



City of Margate
5790 Margate Boulevard
Margate, FL 33063
954-972-6454
www.margatefl.com

AGENDA ITEM FACT SHEET
Item No: 5A

TO: Mayor and City Commission
FROM: Jerry A. Blough, City Manager
DATE: September 18, 2013

RE: RESOLUTION :APPROVING AN EXTENSION OF A DEVELOPER'S AGREEMENT FOR CELEBRATION POINTE TOWNHOMES, INC. FOR ERC (EQUIVALENT RESIDENTIAL CONNECTION) RATES.

BACKGROUND: Celebration Pointe Townhomes, Inc. had an agreement with the City of Margate on October 1, 2008 to pay the ERC (equivalent residential connection) rate that was in effect prior to the adoption of Resolution 11-285 on September 3, 2008, with the understanding that building permits must be issued for the development within 18 months. A formal developer's agreement was executed on November 18, 2009 which provided the same ERC rate agreement for 157 ERC's, with the stipulation that the ERC must be paid for by April 1, 2010. An amendment to this developer's agreement was executed on January 19, 2011 that provided an extension to the developer's agreement until April 1, 2012. Celebration Pointe Townhomes, Inc. is requesting an extension to pay the old ERC rate for 157 of the approved apartments if paid by April 1, 2015.

RECOMMENDATION: N/A

FISCAL IMPACT: The difference in the total amount due to the City, if calculating 157 apartments at the old ERC rate versus applying the current rate to the entire project, would be \$150,155.

CONTACT PERSON: Benjamin J. Ziskal, Director of Economic Development



City of Margate, Florida

January 30, 2014

Gerald L. Knight, Esq.
Billing, Cochran, Lyles, Mauro & Ramsey, P.A.
Sun Trust Center, 6th Floor
515 East Las Olas Boulevard
Fort Lauderdale, FL 33301

RE: **RESOLUTION 12-390** - APPROVING AN EXTENSION OF A DEVELOPER'S AGREEMENT FOR CELEBRATION POINTE TOWNHOMES, INC. FOR ERC (EQUIVALENT RESIDENTIAL CONNECTION) RATES. PRESENTATION OF CELEBRATION POINTE PROJECT.

To Whom It May Concern:

Enclosed is a certified copy of the above-described Resolution 12-390 that was adopted by the Margate City Commission on September 18, 2013, and is being sent to you on their behalf. Also included is a certified copy of the Second Amendment to Developer Agreement – Phase III and an Assignment of Developer Rights. An original copy is being sent to Broward County for recording.

Please call my office should you have any questions.

Sincerely,

Theresa Jones
Clerk Coordinator
City Clerk's Office

Enclosures

CERTIFICATION

I CERTIFY THIS TO BE A TRUE & CORRECT COPY
OF THE DOCUMENT ON FILE AT CITY HALL
WITNESS BY HAND AND OFFICIAL SEAL OF
THE CITY OF MARGATE THIS 30 DAY
OF January, 2011

CITY OF MARGATE, FLORIDA

RESOLUTION NO. 12-390

CITY CLERK

Joseph J. Kavanagh

A RESOLUTION OF THE CITY OF MARGATE, FLORIDA,
APPROVING SECOND AMENDMENT TO DEVELOPER
AGREEMENT - PHASE III FOR CELEBRATION POINTE
TOWNHOMES, INC.

WHEREAS, on October 1, 2008 the City Commission of the City of Margate approved Resolution 11-314, allowing the Celebration Pointe Townhomes, Inc. to purchase 157 ERC's at the rates in effect prior to the adoption of Resolution 11-285; and

WHEREAS, on November 18, 2009 the City of Margate approved an Addendum To Developer Agreement - Phase III, which clarified the vested rights of the property concerning reserved capacity of water and sewer facilities and established rates for 157 ERC's, provided the ERC's were purchased prior to April 1, 2010; and

WHEREAS, on January 19, 2011 the City of Margate approved an Amendment to Developer Agreement - Phase III which extended the above referenced Addendum To Developer Agreement - Phase III until April 1, 2012; and

WHEREAS, counsel for Celebration Pointe Townhomes, Inc. has submitted a Second Amendment to Developer Agreement - Phase III to request a further extension until April 1, 2015.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF MARGATE, FLORIDA:

SECTION 1: That the City Commission of the City of Margate, Florida, hereby agrees to execute the Second Amendment To Developer Agreement - Phase III, a copy of which is attached and made a part of this resolution, for the Celebration Pointe Townhomes, Inc. and extend the agreed upon rates for 157 ERC's until April 1, 2015.

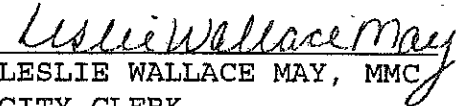
SECTION 2: That the City Commission of the City of Margate, Florida, hereby authorizes the Mayor and the City Manager to execute the Second Amendment To Developer Agreement - Phase III, referenced above.

Resolution: 12-390

SECTION 3: That this resolution shall become effective immediately at the time of its passage.

PASSED, ADOPTED AND APPROVED THIS 18th DAY OF SEPTEMBER, 2013.

ATTEST:


LESLIE WALLACE MAY, MMC
CITY CLERK


FRANK B. TALERICO
MAYOR

RECORD OF VOTE

Ruzzano	<u>Yes</u>
Donahue	<u>Yes</u>
Simone	<u>No</u>
Peerman	<u>Yes</u>
Talerico	<u>Aye</u>

SECOND AMENDMENT TO DEVELOPER AGREEMENT - PHASE III

THIS SECOND AMENDMENT TO DEVELOPER AGREEMENT - PHASE III ("Second Amendment") is made and entered into this 18 day of September, 2013, by and between CELEBRATION POINTE TOWNHOMES, INC., a Florida corporation (hereinafter referred to as "Developer") and the CITY OF MARGATE, a municipal corporation organized and existing under the laws of the State of Florida (hereinafter referred to as "City").

WHEREAS, the Developer and City entered into that certain Developer Agreement - Phase III and Addendum dated November 18, 2009 (the "Agreement"); and

WHEREAS, the Developer and City entered into that certain Amendment to Developer Agreement-Phase III dated January 19, 2011, in which the deadline set forth in the Addendum to the Agreement relating to the Developer's payment of the amount owed to the City for the reservation of capacity for 157 units was extended to April 1, 2012; and

WHEREAS, the Developer has requested a further extension of such deadline from April 1, 2012, to April 1, 2015; and

WHEREAS, the Developer also has requested a modification of the Agreement to provide that the Developer's interest in the Agreement may be transferred to Developer's successor-in-title to the Property without City consent;

NOW, THEREFORE, for and in consideration of the mutual covenants and undertakings of the parties hereto, and other good and valuable considerations, the parties hereto covenant and agree, each with the other as follows:

1. The foregoing statements are true and correct and are incorporated herein by reference.

2. Article IV C. of the Agreement is hereby amended to read as follows:

Any sale, assignment or transfer of the Developer's interest in this Agreement is hereby prohibited without the written consent of the City; provided, however, the Developer's interest in this Agreement may be transferred to a successor-in-title to the Property or portion thereof, without the consent of the City; and

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CITY CLERK
Joseph J. Kavanagh

3. The fifteenth "WHEREAS" clause of the Addendum to the Agreement, as amended, is hereby amended to read as follows:

WHEREAS, the City also previously granted the Developer a Land Use Plan Amendment and Planned Unit Development (PUD) zoning approval for the development of 580 garden apartment units on the Property, for which the Developer may utilize the reserved capacity for the 255 mobile homes previously existing on the Property (the "Vested Capacity", leaving a remaining capacity reservation fee due for 325 garden apartments (i.e., $580 - 255 = 325$) at the applicable rates herein provided; and

4. The last three (3) paragraphs of Article A. of the Addendum to the Agreement, as amended, are hereby amended to read as follows:

By these presents, the Developer herein expressly reserves sufficient ERCs of water and sewer system capacity for 325 garden apartment units (in addition to the 255 garden apartment units for which capacity is reserved based on the 255 mobile homes previously existing on the Property), calculated as follows:

The total amount owed to the City by the Developer in connection charges (water and sewer combined) for 157 of the 325 garden apartment units shall be calculated by multiplying 157 times the multi-family rate set forth above. Thus, the amount owed for the 157 garden apartment units shall be calculated as follows: $157 \times \$1,272.03 = \$199,708.71$.

Notwithstanding any provision in this Article A. to the contrary, in the event Developer does not pay the applicable sum for each of the 157 garden apartment units for which capacity is reserved pursuant to the terms of this Addendum on or before April 1, 2015 (the "Payment Deadline"), then Developer shall thereafter pay the prevailing connection charge rates for each of the 157 garden apartment units for which capacity is reserved and for which prepayment has not been made as of that date.

