

CITY OF NORTH PORT, FLORIDA/  
SARASOTA COUNTY SCHOOL BOARD  
(ELEMENTARY SCHOOL H)  
WATER AND WASTEWATER SYSTEM  
STANDARD DEVELOPER'S AGREEMENT

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between the Sarasota County School Board, hereinafter referred to as "Developer", and the City of North Port, Florida an incorporated municipality located within the State of Florida, hereinafter referred to as the "City".

RECITALS

1. The Developer owns or controls lands located in North Port, Florida, and described in Exhibit" A ", attached hereto and made a part hereof as if fully set out in this paragraph and hereinafter referred to as "Property", and Developer has or is about to develop the Property by erecting thereon, residential, commercial or educational facilities improvements.
2. The Developer is desirous of prompting the construction and/or maintenance of central water and wastewater facilities so occupants of each residence or commercial improvement or the users of educational facilities constructed will receive adequate water and wastewater service.
3. The City is willing to provide, in accordance with the provisions and stipulations hereinafter set out, and in accordance with all applicable laws, central water and wastewater facilities, and to have extended such facilities by way of water and wastewater mains, and to thereafter operate such facilities so the occupants of each residence or commercial improvement or educational facilities constructed on the Property, will receive and adequate water and wastewater service from the City.
4. The City is also willing to provide reclaimed water service, if applicable and economically feasible and subject to City regulation.

ACCORDINGLY, for and in consideration of the Recitals, the mutual undertakings and agreements herein contained and assumed, and other good and valuable consideration the receipt and sufficiency of which are acknowledged by the parties, the Developer and the City hereby covenant and agree as follows:

SECTION 1. RECITALS. The above Recitals are true and correct, and form a material part of this Agreement

SECTION 2. DEFINITIONS. The definitions set forth in the chapter entitled "Public Utilities" found in the North Port City Code shall apply in this Agreement unless otherwise specified below. 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:

(1) "Service" -the readiness and ability on the part of the City to furnish water and wastewater service to the property.

(2) "Point of Delivery or Collection" the point where the pipes of utility are connected with the pipes of the Developer. Unless otherwise indicated, the point of delivery shall be at a point on the Developer's lot line.

(3) "Contribution-in-aid-of-Construction" -The sum of money, and/or property, represented by the value of the water and wastewater collection and distribution system constructed by Developer, which Developer covenants and agrees to pay to the City as a contribution-in-aid-of-construction, to induce the City to continuously provide water and wastewater service to the Property.

SECTION 3. EASEMENT AND RIGHT OF ACCESS. Developer hereby grants and gives the City the exclusive right or privilege to construct, own, maintain, and operate the water and wastewater facilities in, under, 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 agreements, dedications or grants made otherwise and independent of said record plats (see attached Exhibit "B"). Developer acknowledges that the City will possess the right of ingress and egress to carry out these utility functions through the recording of the final plat. The foregoing grants shall be for such period of time, as the City requires such rights, privileges or easements in the ownership, maintenance, operation or expansion of the water and wastewater facilities. The City hereby agrees that all easement grants will be utilized in accordance with the established and generally accepted practices of the water and wastewater industry with respect to the installation of all its water and wastewater facilities in any of the easement areas; and the Developer in granting easement herein, or pursuant to the terms of this instrument, shall have the rights to grant exclusive or non-exclusive rights, privileges and easement to other entities to provide to the Property any utility services other than water and wastewater service.

SECTION 4. PROVISION OF SERVICE. Upon the continued accomplishment of all the prerequisites contained in this Agreement to be performed by the Developer, the City covenants and agrees that it will allow the connection of the water and wastewater collection and distribution facilities installed by Developer to the central water and wastewater facilities of the City in accordance with the terms and intent of this Agreement.

Such connection shall be in accordance with rules and regulations of the Department of Health and Rehabilitative Services and the Florida Department of Environmental Protection. The City agrees that once it provides water and wastewater service to the Property and Developer, or others have connected customer installations to its system, that thereafter, the City will continuously provide in return for payment of all applicable rate, fees, and charges and in accordance with the other provisions of this Agreement, and of applicable laws, including rules and regulations and rate schedules, waste and wastewater service to the Property in a manner to conform with all requirements of all governmental agencies having jurisdiction over the water and wastewater collection and distribution operation of the City.

