

PEOPLES WATER SERVICE COMPANY OF FLORIDA, INC.
DEVELOPER AGREEMENT
PWSCF {Hampton Lakes Subdivision}

THIS AGREEMENT made effective and thereby entered into this 20th day of September, 2001, by and between MITCHELL HOMES, hereinafter referred to as "Developer," and PEOPLES WATER SERVICE COMPANY OF FLORIDA, INC., a Florida corporation, hereinafter referred to as "Service Company"; and,

WHERE AS, Developer owns or controls lands located in Escambia County, Florida, and legally 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 plans to develop the Property by constructing thereon Hampton Lakes Subdivision, a single family detached residential townhouse development of 77 single residential units; and,

WHERE AS, Developer desires that Service Company provide water service for Developer's property herein described; and

WHERE AS, Service Company is willing to provide, in accordance with the provisions of this Agreement and Service Company's Service Availability Policy (Policy), water service to the Property and thereafter operate applicable facilities so that the occupants of the improvements on the Property will receive adequate water service from Service Company.

- APP _____
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- ECR _____
- LEG _____
- OPC _____
- PAI _____
- RGO _____
- SEC I
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D-AGMT. Hampton Lakes Subdivision

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FPSC-COMMISSION CLERK

NOW, THEREFORE, for and in consideration of the premises, the mutual undertakings and agreements herein contained and assumed, Developer and Service Company hereby covenant and agree as follows:

1.1.0 "Service" - The readiness and ability on the part of Service Company to furnish and maintain water service to the Point of Delivery (pursuant to applicable rules and regulations of applicable regulatory agencies).

1.2.0 CONSUMER INSTALLATION CONNECTIONS TO POINT OF DELIVERY: The responsibility for connecting the Consumer Installation to the Service Company at the Point of Delivery is that of the Developer or entity other than Service Company. The cost of constructing, operating, maintaining and repairing Consumer Installations shall be that of Developer or a party other than Service Company.

1.3.0 "Specifications" - Those specific minimum quality materials and construction requirements named, detailed, and described in written format as prepared by Service Company, and in effect at the execution of this Agreement, for the installation of On-Site and Off-Site water facilities, as named: "Minimum Construction Requirements and Specifications For Projects And Main Extensions For Water Facilities.

2.1.0 ASSURANCE OF TITLE. Within a period of forty-five (45) days after the execution of this Agreement, at the expense of Developer, Developer agrees to deliver to Service Company a copy of Title Insurance Policy or an opinion of title from a qualified attorney-at-law, 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 this paragraph are for the purpose of evidencing Developer's legal right to grant the exclusive rights of service and conveyance by Developer contained in this Agreement.

DEVELOPER AGREEMENT PWSCF: {Hampton Lakes Subdivision}

3.1.0 - CONNECTION CHARGES. Developer, or Developer's successors and/or assigns, by merger, consolidation, conveyance or otherwise, such as a builder independent of the Developer, as applicable, shall pay those Plant Capacity Charges as set forth in EXHIBIT "B" hereto, the Meter Setting Fees set forth in EXHIBIT "C", and those Miscellaneous Charges set forth in EXHIBIT "D" hereto. Payment of the connection charges does not and will not result in Service Company waiving any of its rates or rules and regulations, and their enforcement shall not be affected in any manner whatsoever by Developer making payment of same. Service Company shall not be obligated to refund to Developer any portion of the value of the connection charges for any reason whatsoever, nor shall Service Company pay any interest or rate of interest upon the connection charges paid.

4.1.0 CONSTRUCTION OF ON-SITE BY DEVELOPER. Developer hereby covenants and agrees to Construct the On-Site water distribution systems on Property as dictated herein by Service Company in general accordance to the spatial layout of the planned development on Property as currently shown on the plan drawing submitted by Developer through their civil engineer, **Steve A. Geci, P.E., Project Manager**, located in Section 33, Township 2 South, Range 31 West, County of Escambia, Florida, as received by Service Company on 8-07-01. This plan is here-in-after referenced as Developer's "Project Plan"; and it is herein mutually understood that this Project Plan may change. This Agreement does not in any way "approve" this planning document as an engineering plan for construction of any On-site; the Project Plan is only a planning document. All On-Site shall be designed by Developer's professional civil engineers acceptable to Service Company, and it shall be in full accordance and compliance with Service Company's Policy, Specifications, and this Agreement, subject to Service Company's

DEVELOPER AGREEMENT PWSCF: {Hampton Lakes Subdivision}

review, inspection, and approval, and constructed by an underground utility contractor acceptable to Service Company, and all done solely at Developer's cost and expense. Miscellaneous charges from Service Company to be paid by Developer pertaining to subject On-Site is included in EXHIBIT "D"

5.1.0 CONSTRUCTION OF OFF-SITE BY DEVELOPER. If Off-Site construction is deemed necessary by Utility for said project, the Developer shall at Service Company's request perform said design and construction, as approved by Service Company before-hand, at sole cost by Developer. Any Off-Site construction required by Utility will be included in this Developer Agreement in Exhibit "E".

