

AGREEMENT BETWEEN
INDIAN RIVER COUNTY, FLORIDA
AND
PLEASANTVILLE ASSISTED LIVING, LLC
FOR
REFLECTIONS ASSISTED LIVING FACILITY

FOR THE CONSTRUCTION OF OFF-SITE UTILITIES

THIS AGREEMENT (“AGREEMENT”) by and between **INDIAN RIVER COUNTY**, a political subdivision of the State of Florida, the address of which is 1801 27th Street, Vero Beach, Florida 32960 (hereinafter the “COUNTY”) and PLEASANTVILLE ASSISTED LIVING, L.L.C., a Florida Limited Liability Company, the address of which is 1313 W Boynton Beach Blvd., Suite 1B #377, Boynton Beach, FL, 33426 (hereinafter the DEVELOPER) is effective upon execution by the two parties.

WHEREAS, the DEVELOPER, in conjunction with the construction improvements at REFLECTIONS ASSISTED LIVING FACILITY, is installing water and wastewater facilities to serve the subject property located at 6250 US Hwy 1, which includes updates for the existing Lift Station No. 1179 and more specifically depicted in Exhibit “A”; and

WHEREAS, the DEVELOPER, has started construction under Utility Construction Permit (UCP) No. 3175 issued on July 26, 2017; and

WHEREAS, the DEVELOPER was notified of the need for a standby generator and associated improvements (“Generator Improvements”) to serve the existing Lift Station No. 1179 after the issuance of UCP No. 3175; and

WHEREAS, the installation of the Generator Improvements, will address a critical need for both the DEVELOPER and the COUNTY during loss of electricity power for extended periods during natural disasters that can otherwise raise public health concerns from sewer backups; and

WHEREAS, pursuant to Section 918.05, the Code of Indian River County (the “Code”), the COUNTY, requires the DEVELOPER to provide the Generator Improvements to connect to the regional sewer system. The COUNTY, agrees to reimburse the DEVELOPER, as provided herein, for a portion (50%) of the cost of the Generator Improvements; and

WHEREAS, DEVELOPER is required to execute and record a Declaration of Covenant Regarding Removal of Structure and associated improvements concerning construction of the Generator Improvements in a utility easement at the REFLECTIONS ASSISTED LIVING FACILITY; and

WHEREAS, nothing in this AGREEMENT shall supersede the requirement to execute and record the Declaration of Covenant Regarding Removal of Structure in a form approved by the COUNTY.

NOW, THEREFORE, for and in consideration of the mutual promises set forth herein and other good and valuable consideration, the COUNTY and DEVELOPER agree as follows:

1. Off-site utilities:

The DEVELOPER shall construct the necessary Generator Improvements described below as directed by the Indian River County Utilities Department. The COUNTY shall reimburse the DEVELOPER for the Generator Improvements as outlined below:

- A. The installation of Generator Improvements shall include a Tradewinds Series electric generator set or equal to the minimum criteria identified in Section 17 of the Indian River County Utilities Department Water & Wastewater Utility Standards, current edition. The rating of the standby generator shall be 56 kW, 70 kVA at 120/240 volt, 0.8 power factor, 3 phase, 60 Hertz. The system shall be a package of new and current equipment consisting of: a) an engine driven electric generating set to provide standby power; b) an engine start/stop solid state system mounted on the generating set; c) an automatic load transfer control to provide automatic starting and stopping of the engine and switching the load; d) fuel storage tank with a maximum fuel capacity of 500 gallons; and e) mounted accessories as specified. Developer shall install the Generator Improvements by April, 2020.
- B. In addition to the Generator Improvements described in A above, the Generator Improvements are referenced in Exhibit A.
- C. Reimbursement: The COUNTY shall reimburse the DEVELOPER for funds advanced by DEVELOPER to install the Generator Improvements. COUNTY shall reimburse DEVELOPER fifty percent (50%) of the actual installed cost within 30 calendar days after completion of all necessary testing per Indian River County Utilities Department Water & Wastewater Utility Standards, current edition, and acceptance of the Generator Improvements by the Director of the Indian River County Utilities Department. The reimbursement amount by the COUNTY shall not exceed \$75,000.

