

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Conditional Utility Agreements for Water and Sewer for Hawthorne Glenn

**DEPARTMENT:** Environmental Services **DIVISION:** Business Office

**AUTHORIZED BY:** *Robert Adolphe* **CONTACT:** *Becky Noggle* **EXT.** 2143 *AS*  
Robert Adolphe, Director Becky Noggle, Sr. Coordinator

Agenda Date 7/13/04 Regular  Consent  Work Session  Briefing   
Public Hearing – 1:30  Public Hearing – 7:00

**MOTION/RECOMMENDATION:**

Approve and Authorize Chairman to execute the Conditional Utility Agreement for Water and Sewer services.

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**BACKGROUND:**

Conditional Utility Agreements for water and sewer service between Seminole County and **Centex Homes**. These Agreements are for the project known as **Hawthorne Glenn** for 71,200 gpd for water and 67,500 gpd for sewer. District 1

Reviewed by:  
Co Atty: N/A  
DFS: N/A  
Other: \_\_\_\_\_  
DCM: *[Signature]*  
CM: *[Signature]*  
  
File No. CESA01

**CONDITIONAL UTILITY AGREEMENT  
FOR  
SEWER SERVICE**

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between **SEMINOLE COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY" and **CENTEX HOMES**, hereinafter referred to as "DEVELOPER," a Nevada General partnership, hereinafter referred to as "DEVELOPER".

**W I T N E S S E T H :**

**WHEREAS**, DEVELOPER owns lands located in Seminole County, Florida as described in Exhibit "A" and shown on the Survey in Exhibit "B" attached hereto (the "Property"), and DEVELOPER intends to develop the Property; and

**WHEREAS**, DEVELOPER has requested that the COUNTY provide sewer service for the Property; and

**WHEREAS**, the County is willing to provide sewer service to the Property and thereafter to operate the utility facilities so that the occupants of the improvements on the Property will receive sewer service from COUNTY in accordance with the provisions of this Agreement;

**NOW, THEREFORE**, for and in consideration of the premises and the mutual undertakings and agreements herein contained and assumed ~~and the Sewer Agreement attached hereto as Exhibit "C,"~~ DEVELOPER and COUNTY hereby covenant and agree as follows:

**SECTION 1. PREAMBLE.** The foregoing statements are true and correct.

**SECTION 2. DEFINITIONS.** The following definitions of terms used in this Agreement shall apply unless the context indicates a different meaning:

(a) **"Application"** - A request in writing on forms provided by COUNTY from DEVELOPER or a consumer requesting specific sewer service pursuant to the DEVELOPER's Agreement.

(b) **"Connection Fees"** - A fee or charge paid to the COUNTY by DEVELOPER for the purpose of obtaining sewer capacity. Connection fees will be utilized for the acquisition, improvement, expansion and construction of facilities required to furnish present or future sewer capacity and service to the Property. The amount shall be determined in accordance with the COUNTY schedule of rates in effect from time to time.

(c) **"Consumer Installation"** - All facilities ordinarily on the consumer's side of the point of delivery (e.g. curb stop, lateral connections.)

(d) **"Consumer's Point of Delivery"** - Unless otherwise specified herein, the point where the sewer service is connected to the consumer's service lateral, which shall be, where possible, at the consumer's property line.

(e) **"Contribution-in-Aid-of-Construction (CIAC)"** - The sum of money and/or the value of property required as a prerequisite to service to the Property.

(f) **"Development Phase"** - A subdivision or construction phase of the construction of utility facilities on Property.

(g) **"Developer's Point of Delivery"** - The point where the sewer service enters the DEVELOPER's Property or the point of connection of DEVELOPER's off-site installation to the COUNTY's system pursuant to Section 8.

(h) **"Equivalent Residential Connection (ERC)"** - A factor used to convert a given average daily flow (ADF) to the equivalent number of residential connections. For this purpose the average daily flow of one equivalent residential connection (ERC) is 300 gallons per day (GPD). The number of ERC's contained in a given ADF is determined by dividing that ADF by 300 GPD. (Note: ERC's are calculated as a whole number).

(i) **"Facilities"** - See Utility Facilities.

