

# **SERVICE AGREEMENT FOR WATER AND SANITARY SEWAGE FACILITIES**

## **FOR**

\_\_\_\_\_

This Service Agreement for Water and Sanitary Sewage Facilities (the "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the City of Miramar, a municipal corporation of the State of Florida (the "City") whose address is 2300 Civic Center Place, Miramar, Florida and \_\_\_\_\_ (the "Developer") whose address is \_\_\_\_\_. City and Developer shall collectively be referred to in this Agreement as the "Parties".

## **RECITALS**

I. The Developer is the owner of real property in the City of Miramar, Broward County, Florida, as more particularly shown and described in the attached Exhibit "A" (the "Property").

II. The Property is suitable for development but is presently without water and sewer facilities.

III. The City owns and operates water and sewer systems throughout the City (the "City's Systems").

IV. The Developer, at its sole cost and expense, is willing to design, construct and install the necessary water mains, valves, fire hydrants, services, firelines, sewage pumping station, force main, gravity sewer mains, manholes, extensions, laterals and other appurtenances necessary to furnish water supply and sewage disposal service to the Property.

V. The City desires to allocate water and sewer treatment plant capacity, if available, for the Property, and to provide water service from the water transmission facilities and sewage disposal service through its sewage transmission facilities in the vicinity of the Property.

VI. Both the City and the Developer recognize that water is a natural resource of limited supply that must be regulated and controlled to assure an adequate supply for all members of the public and that this natural resource must only be the subject of a reasonable beneficial use so that the quantity used is necessary for economic and efficient utilization for a purpose and in a manner that is both reasonable and consistent with the public interest.

VII. Both the Developer and the City recognize that the supply of water and the collection and disposal of sewage by the City for the Property are subject to regulation, prohibition, limitation and restriction by local, state and federal governmental agencies.

VIII. The Developer recognizes and agrees that the City's obligations for the provision of water and for the collection and disposal of sewage for the Property are at all times subject to such governmental regulation, prohibition, limitation and restriction, and that these factors are beyond the control and responsibility of the City.

IX. The Developer recognizes and agrees that the City has existing engineering standards of construction for engineering design specifications, which may be amended from time to time and that must be complied with.

X. The City and the Developer desire to enter into this Agreement setting forth the mutual understandings and undertakings regarding the furnishing of water and sewer service for the Property.

XI. Developer has requested the reservation of \_\_\_\_\_ Equivalent Residential Connections pursuant to this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants contained in this Agreement and other good and valuable consideration, the receipt and adequacy of which the Parties acknowledge, the Parties covenant and agree as follows:

**A. Definitions.**

1. *Department* means the City's Construction and Facilities Management Department.
2. *Director* means the Director or City Engineer for the City's Engineering Services or its authorized representative.
3. *Engineering Standards* means the construction and/or design specifications established by the City's Construction and Facilities Management Department, which are existing at the time of Project detailed engineering design.
4. *Equivalent Residential Connection ("ERC")* shall have the meaning set forth in the City's Code of Ordinances.
5. *On Site Private Facilities* means all water and sewer facilities not conveyed to the City and which are not located within dedicated rights of way or City owned easement areas, including but not limited to all plumbing facilities located on private property. Ownership by the City shall terminate at the outlet side of each water meter or at the property or easement line for sewage facilities.
6. *Plans and Specifications* means the plans, specifications and any other technical data necessary for the construction of the Water and Sewage

Facilities. The Plans and Specifications shall be prepared and certified by a Florida registered professional engineer.

7. *Water and Sewage Facilities* means all the necessary water and sewer facilities to serve the Property, including but not limited to any and all water mains, valves, fittings, fire hydrants, firelines, service connections, service lines, shutoffs, meter boxes, sewage pumping stations, force mains, gravity sewer mains, laterals, manholes, services and all appurtenances thereto necessary for a complete water and sewer system.

**B. Proposed Use.**

The Developer intends to construct \_\_\_\_\_  
\_\_\_\_\_ on the Property for a total of \_\_\_\_\_ ERCs  
(the "Project").