With respect to the remaining 168 garden apartment units (i.e., $325 - 157 = 168$) for which capacity is reserved as provided herein, Developer shall pay the prevailing connection charge rates that are in effect when such

payment is made.

In the event the City approves a modification to the PUD for the Property that results in a change in the number and/or type of residential units allowed to be developed on the Property, then the ERC's of water and sewer system capacity reserved for 580 garden apartments as provided herein shall be applied to the modified development plan as follows:

(i) The capacity reserved for the 255 mobile homes previously existing on the Property shall be paid for at the rate stated in the fourteenth WHEREAS clause above;

(ii) The capacity reserved for 157 garden apartments shall be paid for at the applicable rates set forth in this Article A, subject to the Payment Deadline; and

(iii) The capacity reserved for the remaining 168 garden apartments shall be paid for at prevailing rate in effect at the time of payment.

5. All capitalized terms used in this Second Amendment without separate definition shall have the same meanings assigned to them in the Agreement.

6. As amended by this Second Amendment, the Agreement, as amended, shall remain in full force and effect. In the event of a conflict between the provisions of this Second Amendment and the provisions of the Agreement, as amended, the provisions of this Second Amendment shall prevail.

7. This Second Amendment may be executed in any number of counterparts, each of which shall be considered an original and all of which taken together shall constitute one and the same Second Amendment. The parties agree and intend that a signature by facsimile machine shall bind the party so signing with the same effect as though the signature were an original.

8. This Second Amendment shall be construed and enforced in accordance with the laws of the State of Florida and shall be binding upon the heirs, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the Developer and the City have executed or have caused this Second Amendment as of the date first set forth above.

CITY OF MARGATE, FLORIDA

By: Lesa Peerman
Lesa Peerman
Mayor

By: Jerry A. Blough
Jerry A. Blough
City Manager

APPROVED AS TO FORM:

Eugene Steinfeld
Eugene Steinfeld, City Attorney

DEVELOPER:

CELEBRATION POINTE TOWNHOMES,
INC., a Florida corporation

By:
Signature

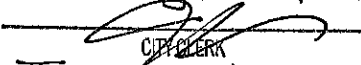
Printed name: ANTHONY MORALES

PREPARED BY:

Paul H. Kupfer, Esq.
Kupfer, Kupfer & Skolnick, P.A.
5541 University Drive, Suite 103
Coral Springs, FL 33067

CERTIFICATION

I CERTIFY THIS TO BE A TRUE & CORRECT COPY
OF THE DOCUMENT ON FILE AT CITY HALL
WITNESS BY HAND AND OFFICIAL SEAL OF
THE CITY OF MARGATE THIS 30 DAY
OF January, 2014


CITY CLERK
Joseph J. Kavanagh

ASSIGNMENT OF DEVELOPER RIGHTS

THIS ASSIGNMENT OF DEVELOPER RIGHTS is made and entered into as of the 6th day of December, 2013, by and between CELEBRATION POINTE TOWNHOMES, INC., a Florida corporation, hereinafter identified as Transferor, and CELEBRATION POINTE NORTH, LLC, a Florida limited liability company, hereinafter identified as Transferee.

W I T N E S S E T H:

WHEREAS, the undersigned Transferor is the Developer under the terms of a certain Developer Agreement and Addendum to Developer Agreement dated November 18, 2009, as amended by Amendment to Developer Agreement - Phase III dated January 19, 2011 and by Second Amendment To Developer Agreement - Phase III dated December 5, 2013, by and between Transferor and the City of Margate, providing for utility service and a reservation of capacity therefore for that certain real property as described therein; and

WHEREAS, said Developer Agreement and Addendum to Developer Agreement was recorded in the official records of Broward County, Florida, at Book No. 47754, beginning on Page No. 1575; and

WHEREAS, the undersigned Transferee has acquired title to the real property described in Exhibit "A", attached hereto and made a part hereof; and

WHEREAS, the undersigned Transferor wishes to assign its rights and obligations under the terms of that certain Developer Agreement and Addendum to Developer Agreement and Amendments thereto described above and a portion of its reserved capacity as provided for thereunder for the land described in Exhibit "A"; and

WHEREAS, the undersigned Transferee is desirous of accepting such assignment and assuming the obligations attendant thereto.

NOW, THEREFORE, in consideration of the mutual covenants

herein contained and other good and valuable considerations, the parties hereto agree as follows:

1. That which is set forth above is true and correct and incorporated herein as if fully set forth herein.

2. That the undersigned Transferor does hereby transfer and assign its right, title and interest, duties and responsibilities pertaining to the land described in Exhibit A, as contained in the aforescribed Developer Agreement and Addendum to Developer Agreement and Amendments thereto, of a total of 290 ERC's consisting of the Vested Capacity (as defined in the Second Amendment To Developer Agreement - Phase III) of 255 ERC's and 35 of the 157 garden apartment unit ERC's (as defined in the Second Amendment To Developer Agreement - Phase III). Notwithstanding transferor reserves all rights under the Developer Agreement with respect to the property retained by the Transferor as described in Exhibit "B".

3. The undersigned Transferee accepts the aforescribed assignment and agrees to assume those obligations attendant thereto under the provisions of the aforescribed Developer Agreement and Addendum to Developer Rights and Amendments thereto.

4. The undersigned Transferor and Transferee each represent to the City that this assignment of capacity is being transferred "at cost" as that term is defined under the provisions of the aforescribed Developer Agreement and Addendum to Developer Agreement and Amendments thereto.

5. The undersigned Transferor and Transferee understand and acknowledge that this assignment and transfer of capacity shall only be effective upon the consent of the City of Margate to this agreement in writing.

6. Transferor and Transferee agree to cooperate with each other with respect to complying with the provisions of this Assignment of Developer Rights and the Developer Agreement and Addendum to Developer Agreement and Amendments thereto.

[signature and text follows]

IN WITNESS WHEREOF, Transferor has executed this Agreement
this 5 day of December, 2013.

Transferor:

CELEBRATION POINTE TOWNHOMES,
INC., a Florida corporation

Witnesses:

Print Name: Anthony Mijares

Print Name: Lilly Perez

By: [Signature]
Name: ANTHONY MIJARES
Title: CHAIRMAN

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE) ss:

The foregoing Assignment of Developer Rights was acknowledged before me this
5 day of December, 2013, by Anthony Mijares, as
Chairman of CELEBRATION POINTE TOWNHOMES, INC., a Florida
corporation, on behalf of the company, who is personally known to me or produced
for identification.

[NOTARIAL SEAL]
LILLY M. PEREZ
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE163346
Expires 2/1/2016

Notary: [Signature]
Print Name: Lilly Perez
Notary Public, State of Florida
My commission expires: _____

IN WITNESS WHEREOF, Transferee has executed this Agreement this _____ day of _____, 2013.

Transferee:

CELEBRATION POINTE NORTH, LLC, a
Florida limited liability company

Witnesses:

[Signature]
Print Name: Corene Hernandez
[Signature]
Print Name: Michelle Garcia

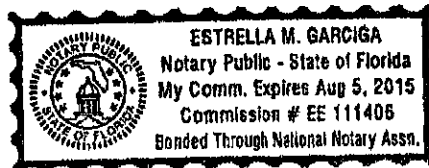
By: [Signature]
Name: Carlos M. Garcia
Title: Manager

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE) ss:

The foregoing Assignment of Developer Rights was acknowledged before me this 5 day of December, 2013, by Carlos M. Garcia, as Manager of CELEBRATION POINTE NORTH, LLC, a Florida limited liability company, on behalf of the company, who is personally known to me or produced _____ for identification.

[NOTARIAL SEAL]

Notary: [Signature]
Print Name: Estrella M. Garcia
Notary Public, State of Florida
My commission expires: 08-05-15



CONSENT TO ASSIGNMENT OF DEVELOPER RIGHTS

The undersigned consent to the foregoing instrument as set forth above and more specifically consent to the assignment and transfer of 290 Equivalent Residential Connections of reserve capacity consisting of the Vested Capacity (as defined in the Second Amendment To Developer Agreement - Phase III) of 255 ERC's and 35 of the 157 garden apartment unit ERC's (as defined in the Second Amendment To Developer Agreement - Phase III) by the aforesaid Transferor to the aforescribed Transferee and further acknowledges the release of the Transferor as to those obligations attendant to the assigned reserve capacity.