6.1.0 ENGINEERING AND PERMITS. Developer shall cause to be prepared two (2) copies of the applications for permits and three (3) sets of finalized engineering plans prepared and sealed by a professional civil engineer registered in the State of Florida. Plans shall show the on-site and off-site water distribution systems proposed to be installed to provide service to the Property. Developer shall cause its engineer to submit to Service Company 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 Specifications of Service Company and shall be subject to the approval of Service Company. No construction shall commence until Service Company and appropriate regulatory agencies have approved such plans and specifications in writing. When permits and approved plans are returned by appropriate regulatory agencies to Developer, Developer shall submit to Service Company two copies of the permits and approved plans.

7.1.0 PRECONSTRUCTION CONFERENCE. After the approval of plans and specifications by Service Company and appropriate

DEVELOPER AGREEMENT PWSCF: {Hampton Lakes Subdivision}

regulatory agencies, Developer, or the engineer of record, shall set up a pre-construction conference with the engineer of record, the utility contractor, appropriate building official (s), all other utility companies involved in the development of the Property, and Service Company.

8.1.0 NOTICE OF COMMENCEMENT OF CONSTRUCTION. Developer shall provide to Service Company's inspector, one calendar week notice prior to commencement of construction. Developer shall cause to be constructed, at Developer's own cost and expense, the on-site and off-site water distribution systems as shown on the approved plans and specifications.

9.1.0 INSPECTION OF CONSTRUCTION. During the construction of the water distribution systems by Developer, Service Company shall have the right to inspect such installations 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. Service Company, engineer of record and utility contractor shall be present for all standard tests for pressure, bacteriological, and all other normal engineering tests to determine that the systems have been installed in accordance with the approved plans and specifications, and good engineering practices. Service Company's inspector through authority of Service Company's manager has the authority to make the final decision as to construction questions that arise in the field. Developer agrees to pay to Service Company, or Service Company's authorized agent, a reasonable sum to cover the cost of inspection of installations made by Developer or Developer's contractor, as reflected in EXHIBIT D.

10.1.0 CONSTRUCTION CERTIFICATION OF COMPLETION AND AS-BUILTS. Upon completion of construction, Developer's engineer of record shall submit to Service Company a copy of the signed,

DEVELOPER AGREEMENT PWSCF: {Hampton Lakes Subdivision}

certificate of completion submitted to the appropriate regulatory agencies. The engineer of record shall also prepare, certify and submit as-built water distribution system plans to the Service Company in the form of two ammonia print sets, one ammonia Mylar set.

11.1.0 CONVEYANCE OF TITLE TO INSTALLATIONS. By these presents, Developer hereby transfers, subject to the completion of construction of facilities, to Service Company, title to the On-Site and Off-Site systems installed by Developer or Developer's contractor pursuant to the provisions of this Agreement. Such conveyance shall take effect at the time Service Company issues its final letter of acceptance. As further evidence of said transfer of title, upon the completion of the installation, but prior to the issuance of the final letter of acceptance and the rendering of service by Service Company, Developer shall:

12.1.0 BILL OF SALE. Convey to Service Company, by bill of sale in form reasonably satisfactory to Service Company, the On-Site and Off-Site systems as constructed by Developer and approved by Service Company. This bill of sale shall include the final cost breakdown of the actual costs of installation of the On-Site and Off-Site pipes, valves, fittings, and contracted services, as separated into distribution mains, transmission mains, fire hydrants, and services lines to individual subdivided properties.

12.1.1 CONSTRUCTION INVOICES. Provide Service Company with copies of invoices from contractor for installation of the On-Site and Off-Site systems.

12.1.2 RELEASE OF LIEN FOR CONSTRUCTION INVOICES. Provide Service Company with copies of Releases of Lien for said invoices.

DEVELOPER AGREEMENT PWSCF: {Hampton Lakes Subdivision}

12.1.3 MAINTENANCE BOND AND/OR WARRANTIES. Provide a maintenance bond in favor of Service Company in the amount of the entire cost of the On-Site and Off-Site installations. Said cost will be determined after construction, but prior to acceptance of the system. The bond must extend for a period of one year from the date of final acceptance of On-Site and Off-Site installations by Service Company. All manufacturer warranties that extend for a period exceeding this requirement shall be assigned to Service Company by Developer.

