# ADE & SCHILDBERG, P.A.

ATTORNEYS AT LAW

ONE INDEPENDENT DRIVE - SUITE 2000 JACKSONVILLE, FLORIDA 32202

> (904) 358-8818 FACSIMILE (904) 354-5842

JAMES L ADE SCOTT G SCHILDBERG

June 21, 2001

## VIA FEDERAL EXPRESS

Ms. Blanca Bayo, Director Division of Records and Reporting Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850

> Re: Petition of D.R. Horton Custom Homes, Inc. elimination of service availability charges and AFPI charges for Southlake Utilities, Inc., Docket No. 981609-WS ("Petition").

Complaint by D.R. Horton Custom Homes, Inc., against Southlake Utilities, Inc., before the Florida Public Service Commission, Docket No. 980992-WS ("Complaint")

Dear Ms. Bayo:

In connection with the above-referenced matter, please find enclosed for filing an original and seven (7) copies of a Notice of Filing Affidavit and an original and twelve (12) copies of an Affidavit of the mailing of the Notice of Interested Persons of Settlement of Dispute Involving Southlake Utilities, Inc.

Please file the enclosed originals and distribute the copies in accordance with your usual procedures.

If you have any questions or comments regarding this matter, please do not hesitate to call me.

> Sincerely yours, Scott G. Schildberg

~SGS:arh Enclosures Cc:

Robert L. Chapman, III William J. Deas

over letter (07767.01)

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DECEMED

### **AFFIDAVIT**

# STATE OF NORTH CAROLINA) COUNTY OF DORHAM )

**BEFORE ME**, the undersigned authority, this day personally appeared **ROBERT L**. **CHAPMAN**, **III**, who, after being by me first duly sworn, deposes, and says that:

- 1. My name is Robert L. Chapman III and I am the President of Southlake Utilities, Inc.
- 2. That he is over the age of eighteen, of sound mind, capable of making this Affidavit, and that in his capacity as President of Southlake Utilities, Inc., he has actual knowledge of the facts and representations set forth in this Affidavit.
- 3. That on June 16, 2001, he caused a copy of the Notice of Interested Persons of Settlement of Dispute Involving Southlake Utilities, Inc. ("Notice"), a copy of which is attached as Exhibit A, to be provided to the following entities:
  - A. Developers who will be receiving refunds of AFPI charges;
  - B. Developers who paid AFPI charges who will not be receiving a refund;
  - C. Developers who have paid plant capacity charges;
  - D. Developers who have reserved capacity and have not connected all of their reserved capacity; and
  - E. Persons who have filed a written request for service or received a written estimate for service in the past 12 months.

A list of such entities is attached as Exhibit B.

FURTHER AFFIANT SAYETH NOT.

ROBERT L. CHAPMAN

DOCUMENT NUMBER-DATE

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| Sworn to and subscribed before me by ROBERT L. CHAPMAN, who                     | this 18th day of luxe, 2001,   |
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| is personally known to me  () produced a North Carolina Dri as identification # | ver's License  |
|   | Notary Public, State of North Carolina Printed: CHERN( SINEENEN          |
|   | Printed: CHERYL SWEENEY My Commission Expires: 6-28-2005 Commission No.: |

NOTICE TO INTERESTED PERSONS OF SETTLEMENT
OF DISPUTE INVOLVING SOUTHLAKE UTILITIES, INC.,
IN FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NOS. 980992-WS AND 981609-WS
Date: June 16, 2001

The Florida Public Service Commission ("Commission") recently voted to approve a settlement of a dispute between Southlake Utilities, Inc. ("Southlake"), and D. R. Horton Custom Homes, Inc. ("Horton"), in connection with Southlake's Allowance for Funds Prudently Invested ("AFPI") charges and service availability charges.

Horton had filed with the Commission several years ago a complaint regarding Southlake's procedures to collect the true-up amount for AFPI charges (i.e., the additional charges from the date of initial payment through the date of actual connection). Horton also had filed with the Commission fairly shortly thereafter a petition to challenge Southlake's service availability charges and AFPI charges. The Commission investigated Southlake's charges and determined that Southlake's use of the true-up procedures for its AFPI charges was appropriate. The remaining issues were then set for a hearing before the Commission.

Southlake over the past months has conducted an extensive and very costly investigation and then prepared an in-depth analysis of its service availability charges and AFPI charges in order to determine the correct level of charges and refunds and to reach a fair, just, and reasonable result. Horton also employed experts to conduct its own investigation of this matter. The Staff of the Commission conducted its own independent in-depth investigation and analysis of this matter in preparation for the hearing. Prior to the date for the hearing, Southlake and Horton reached what they believe to be an accurate resolution of this matter for Horton, all other developers in Southlake's service area, and Southlake, which will achieve a fair, just and reasonable result for all involved parties.