Witnesses:

Theresa Jones
Signature
Printed Name Theresa Jones

Melissa M. Miller
Signature
Print Name Melissa M. Miller

CITY OF MARGATE

Leon Perma
BY: Mayor

[Signature]
BY: City Manager

EXHIBIT A

LEGAL DESCRIPTION

NORTH PORTION (PHASE I)

A PORTION OF TRACT "A", CELEBRATION POINTE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 178, PAGE 67 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID TRACT "A"; THENCE SOUTH $00^{\circ}24'15''$ EAST, ALONG THE EAST LINE OF SAID TRACT "A", A DISTANCE OF 658.13 FEET; THENCE SOUTH $89^{\circ}32'44''$ WEST, ALONG A LINE RADIAL TO THE NEXT DESCRIBED CURVE, A DISTANCE OF 676.57 FEET TO A POINT ON THE ARC OF A CIRCULAR CURVE TO THE RIGHT; THENCE WESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 66.00 FEET AND A CENTRAL ANGLE OF $138^{\circ}59'49''$, A DISTANCE OF 160.11 FEET TO A POINT OF REVERSE CURVATURE OF A CIRCULAR CURVE TO THE LEFT; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 29.00 FEET AND A CENTRAL ANGLE OF $19^{\circ}51'24''$, A DISTANCE OF 10.05 FEET; THENCE SOUTH $89^{\circ}32'44''$ WEST, A DISTANCE OF 160.89 FEET; THENCE SOUTH $00^{\circ}27'16''$ EAST, A DISTANCE OF 13.00 FEET; THENCE ALONG THE BOUNDARY OF SAID TRACT "A" THE FOLLOWING FIVE (5) COURSES: SOUTH $89^{\circ}32'46''$ WEST, A DISTANCE OF 145.85 FEET; THENCE NORTH $01^{\circ}02'35''$ WEST, A DISTANCE OF 100.01 FEET; THENCE NORTH $89^{\circ}32'44''$ EAST, A DISTANCE OF 145.50 FEET; THENCE NORTH $01^{\circ}14'17''$ WEST, A DISTANCE OF 609.68 FEET; THENCE NORTH $89^{\circ}38'02''$ EAST, A DISTANCE OF 971.32 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN THE CITY OF MARGATE, BROWARD COUNTY, FLORIDA, AND CONTAIN 15.244 ACRES, MORE OR LESS.

Exhibit B

LEGAL DESCRIPTION

SOUTH PORTION (PHASE II)

A PORTION OF TRACT "A", CELEBRATION POINTE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 178, PAGE 67 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID TRACT "A"; THENCE SOUTH 00°24'15" EAST, ALONG THE EAST LINE OF SAID TRACT "A", A DISTANCE OF 658.13 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°32'44" WEST, ALONG A LINE RADIAL TO THE NEXT DESCRIBED CURVE, A DISTANCE OF 676.57 FEET TO A POINT ON THE ARC OF A CIRCULAR CURVE TO THE RIGHT; THENCE WESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 66.00 FEET AND A CENTRAL ANGLE OF 138°59'49", A DISTANCE OF 160.11 FEET TO A POINT OF REVERSE CURVATURE OF A CIRCULAR CURVE TO THE LEFT; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 29.00 FEET AND A CENTRAL ANGLE OF 19°51'24", A DISTANCE OF 10.05 FEET; THENCE SOUTH 89°32'44" WEST, A DISTANCE OF 160.89 FEET; THENCE SOUTH 00°27'16" EAST, A DISTANCE OF 13.00 FEET; THENCE ALONG THE BOUNDARY OF SAID TRACT "A" THE FOLLOWING THREE (3) COURSES: SOUTH 01°14'17" EAST A DISTANCE OF 611.59 FEET; THENCE NORTH 89°37'36" EAST A DISTANCE OF 952.09 FEET; THENCE NORTH 00°24'15" WEST, A DISTANCE OF 662.88 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN THE CITY OF MARGATE, BROWARD COUNTY, FLORIDA, AND CONTAIN 14.257 ACRES, MORE OR LESS

THE MARGATE ECONOMIC ENHANCEMENT DISTRICT (MEED); PROVIDING FOR AN EFFECTIVE DATE.

MOTION: SO MOVE.

Commissioner Donovan thanked the city staff for changing the name and explained that the reason was because the term "Brownfield" had such a bad connotation.

ROLL CALL: Commissioner Peerman, Yes; Commissioner Donovan, Yes; Commissioner McLean, Yes; Vice Mayor Talerico, Aye; Mayor Varsallone, Aye. The motion passed 5-0.

6) RESOLUTIONS - QUASI-JUDICIAL HEARINGS

- A. **RESOLUTION 11-828** - APPROVING A SPECIAL PERMIT FOR EXTENDED HOURS OF ALCOHOL SALES FOR CONSUMPTION ON PREMISES FOR PAUL'S CANTINA LLC (DBA) GOTROCKS AMERICAN PUB, 5466 WEST SAMPLE ROAD, MARGATE, FL. (PETITIONER: OWNER PAUL DIAS)

MOTION: SO MOVE.

ROLL CALL: Commissioner Peerman, Yes; Commissioner Donovan, Yes; Commissioner McLean, Yes; Vice Mayor Talerico, Aye; Mayor Varsallone, Yes. The motion passed 5-0.

7) DISCUSSION AND POSSIBLE ACTION

- A. CONSIDERATION OF AN EXTENSION OF APPROVALS FOR PUD MODIFICATION, PHASE I SITE PLAN APPROVAL, AND PARKING VARIANCE APPROVAL FOR CELEBRATION POINTE PUD LOCATED AT STATE ROAD 7 AND RANCHO BOULEVARD.

MOTION: SO MOVE.

ROLL CALL: Commissioner Peerman, No; Commissioner Donovan, Yes; Commissioner McLean, Yes; Vice Mayor Talerico, Aye; Mayor Varsallone, Yes. The motion passed 4-1.

- B. APPROVING CLOSING OF MARGATE BOULEVARD FOR THE MARGATE STREET FESTIVAL SPONSORED BY THE MARGATE CHAMBER OF COMMERCE ON FEBRUARY 26 AND 27, 2011.

MOTION: SO MOVE.

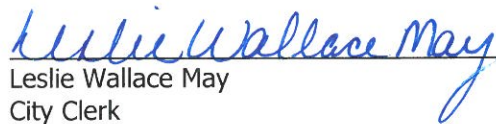
AMENDMENT: have the celebration across the street in the swap shop lot.

ROLL CALL ON THE AMENDMENT: Commissioner Peerman, No; Commissioner Donovan, No; Commissioner McLean, No; Vice Mayor Talerico, Aye; Mayor Varsallone, Aye. The amendment failed 2-3.

ROLL CALL ON THE ORIGINAL MOTION Commissioner Peerman, Yes; Commissioner Donovan, Yes; Commissioner McLean, Yes; Vice Mayor Talerico, Aye; Mayor Varsallone, Yes. The motion passed 5-0.

There being no further business, the meeting adjourned at 6:32 PM.

Respectfully submitted,


Leslie Wallace May
City Clerk


Date

2
AMENDMENT TO DEVELOPER AGREEMENT - PHASE III

THIS AMENDMENT TO DEVELOPER AGREEMENT - PHASE III ("Amendment") is made and entered into this 19 day of January, 2011, by and between CELEBRATION POINTE TOWNHOMES, INC., a Florida corporation (hereinafter referred to as "Developer") and the CITY OF MARGATE, a municipal corporation organized and existing under the laws of the State of Florida (hereinafter referred to as "City").

WHEREAS, the Developer and City entered into that certain Developer Agreement - Phase III and Addendum dated November 18, 2009 (the "Agreement"); and

WHEREAS, the Developer requested that the City agree to extend the deadline set forth in the Addendum to the Agreement relating to the Developer's payment of the amount owed to the City for the reservation of 157 ERC's from April 1, 2010, to April 1, 2012; and

WHEREAS, at its meeting on January 19, 2011, the City Commission voted to approve such request;

NOW, THEREFORE, for and in consideration of the mutual covenants and undertakings of the parties hereto, and other good and valuable considerations, the parties hereto covenant and agree, each with the other as follows:

1. The foregoing statements are true and correct and are incorporated herein by reference.

2. The last paragraph of Article A. of the Addendum to the Agreement is hereby amended to read as follows:

Notwithstanding any provision in this Article A. to the contrary, in the event Developer does not pay the applicable sum for each of the 157 ERCs reserved pursuant to the terms of this Addendum on or before April 1, 2012, then Developer shall thereafter pay the prevailing rates for each such ERC reserved for which prepayment has not been made as of that date.

3. Paragraph 1. of Article II of the Agreement is hereby amended to provide that the 30-day period referred to therein shall commence upon the execution of this Amendment by both parties.

4. All capitalized terms used in this Amendment without separate definition shall have the same meanings assigned to them in the Agreement.