(j) **"FDEP"** - The Florida Department of Environmental Protection, or its successor agency.

(k) **"GPD"** - Gallons per day.

(l) **"Installation"** - See Utility Facilities.

(m) **"Property"** - The land described in Exhibit "A" and shown on the survey in Exhibit "B" attached hereto.

(n) **"Service" or "Utility Service"** - The readiness and ability of the COUNTY to furnish and maintain sewer service to the point of delivery.

(o) **"Service Rates" or "Rates"** - The COUNTY's existing and future schedules of rates and charges for sewer service, including connection fees, meter set fees, and all other fees and charges which from time to time are in effect pursuant to ordinances, resolutions or policies adopted by COUNTY. The schedules of Service Rates shall be of general

and uniform application within the COUNTY-wide water and sewer utility system.

(p) **"Utility Facilities"** or **"Facilities"** or **"Installations"** - Utility facilities means and includes all equipment, fixtures, pumps, lines, mains, manholes, lift stations, pumping stations, laterals, service connections, and appurtenances together with all real property, easements and rights-of-way necessary to provide sewer service to the Property whether located on-site or off-site. The words "Utility Facilities," "Sewer Facilities," "Facilities," or "Installations" shall be interchangeable unless otherwise indicated by the context.

**SECTION 3. CAPACITY ALLOCATION.** The parties agree that the capacity needed to provide service to the Property is 67,500 gallons per day for sewage collection, which is estimated to be 225 ERC.

Capacity allocation is subject to the Florida Department of Environmental Protection (Section 403.021, Florida Statutes, and Florida Administrative Code Rules 17-4.07 and 17-4.15) approval of applicable permits for the Property. Should the Florida Department of Environmental Protection (FDEP) refuse to issue applicable permit(s) solely because capacity is not available, the DEVELOPER may request COUNTY to rescind the allocation of capacity.

DEVELOPER agrees that the number of units of capacity (ERC's) reserved hereby shall not exceed the number of units of development pursuant to Exhibits "A" and "B", and that the gallonage calculation to determine number of ERCs is for the purpose of allocating a given number of units of capacity (ERC) for the Property and not for purposes of any other calculations.

**SECTION 4. AGREEMENT TO SERVE.** Upon the completion of construction of sewer facilities by DEVELOPER, satisfactory inspections, the issuance of the final letter of acceptance by COUNTY, and subject to the terms of this Agreement, COUNTY agrees to permit connection of the sewer facilities installed by the DEVELOPER to the central facilities of COUNTY and to provide utility service in accordance with the terms and intent of this Agreement. Such connections shall at all times be in accordance with rules, regulations and orders of the applicable governmental authorities. COUNTY agrees that once DEVELOPER or others have connected consumer installations to COUNTY's central facilities, COUNTY will continuously provide sewer service to the Property subject to continued compliance by DEVELOPER or consumer with all applicable COUNTY requirements for such service.

**SECTION 5. CONNECTION FEES.** In addition to the Contributions in Aid of Construction (CIAC) where applicable, the DEVELOPER hereby agrees to pay to the COUNTY all applicable connection fees in accordance with the schedule in effect at the time of payment. Payment of the connection fees shall not excuse the DEVELOPER from payment of any other charges uniformly made, including, but not limited to, meter fees and meter set fees. The COUNTY shall not be obligated to refund any portion of connection fees paid nor shall the COUNTY pay interest on connection fees paid.

Should the FDEP not issue the applicable permit(s) solely because capacity is not available, refunds of the connection fees shall be made by the COUNTY within thirty days of written notification by the DEVELOPER of the FDEP'S denial. Such requests to the COUNTY for refunds

must be accompanied by a written request from the DEVELOPER that the COUNTY rescind the capacity allocation.

The DEVELOPER shall be obligated to pay connection fees, or any initial portion thereof, in accordance with the applicable COUNTY resolution in effect at the time the DEVELOPER is required to make payment. No user or consumer of sewer service shall be entitled to offset any bill rendered by the COUNTY for such service against connection fees paid. The DEVELOPER shall not be entitled to offset connection fees paid or payable against any claims of the COUNTY.

