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00 APR 21 AM 8:59

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ROBERT M. C. ROSE
OF COUNSEL

April 21, 2000

Ms. Blanca S. Bayo
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

000000-PU

RECEIVED-FPSC
00 APR 24 AM 10:40
RECORDS AND REPORTING

Re: Aloha Utilities, Inc.;
Developer Agreement with Seneca Development, Inc.
Our File No. 26038.18

Dear Ms. Bayo:

Pursuant to Commission Rule 25-30.550, Florida Administrative Code, enclosed is a copy of a Developer Agreement entered into between Aloha Utilities, Inc. and Seneca Development, Inc.

Aloha Utilities, Inc.'s water and wastewater treatment plant has a permitted capacity of 1,200,000 gallons per day ("gpd"). The current treatment plant connected load is approximately 1,100,000 gpd, and the Utility is nearing completion of plant upgrades which will increase treatment capacity to 1,600,000 gpd. The Developer Agreement with Seneca Development, Inc. is for approximately 4,800 gpd. This Developer Agreement will have no noticeable impact on system capacity or rates due to the small demand being placed on the Aloha system, and resultant revenues.

In accordance with the aforementioned Rule, we will deem this Agreement approved if we do not receive notice from the Commission of its intent to disapprove within thirty days. Should you have any questions regarding this Developer Agreement, please do not hesitate to contact me.

Sincerely,

John R. Jenkins
For the Firm

forwarded to WAW

AFA
APP
CAF
CMP
COM
CTR
ECR
LEG
MAS
OPC
RRR
SEC
WAW
OTH

JRJ:dcr
Enclosure
cc: Mr. Stephen Watford
Aloha/18/6Bayo.ltr

DOCUMENT NUMBER-DATE
05004 APR 24 00
FPSC-RECORDS/REPORTING

This instrument prepared by:
John R. Jenkins, Esquire
Rose, Sundstrom & Bentley LLP
2548 Blairstone Pines Drive
Tallahassee, FL 32301

DEVELOPER AGREEMENT

THIS AGREEMENT made and entered into this 18th day of April, ~~19~~ 2000, by and between Seneca Development, Inc. a Florida corporation, hereinafter referred to as "Developer", and ALOHA UTILITIES, INC., a Florida corporation, hereinafter referred to as "Service Company",

WHEREAS, Developer owns or is about to acquire a fee interest in certain lands located in Pasco County, 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 the "Property", and Developer presently intends to develop the Property into a commercial and professional office complex together with such other uses as permitted by the appropriate zoning classifications or designations, and appurtenant facilities but reserves all rights to change the use of the Property at any time or times; and

WHEREAS, in order to meet the financial and general requirements of Federal, State and local governmental agencies, including, but not limited to, the Pollution Control agencies, the Department of Environmental Protection, the Florida Public Service Commission and other agencies having jurisdiction over the Service Company or the Property (herein generally called "Public Agencies"), it is necessary that adequate central water distribution and sewage collection services be provided to serve the Property, the users of the property and the appurtenant facilities to be located on the Property; and

WHEREAS, Developer is not certified to provide central water distribution and sewage collection services to serve the Property, but is desirous of promoting the construction of such facilities so that the Property will receive adequate water and sewage service; and

WHEREAS, the Service Company is willing to provide, in accordance with the provisions of this Agreement, central water treatment and distribution and sewage collection and treatment services to the Property and thereafter operate applicable facilities so that the occupants of the improvement on the Property and the appurtenant facilities will receive an adequate

water supply and sewage collection and disposal service from Service Company;

NOW, THEREFORE, for and in consideration of the premises the mutual undertakings and agreements herein contained and assumed, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Developer and Service Company hereby covenant and agree as follows:

1. The foregoing statements are true and correct and an integral part hereof.

2. The following terms shall have the following definitions for the purpose of interpreting this Agreement:

(a) "Consumer" - The person(s) or entity/entities on the Property that actually utilize the water and sewer services of Service Company, which may include Developer.

(b) "Consumer Installation" - All facilities on the Consumer's side of the Point of Delivery (as hereinafter defined).

(c) "Contribution-in-aid-of-Construction (CIAC)" -The sum of money and/or the value of Property including real property represented by the cost of the water distribution and sewage collection systems, including but not limited to lift stations and treatment plants, constructed or to be constructed by Developer which Developer transfers to Service Company at no cost or charge to Service Company to provide utility services to the Property or any portion thereof.

(d) "Equivalent Residential Connection (ERC)" - A factor used to convert a given average daily flow of water (ADF) to the equivalent number of residential connections. For this purpose, the average daily flow of one equivalent residential connection (ERC) is 270 gallons per day (gpd).