5. As amended by this Amendment, the Agreement shall remain in full force and effect. In the event of a conflict between the provisions of this Amendment and the provisions of the Agreement, the provisions of this Amendment shall prevail.

6. This Amendment may be executed in any number of counterparts, each of which shall be considered an original and all of which taken together shall constitute one and the same Amendment. The parties agree and intend that a signature by facsimile machine shall bind the party so signing with the same effect as though the signature were an original.

7. This Amendment shall be construed and enforced in accordance with the laws of the State of Florida and shall be binding upon the heirs, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the Developer and the City have executed or have caused this Amendment as of the date first set forth above.

WITNESS:

Theresa Jones
Signature:
Printed Name: Theresa Jones

Carol D. Lorenzo
Signature:
Printed Name: CAROL D. Lorenzo

CITY OF MARGATE, FLORIDA

By: Mayor Joseph Varsallone
Mayor Joseph Varsallone

By: Francis J. Porcella
Francis J. Porcella
City Manager

APPROVED AS TO FORM:

Eugene Steinfeld
Eugene Steinfeld, City Attorney

DEVELOPER:

CELEBRATION POINTE TOWNHOMES,
INC., a Florida corporation

By: Anthony Mijares
Anthony Mijares

CITY OF MARGATE, FLORIDA

RESOLUTION NO. 11-314

A RESOLUTION OF THE CITY OF MARGATE, FLORIDA, PROVIDING THAT BROADSTONE MONTEBELLO (FORMERLY KNOWN AS RANCHO MARGATE MOBILE HOME PARK) IS NOT SUBJECT TO PROVISIONS OF RESOLUTION 11-285 AND ALLOWING BROADSTONE MONTEBELLO TO PREPAY ITS CONNECTION CHARGES PRIOR TO THE DATE THAT THE CITY OF MARGATE APPROVES NEW CONNECTION CHARGES; PROVIDING FOR ISSUING OF BUILDING PERMITS WITHIN 18 MONTHS.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF MARGATE, FLORIDA:

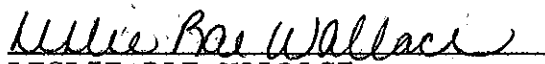
SECTION 1: That the City Commission of the City of Margate, Florida, hereby provides that Broadstone Montebello (formerly known as Rancho Margate Mobile Home Park) is not subject to the provisions of Resolution 11-285 and shall allow Broadstone Montebello to prepay its connection charges for water and wastewater connection to the utility system of the City of Margate prior to the date that the City of Margate approves new connection charges.

SECTION 2: If Broadstone Montebello is not issued building permits within 18 months of passage of this resolution the developer shall adhere to the provisions of Resolution 11-285.

SECTION 3: That this Resolution shall become effective immediately at the time of its passage.

PASSED, ADOPTED AND APPROVED THIS 1ST DAY OF October, 2008.

ATTEST:


LESLIE RAE WALLACE
CITY CLERK


MAYOR PAM DONOVAN

RECORD OF VOTE

McLean	AYE
Talerico	YES
Varsallone	YES
Bross	YES
Donovan	YES

CITY OF MARGATE

DEVELOPER AGREEMENT - PHASE III

THIS DEVELOPER AGREEMENT ("Agreement") is made and entered into this 18th day of November, 2009, by and between CELEBRATION POINTE TOWNHOMES, INC., a Florida corporation (hereinafter referred to as "Developer") and the CITY OF MARGATE, a municipal corporation organized and existing under the laws of the State of Florida (hereinafter referred to as "City").

WHEREAS, the Developer owns or controls lands located in Broward County, Florida, and described in Exhibit "A", attached hereto and made a part hereof as if fully set out in this paragraph and hereinafter referred to as "Property", and the Developer has or is about to develop the Property by erecting thereon such improvements as are in accord with the zoning laws and land use plans of the City of Margate, Broward County, or the City of Coconut Creek; and

WHEREAS, in order to meet the financing and general requirements of certain private agencies and certain Federal, State and local governmental agencies, such as, but not limited to the State Board of Health, the Department of Environmental Regulation, the Veterans' Administration, the Federal Housing Administration and private lending institutions, it is necessary that adequate water and sewage facilities and services be provided to serve the Property and to serve the occupants of each residence, building or unit constructed or located on the Property; and

WHEREAS, the Developer is not desirous of providing water and sewage facilities to serve the Property, but is desirous of promoting the construction of central water and sewage facilities by the City so that occupants of each residence, building or unit constructed or located thereon will receive adequate water and sewage service; and

[Prepared by Eugene M. Steinfeld, City Attorney,
City of Margate, 5790 Margate Blvd., Margate, FL 33063]

WHEREAS, the City is the owner and operator of public water treatment and/or sewage treatment plants, together with water distribution and/or sewage collection facilities, and the City is willing to operate such facilities so that the occupants of each residence, building or unit constructed on the Property will receive an adequate water supply and sewage disposal service from the City for the benefit of the public as determined by the City; and

WHEREAS, the Developer is desirous of the City to expand its central water and sewage facilities so as to serve the Property of the Developer; and

WHEREAS, it is the intention of the City to provide exclusive water and sewage facilities within the service area wherein the Property of the Developer lies;

NOW, THEREFORE, for and in consideration of the mutual covenants and undertakings of the parties hereto, and other good and valuable considerations, the parties hereto covenant and agree, each with the other as follows:

1. The foregoing statements are true and correct and are incorporated herein by reference.

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

(a) Property - All the land described in Exhibit A and all the land to which the City shall provide water and sewage service.

(b) Stage Area - Refers to a part of the Property which is being or is to be developed as a unit.

(c) Lot or Tract - Each building site as platted for record or as shown on the master plan and plat.

(d) Service - The readiness and ability on the part of the City to furnish water or sewage service to each lot. Thus, the maintenance by the City of adequate pressure at the point of delivery shall constitute the rendering of water service and the maintenance of a connection providing for the

removal and disposal of sewage service. Sewage service refers to sanitary sewer service.

(e) Point of Delivery - The Point where the pipes or meters of the City are connected with the pipes of the consumer. Unless otherwise indicated, point of delivery shall be at the point on the consumer's lot line.

(f) Consumer Installation - All facilities on the consumer's side of the point of delivery.

(g) Contribution in Aid-of-Construction - The sum of money and/or the value of Property represented by the cost of the water distribution and sewage collection systems including lift stations and treatment plants by the Developer, or owner, of the utility, which the Developer or owner transfers, or agrees to transfer, to the City in order to induce the City to provide utility service to the Property.

(h) Water and Sewer Extension Policy - The document creating a uniform method of determining the contribution in aid of construction to be borne by property owners, builders or Developers within the service area, all as more particularly set forth in Exhibit B attached hereto and made a part hereof by reference and as the same may be amended from time to time.

(i) Developer - The owner of the parcel of land described in Exhibit A.

ARTICLE I

A. It will be the obligation of the Developer, at his expense, to design, construct and install water distribution and sewage collection lines over, through, under and across the Developer's property in accordance with plans, specifications, and engineering data as submitted by a Florida registered engineer, to be approved by the City's engineers and/or administrator and said water distribution and sewage collection lines will be installed and connected to the City's existing water and sewage collection lines, all of which work shall be paid for by the Developer. Such water facilities to be installed at the Developer's expense shall include, but not be limited to, all services, distribution mains, and transmission mains required for the furnishing of service to the Developer's property.

Such sewage facilities to be installed at the Developer's expense shall include, but not be limited to, all services, gravity flow mains, force mains and lift stations required for the furnishing of service to the Developer's property.

B. The Developer shall, at his expense, retain the services of a registered professional engineer for the purpose of providing necessary inspection and supervision of the construction work to insure that construction is at all times in compliance with accepted sanitary engineering practices and the approved plans and specifications.

C. Prior to approval of said plans and specifications, however, the City shall receive written verification that:

1. If the Property is required by law to be placed prior to building construction, the platted area which the water and sewer facilities are to serve has been approved by all required City and County agencies and recorded in the Official Records of Broward County, Florida.

2. If the Property is not required to be platted, a Property Development Plan or similar plan has been approved by the City of Margate or the City of Coconut Creek or Broward County for the property in question.

D. The work to be performed by the Developer, as above provided for, may not be commenced until all plans and specifications covering the work to be performed are approved, in writing, by the City's engineers and/or administrator.

E. The work to be performed by the Developer pursuant to the provisions set forth herein shall be in accordance with all requirements of the regulatory agencies having jurisdiction of the subject matter of this Agreement.

F. The Developer will notify the City before any construction is begun and at the times when inspections will be required. Said notification shall be made in writing and shall be received by the City at least twenty-four (24) hours in advance.