**SECTION 6. PAYMENT OF CONNECTION FEES.** The DEVELOPER shall be required to pay the connection fees for each Equivalent Residential Connection (ERC) in accordance with Exhibit "C" attached hereto. Connection fees shall be due and payable in accordance with the applicable COUNTY resolution in effect at the time of payment. A monthly operating charge shall be assessed for each remaining unit or ERC which has not been transferred to a consumer after two (2) years from the date the COUNTY accepts the DEVELOPER's infrastructure or at the time of final inspection pertaining to a private system. Failure to pay monthly operating charge(s) may result in the termination and recapture of capacity allocation.

**SECTION 7. ON-SITE INSTALLATIONS.** To induce COUNTY to provide service to the Property, DEVELOPER agrees to construct and to transfer ownership and control to COUNTY, as a contribution-in-aid-of-construction the on-site sewer facilities constructed by DEVELOPER or located on the Property. The term "on-site installations" includes all sewer collection lines, facilities and equipment, including lift or

pumping stations from the DEVELOPER's Point of Delivery to the consumer's Point of Delivery, excluding consumer's installations, adequate in size and design to serve each lot or unit within the Property or as otherwise required by COUNTY. DEVELOPER shall install at its sole expense, all of the aforesaid facilities within the Property in accordance with the plans, specifications and all other pertinent documents approved by the COUNTY and in accordance with Section 9, "Procedures for Construction of Installations" herein.

**SECTION 8. OFF-SITE INSTALLATIONS.** To induce COUNTY to provide service to the Property, DEVELOPER agrees to construct and to transfer ownership and control to COUNTY as a contribution-in-aid-of-construction all necessary off-site installations from DEVELOPER's Property to the COUNTY's existing facilities. The term "off-site installations" means and includes all gravity sewer lines, lift or pump stations, force mains and related facilities adequate in size and design to serve the Property or as otherwise required by COUNTY. Such off-site installations shall be in accordance with the master plans of the COUNTY as they relate to the COUNTY-wide water and sewer utility system. DEVELOPER shall install all of the off-site installations at its sole expense and in accordance with the plans, specifications and other pertinent documents approved by COUNTY, except that in no event shall DEVELOPER be required to oversize lines to the benefit of other properties without prior agreement for reimbursement on behalf of such other properties. DEVELOPER shall construct the off-site installations in accordance with Section 9, "Procedures for Construction of Installations" herein.

**SECTION 9. PROCEDURES FOR CONSTRUCTION OF INSTALLATIONS.**

DEVELOPER agrees that construction of all on-site installations as defined in Sections 7 and 8 respectively, shall be in accordance with the following requirements:

(a) **Permits.** DEVELOPER shall submit applicable FDEP permit applications to COUNTY for signature prior to submission of permit application to FDEP. DEVELOPER shall make application to COUNTY for Underground Utility Permits and any other applicable permits such as Right-of-Way Use Permits upon receipt of an approved permit from FDEP.

(b) **Plans and Specifications.** DEVELOPER shall furnish COUNTY three (3) sets of all plans and specifications (Plans) for the installation to be constructed, prepared by a registered professional engineer. The plans shall be prepared in accordance with applicable COUNTY ordinances and policies including the Land Development Code, Water and Sewer Guidelines and System Requirements for connection to COUNTY-owned utilities. DEVELOPER shall obtain approval of the Plans from all agencies having jurisdiction including the FDEP and COUNTY, if applicable, and submit to COUNTY one (1) copy of any construction permits. No construction shall commence until the COUNTY and appropriate regulatory agencies have approved such Plans in writing and the COUNTY has received copies of the construction permits. If construction commences prior to all such approvals, COUNTY shall have no responsibility to accept any of the installations and COUNTY may elect to terminate this Agreement or withhold service until such time as DEVELOPER has obtained all required approvals. Should DEVELOPER wish to record the plat of a subdivision prior to construction of any

installation, DEVELOPER shall post a performance bond which is one hundred ten percent (110%) of the cost of construction of the installation.

