

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

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

**Submitted By:** Water Utilities Department

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve: a First Amendment to Potable Water and Wastewater Development Agreement (Amendment) with HTG Palm Beach II, LLC.

**Summary:** HTG Palm Beach II, LLC owns property located on Melaleuca Lane, west of Haverhill Road. In order to provide potable water and wastewater concurrency reservations for new developments, the Water Utilities Department (WUD) requires property owners to enter into a formal development agreement with WUD. Pine Run Developers, LLC entered into a Standard Development Agreement (Agreement) on May 3, 2004. HTG Palm Beach II, LLC was assigned the Agreement, via an Indemnity Agreement on November 28, 2012. Subsequent to assuming the Agreement, HTG Palm Beach II, LLC requested the option of remitting all associated fees prior to request for service initiation, in order to satisfy certain loan timing requirements. The Amendment provides this option. Under the terms of the Amendment, remittal of payment prior to service initiation does not exempt HTG Palm Beach II, LLC from any subsequent fee changes, and HTG Palm Beach II, LLC is still responsible for remitting the full amount of associated fees existing as of the time of service initiation. District 2 (MJ)

**Background and Justification:** This Amendment to the Agreement is to facilitate payments for the proposed project which is partially funded with Neighborhood Stabilization Program 2 funds from the County's Department of Economic Sustainability. These grant funds have strict federal expenditure deadlines. This Amendment will allow those obligations to be met. No other changes are being made to the Agreement.

**Attachments:**

- 1. One (1) Original First Amendment - SDA No. 02-01085-001
- 2. Location Map

Recommended By:                       12/3/12  
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	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>NET FISCAL IMPACT</b>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

**Budget Account No.:** Fund \_\_\_\_\_ Dept. \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_

Is Item Included in Current Budget? Yes \_\_\_\_\_ No \_\_\_\_\_

Reporting Category N/A

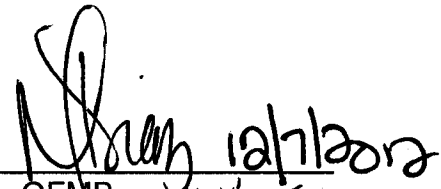
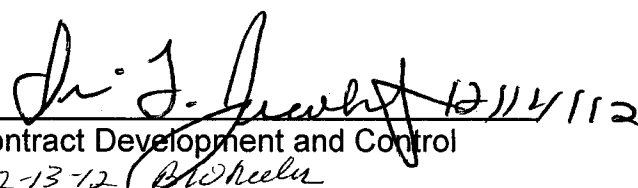
**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

The Agreement only affects the timing of fee payments associated with the development of the property. The Agreement does not change the total fees due.

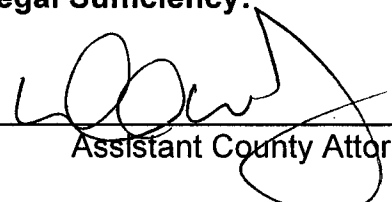
**C. Department Fiscal Review:** Delbra M West

**III. REVIEW COMMENTS**

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

 _____ OFMB 12/15/12 JB	 _____ Contract Development and Control 12-13-12 B. Wheeler
--	---

**B. Legal Sufficiency:**

  
 \_\_\_\_\_  
 Assistant County Attorney  
 12/17/12

**C. Other Department Review:**

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

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

**FIRST AMENDMENT TO STANDARD POTABLE WATER AND WASTEWATER  
DEVELOPMENT AGREEMENT**

**THIS FIRST AMENDMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between **PALM BEACH COUNTY**, a subdivision of the State of Florida, hereinafter referred to as "Utility," and **HTG PALM BEACH II LLC**, hereinafter referred to as "Property Owner."