G. During construction and at the time when periodic inspections are required, the City's engineers and/or administrator, or his authorized representatives, together with The Developer's engineer will be present to observe and jointly

witness tests for determination of conformance to approved plans and specifications.

H. As and when the water service and sewage collection systems have been satisfactorily installed, inspected, tested and approved in writing by the Developer's engineer, together with the City's engineers and/or administrator, the City will thereafter maintain the water service system and sewage collection system without cost to the Developer provided the obligation of the City to maintain the water service system and sewage collection system will not take effect until such time as the Developer has conveyed title to said systems to the City and furnished the as-built drawings described in Paragraph I below.

I. The Developer will, at his expense, furnish to the City one complete set of reproducible as-built drawings prepared by the engineer who designed the water service and sewage collection systems. Said as-built drawings shall also be carried by the engineer and must show all pertinent information as to the correct location of all mains, services, pumps, valves, manholes, laterals, easements, etc., affecting the water service and sewage collection systems as constructed in the field.

J. The Developer will pay to the City the applicable charges (as set by the City from time to time) for water meters and meter installations, meter security deposits, connection charges and capacity reservation charges and contributions in aid-of-construction as set forth in the Water and Sewer Extension Policy (attached as Exhibit B) as the same may be modified from time to time. Schedules of current meter fees and connection charges are attached hereto as Exhibit C.

K. Failure of the Developer to execute this Agreement within thirty (30) days after submission to the Developer shall result in its withdrawal.

L. Under no circumstances shall the City provide water and sewer service to a stage area encompassed under a Developer's Agreement when, in fact, that stage area has not been completed and tested, and as-built drawings provided, certified, approved and accepted by the City.

M. The Developer hereby agrees to make full disclosure to any party purchasing all or any part of the Property

encompassed by this Agreement as to the terms hereof, with particular reference to the charges set forth and of the rates set forth on Exhibit B and Exhibit C attached hereto and made a part hereof.

ARTICLE II

Upon completion, approval and acceptance of the work required to be done, without cost to the City, the Developer agrees to:

1. Within a period of thirty (30) days after the execution of this Agreement, at the expense of the Developer, either deliver to the City an abstract of title brought up to date, which abstract shall be retained by the City and remain the property of the City, or to furnish the City with an opinion of title from a qualified attorney 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 Developer agrees to provide the City, at the expense of the Developer, title insurance in connection with all warranty deed conveyances of lift station sites or easements covering areas in which water or sewer lines have been installed. The provisions of this Paragraph are for the purpose of evidencing the Developer's legal right to grant the exclusive rights of service contained in this Agreement. Any mortgage or lien holder having an interest in the property may be required to join in the grant of exclusive service rights set forth in this Agreement.

2. Convey to the City, in a form acceptable to the City Attorney, by good and sufficient easement deed, a perpetual right, easement, and privilege to operate and maintain all water and sewer mains, pipes, connections, pumps, and meters in connection with supplying water and sewer service to the inhabitants, occupants and customers in the Developer's property, together with a perpetual right, easement and privilege unto the City and its successors and assigns, to go in, under and upon the land or lands where said water and sewer mains, pipes, connections, pumps, and pumping stations, if any, are located in order for the City and its successors and assigns, to maintain, repair or replace same.

3. Transfer to the City by Bill of Sale Absolute, all the Developer's rights, title and interest in and to all of the

water and sewer supply lines, mains, pumps, connections, pipes, valves, meters and equipment installed within the lands described in Exhibit A attached hereto and made a part hereof, for the purpose of supplying water service and sewage collection for the inhabitants, occupants and customers in the Developer's property.

4. Furnish construction costs of all utility franchises constructed by the Developer and proposed to be transferred to the City.

5. Furnish the City with an affidavit that all persons, firms or corporations who furnished labor or material used directly or indirectly in the prosecution of the work required to be performed by this Agreement have been paid.

6. Furnish the City with a warranty or bond guaranteeing the facilities installed pursuant to this Agreement against defects in materials, equipment or construction for a period of not less than one (1) year from the date of acceptance of same by the City.

ARTICLE III

The City further covenants and agrees with the Developer as follows:

1. To furnish continuously, and as and when needed, good and efficient and sufficient sewer and water service to the Developer's property, with adequate pressure in the case of potable water.

2. To operate the sewage treatment plant(s) and water treatment plant(s) in an efficient manner in compliance with all governmental and quasi-governmental regulations.

3. To start and timely expand the sewage treatment plant and the water treatment plant as and when needed to prevent moratoriums being issued by any governmental authorities adversely affecting Developer.

4. The City shall provide service meeting the standards required by the Florida Department of Health and Rehabilitative Services, Department of Environmental Regulations, and any other regulatory agency having jurisdiction. The obligation of the City to furnish service other than construction water shall not arise until the

Developer has performed pursuant to this Agreement.

5. The City recognizes that the Developer herein has acted in reliance upon representatives and the reservation of capacity made by the City to the Developer herein and in the event permanent or substitute capacity are not made available as and when needed, the same shall be considered a breach of this Agreement by the City and the Developer shall have such remedies as may be available to it under the law.

6. The City shall furnish to the Developer, upon request, copies of any and all certificates by the design and inspecting engineers in relation to the construction plan for improvements. Further, the City shall make no draws against its capacity construction fund except upon certification of the design and/or inspecting engineers that the work or construction for which the draw is made has been completed.

ARTICLE IV

It is mutually covenanted and agreed by and between the parties hereto, as follows:

A. The City shall have the exclusive right to furnish water and sewer collection service to consumers within the area covered by this Agreement; and

B. The Developer shall do all things and make all installations and perform all work in accordance with the terms of this Agreement; and

C. Any sale, assignment or transfer of the Developer's interest in this Agreement is hereby prohibited without the written consent of the City; and

D. The Developer, successors, and assigns, and the owners and occupants of buildings on the Developer's property are hereby prohibited from installing or maintaining any water wells except for irrigation purposes; however, should the City be unable to provide water as provided for herein, Developer shall be allowed any recourse provided under the law; and

E. The Developer, successors, and assigns, and the owners and occupants of buildings on the Developer's

property are hereby prohibited from installing, maintaining or using septic tanks in connection with the disposal of sewage from said buildings; however, should the City be unable to provide sewage collection services as provided for herein, Developer shall be allowed any recourse provided under the law; and

F. The City shall have the right to promulgate from time to time reasonable rules and regulations relating to the furnishing of water service and sewage collection service to consumers within the area encompassed by this Agreement. Such rules and regulations may relate to but are not limited to rates, deposits, connection charges, prepayment of connection charges, capacity reservation charges, and the right to discontinue services under certain conditions; and

G. The City shall not be liable or responsible for the maintenance or operation of any pipes, pipelines, valves, fixtures or equipment on any of the properties of the Developer or customer on the Developer or customer's side of the point of delivery of water or sewage collection service; and

H. Each customer of water service and/or sewage collection service on the Developer's property shall keep all water pipes, service lines, connections and necessary fixtures and equipment on the premises occupied by said customer; and within the interior lines of the lot occupied by the customer in good order and condition. The sale of water by the City to the customer shall occur at the customer's side of the meter; and

I. No water from the City's water distribution system is to be used or disbursed through fire hydrants or water mains by any person, firm, corporation or agency, public or private, unless there has first been made adequate provisions for compensating the City for such water; and

J. Any temporary cessations or interruptions of the furnishing of water and sewer service to the Property described herein at any time caused by an act of God, fires, strikes, casualties, accidents, power failures, necessary maintenance work, breakdowns, damage to equipment or mains, Civil or Military authority, riots or other causes beyond the control of the City shall not constitute a breach of

the provisions contained herein or impose liability upon the City by the Developer, successors and assigns; nor shall any cessation of service or additional connections for service due to action by any governmental regulatory agency having jurisdiction over the City constitute said breach or impose liability due the City; and

K. If any section, subsection, sentence, clause, phrase or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

ARTICLE V

A. The provisions of this Agreement shall be binding upon and insure to the benefit of the successors and assigns of the parties hereto.

B. A memorandum of this Agreement may be recorded amongst the Public Records of Broward County, Florida for the particular purpose of placing all owners or occupants of properties in the Developer's Property connected to or to be connected to said water and sewer systems of the City upon notice of each and every one of the provisions herein contained to the same extent and with the same force and effect as if said owners and occupants had joined with the parties to this Agreement in the execution thereof; and the acquisition or occupancy of property in Developer's property connected to or to be connected to said water and sewage systems of the City shall be deemed conclusive evidence of the fact that said owners or occupants have consented to and accepted the Agreement herein contained and have become bound thereby.

