

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

Meeting Date: July 22, 2014

Consent **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 month of April 2014.

- A) Standard Potable Water and Wastewater Development Agreement with RREEF America Reit II Corp. J, SDA # 09-01067-000 (District 5);
- B) Standard Potable Water and Wastewater Development Agreement with Boca Raton Associates VII, LLLP, SDA #09-01068-000 (District 5);
- C) Potable Water and Wastewater Development Agreement with Elizabeth Faulk Foundation, Inc., SDA #09-01069-000 (District 5); and
- D) Termination and Release of Standard Potable Water and Wastewater Development Agreement Due to Zoning Denial/Withdrawal with Esperanza Greene, as Trustee of the Esperanza Greene Revocable Trust under Agreement dated August 10, 1999 and Arthur T. Greene, as Trustee of the Arthur T. Greene Revocable Trust under Agreement dated August 10, 1999, Michael J. Greene, and Anthony Greene, SDA #09-01066-000 (District 5)


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. These 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. District 5 (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 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:

- A) Two (2) Original Standard Potable Water and Wastewater Development Agreements with RREEF America Reit II Corp. J, SDA # 09-01067-000;
- B) Two (2) Original Standard Potable Water and Wastewater Development Agreements with Boca Raton Associates VII, LLLP, SDA #09-01068-000;
- C) Two (2) Original Potable Water and Wastewater Development Agreements with Elizabeth Faulk Foundation, Inc., SDA # 09-01069-000;
- D) Two (2) Original Termination and Release of Standard Potable Water and Wastewater Development Agreements with Esperanza Greene Revocable Trust, Arthur T. Greene Revocable Trust, Michael J. Greene and Anthony Greene, SDA #09-01066-000

Recommended By:  6/18/14
Department Director **Date**

Approved By:  6/25/14
Assistant County Administrator **Date**

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2014	2015	2016	2017	2018
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>(39,007)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u>(39,007)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

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

Is Item Included in Current Budget? Yes _____ No 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: Delmar West

III. REVIEW COMMENTS

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

[Signature]
 6/20 2014
 OFMB

[Signature] 6/23/14
 Contract Development and Control

B. Legal Sufficiency:

[Signature] 6/25/14
 Assistant County Attorney

C. Other Department Review:

 Department Director



POTABLE WATER AND WASTEWATER

CFN 20140168808
OR BK 26778 PG 0694
RECORDED 05/08/2014 11:09:08
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 0694 - 702; (9pgs)

CHARGE #1023 RETURN VIA WILL CALL #215
ATTN: CRAIG WILLIAMS, CONTRACT MANAGEMENT,
PBC WATER UTILITIES DEPT,
8100 FOREST HILL BLVD, WPB, FL 33413

SDA #09-01067-000

STANDARD POTABLE WATER AND WASTEWATER DEVELOPMENT AGREEMENT
(SDA)

THIS AGREEMENT made and entered into this 22nd day of April, 2014,
by and between PALM BEACH COUNTY, a subdivision of the State of Florida, hereinafter
referred to as "Utility", and RREEF AMERICA REIT II CORP. J a Maryland 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;

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- (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

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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	32.50	ERCs =	\$6,477.90
Wastewater:	\$279.72 per ERC	x	32.50	ERCs =	\$9,090.90
				Franchise Fee	\$0.00
			TOTAL		<u>\$15,568.80</u>

Upon receipt of the MAP, Utility agrees to reserve 32.50 ERCs of Potable Water and Wastewater system capacity for Property Owner until MARCH 31, 2019, 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 unconnected ERCs, Property Owner acknowledges and agrees that Utility may unilaterally

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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:

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- \$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 its expense, agrees to furnish Utility with a copy of the recorded Warranty Deed for the purpose of establishing ownership of the Property. Property Owner, at its expense, shall also submit either: (a) 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 (said title policy or letter must be issued no earlier than thirty (30) days prior to submittal of the SDA); or (b) a Consent ad Joinder of Mortgage/Lienholder (supplied by the Utility) executed by any mortgagee or lienholder holding an interest in the Property.
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.

