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DEVELOPER AGREEMENT

THIS AGREEMENT is made and entered into this 12 day of March, 1985, by and between MAGNOLIA SERVICE CORPORATION, a Florida corporation, whose business address is: P.O. Box 2249, Orlando, Florida 32802, (hereinafter referred to as "DEVELOPER"), and WEST VOLUSIA UTILITIES, INC., (hereinafter referred to as "SERVICE COMPANY");

W I T N E S S E T H:

WHEREAS, DEVELOPER owns or controls lands located in Volusia County, in the State of Florida, which property is more particularly described in Exhibit "A", attached hereto and made a part hereof (the "Property"), and DEVELOPER intends to develop the Property by erecting residential or commercial improvements, mobile home sites and units, or one or any combination of these thereon, as provided in the Development Plan attached hereto; and

WHEREAS, DEVELOPER is desirous of having available to the Property SERVICE COMPANY'S central water systems so that there may be provided to the Property and the improvements to be constructed thereon from time to time and to the occupants thereof adequate water service from the central water systems of the SERVICE COMPANY; and

WHEREAS, the SERVICE COMPANY is willing to provide, in accordance with the provisions of this Agreement, central water facilities and to extend such facilities to the Property and thereafter operate such facilities so that the occupants of the improvements on the property will receive an adequate water supply from SERVICE COMPANY.

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:

SECTION 1. DEFINITIONS

The following definitions and references are given for the purpose of interpreting the terms as used in this Agreement and shall apply unless the context indicates a different meaning:

- 1.01 "Property" - all the lands legally and graphically described in Exhibit "A";
- 1.02 "Development Plan" - the proposed improvements to be constructed on the Property and the anticipated time for the construction thereof as set forth in Exhibit "B" attached hereto and made a part hereof;
- 1.03 "Phase" - refers to a part of the Property which is being or is to be developed as a unit;
- 1.04 "Lot or Tract" - each separate subdivided building site as platted of record or as referred to on the development plan attached as part of Exhibit "B" and made a part hereof;

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WEST VOLUSIA UTILITIES
BOARD OF DIRECTORS
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- 1.05 Service" - the readiness and ability on the part of SERVICE COMPANY to furnish water service to each lot;
- 1.06 "Point of Delivery" - the point where the pipes or meters of SERVICE COMPANY are connected with the pipes of the consumer. Unless otherwise indicated, point of delivery shall be at a point on the consumer's lot line;
- 1.07 "Consumer Installation" - all facilities on the consumer's side of the point of delivery;
- 1.08 "Interested Parties" - the parties listed on Exhibit C-1 attached hereto and made a part hereof who shall subordinate their interests in the Property to this Agreement by their execution of Exhibit C-2 attached hereto and made a part hereof. DEVELOPER warrants that the persons set forth on Exhibit C-1 are all persons having an interest in the Property, other than the DEVELOPER, whether as a Mortgagee, secured lien holder, tenant or otherwise.
- 1.09 "Contribution-in-aid-of-construction" - the sums of money designated as such and property represented by the value of a water distribution system constructed by DEVELOPER, which DEVELOPER agrees to contribute to SERVICE COMPANY as a contribution-in-aid-of-construction to induce SERVICE COMPANY to provide water services to the Property.
- 1.10 "Master Plan" - that Master Plan for SERVICE COMPANY'S water system prepared by SERVICE COMPANY or SERVICE COMPANY'S Engineers, as amended or modified from time to time.
- 1.11 "Equivalent Residential Connection" or "ERC" - the estimated average daily flow for a single family residential unit which for all purposes of this Agreement shall be computed at three hundred fifty (350) gallons per day (gpd).

SECTION 2. EASEMENTS

2.01 Grant of Easements: DEVELOPER hereby grants and gives to SERVICE COMPANY, its successors and assigns, subject to the terms of this Agreement, the exclusive right or privilege to construct, install, own, maintain, expand and operate water facilities in, under, upon, over and across the Property to serve the Property; and to provide service to the property of others in accordance with the Master Plan of SERVICE COMPANY, an exclusive right or privilege to construct, install, own, maintain, repair and operate said facilities in, under, upon, over and across the present and future streets, roads, terraces, alleys, easements, reserved utility strips and utility sites, and any public place or common area as provided for, dedicated to, or otherwise available for public use, whether or not provided for in any plats, agreements, dedication or grants of record.

In the event SERVICE COMPANY fails to perform its obligations as set forth in this Agreement, DEVELOPER may revoke the exclusivity of this grant and be released of liability for additional easements not then being utilized by

SERVICE COMPANY and make such other arrangements as it deems necessary for the further provision of water service to the Property.

2.02 Rights of Ingress and Egress. The foregoing grants include the necessary right of ingress and egress to any part of the Property upon which SERVICE COMPANY or DEVELOPER is constructing, operating or maintaining such facilities; the foregoing grants shall be for such period of time as and to the fullest extent that SERVICE COMPANY or its successors or assigns require such rights, privileges or easements in the construction, ownership, maintenance, operation, repair or expansion of the water facilities.

2.03 Private Property Installations. In the event mains, lines or facilities are to be installed in lands within or without the Property, in areas outside of streets and public ways, then Developer or the owner shall grant to SERVICE COMPANY, without cost to SERVICE COMPANY, the necessary easement or easements for such private property installation by express grant; provided, all such private property installations shall be made in such manner as not to interfere with the then primary use of such private property as represented by DEVELOPER herein.