ARTICLE VI

Whenever either party desires to give notice unto the other, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for which it is intended, at the place last specified as the place for giving of notice and shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for the giving of notice, to-wit:

FOR THE CITY:

5790 Margate Blvd.
Margate, Florida 33063

FOR THE DEVELOPER:

CELEBRATION POINTE TOWNHOMES,
INC.
7975 NW 154TH Street
Miami Lakes, FL 33016

Notice so addressed and sent by registered mail, with return receipt requested, shall be deemed given when it shall have been so deposited in the United States Mail system.

ARTICLE VIII

A. Provided that:

(i) it is not within the control of the City; or
(ii) a change of rules, regulations, or laws other than those enacted by the City, subsequent to the date of this Agreement, preventing the same, it is mutually agreed that the City shall be held harmless from any and all liability for damages if the City's obligations under this Agreement cannot be fulfilled as a result of any ruling or order by any other governmental or regulatory agency having jurisdiction over the subject matter hereof; and in such event, this Agreement shall be null and void and unenforceable by either party.

B. The rights, privileges, obligations and covenants of the Developer and the City shall survive the completion of the work of the Developer with respect to completing the water and sewer facilities and services to any stage area and to the Property as a whole.

C. This agreement supersedes all previous agreements or presentations, either verbal or written, heretofore in effect between the Developer and the City made with respect to the matters herein contained, and when duly executed, constitutes the agreement between the Developer and City. 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.

ARTICLE VIII

The City reserved unto itself the right to increase plant capacity deemed necessary in order to provide water and/or sewer services for new users. In so doing, the City may require specific reservation of capacity and prepayment of such connection charges as are necessary to construct expanded facilities along with a procedure to implement same.

IN WITNESS WHEREOF, the Developer and the City 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 copy of this Agreement.

WITNESSES:

CITY OF MARGATE, FLORIDA

Leslie Wallace May
Signature:

Printed Name: Leslie Wallace May

Carol Di Lorenzo
Signature:

Printed Name: Carol Di Lorenzo

By: [Signature]

Mayor

By: [Signature]

Francis J. Porcella
City Manager

APPROVED AS TO FORM:

DEVELOPER:

CELEBRATION POINTE
TOWNHOMES, INC., a Florida
corporation

By: [Signature]

Silvio A. Cardoso
President

[Signature]
Eugene M. Steinfeld
City Attorney

PHASE III

ADDENDUM TO DEVELOPER AGREEMENT

THIS ADDENDUM TO DEVELOPER AGREEMENT ("Addendum") is made and entered into this 18th day of November, 2009, by and between CELEBRATION POINTE TOWNHOMES, INC., a Florida corporation (hereinafter referred to as "Developer") and the CITY OF MARGATE, a municipal corporation organized and existing under the laws of the State of Florida (hereinafter referred to as "City").

WHEREAS, the Developer entered into a Developer Agreement with the City; and

WHEREAS, the City has the exclusive right to provide water and sewer facilities within the service area of the Utility Department of the City of Margate, Florida; and

WHEREAS, the City Commission of the City of Margate, Florida, has adopted studies in order to properly provide for the planning and implementation of the construction of water and sewer facilities in the service area of the Utility Department of the City of Margate, Florida; and

WHEREAS, the City Commission of the City of Margate, Florida, has determined that the cost of the construction of the expanded water and sewer facilities for the service area of the Utility Department of the City of Margate, Florida, shall not be at the cost of nor subsidized by the rates of the present users in the system, but at the cost of users requiring expanded facilities; and

WHEREAS, the Florida Supreme Court in Contractors and Builders vs. The City of Dunedin, 329 So.2d 314 (Fla. 1976), has stated that a municipality need not resort to deficit financing in order to raise capital; and

WHEREAS, the City has contracted with the Developer to provide water and sewer facilities for certain properties which are more properly described in the Developer Agreement between the City to which this Addendum shall be attached; and

WHEREAS, the City, by ordinance, has provided for establishment of charges intended to defray the costs of construction of expanded water and sewer

facilities in the service area of the Utility Department of the City of Margate; and

WHEREAS, the City Commission of the City of Margate wishes at all times to foster the orderly development of land within the City, and to foster the construction of only those water and sewer facilities which are specifically needed and to have the users of the expanded constructed facilities for water and sewer within the Utility System of the Utility Department of the City of Margate pay the cost of the construction of said facility; and

WHEREAS, the Developer herein wishes to reserve specific capacity for all or a certain portion of the property which is described in the original Developer Agreement with the City of Margate; and

WHEREAS, the Developer wishes to have the City reserve that specific capacity which it desires; and

WHEREAS, the City recognizes that the Developer herein has acted in reliance upon the representations of the City and the reservation of capacity made by the City to the Developer herein; and

WHEREAS, the Developer understands that the City had in 1983 created a Phase I for the expansion of its water and sewer facilities wherein Developers throughout the City had reserved specific capacity for such expansion by buying connection charges which will be, or have been, utilized for the construction of said facilities; and

WHEREAS, the City of Margate had, by a second phase, expanded its water and wastewater facilities and reserved capacity thereunder; and

WHEREAS, the Property was previously used as a mobile home park, and the Developer has a vested reservation of water and sewer capacity for the Property based on 255 mobile homes, provided the Developer pays to the City the amount of \$76,500 (255 x \$300) prior to the issuance of the first building permit for a lot or parcel governed by this Addendum; and

WHEREAS, the City also previously granted the Developer a Land Use Plan Amendment and Planned Unit Development (PUD) zoning approval for the development of 412 townhomes on the Property, for which the Developer may utilize the reserved

capacity for the 255 mobile homes previously existing on the Property, leaving a remaining capacity reservation fee due for 157 residential units ($412 - 255 = 157$) at the applicable rate(s) herein provided; and

WHEREAS, the City wishes to begin a new phase of expansion of its water and sewer system to be made at the cost of prospective users, necessitating a third expansion of the water and sewer system; and

WHEREAS, the Developer has changed its position in reliance upon the representations of the City;

NOW, THEREFORE, for and in consideration of the mutual covenants and undertakings of the parties hereto and other good and valuable considerations, the parties hereto covenant and agree each with the other as follows:

The above statements are true and correct and are incorporated herein by reference.

A. CONNECTION CHARGES - PREPAYMENTS FOR CAPACITY SPECIFICALLY ALLOCATED HEREIN

The parties recognize that pursuant to the City's Uniform Extension Policy, and the ordinances of the City, the City has established a connection charge to defray the cost of corresponding to and allocable to each equivalent residential prepaying connection charges in the amounts as set forth elsewhere herein, and in further consideration of the Developer changing its position in reliance upon said reservation of capacity, the City herein and hereby specifically reserves such capacity to the Developer herein as is set forth hereinbelow. As of the date of this Addendum, and for the number of ERCs herein reserved, the connection charges (water and sewer combined) are:

Single Family (i.e., one meter per unit) - \$2000/unit

Multi-Family (i.e., all of the units in one building are metered together) - \$1,272.03/unit

The Developer herein agrees to pay said connection charges in accordance with the terms and conditions and at the times set forth herein and the ordinances of the City of Margate.

Further, pursuant to the ordinances of the City, same requires the advance payment of said connection charges. The City is herein and hereby allocating the appropriate ERCs to the Developer herein and reserving the said capacity for the Developer herein. Accordingly, the Developer shall be obligated to pay the applicable sum for each ERC reserved pursuant to the terms of this Addendum prior to the issuance of each building permit commencing with the issuance of the 256th building permit for a lot or parcel governed by this Addendum.

By these presents, the Developer herein expressly reserves 157 ERCs of water and sewer treatment plant capacity for its project, calculated as follows:

The total amount owed to the City by the Developer for the 157 reserved ERCs shall be calculated by multiplying 157 times the applicable rate(s) per ERC set forth above. For example, if the Developer builds all single-family units, then the amount owed for the 157 units would be calculated as follows: $157 \times \$2000 = \$314,000$; and if the Developer builds all multi-family units, then the amount owed for the 157 units would be calculated as follows: $157 \times \$1,272.03 = \$199,708.71$.

Notwithstanding any provision in this Article A. to the contrary, in the event Developer does not pay the applicable sum for each of the 157 ERCs reserved pursuant to the terms of this Addendum on or before April 1, 2010, then Developer shall thereafter pay the prevailing rates for each such ERC reserved for which prepayment has not been made as of that date.

B. UTILIZATION AND ASSIGNMENT OF CAPACITY

Capacities reserved herein are primarily intended for use on the property of the Developer described in Exhibit A attached hereto and made a part thereof. Notwithstanding this basic policy, the Developer shall be entitled to transfer all or a portion of the capacity reserved herein to another property within the service area owned by the Developer herein, or an affiliated company in which the Developer has an interest. The Developer shall further be entitled to assign all or a portion of the capacity reserved herein to another person, firm or corporation for use on another property provided the following conditions are met:

1. The transfer of capacity is at the cost to Developer. In this context, "the cost" may include interest carrying charges or costs of money.