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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:

55 East 52nd Street, 31st Floor
New York, NY 10055

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: None
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.
17. No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a third party to this Agreement, including, but not limited to, any citizen or employees of Palm Beach County and/or RREEF America Reit II Corp. J

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

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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

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

WITNESSES:

PROPERTY OWNER:

[Signature]
Signature
Logan Guess
Typed or Printed Name

By: [Signature]
Signature
DJ Saunders
Typed or Printed Name
Vice President
Title

Millie Sanabria
Signature
Millie SANABRIA
Typed or Printed Name

{ Corporate Seal }

NOTARY CERTIFICATE

STATE OF Georgia
COUNTY OF Cherokee

The foregoing instrument was acknowledged before me this 23rd day of September, 2013 by D.J. Saunders (He) she is personally known to me or has produced as identification.

My Commission Expires: [Signature] 2017



[Signature]
Signature of Notary
B. Carol Knaggs
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

EXHIBIT "A"

PARCEL NO. 1

Being a portion of Lots 109, 110, 111, 112 and 116, and all of Lots 113, 114 and 115, Block 77 of PALM BEACH FARMS COMPANY PLAT NO. 3, as recorded in Plat Book 2, Pages 45 through 54, inclusive, Public Records of Palm Beach County, Florida, and being more particularly described as follows:

Commence at the Southwest corner of Section 18, Township 47 South, Range 42 East, Palm Beach County, Florida; thence North 00 degrees 50 minutes 58 seconds West, along the West line of said Section 18, a distance of 1158.02 feet to an intersection with the Westerly prolongation of the proposed Southerly Right-of-Way of S.R. 808 (Glades Road) per Florida Department of Transportation Right-of-Way Maps for Section 93004-2409; thence North 89 degrees 38 minutes 00 seconds East, along said prolongation, a distance of 82.00 feet to the POINT OF BEGINNING; thence continue North 89 degrees 38 minutes 00 seconds East, along said proposed Southerly Right-of-Way line a distance of 1295.00 feet; thence South 00 degrees 50 minutes 58 seconds East, a distance of 1275.35 feet to the South line of said Lot 116; thence South 89 degrees 38 minutes 00 seconds West, along the South line of Lots 116, 115, 114 and 113, a distance of 1294.90 feet to the Southwest corner of said Lot 113; thence North 00 degrees 53 minutes 51 seconds West, along the West line of said Lot 113, a distance of 118.06 feet; thence North 00 degrees 50 minutes 58 seconds West, along the West line of said Lots 113 and 112, a distance of 1157.30 feet to the POINT OF BEGINNING.

LESS AND EXCEPTING therefrom any portion which lies within the North 25 feet of said Tracts 109 to 112, inclusive.

FURTHER LESS AND EXCEPT THE FOLLOWING 4 PARCELS:

- 1) Right of Way of Glades Road (State Road 808) conveyed by Deed recorded in official Records Book 6956, at Page 280, of the Public Records of Palm Beach County, Florida.
- 2) Parcel conveyed to Home Depot U.S.A., Inc., a Delaware corporation, by Special Warranty Deed recorded in Official Records Book 7028, at Page 721, of the Public Records of Palm Beach County, Florida.
- 3) Parcel conveyed to Halvorsen Investments, Inc., a Florida corporation by Special Warranty Deed recorded in Official Records Book 7457, at Page 1168, of the Public Records of Palm Beach County, Florida.
- 4) Parcel conveyed to First Union National Bank of Florida by Warranty Deed recorded in Official Records Book 7502, Page 1595, of the Public Records of Palm Beach County, Florida.

The above described property is also described as all of the Plat of FESTIVAL SHOPPES OF BOCA RATON, according to the Plat thereof, as recorded Plat Book 69, at Page 172, of the Public Records of Palm Beach County, Florida. LESS Tract B of said Plat and LESS that parcel conveyed to Halvorsen Investments, Inc., a Florida corporation, by Special Warranty Deed recorded in Official Records Book 7457, Page 1168, of the Public Records of Palm Beach County, Florida; AND LESS that Parcel conveyed to First Union

National Bank of Florida by Warranty Deed recorded in Official Records Book 7502, Page 1595, of the Public Records of Palm Beach County, Florida.

Said lands situate, lying and being in Palm Beach County, Florida.

PARCEL NO. 2

Non-Exclusive easement rights as described in Declaration of Easements, Covenants and Restrictions recorded in Official Records Book 6924, at Page 1790, refilled in Official Records Book 6692, at Page 1459; and amended in Official Records Book 7114, at Page 733 and in Official Records Book 7472, Page 1583, and any further amendments thereto.