SECTION 5. DESIGN, REVIEW, CONSTRUCTION, INSPECTION, AND CONVEYANCE OF FACILITIES.

- 5.1 So that the City may provide water and wastewater facilities, and to continuously provide customers located on the Property with water and wastewater services, Developer hereby covenants and agrees to pay for the construction and to transfer ownership and control to the City as a contribution-in-aid-of-construction off-site water and wastewater collection and distribution systems referred to herein.
- 5.2 Developer shall provide the City with engineering plans and specifications of the type and in the form as prescribed by the City, showing the on-site and off-site water and wastewater collection and distribution systems proposed to be installed to provide service to the subject Property. The City will advise Developer's engineer of any sizing requirements as mandated by the City's system policies and utility standards for the preparation of plans and specifications of facilities within the Property. If applicable, 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, if applicable, shall conform to a master plan for the development of the Property and such master plan shall be submitted to the City concurrent with or prior to submission of plans for the first phase. All such plans and specifications shall be submitted to the City and no construction shall commence until City has approved such plans and specifications in writing. After approval, Developer shall cause to be constructed, at Developer's expense, the water and wastewater collection and distribution systems as shown on all plans and specifications.

- 5.3 During the construction of the water and wastewater collection and distribution systems by Developer, the City shall have the right to inspect such installation to determine compliance with plans and specifications, adequacy of the quality of the installation, and further, shall be entitled to perform standard tests for pressure, infiltration/vacuum, line and grade, and all other normal engineering tests required by specifications and/or good engineering practices. Complete as-built plans shall be submitted to the City upon completion of construction.
- 5.4 By these presents, Developer hereby transfers to the City, title to all water and wastewater collection and distribution systems installed by Developer's contractor, pursuant to the provisions of this Agreement. Such conveyance is to take effect without further action upon the acceptance by the City of the said installation. As further evidence of said transfer to title, and upon the completion of the installation and prior to the rendering of service by the City, Developer shall convey to the City, by bill of sale, or other appropriate documents, in form satisfactory to the City's counsel, the complete off-site water and wastewater collection and distribution system as constructed by Developer and approved by the City. Developer shall further cause to be conveyed to the City, all easements and/or rights-of-way covering areas in which water and wastewater collection and distribution lines are installed by recordable document in form satisfactory to the City's counsel. All conveyance of easements and/or rights-of-way shall be accompanied by a title policy or other evidence of title, satisfactory to the City, establishing Developer's rights to convey such continuous enjoyment of such easements or right-of-way for those purposes set forth in this Agreement to the exclusion of any other person in interest. The use of easements granted by Developer shall include the use by other utilities so long as such uses by electric, telephone, or gas utilities, or cable television do not unreasonably and materially interfere with use by the City. The City agrees that the acceptance of the water and wastewater collection and distribution systems, installed by Developer, for service, or by acceptance of the bill of sale, shall constitute that assumption of responsibility by the City for the continuous operation and maintenance of such systems from that date forward.
- 5.5 All installations by Developer or its contractor shall be warranted for at least one year from the date of acceptance by the City. Mortgagee(s), if any, holding prior liens on such properties shall be required to release such liens, subordinate their position and join in the grant or dedication of the easements or rights-of-way. All water and wastewater collection and distribution facilities shall be covered by easements if not located within platted or dedicated rights-of-way.
- 5.6 Whenever the development of the subject Property involves on customer or a unity of several customers, and in the opinion of the City ownership by the City of the internal water and wastewater collection and distribution system is not

necessary, then, at the sole option of the City, Developer, or its successor or assigns, shall retain ownership and the obligation for maintenance of such on-site facilities.