(e) "Notice to Proceed" - A document executed by Developer expressing a formal order pursuant to this Agreement, for the start of specific water or sewer service.

(f) "Point of Delivery" - The point where the sewer pipes or water meters of Service Company connect with the

pipes of the Consumer. Unless otherwise indicated in writing, Point of Delivery shall be at the Consumer's lot line.

(g) "Service" - The readiness and ability on the part of Service Company to furnish and maintain water treatment and distribution and sewage collection services to the Point of Delivery for Customers (pursuant to applicable rules and regulations of applicable regulatory agencies.)

(h) "System Capacity Charge" - The charge made by the Service Company for each new connection to the utility system, which charge is designated to defray a portion of the cost of the utility system.

3. Representations and Warranties of Developer. The Developer warrants and represents that (which warranties and representations shall specifically survive the making of this Agreement and delivery of any documents required herein or the performance of any duties required herein.):

(a) It is a corporation duly organized, existing and in good standing under the laws of the State of Florida, and has the corporate power and authority to carry on its business as now conducted.

(b) Developer has the corporate power and authority to enter into and perform this Agreement, and is or is about to become the fee simple owner of the Property. This Agreement and any documentation required to be delivered hereunder will constitute the valid and binding obligation of the Developer in accordance with its terms.

(c) The making of this Agreement will not violate any provisions of any law, federal, or state, or the certificate of incorporation or by-laws of the Developer or result in the breach of or constitute an event of default under the terms of any contractual agreement to which the Developer is a party or by which the Developer is otherwise bound.

(d) No approval, authorization or consent of any court, administrative or government agency is required for any part of the execution, delivery or performance by the Developer of this Agreement.

(e) The execution and delivery of this Agreement has been duly authorized by the stockholders and directors of the Company.

4. Representations and Warranties of Service Company. Service Company warrants and represents that (which warranties and representations shall specifically survive the making of the Agreement):

(a) Service Company is a corporation duly organized, existing and in good standing under the laws of the State of Florida and has the corporate power and authority to carry on its business as now conducted.

(b) Service Company has the corporate power and authority to enter into and perform this Agreement. This Agreement any documentation required to be delivered hereunder will constitute the valid and binding obligation of Service Company in accordance with its terms, which are in accordance with the Rules of the Public Service Commission.

(c) The making of this Agreement will not violate provisions of any statutory laws, federal or state or the certificate of incorporation or by-laws of Service Company or result in the breach of, or constitute an event of default under the terms of any contractual agreement to which Service Company is a part or by which the Service Company is otherwise bound.

(d) Service Company will comply with the applicable rules and regulations of governmental authorities having jurisdiction over its operations and this Agreement, any such applicable rules, regulations and authority, as now constituted or as amended from time to time being incorporated into this Agreement and made apart hereof by reference.

(e) Subject to obtaining all required approvals from applicable governmental authorities, Service Company agrees to provide water and sewer services to the Property, as and when needed, in accordance with the terms and provisions of this Agreement.

5. System Capacity Charges. Developer agrees to pay to Service Company on the date of execution of this Agreement "System Capacity Charges" of $ 2908.20 for water service and $ 3676.80 for sewer service for 1800 gallons per day (GPD) and Service Company agrees to reserve upon receipt of said payment (10 ERCs) of each water and sewer plant capacities for Developer's proposed connections (with said System Capacity

Charges being those approved by the Florida Public Service Commission or other regulatory body with jurisdiction over Service Company) and Service Company agrees to provide said water and sewer services in accordance with the terms of this Agreement, upon payment of said System Capacity Charges.

At such point in time that Developer utilizes capacity for more than ERCS it shall be required to pay the System Capacity Charges for such excess capacity required. The Developer agrees to pay additional system capacity charges for any usage above the base figure of 10 ERC's. Payment of additional System Capacity Charges shall be made within 30 days of Developer's notification, by the Service Company, that Developer has exceeded the capacity as set forth above. If the Developer notifies the Service Company of its intent to develop additional units, payment of additional System Capacity Charges shall be made within 30 days of the developers notice of intent to develop additional units. The rate to be paid for each unit, ERC shall be the System Capacity Charge then in effect for each unit, ERC. This shall not otherwise excuse the notice provisions of Paragraph 6.

Aloha hereby agrees to provide wastewater treatment services of sufficient capacity, subject to the conditions and limitations set forth herein, for the Development of properties described in Exhibit "A"; provided, however, that such services in the form of a collection permit shall only be provided within six (6) months, and actual wastewater treatment service within twelve (12) months, after payment by Developer of system capacity charges for the proposed units requiring service.