FURTHER LESS AND EXCEPT THE FOLLOWING PARCEL:

- 5) Being a portion of Lot 111, Block 77, of PALM BEACH FARMS COMPANY PLAT NO. 3, as recorded in Plat Book 2, Pages 45 through 54, inclusive, Public Records of Palm Beach County, Florida and being more particularly described as follows:

Commence at the Southwest corner of Section 18, Township 47 South, Range 42 East, Palm Beach County, Florida; thence North 00 degrees 50 minutes 58 seconds West, along the West line of said Section 18, a distance of 1126.02 feet to an intersection with a line 92.00 feet South of (as measured at right angles to) and parallel with the centerline of S.R. 808 (Glades Road) per Florida Department of Transportation Right-of-Way Maps for Section 93004-2509; thence North 89 degrees 38 minutes 00 seconds East, along said parallel line, a distance of 406.01 feet; thence South 00 degrees 50 minutes 58 seconds East, a distance of 202.83 feet; thence North 89 degrees 09 minutes 02 seconds East, a distance of 85.50 feet to the POINT OF BEGINNING; thence South 00 degrees 05 minutes 58 seconds East, a distance of 227.04 feet; thence North 71 degrees 57 minutes 54 seconds East, a distance of 30.40 feet; thence North 32 degrees 40 minutes 29 seconds East, a distance of 119.05 feet; thence North 12 degrees 10 minutes 11 seconds East, a distance of 121.93 feet; thence South 89 degrees 09 minutes 02 seconds West, a distance of 119.29 feet to the POINT OF BEGINNING.

OK
04/17/14
G



POTABLE WATER AND WASTEWATER

CFN 20140168806
OR BK 26778 PG 0680
RECORDED 05/08/2014 11:09:08
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 0680 - 689; (10pgs)

STANDARD POTABLE WATER AND WASTEWATER DEVELOPMENT
AGREEMENT
(SDA)

THIS AGREEMENT made and entered into this 22nd day of April, 20 14
by and between PALM BEACH COUNTY, a subdivision of the State of Florida, hereinafter
referred to as "Utility", and BOCA RATON ASSOCIATES VII, LLLP, a Florida limited
liability partnership, hereinafter referred to as "Property Owners."

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 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;

SDA # 09-01068-000

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 same and shall abide by the terms and intent of this Agreement, and the UPAP, for as long as the

POTABLE WATER AND WASTEWATER

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 MAP per each ERC for the requested capacity upon submission of this Agreement; and
 - 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:	\$206.88 per ERC x	<u>21.00</u> ERCs =	\$4,344.48
Wastewater:	\$290.40 per ERC x	<u>21.00</u> ERCs =	<u>\$6,098.40</u>
		Franchise Fee	<u>\$0.00</u>
		TOTAL	\$10,442.88

Upon receipt of the MAP, Utility agrees to reserve 21.00 ERCs of Potable Water and Wastewater system capacity for Property Owner until **March 31, 2019** 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 (5) 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 its expense, agrees to furnish Utility with a copy of the recorded Warranty Deed for the purpose of establishing ownership of the Property. Property Owner, at its expense, shall also submit either: (a) 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 (said title policy or letter must be issued no earlier than thirty (30) days prior to submittal of the SDA); or (b) a Consent ad Joinder of Mortgage/Lienholder (supplied by the Utility) executed by any mortgagee or lienholder holding an interest in the Property.
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:

**1600 Sawgrass Corporate Pkwy, Suite 400
Sunrise, FL 33323**

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:

None

POTABLE WATER AND WASTEWATER

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.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

17. No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a third party to this Agreement, including, but not limited to, any citizen or employees of Palm Beach County and/or Boca Raton Associates VII, LLLP.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

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

Sandra Smith
Signature
Sandra Smith
Typed or Printed Name

WITNESSES:

PROPERTY OWNER

BOCA RATON ASSOC. VII, L.L.P.
BY: BOCA RATON VII CORPORATION,
GENERAL PARTNER

Glady's DiGirolamo
Signature
GLADYS DIGIROLAMO
Typed or Printed Name
Larry Portney
Signature
Larry Portney
Typed or Printed Name

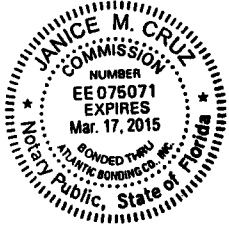
By: [Signature]
Signature
KEVIN RATTERREE
Typed or Printed Name
VICE PRESIDENT
Title

STATE OF Florida
COUNTY OF Broward

NOTARY CERTIFICATE

The foregoing instrument was acknowledged before me this 17 day of March, 2014
by Kevin Ratterree. He/she is personally known to me or has produced
as identification.