- 5.7 Payment of the contributions-in-aid-of-construction does not and will not result in the City waiving any of its rates, rate schedules or rules and regulations, and their enforcement shall not be affected in any manner whatsoever by Developer making the contribution. The City shall not be obligated for any reason whatsoever nor shall the City pay any interest or rate of interest upon the contribution. Neither Developer nor any person or other entity holding any of the Property by, through or under Developer, or otherwise, shall have any present or future right, title, claim or interest in and to the contributions or to any of the water and wastewater facilities and properties of the City, and all prohibitions applicable to Developer with respect to no refund of contributions, no interest payment on said contributions and otherwise, are applicable to all persons or entities. Any user or customer of water and wastewater services shall not be entitled to offset any bill or bills rendered by the City for such service or services against the contributions. Developer shall not be entitled to offset the contributions against any claim or claims of the City unless specified in the Special Conditions of this Agreement.

SECTION 6. EVIDENCE OF TITLE. Within a period of thirty (30) days after the execution of this Agreement, at the expense of the Developer, Developer agrees to either deliver to the City an Abstract of Title, brought up to date, which abstract shall be retained by the City, and remain the property of the City, or to furnish the City an opinion of title from a qualified attorney at law or a qualified title insurance company with respect to the Property, which opinion shall include a current report on the status of the title, setting out the name of the legal title holders, the outstanding mortgages, taxes, liens, and covenants. The provisions of the Section are for the exclusive rights of service contained in the Agreement. Any mortgage or lien holder having an interest in the Property shall be required to join in the grant of exclusive service rights set forth in this Agreement. Title standards shall be the same as those applicable to real estate generally adopted by the Florida Bar and in accordance with Florida law.

SECTION 7. OWNERSHIP OF FACILITIES. Developer agrees with the City that all water and wastewater facilities conveyed to the City for use in connection with providing water and wastewater services to the Property, shall at all times remain in the complete and exclusive ownership of the City, 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, including the furnishing of water and wastewater services to other persons or entities located within or beyond the limits of the Property.

SECTION 8. APPLICATION OF RULES, REGULATIONS AND RATES.

Notwithstanding any provision in this Agreement, the City may establish, revise, modify and enforce rules, regulations and rates covering the provision of water and wastewater service to the Property. Such rules, regulations and rates are subject to the approval of the City of North Port, Florida. Such rules and regulations shall at all times be reasonable and subject to regulations as may be provided by law or under contract. Rates charged to Developer or customers located upon the Property shall be identical to rates charged for the same classification of service. All rules, regulations and rates in effect, or placed into effect in accordance with the preceding, shall be binding upon Developer, upon any other entity holding by, through or under Developer; and upon any customer of the water and wastewater service provided to the Property by the City.

SECTION 9. PERMISSION TO CONNECT REQUIRED. Developer, or any owner of any parcel of the Property, or any occupant of any residences or buildings located thereon, shall not have the right to and shall not connect any customer installation to the water and wastewater facilities of the City until approval for such connection has been granted by the City.

SECTION 10. BINDING AGREEMENT: ASSIGNMENTS BY DEVELOPER. This Agreement shall be binding upon and shall inure to the benefit of Developer, the City and their respective assigns and successors by merger, consolidation or conveyance. This Agreement shall not be sold, conveyed, assigned or otherwise disposed of by Developer without the written consent of the City first having been obtained. The City agrees not to unreasonably withhold such consent.

SECTION 11. NOTICES. Until further written notice by either party to the other, all notices provided for herein shall be in writing and transmitted by messenger, or by mail to: 1960 Landings Boulevard, Sarasota, Florida 34231 (tel. 941-361-6680 and fax 941-361-6684) Attention: Charles E. Collins, Director, Construction Services and if the City, shall be mailed or delivered to at: City of North Port, Municipal Building, 5650 North Port Boulevard, North Port, Florida 34287, Attention: Utilities Director.

SECTION 12. SURVIVAL OF COVENANTS. The rights, privileges, obligations and covenants of Developer and the City shall survive the completion of the work of Developer with respect to completing the water and wastewater facilities and services to any phase area and to the Property as a whole.