12.1.4 RELEASE OF LIEN FROM DEVELOPER. Provide to the Service Company an executed affidavit of release of liens in form reasonably satisfactory to Service Company for the On-Site and Off-Site systems installed by Developer by reason of work performed or services rendered in connection with the installation of the On-Site and Off-Site systems.

12.1.5 RIGHTS-OF-WAY AND/OR EASEMENTS. Further cause to be conveyed to public use in the official records of Escambia County all rights-of-way and/or easements covering all areas in which the On-Site and Off-Site systems are installed, with adequate legal access to same, by recordable document in a form satisfactory to Service Company. Without limitation on the foregoing, each right-of-way and easement will provide that the Service Company can use said rights-of-way and/or easements and that easements will not be planted with any plants except grass or obstructed by any structure, and that Service Company shall have no obligation to re-plant any plants or repair any structures located within said easements, or rights-of way.

12.1.6 FINAL LETTER OF ACCEPTANCE. Service Company agrees that the issuance of the final letter of acceptance for On-Site and Off-Site systems installed by Developer shall constitute the assumption of responsibility by Service Company for the continuous,

DEVELOPER AGREEMENT PWSCF: {Hampton Lakes Subdivision}

operation and maintenance of such system from that date forward, subject to the warranty period as detailed in this Agreement.

13.1.0 AGREEMENT TO SERVE. Upon the completion of construction of the On-Site and Off-Site systems to the satisfaction of Service Company, Service Company covenants and agrees that it will connect or oversee, at Service Company's preference, the connection of the On-Site and Off-Site systems installed by Developer to the facilities of Service Company in accordance with the terms and intent of this Agreement. Such connection shall at all times be in accordance with rules, regulations and orders of the applicable governmental authorities.

14.1.0 APPLICATIONS FOR SERVICE FOR CONSUMER INSTALLATIONS. In order to initiate water service to any parcel of the Property, Developer, builder, owner, or any occupant must follow Service Company's procedures for applying for water service. Upon Service Company's acceptance of the application for service, along with the collection of the appropriate fees, Service Company will install the meter and turn on water service. Neither developer, builder, nor any owner or occupant has authority to initiate water service for any reason.

15.1.0 EXCLUSIVE RIGHT TO PROVIDE SERVICE. Developer, as a further and essential consideration of this Agreement, agrees that Developer, or the successors and assigns of Developer, shall not engage in the business or businesses of providing water services to the Property during the period of time Service Company, its successors and assigns, provide water services to the Property, it being the intention of the parties hereto that under the foregoing provision and also other provisions of this Agreement, Service Company shall have the sole and exclusive right and privilege to provide water services to the Property and to the

DEVELOPER AGREEMENT PWSCF: {Hampton Lakes Subdivision}

occupants of such buildings or units constructed thereon. The sale or resale of water is strictly forbidden in any way or manner without the written consent of the Service Company. The sale or resale of water is strictly forbidden in any way or manner without the written consent of the Service Company.

16.1.0 RATES. Service Company agrees that the rates to be charged to Developer and individual consumers of water services shall be those set forth in the tariff of Service Company approved by the Florida Public Service Commission. 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.

17.1.0 FUTURE RATES. However, notwithstanding any provision in this Agreement to the contrary, Service Company, its successors and assigns, may establish, amend or revise, from time to time in the future, and enforce rates or rate schedules and rules and regulations covering water services to the Property. However, all such rates and rate schedules and rules and regulations so established and enforced and shall at all times be reasonable and subject to regulations and approval by the Florida Public Service Commission, or as may otherwise be provided by law. Any such initial or future decreased or increased rates, rate schedules, and rules and regulations established, amended or revised and enforced by Service Company from time to time in the future, as provided by law, shall be binding upon Developer; upon any person or other entity holding by, through or under Developer; and upon any user or consumer of the water services provided to the Property by Service Company.

DEVELOPER AGREEMENT PWSCF: {Hampton Lakes Subdivision}

18.1.0 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, subject to the provisions of paragraph 22.0 hereof.