My Commission Expires: 3-17-15



[Signature]
Signature of Notary
Janice M. Cruz

Typed, Printed, or Stamped Name of Notary

Notary Public Serial Number EE 075071

WATER UTILITIES DEPARTMENT APPROVAL

By: [Signature]
Director of Finance and Administration
Palm Beach County Water Utilities Department

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]
County Attorney

POTABLE WATER AND WASTEWATER

EXHIBIT "A"

LEGAL DESCRIPTION

HYDER (APPOLONIA PORTION)

LEGAL DESCRIPTION:

A PORTION OF BLOCK 70, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; SAID LAND LYING IN SECTIONS 31 AND 32, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACTS 1 THRU 15, INCLUSIVE, LESS THE RIGHT-OF-WAY FOR LAKE WORTH DRAINAGE DISTRICT LATERAL CANAL NO. 38; LESS THE RIGHT-OF-WAY FOR LYONS ROAD AS RECORDED IN OFFICIAL RECORDS BOOK 12226, PAGE 1899, AND LESS THAT PORTION LYING EAST OF THE EAST RIGHT-OF-WAY FOR SAID LYONS ROAD; TRACTS 18 THRU 31, INCLUSIVE, TRACT 32, LESS THE RIGHT-OF-WAY FOR SAID LYONS ROAD AND LESS THAT PORTION OF TRACT 32 LYING EAST OF THE EAST RIGHT-OF-WAY LINE OF SAID LYONS ROAD; TRACT 33, LESS THE RIGHT-OF-WAY FOR SAID LYONS ROAD; TRACTS 34 THRU 47, INCLUSIVE; TRACT 49, LESS THE RIGHT-OF-WAY FOR LAKE WORTH DRAINAGE DISTRICT E-1 CANAL; TRACTS 50 THRU 64, LESS THE RIGHT-OF-WAY FOR SAID LYONS ROAD, ALL LYING IN BLOCK 70, OF PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGES 45 THRU 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. TOGETHER WITH THAT PORTION OF THE ROAD RIGHTS-OF-WAY AS DESCRIBED IN QUIT-CLAIM DEED RECORDED IN OFFICIAL RECORDS BOOK 9343, PAGE 73, AND AS SHOWN ON THE SAID PLAT OF THE PALM BEACH FARMS CO. PLAT NO. 3 AS CONTAINED WITHIN THE ABOVE DESCRIBED PARCEL, LESS THE RIGHTS-OF-WAY FOR LAKE WORTH DRAINAGE DISTRICT CANALS AS DESCRIBED HEREIN AND LESS THE RIGHT-OF-WAY FOR SAID LYONS ROAD. PARCEL 3: TRACTS 16, 17 AND 48, LESS THE RIGHT-OF-WAY FOR LAKE WORTH DRAINAGE DISTRICT CANAL E-L, ALL BEING IN BLOCK 70, THE PALM BEACH FARMS CO. PLAT NO 3, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGES 45 THRU 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 324.178 ACRES MORE OR LESS.

OK
03/14/14
(7)

CONSENT AND JOINDER OF MORTGAGEE/LIENHOLDER

BANK OF AMERICA, N.A., as Agent ("Lender"), hereby certifies that, by virtue of that certain Assignment of Mortgage and other Loan Documents dated January 17, 2014 and recorded January 21, 2014, in Official Records Book 26568, at Page 1144, of the Public Records of Palm Beach County, Florida, it is the mortgagee/lienholder under a mortgage given by **BOCA RATON ASSOCIATES VII, LLLP**, a Florida limited liability limited partnership, in favor of **FLORIDA RESIDENTIAL FUNDING, LLC**, a Florida limited liability company, dated January 17, 2014 and recorded January 21, 2014 in Official Record Book 26568, Page, 1122, of the Public Records of Palm Beach County, Florida, as same may be amended or modified from time to time, and hereby consents to and joins in the execution of the Agreement between Palm Beach County and **BOCA RATON ASSOCIATES VII, LLLP**, a Florida limited liability limited partnership, for the provision of potable water, wastewater, and/or reclaimed water service to the property described in **Exhibit "A"** to the Agreement and further consents to and joins in the granting of utility easements to Palm Beach County as provided for in the aforesaid agreement with Palm Beach County.