SECTION 13. ENTIRE AGREEMENT: AMENDMENTS: APPLICABLE LAW: ATTORNEY'S FEES. This Agreement supersedes all previous agreements or representations either verbal or written, heretofore in effect between Developer and the City, made with respect to the matters herein contained, and when duly executed, constitutes the agreement between Developer and the City. No additions, alterations or variations of the terms of this Agreement shall be valid, nor can provisions of the

Agreement be waived by either party, unless such additions, alterations, variations or waivers are expressed in writing and duly signed. This Agreement shall be governed by the laws of the State of Florida, as well as all applicable local ordinances of the City and it shall be and become effective immediately upon execution by both parties hereto. In the event that the City or Developer is required to enforce this Agreement by court proceedings or otherwise, by instituting suit or otherwise, then the prevailing party in such suit shall be entitled to recover all costs incurred, including reasonable attorney's fees.

SECTION 14. DISCLAIMERS: LIMITATIONS ON LIABILITY.

14.1 STATUS. THE PARTIES DEEM EACH OTHER TO BE INDEPENDENT CONTRACTORS, AND NOT AGENTS OF THE OTHER.

14.2 INDEMNITY. THE DEVELOPER SHALL INDEMNIFY THE CITY, ITS RESPECTIVE AGENTS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITY, DEMANDS, DAMAGES, EXPENSES, FEES, FINES, PENAL TIES, SUITS, PROCEEDINGS, ACTIONS AND FEES, INCLUDING ATTORNEYS' FEES, FOR INJURY (INCLUDING DEATH) TO PERSONS OR DAMAGE TO PROPERTY OR PROPERTY RIGHTS THAT MAY ARISE FROM OR BE RELATED TO ACTS, ERRORS, OR OMISSIONS OF THE DEVELOPER, ITS AGENTS, EMPLOYEES, SERVANTS, LICENSEES, INVITEES, OR CONTRACTORS OR BY ANY PERSON UNDER THE CONTROL OR DIRECTION OF THE DEVELOPER, OR BY THE DEVELOPER'S USE OF THE CITY'S SYSTEM, AND THE DEVELOPER SHALL INDEMNIFY THE CITY AS AFORESAID FROM ALL LIABILITY, CLAIMS AND ALL OTHER ITEMS ABOVE MENTIONED, ARISING OR GROWING OUT OF OR CONNECTED WITH ANY DEFAULT, BREACH, VIOLATION OR NONPERFORMANCE BY THE DEVELOPER OF ANY COVENANT, CONDITION, AGREEMENT OR PROVISION CONTAINED IN THIS AGREEMENT CONCERNING ALL OR ANY PART OF THE CITY'S SYSTEM.

14.3 FORCE MAJEURE. THE CITY SHALL NOT BE LIABLE OR RESPONSIBLE TO THE DEVELOPER BY REASON OF THE FAILURE OR INABILITY OF THE CITY TO TAKE ANY ACTION IT IS REQUIRED TO TAKE OR TO COMPLY WITH THE REQUIREMENTS IMPOSED HEREBY OR (OR ANY INJURY TO THE DEVELOPER OR BY THOSE CLAIMING BY OR THROUGH THE DEVELOPER, WHICH FAILURE, INABILITY OR INJURY IS CAUSED DIRECTLY OR INDIRECTLY BY FORCE MAJEURE AS HEREINAFTER SET FORTH). THE TERM "FORCE MAJEURE" AS EMPLOYED HEREIN SHALL MEAN ACTS OF GOD, STRIKES, LOCK-OUTS, OR OTHER INDUSTRIAL DISTURBANCE; ACTS OF PUBLIC ENEMIES, WAR, BLOCKADES, RIOTS, ACTS OF ARMED FORCES, MILITIA, OR PUBLIC AUTHORITY, EPIDEMICS; BREAKDOWN OF OR