2.04 Errors in Line Locations. SERVICE COMPANY and DEVELOPER will use due diligence in ascertaining all easement locations; however, should SERVICE COMPANY or DEVELOPER install any of its facilities outside a dedicated easement area, SERVICE COMPANY will not be required to move or relocate any facilities lying outside a dedicated easement area, or private easement area conveyed by express grant, so long as the facilities do not interfere with the then or proposed use of the area in which the facilities have been installed, and so long as SERVICE COMPANY obtains a private easement for such line location, which DEVELOPER will give if same is within its reasonable power to do so. Should SERVICE COMPANY be obligated to relocate any such facility installed by DEVELOPER, then DEVELOPER shall reimburse to SERVICE COMPANY, SERVICE COMPANY'S costs reasonably incurred in connection with such relocation.

2.05 Utilization of Easement Grants. SERVICE COMPANY agrees that all easement grants will be utilized in accordance with the established and generally accepted practices of the water industry with respect to the installation of all suchh facilities in any of the easement areas to serve the Property and the property of others in accordance with SERVICE COMPANY'S Master Plan; and that DEVELOPER or DEVELOPER'S successors or assigns in granting any easement herein, or pursuant to the terms of this instrument, shall have the right to grant exclusive or non-exclusive rights, privileges and easements to other persons, firms or corporations to provide to the Property any utility services other than water service; provided, however, that DEVELOPER, or others having an interest in the Property or any portion thereof from time to time, shall with the prior approval of SERVICE COMPANY, which approval shall not be unreasonably withheld, have the right to dig, maintain and operate water wells for irrigation and/or non-domestic purposes.

SECTION 3. AGREEMENT TO SERVE

Upon the completion of construction of the on-site water facilities by DEVELOPER, and its inspection and acceptance by SERVICE COMPANY, and the other terms of this Agreement, SERVICE

COMPANY covenants and agrees that it will authorize DEVELOPER to connect the water distribution facilities installed by DEVELOPER to the central facilities of SERVICE COMPANY in accordance with the terms and intent of this Agreement. Such connection shall at all times be at the expense of the DEVELOPER and in accordance with rules, regulations and orders of the SERVICE COMPANY and all applicable governmental authorities. SERVICE COMPANY agrees that once DEVELOPER has conveyed to SERVICE COMPANY all water facilities constructed by DEVELOPER required to be conveyed by DEVELOPER to SERVICE COMPANY in accordance with this Agreement, DEVELOPER or others have connected consumer installations to its system, and it provides water service to the Property through such facilities, that thereafter SERVICE COMPANY will continuously provide, at its cost and expense, but in accordance with the other provisions of this Agreement, including rules and regulations and rate schedules, water service to the Property in a manner to conform with all requirements of the applicable governmental authority having jurisdiction over the operations of SERVICE COMPANY.

SECTION 4. ON -SITE INSTALLATIONS

4.01 Obligation to Construct. To induce SERVICE COMPANY to provide the water treatment facilities, and to continuously provide consumers located on the Property with water services, DEVELOPER agrees to construct and to transfer ownership and control to SERVICE COMPANY, as a contribution-in-aid-of-construction, the on-site water distribution systems referred to herein. The term "on-site water distribution system" means and includes all water distribution and supply mains, lines and pipes and related facilities, facilities and equipment, including pumping stations, constructed within the boundaries of DEVELOPER'S property, providing a network of water facilities to serve each such lot or unit in the project.

4.02 Engineering Design Plans. DEVELOPER shall cause to be prepared engineering plans prepared and sealed by a professional engineer registered in the State of Florida, showing the on-site water distribution system proposed to be installed. Such detailed plans may be limited to the first phase only, and subsequent phases may be furnished from time to time. However, each such phase shall conform to the development plan for the Property attached hereto or if not so attached such development plan shall be submitted to SERVICE COMPANY concurrent with or prior to submission of engineering plans for the first phase. DEVELOPER may modify its development plan at any time and from time to time with the consent of SERVICE COMPANY, which consent shall not be unreasonably withheld provided such modification does not unduly interfere with SERVICE COMPANY'S existing facilities or commitments or increase the water capacity required by the Property. DEVELOPER shall submit a copy of the modified plan to SERVICE COMPANY. DEVELOPER shall cause its engineer to submit to SERVICE COMPANY plans and specifications governing the materials to be used by DEVELOPER and the method and manner of installation. All such plans and specifications submitted to SERVICE COMPANY'S engineer shall be subject to the approval of SERVICE COMPANY, which approval shall not be unreasonably withheld, and no construction shall commence until SERVICE COMPANY has approved such plans and specifications in writing. DEVELOPER shall pay SERVICE COMPANY'S costs and expenses in reviewing all such plans and specifications submitted by DEVELOPER, which charges shall be uniform and consistent with

