

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

Meeting Date: January 15, 2013 **Consent [X]** **Regular []**
Public Hearing []

Department: Water Utilities Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file: executed Agreements received during the months of September and October, 2012;

- A) Standard Development Agreement with Shirdi Sai Center of South Florida, Inc, SDA # 02-01134-000 (District 3);
- B) Standard Development Agreement with BHC Holdings LL, LLC, SDA # 05-01111-000 (District 5); and
- C) Utility Concurrency Reservation Agreement with Florida South Division, LLC, UCRA# 13-01024-000 (District 6)

Summary: In accordance with County PPM CW-0-051, all delegated contracts/agreements/grants/procurement items must be submitted by the initiating Department as a receive and file agenda item. The attached documents 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. Districts 3, 5, and 6 (MJ)
Original documents can be viewed in Minutes.

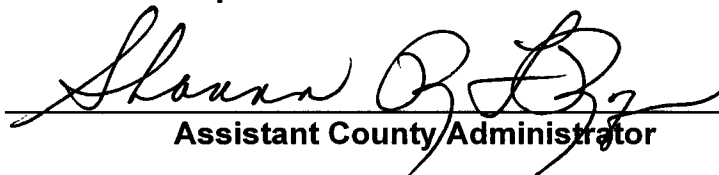
Background and Justification: Water Utilities Department's Uniform Policies and Procedures require Standard Development Agreements to obtain concurrency for water and/or wastewater service. The terms and conditions for Standard Development Agreements are outlined in the Water Utilities Department's Uniform 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. Two (2) Original Standard Development Agreement with Shirdi Sai Center of South Florida, Inc, SDA # 02-01134-000
- 2. Two (2) Original Standard Development Agreement with BHC Holdings LL, LLC, SDA # 05-01111-000
- 3. Two (2) Original Utility Concurrency Reservation Agreement with Florida South Division, LLC, UCRA# 13-01024-000

Recommended By:  1/3/2013
Department Director Date

Approved By:  1/7/13
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2013	2014	2015	2016	2017
Capital Expenditures	0	0	0	0	0
External Revenues	(\$23,509.38)	0	0	0	0
Program Income (County)	0	0	0	0	0
In-Kind Match County	0	0	0	0	0
NET FISCAL IMPACT	(\$23,509.38)	0	0	0	0
# ADDITIONAL FTE POSITIONS (Cumulative)	0	0	0	0	0

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

Is Item Included in Current Budget? Yes _____ No X

Reporting Category N/A

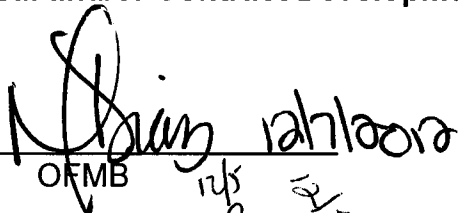
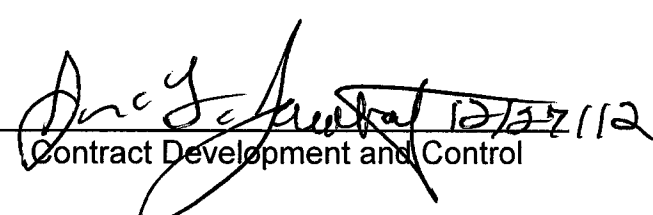
B. Recommended Sources of Funds/Summary of Fiscal Impact:

MAP has been paid in full and service installation fees will be collected at the time of connection.

C. Department Fiscal Review: Selma M. Vest

III. REVIEW COMMENTS

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

 OFMB *12/5/12* *12/15/12* *12/15/12*

 Contract Development and Control *12/15/12*

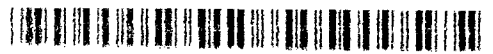
B. Legal Sufficiency:



 Assistant County Attorney *1/2/13*

C. Other Department Review:

Department Director



POTABLE WATER AND WASTEWATER

CFN 20120434490
OR BK 25561 PG 1354
RECORDED 10/30/2012 11:53:00
Palm Beach County, Florida
Sharon R. Beck, CLERK & COMPTROLLER
Pgs 1354 - 1361; (8pgs)

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

SDA # 02-01134-000

STANDARD POTABLE WATER AND WASTEWATER DEVELOPMENT AGREEMENT (SDA)

THIS AGREEMENT made and entered into this 28th day of SEPTEMBER, 2012, by and between PALM BEACH COUNTY, a subdivision of the State of Florida, hereinafter referred to as "Utility", and SHIRDI SAI CENTER OF SOUTH FLORIDA, INC., a Florida not for profit corporation, 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 potable water and wastewater facilities hereinafter referred to as "facilities"; and

WHEREAS, upon the conditions set forth herein, Utility desires to accept ownership of the completed potable water and wastewater facilities for operation and maintenance purposes; and

WHEREAS, Property Owner understands that this contract 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, in the interest of public health and to encourage the use of central water and wastewater facilities, Utility 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 potable water to and to collect wastewater from the property;
 - (c) "Point of Service" - generally, the point where the pipes or meters of Utility are connected with pipes of Property Owner as further defined in Chapter 1 of the UPAP;
 - (d) "Equivalent Residential Connection (ERC)" - a system capacity equivalency unit which corresponds to the peak demand of the 5/8" x 3/4" meter sub-category of the single-family residential category of Customer usage. This system capacity equivalency unit is utilized to establish the system demand for various sized connections for the purpose of assessing fees;
 - (e) "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;

POTABLE WATER AND WASTEWATER

- (f) "Service Initiation" - the date a potable water meter or wastewater connection is requested;
 - (g) "Guaranteed Revenue Fee" - the fee designed 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;
 - (h) "Total Accrued Amount (TAA)" - At the time of Service Initiation for each ERC, a TAA equal to sixty months of Guaranteed Revenue Fees plus applicable Franchise Fees at the then current rate minus the MAP paid per each ERC shall be due and payable for such ERC. The TAA for each ERC will be determined at the time of Service Initiation;
 - (i) "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
 - (j) "Franchise Fee" - A percentage surcharge applied to all of the Utility's fees for Customers within portions of the 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 potable water and wastewater 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 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 potable water and wastewater facilities; that in the event Utility is required or desires to install any of its potable water and wastewater 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 installation; 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 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, 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 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 potable water and wastewater facilities and services to the Property described in **Exhibit "A"** and in addition to any property to which potable water and wastewater service is actually rendered by Utility. All occupants of any residence 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 potable water and wastewater service from the aforesaid Utility and shall pay for the

POTABLE WATER AND WASTEWATER

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 residence 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 potable water and wastewater service from any source other than that provided by Utility.

Any water well or water source used solely for the purpose of supplying irrigation for the Property is excluded from this restriction unless the Property is required to utilize reclaimed water in accordance with the Palm Beach County Reclaimed Water Ordinance.

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 potable water and wastewater 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 potable water distribution and wastewater collection facilities installed by Property Owner to the potable water and wastewater facilities of Utility in accordance with the terms and intent of this Agreement. Such connection shall be in accordance with rules, and regulations of the Health Department, the UPAP, and other governmental agencies having jurisdiction over the water supply and wastewater collection and disposal operation of Utility.
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 ERC for the requested capacity upon submission of this Agreement; and

(b) a TAA per each ERC for the requested capacity upon Service Initiation.

Utility has advised Property Owner that construction of additional potable water and wastewater 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 should not be expected to provide service to connections in excess of those reserved as evidenced by proper payment of Guaranteed Revenue.

The MAP required upon submission of this Potable Water and Wastewater Agreement is:

Potable Water:	\$190.08 per ERC x	5.8	ERCs =	\$1,102.46
Wastewater:	\$266.76 per ERC x	5.8	ERCs =	\$1,547.21
			Franchise Fee	\$0.00
			TOTAL	\$2,649.67

Upon receipt of the MAP, Utility agrees to reserve 5.8 ERCs of Potable Water and Wastewater system capacity for Property Owner until **September 30, 2017**, 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.

Property Owner acknowledges that it is the sole responsibility of Property Owner to provide payment of a new MAP at the then current fees thirty (30) days before the expiration of the original five-year term. Should multiple assignments exist for this Agreement, each assignee must submit the appropriate MAP for any unconnected ERCs related to the assignee's ERCs. Should Property Owner or assignee fail to submit a new MAP payment for their respective

POTABLE WATER AND WASTEWATER

unconnected ERCs, Property Owner acknowledges and agrees that Utility may unilaterally execute a document evidencing termination and partial release of this Agreement except for the rights, duties, or obligations as set forth in Paragraphs 3, 4, 8, 9, 10, 13, and 14 of this Agreement and record the document in the public records of Palm Beach County, Florida.