Aloha hereby agrees to provide potable water services of sufficient capacity, subject to the conditions and limitations set forth herein; provided, however, that such services shall only be provided within twelve (12) months after payment by the Developer of system capacity charges for the proposed units requiring service.

Notwithstanding anything herein to the contrary, in the event the Property uses capacity in excess of the amounts secured under this Agreement, Service Company may require payment of additional System Capacity Charges as a condition of providing continued service.

6. Time of Payment. Service Company provides service to the Property pursuant to payment of System Capacity Charges. The System Capacity Charge due for capacity shall be

the charge in effect at the time of connection. Such charge may be amended or revised from time to time pursuant to PSC approval. In the future, should the PSC approve a guaranteed revenue charge, an AFPI (Allowance for Funds Prudently Invested) or other charge to compensate Service Company for the cost of providing service, Developer shall be subject to such approved charges for units not yet connected pursuant to this Agreement. Nothing contained herein shall prevent or prohibit Service Company from requesting or obtaining an increase in System Capacity Charges or rates.

7. On-Site Installation. Developer hereby agrees to construct and to transfer ownership and control to Service Company as a contribution-in-aid-of-construction, of the on-site water treatment and distribution systems and sewage collection systems. The term "on-site water treatment and distribution systems and sewage collection systems" means and includes all water distribution and supply mains, lines, pipes,pumps, wells, storage facilities and any other related facilities and sewage collection lines, and treatment facilities and equipment, including pumping stations, constructed within the boundaries of the Property in accordance with the terms of this Agreement, to serve each Consumer within the Property. On-site installations shall not include Consumer Installations.

(a) Plans. Developer shall cause to be prepared three (3) copies of the applications for permits and three (3) sets of finalized engineering plans prepared and sealed by a professional engineer registered in the State of Florida. Plans shall show the on-site water distribution and sewage collection systems proposed to be installed to provide service to Consumers within the Property. Such detailed plans may be limited to the first development phase only, and in such instance, plans for subsequent phases shall be furnished from time to time as such phases are to be developed. However, each such development phase shall conform to a master plan for the development of the Property and such master plan shall be submitted to Service Company concurrent with or prior to submission of engineering plans for the first development phase. Developer reserves the right to modify such master plan any time in such a manner as to not unduly interfere with Service Company's existing facilities and upon modification, shall submit four copies of the modified plan to service Company. The cost of any modifications to Service Company's existing systems on the Property or to such master plan for the Property that are caused by Developer's modifications or changes shall be borne by Developer. Developer shall cause its engineer to submit

specifications governing the material to be used and the method and manner of installation. All such plans and specifications submitted to Service Company's engineer shall meet the minimum specifications of Service Company and shall be subject to the approval of Service Company, which approval shall not be unreasonably withheld or delayed. No construction shall commence until Service Company and necessary regulatory agencies, if any, have approved such plans and specification in writing (except that regulatory agency approval shall be in writing only if so required by the regulatory agency). If permits and approved plans are returned by regulatory agencies to Developer, Developer shall submit to Service Company one (1) copy of water and/or sewer permit and approved plans. Developer shall also supply to the Service Company an itemized list of materials and all contractors to be used covering all contract items.

(b) Contractor. All sewer and water contractor shall be approved by Service Company, and Service Company shall not unreasonably withhold or delay its approval thereof.

(c) Construction. Developer shall provide to Service Company's inspector, fifteen (15) days notice prior to commencement of construction. Developer shall cause to be constructed, at Developer's own cost and expense, the on-site water distribution and sewage collection systems as shown on the approved plans and specifications.

(d) Inspection. During the construction of the on-site water distribution and sewage collection systems by Developer, Service Company shall have the right to inspect such installations at all times to determine compliance with the approved plans and specifications. The engineer of record shall also inspect construction to assure compliance with the approved plans and specifications. Forty-eight (48) hours notice of all standard tests for pressure, exfiltration, line and grade, and all other normal engineering tests shall be given to the Service Company. Tests shall demonstrate that the systems have been installed in accordance with the approved plans and specifications, good engineering practices, and the American Water Works Association criteria. The Service Company, Developer, engineer of record and utility contractor each may be present for such tests. There shall be an inspection Charge to cover the Service Company's cost of inspection of installations on the Property as specified in Exhibit "B".

(e) Completion. Upon completion of construction, Developer's engineer of record shall submit to Service Company a copy of the signed certification of completion submitted to the required regulatory agencies, if any. If certification is for the water distribution system, a copy of the bacteriological results and a sketch showing locations of all sample points shall be included. The engineer of record shall also submit to Service Company ammonia mylars of the as-built plans prepared and certified by the engineer of record, and the recorded plat, if any, including dedication sheet, if any.