2. All such transfers shall be evidenced by written documents entitled "Assignment of Treatment Plant Capacity". Such assignment shall be submitted to the City for review. The purpose of this provision is to enable the City and any other party in interest to identify the holder or holders of all its capacity rights at all times.

3. The transferor and the transferee shall each submit a sworn statement to the City indicating clearly that the capacity is transferred "at cost", as that term is used herein.

Capacities may also be transferred, in like manner, in the event that the property described in the Developer Agreement to which this Addendum is attached, is sold by the Developer to a third party owner.

C. EQUIVALENT CAPACITIES

The City represents to the Developer herein that the formula that is to be used during the life of this Agreement for determining ERCs shall be that contained in the Tables of Section 24-73 of the Margate City Code, which exists as of the date of execution of this Agreement, a copy of which may be had at the City Clerk's office of the City of Margate, same being considered to be a part of this Agreement as fully set forth herein. The above referred ordinance shall remain the capacity equivalents which pertain to the developer project notwithstanding same may be amended from time to time by the City in the future.

D. CAPACITY RESERVATION FEES

The parties hereto agree that upon the application for a building permit on a lot or parcel governed by this Agreement, the developer/property owner shall accrue and be charged with capacity reservation fees in order to fully or partially defray the City of Margate's cost in maintaining and administering water and sewer facilities held for its use. Such fee shall be payable by the developer/property owner at such time as there is connection to the system.

The City has recognized that the Developer herein and all developers participating in the Phase III expansion program have prepaid, in cash, connection charges corresponding to the determined cost of facilities to be constructed in the future. Such prepayment will relieve the City of the burden of

carrying the capital cost of reserved future facilities. In recognition of the participation of developers whose projects and capacity utilization may extend over a term of years, the City has established a formula for calculating capacity reservation fees, which is contained in Section 24-71 of the Margate City Code, which exists as of the date of execution of this Agreement, a copy of which may be had at the City Clerk's office of the City of Margate, same being considered to be part of this Agreement as fully set forth herein. The above referred ordinance shall remain the capacity equivalents which pertain to the developer project notwithstanding same be amended from time to time in the future.

E. COMPLETE AGREEMENT

This Agreement constitutes the complete agreement between the parties except as to the original Developer Agreement entered into by the parties herein or their predecessors. It is the intent of the parties herein that this Addendum to Developer Agreement be supplemental and not in conflict with the Developer Agreement but where there is deemed to be a conflict between the terms of the Developer Agreement and this Addendum, the terms of this Addendum shall control.

IN WITNESS WHEREOF, the Developer and the City have executed or have caused this Addendum to Developer Agreement to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Addendum to Developer Agreement.

WITNESS:

Carol Di Lorenzo
Signature:
Printed Name: CAROL DiLorenzo

Diane Minutoli
Signature:
Printed Name: Diane Minutoli

CITY OF MARGATE, FLORIDA

By: [Signature]
Mayor

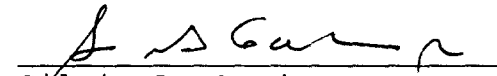
By: [Signature]
Francis J. Porcella
City Manager

APPROVED AS TO FORM:

[Signature]
Eugene Steinfield, City Attorney

DEVELOPER:

CELEBRATION POINTE TOWNHOMES,
INC., a Florida corporation

By: 
Silvio A. Cardoso
President

THIS IS NOT AN
OFFICIAL COPY

EXHIBIT "A"

DESCRIPTION OF PROPERTY

Tract "A" of Celebration Pointe, according to the Plat thereof recorded at Plat Book 178, Page 67, Public Records of Broward County, Florida.

THIS IS NOT AN
OFFICIAL COPY

5. **DISCUSSION AND POSSIBLE ACTION** – EXEMPTING MONTEBELLO APARTMENT (F/K/A RANCHO MARGATE MOBILE HOME PARK FROM THE NEW POLICY REFLECTED IN RESOLUTION NO. 11-285 ADOPTED ON SEPTEMBER 10, 2008. (Requested by Commissioner McLean)

After the City Attorney read the item title, the following motion was made by Vice Mayor Bross, seconded by Commissioner McLean:

MOTION: SO MOVE FOR DISCUSSION.

The following motion was made by Commissioner McLean, seconded by Commissioner Varsallone:

MOTION: TO APPROVE.

Mayor Donovan told Mr. Mijares that if he did not receive building permits within 18 months, he would have to pay what the resolution stated.

Tony Mijares, Developer, agreed. He explained that there were 255 units that were exempt. He said that if there was a time frame he would have to adhere to it; however, if there was not time frame he wanted the 255 units to remain as credits earned.

The City Attorney agreed.

Mayor Donovan reiterated that building permits must be issued within 18 months, and she requested that an amendment be made.

The following amendment was made by Vice Mayor Bross, seconded by Commissioner McLean:

AMENDMENT: TO AMEND RESOLUTION 11-285, PROVIDING FOR WHAT THE MOTION HAD BEEN MADE AS AMENDED.

Mr. Mijares explained that the project was done in two phases, and he asked whether he could get 24 months instead of 18 months. He noted that he was building 290 units in the first phase.

Mayor Donovan said that the ordinance would affect everybody; therefore, the City Commission could not keep giving extensions to Mr. Mijares. She said that at the 18-month deadline, Mr. Mijares could come back.

Vice Mayor Bross asked whether additional facilities were needed for the plat.

Emilio Esteban, Director of Environmental and Engineering Services (DEES), said, "Yes", because of the State requirement to build an alternative water supply, which would be started in 2010. Vice Mayor Bross asked whether utilities had to be sufficient for the whole development. Mr. Esteban said that the issue was whether or not the Petitioner had to prepay at the existing rates. Vice Mayor Bross asked whether the City would have to lay out money for the second phase before the Developer paid for it. Mr. Esteban said that the construction would probably start before the second phase of the project; therefore, he agreed that the City would have to pay first.

Mr. Mijares explained that he received prior approval for 412 units, and that the first 255 units were vested. He said that he wanted to prepay for the difference between the 255 units and the 412 units. He said that the project would go to 580 units, and that if he did not pull permits within 18 months, he would pay for the prevailing rates for everything over the 412 units.

Attorney Gerald Knight said that Mr. Mijares also wanted to prepay up to the 412 units; however, that would have to be done within 18 months or another extension would have to be requested.

Vice Mayor Bross clarified that 290 units would be built in the first phase, with 255 units being prepaid and the difference between 255 units and 290 units would be paid when pulling permits. He added that the balance would be paid in 18 months.

Rich Popovic, 6066 Winfield Boulevard, mentioned that the gentlemen present were from United Homes. He commented on contributions made by the Developer.

Robert Perkis, 2901 NW 68 Terrace, stated that the impact fee that the City normally collected was \$2,000 per residential home. He noted that the restaurant opening across from City Hall was paying \$28,000 to get the water and sewer connected in a 40-year old building that would probably be torn down in the future. He said that in comparison to the projected use, the mobile home park used almost no water. He stated that the water system's revenue had already been used to finance the road bonds. He felt that the Petitioner should not be vested, because the permits ran out and everything started over again.

Mayor Donovan explained that the development began a while back. She noted that two weeks to a month ago the City changed a resolution to increase the fees. She said that it was unfair to increase the fees middle stream, which was why the Developer was being given 18 months to complete the project or adhere to the new resolution.

Vice Mayor Bross noted that when the property was purchased from the prior owner, the ERCs were also purchased.

Commissioner McLean stated that the restaurant across from City Hall was not charged \$28,000, because there were ERCs paid.

Scott Yardley, 5948 Winfield Boulevard, commented on \$3,500 received from the Developer in the last election.

Commissioner McLean stated that United Homes did donate to his campaign legally, and that United Homes had the right to donate to a campaign.

Vice Mayor Bross agreed with Commissioner McLean. He noted that there were no Homestead Exemptions, because the units were rentals.

Commissioner Varsallone said that he was unaware of the rental charge; however, it was usually cheaper than purchasing a home. He asked that people making statements were exact with their information.

Commissioner Talerico thanked Mr. Mijares for the contributions, and he noted that the several thousands of dollars left over from the donations were given to charities in the community.

Liz Grail, 6300 NW 11 Street, asked whether the Developer considered the impact on the schools.

Mayor Donovan noted that was done prior to any approvals.

ROLL CALL ON THE

MOTION AS AMENDED: Commissioner McLean, Aye; Commissioner Talerico, Aye, Commissioner Varsallone, Yes; Vice Mayor Bross, Yes; Mayor Donovan, Yes. The motion passed 5-0.