At the time of Service Initiation, the applicable ERCs will be deducted from said reservation. Upon approval of Utility, the total number of ERCs may be increased up to 10% of the original reservation or by ten (10) ERCs, 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; however, any amendments will not extend the original five (5) year term of the Agreement. Any adjustment which is greater than that specified herein requires a new Agreement to be signed. Upon written notice to Utility, said ERCs may be adjusted downward however, no refund or credit will be given by Utility to Property Owner for said downward adjustment.

6. Property Owner hereby agrees to construct and to transfer ownership and control up to the Point of Service to Utility, at no cost, the on-site and off-site potable water distribution, and wastewater collection systems referred to herein. Upon acceptance of said facilities, Utility hereby agrees to accept ownership of the potable water and wastewater facilities for operation and maintenance purposes. 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 potable water distribution and wastewater collection 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 potable water distribution, and wastewater collection systems as shown on the plans and specifications. Fees, as set forth in the UPAP, shall be levied by Utility to cover the cost of plan review and inspection. Property Owner shall also be required to pay Guaranteed Revenue Fees, Connection Fees, Installation Fees, and other fees as set forth in the UPAP.

During the construction of the potable water distribution and wastewater collection systems 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.

Property Owner hereby agrees to transfer to Utility title to all potable water distribution and wastewater collection systems installed by Property Owner's contractor pursuant to the provisions of this Agreement. Such conveyance is to take effect without further action upon the acceptance by Utility of the 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 by Bill of Sale in a form supplied by Utility the complete on-site and off-site potable water distribution and wastewater collection 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 potable water and wastewater 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:

POTABLE WATER AND WASTEWATER

- \$50.00 per linear foot of any granted utility easement (based on the centerline of the easement); and
- \$150,000 for a Utility-owned wastewater lift station (if not constructed within an existing utility easement).

Said title policy shall confirm the Grantor's rights 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 easement(s) granted by Property Owner may be used by other utilities as long as such is approved by Utility. Utility's acceptance of the potable water distribution and wastewater collection 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 (or five years in the case of lift station pumps and motor assemblies) 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 easements or rights-of-way. All potable water distribution and wastewater collection 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 any other applicable fees as set forth in the UPAP at the then current rate.

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 potable water distribution and wastewater collection system 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 potable water and wastewater 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 potable water and wastewater facilities conveyed to Utility for use in connection with providing potable water and wastewater 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 potable water and wastewater services 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 potable water and wastewater 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 potable water and wastewater 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.

POTABLE WATER AND WASTEWATER

10. Property Owner or his assignee shall not have the right to and shall not connect to the potable water and wastewater 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.
11. Property Owner acknowledges and agrees that the transfer or assignment of this Agreement 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:

**4761 Myrtle Drive
Lake Worth, FL 33463;**

and if to Utility, shall be mailed to Palm Beach County Water Utilities Department Contract Management Section, P.O. Box 16097, West Palm Beach, FL 33416-6097.

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 potable water and wastewater facilities and services to any phased area and 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 herein contained, 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. Additional Conditions:
N/A
16. Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421-2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Property Owner(s), its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

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POTABLE WATER AND WASTEWATER

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.

WITNESSES:

PALM BEACH COUNTY

Judy D. Provence
Signature
Judy D. Provence
Typed or Printed Name

By: [Signature]
County Administrator or Designee

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

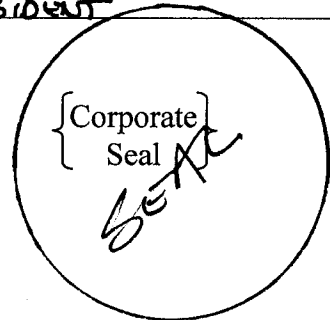
WITNESSES:

PROPERTY OWNER:

[Signature]
Signature
SANTHI SUNDARAM, V.P.
Typed or Printed Name

By: [Signature]
Signature
DR. V.S. SUNDARAM
Typed or Printed Name
PRESIDENT
Title

[Signature]
Signature
MIKE GUINNESS
Typed or Printed Name



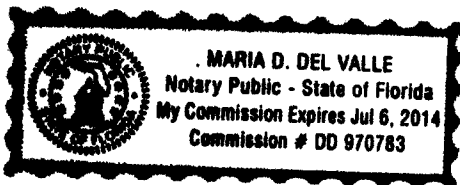
NOTARY CERTIFICATE

STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 28th day of September, 2012, by N S Sundaram. He/she is personally known to me or has produced _____ as identification.

My Commission Expires: 7-6-2014

[Signature]
Signature of Notary
Abra DelVelle
Typed, Printed, or Stamped Name of Notary



Notary Public Serial Number DD 970783

WATER UTILITIES DEPARTMENT APPROVAL

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

[Handwritten initials]

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]
County Attorney

POTABLE WATER AND WASTEWATER

EXHIBIT "A"
LEGAL DESCRIPTION

STARTING 225 FEET NORTH OF THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 44 SOUTH, RANGE 42 EAST; THENCE RUNNING WEST 225 FEET; THENCE NORTH 245 FEET; THENCE EAST 558 FEET; THENCE SOUTH 245 FEET; THENCE WEST 333 FEET TO THE POINT OF BEGINNING, A TRACT CONSISTING OF LAND 245 FEET BY 558 FEET, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING THE NORTH 245 FEET OF THE SOUTH 470 FEET OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, ALSO THE NORTH 245 FEET OF THE SOUTH 470 FEET OF THE EAST 225 FEET OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 44 SOUTH, RANGE 42 EAST, SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA

CONTAINING 136,880 SQUARE FEET OR 3.14 ACRES, MORE OR LESS.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

OK!
Huc/WVD
9/27/12



POTABLE WATER AND WASTEWATER

CFN 20120434489
 OR BK 25561 PG 1344
 RECORDED 10/30/2012 11:53:00
 Palm Beach County, Florida
 Sharon R. Bock, CLERK & COMPTROLLER
 Pgs 1344 - 1353; (10pgs)

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

SDA # 05-01111-000

STANDARD POTABLE WATER AND WASTEWATER DEVELOPMENT AGREEMENT
 (SDA)

THIS AGREEMENT made and entered into this 18th day of OCTOBER, 2012, by and between **PALM BEACH COUNTY**, a subdivision of the State of Florida, hereinafter referred to as "Utility", and **BHC HOLDINGS LL, LLC** a foreign 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 potable water and wastewater facilities hereinafter referred to as "facilities"; and

WHEREAS, upon the conditions set forth herein, Utility desires to accept ownership of the completed potable water and wastewater facilities for operation and maintenance purposes; and

WHEREAS, Property Owner understands that this contract 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, in the interest of public health and to encourage the use of central water and wastewater facilities, Utility 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 potable water to and to collect wastewater from the property;
 - (c) "Point of Service" - generally, the point where the pipes or meters of Utility are connected with pipes of Property Owner as further defined in Chapter 1 of the UPAP;
 - (d) "Equivalent Residential Connection (ERC)" - a system capacity equivalency unit which corresponds to the peak demand of the 5/8" x 3/4" meter sub-category of the single-family residential category of Customer usage. This system capacity equivalency unit is utilized to establish the system demand for various sized connections for the purpose of assessing fees;
 - (e) "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;

POTABLE WATER AND WASTEWATER

- (f) "Service Initiation" - the date a potable water meter or wastewater connection is requested;
 - (g) "Guaranteed Revenue Fee" - the fee designed 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;
 - (h) "Total Accrued Amount (TAA)" - At the time of Service Initiation for each ERC, a TAA equal to sixty months of Guaranteed Revenue Fees plus applicable Franchise Fees at the then current rate minus the MAP paid per each ERC shall be due and payable for such ERC. The TAA for each ERC will be determined at the time of Service Initiation;
 - (i) "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
 - (j) "Franchise Fee" - A percentage surcharge applied to all of the Utility's fees for Customers within portions of the 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 potable water and wastewater 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 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 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 potable water and wastewater facilities; that in the event Utility is required or desires to install any of its potable water and wastewater 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 installation; 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 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, 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 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 potable water and wastewater facilities and services to the Property described in **Exhibit "A"** and in addition to any property to which potable water and wastewater service is actually rendered by Utility. All occupants of any residence 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 potable water and wastewater service from the aforesaid Utility and shall pay for the

POTABLE WATER AND WASTEWATER

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 residence 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 potable water and wastewater service from any source other than that provided by Utility.