DAMAGE TO MACHINER, PUMPS OR PIPE LINES; LANDSLIDES, EARTHQUAKES, FIRES, STORMS, FLOODS, OR WASHOUTS; ARRESTS, TITLE DISPUTES, OR OTHER LITIGATION; GOVERNMENT AL RESTRAINTS OF ANY NATURE WHETHER FEDERAL, STATE, COUNTY, MUNICIPAL OR OTHERWISE, CIVIL OR MILITARY; CIVIL DISTURBANCES; EXPLOSIONS, FAILURE OR INABILITY TO OBTAIN NECESSARY MATERIALS, SUPPLIES, LABOR OR PERMITS OR GOVERNMENT AL APPROVALS WHETHER RESULTING FROM OR PURSUANT TO EXISTING OR FUTURE RULES, REGULATIONS, ORDERS, LAWS OR PROCLAMATIONS WHETHER FEDERAL, STATE, COUNTY, MUNICIPAL OR OTHERWISE, CIVIL OR MILITARY; OR BY ANY OTHER CAUSES, WHETHER OR NOT OF THE SAME KIND AS ENUMERATED HEREIN, NOT WITHIN THE SOLE CONTROL OF THE CITY AND WHICH BY EXERCISE OF DUE DILIGENCE THE CITY IS UNABLE TO OVERCOME.

14.4 DISCLAIMER OF THIRD PARTY BENEFICIARIES. THIS AGREEMENT IS SOLELY FOR THE BENEFIT OF AND SHALL BE BINDING UPON THE FORMAL PARTIES HERETO AND THEIR RESPECTIVE AUTHORIZED SUCCESSORS AND ASSIGNS, AND NO RIGHT OR CAUSE OF ACTION SHALL ACCRUE UPON OR BY REASON HEREOF, TO OR FOR THE BENEFIT OF ANY THIRD PART NOT A PARTY TO THIS AGREEMENT OR AN AUTHORIZED SUCCESSOR OR ASSIGNEE THEREOF.

14.5 DISCLAIMER OF SECURITY. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE DEVELOPER EXPRESSLY ACKNOWLEDGES (1) THAT IT HAS NO PLEDGE OF OR LIEN UPON ANY REAL PROPERTY (INCLUDING, SPECIFICALLY, THE CITY'S SYSTEM), ANY PERSONAL PROPERTY, OR ANY EXISTING OR FUTURE REVENUE SOURCE OF THE CITY (INCLUDING, SPECIFICALLY, ANY REVENUE OR RATES, FEES, OR CHARGES COLLECTED BY THE CITY IN CONNECTION WITH THE CITY SYSTEM) AS SECURITY FOR ANY AMOUNTS OF MONEY PAYABLE BY THE CITY UNDER THIS AGREEMENT; AND (2) THAT ITS RIGHTS TO ANY PAYMENTS OR CREDITS UNDER THIS AGREEMENT ARE SUBORDINATE TO THE RIGHTS OF ALL HOLDERS OF ANY STOCKS, BONDS, OR NOTES OF THE CITY, WHETHER CURRENTLY OUTSTANDING OR HEREAFTER ISSUED.

SECTION 15. COVENANT NOT TO ENGAGE IN UTILITY BUSINESS. The Developer, as a further consideration for this Agreement, agrees that it shall not (the words "shall not" being used in a mandatory definition) engage in the business of providing water and wastewater service to the Property during the period of time the City, its successors and assigns, provide water and wastewater service to the Property, it being the intention of the parties hereto that the foregoing provision shall be a covenant running with the land and under said provision and also under other provisions of this Agreement the City shall have sole and exclusive right and privilege to provide water and wastewater service to the Property and to the occupants of each residence, building or unit constructed thereon.

SECTION 16. RECORDATION. The parties hereto agree that an executed copy of this Agreement and Exhibits attached hereto shall be recorded in the Public Records of Sarasota County, Florida at the expense of the Developer.

SECTION 17. SEVERABILITY. If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained therein are not materially prejudiced, and if the intentions of the parties can continue to be effected. To that end, this Agreement is declared severable.

SECTION 18. AUTHORITY TO EXECUTE AGREEMENT. The signature by any person to this Agreement shall be deemed a personal warranty by that person that he has the full power and authority to bind any corporation, partnership, or any other business entity for which he purports to act hereunder.