**C. Developer's Obligations.**

1. Design. The Developer, at its sole cost and expense, shall be responsible for designing and preparing the Plans and Specifications in accordance with the existing or as amended Engineering Standards. The Plans and Specifications shall be approved in writing by the Director and by any other governmental entity whose approval is required. No work shall commence until the Plans and Specifications are approved in writing by the Director and a construction permit is issued.
2. Construction and Installation. The Developer, at its sole cost and expense, shall construct and install the Water and Sewage Facilities in accordance with the approved Plans and Specifications.
3. Onsite Private Facilities. The Developer, at its sole cost and expense, shall design, construct and install all Onsite Private Facilities. The Onsite Private Facilities shall be owned, operated repaired and maintained by the Developer, its successors and/or assigns, in good order and condition and in accordance with applicable City regulations. As part of the Onsite Private Facilities, Developer shall install cleanout on consumer's sewage service at the Property line or easement line in accordance with current Utility Standard Details. The City shall not be liable or responsible for any defects or repairs to the Onsite Private Facilities.
4. Inspections. The Developer, at its sole cost and expense, shall retain the services of a Florida registered professional engineer for the purposes of inspecting and supervising the construction and installation of the Water and Sewage Facilities to insure compliance with accepted civil engineering practices and the approved Plans and Specifications. Prior to conveying the Water and Sewer Facilities to the City, the engineer shall certify in writing that

the construction and installation of the Water and Sewage Facilities comply with accepted civil engineering practices and are in substantial conformance with the approved Plans and Specifications. The City shall have the right but not the obligation to make inspections of all the construction work performed by or for the Developer under the terms of this Agreement, including both onsite and offsite facilities, and regardless of whether or not the facilities will be subsequently owned by the City. Such inspections shall not be construed to constitute any guarantee on the part of the City as to materials or workmanship, nor shall they relieve the Developer of the responsibility for the proper construction of said facilities in accordance with the requirements of the approved Plans and Specifications, nor shall the inspections, if undertaken, abrogate any warranties made by the Developer as to the quality and condition of the materials and workmanship.

5. Compliance with Applicable Laws. The work to be performed by Developer pursuant to the provisions set forth herein shall be in accordance with all requirements of the regulatory agencies that have jurisdiction over the subject matter of this Agreement, as well as all applicable federal and state Statutes, County and City ordinances. The requirements of this paragraph shall govern regardless of any errors or omissions in the approved Plans and Specifications.
6. Approvals and Permits. The Developer or its agents, at its sole cost and expense, shall be fully responsible for obtaining all required approvals from all governmental agencies and for obtaining all necessary construction permits for all the Water and Sewage Facilities contemplated in the approved Plans and Specifications.
7. Accuracy of Information. The Developer shall furnish to the City accurate information with regard to all matters under this Agreement. The Developer shall be responsible for errors or changes in the information furnished to the City under this Agreement.
8. Surety Bonds. Developer shall post a surety bond in the amount of 125% of the Engineer's estimated construction cost of the work as shown on the approved Plans and Specifications, as a guaranty that the work will be completed in accordance with the approved Plans and Specifications. The surety bond shall be posted with a surety company acceptable to the City and that is authorized to write bonds of such character and amount under the laws of the State of Florida. The attorney-in-fact or other officer who signs a bond must file with such bond a certified copy of his power of attorney authorizing him to do so. A bond must be countersigned by the surety's Florida agent. In all such bonds, the City shall be named as "Obligee." A surety company must have a Best's Key Rating Guide General Policyholder's Rating of "A" or better and a Financial Category of Class "V" or better to be acceptable to the City.

**D. Pre-construction Meeting.**

Developer and/or his contractor shall arrange for and hold a pre-construction meeting with the Director or an authorized representative. Notification of said meeting shall be made in writing and received by the Parties 72 hours in advance of said meeting. The meeting shall be held at least 24 hours prior to start of each phase of construction. The meeting shall take place at the City or at a place convenient to the Director.