such charges made by SERVICE COMPANY to other DEVELOPERS. After the approval of plans and specifications, DEVELOPER shall cause to be constructed, at DEVELOPER'S own cost and expense, the water distribution system as shown on the plans and specifications. DEVELOPER further represents and warrants that said water facilities furnished by it shall be constructed and installed in a manner satisfactory to and meeting the approval of all applicable public, governmental or other agencies having supervision, regulation, direction and control of such water facilities and services rendered in connection therewith. All construction of water facilities to be constructed or installed by DEVELOPER hereunder shall be done by contractors approved in advance by SERVICE COMPANY as competent to perform such work. SERVICE COMPANY'S approval of such contractors shall not be unreasonably withheld. After completion of construction of any Phase and prior to acceptance of such improvements by SERVICE COMPANY, DEVELOPER agrees to furnish to SERVICE COMPANY one (1) set of Mylar "as built" drawings showing specification locations, depth, and other appropriate details of all water facilities as located by a licensed surveyor along with five (5) prints of the "as built" drawings which have been sealed by the surveyor and certified by the engineer of record. In addition, DEVELOPER will provide SERVICE COMPANY with three (3) sets of all appropriate manuals for operation of any pumping stations and other mechanical and electrical equipment installed by DEVELOPER to be conveyed to SERVICE COMPANY by DEVELOPER hereunder, as applicable. After inspection and acceptance, SERVICE COMPANY agrees to accept and maintain each phase of on-site construction as it is completed by DEVELOPER, except for consumer installations which are not to be owned by and to be the responsibility of SERVICE COMPANY, as hereinafter provided. DEVELOPER shall indemnify and hold SERVICE COMPANY harmless from and in respect of any repairs or replacements required to be made to said water facilities conveyed by DEVELOPER to SERVICE COMPANY which occur within one (1) year from the date of the conveyance of such water facilities from DEVELOPER to SERVICE COMPANY. Simultaneously, with the conveyance of the water facilities described above from DEVELOPER to SERVICE COMPANY, the DEVELOPER shall deliver to SERVICE COMPANY an executed Contract Bond in the total amount of the actual cost of construction of said water facilities. The Contract Bond shall have as the surety thereon, such surety company as is authorized to write bonds of such character and amount in accordance with the laws of the State of Florida. The attorney-in-fact, or other officer who signs such Contract Bond for a surety company shall file with such Bond a certified copy of his Power of Attorney authorizing him to do so. The Contract Bond may be written either with the DEVELOPER'S Contractor as "principal" and the DEVELOPER and the SERVICE COMPANY as "co-obligees" or, in the alternative, with the DEVELOPER as principal and the SERVICE COMPANY as "co-obligee". The Contract Bond shall remain in force for one (1) year following the date of final acceptance by SERVICE COMPANY of the work done pursuant to this Agreement to protect the SERVICE COMPANY against losses resulting from any and all defects in materials or improper performance of that work and with regard to the DEVELOPER'S indemnity of SERVICE COMPANY as provided above during that one (1) year period. Upon demand by the SERVICE COMPANY, the DEVELOPER shall correct or cause to be corrected all such defects which are discovered within said warranty period or periods as set forth above, not arising through the fault of SERVICE COMPANY, failing which SERVICE COMPANY shall make such repairs and/or replacements of

defective work and/or materials and the DEVELOPER and/or its surety shall be liable to SERVICE COMPANY for its costs arising therefrom.

4.03 Meter Installations. DEVELOPER shall be required to pay the applicable charge (as set by SERVICE COMPANY from time to time) for water meters and meter installations of sufficient capacity for all single family, residential, multi-family, mobile home, commercial installation or any other connection requiring a measuring device. A current schedule of meter charges has been attached hereto and marked Exhibit "D".

4.04 Inspection of Work. During the construction of the water distribution system by DEVELOPER, SERVICE COMPANY shall have the right to inspect such installations to determine compliance with the plans and specifications. SERVICE COMPANY shall control the quality of the installation, and further, shall be entitled to perform standard tests for pressure, exfiltration, line and grade, and all other normal engineering tests to determine that the system has been installed in accordance with the plans and specifications and good engineering practices. 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, which charge shall be uniform and consistent with such charges made by SERVICE COMPANY to others.

4.05 Transfer of Title. By these presents, DEVELOPER hereby transfers to SERVICE COMPANY title to all water distribution system installed by DEVELOPER or DEVELOPER'S contractor, pursuant to the provisions of this Agreement. Such conveyance shall take effect without further action upon the acceptance by SERVICE COMPANY of the said installation. As further evidence of said transfer of title, and upon the completion of the installation and prior to the rendering of service by SERVICE COMPANY, DEVELOPER shall convey to SERVICE COMPANY, by bill of sale, in form satisfactory to SERVICE COMPANY'S counsel, the complete on-site water distribution system as constructed by DEVELOPER and approved by SERVICE COMPANY. DEVELOPER shall further cause to be conveyed to SERVICE COMPANY all easements and/or rights-of-way covering areas in which water lines are installed, by recordable document in form satisfactory to SERVICE COMPANY'S counsel. The use of easements granted by DEVELOPER shall not preclude the use by other utilities of these easements, such as for cable television, telephone or gas utilities. SERVICE COMPANY agrees that the acceptance of the water distribution system installed by DEVELOPER, or acceptance of the bill of sale, shall constitute the assumption of responsibility by SERVICE COMPANY for the continuous operation and maintenance of such systems from that date forward, subject, however, to the one (1) year indemnity of DEVELOPER and the surety provided for Paragraph 4.02 above. Mortgagees, if any, having prior liens on such property, or other interested parties, as applicable, shall be required to release such liens, subordinate their position or join in the grant or dedication of the easements or rights-of-way, or give to SERVICE COMPANY assurance by way of a "non-cut-off agreement", that in the event of foreclosure, mortgagee would continue to recognize the easement rights of SERVICE COMPANY and the other rights of SERVICE COMPANY under this Agreement, as long as SERVICE COMPANY complies with the terms of this Agreement. All water distribution facilities,

except consumer installations, shall be covered by easements or rights-of-way if not located within platted or dedicated roads or rights-of-way.