2. Amendment:

This AGREEMENT may be modified only by a written instrument executed by all parties to the AGREEMENT.

3. Authority:

Each party hereto represents and warrants to the other that the execution of this AGREEMENT and any other documents required or necessary to be executed pursuant to the provisions hereof are valid, binding obligations and are enforceable in accordance with their terms.

4. Captions:

Captions, if included, in this AGREEMENT are included for convenience only and are not to be considered in any construction or interpretation of this AGREEMENT or any of its provisions.

5. Definition

All pronouns shall be deemed to refer to the masculine, feminine, or neuter, singular or plural, as the identity of the party or parties may require.

6. DEVELOPER'S Obligations:

The procurement and installation shall be the DEVELOPER's responsibility and expense until such time the completion of necessary testing, acceptance and dedication of the Generator Improvements to Indian River County Utilities Department per their Water & Wastewater Utility Standards, current edition. Installation of the Generator Improvements shall be subject to COUNTY review and approval.

7. Entire AGREEMENT

Except for the Declaration of Covenant Regarding Removal of Structure and associated improvements, this AGREEMENT embodies the entire AGREEMENT between the parties relative to the subject matter hereof, and there are no oral or written AGREEMENTS between the parties, nor any representations made by either party relative to the subject matter hereof, which are not expressly set forth herein.

8. Governing Law & Jurisdiction:

This AGREEMENT shall be governed by the laws of the State of Florida and the laws of the United States pertaining to transactions in such state, and all actions arising out of this AGREEMENT shall be brought in Indian River County, Florida, or, in the event of federal jurisdiction, the United States District Court for the Southern District of Florida. All of the parties to this AGREEMENT have participated freely in the negotiation and preparation hereof. Accordingly, this AGREEMENT shall not be more strictly construed against any one of the parties hereto.

9. Insurance and Indemnification:

The DEVELOPER shall ensure that the selected contractor and any subcontractor provides to the COUNTY upon request a certificate of commercial general liability insurance with a reputable insurance company subject to approval by the COUNTY's risk manager in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage in accordance with the COUNTY'S Administrative Policy Manual. The DEVELOPER shall ensure that the selected contractor will provide to the COUNTY a certificate of business auto liability insurance with a reputable insurance company subject to approval by the COUNTY'S risk manager in an amount not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage. The commercial general liability and auto liability insurance policies shall name Indian River County, a political subdivision of the State of Florida, as an additional insured. In addition, the DEVELOPER shall ensure the selected contractor will provide to the COUNTY a certificate of statutory workers' compensation insurance and employers' liability with a limit of \$100,000 for each accident, \$500,000 disease (policy limit) and \$100,000 disease (each employee). The DEVELOPER shall provide to the COUNTY at least thirty (30) days' written notice by registered mail, return receipt requested, addressed to the COUNTY'S risk manager, prior to cancellation or modification of any required insurance.

Up to \$1,000,000, or the limits of any applicable underlying or excess insurance coverage carried by DEVELOPER, DEVELOPER agrees to indemnify, hold harmless and defend the COUNTY, against any and all claims, damages, losses, and expenses, including attorney's fees, for property damage, personal or bodily injury, or loss of life, arising from the intentional or gross negligent acts or omissions of the DEVELOPER, its officers, managing members, employees, agents or contractors, subcontractors, laborers, or suppliers that may arise out of, or be associated by, any work contemplated by this AGREEMENT. DEVELOPER and COUNTY agrees that this paragraph pertaining to indemnification shall remain in full force and effect for the limited period of one (1) year, commencing on the effective date of this AGREEMENT and ending one (1) year thereafter. Nothing herein shall be deemed a waiver or limitation on the COUNTY'S sovereign immunity protection or any limitations on the COUNTY liability in any state statute or as otherwise provide by law.

10. Multiple Counterparts:

This AGREEMENT may be executed in a number of identical counterparts which, taken together, shall constitute collectively one (1) AGREEMENT; but in making proof of this AGREEMENT, it shall not be necessary to produce or account for more than one such counterpart executed by the party to be charged.