**WITNESSETH**

**WHEREAS**, Utility and Pine Run Developers, LLC entered into a Standard Potable Water and Wastewater Development Agreement ("Agreement") on May 3, 2004, which was recorded in the Official Records of Palm Beach County, Florida, at Official Records Book 16921, Page 1444; and

**WHEREAS**, the Agreement was assigned to the Property Owner under Indemnity Agreement executed November 28<sup>th</sup>, 2012(PBCWUD Agreement Number 02-01085-001); and

**WHEREAS**, Utility and Property Owner wish to amend the Agreement to provide Property Owner with the option of prepaying certain service initiation fees.

**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 and are incorporated herein by specific reference.
2. Section 15 of the Agreement is hereby amended to read as follows:

15. Additional Conditions:

A. Notwithstanding any other provision of this Agreement to the contrary, Property Owner shall have the option of submitting payment for all or a portion of the Service Initiation Fees (as defined in the UPAP) at any time following approval of Indemnity Agreement executed on November 28<sup>th</sup> 2012 and prior to Service Initiation, as that term is defined herein (said fees hereinafter referred to as the "Pre-submitted Fees".) Property Owner and Utility acknowledge and agree that the Utility's Service Initiation Fees at the time of said submittal of Pre-submitted Fees by Property Owner may differ from the Utility's Service Initiation Fees at the time of Service Initiation, and that the applicable amount of Service Initiation Fees that the Property Owner shall ultimately be responsible for paying shall be the Utility's Service Initiation Fees as of the date of Service Initiation. Property Owner shall be responsible for payment of any Service Initiation Fees not covered by the Pre-submitted Fees. At the termination of this Agreement, Utility shall refund any Pre-submitted Fees not expended by Property Owner.

3. All other provisions of the Agreement, dated May 3, 2004, are hereby confirmed and, except as provided herein, are not otherwise altered or amended and shall remain in full force and effect. This First Amendment shall be recorded in the Public Records of Palm Beach County, Florida.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Property Owner and Utility have executed or have caused this First Amendment to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this First Amendment.

ATTEST:

SHARON R. BOCK, CLERK  
AND COMPTROLLER

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

By: \_\_\_\_\_  
Deputy Clerk

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

[SEAL]

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY

By: \_\_\_\_\_  
County Attorney

APPROVED AS TO TERMS AND CONDITIONS

By: \_\_\_\_\_  
Department Director

WITNESSES:

\_\_\_\_\_

Natalia De Amorim  
Type or Print Name

\_\_\_\_\_

Elena Adames  
Type or Print Name

PROPERTY OWNER:

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

Signature  
VICE PRESIDENT

Title  
MATTHEW RIEGER

Typed or Printed Name

[ Corporate  
Seal ]

NOTARY CERTIFICATE

STATE OF FLORIDA  
COUNTY MIAMI-DADE

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of November,  
2012 by Matthew Rieger (He/she is personally known to me or has produced  
\_\_\_\_\_ as identification.

\_\_\_\_\_  
Signature of Notary

VICTORIA VARELA  
Typed, Printed, or Stamped Name  
of Notary

Notary Public  
EE 117880  
Serial Number





Layer Information

XY  
(Long,Lat)  
XY: -80.1256358,26.6109452

Parcels Distance: 0 ft  
Parcel Number: 00424426260010000  
Area(sqft): 377569.37  
Acres: 8.67  
Owner: HTG PALM BEACH II LLC  
Location: 4464 BIG BEN LN  
Mailing: 3225 AVIATION AVE STE 602  
City: MIAMI  
State: FL  
Zipcode: 33133

Roads Distance: 154 ft  
Segmentid: 24836  
Left Range: 5200 - 5298  
Right Range: 5201 - 5299  
Street: Sunset Trl  
L/R Zipcode: 33463/33463  
L/R Muni: UNINCORPORATED/UNINCORPORATED  
RESP\_AUTH: PRI  
TFARE\_ROW: NA  
Speed Limit: 35  
Lanes: 2  
CFCC: NA

Commission Districts Distance: 0 ft  
District: 2

00424426260010000/HTG Palm Beach II LLC / Pine Run Villas  
produced by: myGeoNav