(c) **Pre-construction Conference.** After securing all permits and approvals of Plans by COUNTY and the other agencies, DEVELOPER or the engineer of record shall set up a preconstruction conference with the engineer of record, utility contractor, the appropriate building officials and the COUNTY.

(d) **Notice to County.** DEVELOPER shall provide to COUNTY not less than forty-eight (48) hours written notice prior to commencement of construction and as-built surveys shall be submitted seven (7) days prior to final inspection. DEVELOPER shall provide to COUNTY forty-eight (48) hours notice, which may be either written or verbal, prior to any inspections or tests (other than final inspection) being performed as described herein. Notices shall be deemed given upon actual receipt of same by COUNTY.

(e) **Inspections and Tests.** During construction of any installation by DEVELOPER, COUNTY shall have the right to inspect such installation, including, but not limited to the materials, equipment, piping and connections to determine compliance with the approved Plans. The engineer of record shall also inspect construction to insure compliance with approved Plans, permits and other applicable requirements. All standard tests and inspections for pressure, exfiltration, line and grade, and all other engineering tests and inspections shall be performed with the engineer of record and utility contractor present to determine that the systems have been installed in

accordance with the approved Plans, permits and good engineering practices and are functioning satisfactorily for the purpose for which the installation was designed. It shall be the DEVELOPER's responsibility to insure that all construction and the installation fully meet approved Plans, permits and applicable requirements of law and, upon completion, that the installation functions satisfactorily for the purpose for which it was designed.

(f) **Completion.** Upon completion of construction, DEVELOPER's engineer of record shall submit a signed certificate of completion certifying to COUNTY that the construction of the installation is complete, that the installation has been constructed in accordance with all permits, approved Plans, and applicable requirements of law, and as constructed, it will function for the purpose for which it was designed.

(g) **As-built and Other Plans.** At least seven (7) days prior to final inspection, DEVELOPER or his engineer shall also provide COUNTY with one (1) set of ammonia mylars of the "as-built" surveys prepared by the engineer of record showing the location of all installations as constructed. DEVELOPER shall provide COUNTY two (2) sets of approved paving and drainage plans and three (3) copies of the recorded subdivision plat. DEVELOPER shall provide proof satisfactory to COUNTY that the installation and all contractors, subcontractors, materialmen and laborers have been paid in full, together with the engineer's certificate of the total cost of the installation.

**SECTION 10. WATER METERS.** A water meter or meters necessary to serve the Property shall be installed by COUNTY at the DEVELOPER's Point of Delivery for residential development and by DEVELOPER for all other

development. COUNTY shall designate the number, type, quality and size of said meter or meters. The water meter or meters and enclosures are to be installed by the COUNTY after a building permit is issued for residential development and by the DEVELOPER for all other types of development. The cost thereof and associated labor charges shall be paid by DEVELOPER prior to installation at the rates charged by COUNTY in effect at that time. All water meters and enclosures shall remain the property of COUNTY. The COUNTY shall also be responsible for the installation of a back flow prevention device to be installed on the consumer side of the meter for all residential development. The DEVELOPER shall be responsible as to all other types of development.

**SECTION 11. TITLE TO INSTALLATIONS CONSTRUCTED BY DEVELOPER.** As a condition precedent to the right to connect the on-site installations and any off-site installations to COUNTY's Utility System, DEVELOPER shall convey title to as much of those installations, including real property, easements and rights-of-way as are required by COUNTY in accordance with the following:

(a) **Compliance.** DEVELOPER shall be in compliance with this Agreement.

(b) **Time and Place of Conveyance.** Unless otherwise agreed upon in writing, conveyance shall be made when the COUNTY is prepared to issue its letter of acceptance to DEVELOPER and commence delivery of service to the Property. Upon completion of the installations, DEVELOPER shall deliver the necessary instruments of conveyance, properly executed, in substantially the same form attached hereto as Exhibit "D" (Warranty Dee), Exhibit "E" (Bill of Sale) and Exhibit "F"

(Easements), together with funds sufficient to pay all costs of conveyance and recording. Delivery shall be made to the COUNTY'S Utilities Manager at the address shown herein for delivery of notices. Acceptance of the conveyance by the COUNTY shall not become final until the Board of County Commissioners duly accept same.

