

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: November 7, 2017 Consent [X] Regular []
Public Hearing []

Department: Water Utilities Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: **A)** a Partial Assignment of Easements granted by the Le Lac Property Owners Association (Le Lac POA) to Palm Beach County (County) on property located within Le Lac, a Planned Unit Development (Le Lac PUD) and; **B)** an Indemnity Agreement between the Le Lac POA and the County on property located within the Le Lac PUD.

Summary: Pursuant to the plats of Le Lac PUD, Le Lac POA has retained certain easement rights located within the Le Lac PUD. Le Lac POA wishes to partially assign these easement rights to the Water Utilities Department (WUD) in order to facilitate WUD's ongoing operation and maintenance of potable water lines and appurtenances being installed within the Le Lac PUD. The Partial Assignment of Easements will allow WUD to install, operate, maintain, service, construct, reconstruct, remove, relocate, repair, replace, improve, expand, tie into, and inspect potable water lines and appurtenant facilities within the assigned easements.

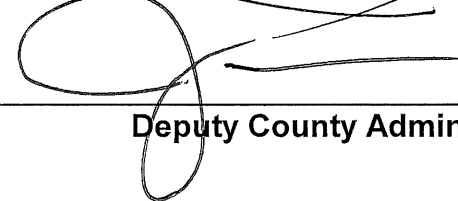
WUD is also requiring the Le Lac POA to execute an indemnity agreement to address the costs and responsibility for the removal, repair, replacement and relocation of landscaping, mailboxes and paver drivers that are located within 10 feet of the water mains. Additionally, as the water main was located and constructed within the access road pursuant to the request of the Le Lac POA, the Indemnity Agreement holds the County harmless for any claims related to the partial or total impedance of access to the property during the repair and maintenance of the water main. The Indemnity Agreement is a nonstandard agreement that requires approval by the Board of County Commissioners. District 5 (MJ)

Background and Justification: The Partial Assignment of Easements is needed for WUD to operate and maintain potable water improvements that will serve the residents of Le Lac PUD. The Indemnity Agreement will protect the County from possible claims that may arise during repair and maintenance of the water main.

Attachments:

- 1. Location Map
- 2. One (1) Original Partial Assignment of Easements
- 3. One (1) Original Indemnity Agreement

Recommended By:  _____ 10-11-2017
 FOR Department Director Date

Approved By:  _____ 10/26/17
 Deputy County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

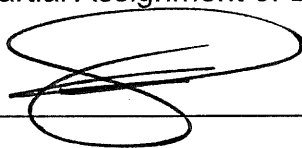
Fiscal Years	2018	2019	2020	2021	2022
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u><u>0</u></u>	<u><u>0</u></u>	<u><u>0</u></u>	<u><u>0</u></u>	<u><u>0</u></u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Budget Account No.:	Fund _____	Dept _____	Unit _____	Object _____	

Is Item Included in Current Budget? Yes ___ No ___

Reporting Category N/A

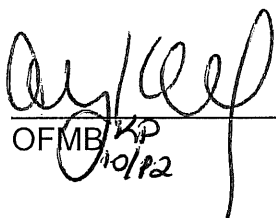
B. Recommended Sources of Funds/Summary of Fiscal Impact:

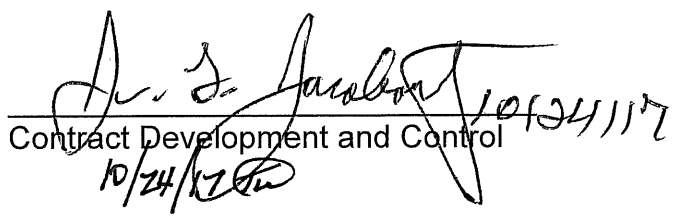
There is no fiscal impact associated with the Partial Assignment of Easements.