At its May 29, 2001, Agenda Conference, the Commission found that the provisions of the proposed settlement were reasonable and approved the settlement agreement reflecting such as being in the public interest. The settlement agreement will be effective when the last of the following occurs: (i) the date of the expiration of all appeals and protests of the Commission Order approving the settlement agreement; and (ii) the date of the expiration of all appeals and protests of the Commission Order approving the Application for

Transfer of Majority Organizational Control of Southlake which is currently pending before the Commission.

The settlement provides for a total refund by Southlake of AFPI charges, including true up charges and interest, collectively of \$403,614.79. The refund amounts by developer are set forth on Exhibit A of this Notice. The AFPI refunds to the listed developers are to be provided within ninety (90) days of the effective date of the settlement agreement in exchange for the execution and delivery by each receiving developer of a release, a copy of which is attached as Exhibit B. Southlake's collection of its currently approved AFPI charges has been discontinued and the related tariff sheets approving the AFPI charges will be cancelled.

There will be no refunds of service availability charges as such were found not to be inappropriately high, and in fact, such charges were determined to be too low. Southlake's water plant capacity charges will be increased from \$420.00 per Equivalent Residential Connection ("ERC") or \$1.20 per Gallon Per Day ("GPD") to \$433.00 per ERC or \$1.24 per GPD, respectively. Southlake's wastewater plant capacity charges similarly will be increased from \$775.00 per ERC or \$2.58 per GPD to \$970.00 per ERC or \$3.23 per GPD, respectively. The increase in plant capacity charges will be effective for connections made after the last to occur of: (i) the effective date of the settlement agreement; and (ii) the date of tariff sheets approving the change in plant capacity charges.

If you have any questions concerning this Notice or the proposed settlement or any other aspect of this matter, please contact Scott G. Schildberg, attorney for Southlake, at the following address and telephone number:

Scott G. Schildberg
One Independent Drive
Suite 2000
Jacksonville, FL 32202
(904) 358-8818

The Staff of the Commission reviewed and approved this Notice.

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| Horton / Clear Crk  | \$4,405.85  | (\$24,433.85)   | (\$20 028 00)   |
| Jones / Stratford   | \$39,988.32   | \$59,936.37   | \$99,902 69   |
| epbhblooff  | \$534.31  | \$34,548 19   | \$35.030 50   |
| Macchi Ware Oil Miller Bros Winn Dixie Worthwhile Publix Spur Station First Federal Coloney Homes | \$76.55<br>\$2,572.92<br>(\$550.39)<br>(\$713.96)<br>\$3,273.32<br>\$4,650.98<br>\$397.72<br>\$272.57<br>\$478.72 | \$392.35<br>\$1,858.83<br>\$4,530.45<br>\$9,591.58<br>\$112,089.44<br>\$39,281.30<br>\$3,087.49<br>\$1,821.90<br>\$6,258.88 | \$468 90<br>\$4,431.75<br>\$3,980.05<br>\$8,877.62<br>\$120,362.76<br>\$43,932.28<br>\$3,485.21<br>\$2,094.47<br>\$6,737.60 |
| TOTAL   | \$125,961.38  | \$277,653.43  | \$403,614.79  |

# RELEASE

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| (the "first party"), for and in consideration of the   | sum of Ten   |
| Dollars (\$10.00) and the settlement and compromise    |              |
| claims and other valuable considerations, received     |              |
| behalf of Southlake Utilities, Inc., a Florida corpo   |              |
| "second party"), the receipt and sufficiency whereof   |              |
| acknowledged, (wherever used herein the terms "first   |              |
| "second party" shall include singular and plural h     |              |
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| successors and assigns of corporations, wherever the   | context sc   |
| admits or requires),                                   |              |

HEREBY remises, releases, acquits, satisfies, and forever discharges the second party and the current, former, and future owners, operators, officers, directors, employees, representatives, attorneys, consultants, and agents of the second party from any and all manner of obligations, action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which the first party ever had, now has or which the first party and any personal representative, successor, heir or assign of the first party hereafter can, shall or may have, against the second party or the current, former, and future owners, operators, officers, directors, employees, representatives, attorneys, consultants, and agents of the second party, for, upon or by reason of any matter, cause or thing whatsoever, from the beginning of the world to the date of this Release, for any and all claims which were or which could relate to service availability charges, Allowance for Funds Prudently Invested Charges, Contributions-In-Aid-Of-Construction, quaranteed revenue charges, and Docket Nos. 980992-WS and 981609-WS before the Florida Public Service Commission.