Upon a vote to accept conveyance by the COUNTY Commission, the instruments of conveyance will be recorded in the public records of Seminole County. The COUNTY will issue its letter of acceptance to DEVELOPER and COUNTY'S obligations to provide service in accordance with this Agreement shall commence.

(c) **Assurance of Title.** DEVELOPER shall at its expense, deliver to COUNTY a title insurance policy or an opinion of title with respect to the Property confirming DEVELOPER'S legal right to grant the deeds, easements and exclusive rights of service contained in this Agreement as a condition precedent to COUNTY'S issuance of a letter of acceptance or delivery of service.

(d) **Conveyance.** DEVELOPER shall convey all of its interest in the installations to be conveyed to COUNTY by Warranty Deed, Bill of Sale, Easements, Endorsement, Assignments, Affidavits of No Liens and other good and sufficient instruments of transfer and conveyance, including necessary permits, as shall be effective to vest in COUNTY good and marketable title to the installations free and clear of all liens and encumbrances. Transfer of all manufacturers' and contractors' warranties, maintenance books and construction contracts shall be conveyed by unconditional assignment by DEVELOPER. DEVELOPER shall remain secondarily liable on such warranties and hereby agrees to

indemnify and save harmless the COUNTY from any losses, damages, costs, claims, suits, debts or demands by reason of latent defects in the installations which could not have been reasonably discovered upon normal engineering inspection, for a period of two (2) years from the date of acceptance by the COUNTY of said utility installations.

(e) **Maintenance Bond.** DEVELOPER shall provide the appropriate maintenance bonds required by the Land Development Code and the Water and Sewer Guidelines in effect at the time of conveyance.

(f) **Manuals.** DEVELOPER shall provide COUNTY will all operation, maintenance and parts manuals necessary for the operation and maintenance of the installations.

**SECTION 12. EASEMENTS.** DEVELOPER hereby grants to COUNTY, subject to the terms of this Agreement, the exclusive right to construct, own, maintain and operate water and sewer facilities to serve the Property; and the exclusive right to construct, own, maintain and operate said facilities in, under, upon and across the present and future streets, easements, reserved utility strips and utility sites, and any public place as provided and dedicated to public use in the record plats, or as provided for in agreements, dedications or grants made otherwise and independent of said record plats.

DEVELOPER hereby further agrees that the foregoing grants include the necessary right of ingress and egress to any part of the DEVELOPER's property upon which COUNTY is constructing or operating utility facilities. The foregoing grants shall continue for as long as COUNTY required such rights for the construction, ownership, maintenance, operation or expansion of the facilities.

DEVELOPER, upon request of COUNTY, shall execute recordable easements acceptable to COUNTY to carry out the purposes of this Section.

The parties agree that in the event DEVELOPER and COUNTY agree to install any of the facilities in lands within the Property lying outside the streets and easement areas described above, then DEVELOPER or the owner shall grant to COUNTY the necessary easements for such "private property" installation.

Subject to COUNTY's prior written consent, the use of easements granted by DEVELOPER to COUNTY shall not preclude the use of other utilities of these easements, such as cable television, telephone, electric, or gas utilities, provided each does not interfere with COUNTY's use thereof.

COUNTY hereby agrees that all easement grants will be utilized in accordance with generally accepted practices of publicly owned water and sewer utilities with respect to the installation of all its facilities in any of the easement areas.

Where water and sewer utilities are to be installed in, under and across privately owned streets, rights-of-way, tracts and easements, the DEVELOPER agrees that the quality of restoration of landscaping and pavement associated with the COUNTY's maintenance activities on those utilities will only equal that which would be performed in streets, rights-of-way, tracts and easements dedicated to the public.

**SECTION 13. MORTGAGE LIENS.** Mortgagees, if any, holding prior liens on the Property shall be required to release such liens, subordinate their positions or join in any conveyance, grant or

dedication of the easements or rights-of-way, or give to COUNTY assurance by way of a "non-disturbance agreement," that in the event of foreclosure, mortgagee would continue to recognize the ownership and easement rights of COUNTY, as long as COUNTY complies with the terms of this Agreement. All facilities, save and except consumer installations, shall be covered by easements or rights-of-way if not located within platted or dedicated roads or rights-of-way for utility purposes.