C. Department Fiscal Review: _____ 

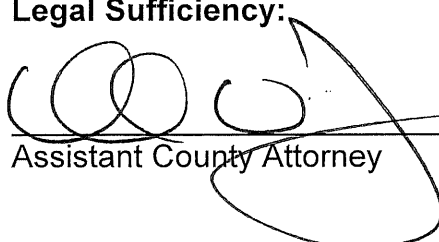
III. REVIEW COMMENTS

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

 10/16/17
OFMB ^{RP} 10/12

 10/24/17
Contract Development and Control

B. Legal Sufficiency:

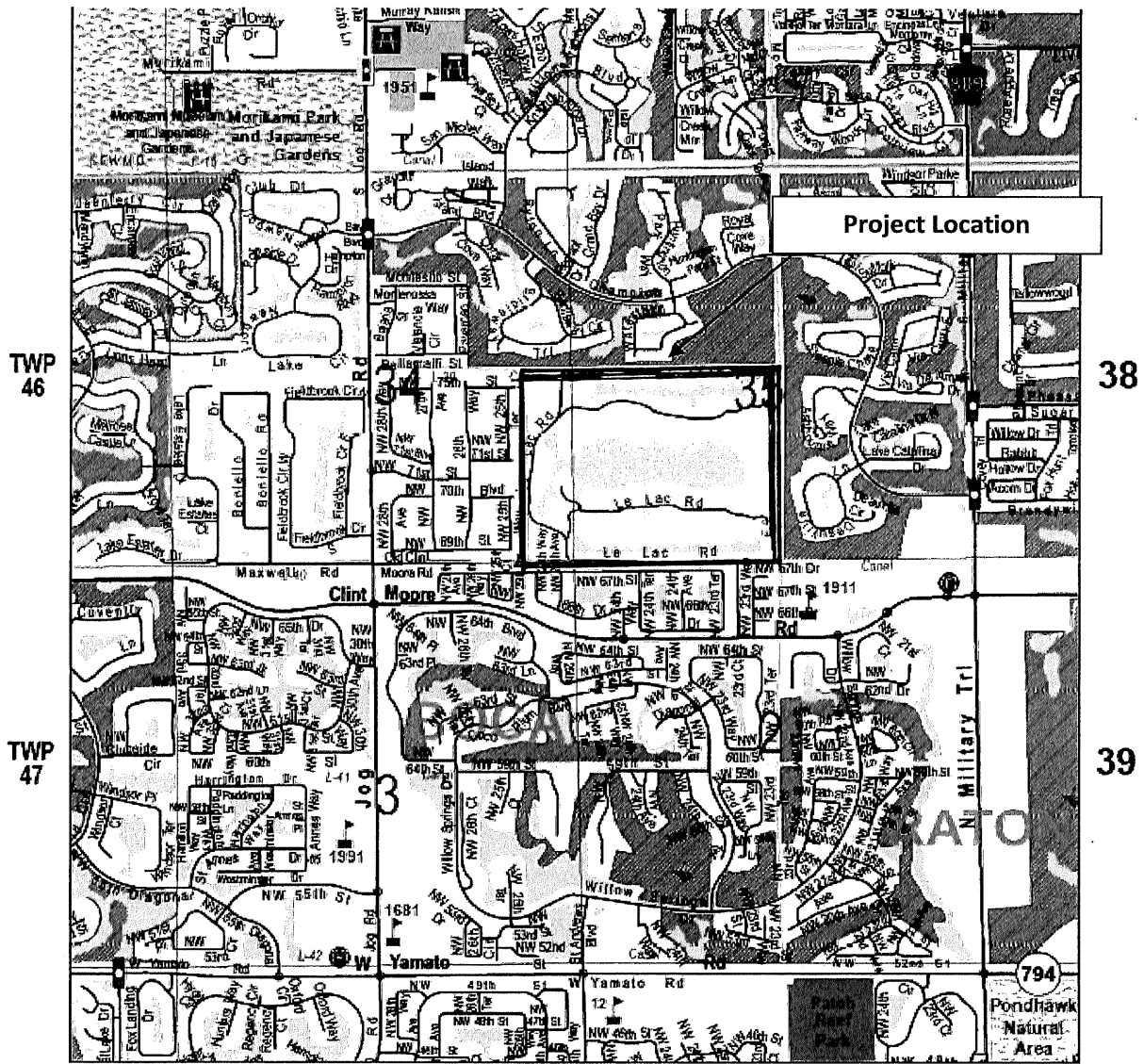
 10/26/17
Assistant County Attorney

C. Other Department Review:

Department Director

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

ATTACHMENT 1
Location Map



RNG 42

See pg 122

RNG 42

ATTACHMENT 2

PREPARED BY AND RETURN TO:
Law Offices of Ronald E. Temkin
616 Atlantic Shores Blvd., Suite A
Hallandale Beach, FL 33009

PARTIAL ASSIGNMENT OF EASEMENTS

THIS PARTIAL ASSIGNMENT OF EASEMENTS is made this 14th day of August, 2017 by and between Le Lac Property Owners' Association, Incorporated, as Assignor, whose address is 6000 Le Lac Road, Boca Raton, Florida 33496 and Palm Beach County, a political subdivision of the State of Florida, as Assignee, whose address is c/o Palm Beach County Water Utilities Department, P.O. Box 16097, West Palm Beach, Florida 33416-6097.

WITNESSETH:

WHEREAS, in March 1978 The Plat of Le Lac a Planned Unit Development was recorded in Plat Book 39, at Pages 145 and 146 of the Public Records of Palm Beach County Florida.

Whereas, in May 1984 a portion of said property (the Plat of Le Lac) was re-platted as Le Lac Plat 2. Said Le Lac Plat 2 was recorded in Plat Book 48 at Pages 61 and 62 of the Public Records of Palm Beach County Florida. Le Lac Plat 2 was a re-plat of Lots 20, 21, 22 of Le Lac as previously recorded in Plat Book 39 at Pages 145 and 146.

WHEREAS, in May 1987 a portion of said property (the Plat of Le Lac) was re-platted as Le Lac Plat 3. Said Le Lac Plat 3 was recorded in Plat Book 58 at Pages 130-132 of the Public Records of Palm Beach County.