LENDER, as mortgagee aforesaid, consents to the recording by **BOCA RATON ASSOCIATES VII, LLLP**, or Palm Beach County, Florida, in the Public Records of Palm Beach County, Florida of the Agreement.

IN WITNESS WHEREOF, the undersigned has executed this instrument on this 28th day of March, 2014.

WITNESSES:
[Signature]
Signature
Nellie Lima
Typed or Printed Name
[Signature]
Signature
ANISIA ZOAPY
Typed or Printed Name

BANK OF AMERICA, N.A.,
as Agent
By: [Signature]
Title: Senior Vice President
William Camparo
Typed or Printed Name

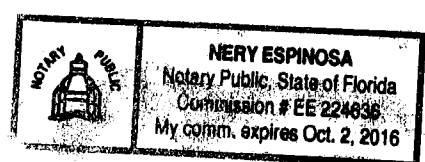
NOTARY CERTIFICATE

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 28th day of March, 2014, by William Camparo, as SVP of Bank of America, N.A., a national banking association, as Agent. He/she is personally known to me or has produced _____ as identification.

My Commission
Expires: 10/2/2014
EE 224636
Serial Number

[Signature]
Signature of Notary
Nery Espinosa
Typed, Printed, or Stamped Name





POTABLE WATER AND WASTEWATER

CFN 20140168805
OR BK 26778 PG 0672
RECORDED 05/08/2014 11:09:08
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 0672 - 679; (8pgs)

CHARGE #1023 RETURN VIA WILL CALL #215
ATTN: CRAIG WILLIAMS, CONTRACT MANAGEMENT,
PBC WATER UTILITIES DEPT,
8100 FOREST HILL BLVD, WPB, FL 33413

SDA # 09-01069-000

POTABLE WATER AND WASTEWATER DEVELOPMENT AGREEMENT (SDA)

THIS AGREEMENT made and entered into this 22nd day of April, 2014, by and between PALM BEACH COUNTY, a subdivision of the State of Florida, hereinafter referred to as "Utility", and ELIZABETH FAULK FOUNDATION, INC., a Florida non-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:	\$206.88	per ERC	x	<u>38.4</u>	ERCs =	<u>\$7,944.19</u>
Wastewater:	\$290.40	per ERC	x	<u>44.2</u>	ERCs =	<u>\$12,835.68</u>
TOTAL						\$20,779.87

Upon receipt of the MAP, Utility agrees to reserve 38.4 ERCs of Potable Water and 44.2 ERCs of Wastewater system capacity for Property Owner until **APRIL 30, 2019**, 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 unconnected ERCs, Property Owner acknowledges and agrees that Utility may unilaterally

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 its expense, agrees to furnish Utility with a copy of the recorded Warranty Deed for the purpose of establishing ownership of the Property. Property Owner, at its expense, shall also submit either: (a) 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 (said title policy or letter must be issued no earlier than thirty (30) days prior to submittal of the SDA); or (b) a Consent and Joinder of Mortgage/Lienholder (supplied by the Utility) executed by any mortgagee or lienholder holding an interest in the Property.
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:

**Faulk Centre for Counseling
22455 Boca Rio Road
Boca Raton, FL 33433**

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: None
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 Developer(s), its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.
17. No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a third party to this Agreement, including, but not limited to, any citizen or employees of Palm Beach County and/or Elizabeth Faulk Foundation, Inc.

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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

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

WITNESSES:

PROPERTY OWNER:

Virginia Thorne
Signature
VIRGINIA THORNE
Typed or Printed Name

[Signature]
Signature
Loisa Weisman
Typed or Printed Name
Vice - President.
Title

[Signature]
Signature
Terri Mortensen
Typed or Printed Name

{ Corporate
Seal }

NOTARY CERTIFICATE

STATE OF Florida
COUNTY OF Palm Beach

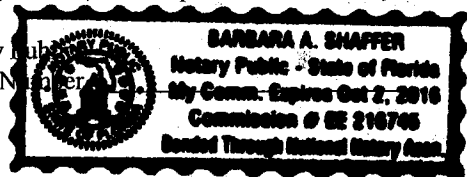
The foregoing instrument was acknowledged before me this 10 day of March, 2014 by Loisa Weisman. He/she is personally known to me or has produced as identification.