| Dated: | <br>, 2001 |     |  |  |
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Clermont, FL 04711

2 - MINUTED FACTURED CODE 2

Mr. Kevin Jeffries All Resort Resources of Lake County U.S. Hwy 27 Clermont, FL 34711

Southlake Utilities 333 US Hwy 27 Clermont, FL 34711



Colony Homes c/o Larry Godwin Winter Park Holding Company 1330 Palmetto Avenue Winter Park, FL 32789

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Dixie Oil Cô. c/o Mr. Bill Mattick 940 US 27 Clermont, FL 34711

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D. R. Horton Homes Attn: David Auld 6250 Hazeltine National Drive, Suite 104 Orlando, FL 32822

Southlake Utilities 933 US Hwy 27 Clermont, FL 34711



First Federal Savings Bank, Woodridge P.O. Box 490420 Leesburg, FL 34749-0420

Southlake Utilities 303 US Hwy 27 Clermont, FL 34711



Global Associates International Group, Inc. Fidelity Properties-Sunrise Lakes 6665 Christina Marie Drive, Orlando FL 32835

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Macchi Professional Offices c/o Robert Macchi P.O. Box 336 Oakland, FL 34760

Southtake Utilities 333 US Hwy 27 Clermont, FL 34711



M.D. Woodridge LLC Meyer Development, Key Centers 1750 North Florida Mango Rd., Suite 103 West Palm Beach, FL 33409

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Southlake Utilities 333 US Hwy 27 Clermont, FL 34711 \* \* \* \*

Miller Brothers Re: Handy Way Store 331 Central Avenue Cresecent City, FL 32112

Southlake Utilities 333 US Hwy 27 Clermont, FL 34711



Publix Shopping Centers, Inc. Attn: Bob Burkett, Real Estate Manager P.O. Box 407 Lakeland, FL 33802

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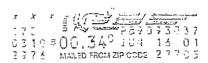
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Randy's Restaurant 1213 Hwy 27 Clermont, FL 34711

Southlake Utilities 333 US Hwy 27 Clermont, FL 34711



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PS Form 3817, Mar. 1989

PS Form 3817, Mar. 1989

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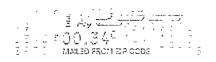


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Southlake Utilities 333 US Hwy 27 Clermont, FL 34711



Silver Creek Subdivision c/o R. Stephen Miles, Jr. 100 Church Street Kissimmee, FL 34741

Southlake of littles 363 US Hwy 27 Clermont, FL 34711

Southlake Community Foundation, Inc. c/o Cagan Management Attn: Jeffrey M. Cagan 16554 Crossing Blvd. #1 Clermont, FL 34711

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Southlake Developement, LTD c/o Cagan Management Group 3856 Oakton Street Skokie, IL 6020|

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Spur Station Formerly Exxon Gas Station 400 South U.S. Highway 27 Clermon, FL 34711

Southlake Utilities 333 US Hwy 27 Clermont, FL 34711

Stratford Homes, Inc. Attn: Mr. Tom Jones 415 Woodstead Circle Longwood, FL 32779

Southlake Utilities 333 US Hwy 27 Clermont, FL 34711



Summer Bay Partnership Attn: Paul Caldwell 17085 US Hwy 192 Clermont, FL 34711

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PS Form 3817, Mar 1989

Southlake Utilities 333 US Hwy 27 Clerment, FL 34711



Veterinary Clinic, Sunrise Lakes c/o Mr. Mason Defrank, Miller, McCoy, Einhouse 918 Lucerne Terrace Orlando, FL 32806

Scuthlake Utilities 333 US Hwy 27 Clermont, FL 34711



Walgreens Drug Store #6218 Rock Properties, Inc. 1600 North Orange Avenue Orlando, FL 32804

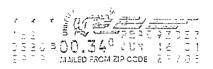
Southlake Utilities 333 US Hwy 27 Clermont, FL 34711



Ware Oil Company 400 West State Street P.O. Box 1287 Jacksonville, IL 62651

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Scuthlake Utilities 333 US Hwy 27 Clermont, FL 34711



Whitemark Homes c/o Bill Rigsbee 6500 South Central, Suite 1000 Oviedo, FL 32765

Scuthiate Utilities 835 US Hwy 27 Clermont, FL 34711



Wooldridge Homes Attn: Frank Caske 16630 Woodcrest Way Clermont, FL 34711

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Worthwhile Development Attn.: Mr. Jay Royall 2933 W. SR 434 STE 101 Longwood, FL 32779

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