Any water well or water source used solely for the purpose of supplying irrigation for the Property is excluded from this restriction unless the Property is required to utilize reclaimed water in accordance with the Palm Beach County Reclaimed Water Ordinance.

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 potable water and wastewater 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 potable water distribution and wastewater collection facilities installed by Property Owner to the potable water and wastewater facilities of Utility in accordance with the terms and intent of this Agreement. Such connection shall be in accordance with rules, and regulations of the Health Department, the UPAP, and other governmental agencies having jurisdiction over the water supply and wastewater collection and disposal operation of Utility.
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 ERC for the requested capacity upon submission of this Agreement; and

(b) a TAA per each ERC for the requested capacity upon Service Initiation.

Utility has advised Property Owner that construction of additional potable water and wastewater 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 should not be expected to provide service to connections in excess of those reserved as evidenced by proper payment of Guaranteed Revenue.

The MAP required upon submission of this Potable Water and Wastewater Agreement is:

Potable Water:	\$199.32 per ERC x	21.60	ERCs =	<u>\$4,305.31</u>
Wastewater:	\$279.72 per ERC x	21.60	ERCs =	<u>\$6,041.95</u>
			Franchise Fee	<u>\$0.00</u>
			TOTAL	<u><u>\$10,347.26</u></u>

Upon receipt of the MAP, Utility agrees to reserve 21.60 ERCs of Potable Water and Wastewater system capacity for Property Owner until **October 31, 2017**, 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.

Property Owner acknowledges that it is the sole responsibility of Property Owner to provide payment of a new MAP at the then current fees thirty (30) days before the expiration of the original five-year term. Should multiple assignments exist for this Agreement, each assignee must submit the appropriate MAP for any unconnected ERCs related to the assignee's ERCs. Should Property Owner or assignee fail to submit a new MAP payment for their respective

POTABLE WATER AND WASTEWATER

unconnected ERCs, Property Owner acknowledges and agrees that Utility may unilaterally execute a document evidencing termination and partial release of this Agreement except for the rights, duties, or obligations as set forth in Paragraphs 3, 4, 8, 9, 10, 13, and 14 of this Agreement and record the document in the public records of Palm Beach County, Florida.

At the time of Service Initiation, the applicable ERCs will be deducted from said reservation. Upon approval of Utility, the total number of ERCs may be increased up to 10% of the original reservation or by ten (10) ERCs, 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; however, any amendments will not extend the original five (5) year term of the Agreement. Any adjustment which is greater than that specified herein requires a new Agreement to be signed. Upon written notice to Utility, said ERCs may be adjusted downward however, no refund or credit will be given by Utility to Property Owner for said downward adjustment.

6. Property Owner hereby agrees to construct and to transfer ownership and control up to the Point of Service to Utility, at no cost, the on-site and off-site potable water distribution, and wastewater collection systems referred to herein. Upon acceptance of said facilities, Utility hereby agrees to accept ownership of the potable water and wastewater facilities for operation and maintenance purposes. 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 potable water distribution and wastewater collection 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 potable water distribution, and wastewater collection systems as shown on the plans and specifications. Fees, as set forth in the UPAP, shall be levied by Utility to cover the cost of plan review and inspection. Property Owner shall also be required to pay Guaranteed Revenue Fees, Connection Fees, Installation Fees, and other fees as set forth in the UPAP.

During the construction of the potable water distribution and wastewater collection systems 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.

Property Owner hereby agrees to transfer to Utility title to all potable water distribution and wastewater collection systems installed by Property Owner's contractor pursuant to the provisions of this Agreement. Such conveyance is to take effect without further action upon the acceptance by Utility of the 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 by Bill of Sale in a form supplied by Utility the complete on-site and off-site potable water distribution and wastewater collection 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 potable water and wastewater 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:

POTABLE WATER AND WASTEWATER

- \$50.00 per linear foot of any granted utility easement (based on the centerline of the easement); and
- \$150,000 for a Utility-owned wastewater lift station (if not constructed within an existing utility easement).

Said title policy shall confirm the Grantor's rights 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 easement(s) granted by Property Owner may be used by other utilities as long as such is approved by Utility. Utility's acceptance of the potable water distribution and wastewater collection 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 (or five years in the case of lift station pumps and motor assemblies) 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 easements or rights-of-way. All potable water distribution and wastewater collection 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 any other applicable fees as set forth in the UPAP at the then current rate.

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 potable water distribution and wastewater collection system 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 potable water and wastewater 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 potable water and wastewater facilities conveyed to Utility for use in connection with providing potable water and wastewater 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 potable water and wastewater services 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 potable water and wastewater 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 potable water and wastewater 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.

POTABLE WATER AND WASTEWATER

10. Property Owner or his assignee shall not have the right to and shall not connect to the potable water and wastewater 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.
11. Property Owner acknowledges and agrees that the transfer or assignment of this Agreement 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:

**280 Park Avenue - FL 36
New York, NY 10017-1285;**

and if to Utility, shall be mailed to Palm Beach County Water Utilities Department Contract Management Section, P.O. Box 16097, West Palm Beach, FL 33416-6097.

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 potable water and wastewater facilities and services to any phased area and 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 herein contained, 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. Additional Conditions:
16. Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421-2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Property Owner(s), its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

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POTABLE WATER AND WASTEWATER

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.

WITNESSES:

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

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

PALM BEACH COUNTY

By: [Signature]
County Administrator or Designee

WITNESSES:

Signature [Signature]
Typed or Printed Name Alexandra Fullerton

Signature [Signature]
Typed or Printed Name Mark Korachi

PROPERTY OWNER:

By: [Signature]
Signature Michael O'Brien
Typed or Printed Name Vice President
Title

{ Corporate Seal }

NOTARY CERTIFICATE

STATE OF New York
COUNTY OF New York

The foregoing instrument was acknowledged before me this 17th day of September, 2012 by Michael O'Brien. He/she is personally known to me or has produced _____ as identification.

My Commission Expires: ALEX HOFMANN
Notary Public, State of New York
No. 01HO6028348 Signature of Notary [Signature]
Qualified in New York County
Commission Expires July 26, 2013 Typed, Printed, or Stamped Name of Notary

Notary Public
Serial Number _____

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

POTABLE WATER AND WASTEWATER

**EXHIBIT "A"
LEGAL DESCRIPTION**

Parcel One:

A Parcel of land lying in section 28, township 45 south, range 42 east, Palm Beach County, Florida, and being a portion of the plat of Boynton Beach Enterprise Center plat No. 2 as recorded in Plat Book 79, Page 152, and being more particularly described as follows:

BEGINNING at the southeasterly corner of said plat of Boynton Beach Enterprise Center Plat No. 2; thence along the southerly line of said plat of Boynton Beach Enterprise Center Plat No. 2, S89°36'32"W a distance of 2,615.10 feet to the southwesterly corner of said plat; thence, along the westerly line of said plat; N00°24'57"W a distance of 84.59 feet; thence leaving said westerly line; and along the northerly and westerly lines of parcel B-2 of said plat of Boynton Beach Enterprise Center Plat No. 2 the following four (4) courses N89°36'32"E a distance of 368.88 feet; thence N00°23'46"W a distance of 75.41 feet; thence N89°36'32"E a distance of 460.00 feet; thence N00°23'45"W a distance of 559.80 feet to a point on a curve concave to the northwest having a radius of 1,040.00 feet, and having a radial bearing of N35°05'55"W; said point also being on the southerly right-of-way line of Venture Center Way (80' wide right-of-way), as recorded in Plat Book 80, Page 160; thence along the southerly right-of-way line of Venture Center Way the following nine (9) courses, run northeasterly along said curve through a central angle of 00°57'45" a distance of 17.47 feet to the point of tangency; thence N53°56'19"E a distance of 68.64 feet to the point of curvature of a curve concave to the southeast and having a radius of 960.00 feet; thence northeasterly along said curve through a central angle of 35°40'13" a distance of 597.66 feet to the point of tangency; thence N89°36'32"E a distance of 445.07 feet to the point of curvature of a curve concave to the southwest and having a radius of 960.00 feet; thence southeasterly along said curve through a central angle of 09°09'02" a distance of 153.32 feet to the point of tangency; thence S81°14'26"E, a distance of 177.26 feet to the point of curvature of a curve concave to the north having a radius of 1,040.00 feet; thence southeasterly along said curve through a central angle of 09°08'42", a distance of 166.00 feet to the point of tangency; thence N89°36'52"E, a distance of 188.37 feet, thence S45°23'45"E, a distance of 41.02 feet to a point on the westerly line of Hagen Ranch Road, (varying width right-of-way); said line also being the easterly line of said plat of Boynton Beach Enterprise Center Plat No.2, thence along said easterly line the following 8 courses - S13°05'55"W, a distance of 47.15 feet, thence S00°23'45"E, a distance of 298.50 feet; thence S44°36'15"W, a distance of 42.43 feet; thence N89°36'15"E, a distance of 42.00 feet; thence S00°23'45"E, a distance of 52.00 feet; thence S89°36'15"W, a distance of 30.00 feet; thence S45°23'45"E, a distance of 42.43 feet thence S00°23'45"E, a distance of 411.00 feet to the POINT OF BEGINNING.