My Commission Expires: 10/2/16

[Signature]
Signature of Notary

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**

TRACT 49 AND THAT PORTION OF TRACT 50 LYING WEST OF THE FLORIDA TURNPIKE, BLOCK 80, PALM BEACH FARMS PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK #2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. LESS THE EAST 60 AS RIGHT-OF-WAY FOR BOCA RIO ROAD IN TRACT 50.

ALSO LESS THAT PARCEL OF LAND CONVEYED TO PALM BEACH COUNTY FOR THE ROCK ROAD RIGHT-OF-WAY, BY RIGHT-OF-WAY DEED RECORDED IN OFFICIAL RECORDS BOOK 3259, PAGE 918, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE SOUTH 30 FEET OF TRACT 49, AND THE SOUTH 30 FEET OF THAT PORTION OF TRACT 50 LYING WEST OF THE FLORIDA TURNPIKE, BLOCK 80, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS THE EAST 60 AS RIGHT-OF-WAY FOR BOCA RIO ROAD IN TRACT 50. (THE "PROPERTY") OWNED BY ELIZABETH H. FAULK FOUNDATION, INC. (THE "OWNER")

CONTAINS 436,222 SQUARE FEET (10.01 ACRES) MORE OR LESS.

*AM
4/15/14*

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CFN 20140168807
OR BK 26778 PG 0690
RECORDED 05/08/2014 11:09:08
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 0690 - 693; (4pgs)

CHARGE #1023 RETURN VIA WILL CALL #215
ATTN: CRAIG WILLIAMS, CONTRACT MANAGEMENT,
PBC WATER UTILITIES DEPT,
8100 FOREST HILL BLVD, WPB, FL 33413

SDA #09-01066-000

**TERMINATION AND RELEASE OF STANDARD POTABLE WATER AND
WASTEWATER DEVELOPMENT AGREEMENT DUE TO ZONING
DENIAL/WITHDRAWAL**

**THIS TERMINATION AND RELEASE OF STANDARD POTABLE WATER AND
WASTEWATER DEVELOPMENT AGREEMENT DUE TO ZONING
DENIAL/WITHDRAWAL** is made and entered into this 22nd day of April, 2014 by and
between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, hereinafter
referred to as "County" and **ESPERANZA GREENE**, as Trustee of the **ESPERANZA
GREENE Revocable Trust under Agreement dated August 10, 1999** and **ARTHUR T.
GREENE**, as Trustee of the **ARTHUR T. GREENE Revocable Trust under Agreement dated
August 10, 1999**, **MICHAEL J. GREENE**, and **ANTHONY GREENE**, hereinafter referred to as
"Property Owner."

WITNESSETH

WHEREAS, on August 12, 2013, County and Property Owner entered into a Standard Potable
Water and Wastewater Development Agreement, hereinafter referred to as the "SDA", for the
provision of water and wastewater service to property owned by Property Owner as part of Property
Owner's Zoning Petition No.CA-2013-01611 and

WHEREAS, Property Owner has paid to the County a total amount of **\$7,784.40** as required
pursuant to the SDA; and

WHEREAS, the SDA was recorded in the Official Records at Book 26285 Page 1735; and

WHEREAS, Property Owner did not receive zoning approval for the subject property, or said
zoning petition was denied, and said Property Owner was subsequently refunded the total amount of
\$7,784.40 from County; and

WHEREAS, neither the County nor Property Owner have any rights, duties or obligations
existing under the SDA; and

WHEREAS, termination of the SDA is necessary in order to clear the title to the subject
property.

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

1. The SDA executed by and between County and Property Owner dated August 12, 2013 is hereby terminated.
2. Property Owner hereby acknowledges receipt of the total amount of **\$7,784.40** paid to the County in accordance with the SDA.
3. The parties agree that the County and Property Owner are no longer bound by any rights, duties or obligations existing under the SDA and the parties are hereby released from any such rights, duties, or obligations.
4. The County shall duly record this Termination and Release of Standard Potable Water and Wastewater Development Agreement Due to Zoning Denial/Withdrawal.