**SECTION 14. COUNTY'S EXCLUSIVE RIGHT TO UTILITY FACILITIES.**

DEVELOPER and COUNTY agree that all water facilities accepted by COUNTY in connection with providing service to the Property shall at all times remain in the sole and exclusive ownership of COUNTY. Any person or entity owning any part of the Property or any residence, building or unit constructed or located thereon, shall not have any right, title, claim or interest to such facilities for any purpose, including the furnishing of water services to others located within or beyond the limits of the Property. Subject to COUNTY's written consent, DEVELOPER may utilize other water sources for the Property for "non-domestic" uses such as for irrigation purposes.

**SECTION 15. EXCLUSIVE RIGHT TO PROVIDE SERVICE.** DEVELOPER shall not engage in the business of providing water or sewer services to the Property. DEVELOPER hereby grants COUNTY the sole and exclusive right to provide sewer services to the Property and to the occupants thereon.

**SECTION 16. SERVICE RATES.** The rates to be charged by COUNTY to the DEVELOPER or to a consumer for sewer service on the Property shall be those rates charged by COUNTY to its other customers pursuant to service rates from time to time in effect as defined herein. COUNTY

reserves the right to withhold or disconnect service at any time the service rates are not paid on a current basis within forty (40) days after the same are billed; provided that written notification of such delinquency has been made by COUNTY to the DEVELOPER or consumer being served. DEVELOPER or consumer, as the case may be, hereby agrees to save and hold harmless COUNTY for any loss or damages resulting from the exercise of this right.

The service to the Property shall be subject to such other regulations from time to time imposed on COUNTY with respect to the operations of its water and sewer systems, and except as limited by such regulations, the amounts of utility deposits, billing practices and times, liability for damage to COUNTY's Property and rate changes shall be exclusively within the discretion and control of COUNTY.

**SECTION 17. APPLICATION FOR SERVICE TO CONSUMER INSTALLATIONS.**

DEVELOPER, or any owner or occupant on the Property (consumer) shall not connect any consumer installation to the facilities of COUNTY until application has been made to COUNTY by the DEVELOPER or consumer and approval for such connection has been granted.

The DEVELOPER or the consumer shall be responsible for connecting the consumer installation to the meter and/or lines of COUNTY at the point of delivery in accordance with the following requirements:

(a) Application for the installation of water meters and backflow preventors shall be made twenty-four (24) hours in advance, not including Saturdays, Sundays and holidays.

(b) All consumer installations may, at COUNTY's sole option, be inspected by COUNTY before backfilling and covering of any pipes.

(c) Written notice to COUNTY requesting an inspection of a consumer installation may be given by the DEVELOPER, the consumer or his contractor, and the inspection will be made within twenty-four (24) hours, not including Saturdays, Sundays and holidays, provided the water meter and backflow preventor, if applicable, have been previously installed.

(d) If COUNTY fails to inspect the consumer installation within forty-eight (48) hours, excluding Saturdays, Sundays and holidays, after such inspection is requested in writing, DEVELOPER or consumer may backfill or cover the pipes without COUNTY's inspection and approval.

(e) The cost of construction, operation, maintenance, repair or replacement of consumer installations shall be the responsibility of DEVELOPER or consumer and not the COUNTY.

(f) Should any non-domestic wastes, grease or oils, including, but not limited to, floor or abnormal strength wax or paint, be delivered to the lines, the DEVELOPER or Consumer shall be responsible for payment of the cost to correct or repair any resulting damage to the treatment process and/or facilities.

**SECTION 18. HIGH STRENGTH WASTE.** The DEVELOPER agrees that waste or sewage to be treated by COUNTY from the Property will consist of domestic wastewater, and further agrees that it will not allow any abnormal strength sewage to flow to the Utility Facilities, except upon payment of a surcharge promulgated by the COUNTY. DEVELOPER grants to COUNTY the right to sample sewage from the Property to verify DEVELOPER's compliance with this Section.