Parcel Two:

A portion of Parcel A-2, as shown on the plat of Boynton Beach Enterprise Center Plat No. 2, as recorded in Plat Book 79, Page 152, of the Public Records of Palm Beach County, Florida, lying South of the South Right of Way Line of Venture Center Way as shown on the plat of Boynton Beach Enterprise Center Replat No.3, as recorded in Plat Book 80, Page 160, of the Public Records of Palm Beach County, Florida, and lying north of the north line of Parcel B-2 as shown on the Plat of Boynton Beach Enterprise Center Plat No. 2 as recorded in Plat Book 79, Page 152 of the Public Records of Palm Beach County, Florida.

TOTAL CONTAINING: 39.58 ACRES, MORE OR LESS

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OK
HW/WVD
9/17/12

CONSENT AND SUBORDINATION

The undersigned, Deutsche Bank National Trust Company, as trustee, in trust for holders of UBS-Citigroup Commercial Mortgage Trust 2011-C1, Commercial Mortgage Pass-Through Certificates, Series 2011-C1 ("Lender"), is the current beneficiary under the Mortgage and Security Agreement (the "Mortgage"), dated October 14, 2011, in the original principal amount of \$26,300,000.00 encumbering the subject property, commonly known as Bethesda Health City, located in the city of Boynton Beach, Palm Beach County, Florida and hereby consents to the foregoing Agreement between Palm Beach County and BHC Holdings LL, LLC, a Delaware limited liability, for the provision of potable water, wastewater, and/or reclaimed water servicer to the property described in Exhibit "A" to the Agreement. Lender further consents to the granting of utility easements to Palm Beach County as provided for in the aforesaid Agreement and hereby subordinates the lien of the Mortgage to the provisions of said Agreement. Lender consents to the recording by _____ or Palm Beach County, Florida, in the Public Records of Palm Beach County, Florida of the Agreement. Except as expressly subordinated hereby, the Mortgage and the liens evidenced and created thereby shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned has executed this instrument on this ____ day of October 4th, 2012.

LENDER:

Deutsche Bank National Trust Company, as trustee,
in trust for holders of UBS-Citigroup Commercial
Mortgage trust 2011-C1, Commercial Mortgage
Pass-Through Certificates, Series 2011-C1,
By and through its Primary Servicer
MIDLAND LOAN SERVICES, A DIVISION OF
PNC BANK, NATIONAL ASSOCIATION

By: Greg McFarland
Name: Greg McFarland
Title: Senior Vice President and Servicing Officer

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

On this 4th day of October, 2012, before me, a Notary Public in and for the State of Kansas, personally appeared Gregory L. McFarland, personally known to be the person who executed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged that he is the Senior Vice President and Servicing Officer of Midland Loan Services, a Division of PNC Bank, National Association, to be the free and voluntary act and deed of said company for the uses and purposes mentioned in the instrument.

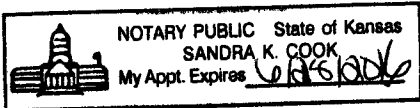
IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

(seal)

Sandra K Cook
Sandra K Cook

(Print Name)

NOTARY PUBLIC in and for the State of Kansas.



UTILITY CONCURRENCY RESERVATION AGREEMENT

THIS UTILITY CONCURRENCY RESERVATION AGREEMENT is made and entered into this 28th day of Sept., 2012 by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "Utility" and **FLORIDA SOUTH DIVISION, LLC**, 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.

UCRA # 13-01024-000

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

Potable Water:	\$190.08 per ERC x	32.50 ERCs =	\$6,177.60
Wastewater:	\$266.76 per ERC x	16.25 ERCs =	\$4,334.85
Reclaimed Water:	\$0.00 per ERC x	0.00 ERCs =	\$0.00
		UCF DUE	<u>\$10,512.45</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:

1200 North Kirk Road
Batavia, IL 60510-1477

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.

11. Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421-2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Developer(s), its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

(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:

Judy D. Provence
Judy D. Provence
Type or Print Name

Nancy M. May
NANCY M. MAY
Type or Print Name

PALM BEACH COUNTY

By: Beverly Beaudette
County Administrator or Designee

WITNESSES:

Lynn A. Moser
Lynn A. Moser
Type or Print Name

Kimberly J. Shanner
Kimberly J. Shanner
Type or Print Name

DEVELOPER:

By: Terry E. Pfortmiller
Signature
Secretary / Treasurer
Title

Terry E. Pfortmiller
Typed or Printed Name

NOTARY CERTIFICATE

STATE OF Illinois
COUNTY Kane

The foregoing instrument was acknowledged before me this 19th day of September, 2012 by Terry E. Pfortmiller. He/she is personally known to me or has produced _____ as identification.

My Commission Expires: 1/9/2016

Signature of Notary Lisa Ankley



OFFICIAL SEAL
LISA A. ANKLEY
Typed, Printed, or Stamped Name of Notary
NOTARY PUBLIC, STATE OF ILLINOIS
COMMISSION EXPIRES 1-9-2016

Notary Public
Serial Number _____

WATER UTILITIES DEPARTMENT APPROVAL:

By: debra m west
Director, Finance and Administration
PBC Water Utilities

(CW)

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: [Signature]
County Attorney

EXHIBIT "A"
LEGAL DESCRIPTION

Area for Florida South LLC to acquire from Lake Wellington Professional, LLC:
Lots 1, 4, and 5 of Country West, as recorded in Plat Book 40, pages 179-180, in the public records of Palm Beach County Florida, together with the Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 25, Township 43, Range 41, Palm Beach County Florida. Said lands lying, being and situate in Palm Beach County, Florida. Containing 25.25 acres, more or less.

Area for Florida South LLC to acquire from Absolute Holdings of South Florida, LLC:
Lots 2, 3, 6, and 7, and the western most 545.53 ft acres of Tract A of Country West, as recorded in Plat Book 40, pages 179-180, in the public records of Palm Beach County Florida. Said lands lying, being and situate in Palm Beach County, Florida. Containing 28.49 acres, more or less.

OK!
HW/WUD
10/4/12

CLOSING STATEMENT
Village of Palm Springs

TRANSFEROR: VILLAGE OF PALM SPRINGS, a Florida municipal corporation.

TRANSFeree: PALM BEACH COUNTY, a political subdivision of the State of Florida.

GOVERNING AGREEMENT: Transfer Agreement between the Village of Palm Springs and Palm Beach County for Utility System Transfer dated July 19, 2011 (as approved by Village of Palm Springs Resolution 2011-44 and County Resolution No. R2011-1103)

DATE OF TRANSFER: October 3, 2012

PLACE OF TRANSFER: N/A.