**E. Engineers Present at Tests.**

During construction and at the time when periodic inspections are required, to wit, at water and force main pressure testing, sewer lapping and at sewer exfiltration tests, the Director or his authorized representative may be present and Developer's engineer shall be present to observe and witness tests for determination of conformance to the approved Plans and Specifications. The Developer shall notify the City a minimum of 48 hours in advance of said tests so that the City may make the necessary arrangements for witnessing the test.

**F. Conveyance of Water and Sewage Facilities to the City.**

Upon completion and approval of the Water and Sewage Facilities contemplated herein for City ownership, the Developer shall, at no cost to the City:

1. Conveyance Documents.
  - 1.1 Convey to the City, its successor or assigns all of the right, title and interest of the Developer in and to all Water and Sewage Facilities, free and clear of liens and encumbrances. Such conveyance shall be by Bill of Sale in a form provided by and approved by the City.
  - 1.2 Deliver to the City a No Lien Affidavit in a form provided by and approved by the City.
  - 1.3 Deliver to the City a Waiver and Release of Lien form all contractors, subcontractors and suppliers of materials or labor who might have acquired an interest in the Water and Sewage Facilities and/or the Property as a result of performing work, supplying materials or labor or otherwise. The Waiver and Release of Lien shall be in a form provided by and approved by the City.
  - 1.4 Deliver to the City a Warranty on a form provided by and approved by the City warranting the Water and Sewage Facilities, the contents of

which Warranty are described hereinafter.

- 1.5 Deliver to the City all original manufacturers' warranties and/or operation manuals covering the Water and Sewage Facilities.
- 1.6 Deliver to the City one (1) complete set of mylar as-built drawings showing all the Water and Sewage Facilities, easements and rights-of-way as located by a Florida licensed surveyor, along with two prints of the as-built drawings sealed by a Florida licensed surveyor and certified by Developer's engineer of record. The as-built drawings shall also be submitted in a digital format compatible with the City's CAD system, and approved by the Director.
- 1.7 Deliver to the City the T.V. inspections of the gravity sewer system performed one month before the expiration of the warranty period described in Section F 3.1 of this Agreement.

## 2. Easements and Warranty Deeds.

- 2.1 Grant to the City, its successors and assigns, a perpetual easement and/or right of way on, over, under and across those portions of the Property necessary for the construction, installation, repair, relocation and/or maintenance of the Water and Sewage Facilities. Such Grant of Easements shall be in a form provided and approved by the City and shall be accompanied by i) an Opinion of Title in a form provided and approved by the City, prepared by a Florida licensed attorney or Florida licensed title company, indicating that title to the easement property vests in the Developer and indicating all lienors and/or mortgagees having an interest on the easement property, and ii) appropriate subordinating releases and/or satisfaction from subordinate lienors and/or mortgagees having an interest in the easement property.
- 2.2 Convey to the City, its successors and assigns, title to the lands where lift and/or pumping stations are located. Such conveyance shall be by Warranty Deed in a form provided by and approved by the City and accompanied by i) an Opinion of Title in a form provided by and approved by the City indicating that title to the property vests in the Developer and indicating all lienors and/or mortgagees having an interest on the property, and ii) appropriate releases and/or satisfaction from lienors and/or mortgagees having an interest in the property.

## 3. Warranties and Bonds.

- 3.1 Warrant that the Water and Sewage Facilities to be owned by the City

shall be free from any and all defects in materials and workmanship. The Developer also warrants that it shall be solely responsible for the repair of any damages to said facilities caused by persons in its employment. Said warranties shall remain in full force and effect for a period of one year from the date of final acceptance of the facilities by the City. In the event it becomes necessary to repair and/or replace any of the facilities during the initial one year period, then the warranty as to those items repaired and/or replaced shall continue to remain in effect for an additional period of one year from the date of final acceptance by the City of those repairs and/or replacements.

- 3.2 Simultaneous with the conveyance of the Water and Sewage Facilities, the Developer shall deliver to the City an executed surety bond meeting the requirements of Section C.8. or letter of credit acceptable to the City in an amount equal to 25% of the actual cost of construction of the Water and Sewage Facilities, guaranteeing all work pursuant to this Agreement against any and all defects in material, equipment or construction for a period of one year following the date of final acceptance of the Water and Sewage Facilities by the City.