(f) Transfer of Title. Developer hereby agrees to transfer to Service Company title to all on-site water distribution and sewage collection systems installed by Developer or Developer's contractor pursuant to the provisions of this Agreement. Such conveyance shall take place at the time Developer receives the Service Company's final letter of acceptance. As evidence of said transfer of title, upon the completion of the installation and receipt of the final letter of acceptance and upon the rendering of service by Service Company, Developer shall:

(i) Convey to Service Company, by bill of sale in form reasonably satisfactory to Service Company's counsel, the on-site water distribution and sewage collection systems as constructed by Developer and approved by Service Company.

(ii) Assign any and all warranties, and maintenance, completion and performance bonds and the right to enforce same to the Service Company which Developer obtains from any contractor constructing the sewer and water systems. Developer shall obtain a written warranty, completion, and performance and maintenance bonds from its contractor for a minimum period of thirty-six (36) months. If Developer does not obtain such written warranty and performance and maintenance bonds from its contractor and deliver same to Service Company, then in such event, Developer, by the terms of this instrument, agrees to warrant the construction of the on-site water distribution and sewage collection systems installed by Developer or Developer's contractor, for a period of thirty-six (36) months from the date of acceptance by the Service Company of said utility systems.

(iii) Provide to the Service Company an executed notarized no lien affidavit in form reasonably satisfactory to Service Company's counsel on the utility systems installed by Developer by reason of work performed or services

rendered in connection with the installation of the systems.

(vi) Provide Service Company with all appropriate operation/maintenance and parts manuals.

(v) Enter into an easement agreement with Service Company for easements and/or rights-of-way covering areas in which the on-site water distribution and sewage collection systems are installed, by recordable document in form acceptable to Service Company counsel.

(vi) Grant a 50-foot by 50-foot exclusive easement for any lift station sites constructed on Developer's Property, including a non-exclusive easement for ingress and egress to such site. The easement shall include a "non-disturbance agreement" as set forth below. No improvements may be made within this easement without the written consent of Service Company. Notwithstanding anything herein to the contrary, however, Developer may landscape the area of the easement.

(vii) Supply to the Service Company a copy of the invoices and an itemized list of materials used covering all contract items and a release of lien from the contractor, suppliers, and a contractors Final Affidavit.

Service Company agrees that the issuance of the final letter of acceptance for the on-site water distribution and sewage collection systems installed by Developer shall constitute the assumption of responsibility by Service Company for the continuous operation and maintenance of such systems from that date forward, except as otherwise provided herein.

8. Application for Service: Consumer Installation. Developer, or any owner of any parcel of the Property, or any occupant of any residence, building or unit located thereon, shall not have the right to and shall not connect any Consumer Installation to the on-site water distribution and sewage collection systems facilities until formal written application has been made to Service Company by the prospective consumer of service, or on their behalf, and the meter installation fee has been paid in accordance with the then effective rules and regulations of Service Company, and approval has been granted for such connection.

9. Easements. Developer agrees to grant and give to Service Company a non-exclusive right or privilege to maintain,

repair, replace, construct and operate said on-site water distribution and sewage collection facilities in the area to be developed by Developer. Mortgagees, if any, holding prior liens on the Property shall, upon the reasonable request of Service Company be required to give to Service Company assurance by way of a "non-disturbance agreement" that in the event of foreclosure, mortgagee would continue to recognize the easement rights of Service company as long as Service Company complied with the terms of this Agreement.

Developer hereby further agrees that the foregoing grants shall include the necessary right of ingress and egress to any part of the Property upon which Service Company is maintaining, repairing, or operating such facilities; such that the foregoing grants shall be for the use of the Service Company, its successors or assigns; and that where roads cross easement areas such roads shall be constructed in accordance with commonly accepted engineering practices of Pasco County, Florida, or as otherwise required by law. The use of easement area by Service Company shall not preclude the use by Developer or other utilities of these easement areas, such as, for cable television, telephone, electric, roads or walkways, provided, however, that the same shall not reasonably interfere with Service Company's utilization of same and shall be in compliance with commonly accepted engineering practices of Pasco County, Florida or as otherwise required by law.

Service Company hereby agrees that all easement grants will be utilized in accordance with the established and generally accepted practice of the water and sewer industry with respect to the installation, maintenance, repair, replacement, construction and operation of all its facilities in any of the easement areas. Service Company agrees that it will at all times maintain such facilities in good order, condition and repair, at its sole cost and expense, in accordance with all standards and specifications which may be prescribed by any governmental or regulatory authority having jurisdiction. Service Company shall restore easement areas only to the extent of sodding and restoring sidewalks and pavement and Service company shall not be responsible for restoring such things as shrubbery, plants, fences or other structures placed within the easement areas.