SECTION 5. OFF-SITE INSTALLATIONS

Where applicable, and as required by the approved engineering plans and specifications, DEVELOPER shall construct and install any off-site main extensions, lift stations, and other facilities required to extend SERVICE COMPANY'S existing water service to the Property. The construction of all such off-site installations and the conveyance of same to SERVICE COMPANY, shall be governed by all the terms and provisions of Section 4 above as applicable thereto. SERVICE COMPANY may, if provided in Exhibit "E" attached hereto and made a part hereof, elect to construct certain of such off-site facilities through its own selected engineering contractor, and in such event DEVELOPER shall be responsible for payment of the actual and direct costs of such off-site facilities as provided in Exhibit "E" attached hereto and made a part hereof and the cost of their installation, which payment shall be a condition precedent to the initial rendering of service.

SECTION 6.

RETENTION OF OWNERSHIP OF CERTAIN ON-SITE FACILITIES

Whenever the development of the subject property involves one consumer or a unity of title of several consumers, and/or in the opinion of SERVICE COMPANY ownership by SERVICE COMPANY of the internal water distribution system is not necessary, then at the option of SERVICE COMPANY, DEVELOPER shall retain ownership and the obligation for maintenance of such on-site facilities located on the discharge side of a master meter as SERVICE COMPANY shall hereafter designate in writing. The retention of ownership of such on-site facilities by DEVELOPER shall not diminish the right of SERVICE COMPANY to provide service to the Property of others by or through the full utilization of such easement rights as provided herein nor through such facilities of DEVELOPER reasonably designed and utilized for such purpose in accordance with SERVICE COMPANY'S Master Plan. In the event of such use by others, DEVELOPER'S cost of maintaining such facilities shall be shared between DEVELOPER and SERVICE COMPANY in accordance with each such party's hydraulic share (based on said parties proportionate flows) or such other method as said parties shall mutually determine. SERVICE COMPANY shall pay the costs of any subsequent upgrading of such facilities required to serve the property of others in accordance with SERVICE COMPANY'S Master Plan.

SECTION 7. WATER CAPACITY CHARGES, GUARANTEED REVENUES AND OTHER CHARGES.

In addition to the contribution of the internal and off-site water distribution system as provided above, and further to induce SERVICE COMPANY to provide a water plant, DEVELOPER hereby agrees to pay to SERVICE COMPANY, as a further contribution in-aid-of-construction, the water system capacity charges set forth on Exhibit "E", attached hereto and made a part hereof and in addition thereto such guaranteed revenue charges and other charges as are set forth on said Exhibit "E". The payment by DEVELOPER of all sums set forth in Exhibit "E", in accordance with the terms and the manner set forth therein, shall be considered essential to the continued performance by SERVICE COMPANY of the terms and conditions of this Agreement.

Payment of the sums set forth in Exhibit "E" does not and will not result in SERVICE COMPANY waiving any of its rates, rate schedules or rules and regulations, and their enforcement shall not be affected in any manner whatsoever by DEVELOPER making the contribution. SERVICE COMPANY shall not be obligated to refund to DEVELOPER any portion of such sums for any reason whatsoever, except for that which may be specifically provided for in Exhibit "E", nor shall SERVICE COMPANY pay any interest or rate of interest upon such sums.

Neither DEVELOPER nor any person or other entity holding any of the Property by, through or under DEVELOPER, or otherwise, shall have any present or future right, title, claim or interest in and to the contributions or to any of the water facilities and properties of SERVICE COMPANY, and all prohibitions applicable to DEVELOPER with respect to no refund of any such charges or contributions, no interest payment on said charges or contributions and otherwise, are applicable to all persons or entities, except for that which may be provided in Exhibit "E".

Any user or consumer of water service shall not be entitled to offset any bill or bills rendered by SERVICE COMPANY for such service or services against the contributions or charges. DEVELOPER shall not be entitled to offset the contributions or charges against any claim or claims of SERVICE COMPANY.

Deferred payment of water capacity charges, guaranteed revenues and other charges provided for herein shall be secured as provided in Exhibit "E".

SECTION 8. DISPOSITION OF CAPACITY:

8.01 The water system capacity allotment assigned to DEVELOPER herein cannot, and shall not, be assigned, transferred, leased, encumbered or disposed of in any manner by DEVELOPER, unless:

(a) DEVELOPER has obtained the prior written consent of SERVICE COMPANY to such an assignment, sale or disposition, or

(b) the assignment is in direct connection with a bona fide sale of the Property to which the system capacity reserve relates, and SERVICE COMPANY is notified in writing of such assignment and has consented to same. SERVICE COMPANY will not unreasonably withhold its consent to an assignment made in direct connection with a bona fide sale of the Property nor any other assignment made within four (4) years of the date of this Agreement, provided the Assignee pays all of SERVICE COMPANY'S legal and administrative costs incurred in connection with such Assignment and assumes all of the duties and obligations of the Assignor under this Agreement. In no instance shall any sale or assignment of system capacity reserved be made by DEVELOPER for a consideration which is more than that amount actually paid by DEVELOPER to reserve the capacity. In all instances the DEVELOPER and any assignee shall provide to SERVICE COMPANY, at SERVICE COMPANY'S request, copies of all documents and such other information pertaining to or affecting such transfer as SERVICE COMPANY shall reasonably request.