Upon demand by the City, the Developer shall correct or cause to be corrected all such defects that are discovered within the warranty period as set forth above, failing which the City may make such repairs and/or replacements of defective work and/or materials, and the Developer and/or its surety shall be liable to the City for all costs arising therefrom.

#### **G. Final Acceptance of Water and Sewage Facilities by City.**

1. For the acceptance of such water and sewer facilities, the City shall act through the City Manager in those instances where the easement is related to improvements that were dedicated by plat or other instrument that had been previously approved by the City Commission, and shall act through the City Commission in all other instances.
2. The Developer agrees that following final acceptance, the Water and Sewage Facilities installed by the Developer to be owned by the City pursuant to the terms of this Agreement shall at all times remain the sole, complete and exclusive property of the City under the City's exclusive control and operation.
3. Final acceptance may be accomplished for reasonable segments of the Water and Sewage Facilities upon written approval by the Director and so long as the Developer has complied with all terms and provisions of this Agreement with respect to such segments.

4. Prior to the issuance of the Certificate of Occupancy for the last building within this Project, the Developer shall clean the entire sanitary sewer system and shall provide the City with the T.V. inspections of the sewer system reflecting that such cleaning has been performed.
5. No Certificates of Occupancy shall be issued by the City until final acceptance of the Water and Sewage Facilities as provided for in this section.

#### **H. City's Obligations.**

1. The responsibility of the City to provide water and/or sewage disposal service under this Agreement shall be limited to:
  - 1.1 The property presently owned by Developer as described in Exhibit "A" to this Agreement; and
  - 1.2 The ERCs provided for in Section B of this Agreement.

#### **I. Indemnification and Hold Harmless by Developer.**

1. For ten dollars (\$10.00) and other good and valuable consideration paid by the City to the Developer, receipt of which is hereby acknowledged, the Developer agrees to indemnify and hold the City harmless forever from all damages, liability, cost and expense, including reasonable attorney's fees, related to negligence of the Developer, its officers, agents and employees and from any foreseeable damage to the Water and Sewage Facilities constructed by the Developer and conveyed to the City caused by negligence of the Developer, its officers, agents and employees. Indemnification shall include costs for physical repair of the City's system.
2. For ten dollars (\$10.00) and other good and valuable consideration paid to the Developer by the City, the Developer agrees to hold City harmless from any and all liability and/or damages for City's non-performance under this Agreement as a result of any ruling or order by any other governmental or regulatory agency having jurisdiction over the subject matter in this Agreement, or from any discontinuation of water and sewage services as a result of the conditions specified in Section L of this Agreement. In the event of City's non-performance under this Section, this Agreement shall be null and void and not enforceable by either party with respect to those portions of Developer's Property for which City is prevented from performance.
3. Nothing in this Agreement shall be deemed or treated as a waiver by the City of any immunity to which it is entitled by law, including but not limited to the City's sovereign immunity as set forth in Section 768.28, Florida Statutes.

**J. Force Majeure.**

Any temporary cessation or interruption of water and/or sewer services to the Property or the performance by the City of any of the obligations or conditions herein or from exercising its rights due to or resulting from this Agreement caused by a force majeure event or necessary maintenance work, breakdown of or damages to machinery, pumps or pipelines shall not constitute a breach of this Agreement, nor shall it impose liability upon the City by the Developer, its successors or assigns. The term "force majeure" means Acts of God, strikes, lockouts, or other industrial disturbances; acts of public enemies, blockades, wars, insurrections or riots; epidemics; landslides, earthquakes, fires, storms, floods, or washouts; governmental restraints, either federal, state or county, civil or military; civil disturbances; explosions; inability of City to obtain necessary materials, supplies, labor, or permits whether due to existing or future rules, regulations, orders, laws or proclamations, either federal, state or county, civil or military, or otherwise, and other causes beyond the control of either party, whether or not specifically enumerated herein.