SECTION 19. CAPACITY. The execution of this Agreement between Developer and the City does not constitute a specific reservation of capacity by Developer, and the City does not hereby guarantee that capacity will be available for Developer's project at any later date. Any specific reservations of capacity must be detailed within the body of this Agreement, under the heading "Special Conditions", and such capacity shall be so reserved, for a definite period of time only upon the payment of appropriate fees and charges or negotiated between the parties, by the Developer to the City. Said fees and charges shall also be set forth in Exhibit "B" hereof. City agrees to provide capacity for Developer's project in accordance with Exhibit "B".

SECTION 20. SPECIAL CONDITIONS. The following Special Conditions are mutually agreed between Developer and the City:

SEE EXHIBIT "B" ATTACHED TO AND INCORPORATED IN THIS AGREEMENT.

IN WITNESS WHEREOF, Developer and the City have executed or have caused this Agreement, with the named Exhibits attached, if any, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement.

CITY OF NORTH PORT FLORIDA

ATTEST:

\_\_\_\_\_  
Helen M. Raimbeau, CMC City Clerk

\_\_\_\_\_  
Rue S. Berryman, Commission Chair

Approved as to form and correctness:

\_\_\_\_\_  
Robert K. Robinson, City Attorney

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this \_\_\_\_ day of, \_\_\_\_\_ 2006 by Rue S. Berryman, Chairperson of THE CITY OF NORTH PORT, FLORIDA, on behalf of THE CITY OF NORTH PORT. He/She is personally known to me and did (did not) take an oath.

\_\_\_\_\_  
Notary Public

DEVELOPER:  
The School Board of Sarasota County, Florida

x: \_\_\_\_\_

By: Carol Todd, Chair

WITNESS:

x: \_\_\_\_\_

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

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2006 by Carol Todd, Chair, of The School Board of Sarasota County, Florida, on behalf of The School Board of Sarasota County. He/She is personally known to me or has produced \_\_\_\_\_ as identification and did (did not) take an oath.

\_\_\_\_\_  
Notary Public

## EXHIBIT A

### DESCRIPTION OF LEGAL PROPERTY

BEGIN at the southeast corner of Lot 3, Block 686, Seventeenth Addition to Port Charlotte as recorded in Plat Book 13, Page 16, Public Records of Sarasota County, Florida; thence N.00°37'20"E., along the east line of said Lot 3, a distance of 125.00 feet to the northeast corner of said Lot 3, being on the south right-of-way line of State Road 93 (Interstate 75, Tract D); thence S.89°22'40"E., along said south right-of-way line, a distance of 1,420.00 feet to the northwest corner of Lot 6, Block 683 of said plat; thence S.00°37'20"W., along the west line of said Lot 6, a distance of 125.00 feet; thence S.00°42'45"W., a distance of 50.00 feet to a point on the west right-at-way line of Thisbe Street (50-foot wide platted public right-of-way) as shown on said plat; thence S.00°37'28"W., along said west right-of-way line, a distance of 85.00 feet to the northeast corner at Lot 2, Block 679 at said plat; thence N.89°23'00"W., along the north line of said Lot 2, a distance of 125.00 feet to the northwest corner of said Lot 2; thence S.00°37'27"W., along the west line at said Lot 2 and Lots 3, 4 and 5, Block 679, a distance of 320.00 feet to the southwest corner of Lot 5, Block 679, said plat; thence S.89°23'00"E., along the south line of said Lot 5, a distance of 125.00 feet to the southeast corner of said Lot 5, being on the above mentioned west right-at-way line at Thisbe Street; thence S.00°37'28"W., along said west right-at-way line at Thisbe Street, a distance of 380.00 feet to a point of curvature of a curve to the right having a radius of 25.00 feet and a central angle of 89°59'32"; thence southwesterly along the arc of said curve a distance of 39.27 feet to the point of tangency of said curve, being on the north right-at-way line of Sardinia Avenue (50-foot wide platted public right-of-way) as shown on the above mentioned plat; thence N.89°23'00"W., along said north right-at-way line, a distance of 1,335.08 feet to a point of curvature of a curve to the right having a radius of 25.00 feet and a central angle of 90°00'09"; thence northwesterly along the arc of said curve a distance of 39.27 feet to the point of tangency of said curve, being on the east right-of-way line of Sapulpa Street (50-foot wide platted public right-of-way) as shown on the above mentioned plat; thence N.00°37'09"E., along said east right-of-way line, a distance of 835.20 feet to a point on the north right-of-way line of Lamarque Avenue (50-foot wide platted public right-of-way) as shown on the above mentioned plat; thence N.89°22'40"W., along said north line, a distance of 34.77 feet to the POINT OF BEGINNING.