8.02 SERVICE COMPANY shall not diminish or utilize the water capacity allotment assigned to DEVELOPER hereunder by providing water capacity to other developers or customers,

without the prior written consent of the DEVELOPER, unless such other developers or customers provide to SERVICE COMPANY or there is otherwise available to SERVICE COMPANY sufficient funds to pay the costs to SERVICE COMPANY of providing water treatment facilities to replace the water treatment facilities so utilized by such other developers or customers and SERVICE COMPANY has received preliminary approval by all governmental agencies having jurisdiction over such facilities to the construction of such facilities and the anticipated completion date for the construction of such facilities shall be adequate to meet the DEVELOPER'S requirements for water services as provided for in its development plan attached hereto.

8.03 Except as hereinafter extended by SERVICE COMPANY in writing, failure of DEVELOPER, or its permitted assigns as provided above, to fully utilize the water treatment capacity reserved by SERVICE COMPANY hereunder for DEVELOPER on or before the expiration of seven (7) years from the date of this Agreement shall result in the release by DEVELOPER of such water treatment capacity and all obligations of SERVICE COMPANY to DEVELOPER in respect to such unused capacity shall be thereby null and void and of no further force or effect.

SECTION 9. ASSURANCE OF TITLE TO PROPERTY

Within forty-five (45) days after the execution of this Agreement, DEVELOPER shall deliver to SERVICE COMPANY, at the expense of DEVELOPER, 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, tenancies or parties in possession and other covenants affecting the subject Property. The provisions of this paragraph are for the purpose of evidencing DEVELOPER'S legal right to grant the exclusive rights of service and other rights contained in this Agreement.

SECTION 10. PRIOR APPROVALS

The parties recognize that SERVICE COMPANY may be required to obtain approval from various state and local governmental authorities having jurisdiction and regulatory power over the construction, maintenance and operation of the water facilities, before it can render service to the Property. SERVICE COMPANY will diligently and earnestly, at its expense, make the necessary and proper applications to all governmental authorities, and will pursue the same to the end that it will use its best efforts to obtain such approvals. DEVELOPER shall reimburse SERVICE COMPANY for SERVICE COMPANY'S costs and expenses incurred in pursuing such governmental approvals. Applications for the approval of plans for DEVELOPER'S water distribution system shall be forwarded by SERVICE COMPANY to the applicable governmental agency subsequent to SERVICE COMPANY'S receipt of such plans from DEVELOPER'S engineer. If required, this Agreement shall be filed for record with the applicable governmental agency. It is further understood and agreed that this Agreement shall be null and void and of no further force and effect if any such requisite approval cannot be obtained within a reasonable period of time and through the application of best efforts to obtain same.

SECTION 11. OWNERSHIP OF FACILITIES

All water facilities used, useful or held for use in connection with providing water service to the Property

(including fire service), shall at all times remain in the sole, complete and exclusive ownership of SERVICE COMPANY, its successors and assigns; any person or entity owning any part of the Property or any residence, building, or unit constructed or located thereon, shall not have any right, title, claim or interest in and to such facilities or any part of them, for any purpose, including the furnishing of water services to other persons or entities located within or beyond the limits of the Property. DEVELOPER may provide for the availability of those water services to the Property which constitute "non-domestic" uses such as for irrigation purposes, as provided above.

SECTION 12. COVENANT NOT TO ENGAGE IN UTILITY BUSINESS

DEVELOPER, as a further consideration for this Agreement, agrees that it shall not (the words "shall not" being used in a mandatory definition) engage in the business of providing potable 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 the foregoing provision shall be a covenant running with the land and under said provision and also under 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 occupants of each residence, building or unit constructed thereon, except for water used solely for irrigation purposes, as provided herein.

SECTION 13. RATES AND CHARGES

Rates and other charges to DEVELOPER and/or individual consumers of water service shall be those set forth in the tariff or Main Extension Policy of SERVICE COMPANY approved by the applicable governmental agency. However, notwithstanding any provision in this Agreement, SERVICE COMPANY, its successors or assigns, may establish, amend, revise, and enforce, from time to time in the future, its tariff, extension policy, rates or rate schedules, fees and charges (excluding capacity or connection charges and guaranteed revenue charges which are provided for herein), provided that such rates and charges are uniformly applied to customers in the service area and are non-discriminatory as applied to the same classification of service throughout the service area of SERVICE COMPANY.

SERVICE COMPANY may establish, amend or revise, from time to time in the future, and enforce rules and regulations covering water service to the Property. Such rules and regulations so established by SERVICE COMPANY shall at all times be reasonable and subject to such regulation as may be applicable.

Any initial or future lower or increased rates, rate schedules, capacity charges or other fees and charges, and rules and regulations established, amended or revised and enforced by SERVICE COMPANY from time to time in the future, 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 service provided to the Property.

SECTION 14. CONSUMER INSTALLATIONS

14.01 Application for Service. 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 construct, any consumer installation to

the facilities of SERVICE COMPANY until formal written application has been made to SERVICE COMPANY by the prospective user of service, in accordance with the then effective rules and regulations of SERVICE COMPANY, and approval of such connection has been granted.

14.02 Procedure for Connecting Consumer Installations.

Although the responsibility for connecting the consumer installation to the 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) except as otherwise provided in subsection (d) below, all consumer installation connections must be inspected by SERVICE COMPANY before backfilling and covering of any pipes;

(b) notice to SERVICE COMPANY requesting an inspection of a consumer installation connection may be given by the plumber or DEVELOPER, and the inspection will be made within twenty-four (24) hours;

(c) if SERVICE COMPANY fails to inspect the consumer installation connection within forty-eight (48) hours after such inspection is requested by the DEVELOPER or the owner of any parcel, DEVELOPER or owner may backfill or cover the pipes without SERVICE COMPANY'S approval and SERVICE COMPANY must accept the connection as to any matter which could have been discovered by such inspection;

(d) if the 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 others than SERVICE COMPANY.