Due from Village per Section 5.5 of Agreement:	\$185,831.76	
Due from Village for County Deferred Payment Plan:	\$ 8,918.32	
Due from Village for Customer Deposits:	\$ 12,325.00	
Due from Village for Price Street Construction:	\$ 11,697.59	
Due from County for Village Special Assessment Agreements:		\$30,115.76
Due from County for Customer Deposits:		\$ 1,715.00
Due from County for Municipal Tax:		\$14,130.61
	\$218,772.67	\$45,961.37

Net: \$172,811.30 from the Village to the County

VILLAGE OF PALM SPRINGS, FLORIDA BY ITS VILLAGE COUNCIL

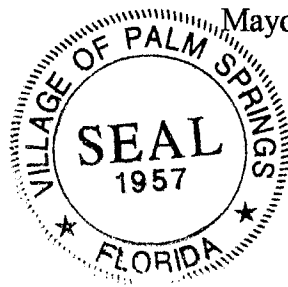
ATTEST:

By: Virginia M. Walton
Virginia M. Walton,
Village Clerk

By: Bev Smith
Bev Smith,
Mayor

APPROVED AS TO FORM AND TO LEGAL SUFFICIENCY

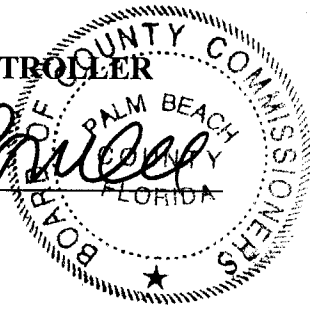
By: Glen J. Torcivia
Glen J. Torcivia,
Village Attorney



ATTEST:

SHARON R. BOCK
CLERK AND COMPTROLLER

By: 
Deputy Clerk




(SEAL)

PALM BEACH COUNTY, BY ITS
BOARD OF COUNTY
COMMISSIONERS

By: 
Shelley Vana, Chair

APPROVED AS TO FORM AND TO
LEGAL SUFFICIENCY

By: 
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By: 
Director of Water Utilities



CFN 20120398112
 OR BK 25507 PG 1056
 RECORDED 10/05/2012 09:25:02
 Palm Beach County, Florida
 Sharon R. Bock, CLERK & COMPTROLLER
 Pgs 1056 - 1058; (3pgs)

Prepared by and return to:

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

ASSIGNMENT OF EASEMENTS-TRANSFER AREA 1

THIS ASSIGNMENT OF EASEMENTS (this "Assignment") is made 10/10, 2012, by **VILLAGE OF PALM SPRINGS, FLORIDA**, a municipal corporation of the State of Florida (hereinafter "Assignor"), to **PALM BEACH COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter "Assignee"), pursuant to the Interlocal Agreement between County and Village for Utility System Transfer dated July 19, 2011 (Village of Palm Springs Resolution No. 2011-44 and County Resolution No. R2011-1103) ("Agreement"), which is incorporated herein by specific reference.

WHEREAS, among the Utility Assets owned by Assignor in Transfer Area 1 and intended to be conveyed to Assignee, in accordance with the Agreement, are the rights of Assignor under those certain easements, licenses, prescriptive rights, rights-of-way, and other rights to use public and private roads, highways, streets, railroads and other areas owned or used by Assignor for the construction, ownership, operation and maintenance of the Transfer Area 1 Utility System ("**Easements**");

WHEREAS, Assignor has agreed to transfer to Assignee all of the rights, title and interest of Assignor as grantee under the Easements, including, but not limited to, those certain Easements described in Attachment 1 attached hereto and made a part hereof.

NOW, THEREFORE, in consideration of the mutual promises, covenants, representations and agreements contained herein, together with the sum of TEN and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows.

1. The foregoing information and recitals are incorporated into this Assignment and made a part hereof.
2. Assignor hereby quit claims, conveys and assigns unto Assignee, its successors and assigns, all right, title, obligations, duties and interest of Assignor, if any, in the Easements, together with all other recorded and unrecorded rights, privileges, easements, licenses, prescriptive rights, rights-of-way, and rights to use public and private roads, highways, streets, railroads and other areas owned or used by Assignor in connection with the construction, reconstruction, installation, expansion, maintenance and operation of the Transfer Area 1 Utility System.
3. Assignor hereby covenants that to the best of its knowledge it has the lawful right to assign the above interests.
4. Assignor covenants and agrees with Assignee and its successors and assigns that Assignor will do, execute, acknowledge and deliver or cause to be done, executed,

acknowledged and delivered any and all such further acts, instruments, papers and documents, as may be reasonably necessary, proper or convenient to carry out and effectuate the intent and purposes of this Assignment.

5. This Assignment shall inure to the benefit of Assignee, Assignor, their successors and permitted assigns, and shall bind Assignor and Assignee and their successors and permitted assigns. This Assignment is not intended to confer upon any person other than the parties hereto any rights or remedies hereunder.

6. This Assignment shall be governed in all respects, whether as to validity, construction, capacity, performance or otherwise, by the laws of the State of Florida applicable to contracts made and to be performed within that state. Nothing herein shall be construed to waive any defense of sovereign immunity that Assignor or Assignee may be lawfully entitled to assert under applicable Florida law.

7. If any term or provision of this Assignment shall, to any extent or for any reason, be held to be invalid or unenforceable, the remainder of this Assignment shall not be affected thereby and shall be construed as if such invalid or unenforceable provision had never been contained herein or been applicable in such circumstances.

8. All capitalized terms utilized herein, and not otherwise defined herein, shall have the meanings ascribed thereto in the Agreement. The terms in the Interlocal Agreement are incorporated herein by reference.

IN WITNESS WHEREOF, Assignor has executed and sealed this Assignment.

ASSIGNOR: VILLAGE OF PALM SPRINGS, FLORIDA

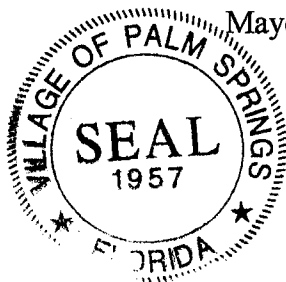
ATTEST:

By: Virginia M. Walton
Virginia M. Walton,
Village Clerk

By: Bev Smith
Bev Smith
Mayor

**APPROVED AS TO FORM AND TO
LEGAL SUFFICIENCY**

By: Glen J. Torcivia
Glen J. Torcivia,
Village Attorney



**Attachment 1
EASEMENTS**

- 1. Easement dated June 21, 2011 from Entrepreneur Holdings, Inc., to Village of Palm Springs recorded at Palm Beach County ORB 24645/Page 1296 and accepted by the Village Council of Palm Springs by Resolution 2011-046 dated July 14, 2011.**

CFN 20120398113
OR BK 25507 PG 1059
RECORDED 10/05/2012 09:25:02
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 1059 - 1062; (4pgs)

Prepared by and Return to:

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

**ASSIGNMENT AND ASSUMPTION OF SPECIAL ASSESSMENT AGREEMENTS -
TRANSFER AREA 1**

THIS ASSIGNMENT AND ASSUMPTION OF SPECIAL ASSESSMENT AGREEMENTS-TRANSFER AREA 1 ("Assignment") is made and entered into as 10/10, 2012, by and between the VILLAGE OF PALM SPRINGS, a municipal corporation ("Assignor"), and PALM BEACH COUNTY, FLORIDA, a political subdivision of the State of Florida ("Assignee").

WHEREAS, Assignor and Assignee entered into that certain Interlocal Agreement between County and Village for Utility System Transfer dated July 19, 2011 (Village of Palm Springs Resolution 2011-44 and County Resolution No. R2011-1103) ("Agreement") pursuant to which they desire to assign specific rights and duties contained in certain Special Assessment Agreements into which Assignor entered in the ordinary course of its utility operations.

NOW, THEREFORE, for ten (\$10.00) dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree:

1. Assignor hereby transfers, assigns, sets over and delivers unto Assignee, Assignor's interest in, to and under the Special Assessment Agreements attached hereto as **Attachment 1**.

2. Assignor represents to, warrants to, and covenants with Assignee that:

a. Assignor is the sole owner of the Special Assessment Agreements, that the Special Assessment Agreements are free and clear of all liens and encumbrances and can be lawfully transferred and assigned by Assignor, that Assignor has not and shall not execute any other assignment of the Special Assessment Agreements and that Assignor has not and shall not perform any acts or execute any other instrument that might prevent Assignee from fully exercising its rights under any of the terms, covenants and conditions of any Special Assessment Agreement or this Assignment.

b. The Special Assessment Agreements are valid and enforceable in accordance with their terms and have not been altered, modified, amended, terminated, or renewed, nor have any of the terms and conditions thereof been waived.

c. There are no defaults by Assignor of any type or nature under the Special Assessment Agreements and there exists no state of facts, conditions or events that with the giving of notice or the lapse of time would constitute a default by Assignor under the Special Assessment Agreements.

3. Assignee hereby assumes the covenants, conditions and obligations contained in the Special Assessment Agreements, subject to the terms of this Assignment.