**K. Impact Fees.**

Developer agrees that a condition to the City providing water and/or sewer service under this Agreement is the payment of water and sewer impact fees due pursuant to any City ordinance imposing such fees as may be adopted or amended by the City. Developer shall pay water and sewer impact fees in an amount as required by Chapter 21 "Utilities", Article V "Water and Sewer Impact Fees", or any other City ordinance imposing such fees in effect on the date such water and sewer impact fees are paid. Pursuant to Section 21-195(g) of the City Code of Ordinances, if the number of ERCs for any project has been determined under Section 21-195, the Director of Construction and Facilities Management may elect to audit the accuracy of the determination in the manner set forth in Section 21-195 (g). Any audit shall be based upon actual demand during the twelve-month period within three years of issuance of the certificate of occupancy, adjusted for the percentage of actual occupancy and use during each relevant period. If the audit concludes that the actual demand exceeds the number of ERCs previously determined under Section 21-195, the developer shall pay for the additional ERCs within 30 days of receiving the audit. If the audit concludes that the actual demand is less than the number of ERCs determined under Section 21-195, the City shall reimburse the developer for the difference. If the developer fails to make additional impact fee payments required under this paragraph, the City shall have the right to place a lien on the property in accordance with Paragraph X.

**L. Conditions to Service by City.**

City's obligations to provide water and sewage services to the Property under this

Agreement is conditioned upon and subject to:

1. Developer complying with all the terms and provisions of this Agreement and any and all applicable federal, state, county and City laws.
2. The City has entered into "Large Users Agreements" with the Cities of Hollywood and Pembroke Pines (the "Cities") and Miami Dade Water and Sewer Authority Department (the "County"), in which the Cities and the County have agreed to make future water and/or sewage treatment capacity available at the Cities' and the County's water and/or wastewater treatment plants. In the event the City cannot provide sufficient capacity, as a result of the Cities' and/or County's action, the City's sole obligation shall be to refund prepaid impact fees under Section K of this Agreement for those units for which the City is unable to provide service provided that Developer is not in default of this Agreement. Any and all fees, premium rates and/or charges imposed by the Cities and/or the County against the City under their respective agreements shall be passed along to the Developer, and the Developer by executing this Agreement agrees to pay these fees, premium rates and/or charges upon demand by the City.
3. In the event that the City cannot provide sufficient service as a result of the actions of any regulatory agency, then the City's sole obligation shall be to refund prepaid impact fees under Section K of this Agreement for those units for which the City is unable to provide capacity provided that Developer is not in default of this Agreement.

**M. Assignment, Conveyances or Transfers of this Agreement.**

The assignment, conveyance or transfer of Developer's rights and/or obligations under this Agreement shall be prohibited unless:

1. It is in writing in a form approved by the City Commission.
2. The City consents to and is a party to said assignment, conveyance or transfer and the assignee, conveyee or transferee agrees to abide by all the terms and provisions of this Agreement.
3. The Developer is not in default under this Agreement.

**N. Transfer or Conveyance of Developer's Property.**

1. In the event that Developer's Property or a portion thereof is transferred or conveyed by the Developer, the Developer shall remain liable to the City for all obligations under this Agreement unless released in writing by the City. Developer shall not be released as provided for herein if Developer is in default under this Agreement.

2. Developer shall fully disclose this Agreement to all purchasers of the Property or portions thereof.

**O. Wellfield Protection.**

Developer acknowledges that the Property [is/is not] within a Broward County Protected Well Field zone of influence per Broward County Ordinance 84-60 or within an existing or proposed well field zone of influence as determined by the Director. If Property is within said zone of influence, Developer agrees to limit uses of the property to those uses that are allowed by Broward County Ordinance 84-60, as it may be amended.

**P. Prohibited Hazardous Materials.**

Developer acknowledges that Broward County and the City of Miramar have ordinances that prohibit discharge of hazardous materials into the sanitary sewer system. (Broward County Ordinance 86-61 and Chapter 21 of Miramar City Code). Developer agrees not to discharge hazardous materials into the sanitary sewer system as defined by Broward County Ordinance 86-61 and Chapter 21 of the Miramar City Code, as they may be amended.