SECTION 15. BINDING AGREEMENT ON SUCCESSORS

This Agreement shall be binding upon and shall inure to the benefit of DEVELOPER, SERVICE COMPANY and their respective successors and assigns.

SECTION 16. NOTICE

Until further written notice by either party to the other, all notices provided for herein shall be in writing and transmitted by hand delivery by messenger service, by certified mail, return receipt requested, or by telegram, and if to DEVELOPER, shall be mailed or delivered to DEVELOPER at its above-referred to address and if to the SERVICE COMPANY, at:

WEST VOLUSIA UTILITIES, INC.
125 East Indiana Avenue
DeLand, Florida 32720

cc: Law Offices Edward A. Schrank, P.A.
2699 South Bayshore Drive, Suite 900 F
Coconut Grove, Florida 33133

SECTION 17. MATERIAL CHANGE

Should the Property either:

(a) be subject to a change of zoning; or

(b) be subjected to such other change

which would authorize or require greater water treatment capacity, greater fire flows, or additional water facilities or increased usage in the water facilities, or increased usage in the water facilities as designed and approved pursuant to the engineering plans and specifications which are the subject of this Agreement, then DEVELOPER shall enter into a new Agreement with SERVICE COMPANY providing for such additional water capacity requirements and for the construction of such additional water facilities meeting all governmental design requirements then applicable and subject to the limitations of SERVICE COMPANY'S then existing water treatment, disposal and collection commitments and limitations and shall pay all additional capacity charges as shall be authorized then by the SERVICE COMPANY'S tariff or the Public Service Commission or its successors as of the date said new Agreement is executed.

SECTION 18. FORCE MAJEURE

SERVICE COMPANY shall not be liable or responsible to DEVELOPER by reason of the failure or inability of SERVICE COMPANY to take any action it is required to take or to comply with the requirements imposed hereby or for any injury to DEVELOPER or by those claiming by or through DEVELOPER, which failure, inability or injury is caused directly or indirectly by force majeure as hereinafter set forth. The term "force majeure" as employed herein shall mean acts of god, strikes, lock-outs or other industrial disturbance; acts of public enemies, war, blockades, riots, acts of armed forces, militia, or public authority, epidemics; breakdown of or damage to machinery, pumps, or pipe lines, landslides, earthquakes, fires, storms, floods, or washouts; arrests, title disputes, or other litigation; governmental restraints either federal, state, county, municipal or otherwise, civil or military; civil disturbances; explosions, inability to obtain necessary materials, supplies, labor or permits or governmental approvals whether to existing or future rules, regulations, orders, laws or proclamations whether federal, state, county, municipal or otherwise, civil or military; or by any other causes, whether or not of the same kind as numerated herein, not within the sole control of SERVICE COMPANY and which by exercise of due diligence SERVICE COMPANY is unable to overcome.

SECTION 19. RIGHT OF REFUSAL

SERVICE COMPANY shall have the right to refuse to provide service and the right to terminate service to any lot, building or other improvement within DEVELOPER'S Property, or in lieu thereof, SERVICE COMPANY may delay the provision of any such service to any lot, building or other improvement upon the Property pending compliance by DEVELOPER of its obligations as provided for in this Agreement, and the right to terminate this Agreement in the event DEVELOPER fails to comply with any of the terms and conditions of this Agreement in a timely manner. The exercise of the rights of SERVICE COMPANY as provided in this paragraph shall be subject however to the rules and regulations of SERVICE COMPANY and governmental agencies having jurisdiction or regulatory power over the services and facilities of SERVICE COMPANY.

SECTION 20. NOTICE OF TRANSFER

DEVELOPER agrees to provide proper written notice to SERVICE COMPANY of the actual date of the legal transfer of the

Property or any portion thereof involving or otherwise affecting the provision of water services from DEVELOPER to any third party. DEVELOPER shall remain responsible for all costs and expenses, including utility bills and guaranteed revenue charges, which arise as a result of DEVELOPER'S failure to so notify SERVICE COMPANY or any improper notification to SERVICE COMPANY in connection therewith.

SECTION 21. SURVIVAL OF COVENANTS

The rights, privileges, obligations and covenants of DEVELOPER and SERVICE COMPANY shall survive the completion of the work of DEVELOPER with respect to any phase and to the Property as a whole.

SECTION 22.

EFFECT ON THIS AGREEMENT ON PRIOR AGREEMENTS AND
METHOD OF AMENDMENT

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.

SECTION 23. LAWS OF FLORIDA TO GOVERN

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.

SECTION 24. RECOVERY OF COSTS AND FEES

In the event the SERVICE COMPANY or DEVELOPER is required to enforce this Agreement by court proceedings or otherwise, then the prevailing party shall be entitled to recover from the other party all costs incurred, including reasonable attorneys' fees, whether incurred prior to, during or subsequent to such court proceedings or on appeal.