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IN WITNESS WHEREOF, the County, by and through its fully authorized agent, and Property Owner have hereunto set their hands and seals on the date first above written.

WITNESSES:

PALM BEACH COUNTY

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

By: [Signature]
County Administrator or Designee

Sandra Smith
Signature
Sandra Smith
Typed or Printed Name

WITNESSES:

PROPERTY OWNER:

[Signature]
Signature
LESLIE PETER CHONTOS
Typed or Printed Name

By: Arthur T. Greene Jr
Signature
ARTHUR T. GREENE JR
Typed or Printed Name ^{AKA ARTHUR T. GREENE}
Title * TRUSTEE OF THE ESPERANZA GREENE REVOCABLE TRUST U/A/D 8/10/99
OWNER
AS SUCCESSOR
OWNER
[Corporate Seal]

[Signature]
Signature
LESLIE PETER CHONTOS
Typed or Printed Name

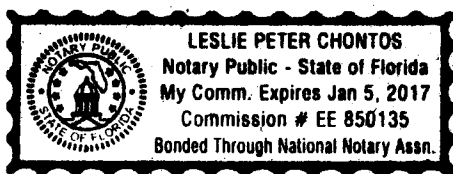
NOTARY CERTIFICATE

STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 2 day of April, 2014 by ARTHUR T. GREENE JR. He/she is personally known to me or has produced _____ as identification.

My Commission Expires: _____

[Signature]
Signature of Notary



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

IN WITNESS WHEREOF, Property Owner and Utility have executed or have caused this Agreement, with the named Exhibit 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

Signature

Typed or Printed Name

By: _____
County Administrator or Designee

Signature

Typed or Printed Name

WITNESSES:

PROPERTY OWNER:

Leslie Peter Chontos
Signature
LESLIE PETER CHONTOS
Typed or Printed Name

By: Michael J. Greene
Signature
Michael J. Greene
Typed or Printed Name

Linda C. Chontos
Signature
LINDA C CHONTOS
Typed or Printed Name

Title

{ Corporate }
Seal }

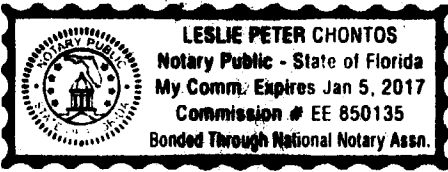
NOTARY CERTIFICATE

STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 2 day of April, 2014
by MICHAEL J. GREENE He/she is personally known to me or has produced
_____ as identification.

My Commission Expires: _____

Leslie Peter Chontos
Signature of Notary



Typed, Printed, or Stamped Name of Notary

Notary Public
Serial Number _____

WATER UTILITIES DEPARTMENT APPROVAL

By: _____
Director of Finance and Administration
PBC Water Utilities Department

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: _____
County Attorney

IN WITNESS WHEREOF, Property Owner and Utility have executed or have caused this Agreement, with the named Exhibit 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

Signature

By: _____
County Administrator or Designee


Typed or Printed Name

Signature

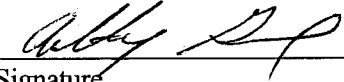
Typed or Printed Name

WITNESSES:

PROPERTY OWNER:



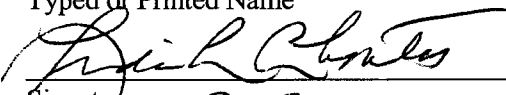
Signature
LESLIE PETER CHONTOS

By: 

Signature
ANTHONY GREENE

Typed or Printed Name

Typed or Printed Name



Signature
LINDA C. CHONTOS

OWNER

Title

Typed or Printed Name

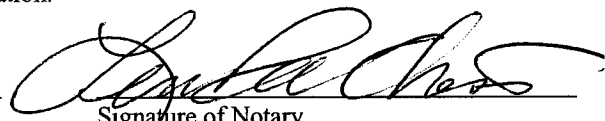
{ Corporate
Seal }

NOTARY CERTIFICATE

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 2 day of APRIL, 2014
by ANTHONY GREENE. He/she is personally known to me or has produced
_____ as identification.

My Commission Expires: _____



Signature of Notary



Typed, Printed, or Stamped Name of Notary

Notary Public
Serial Number _____

WATER UTILITIES DEPARTMENT APPROVAL

By: _____
Director of Finance and Administration
PBC Water Utilities Department

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: _____
County Attorney