**Q. Notices.**

All notices hereunder must be in writing and shall validly given if hand delivered as follows (or to any other address that the party to be notified may have delivered to the other party by like notices):

For the City of Miramar:

Vernon E. Hargray,  
City Manager  
City of Miramar  
2300 Civic Center Place  
Miramar, FL 33025

For the Developer:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notice so addressed and sent by prepaid certified mail return receipt requested, shall be deemed validly given when deposited in the United States mail.

**R. Promulgation of Reasonable Rules of Service.**

City shall have the right to promulgate, from time to time, reasonable rules and regulations relating to the furnishing of water and sewage services to consumers within the Property encompassed by this Agreement. Such rules and regulations may relate to but are not limited to rates, deposits and connection charges and the right to discontinue services under certain conditions. Subject to paragraph L.2., the water and sewer rates to be charged by City to said customers shall be the rates now or hereafter charged to other customers within the area of service of the City's Water and Sewer System. Developer acknowledges and agrees that rates are subject to change at any time by City.

**S. Conditions on Fire Hydrant Use.**

No water from City's water distribution system shall be used or disbursed by Developer, his employees or agents, through fire hydrants or water mains, or by any person, firm, corporation or agency, public or private, unless there has first been made adequate provisions for compensating the City for such water.

**T. Exclusive Rights of City.**

1. City shall have the exclusive right to furnish water and sewage services to consumers within the Property covered by this Agreement.
2. The City is empowered to require the owner or occupant of any land within the Developer's Property to enter into a written service contract or agreement for retail water, and/or sewer service under the standard terms and conditions as promulgated by the City.
3. The City reserves the right to make full use of the water and/or sewer facilities to be owned by the City as contemplated herein to serve other customers at any time.

**U. Wells Prohibited Except for Irrigation.**

Developer, its successors and assigns, and the owners and occupants of buildings on Developer's Property, shall not install or maintain any water wells except for irrigation purposes.

**V. Prohibition Against Using City Water For Irrigation Purposes.**

Use of City water shall be prohibited for irrigation purposes.

**W. Default.**

The occurrence of any of the following during this Agreement shall constitute a

default:

1. Developer's failure to pay when due any sums, fees, charges, costs or expenses which are payable under this Agreement;
2. Developer's failure in the performance or observance of any of the terms and conditions of this Agreement.
3. There shall be filed by or against Developer in any court or other tribunal pursuant to any governmental requirement, a petition in bankruptcy or insolvency proceedings or for reorganization or for the appointment of a receiver or trustee of all or substantially all of Developer's Property, unless such petition shall be filed against Developer's and Developer shall in good faith promptly thereafter commence and diligently prosecute any and all proceedings appropriate to secure the dismissal of such petition and shall secure such dismissal within 30 days of its filing;
4. Developer shall be adjudicated a bankrupt or an insolvent or take the benefit of any federal reorganization or composition proceeding, make an assignment for the benefit of creditors, or take the benefit of an insolvency law;
5. A trustee in bankruptcy or a receiver shall be appointed or elected or had for Developer, whether under federal or state laws; or
6. Developer's interest under this Agreement shall be sold under any execution or process of law.

In the event of Developer's default under this Agreement, the City's obligations under this Agreement shall automatically terminate.

## **X. Remedies.**

Should Developer be in default of this Agreement, it is agreed that the City shall be entitled to any and all remedies under Florida law, and in addition thereto, the City shall be entitled to any or all of the following remedies:

1. Any reserved plant capacity under this Agreement may be rescinded and forfeited.
2. The site plan for the Property is voidable by Resolution of the City Commission.
3. No final inspections shall be approved by the City.
4. No Certificate of Occupancy shall be issued by City for any development of

the Property.

5. The City shall have the right to charge interest at a rate equal to the maximum rate allowed by Florida law on any payments due to City from Developer that are not paid. The interest, when applicable, shall accrue from the due date of payment as provided in this Agreement.
6. The City shall be entitled to lien the Property and foreclose the lien in satisfaction of any payments due under this Agreement.

All remedies provided herein are cumulative.

