing Member
Title
Stefan Hoyer
Typed or Printed Name

Corporate Seal

STATE OF New York
COUNTY OF New York

NOTARY CERTIFICATE

The foregoing instrument was acknowledged before me this 25 day of April, 2011 by Stefan Hoyer. He/she is personally known to me or has produced as identification.

[Signature]
Signature of Notary

Typed, Printed, or Stamped Name of Notary

Notary Public

Serial Number

MORGAN PANG
Notary Public - State of New York
No. 01PA6234886
Qualified in New York County
My Commission Expires Jan. 31, 2015

WATER UTILITIES DEPARTMENT APPROVAL

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

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]
County Attorney

EXHIBIT "A"

A PARCEL OF LAND BEING THE SOUTH ONE-HALF OF TRACTS 71 AND 72, ALL OF TRACTS 73 THROUGH 79, AND A PORTION OF TRACT 80, BLOCK 43, "THE PALM BEACH FARMS CO. PLAT NO. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID PARCEL INCLUDING THE NORTHERLY 15.00 FEET OF THE 30 FOOT ROAD, DITCH AND DIKE RESERVATION AREA LYING IMMEDIATELY SOUTH OF AND CONTIGUOUS WITH THE SOUTH LINE OF SAID TRACTS 73 THROUGH 79 AND A PORTION OF TRACT 80, SAID PARCEL ALSO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE PLAT OF "VALENCIA SHORES - PLAT 4", AS RECORDED IN PLAT BOOK 99, PAGE 78 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH $88^{\circ}58'41''$ EAST, ALONG THE NORTH LINE OF SAID PLAT OF "VALENCIA SHORES - PLAT 4", SAID COURSE LYING 15.00 FEET SOUTH OF AND PARALLEL WITH, AS MEASURED AT RIGHT ANGLES TO, THE SOUTH LINE OF SAID TRACTS 73 THROUGH 79 AND A PORTION OF SAID TRACT 80, A DISTANCE OF 2458.50 FEET; THENCE NORTH $00^{\circ}59'42''$ WEST, BISECTING A PORTION OF SAID TRACT 80, A DISTANCE OF 673.70 FEET; THENCE SOUTH $89^{\circ}00'17''$ WEST, ALONG THE NORTH LINE OF SAID TRACTS 75 THROUGH 79 AND A PORTION OF SAID TRACT 80, ALSO BEING THE SOUTH LINE OF "SAVANNAH ESTATES", AS RECORDED IN PLAT BOOK 95, PAGE 159, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, A DISTANCE OF 1791.90 FEET; THENCE NORTH $00^{\circ}59'43''$ WEST, ALONG THE EAST LINE OF THE SOUTH ONE-HALF OF SAID TRACT 71, ALSO BEING THE WESTERLY LINE OF SAID PLAT OF "SAVANNAH ESTATES", A DISTANCE OF 330.00 FEET; THENCE SOUTH $89^{\circ}00'17''$ WEST, ALONG THE SOUTHERLY LINE OF SAID PLAT OF "SAVANNAH ESTATES", A DISTANCE OF 657.47 FEET TO THE SOUTHWEST CORNER OF SAID PLAT OF "SAVANNAH ESTATES"; THENCE SOUTH $00^{\circ}28'29''$ EAST, ALONG THE WEST LINE OF THE SOUTH ONE-HALF OF SAID TRACT 72 AND THE WEST LINE OF SAID TRACT 73, A DISTANCE OF 1004.88 FEET TO THE AFOREMENTIONED POINT OF BEGINNING.

CONTAINING 43.000 ACRES, MORE OR LESS.

TOGETHER WITH EASEMENTS FOR INGRESS AND EGRESS AS SET FORTH IN OFFICIAL RECORDS BOOK 22037, PAGES 1455 AND 1459, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PORTION OF THE SOUTH HALF OF TRACT 72, BLOCK 43, "THE PALM BEACH FARMS COMPANY PLAT NO. 3", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR THE PURPOSE OF THIS DESCRIPTION THE WEST LINE OF TRACTS 72 AND 73, BLOCK 43, "THE PALM BEACH FARMS COMPANY PLAT NO. 3", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, IS ASSUMED TO BEAR NORTH $00^{\circ}28'29''$ WEST.