10. Agreement to Serve. Service Company covenants and agrees that upon the completion of construction of the on-site water distribution and sewage collection services facilities by

Developer, its inspection, and the issuance of the final letter of acceptance by Service Company, Service Company will connect or oversee the connection of the on-site water distribution and sewage collection services facilities installed by Developer to the central facilities of Service Company. Such connection shall at all times be in accordance with rules, regulations and orders of the applicable governmental authorities. Service Company agrees that once it provides water distribution and sewage collection services to the Property and Developer or others have connected Consumer Installations to its system, thereafter, Service Company, its successors and assigns will continuously provide, at its cost and expense, but in accordance with the other provisions of this Agreement and the rules and regulations and rate schedule set by applicable government authorities, water and sewer services to the Property in a manner to conform with all requirements of the applicable governmental authority having jurisdiction over the operations of Service Company.

Although the responsibility for connecting the Consumer Installation to the water meter or sewer lines of Service Company at the Point of Delivery is that of the Developer or entity other than Service Company, with reference to such connections, the parties agree as follows:

(a) Application for the installation of water meters shall be made at least seventy-two (72) hours in advance, not including Saturdays, Sundays, and holidays.

(b) All Consumer Installation connections main interconnects and other lines as indicated by Service Company in accordance with standard engineering practices, must be inspected by Service Company before backfilling and covering of any pipes, except as provided for in (d) below.

(c) Notice to Service Company requesting an inspection of a Consumer Installation connection may be given by or on behalf of the plumber of Developer, and the inspection will be made within seventy-two (72) hours, not including Saturdays, Sundays, and holidays.

(d) If Developer does not comply with the foregoing inspection provisions, Service Company may refuse service to a connection that has not been inspected until Developer complies with these provisions.

(e) The cost of constructing, operating, repairing or maintaining Consumer Installations shall be that of

Developer or Consumer or a party other than Service Company.

(f) If a commercial kitchen, cafeteria, restaurant or other commercial food preparation or dining facility is constructed within the Property, the Service Company shall have the right to require that a grease trap be constructed, installed, connected and maintained as necessary by Consumer so that all wastewaters from any grease producing equipment within such facility, including floor drains in food preparation areas, shall first enter the grease trap for pretreatment before the wastewater is delivered to the lines of the Service Company. Size, materials and construction of such grease traps are subject to approval by Service Company. Such approval shall not be unreasonably withheld or delayed. Service Company shall have the on-going right during regular business hours to inspect Consumer's or Developer's premises in order to insure compliance with the provisions hereof.

No substance other than domestic wastewater will be placed into the sewage system and delivered to the lines of the Service Company. Should any non-domestic wastes, grease or oils, including, but not limited to, floor wax or paint, be delivered to the lines, the Consumer will be responsible for payment of the cost and expense required in correction or repairing any resulting damage, and Developer will so advise its purchasers or tenants, as applicable.

(g) Non-residential Consumers of the Service Company, acquiring water and sewer service rights by and through Developer, shall not deposit into the sewer system non-domestic waste which would be classified as a hazardous substance as defined in the U.S. Comprehensive Environmental Response, Compensation and Liability Act of 1980 or successor legislation, any petroleum or product defined in Section 376.301 (15) or Section 377.19 (11), Florida Statutes, respectively, or as objectionable by the regulatory agencies of the State of Florida or the County Health Department, or the Service Company. In the event of such deposit, Service Company shall have the unilateral right to withhold further service to such Consumer until such time as corrective action has been taken and all of Service Company's cost incurred in the process of correcting same, including legal, engineering, consulting, administrative and contingent fees, are paid by the Consumer.

11. Rates. Service Company agrees that the rates to be charged to Developer and individual Consumers of water and sewer service shall be those set forth in the tariff of Service

Company approved by the applicable governmental agency. However, notwithstanding any provision in this Agreement, Service Company, its successors and assigns, may establish, amend or revise, from time to time in the future, and enforce rates or rate schedules so established and enforced and shall, in any event, at all times be reasonable and subject to regulations by the applicable governmental agency, or as may be provided by law. Rates charged to Developer or Consumers located upon the Property shall at all times be identical to rates charged for the same classification of service, as are or may be in effect throughout the service area of Service Company.

12. Exclusive Right to Provide Service. Developer agrees that Developer, or the successors and assigns of Developer, shall not engage in the business or businesses of providing potable water or sewer services to the Property during the period of time Service Company, its successors and assigns, provide water and sewer services to the Property, it being the intention of the parties hereto that under the foregoing provisions and also other provisions of this Agreement, Service Company shall have the sole and exclusive right and privilege to provide water and sewer services to the Property and to the occupants of such buildings or units constructed thereon, except for the providing by Developer, from its own sources and lines of water for irrigation uses.