WHEREAS, in October 2009, a portion of said property (the Plat of Le Lac) was re-platted as Le Lac Plat 4. Said Le Lac Plat 4 was recorded in Plat Book 112 at Pages 195-196 of the Public Records of Palm Beach County, Florida.

WHEREAS, in each of the aforesaid Plats, various easements were retained by the Assignor, for road, water management, recreation, utility, drainage, access, pathway, buffer, and maintenance purposes, all subject to the perpetual maintenance by Assignor(the "Easements").

WHEREAS, The Assignor believes it is in the best interest of the Assignor to partially assign the Easements to Assignee for the purpose of conveying to Assignee a perpetual, non-exclusive easement, for the purposes set forth below.

WITNESSETH:

That Assignor, for in consideration of the sum of Ten Dollars (\$10.00) in hand paid by the Assignee and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby assign and convey to Assignee, its successors and assigns, a partial interest in and to the Easements described in said Plats. Assignee shall have the right to enter in, on, over, under and across the Easements at any time to install, operate, maintain service, construct, reconstruct, remove, relocate, repair, replace, improve, expand, tie into, and inspect potable water lines and appurtenant facilities. The Easement Area being assigned by the Assignor to the Assignee is that area encompassing the entirety of the Easements. Assignor shall retain all other rights that it may have in the Easements under Le Lac Plats 1-4.

Assignor hereby covenants with Assignee that it is has the right to assign the rights herein and that it has good and lawful right to assign the Easements free and clear of mortgages and other encumbrances unless specifically stated to the contrary.

IN WITNESS WHEREOF, Assignor has executed this Partial Assignment of Easements on the date first above written.

