

HUNTER CREEK UTILITIES
1601 Hunter Creek Drive
Punta Gorda, Florida 33982

August 11, 1998

21
PUBLIC
COMMISSION
AUG 13 1998
PM 3:23
1:00 PM

The Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-6686

Re: Docket No. 980731-WS, Application for certificate to provide water and wastewater service in Charlotte County by Hunter Creek Utilities, LLC.

Dear Sir,

This letter is in response to your deficiency letter dated June 24, 1998.

1. a,b, and c. Notices have been sent and the affidavits sent to and received by the Commission.

2. Financial statement of utility Rivers Edge Property Homeowners Association.

As I stated in my original application, this facility was meant to be a not-for-profit facility solely for our own Community. We currently have forty homes in place out of a possible 284, after seven years of development. For obvious reasons, any financial reports of the facility are going to be poor. Our development company has been loaning money to the utility to keep it going. Obviously, without the utility we can not finish developing the land.

This would hurt both the current residents and us as developers.

Presently, the facility is in good working order and is being

regulated by DEP. Sales are looking up and we certainly expect to

complete the community. Since my financials may or may not meet

your qualifications, what are my alternatives? The only two that

I see are either that you leave me alone and I continue to develop

my community with the intention of having the residents run the

facility when completed, or the Public Service Commission issues

us a certificate so that they can control the rates.

3. Technical Ability. Our plant is currently being operated by Avatar Utility Services, Inc. from Sarasota, Florida. Our plant operator is Alan Slater, license number C-6801.

ACR
AFC
APP
CAF
CMU
CTR
EAG
LEC
LIN
OPC
RCH
SEC
WAS

*orig map sent
Brady to WAW.*

DOCUMENT NUMBER-DATE

08650 AUG 13 98

FPSC-RECORDS/REPORTING

4. Land Ownership. An actual copy of the warranty deed is enclosed.

5. Legal Description. See below.

6. Territory Map. A copy of map 5A-12N is enclosed.

7. Territory Not Served.

a and b- The territory not served at this particular time is part of a planned community governed by deed restrictions. There are no other facilities available to the unserved lots. The water and sewer plants were designed and approved by all of the regulatory agencies for 284 lots. To the best of our knowledge, the unserved territory will be consistent with the water and wastewater sections of the local comprehensive plan as approved by the Department of Community Affairs at the time the application is filed.

8. Majority Control. Mr. Leonette and Mr. Esposito each own 50%.

9. Proposed Tariff.

a. Miscellaneous Service Charges. The standard miscellaneous service charges are acceptable.

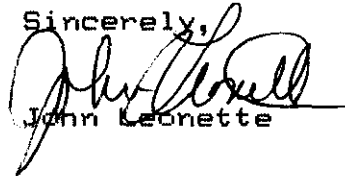
b. Application Form. Customers are billed monthly.

c. Application Form. A twenty four hour written notice is required prior to the date the customer desires to terminate service.

d. Customer Bill. Enclosed is a corrected bill.

e. Customer Bill. It's a long story! see the above sample bill without the notice. Ask Patricia Brady of your Commission if you have any questions.

Sincerely,



John Leonette

FLORIDA PUBLIC SERVICE COMMISSION

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MAIL ROOM

HUNTER CREEK UTILITIES, LLC
1601 Hunter Creek Drive
Punta Gorda, Florida 33982

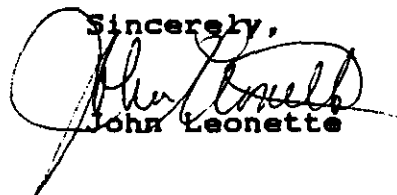
The Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-6686

Re: Docket No. 941044-WS

Dear Sir,

Per your request, I am withdrawing my application for exemption for Rivers Edge, Inc. in Docket No. 941044-WS and have, instead, filed for original certificates for Hunter Creek Utilities, LLC, in Docket No. 980731-WS.

Sincerely,



John Leonette

Hunter Creek Utilities, LLC
1601 Hunter Creek Drive
Punta Gorda, Florida 33982

Water and Sewer Bill

Date_____

Name_____

Account Number_____

Current Reading_____

Last Reading_____

Gallons Used (x 1000)_____

Water

Base Rate: \$10.50

Usage: _____

Sewer

Base Rate: \$ 6.50

Usage: _____

Current Balance _____

Past Due: _____

TOTAL DUE: \$ _____

Billing Period _____ to _____

REC 37.50
DOC 224.00
INT 140.00
INDEX

Documentary Tax Pd. \$ 224.00
Intangible Tax Pd. \$ 140.00
L. J. Scott, Clerk Charlotte County
D.C.