11. Permits:

The DEVELOPER shall be responsible for obtaining all construction and operating permits required for the installation of the Generator Improvements. If, through no fault of the parties involved, any federal, state or local government or agency (excluding the COUNTY) fails to issue necessary permits, or fails to grant necessary approvals, or requires a material change in the system, then to the extent necessary and if possible, the parties agree to negotiate an amendment to the AGREEMENT to reflect the change in condition. If the COUNTY determines that it is impossible or impracticable to perform under the terms of this AGREEMENT because of the above, then this AGREEMENT shall terminate and the parties shall have no further obligations to each other. The DEVELOPER shall comply with reasonable requests by the COUNTY concerning on-site operations and maintenance prior to County accepting the improvements.

12. Severability / Invalid Provision:

If any provision of the AGREEMENT is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this AGREEMENT shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this AGREEMENT, and the remaining provisions of this AGREEMENT shall remain in full force and effect and shall not be affected by such illegal, invalid, or unenforceable provision or by its severance from this AGREEMENT.

13. Term:

The term of this AGREEMENT is one (1) year from the effective date. Unless otherwise agreed to by the parties in writing, this AGREEMENT shall not be renewed automatically for successive terms. The County may terminate this AGREEMENT early in its sole discretion if it determines that the development project intended to be served by the improvements is suspended or discontinued.

14. Time of Essence:

Time is of the essence of this AGREEMENT; however, if the final date of any period which is set out in any provision of this AGREEMENT falls on a Saturday, Sunday or legal holiday under the laws of the State of Florida, then, in such event, the time of such period shall be extended to the next business day which is not a Saturday, Sunday or legal holiday.

IN WITNESS WHEREOF, the COUNTY and the DEVELOPER have accepted, made, and executed this AGREEMENT as follows:

DEVELOPER: Pleasantville Assisted Living, LLC

Witness Signature

By: _____

Raffi Alaverdian, Member Manager

Witness Printed Name

Date: _____

Witness Signature

Witness Printed Name

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this ___ day of _____, 2020, by _____, _____ of Pleasantville Assisted Living, LLC., who is personally known to me or who has produced _____ as identification.

Notary Public

Name: _____
Commission # _____
Expiration Date _____

Attest: _____
Jeffery R. Smith, Clerk of the Circuit Court

By: _____
Deputy Clerk

Approved as to Form and Legal Sufficiency

Dylan Reingold, County Attorney

BOARD OF COUNTY COMMISSIONERS
INDIAN RIVER COUNTY, FLORIDA

By: _____
Susan Adams, Chairwoman

BCC Approved: _____

Approved by:

Jason E. Brown, County Administrator

EXHIBIT "A"

EXISTING I.R.C.D.U.S. LIFT STATION # 1179

EXISTING LIFT STATION IMPROVEMENTS

- 1) REMOVE EXISTING PIPING AND ACCESSORIES FROM WET WELL. INSTALL 66" DIAMETER FIBERGLASS LINER PER MANUFACTURERS SPECIFICATIONS.
- 2) REPLACE EXISTING PIPING IN LIFT STATION AND VALVE BOX WITH HDPE PIPING. REPLACE EXISTING CHECK VALVES IN VALVE BOX. INSTALL ISOLATION VALVE ON OUTSIDE OF VALVE BOX.
- 3) REPLACE WET WELL AND VALVE BOX CONCRETE LIDS AND ACCESS DOORS PER I.R.C.D.U.S. SPECIFICATIONS.
- 4) INSTALL A STAINLESS STEEL ELECTRICAL DISCONNECT.
- 5) REPLACE EXISTING PUMPS IN WET WELL WITH THE PROPOSED (2) FLYGT MODEL #NP3127.181 PUMPS.
- 6) RESET THE FLOAT ELEVATIONS WITH THE PROPOSED ELEVATIONS LISTED IN THE PUMPING STATION DATA TABLE.
- 7) ALL WORK IS TO BE COMPLETED IN ACCORDANCE WITH THE INDIAN RIVER COUNTY UTILITIES CONSTRUCTION SPECIFICATIONS AND DETAILS.