19.1.0 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 mail, or by facsimile to Developer, at:

Mr. Steve A. Geci, P.E.
5 S. Palafox Place
Pensacola, Florida 32501

Telephone: 850-432-2929

With a copy to the Service Company, at:

Peoples Water Service Company of Florida, Inc.
Post Office Box 4815
905 Lowndes Avenue
Pensacola, FL 32507-0815
Attention: Mark Cross, Manager or
Jim Ogle, Assistant to the Manager
Telephone: (850) 455-8552

With a copy to:

Rose, Sundstrom & Bentley
2548 Blairstone Pines Drive
Tallahassee, Florida 32301
Attention: Martin S. Friedman

DEVELOPER AGREEMENT PWSCF: {Hampton Lakes Subdivision}

20.1.0 LAWS OF FLORIDA. The laws of the State of Florida shall govern this Agreement and it shall be and become effective immediately upon execution by both parties hereto, subject to any approvals, which must be obtained from governmental authorities, if applicable.

21.1.0 LEGAL ENFORCEMENT. 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 costs incurred, including reasonable attorney's fees, including such fees and costs of any appeal.

22.1.0 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, earthquake, sinkhole or other casualty or disaster or catastrophe, unforeseeable failure or breakdown of pumping transmission or other facilities (which will be repaired by Service Company as soon as reasonably possible), governmental rules or acts or orders or restrictions or regulations or requirements, acts or action of any government or public or governmental 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, order or decree or judgment or restraining order or injunction of any court, said party shall not be liable for such

DEVELOPER AGREEMENT PWSCF: {Hampton Lakes Subdivision}

non-performance. This provision shall not be applicable to the payment of connection charges by Developer to Service Company.

23.1.0 INDEMNIFICATION. Developer agrees to indemnify and hold Service Company harmless from and against any and all liabilities, claims, damages, costs and expenses to which Service Company may become subject by reason of or arising out of this Agreement. This indemnification provision shall survive the actual connection to Service Company's water systems.

24.1.0 SURVIVAL OF AGREEMENT. The rights, privileges, obligations and covenants of Developer and Service Company shall survive the completion of the work of Developer with respect to completing the facilities and services to any development phase and to the Property as a whole.

25.1.0 COMPLETE AGREEMENT. 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 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 both parties.

26.1.0 BINDING OF AGREEMENT. The submission of this Developer Agreement for examination by Developer does not constitute an offer but becomes effective only upon execution thereof by Service Company.

DEVELOPER AGREEMENT PWSCF: {Hampton Lakes Subdivision}

27.1.0 WAIVER OF COMPLIANCE. 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 any one time or times be deemed a waiver or relinquishment of such right or power at any other time or times.

28.1.0 REGULATORY APPROVAL. The parties hereto recognize that prior to the time construction may actually commence upon a program to carry out the terms and conditions of this Agreement, that Developer or Service Company, as applicable, may be required to obtain approval from various state and local governmental authorities having jurisdiction and regulatory power over the construction, maintenance and operation facilities to be installed. Service Company agrees that it will diligently and earnestly assist in making or make the necessary proper applications, as applicable, to all governmental authorities, and others and will pursue the same to the end that it will use its best efforts to obtain such approvals.

DEVELOPER AGREEMENT PWSCF: {Hampton Lakes Subdivision}

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 counterpart shall be considered an original executed copy of this Agreement.

SIGNED: Mr. Ronald G. Tuttle, Senior Vice President

Name: _____ Title: _____

Print Name _____

Attest:

Name: _____

Print Name _____

STATE OF _____) COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2001, by, as _____, and attested by, as _____, on behalf of Mr. Ronald G. Tuttle, Developer, who is personally known to me.

(Notary Seal)

Print Name: _____

Notary Public,
State of Florida

DEVELOPER AGREEMENT PWSCF: {Hampton Lakes Subdivision}

SIGNED: PEOPLES WATER SERVICE COMPANY OF FLORIDA, INC.

Signature: Sherlock S. Gillet Title: President

Print Name SHERLOCK S. GILLET

Attest:

Signature: Sherlock S. Gillet Jr

Print Name Sherlock S. Gillet Jr

STATE OF MARYLAND, COUNTY OF BALTIMORE

The foregoing instrument was acknowledged before me this 26TH day of SEPTEMBER, 2001, by SHERLOCK S. GILLET, as PRESIDENT, and attested by SHERLOCK S. GILLET JR., as VICE PRESIDENT, on behalf of Peoples Water Service Company of Florida, Inc., a Florida corporation, both of whom are personally known to me.

(Notary Seal)

Susan Clealley

Print Name: SUSAN CLEALLEY
Notary Public
State of Maryland

My Commission Expires AUG 1, 2005

EXHIBIT " A "

LEGAL DESCRIPTION

As Furnished:

Lots one (1) through Twelve (12), Both inclusive, Block 26, Gulf Beach Manor Subdivision, Section 33, Township 2 South, Range 31 West, and Section 4, Township 3 South, Range 31 West, Escambia County, Florida, as recorded in Plat Book One (1) at Page 16, of the Public Records of Said County.