RECORD VERIFIED - Barbara T. Scott, Clerk
JEAN JONES
By: _____ D.C.

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RECORDED

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CHARLOTTE COUNTY

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This Mortgage Deed

Executed the 9th day of December A.D. 1991 by RIVERS EDGE, INC.

a corporation existing under the laws of FLORIDA, and having its principal place of business at Punta Gorda, Florida hereinafter called the mortgagor, to ERNEST E. MACLACHLAN and ZOLA M. MACLACHLAN, co-tenants in common with a (50%/50%) respective interest,

whose postoffice address is 29000 TAMAYO DRIVE PUNTA GORDA, Florida 33982 hereinafter called the mortgagee;

(Wherever used herein the terms "mortgagor" and "mortgagee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations; and the term "note" includes all the notes herein described if more than one.)


Witnesseth, that for good and valuable considerations, and also in consideration of the aggregate sum named in the promissory note of even date herewith, hereinafter described, the mortgagor hereby grants, bargains, sells, aliens, remises, conveys and confirms unto the mortgagee all the certain land of which the mortgagor is now seized and in possession situate in CHARLOTTE County, Florida, viz:

SEE ATTACHED EXHIBIT "A"

This Mortgage secures and shall be security for any and all future advances made by Mortgagee to Mortgagor provided, however, that said future advances be made within five years from the date hereof, and that the total unpaid balance secured hereby at any one time shall not exceed the amount of the Note plus \$80,000.00, together with interest thereon at the rate then agreed upon. Nothing contained herein shall be deemed an obligation on the part of the Mortgagee to make any further advances. All covenants and agreements contained in this Mortgage shall be applicable to all further advances made by Mortgagee to Mortgagor under this future advance clause.

This is a Second Mortgage subordinate and inferior to a First Mortgage from RIVERS EDGE, INC., a Florida corporation, to ERNEST E. MACLACHLAN and ZOLA M. MACLACHLAN, recorded in O.R. Book 1135, Page 250, of the Public Records of Charlotte Florida. Any default in the terms and conditions of the First Mortgage shall become a default in this Second Mortgage.

** THIS INSTRUMENT PREPARED WITHOUT BENEFIT OF TITLE SEARCH **

OSK 

REC'D DEC 10 1991

To Have and to Hold *the same, together with the tenements, hereditaments and appurtenances thereto belonging, and the rents, issues and profits thereof, unto the mortgagee, in fee simple.*

And *the mortgagor covenants with the mortgagee that the mortgagor is indefeasibly seized of said land in fee simple; that the mortgagor has good right and lawful authority to convey said land as aforesaid; that the mortgagor will make such further assurances to perfect the fee simple title to said land in the mortgagee as may reasonably be required; that the mortgagor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free and clear of all encumbrances except those of record.*

Provided Always, *that if said mortgagor shall pay unto said mortgagee the certain promissory note hereinafter substantially copied or identified, to-wit:*

See Exhibit B attached hereto

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and shall perform, comply with and abide by each and every the agreements, stipulations, conditions and covenants thereof, and of this mortgage, then this mortgage and the estate hereby created, shall cease, determine and be null and void.

And the mortgagor hereby further covenants and agrees to pay promptly when due the principal and interest and other sums of money provided for in said note and this mortgage, or either; to pay all and singular the taxes, assessments, levies, liabilities, obligations, and encumbrances of every nature on said property; to permit, commit or suffer no waste, impairment or deterioration of said land or the improvements thereon at any time; to keep the buildings now or hereafter on said land fully insured in a sum of not less than highest insurable amount in a company or companies acceptable to the mortgagee, the policy or policies to be held by, and payable to, said mortgagee, and in the event any sum of money becomes payable by virtue of such insurance the mortgagee shall have the right to receive and apply the same to the indebtedness hereby secured, accounting to the mortgagor for any surplus; to pay all costs, charges, and expenses, including lawyer's fees and title searches, reasonably incurred or paid by the mortgagee because of the failure of the mortgagor to promptly, and fully comply with the agreements, stipulations, conditions and covenants of said note and this mortgage; or either; to perform, comply with and abide by each and every the agreements, stipulations, conditions and covenants set forth in said note and this mortgage or either. In the event the mortgagor fails to pay when due any tax, assessment, insurance premium or other sum of money payable by virtue of said note and this mortgage, or either, the mortgagee may pay the same, without waiving or affecting the option to foreclose or any other right hereunder, and all such payments shall bear interest from date thereof at the highest lawful rate then allowed by the laws of the State of Florida.