4. The parties further agree as follows:

a. This Assignment is absolute and effective immediately.

b. Assignee is hereby vested with full power to use all measures, legal and equitable, deemed by it necessary or proper to enforce this Assignment, or the terms, conditions or covenants contained in the Special Assessment Agreements.

c. This Assignment shall be governed by and construed in accordance with the laws of the State of Florida.

d. This Assignment shall be recorded in the Public Records for Palm Beach County, Florida.

IN WITNESS WHEREOF, Assignor and Assignee have executed and sealed this Assignment.

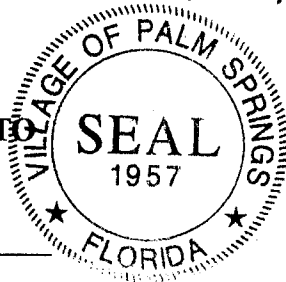
ASSIGNOR:

VILLAGE OF PALM SPRINGS, FLORIDA BY ITS VILLAGE COUNCIL

ATTEST:

By: Virginia M. Walton
Virginia M. Walton,
Village Clerk

By: Bev Smith
Bev Smith,
Mayor



APPROVED AS TO FORM AND TO LEGAL SUFFICIENCY

By: Glen J. Torcivia
Glen J. Torcivia,
Village Attorney

ASSIGNEE:

ATTEST:

**SHARON R. BOCK
CLERK AND COMPTROLLER**

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

By: _____
Deputy Clerk

By: _____
Shelley Vana, Chair

(SEAL)

APPROVED AS TO FORM AND TO LEGAL SUFFICIENCY

By: _____
County Attorney

APPROVED AS TO TERMS AND CONDITIONS

By: _____
Director of Water Utilities

- a. This Assignment is absolute and effective immediately.
- b. Assignee is hereby vested with full power to use all measures, legal and equitable, deemed by it necessary or proper to enforce this Assignment, or the terms, conditions or covenants contained in the Special Assessment Agreements.
- c. This Assignment shall be governed by and construed in accordance with the laws of the State of Florida.
- d. This Assignment shall be recorded in the Public Records for Palm Beach County, Florida.

IN WITNESS WHEREOF, Assignor and Assignee have executed and sealed this Assignment.

ASSIGNOR:

VILLAGE OF PALM SPRINGS, FLORIDA BY ITS VILLAGE COUNCIL

ATTEST:

By: _____
Virginia M. Walton,
Village Clerk

By: _____
Bev Smith,
Mayor

APPROVED AS TO FORM AND TO LEGAL SUFFICIENCY

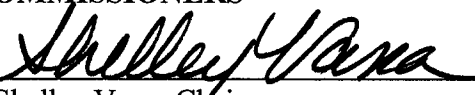
By: _____
Glen J. Torcivia,
Village Attorney

ASSIGNEE:

ATTEST:

SHARON R. BOCK
CLERK AND COMPTROLLER
By:  _____
Deputy Clerk



PALM BEACH COUNTY, BY ITS BOARD OF COUNTY COMMISSIONERS
By:  _____
Shelley Vana, Chair

(SEAL)

APPROVED AS TO FORM AND TO LEGAL SUFFICIENCY

By:  _____
County Attorney

APPROVED AS TO TERMS AND CONDITIONS

By:  _____
Director of Water Utilities

Attachment 1

<u>Property Address</u>	<u>UF Account</u>	<u>OR Book / Page</u>
4599 Todd Street	610056	13364/1228
4613 Todd Street	610049	23708/1133
4623 Todd Street	610041	23418/1616
4675 Todd Street	610044	23513/0390
4678 Todd Street	610043	23470/0821
4708 Todd Street	610047	23708/1141
4735 Todd Street	610046	23667/0013
4699 Todd Street	610053	23748/0392
4639/4643 Todd Street	610255	25462/1963

**BILL OF SALE OF TRANSFER AREA 1 UTILITY SYSTEM BY VILLAGE OF PALM
SPRINGS TO PALM BEACH COUNTY**

KNOW ALL MEN BY THESE PRESENTS that the **VILLAGE OF PALM SPRINGS, FLORIDA** (hereinafter "Seller") this _____ day of _____, 2012, for the sum of TEN DOLLARS (\$10.00) and other good and valuable considerations paid by **PALM BEACH COUNTY** (hereinafter "Purchaser"), the receipt of which is hereby acknowledged, pursuant to the Interlocal Agreement between County and Village for Utility System Transfer dated July 19, 2011 (Village of Palm Springs Resolution 2011-44 and County Resolution No. R2011-1103) ("Agreement"), which is incorporated herein by specific reference, has granted, bargained, sold, transferred, set over and delivered, and by these presents does grant, bargain, sell, transfer, set over and deliver, unto the Purchaser, its successors and assigns, each and every portion of the water systems and wastewater systems ("Utility System"), including the rights to provide Utility Service, owned by Seller within Transfer Area 1 (a depiction of which is attached hereto and incorporated herein as **Attachment 1**), both tangible and intangible, as more fully set forth in the following paragraphs, which include, but are not limited to, the following personality or rights:

1. All licenses, prescriptive rights, rights-of-way and rights to use public or private roads, highways, streets and other areas owned or used by Seller for the construction, operation and maintenance of the Transfer Area 1 Utility System.

2. All water supply and distribution facilities, wastewater treatment collection, and disposal facilities of every kind and description whatsoever, including but not limited to pumps, tanks, lift stations, transmission mains, distribution mains, supply pipes, collection pipes or facilities, irrigation quality water and effluent disposal facilities, valves, meters, meter boxes, service connections and all other physical facilities, equipment and property installations owned by Seller and used in connection with the Transfer Area 1 Utility System, together with all additions or replacements thereto.

3. All certificates, immunities, privileges, permits, license rights, consents, grants, ordinances, leaseholds, and all rights to construct, maintain and operate the Transfer Area 1 Utility System for the procuring, storage and distribution of potable water and the collection, treatment and disposal of wastewater, and every right of every character whatever in connection therewith, and the obligations thereof, including all water supply rights, flowage rights and riparian rights and all renewals, extensions, additions or modifications of any of the foregoing, together with all rights granted to Seller under any certificates.

4. All supplier lists, customer records, billing records, prints, plans, engineering reports, surveys, specifications, shop drawings, equipment manuals, maps, books, and other information reasonably required by Purchaser to operate the Transfer Area 1 Utility System.

5. All sets of record drawings, including as-built drawings, showing all facilities of the Transfer Area 1 Utility System, including all original tracings, sepias or other reproducible materials.

6. All warranties by third parties in favor of Seller, including those related to completed or in-progress construction work, including professional engineering warranties, for the Transfer Area 1 Utility System.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

Seller represents and warrants that it has exclusive ownership, possession, control, and marketable title to the above-referenced property and the above-referenced property is subject to no mortgage, pledge, lien, charge, security interest, encumbrance, or restriction.

IN WITNESS WHEREOF, Seller has executed and sealed this Bill of Sale for Transfer Area 1 Utility System to Palm Beach County.

SELLOR:

VILLAGE OF PALM SPRINGS, FLORIDA

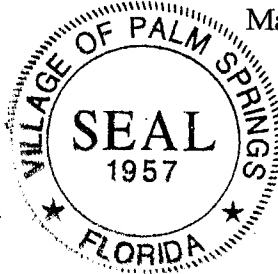
ATTEST:

By: Virginia M. Walton
Virginia M. Walton,
Village Clerk

By: Bev Smith
Bev Smith,
Mayor

**APPROVED AS TO FORM AND TO
LEGAL SUFFICIENCY**

By: Glen J. Torcivia
Glen J. Torcivia,
Village Attorney




Attachment 1
Depiction of Transfer Area 1

Exhibit "A"

Village of Palm Springs to Palm Beach County Water Utilities




P.B.C. Water Utilities Department
 8100 Forest Hill Blvd.
 West Palm Beach, Florida 33418
 Phone: (561) 493-6000

Contact: Bill Kramer / Danny Thorpe
 File Name: WUGSISPROJECTS
 PalmSpringsPBCWUIDExhibitA.mxd
 Map Created: April 27, 2011

1 inch = 400 feet

**BILL OF SALE OF TRANSFER AREA 2 UTILITY SYSTEM BY PALM BEACH
COUNTY TO VILLAGE OF PALM SPRINGS**

KNOW ALL MEN BY THESE PRESENTS that **PALM BEACH COUNTY** (hereinafter "Seller") this _____ day of _____, 2012, for the sum of TEN DOLLARS (\$10.00) and other good and valuable considerations paid by **VILLAGE OF PALM SPRINGS** (hereinafter "Purchaser"), the receipt of which is hereby acknowledged, pursuant to the Interlocal Agreement between County and Village for Utility System Transfer dated July 19, 2011 (County Resolution No. R2011-1103) ("Agreement"), which is incorporated herein by specific reference, has granted, bargained, sold, transferred, set over and delivered, and by these presents does grant, bargain, sell, transfer, set over and deliver, unto the Purchaser, its successors and assigns, each and every portion of the water systems and wastewater systems ("Utility System"), including the rights to provide Utility Service, owned by Seller within Transfer Area 2 (a depiction of which is attached hereto and incorporated herein as **Attachment 1**), both tangible and intangible, as more fully set forth in the following paragraphs, which include, but are not limited to, the following personality or rights:

1. All licenses, prescriptive rights, rights-of-way and rights to use public or private roads, highways, streets and other areas owned or used by Seller for the construction, operation and maintenance of the Transfer Area 2 Utility System.