COMMENCING AT THE INTERSECTION OF THE PROLONGATION OF THE WEST LINE OF SAID TRACT 73, BLOCK 43 AND THE SOUTH LINE OF A 15 FOOT WIDE STRIP OF LAND ADJACENT TO THE SOUTH LINE OF TRACT 73, BLOCK 43, "THE PALM BEACH FARMS COMPANY PLAT NO. 3", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID LINE ALSO BEING THE NORTH LINE OF THE PLAT OF "VALENCIA SHORES - PLAT FOUR", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 99, PAGES 78 THROUGH 91, INCLUSIVE, OF THE PUBLIC RECORDS OF

PALM BEACH COUNTY, FLORIDA; THENCE NORTH $00^{\circ}28'29''$ WEST, ALONG SAID WEST LINE, A DISTANCE OF 750.56 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH $00^{\circ}28'29''$ WEST, ALONG SAID WEST LINE, A DISTANCE OF 66.38 FEET; THENCE NORTH $89^{\circ}31'31''$ EAST, A DISTANCE OF 45.00 FEET; THENCE SOUTH $00^{\circ}28'29''$ EAST, A DISTANCE OF 66.38 FEET; THENCE SOUTH $89^{\circ}31'31''$ WEST, A DISTANCE OF 45.00 FEET TO THE POINT OF BEGINNING.

AND

A PORTION OF THE LAKE WORTH DRAINAGE DISTRICT E-1 CANAL RIGHT-OF-WAY PER OFFICIAL RECORDS BOOK 1585, PAGE 505, PER DEED BOOK 118, PAGE 518, PER OFFICIAL RECORDS BOOK 6813, PAGE 1545, ALL OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 7, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR THE PURPOSE OF THIS DESCRIPTION THE WEST LINE OF TRACTS 72 AND 73, BLOCK 43, "THE PALM BEACH FARMS COMPANY PLAT NO. 3", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, IS ASSUMED TO BEAR NORTH $00^{\circ}28'29''$ WEST.

COMMENCING AT THE INTERSECTION OF THE PROLONGATION OF THE WEST LINE OF SAID TRACT 73, BLOCK 43 AND THE SOUTH LINE OF A 15 FOOT WIDE STRIP OF LAND ADJACENT TO THE SOUTH LINE OF TRACT 73, BLOCK 43, "THE PALM BEACH FARMS COMPANY PLAT NO. 3", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID LINE ALSO BEING THE NORTH LINE OF THE PLAT OF "VALENCIA SHORES - PLAT FOUR", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 99, PAGES 78 THROUGH 91, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH $00^{\circ}28'29''$ WEST, ALONG SAID WEST LINE, A DISTANCE OF 750.56 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH $00^{\circ}28'29''$ WEST, ALONG SAID WEST LINE, A DISTANCE OF 66.38 FEET; THENCE SOUTH $89^{\circ}31'31''$ WEST, A DISTANCE OF 70.98 FEET TO THE WEST LINE OF THE SAID LAKE WORTH DRAINAGE DISTRICT E-1 CANAL RIGHT-OF-WAY, DESCRIBED IN INTERAGENCY AGREEMENT, AS RECORDED IN OFFICIAL RECORDS BOOK 6813, PAGE 1545, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE SOUTH $00^{\circ}46'10''$ EAST, ALONG SAID WEST LINE OF THE SAID LAKE WORTH DRAINAGE DISTRICT E-1 CANAL RIGHT-OF-WAY, A DISTANCE OF 66.38; THENCE NORTH $89^{\circ}31'31''$ EAST, A DISTANCE OF 70.63 FEET TO THE POINT OF BEGINNING.