13. Binding Effect of Agreement. This Agreement shall be binding upon and shall inure to the benefit of Developer, Service Company and their respective assigns and successors by merger, consolidation, conveyance or otherwise.

14.. Notice. Until further written notice by either party to the other, all notices provided for herein shall be in writing and transmitted by messenger, by U.S. certified or registered mail return receipt requested, by express mail or by telegram, and if to Developer, shall be mailed or delivered to Developer at:

Anthony L. Gigliotti
Seneca Development, Inc.
7619 Little Road, Suite 310
New Port Richey, Florida 34654

with copies to:

Frank C. Schlotter, P.E.
Schlotter & Associates
4752 Mile Stretch Drive
Holiday, Florida 34690-4358

and if to the Service Company, at:

Aloha Utilities, Inc.
2514 Aloha Place
Holiday, Florida 33591

with copies to:

John Jenkins, Esquire
2548 Blairstone Pines Drive
Tallahassee, Florida 32301

15. Laws of Florida. This Agreement shall be governed by the laws of the State of Florida and it shall be and become effective immediately upon execution by both parties hereto, subject to any approvals which must be obtained from governmental authority, if applicable.

16. Costs and Attorney's Fees. In the event the Service Company or Developer is required to enforce this Agreement by Court proceedings or otherwise, by instituting suit or otherwise, then the prevailing party shall be entitled to recover from the other party all attorneys fees and costs incurred, including such fees and costs on appeal.

17. Force Majeure. In the event that the performance of this Agreement by either party to this Agreement is prevented or interrupted in consequence of any cause beyond the control of either party, including but not limited to Act of God or of the public enemy, war, national emergency, allocation or of other governmental restrictions upon the use or availability of labor or materials, rationing, civil insurrection, riot, racial or civil rights disorder or demonstration, strike, embargo, flood, tidal wave, fire, explosion, bomb detonation, nuclear fallout, windstorm, hurricane, sinkholes, earthquake, or other casualty or disaster or catastrophe, unforeseeable failure or breakdown of pumping transmission or other facilities, governmental rules or acts or orders or restrictions or regulations or requirements, acts or action of any government of public authority or commission or board or agency or agent or official or officer, the enactment of any statute or ordinance or resolution or regulation or rule or ruling or order, order or decree or judgment of restraining order or injunction of any court, said party shall not be liable for such non-performance.

18. Indemnification. The Developer agrees to indemnify, defend and hold harmless Service Company from and against any and all liabilities, personal injury claims, damages, costs and expenses (including reasonable attorney's fees including those on appeal and in bankruptcy proceedings) to which Service Company may become subject by reason of or arising out of the Developer's breach or non-performance of this Agreement. This indemnification provision shall survive the actual connection to Service Company's water and sewer system.

19. Notice. Service Company shall provide to developer timely notice of any proposed rate changes and/or hearings affecting the Service Company or its rates or ability to provide service to the Developer at the rates and dates and in the quantity set forth in this Agreement.

20. This Agreement supersedes all previous agreements or representations, either verbal or written, heretofore in effect between Developer and Service Company, made with respect to the matters herein contained, and when duly executed, constitutes, the matters herein contained, and when duly executed, constitutes, the agreement between Developer and Service Company. No additions, alterations or variations of the terms of this Agreement shall be valid, nor can provisions of this Agreement be waived by either party, unless such additions, alterations, variations or waivers are expressed in writing and duly signed by the party to which they are to be applied.

21. When required by the context, the singular number shall include the plural, and the masculine, feminine and neuter genders shall each include the others.

22. Whenever approvals of any nature are required by either party to this Agreement, it is agreed that same shall not be unreasonably withheld or delayed.

23. Unless otherwise agreed in writing, the submission of this Developer Agreement for examination by either party to the other does not constitute an offer by either party but becomes effective only upon execution thereof by both Service Company and Developer.

24. Failure to insist upon strict compliance of any of the terms, covenants, or conditions herein shall not be deemed a waiver of such terms, covenants, or conditions, nor shall any waiver or relinquishment of any right or power hereunder at anyone time or times be deemed a waiver or relinquishment of

such right or power at any other time or times.

25. Developer understands and agrees that, this Agreement or the capacity reserved hereunder cannot and shall not be assigned or delegated by Developer to third parties without the written consent of Service Company, which consent shall not be unreasonably withheld.

26. Service Company shall have the right to inspect, at its sole cost and expense, Consumer Installations at all reasonable times, provided that the responsibilities and agreements that apply to Service Company's use of easement areas, as set forth in paragraph 10 of this Agreement shall also apply to any and all actions taken by Service Company pursuant to this paragraph.