I attest that the foregoing legal description of Hampton Lakes Townhouse Apartments described in Agreement is a true and correct description of the Project.

Attest Professional Engineer or Registered Land Surveyor Of Record:
(Affix PE or RLS Seal)

Signature

Printed Name

DEVELOPER AGREEMENT PWSCF: {Hampton Lakes Subdivision}

EXHIBIT "B"

CONTRIBUTIONS IN AID OF CONSTRUCTION

PLANT CAPACITY CHARGES

Upon execution of this Agreement, Developer or Developer's successors and/or assigns, agrees to pay Service Company the following Plant Capacity Charges to induce Service Company to reserve the following plant capacities for Developer's proposed connections. Payment of these charges may be deferred to the time that an application for service is made to and accepted by Service Company for the setting of the consumer installation's water meter; however, Developer understands that plant capacity is only reserved upon payment of plant capacity charges by Developer to Service Company. Said plant capacity charges to be paid by Developer are those which are set forth in Service Company's Service Availability Policy and Tariff approved by the Florida Public Service Commission and, accordingly, these charges may be changed from time to time with the approval of the Commission.

Residential Service or General Service
Plant Capacity Charge Payment Schedule

<u>Meter Size</u>	<u>Number Meters</u>	<u>EMC Factor</u>	<u>Total EMC's</u>	<u>Charge /Meter</u>	<u>Total Charge</u>
5/8-inch	77	1.0	77	\$ 357	\$27,489.00
3/4-inch		1.5		\$ 536	\$ N/A
1-inch		2.5		\$ 893	\$ N/A
1&1/2-inch		5.0		\$ 1,785	\$ N/A
2-inch		8.0		\$ 2,856	\$ N/A
3-inch		16.0		\$ 5,712	\$ N/A
4-inch		30.0		\$10,710	\$ N/A
6-inch		62.5		\$22,313	\$ N/A

Note: (1) EMC means Equivalent Meter Connection

(2) Plant Capacity Charge is the same as Impact Fee

EXHIBIT "C"

METER SETTING FEES

Meter Setting Fees as set forth in this EXHIBIT apply rather than Tapping Fees when the Developer has constructed the On-Site main complete with service saddles, corporation stops, service line and curb stops up to the property lines of individual lots or parcels subdivided within the Developer's Project. These fees shall be paid at the time that an Application for Service is made to and accepted by Service Company for the setting of the consumer installation's water meter.

Residential Service or General Service Payment Schedule

<u>Meter Size</u> <u>Throat I.D.</u>	<u>Setting</u> <u>Fee</u>	<u>Materials</u> <u>Cost</u>
5/8-inch	\$35.00	\$229.00
1-inch	\$56.00	\$337.00 (If requested)

Any request for service requiring the installation of a backflow prevention device will require the installation of the device be by a licensed plumbing contractor at the developer or customers sole expense. Annual testing will be performed by Service Company at owner's expense.

EXHIBIT " D "

MISCELLANEOUS CHARGES

SERVICE COMPANY CHARGES TABLE
WHEN CONSTRUCTION IS DONE BY DEVELOPER

These costs and expenses are to be paid to Service Company by Developer, or Developer's successors and/or assigns, as applicable.

<u>Fee And/Or Expense Description</u>	<u>Amount</u>	<u>Time Amount is Due</u>
Project Concurrency Review Fee	\$75	With Application
WDS Plans and Spec Review Fee	\$100	When P&S Submitted
Company Attorney Review	<\$1,000	D.A. Execution
County Recording	Actual \$	D.A. Execution
Corporate Administration Fee	\$35/hour	WD/TS Acceptance
Construction Inspection Fee	\$22.50/hour	If >31 Days/By Mo.
Materials or Outside Services	Cost +10%	If >31 Days/By Mo.

The Developer is responsible for all costs associated with said On-Site connection to Service Company's Distribution mains. Upon completion of the On-Site connection, water may be supplied to the On-Site mains for pressure testing and disinfection purposes only. The local Health Department officials must clear all bacteriological samples prior to any use of water. All applicable fees and documents identified in this document must be received before Service Company will provide water for other purposes.

DEVELOPER AGREEMENT PWSCF: {Hampton Lakes Subdivision}

EXHIBIT "E"

No Off-Site extensions are necessary. The On-Site water mains will be connected to existing Service Company's lines.