THE MARGATE ECONOMIC ENHANCEMENT DISTRICT (MEED); PROVIDING FOR AN EFFECTIVE DATE.

MOTION: SO MOVE.

Commissioner Donovan thanked the city staff for changing the name and explained that the reason was because the term "Brownfield" had such a bad connotation.

ROLL CALL: Commissioner Peerman, Yes; Commissioner Donovan, Yes; Commissioner McLean, Yes; Vice Mayor Talerico, Aye; Mayor Varsallone, Aye. The motion passed 5-0.

6) RESOLUTIONS - QUASI-JUDICIAL HEARINGS

- A. **RESOLUTION 11-828** - APPROVING A SPECIAL PERMIT FOR EXTENDED HOURS OF ALCOHOL SALES FOR CONSUMPTION ON PREMISES FOR PAUL'S CANTINA LLC (DBA) GOTROCKS AMERICAN PUB, 5466 WEST SAMPLE ROAD, MARGATE, FL. (PETITIONER: OWNER PAUL DIAS)

MOTION: SO MOVE.

ROLL CALL: Commissioner Peerman, Yes; Commissioner Donovan, Yes; Commissioner McLean, Yes; Vice Mayor Talerico, Aye; Mayor Varsallone, Yes. The motion passed 5-0.

7) DISCUSSION AND POSSIBLE ACTION

- A. CONSIDERATION OF AN EXTENSION OF APPROVALS FOR PUD MODIFICATION, PHASE I SITE PLAN APPROVAL, AND PARKING VARIANCE APPROVAL FOR CELEBRATION POINTE PUD LOCATED AT STATE ROAD 7 AND RANCHO BOULEVARD.

MOTION: SO MOVE.

ROLL CALL: Commissioner Peerman, No; Commissioner Donovan, Yes; Commissioner McLean, Yes; Vice Mayor Talerico, Aye; Mayor Varsallone, Yes. The motion passed 4-1.

- B. APPROVING CLOSING OF MARGATE BOULEVARD FOR THE MARGATE STREET FESTIVAL SPONSORED BY THE MARGATE CHAMBER OF COMMERCE ON FEBRUARY 26 AND 27, 2011.

MOTION: SO MOVE.

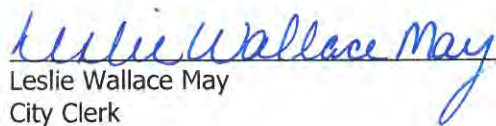
AMENDMENT: have the celebration across the street in the swap shop lot.


ROLL CALL ON THE AMENDMENT: Commissioner Peerman, No; Commissioner Donovan, No; Commissioner McLean, No; Vice Mayor Talerico, Aye; Mayor Varsallone, Aye. The amendment failed 2-3.

ROLL CALL ON THE ORIGINAL MOTION Commissioner Peerman, Yes; Commissioner Donovan, Yes; Commissioner McLean, Yes; Vice Mayor Talerico, Aye; Mayor Varsallone, Yes. The motion passed 5-0.

There being no further business, the meeting adjourned at 6:32 PM.

Respectfully submitted,


Leslie Wallace May
City Clerk


Date



INTEROFFICE MEMORANDUM

DEPARTMENT OF ENVIRONMENTAL AND ENGINEERING SERVICES

DATE: September 9, 2013

TO: Jerry Blough, City Manager 

FROM: Reddy Chitepu, P.E., Director 

RE: Celebration Point – Extension of Developer Agreement and Fiscal Impact to City

As requested, please find below a bullet point summary of the background for the above referenced developer agreement and its fiscal impact to the City:

- The original agreement was approved by the City Commission on November 18, 2009.
- The agreement allowed the developer to pay the water and sewer impact fees (Equivalent Residential Connection Charges – ERC's) for the proposed development at the old rate of \$2,000/ERC compared to the prevailing rate of \$3,710/ERC, since the rate change became effective within two weeks of the developer proposing the project.
- The agreement was restricted to 18 months, and if the development were not built within the time limits then the prevailing rate would apply.
- Due to the economic downturn, the project development was delayed, and the agreement was extended to April 1, 2012 at the request of the developer.
- The developer is currently proposing 580 apartment units and is requesting that the City extend the term of the already expired agreement through April 1, 2015.
- With the extension, the water and sewer impact fee would be \$532,270.
- Without the extension, the water and sewer impact fee would be \$800,740.
- The fiscal impact to the City if the extension is approved is \$268,470.
- A detailed breakdown of the ERC calculations reflecting the impact is attached.

Please call me if you have any questions.

RC/cam

cc: Ben Ziskal, Director, Economic Development

Fiscal Impact to City

Mobile Homes	255 Units
New Apartments	325 Units
Total	580 Units

Equivalent Residential Connection (ERC) calculation for new units:

Water	325	0.537 ERC/Unit	174.525 ERC's
Wastewater	325	0.66 ERC/Unit	214.5 ERC's

ERC fee calculation with extension:**Agreement (Old Connection Charges)**

Water	157 ERC's	\$390	\$61,230
Wastewater	157 ERC's	\$1,610	\$252,770

Outside Agreement (New Connection Charges)

Water	17.525 ERC's	\$1,790	\$31,370
Wastewater	57.5 ERC's	\$1,920	\$110,400
New Development			

Mobile Homes - Reconnection Charge	255 Units	\$300	\$76,500
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Total ERC fee with extension			\$532,270
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ERC fee calculation without extension:

Water	174.525 ERC's	\$1,790	\$312,400
Wastewater	214.5 ERC's	\$1,920	\$411,840

Mobile Homes - Reconnection Charge	255 Units	\$300	\$76,500
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Total ERC fee without extension			\$800,740
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Impact to City	\$268,470
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INTEROFFICE MEMORANDUM

FROM THE ECONOMIC DEVELOPMENT DEPARTMENT

DATE: September 11, 2013

TO: Jerry A. Blough, City Manager

FROM: Benjamin J. Ziskal, AICP, Director of Economic Development

SUBJECT: Celebration Pointe Fee reduction request revision

Pursuant to a discussion I had today with the attorney and engineer for the Celebration Point project and item 5B on tonight's City Commission, please accept this memo as clarification to the request being sought.

- The original Developer's Agreement provided that a reduced water and wastewater impact fee would apply to 157 ERCs.
- The agreement was signed when the project was proposed as a townhouse development wherein each townhouse unit had an impact of 1 water ERC and 1 wastewater ERC.
- 157 was the number used because the project was approved for 412 townhouses, which equals 157 more units than the previous 255 site mobile home park.
- The project was subsequently changed to be a 580 apartment project, which equals 168 more dwelling units than the previously approved 412 unit townhouse project.
- Each apartment has an impact of 0.537 water ERCs and 0.66 wastewater ERCs
- The applicant is requesting a reduction in the fees for 157 of the dwelling units (which equates to 84.309 water ERCs and 103.62 wastewater ERCs), not 157 ERCs for each.
- The applicant is asking for no reduction in the fees for the last 168 units of the project.
- The total revenue owed to the City if the request is granted would be \$650,585.
- **This revision means that the applicant is requesting a reduction of \$150,155 in fees, NOT \$268,470.**

I have attached a revised spreadsheet, reflecting this change.

BJZ

cc: City Commission, City Attorney, DEES Director, City Clerk

Fiscal Impact to City								
Mobile Homes		255	Units					
New Apartments		325	Units					
Total		580	Units					
ERC calculation for new units:								
Requested Old Rate Water			157	0.537	ERC/Unit	84.309	ERC's	
Requested Old Rate Wastewater			157	0.66	ERC/Unit	103.62	ERC's	
Requested New Rate Water			168	0.537	ERC/Unit	90.216	ERC's	
Requested New Rate Wastewater			168	0.66	ERC/Unit	110.88	ERC's	
Total Water			325	0.537	ERC/Unit	174.525	ERC's	
Total Wastewater			325	0.66	ERC/Unit	214.5	ERC's	
ERC fee calculation with extension:								
Agreement (Old Connection Charges)								
Water					84.309		\$390	\$32,881
Wastewater					103.62		\$1,610	\$166,828
Outside Agreeemnt (New Connection Charges)								
Water					90.216		\$1,790	\$161,487
Wastewater					110.88		\$1,920	\$212,890
New Development								
Mobile Homes - Reconnection Charge					255		\$300	\$76,500
Total ERC fee with extension								\$650,585
ERC fee calculation without extension:								
Water		325	0.537	ERC/Unit	174.525		\$1,790	\$312,400
Wastewater		325	0.66	ERC/Unit	214.5		\$1,920	\$411,840
Mobile Homes - Reconnection Charge					255		\$300	\$76,500
Total ERC fee without extension								\$800,740
			Impact to City					\$150,155