27. This Agreement is binding on the successors and assigns of the parties hereto, including any municipal or governmental purchaser of Service Company. The rights and obligations created pursuant to this Agreement shall be deemed to run with the land described in Exhibit "A" and shall be binding upon the successors in title or legal interest of Developer's right and obligations herein. This Agreement shall survive the sale or transfer of Service Company to any party.

28. Each party hereby agrees to grant such further assurance and provide such additional documents as may be required, each by the other, in order to carry out the terms, conditions and comply with the express intention of this Agreement.

29. The Developer agrees to convey, at Developer cost, by warranty deed or lien free easement at Service Company's sole option, ___0___ well sites as CIAC, said well sites shall maintain a minimum distance of 200 feet from any improvements of sources of pollution. The well sites shall be to the sole satisfaction of Service Company, and the Developer shall be responsible for all costs of improvement of the same in accord with the provisions of this Agreement.

30. Conservation and Reuse of Water Resources. The Developer agrees to accept and receive Service Company's sewage treatment plant effluent for spray irrigation or other method(s) of conservation and/or reuse disposal on the Property or other lands upon which Developer shall have a perpetual right for such effluent disposal in a number of gallons equal to the monthly amount of water provided by Service company to Developer.

Developer will, at Developer's sole cost and expense, install such lines and facilities for the disposition of said effluent in the Property or other said lands. Developer agrees to pay Developer's proportionate share of the lines, transmission costs, reasonably required, on a gallonage basis, to transport the said effluent to the Property or such other said lands. The cost shall include, but not be limited to design, engineering, permitting, construction, legal, inspection and associated fees and costs related thereto. In the event that an impact or similar fee for reuse is adopted by Service company, Developer agrees to immediately pay the same upon notice by Service Company. In any event, Developer understands and agrees to pay the income tax effect, or "gross-up", of income taxes associated with the contribution of any reuse transmission charge, lines or facilities.

31. Time of the Essence. It is understood and agreed between the parties hereto that time is of the essence of this Agreement and this applies to all terms and conditions contained herein.

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

WITNESSES:

Pamela Yacobelli

Print Name: Pamela Yacobelli

Kate Gavalas

Print Name: Kate Gavalas

ALOHA UTILITIES, INC.

By: Stephen G. Watford, President

WITNESSES:

Frank C. Schlotter

Print Name: FRANK C. SCHLOTTER

Seneca Development, Inc.

By: Anthony L. Gigliotti

Print Name: Anthony L. Gigliotti

STATE OF Florida)
)SS
COUNTY OF Pasco)

The foregoing instrument was acknowledged before me this 5th day of April, 1999, by _____ and Stephen G. Watford, President of ALOHA UTILITIES, INC., a Florida Corporation, on behalf of said Corporation.

_____
Notary Public

My Commission Expires: _____

STATE OF Florida)
)SS
COUNTY OF Pasco)

The foregoing instrument was acknowledged before me this 16th day of April, 1999, by Anthony L. Gigliotti, President, of Seneca Development a Florida corporation, on behalf of said corporation.

_____
Notary Public
NANCY S. SCHLOTTER
Notary Public, State of Florida
My Comm. expires Jan 21, 2000
No. CC 525807

My Commission Expires: _____

EXHIBIT "A"

Parcel No. 27-26-16-0000-0010-0000

A parcel of land lying in Section 27, Township 26 South, Range 16 East, Pasco County, Florida, being more particularly described as follows:

Commencing at the Southeast corner of said Section 27; thence along the East boundary of said Section 27, N.00°45'21"E., 475.45 feet; thence N.89°14'39"W., 90.00 feet to a point on the west boundary a 320 feet Florida Power Easement and the Point of Beginning; thence leaving said west boundary N.89°14'39"W., 145.97 feet; thence N.04°32'22"W., 1.93 feet; thence N.37°22'39"W., 117.96 feet; thence N.16°56'20"W., 232.21 feet; thence N.10°52'31"W., 199.37 feet; thence N.14°02'51"W., 43.89 feet; thence S.89°14'39"E., 340.98 feet to a point on said west boundary; thence S.00°45'21"W., 553.64 feet along said west boundary to the Point of Beginning.

EXHIBIT "B"

SYSTEM CAPACITY CHARGES

Upon execution of this Agreement, Developer agrees to pay Service Company System Capacity Charges of $ [illegible] for water service and $ [illegible] for sewer service to induce Service Company to reserve [illegible] ERC's per day of each water and sewer plant capacities for Developer's proposed connections. Said systems capacity charges to be paid by Developer are those which are approved by the Florida Public Service Commission or other regulatory body with jurisdiction over Service Company.