WITNESSES:

[Signature]

Print Name: DYANNE SILVA

[Signature]

Print Name: Lynn Pearson

Assignor:

Le Lac Property Owners' Association, Incorporated

By: [Signature]

Print Name: Lawrence J. Ramaekers

Title: President

Notary

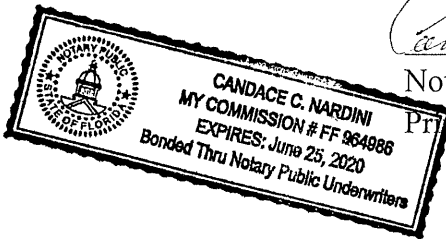
STATE OF FLORIDA
COUNTY OF

The foregoing instrument was acknowledged before me this 14th day of August 2017 by Lawrence J. Ramaekers, President of Le Lac Property Owners' Association, Incorporated who is personally known to me or who produced as identification.

[Signature]

Notary Public

Print Name: CANDACE C. NARDINI



ACCEPTANCE BY ASSIGNEE

ASSIGNEE HEREBY accepts and agrees to all terms and conditions of this Partial Assignment of Easements in consideration of the grant thereof.

ATTEST:
SHARON R. BOCK
CLERK AND COMPTROLLER

PALM BEACH COUNTY, FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONERS

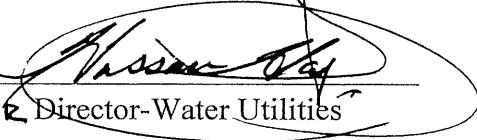
By: _____
Deputy Clerk

By: _____, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: _____
County Attorney

APPROVED AS TO TERMS AND CONDITIONS

By: 
FOR Director-Water Utilities

ATTACHMENT 3

INDEMNITY AGREEMENT (Encroachment)

THIS INDEMNITY AGREEMENT made and entered into this _____ day of _____ 2017 by and between Le Lac Property Owners Association Inc. (hereinafter referred to as "POA") whose address is 6000 Le Lac Road, Boca Raton, FL 33496 and Palm Beach County, (hereinafter referred to as "County"), whose address is c/o Palm Beach County Water Utilities Department, P. O. Box 16097, West Palm Beach, Florida 33416-6097.

WITNESSETH

WHEREAS, POA holds title to certain common areas of the development commonly known as Le Lac, which is more particularly described on **Exhibit "A"** attached hereto and incorporated herein (hereinafter referred to as the "Property"); and

WHEREAS, in order to allow for the installation, operation, repair, and maintenance of County potable water facilities (the "Facilities") within the common areas, the POA has assigned certain easement rights to the County pursuant to that Partial Assignment of Easements recorded at Official Records Book ___ Page ___ of the Public Records of Palm Beach County (the "Easement"); and

WHEREAS, POA or others have installed install certain encroachments, including landscaping, mailboxes, and paver driveways within a portion of the Easement, as further described in **Exhibit "B"** attached hereto and incorporated herein (hereinafter referred to as "Encroachments"); and

WHEREAS, the County is requiring the POA to enter into this Indemnity Agreement to set forth the terms of the County's acceptance of the Encroachments; and

WHEREAS, in addition, due to the fact that the Facilities will be located within the only access road for the Property, the County is requiring the POA to indemnify and hold the County harmless from any claims related to the partial or total impedance of access to the Property during repair and maintenance of the Facilities by the County.

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

1. The foregoing recitals are true and correct and are incorporated herein by reference.
2. County hereby consents to the installation by POA or others of the Encroachments within the Easement and accepts the current Encroachments, subject to the terms herein. In consideration of County's consent to the installation of the Encroachments within the Easement, POA shall immediately remove said Encroachments upon the request of County or, in the event that County determines, in its sole and exclusive discretion that

repair, replacement and/or relocation of the Encroachments or the relocation of County's Facilities in whole or in part, POA shall immediately perform the necessary removal, repair, replacement, and/or relocation upon the request of County or, if POA fails to do so, such removal, repair, replacement and/or relocation shall be done by County or its assigns and any and all expenses or damages incurred as a result of the removal of said Encroachments shall be at the sole cost and expense of the POA.