2. All water supply and distribution facilities, wastewater treatment collection, and disposal facilities of every kind and description whatsoever, including but not limited to pumps, tanks, lift stations, transmission mains, distribution mains, supply pipes, collection pipes or facilities, irrigation quality water and effluent disposal facilities, valves, meters, meter boxes, service connections and all other physical facilities, equipment and property installations owned by Seller and used in connection with the Transfer Area 2 Utility System, together with all additions or replacements thereto.

3. All certificates, immunities, privileges, permits, license rights, consents, grants, ordinances, leaseholds, and all rights to construct, maintain and operate the Transfer Area 2 Utility System for the procuring, storage and distribution of potable water and the collection, treatment and disposal of wastewater, and every right of every character whatever in connection therewith, and the obligations thereof, including all water supply rights, flowage rights and riparian rights and all renewals, extensions, additions or modifications of any of the foregoing, together with all rights granted to Seller under any certificates.

4. All supplier lists, customer records, billing records, prints, plans, engineering reports, surveys, specifications, shop drawings, equipment manuals, maps, books, and other information reasonably required by Purchaser to operate the Transfer Area 2 Utility System.

5. All sets of record drawings, including as-built drawings, showing all facilities of the Transfer Area 2 Utility System, including all original tracings, sepias or other reproducible materials.

6. All warranties by third parties in favor of Seller, including those related to completed or in-progress construction work, including professional engineering warranties, for the Transfer Area 2 Utility System.

Seller represents and warrants that it has exclusive ownership, possession, control, and marketable title to the above-referenced property and the above-referenced property is subject to no mortgage, pledge, lien, charge, security interest, encumbrance, or restriction.

IN WITNESS WHEREOF, Seller has executed and sealed this Bill of Sale.

ATTEST:

PALM BEACH COUNTY, BY ITS
BOARD OF COUNTY
COMMISSIONERS

By: *Nancy Powell*
Deputy Clerk

By: *Shelley Vana*
Shelley Vana, Chair

(SEAL)

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: *[Signature]*
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By: *[Signature]*
Director of Water Utilities

Attachment 1
Depiction of Transfer Area

2

Palm Beach County Water Utilities to Village of Palm Springs



P.B.C. Water Utilities Department
 8100 Forest Hill Blvd.
 West Palm Beach, Florida 33416
 Phone: (561) 493-6000

Contact: Bill Kramer / Darryl Thorpe
 File Name: WIGISPROJECTS1
 PalmSpringsPBWUDExhibit B.mxd
 Map Created: April 27, 2011

1 inch = 400 feet

Prepared by and Return to:

**ASSIGNMENT AND ASSUMPTION OF DEFERRED PAYMENT PLANS -TRANSFER
AREA 2**

THIS ASSIGNMENT AND ASSUMPTION OF DEFERRED PAYMENT PLANS-TRANSFER AREA 2 ("Assignment") is made and entered into as _____, 2012, by and between **PALM BEACH COUNTY, FLORIDA**, a political subdivision of the State of Florida ("Assignor"), and the **VILLAGE OF PALM SPRINGS**, a municipal corporation ("Assignee").

WHEREAS, Assignor and Assignee entered into that certain Interlocal Agreement between County and Village for Utility System Transfer dated July 19, 2011 (County Resolution No. R2011-1103) ("Agreement") pursuant to which they desire to assign specific rights and duties contained in certain Deferred Payment Plans into which Assignor entered in the ordinary course of its utility operations.

NOW, THEREFORE, for ten (\$10.00) dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree:

1. Assignor hereby transfers, assigns, sets over and delivers unto Assignee, Assignor's interest in, to and under the Deferred Payment Plans attached hereto as **Attachment 1**.

2. Assignor represents to, warrants to, and covenants with Assignee that:

a. Assignor is the sole owner of the Deferred Payment Plans, that the Deferred Payment Plans are free and clear of all liens and encumbrances and can be lawfully transferred and assigned by Assignor, that Assignor has not and shall not execute any other assignment of the Deferred Payment Plans and that Assignor has not and shall not perform any acts or execute any other instrument that might prevent Assignee from fully exercising its rights under any of the terms, covenants and conditions of any developer agreement or this Assignment.

b. The Deferred Payment Plans are valid and enforceable in accordance with their terms and have not been altered, modified, amended, terminated, or renewed, nor have any of the terms and conditions thereof been waived.

c. There are no defaults by Assignor of any type or nature under the Deferred Payment Plans and there exists no state of facts, conditions or events that with the giving of notice or the lapse of time would constitute a default by Assignor under the Deferred Payment Plans.

3. Assignee hereby assumes the covenants, conditions and obligations contained in the Deferred Payment Plans, subject to the terms of this Assignment.

4. The parties further agree as follows:

- a. This Assignment is absolute and effective immediately.
- b. Assignee is hereby vested with full power to use all measures, legal and equitable, deemed by it necessary or proper to enforce this Assignment, or the terms, conditions or covenants contained in the Deferred Payment Plans.
- c. This Assignment shall be governed by and construed in accordance with the laws of the State of Florida.
- d. This Assignment shall be recorded in the Public Record of Palm Beach County, Florida.

IN WITNESS WHEREOF, Assignor and Assignee have executed and sealed this Assignment.

ASSIGNOR:
ATTEST:
SHARON R. BOCK
CLERK AND COMPTROLLER

PALM BEACH COUNTY, BY ITS
BOARD OF COUNTY
COMMISSIONERS

By: _____
 Deputy Clerk

By: _____
 Shelley Vana, Chair

(SEAL)

APPROVED AS TO FORM AND TO
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: _____
 County Attorney

By: _____
 Director of Water Utilities

ATTEST: ASSIGNEE:

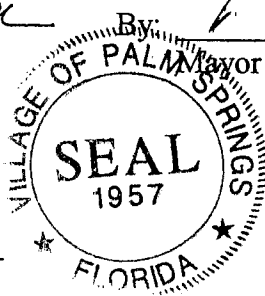
VILLAGE OF PALM SPRINGS, FLORIDA BY ITS VILLAGE COUNCIL

By: Virginia M. Walton
 Clerk

By: [Signature]
 Mayor

APPROVED AS TO FORM AND TO
LEGAL SUFFICIENCY

By: [Signature] For
 Village Attorney



- a. This Assignment is absolute and effective immediately.
- b. Assignee is hereby vested with full power to use all measures, legal and equitable, deemed by it necessary or proper to enforce this Assignment, or the terms, conditions or covenants contained in the Deferred Payment Plans.
- c. This Assignment shall be governed by and construed in accordance with the laws of the State of Florida.
- d. This Assignment shall be recorded in the Public Record of Palm Beach County, Florida.

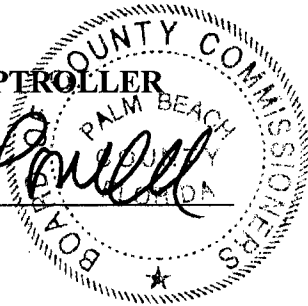
IN WITNESS WHEREOF, Assignor and Assignee have executed and sealed this Assignment.