If any sum of money herein referred to be not promptly paid within fifteen (15) days next after the same becomes due, or if each and every the agreements, stipulations, conditions and covenants of said note and this mortgage, or either, are not fully performed, complied with and abided by, then the entire sum mentioned in said note, and this mortgage, or the entire balance unpaid thereon, shall forthwith or thereafter, at the option of the mortgagee, become and be due and payable, anything in said note or herein to the contrary notwithstanding. Failure by the mortgagee to exercise any of the rights or options herein provided shall not constitute a waiver of any rights or options under said note or this mortgage accrued or thereafter accruing.

(CORPORATE SEAL)

In Witness Whereof the mortgagor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

Signed, sealed and delivered in the presence of:

Gayle L. Moore
Printed Name: Gayle L. Moore
Witness

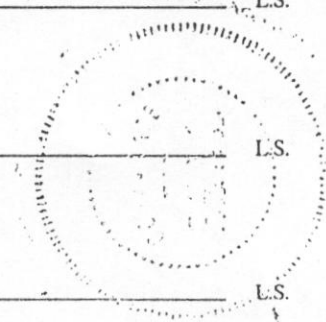
Beverly P. Vallier
Printed Name: Beverly P. Vallier
Witness

RIVERS EDGE, INC.

By: *John Leonette* L.S.
JOHN LEONETTE
PRESIDENT

P.O. Address 1601 Hunter Creek Dr.
Punta Gorda, FL 33982 L.S.

_____ L.S.



STATE OF Florida
COUNTY OF Charlotte

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgements, personally appeared JOHN LEONETTE

well known to me to be the PRESIDENT

of the corporation named as mortgagor in the foregoing instrument, and that he acknowledged executing the same, in the presence of two subscribing witnesses, freely and voluntarily under authority duly vested in him by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State last aforesaid this 9th day of December, 1991.

This Document Prepared By:

David E. Olmsted
OLMSTED, SCHWARZ & KAHL, P.A.
2327 Aaron Street
Port Charlotte, FL 33952-5397

Gayle L. Moore
Printed Name: Gayle L. Moore
NOTARY PUBLIC
My Commission Expires:
Notary Public, State of Florida at Large
My commission expires October 28, 1995

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EXHIBIT A 1

The Northeast 1/4 of the Northwest 1/4 of the Southwest 1/4 of the Southwest 1/4 lying and being in Section 12, Township 40, South, Range 23 East, Charlotte County, Florida, containing 2.5 acres more or less.

AND

The Southeast 1/4 of the Northwest 1/4 of the Southwest 1/4 of the Southwest 1/4 lying and being in Section 12, Township 40 South, Range 23 East, Charlotte County, Florida, containing 2.5 acres more or less.

AND

The Northwest 1/4 of the Southwest 1/4 of Section 12, Township 40 South, Range 23 East, and that portion of Government Lot 2, Section 12, Township 40 South, Range 23 East, lying South of Lee Branch and all of Government Lot 5, lying South of Lee Branch, Section 11, Township 40 South, Range 23 East, Charlotte County, Florida, (containing 90 acres more or less)

AND

The Westerly 30' of the Southwest 1/4 of the Southwest 1/4 of Section 12, Township 40 South, Range 23 East, of the Public Records of Charlotte County, Florida.