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

BOOK: 4295
PAGE: 3901

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

Signed, sealed and delivered in the presence of:

Jackie C Wright
Betty J. Glass

Carolyn L. Strader

DEVELOPER

MAGNOLIA SERVICE CORPORATION,
a Florida corporation

By: [Signature]
President

(CORPORATE SEAL)

SERVICE COMPANY

WEST VOLUSIA UTILITIES, INC.
a Florida corporation

By: [Signature]
President

(CORPORATE SEAL)

STATE OF FLORIDA)
COUNTY OF Orange)

BEFORE ME, the undersigned authority, duly authorized to take acknowledgments and administer oaths, personally appeared Donald R. Greer, to me well known and known to me to be the individual described in and who executed the foregoing instrument as President of MAGNOLIA SERVICE CORPORATION, a Florida corporation, and he acknowledged to and before me that he executed such instrument as such officer of said corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that it was affixed to said instrument by due and regular corporate authority, and that said instrument is the free act and deed of said corporation.

WITNESS my hand and official seal this 12 day of March, 1985.

Betty J. Glass
NOTARY PUBLIC STATE OF FLORIDA
AT LARGE

My Commission Expires: NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. NOV 27, 1987
BONDED THRU GENERAL INS. UND.

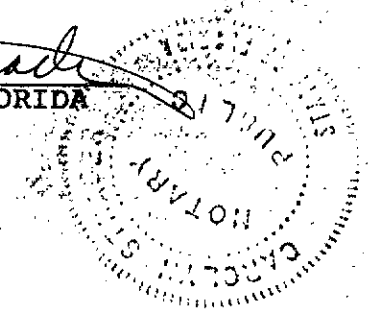
BOOK: 4295
PAGE: 3902

STATE OF FLORIDA)
COUNTY OF ()

BEFORE ME, the undersigned authority, duly authorized to take acknowledgments and administer oaths, personally appeared Edward A. Schrank, to me well known and known to me to be the individual described in and who executed the foregoing instrument as _____ President of WEST VOLUSIA UTILITIES, INC., a Florida corporation, and he acknowledged to and before me that he executed such instrument as such officer of said corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that it was affixed to said instrument by due and regular corporate authority, and that said instrument is the free act and deed of said corporation.

WITNESS my hand and official seal this 20th day of March, 1985.

Cassidy L. Strade
NOTARY PUBLIC STATE OF FLORIDA
AT LARGE



My Commission Expires:

Notary Public, State of Florida
My Commission Expires July 30, 1985
Bonded by Ohio Casualty Insurance Co.

BOOK: 4295
PAGE: 3903

EXHIBIT "A"

LEGAL AND GRAPHIC DESCRIPTION OF PROPERTY

BOOK: 4295
PAGE: 3904

EXHIBIT "B"

DEVELOPMENT PLAN FOR PROPERTY

Twenty-five (25) single family lots

BOOK: 4295
PAGE: 3905

EXHIBIT "C"

NOT APPLICABLE

BOOK: 4295
PAGE: 3906

EXHIBIT "D"

SCHEDULE OF METER AND METER INSTALLATION CHARGES

EXHIBIT "E"

CONTRIBUTIONS-IN-AID-OF-CONSTRUCTION AND OTHER CHARGES

In order to further induce the SERVICE COMPANY to provide and maintain adequate and sufficient central water facilities, DEVELOPER hereby agrees to abide by the provisions of this Exhibit and to pay to the SERVICE COMPANY, in accordance with the terms and conditions set forth below, the sums of money set forth herein as contributions-in-aid-of-construction together with such other charges as are hereafter provided for.

1. Water Capacity Charges:

DEVELOPER agrees to pay SERVICE COMPANY water system capacity charges to induce SERVICE COMPANY to provide water treatment plant capacity to DEVELOPER in the amount of \$105.00 per equivalent residential connection (ERC).

Based upon the foregoing, the DEVELOPER'S total system capacity charges, as aforescribed, will be in the amount of \$2,625.00 based upon 25 number of equivalent residential connections (ERC'S) being required by DEVELOPER. SERVICE COMPANY acknowledges receipt of the sum of \$2,625.00 representing the payment of water capacity charges for an initial 25 ERC'S.

2. Guaranteed Revenues:

By virtue of the provisions of this Agreement, the SERVICE COMPANY has reserved for DEVELOPER 25 equivalent single family residential (ERC'S) of water treatment capacity. The SERVICE COMPANY has advised DEVELOPER that it requires minimum levels of guaranteed revenue in order to support investment in plant facilities, as well as the fixed cost of maintaining such facilities and the unused capacity it represents. Therefore, DEVELOPER agrees to pay, commencing upon the first anniversary of the execution of this agreement, one (1) year's guaranteed revenue in advance for the said 25 ERC'S reduced by the number of ERC'S actually connected to SERVICE COMPANY'S water system prior to such date. At the end of one (1) year after the date of making said payment, DEVELOPER shall be entitled to a refund of a portion of such advance annual payment, equal to the number of units actually connected during said twelve (12) month period times the number of actual whole months that each of such units and the consumers occupying the same shall have paid actual revenues to the SERVICE COMPANY, times the monthly minimum charges used as the basis for the original advance guaranteed revenue payment. For the purpose of this formula, each connection shall be analyzed separately to determine the number of months actually connected and the refund potential. For example, if DEVELOPER pays guaranteed revenue for 10 ERCs in advance, such payment shall be based upon: 10 x \$4.00 x 12 months = \$480.00 advance guaranteed revenue payment; assume that DEVELOPER occupies one (1) house during the third month and one (1) additional house during the ninth month of the next succeeding twelve (12) month period, DEVELOPER'S refund would be calculated as follows:

1 unit x 9 months x \$4.00 = \$36.00 plus 1 unit x 3 months x \$4.00 = \$12.00, or a total refund of \$48.00.