3. POA hereby acknowledges that the County has informed the POA that the repair and maintenance of the Facilities may partially or fully impede access to all or certain portions of the Property, and agrees that the County is under no duty to provide alternate access to the Property during said repair and maintenance activities. The existing access road is not an Encroachment for purposes of this Agreement and nothing herein shall be construed to require the POA to relocate the existing access road from its current location.
4. POA, its successors, heirs and/or assigns, hereby agrees to indemnify and hold County harmless from and against any and all liabilities, damages, penalties, claims, costs and expenses whatsoever, including attorneys' fees at all levels, which may be imposed upon or asserted against County as a result of or in any way connected to the Encroachments within the Easement or any occurrence upon said Encroachments. In addition, POA, its successors, heirs and/or assigns, hereby agrees to indemnify and hold County harmless from and against any and all liabilities, damages, penalties, claims, costs and expenses whatsoever, including attorneys' fees at all levels, which may be imposed upon or asserted against County as a result of or in any way connected to the partial or total impedance of access to the Property during the County's repair and maintenance of the Facilities.
5. This Indemnity Agreement shall be binding upon the POA, its heirs, successors, legal representatives and assigns. This Agreement will run with the land and shall be recorded in the Public Records of Palm Beach County, Florida.
6. 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 activities of anyone contracting with the County, or anyone acting on their behalf, 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.
7. No Third Party Beneficiary. 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 party to this Agreement, including but not limited to any citizen or employees of the County and/or the POA.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the POA has executed this Agreement as of the date first above written.

WITNESSES:

POA:

Signed, sealed and delivered
in the presence of:

[Handwritten Signature]

Witness Signature
DIANNE SILVA

Print Name
Candace Nardini

Witness Signature
CANDACE NARDINI

Print Name

by: [Handwritten Signature]

Lawrence J. Ramackers

Print Name

NOTARY CERTIFICATE

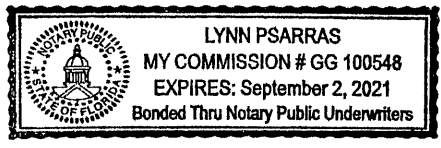
STATE OF Florida
COUNTY OF Palmer Beach

The foregoing instrument was acknowledged before me this 31st day of September,
2017 by Lawrence J. Ramackers who is personally known to me ~~or who has~~
produced _____ as identification.

My Commission
Expires: _____

[Handwritten Signature]
Signature of Notary

Typed, Printed or Stamped Name of Notary



IN WITNESS WHEREOF, the County has executed this Agreement as of the date first above written.

WITNESSES:

Signed, sealed and delivered
In the presence of:

**PALM BEACH COUNTY, FLORIDA,
ON BEHALF OF ITS BOARD OF COUNTY
COMMISSIONERS**

By: _____
Paulette Burdick, Mayor

Witness Signature

Print Name

Witness Signature

Print Name

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
County Attorney

**APPROVED AS TO TERMS AND
CONDITIONS**

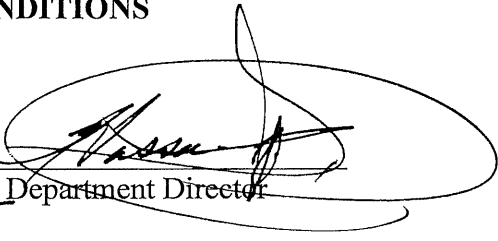
By: 
FOR Department Director

EXHIBIT "A"
LEGAL DESCRIPTION OF PROPERTY

Plat of Le Lac a Planned Unit Development, Plat Book 39, at Pages 145 and 146 of the Public Records of Palm Beach County Florida, amended by Le Lac Plat 2, Plat Book 48 at Pages 61 and 62 of the Public Records of Palm Beach County Florida; amended by Le Lac Plat 3, Plat Book 58 at Pages 130-132 of the Public Records of Palm Beach County; amended by Le Lac Plat 4, Plat Book 112 at Pages 195-196 of the Public Records of Palm Beach County, Florida.

EXHIBIT "B"
ENCROACHMENT

A new water main has been installed as shown in the attached record drawings. All landscaping, mailboxes, and paver driveways located within ten feet of the new water main are Encroachments for purposes of this Indemnity Agreement.