Less and Except All of the Following Described Parcels:

All that tract or parcel of land lying in Government Lot 5, Section 11 and Government Lot 2, Section 12, Township 40 South, Range 23 East, Charlotte County, Florida, and being more particularly described as follows, to-wit:

Commencing at the Southeast corner of Government Lot 2, Section 12, Township 40 South, Range 23 East, run North 0°14'0" East, 657.38' to a concrete monument. Thence North 88°46'30" West - 329.75' to a concrete monument, said monument lying on the Northerly right of way line of the Florida Power and Light Company. Thence North 85°35'12" West along the Northerly right of way line of the Florida Power and Light Company 980.00' to an iron pin and the Point of Beginning. Thence continue North 85°35'12" West along said Right of Way line 353.00' plus or minus to its Point of Intersection with the Mean High Water Line of Hunters Creek. Thence in a Northeasterly direction following the meanderings of the Mean High Water Line of Hunters Creek 485.00' plus or minus to its Point of

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Intersection with a line running North 4°24'48" East from the Point of beginning. Thence South 4°24'40" West 322.00' plus or minus to an iron pin and the Point of Beginning. The above described tract entails 1.61 acres plus or minus. **

AND LESS AND EXCEPT:

The East 1/2 of the Northeast 1/4 of the Southwest 1/4 of the Northwest 1/4 of Section 12, Township 40 South, Range 23 East, Charlotte County, Florida.

AND LESS AND EXCEPT:

Commencing at the Southeast corner of the Southeast 1/4 of the Northeast 1/4 of Government Lot 2, thence travel North 88°46'30" West 329.75'; thence travel North 0°12'30" East for a distance of 124.6' to a P.O.B.; thence North 88°46'30" West for a distance of 5'; thence North 0°12'30" East to the water's edge (Lee Branch of the Peace River); thence go in a Northeasterly direction along the shoreline of said Lee Branch of the Peace River until the same intersects with the Western Lot Line of Block F, Unit 1, PEACE RIVER SUBDIVISION, a subdivision according to the Plat thereof as recorded in Plat Book 3, Page 7 of the Public Records of Charlotte County, Florida; thence travel South along the Western Block line of Block F, to the P.O.B.

AND LESS AND EXCEPT:

Lots 110, 111, 112, 113, 114, 115, 116, 118, 120, 121, 124, 132, 117 and 146 in Hunter Creek Village, Phase 1, according to the Plat thereof, recorded in Plat Book 15, Pages 54A through 54C of the Public Records of Charlotte County, Florida.

** together with 10' along and adjacent to the southerly boundary of said property, said 10' strip constituting a portion of the easement described in Official Records Book 372, Page 403 of the Public Records of Charlotte County, Florida.

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EXHIBIT "A" 2

TRACT 3 of unrecorded Plat of PUNTA GORDA RANCHES, being more particularly described as:

Commence at the NE corner of the NW1/4 of Section 13, Township 40S, Range 23 East, Charlotte County, Florida; thence N 88°25'30"W, along the North line of said Section 13, 293.0 feet; thence N 3°04'30"E along the Westerly R/W of A.C.L.R.R. 1573.36 feet for a Point of Beginning; thence continue N 3°04'30"E, 360.32 feet; thence N 88°25'30"W, 606.14 feet; thence S 0°16'35"W, 360.0 feet; thence S 88°25'30"E, 588.45 feet to the Point of Beginning. All lying in Section 12, Township 40S, Range 23E, Charlotte County, Florida. Subject to an easement across the West 25 feet for road.

--AND--

TRACT 4

Commence at the NE corner of the NW1/4 of Section 13, Township 40S, Range 23E, Charlotte County, Florida; thence N 88°25'30"W, along the North line of said Section 13, 293.0 feet; thence N 3°04'30"E, along the Westerly R/W of A.C.L.R.R. 1203.04 feet for a Point of Beginning; thence continue N 3°04'30"E, 370.32 feet; thence N 88°25'30"W, 588.45 feet; thence S 0°16'35"W, 370.0 feet; thence S 88°25'30"E, 570.27 feet to the Point of Beginning. All lying in Section 12, Township 40S, Range 23E, Charlotte County, Florida. Subject to an easement across the West 25 feet for road.