## **Exhibit B**

### **SPECIAL CONDITIONS**

#### **Sarasota County School Board Elementary School H**

Pursuant to SECTION 20, the following are the Special Conditions mutually agreed upon between the Developer and the City. To the extent that these Special Conditions may conflict or contradict with the recitals or provisions contained within the Standard Developer's Agreement, these Special Conditions shall prevail.

1. Provided Sarasota County School Board (Developer) shall have complied with the requirements recited herein, the Developer is hereby granted the right to acquire 36.5 ERU's (Equivalent Residential Units) of water and domestic wastewater for the proposed Elementary School H to be built on the subject property, to be issued permits for and to receive water and wastewater service for the proposed Elementary School development within the subject property, under the following conditions:

- a. To connect Developer's water transmission and distribution system to the City's existing water transmission system. Developer shall design to the City's specifications, apply for and be issued all required permits, and construct to the City's specifications, approved by the Development Review Committee (DRC). The Developer further agrees to install 8-inch and 12 – inch water mains for the project.
- b. To connect Developer's wastewater collection system to the City's existing wastewater system, Developer shall design to the City's specifications, apply for and be issued all required permits to construct, and construct to

the City's specifications as approved by the City of North Port Development Review Committee (DRC). The Developer further agrees to install 6-inch and 8-inch force mains for the project including a lift station.

- c. The Developer shall be required to design to the City's specifications, apply for and be issued all required permits, and construct to the City's specifications as approved by the Development Review Committee (DRC), and install a DATAFLOW SCADA system on any existing or newly constructed lift stations within the project.
- d. The Developer acknowledges that the City has requested that a 12-inch watermain be installed in lieu of the proposed 8-inch watermain, which hydraulically satisfies the demand of the proposed development. The Developer agrees to design such oversized transmission mains and will prepare either separate bid proposals or one bid proposal for the original 8-inch water main with the oversized 12-inch water main as the alternate proposal. The Developer also acknowledges that the City has requested that a 8-inch wastewater force main be installed in lieu of the proposed 6-inch wastewater force main, which hydraulically satisfies the demand of the proposed development. The Developer agrees to design such oversized wastewater force mains and will prepare either separate bid proposals or one bid proposal for the original 6-inch wastewater force main with the wastewater force oversized 8-inch wastewater force main as the alternate proposal. Before publication or distribution by the Developer, Developer

agrees to submit either the separate bid proposals or singular bid proposal to the City for its review and comment which may include, but not be limited to, requiring incorporation of provisions for compliance with public project bid requirements. Provided that the City does not reject the bid proposal which the Developer intends to accept, City agrees to pay the Developer in one installment the bid construction cost difference for the oversize portion of the project, to include pipe and valves, not later than thirty (30) days after the approval by the City of the Developer's delivery of its contractually required incremental payment to its construction contractor. The Developer must submit proof of payment/release of lien for each and every incremental payment. The City's installment payments shall be by check issued to, and payable to, the order of the Developer. The City's portion of the oversize cost shall not exceed \$659,039.85 and shall not include any contingency fees. The Developer and the City agree that funds will be reimbursed out of the City's Fiscal Year 2006-2007 budget.

- e. The Developer agrees and assures that the integrity of all valve boxes and appurtenances protection and adjustments relating to the City's water and wastewater collection and distribution system will not be compromised by the intersection improvements being constructed by the School Board. Any Utility cost associated with this road project being conducted by the School Board will be paid for solely by the Developer. The City will not contribute towards these costs.

2. With regards to the Standard Developer's Agreement, Section 6, **Evidence of Title**, within a period of thirty (30) days after the execution of this agreement, at the expense of the Developer, the Developer agrees to deliver Evidence of Title to the City.