ASSIGNOR:

ATTEST:

SHARON R. BOCK
CLERK AND COMPTROLLER

By: *Sharon R. Bock*
Deputy Clerk



PALM BEACH COUNTY, BY ITS
BOARD OF COUNTY
COMMISSIONERS

By: *Shelley Vana*
Shelley Vana, Chair

(SEAL)

APPROVED AS TO FORM AND TO
LEGAL SUFFICIENCY

By: *[Signature]*
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By: *[Signature]*
Director of Water Utilities

ATTEST: ASSIGNEE:

VILLAGE OF PALM SPRINGS, FLORIDA BY ITS VILLAGE COUNCIL

By: _____
Clerk

By: _____
Mayor

APPROVED AS TO FORM AND TO
LEGAL SUFFICIENCY

By: _____
Village Attorney

Attachment 1
DEFERRED PAYMENT PLANS

<u>Name</u>	<u>Address</u>	<u>PBC DPP No.</u>	<u>Recorded at:</u>
Susan E. Eunice	4447 Boatman Street Lake Worth, FL 33461-3417	3303	ORB 13734/Page 0834

Prepared by and return to:

ASSIGNMENT OF EASEMENTS-TRANSFER AREA 2

THIS ASSIGNMENT OF EASEMENTS (this "Assignment") is made _____, _____, 2012, by **PALM BEACH COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter "Assignor"), to **VILLAGE OF PALM SPRINGS, FLORIDA** ("Assignee"), pursuant to the Interlocal Agreement between County and Village for Utility System Transfer dated July 19, 2011 (County Resolution No. R2011-1103) ("Agreement"), which is incorporated herein by specific reference.

WHEREAS, among the Utility Assets owned by Assignor in Transfer Area 2 and intended to be conveyed to Assignee, in accordance with the Agreement, are the rights of Assignor under those certain easements, licenses, prescriptive rights, rights-of-way, and other rights to use public and private roads, highways, streets, railroads and other areas owned or used by Assignor for the construction, ownership, operation and maintenance of the Transfer Area 2 Utility System ("**Easements**");

WHEREAS, Assignor has agreed to transfer to Assignee all of the rights, title and interest of Assignor as grantee under the Easements, including, but not limited to, those certain Easements described in **Attachment 1** attached hereto and made a part hereof.

NOW, THEREFORE, in consideration of the mutual promises, covenants, representations and agreements contained herein, together with the sum of TEN and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows.

1. The foregoing information and recitals are incorporated into this Assignment and made a part hereof.
2. Assignor hereby quit claims, conveys and assigns unto Assignee, its successors and assigns, all right, title, obligations, duties and interest of Assignor, if any, in the Easements, together with all other recorded and unrecorded rights, privileges, easements, licenses, prescriptive rights, rights-of-way, and rights to use public and private roads, highways, streets, railroads and other areas owned or used by Assignor in connection with the construction, reconstruction, installation, expansion, maintenance and operation of the Transfer Area 2 Utility System.
3. Assignor hereby covenants that to the best of its knowledge it has the lawful right to assign the above interests.
4. Assignor covenants and agrees with Assignee and its successors and assigns that Assignor will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered any and all such further acts, instruments, papers and documents, as

may be reasonably necessary, proper or convenient to carry out and effectuate the intent and purposes of this Assignment.

5. This Assignment shall inure to the benefit of Assignee, Assignor, their successors and permitted assigns, and shall bind Assignor and Assignee and their successors and permitted assigns. This Assignment is not intended to confer upon any person other than the parties hereto any rights or remedies hereunder.

6. This Assignment shall be governed in all respects, whether as to validity, construction, capacity, performance or otherwise, by the laws of the State of Florida applicable to contracts made and to be performed within that state. Nothing herein shall be construed to waive any defense of sovereign immunity that Assignor or Assignee may be lawfully entitled to assert under applicable Florida law.

7. If any term or provision of this Assignment shall, to any extent or for any reason, be held to be invalid or unenforceable, the remainder of this Assignment shall not be affected thereby and shall be construed as if such invalid or unenforceable provision had never been contained herein or been applicable in such circumstances.

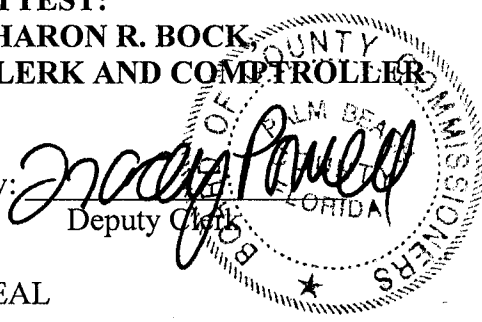
8. All capitalized terms utilized herein, and not otherwise defined herein, shall have the meanings ascribed thereto in the Agreement. The terms in the Interlocal Agreement are incorporated herein by reference.

IN WITNESS WHEREOF, Assignor has executed and sealed this Assignment.

ATTEST:

SHARON R. BOCK,
CLERK AND COMPTROLLER

By:



Deputy Clerk

PALM BEACH COUNTY, FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONERS

By:

Shelley Vana
Shelley Vana, Chair

SEAL

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By:

[Signature]
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By:

Burg Beaulieu
Director-Water Utilities

**Attachment 1
EASEMENTS**

EASEMENTS

1. Easement dated February 14, 1985 from the United States Postal Service to Palm Beach County recorded in Palm Beach County ORB 7955/Page 1934.
2. Easement dated November 10, 1987 from Jack and Edna Stearns to Palm Beach County recorded in Palm Beach County ORB 5609/Page 486.
3. Easement dated August 10, 1987 from Jack and Edna Stearns to Palm Beach County recorded in Palm Beach County ORB 5517/Page 1888.
4. Easement dated August 20, 1987 from Gilbert J. and Rochelle Steinman to Palm Beach County recorded in Palm Beach County ORB 5519/Page 145.
5. Easement dated August 31, 1990 from Discount Auto Parts, Inc. to Palm Beach County recorded in Palm Beach County ORB 6624/Page 963.
6. Easement dated December 12, 1991 from Home Depot USA, Inc. to Palm Beach County recorded in Palm Beach County ORB 7515/Page 1064.
7. Easement dated January 13, 1994 from Home Depot USA, Inc. to Palm Beach County recorded in Palm Beach County ORB 8080/Page 1734.
8. Easement dated January 21, 1994 from Home Depot USA, Inc. to Palm Beach County recorded in Palm Beach County ORB 8112/Page 1781.
9. Easement dated March 1, 1994 from Home Depot USA, Inc. to Palm Beach County recorded in Palm Beach County ORB 8227/Page 1279.

**ASSIGNMENT OF WASTEWATER SERVICE RIGHTS IN TRANSFER AREA 3 BY
PALM BEACH COUNTY TO VILLAGE OF PALM SPRINGS**

KNOW ALL MEN BY THESE PRESENTS that PALM BEACH COUNTY (hereinafter "Seller") this _____ day of _____, 2012, for the sum of TEN DOLLARS (\$10.00) and other good and valuable considerations paid by VILLAGE OF PALM SPRINGS (hereinafter "Purchaser"), the receipt of which is hereby acknowledged, pursuant to the Interlocal Agreement between County and Village for Utility System Transfer dated July 19, 2011 (County Resolution No. R2011-1103) ("Agreement"), which is incorporated herein by specific reference, has granted, bargained, sold, transferred, set over and delivered, and by these presents does grant, bargain, sell, transfer, set over and deliver, unto the Purchaser, its successors and assigns, all of its rights to provide Wastewater (as that term is defined in the Agreement) service within Transfer Area 3 (a depiction of which is attached hereto and incorporated herein as Attachment 1).

IN WITNESS WHEREOF, Seller has executed and sealed this Assignment of Rights.

ATTEST:

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

By: *Nancy P. Miller*
Deputy Clerk



By: *Shelley Vana*
Shelley Vana, Chair

(SEAL)

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: *[Signature]*
County Attorney

**APPROVED AS TO TERMS AND
CONDITIONS**

By: *[Signature]*
Director of Water Utilities

Attachment 1
Depiction of Transfer Area 3

Palm Beach County Water Utilities to Village of Palm Springs



P.B.C. Water Utilities Department
8100 Forest Hill Blvd.
West Palm Beach, Florida 33416
Phone: (561) 493-6000

Contact: Bill Kramer / Denny Thorpe
File Name: WUGIS\PROJECTS\
PalmSpringsPBCWU\Exhibit B.mxd
Map Created: April 27, 2011

1 inch = 200 feet