**Y. Public Records.**

1. Developer agrees to keep and maintain public records in Developer's possession or control in connection with Developer's performance under this Agreement. Developer additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. Developer shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the City.
2. Upon request from the City's custodian of public records, Developer shall provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.
3. Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the City.
4. Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of Developer shall be delivered by Developer to the City, at no cost to the City, within seven (7) days. All such records stored electronically by Developer shall be delivered to the City in a format that is compatible with the City's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, Developer shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.
5. Any compensation due to Developer shall be withheld until all records are received as provided herein.
6. Developer's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the City.

7. **IF DEVELOPER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO AGENCY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 954-602-3011, [dagibbs@miramarfl.gov](mailto:dagibbs@miramarfl.gov) OR BY MAIL: City Of Miramar – City Clerk's Office, 2300 Civic Center Place, Miramar, FL 33025.**

**Z. Miscellaneous Provisions.**

1. This Agreement constitutes the entire agreement between the parties for all matters contained herein and shall supersede all previous agreements or representations, whether oral or written, with respect to all matters contained herein. All prior agreements pertaining to any matters covered by this Agreement are canceled and declared of no force and effect.
2. If any section, subsection, sentence, clause, phrase or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.
3. This Agreement shall be recorded by the City, at Developer's expense, among the Public Records of Broward County, Florida, for the particular purpose of placing all owners or occupants of Developer's Property connected to or to be connected to said water and sewer systems of City upon notice of each and every one of the provisions herein to the same extent and with the same force and effect as if said owners and occupants had joined with the parties to this Agreement in the execution thereof; and the acquisition or occupancy of real property in the Developer's Property connected to or to be connected to the water and sewer systems of the City shall be deemed conclusive evidence of the fact that the owners or occupants have consented to and accepted the Agreement herein and are bound thereby.
4. This Agreement constitutes a covenant running with the land and shall be binding on Developer, its successor or assigns as well as all future owners of the Property.
5. The headings and subheadings used throughout this Agreement are for convenience only and have no significance in the interpretation of the body of this Agreement, and the parties agree that they be disregarded in construing the provisions of this Agreement.
6. The recitals to this Agreement are true and correct and are incorporated as an integral and material part of this Agreement.

7. The signature of any person to this Agreement shall be deemed a personal warranty by that person that he has the power and authority to bind any corporation, partnership or other business entity for which he purports to act.
8. In the event of any disputes and/or litigation arising from this Agreement, the prevailing party shall be awarded reasonable attorneys' fees and costs (including paralegals) through and including any appeals.
9. No waiver by City of any breach by Developer of any term or condition of this Agreement, and no failure by City to exercise any right or remedy with respect of any such breach, shall constitute a waiver or relinquishment for the future, or bar any right or remedy of City with respect to any other breach of such term or condition or any breach of any other term or condition of this Agreement. The receipt by City of any payments or any portion of a payment required under this Agreement shall not operate as a waiver or an accord and satisfaction of the rights of City to enforce the payment or portion of a payment then or subsequently due, to terminate this Agreement or to invoke any other appropriate remedy which City may select as provided by this Agreement or by law.
10. The City Attorney has approved the standard, pre-printed terms and conditions set forth in this Service Agreement for Water and Sanitary Sewage Facilities as to form and legal sufficiency. Accordingly, no modification of these terms and conditions shall be binding upon the City unless they are specifically endorsed and approved by the City Attorney.

**IN WITNESS WHEREOF**, the parties hereto have caused these presents to be executed on the day and year indicated below:

**CITY OF MIRAMAR**

ATTEST:

By: \_\_\_\_\_  
Vernon E. Hargray,  
City Manager

\_\_\_\_\_  
Denise A. Gibbs, City Clerk

DATED: \_\_\_\_\_

Approved as to legal form and  
Sufficiency for the use of and reliance  
by the City of Miramar only:

\_\_\_\_\_  
City Attorney  
Austin Pamies Norris  
Weeks Powell, PLLC

**DEVELOPER:**

Witnesses:  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Dated: \_\_\_\_\_