To the extent that the Developer may undertake any construction of utility improvements within the City right-of-way or upon City property, the City acknowledges that the School Board of Sarasota County is a self insured entity. Sarasota County School Board self insurance is stated per Florida State Statute No. 768 28 (governmental entity) and shall not be cancelled or revoked by the School Board without the City Manager having been given at least thirty (30) days written notice thereof.

3. Developer shall be responsible for design, permitting and construction of all required on and off-site utility infrastructure to comply with the City of North Port Utilities Manual of Standards and Specifications for the Construction of Water and Wastewater and all regulatory agencies' requirements for the development of the property.
4. All references in the Standard Developer's Agreement regarding turnover of on-site utilities to the City of North Port Utilities Department are deleted from this agreement. Inspection of said on-site utilities shall be conducted solely by the Developer, its successors and assigns. The City may request and the Developer

shall grant reasonable and periodic inspection of on-site utilities. However, the design and construction will comply with the City requirements and a City staff will witness required tests.

5. The Developer will be responsible for maintenance and operation of all on-site utilities.
  
6. The Developer will transfer all off-site utilities to the City and will provide the City with closeout documents as required by the Utility Department including but not limited to the Bill of Sale and Affidavit of No Lien and Certificates of Construction Completion from regulatory agencies after the completion of the project for the City's operation and maintenance.
  
7. The Developer agrees to the working hours as set forth in this agreement. Normal working hours are defined as Monday through Friday 7:00AM to 3:30PM. Work outside of the normal working hours will constitute an "Overtime" rate, which will be reimbursed to the City. The Overtime rate will be calculated by the City on a time and a half bases plus all overhead fees. Should work be conducted on scheduled holidays, the Developer will be responsible to reimburse on a double time and a half rate plus all overhead fees. The City will invoice for such fees and payment must be made within a two-week period.

8. Pursuant to City of North Port Resolution No. 05-R-32 attached herein as Exhibit C, a resolution for a Conditional Use Permit, for Elementary School H, in an RSF-2 Zoning District; and specifically outlined as a City condition of approval in Exhibit "D", Condition 7, the School Board of Sarasota County shall provide turn lanes and contribute their proportionate share for intersection improvements at Salford and Price Boulevards. The proportionate shares for the City and School Board of Sarasota County are as follows:

- a. 50/50 share for the construction of 4 left-turn lanes and drainage improvements at the intersection;
- b. 50/50 share for engineering design/permitting of the above improvements;
- c. 100% (City) share for the traffic signal construction; and
- d. 75% (City)/25% (School Board of Sarasota County) share for engineering design/ permitting of the traffic signals.

In addition to the above, the Developer agrees to 100% (Developer) share for integrity of Utility valve box protection and adjustments. The Developer recognizes that the obligations for Utilities set forth in paragraph 1.e. regarding the protection of utility infrastructure as it relates to the above described project for intersection improvements are not included in the cost-sharing conditions set forth above as required in the Development Order.

9. The Parties understand and agree that this Amendment may be modified by written mutual consent of both parties only.

10. All notice under this Agreement with the exception of Exhibit B 8. shall be in writing and shall be deemed as sufficiently given if sent by registered mail, postage prepared as follows:

A. To City of North Port: North Port Utilities  
Attention: Utilities Director  
5650 North Port Boulevard  
North Port, Florida 34287

b. To Sarasota County School Board:  
Attn: Charles E. Collins,  
Director of Construction Services  
Sarasota County School Board  
1920 Landings Boulevard  
Sarasota, Florida 34104

11. Notice under this Agreement pertaining to Exhibit B 8. shall be in writing and shall be deemed as sufficiently given if sent by registered mail, postage prepared as follows:

a. To City of North Port: Department of Engineering  
4970 City Hall Boulevard  
North Port, Florida 34286  
Attention: Patrick S. Collins, P.E.

b. To Sarasota County School Board:  
Attn: Charles E. Collins,  
Director of Construction Services  
Sarasota County School Board  
1920 Landings Boulevard  
Sarasota, Florida 34104

12. The Agreement binds the parties and their successors and assigns.