OTHER CHARGES

Inspection Charge

Service Company imposes an Inspection Charge equal to its actual costs, not to exceed two percent of the construction cost, either actual or estimated, of the subject water and sewer facilities as installed by the Developer. Developer agrees to pay same prior to Service Company's acceptance of lines and facilities from Developer.

Recording Charges

Service Company imposes a recording charge equal to its actual cost. Developer agrees to pay Service Company, prior to Service Company's acceptance of lines and facilities, the actual recording charge. Said charges are those established by the Clerk of the Circuit Court of Pasco County.

PREPARED BY/RETURN TO:

Connie Kurish
Aloha Utilities, Inc.
2514 Aloha Place
Holiday, FL 34691
(727) 937-4275

AMENDMENT TO DEVELOPER AGREEMENT FOR PRIVATE LIFT STATIONS

This Amendment to Developer Agreement is entered into this 9 day of March, 2000 by and between Seneca Develop., a Florida corporation whose address is 7619 Little Rd., N.P.R., FL ("Developer") and Aloha Utilities, Inc., a Florida corporation, whose address is 2514 Aloha Place, Holiday, Florida 34691 ("Service Company").

WHEREAS, Developer and Service Company have previously or contemporaneously herewith entered into a Developer Agreement for the provision of utility service to Developer's property ("Developer Agreement"); and

WHEREAS, the parties desire to amend the Developer Agreement as provided for in this Amendment to Developer Agreement (" Amended Developer Agreement For Private Lift Stations"),

NOW, THEREFORE, in consideration of the mutual covenants, promises, obligations, benefits and undertakings set forth herein, the parties agree to amend the Developer Agreement as follows:

1. The foregoing statements are true and correct and an integral part of this Amended Developer Agreement.

2. The Developer Agreement is hereby amended to include the following paragraphs which shall prevail over any provisions in the Developer Agreement to the contrary:

   Developer shall own and operate a lift station and appurtenant sewer facilities ("Lift Station") on the real property described in Exhibit "A" ("Property"). Developer shall remain solely responsible for the proper operation and maintenance of the Lift Station in accordance with quality of service standards required by (i) any applicable agency, including but not limited to, any local government having jurisdiction over Service Company, (ii) Service Company's construction and operational specifications, and (iii) Service Company's Service Availability Policy. If, upon Service Company's inspection of the Lift Station, a violation of the standards described above is discovered, Service Company may exercise any or all of several remedies, including but not limited to (i) taking such remedial and corrective action as Service Company, in its sole discretion, deems necessary, and (ii) discontinuing service to Developer. If service is discontinued, Service Company shall restore service to Developer after

Service Company has determined, to its satisfaction, that a violation of the above standards no longer exists.

Developer hereby grants to Service Company an irrevocable non-exclusive license to enter upon the Property at all such times as may be necessary to inspect, install, repair and maintain the Lift Station, as Service Company deems necessary or appropriate to ensure compliance with the standards described in the preceding sentence. Service Company shall have the right, but not the duty, to inspect, install, repair and maintain the Lift Station as set forth herein.

Developer shall indemnify, hold harmless and reimburse Service Company for all liability and costs related to Service Company's exercise of its rights under this Amended Developer Agreement, including but not limited to attorney's fees and costs.

3. In all other respects, the Developer Agreement shall remain unchanged and its terms and conditions in full force and effect.

IN WITNESS WHEREOF, the parties have signed this Agreement on the date first written above.

ATTEST:

Print Name: Frank C. Schlotter

Print Name: Joseph F. Schlotter

DEVELOPER

By (Print Name): Anthony L. Gigliotti, Pres.

For (Print Name): Seneca Development, Inc.

ATTEST:

Print Name: Pamela Yacobelli

Print Name: Kate Gavalas

ALOHA UTILITIES, INC.

By: Stephen G. Watford
Its President

STATE OF FLORIDA
COUNTY OF PASCO

STATE OF FLORIDA
COUNTY OF PASCO

The foregoing instrument was acknowledged before me this 9 th day of March 2000, 19___, by Anthony L. Gigliotti, President of Seneca Development, a Florida corporation, on behalf of said corporation.

NOTARY PUBLIC: Nancy S Schlotter

MY COMMISSION EXPIRES:

Nancy S Schlotter
My Commission CC903417
Expires January 21, 2004

STATE OF FLORIDA
COUNTY OF

STATE OF FLORIDA
COUNTY OF

The foregoing instrument was acknowledged before me this 5th day of April, 19~~2000~~ by Stephen G Watford, President of Aloha Utilities, Inc, a Florida corporation, on behalf of said corporation.

NOTARY PUBLIC: Connie L Kunst

MY COMMISSION EXPIRES:

Document/amendment to developer agreement for private lift stations

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