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EXHIBIT B

PROMISSORY NOTE

\$70,000.00

Date: December 9th, 1991
Port Charlotte, Florida

FOR VALUE RECEIVED, the undersigned promises to pay to the order of ERNEST E. MACLACHLAN and ZOLA M. MACLACHLAN, as tenants in common, at 29000 Tamayo Drive, Punta Gorda, Florida 33982, the sum of SEVENTY THOUSAND DOLLARS (\$70,000.00) together with interest on the unpaid principal balance remaining from time to time, from the date hereof at the rate set forth herein. The rate of interest, and the manner of payment of interest and principal, shall be as follows:

1. The principal balance from time to time outstanding shall bear interest at the rate of 9% per annum, calculated daily for the actual number of days elapsed.
2. Commencing March 14, 1992, and continuing quarterly thereafter, quarterly interest-only payments shall be made for the first two years of the Note term.
3. Commencing January 14, 1993, and continuing monthly thereafter, principal and interest shall be payable in equal monthly installments of \$1,453.08 each on the 14th day of each and every month, and continuing on the same day of each and every month thereafter until December 14, 1997, at which time a balloon payment, together with accrued interest, shall be due and payable.
4. At maturity on December 14, 1997, and providing the obligor herein has made a diligent, truthful and honest effort to obtain permanent institutional financing and has been unable to do so, the Note will be modified to extend the maturity date for an additional five years, and in such event, the principal remaining shall bear interest at a rate per annum equal to a rate of 2% above the six-month Treasury bill weekly auction average rate, which is also commonly referred to as the "coupon rate". In the event that such index ceases to be available, a substitute index selected by the Noteholder in compliance with applicable Federal law and approximating as close as possible the six-month Treasury bill index shall be selected.

This note may be prepaid in whole or in part at any time without penalty. If this Note provided for installment payments of principal, prepayment of principal payments shall apply in the inverse order such installment payments are due, applying first to the last principal installment payment due hereunder. All payments on this Note shall be applied first to payment of interest and then to payment of principal. If any payment is not made in full within 30 days after the same is due, the holder of this Note shall have the option to declare the entire principal and accrued interest immediately due and payable without notice. Failure to exercise said option shall not constitute a waiver of the subsequent right to exercise same.

In no event shall the holder of this Note be entitled to receive, nor shall the Maker be obligated to pay, any amount as interest in excess of the highest lawful rate permitted by applicable law. If the holder of this Note should receive an amount which would exceed the highest lawful rate, the amount which would constitute excess interest shall be returned forthwith.

In the event of default, and an acceleration of payment of the unpaid principal balance of the indebtedness evidenced by this Note, the interest rate on this Note shall be increased as of the date of default to the highest rate allowed by law, or if no maximum rate is prescribed by law, at 18% per annum.

All persons or entities now or at any time liable, whether

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primarily or secondarily, for the payment of the indebtedness hereby evidenced, for themselves, their heirs, legal representatives, successors and assigns, respectively, hereby (1) expressly waive presentment, demand for payment, notice of dishonor, protest, notice of non-payment or protest and diligence in collection; (2) consent that the time of all payments or any part thereof may be extended, rearranged, renewed or postponed by the holder hereof and further consent that any real or personal property securing this Note or any part of such security may be released, exchanged, added to or substituted by the holder of this Note, without in any wise modifying, altering, releasing, affecting or limiting their respective liability or the lien of any instrument securing this indebtedness; (3) agree that the holder of this Note shall not be required first to institute a suit, or to exhaust any of its remedies against the Maker of this Note or any other person or party to become liable hereunder, in order to force payment of this Note; (4) agree that if this Note becomes in default and is placed in the hands of an attorney for collection, to pay all costs and expenses of collection of said monies by legal action, foreclosure or otherwise, including, but not limited to, attorney's fees for negotiations, trial, appellate proceedings, including fees incurred for collection and proof of attorney's fees, and other legal services, shall be paid by the undersigned.

This Note is secured by a Mortgage of even date herewith executed by RIVERS EDGE, INC. in favor of Lender which encumbers real and personal property described therein.

It is specifically agreed that time is of the essence of this agreement. Lender, by their acceptance hereof, and the undersigned, hereby knowingly, voluntarily and intentionally waive the right either may have to a trial by jury in respect of any litigation based hereon, or arising out of, under or in connection with this Note, the Mortgage securing this Note, or any other agreement contemplated to be executed in conjunction herewith, or any course of conduct, course of dealing, statements (whether verbal or written), or actions of either party.

RIVERS EDGE, INC., a Florida corporation

By: _____


JOHN LEONETTE, President

MAKER'S ADDRESS:

1601 Hunter Creek Drive

Punta Gorda, FL 33982

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