At the conclusion of the first year, all units not connected out of the cumulative total agreed to be connected shall be established as the number of units to be the subject

of a further guaranteed revenue advance for the next succeeding twelve (12) month period and, in like manner, said annual guaranteed revenue advance shall continue from year to year until such time as all units agreed to be constructed have in fact been constructed and connected to the system.

The amounts to be paid will be based on the minimum service charge for such units established by but not in excess of \$8.00 per month per ERC. The requirement for the payment of said guaranteed revenue shall be a covenant running with the land and shall be binding upon DEVELOPER, its successors and assigns or subsequent owners holding by or through DEVELOPER.

3. Reimbursement of Costs:

Upon the execution of this Agreement, DEVELOPER shall pay to SERVICE COMPANY a fee in the amount of \$500.00 to defray SERVICE COMPANY'S legal and administrative costs in negotiating, preparing and executing this DEVELOPER AGREEMENT.

Executed this 12 day of March, 1985.

Signed, sealed and delivered in the presence of:

Jackie C. Wright
Betty J. Glass

DEVELOPER

MAGNOLIA SERVICE CORPORATION
a Florida corporation

By: *[Signature]*, President

(CORPORATE SEAL)

SERVICE COMPANY

WEST VOLUSIA UTILITIES, INC.
a Florida corporation

By: *[Signature]*, President

(CORPORATE SEAL)

Book: 4295
Page: 3909

ADDENDUM TO DEVELOPER AGREEMENT
BETWEEN MAGNOLIA SERVICE CORPORATION, (DEVELOPER) AND
WEST VOLUSIA UTILITIES, INC. (SERVICE COMPANY)

The parties hereto do hereby agree to make the following additions to the above-referred to Developer Agreement.

1. Pursuant to the provisions of subsections 4.02 and 4.04 of the Agreement, DEVELOPER shall pay to SERVICE COMPANY engineering plan review and construction inspection fees as follows:

A. Fees payable to SERVICE COMPANY for review by SERVICE COMPANY and its Engineers of DEVELOPER'S engineering plans and specifications for DEVELOPER'S on-site and off-site work shall be in an amount equal to 1% of the DEVELOPER'S hard costs for such on-site facilities constructed or installed by DEVELOPER under this Agreement payable at the commencement of DEVELOPER'S construction of such facilities.

B. Fees for the review and inspection by SERVICE COMPANY or its Engineers of DEVELOPER'S construction of its on-site facilities as provided for in the Agreement shall be in an amount equal to one (1%) per cent of DEVELOPER'S hard costs, of constructing said facilities payable upon the completion of such construction.

2. No off-site facilities will be required to serve the lots covered by this Agreement.

3. DEVELOPER shall not be required to provide SERVICE COMPANY with a surety bond as provided for in Section 4.02 of this Developer Agreement.

The parties hereto hereby agree that the terms of this Addendum shall supercede and shall have precedence over any terms and provisions set forth in the Developer Agreement to the contrary and all of the other terms, conditions and provisions set forth in said Developer Agreement, not inconsistent with the terms contained herein, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have hereunto executed this Addendum this _____ day of _____, 1985.

Signed, sealed and delivered in the presence of:

James C. Wright
Boaty J. Glass

DEVELOPER:

MAGNOLIA SERVICE CORPORATION,
a Florida corporation

By: [Signature], President

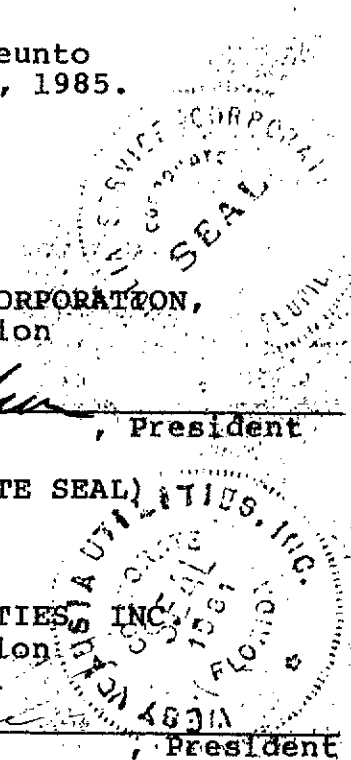
(CORPORATE SEAL)

SERVICE COMPANY:

WEST VOLUSIA UTILITIES, INC.
a Florida corporation

By: [Signature], President

(CORPORATE SEAL)



BOOK: 4295
PAGE: 3910
Blaine H. Matousek
Volusia County, Clerk of Court

ADDENDUM TO DEVELOPER AGREEMENT (AGREEMENT) BETWEEN MAGNOLIA SERVICE CORPORATION, A FLORIDA CORPORATION, AND WEST VOLUSIA UTILITIES, INC.

All easement rights granted under the Developer Agreement shall automatically terminate upon the recording of a Plat in the Public Records of Volusia County of the property which is the subject matter of this Agreement. It is the intent of the parties that the easement rights granted under the Developer Agreement shall be a blanket easement until such time as the Plat is recorded; and immediately upon the recording of a Plat of the property, the easement rights granted hereunder shall automatically terminate.

Signed, sealed and delivered
in the presence of:

Jackie C. Wray
Betty J. Glass

Carolyn Sudder

DEVELOPER

MAGNOLIA SERVICE CORPORATION,
a Florida corporation

By: W. H. [Signature], President

SERVICE COMPANY

WEST VOLUSIA UTILITIES, INC.,
a Florida corporation

By: [Redacted Signature], President