**SECTION 19. PRETREATMENT.** DEVELOPER agrees that the Service Company has certain obligations to protect the health, safety and welfare of the public and not to burden COUNTY's customers with extraordinary expenses attributable to DEVELOPER, his successors or assigns. DEVELOPER agrees that all sewage or wastewater from Property shall conform to the Service Company's standards prior to introduction into COUNTY's collection system and DEVELOPER further agrees that COUNTY may at COUNTY's sole option require pretreatment or special features such as grease traps to insure such conformity. DEVELOPER shall be responsible for all costs associated therewith.

**SECTION 20. WATER CONSERVATION.** DEVELOPER agrees to employ water conservation measures in development of the Property. Subject to COUNTY review and approval to encourage water conservation, such measures shall include complying with applicable COUNTY building code requirements, and may further include, but not be limited to:

(a) Installation of low flush toilets which utilize 3.5 gallons or less of water per flushing cycle.

(b) Installation of shower heads which have flow restrictors, pulsating features, flow control devices or other features which result in water conservation; and do not allow a flow exceeding 3.0 gallons per minute at 60 psi.

(c) No swimming pool filter backwash water, or any other swimming pool wastewater shall be discharged to the sanitary sewer system.

(d) Installation of spring-loaded/automatic shutoff water fixtures in all public restrooms, including lavatory fixtures.

**SECTION 21. EFFLUENT DISPOSAL.** It is possible that the COUNTY may not have sufficient effluent disposal capacity available for the disposal of sewage from the Property treated by it at its sewage treatment plant. The DEVELOPER agrees to provide COUNTY, at COUNTY'S request and at no cost to COUNTY, the use of the Property, or other areas as designated within the Property, for effluent disposal by means of irrigation. The DEVELOPER shall provide COUNTY with perpetual easements for the use of said Property for such purpose.

**SECTION 22. INSPECTION.** COUNTY may at its option and without notice, inspect DEVELOPER's utility facilities at all times whether before or after completion of construction and acceptance of same by the COUNTY. COUNTY, by inspecting or not inspecting to any extent whatsoever, shall not assume responsibility for construction or installation of DEVELOPER's utility facilities and shall in no way be deemed to waive any rights available to COUNTY for defaults on the part of DEVELOPER, or to consent to any defects, omissions or failures in the design, construction and installation of DEVELOPER's utility facilities.

**SECTION 23. RELOCATION OF UTILITY FACILITIES.** Any relocation of utility facilities required for DEVELOPER's convenience or necessity shall be done at DEVELOPER's expense provided such relocation can be accomplished without adverse impact on any other part of the facilities or other consumers.

**SECTION 24. NOTICES.** Any payment or notice required or permitted hereunder shall be in writing and be deemed properly made when hand delivered to the official hereinafter designated, or upon actual receipt when deposited in the United States mail, postage prepaid, addressed as

set forth herein, or at such other address as shall have been specified by written notice to the other party delivered in accordance herewith:

COUNTY: Director  
Environmental Services Department  
500 West Lake Mary Boulevard  
Sanford, Florida 32773

Copy to: County Attorney  
Seminole County Services Building  
1101 East First Street  
Sanford, FL 32771

DEVELOPER: Centex Homes, GP  
385 Douglas Avenue, Suite 2000  
Altamonte Springs, Florida 32714

**SECTION 25. COSTS AND ATTORNEYS' FEES.** In the event COUNTY or DEVELOPER brings an action to enforce this Agreement by court proceedings or otherwise, then the prevailing party shall be entitled to reasonable attorneys' fees at all levels, including appeals.

**SECTION 26. INTERPRETATION.** DEVELOPER and COUNTY agree that all words, terms and conditions contained herein are to be read in concert, each with the other, and that a provision contained under one heading may be considered to be equally applicable under another in the interpretation of this Agreement.

**SECTION 27. ASSIGNMENT.** This Agreement may not be assigned by DEVELOPER without the prior written consent of COUNTY, which shall not be unreasonably withheld, provided DEVELOPER's successor or assign expressly assumes DEVELOPER's obligations hereunder by execution of this Agreement. Capacity allocated hereunder may not be sold or assigned to any other property whether or not owned by DEVELOPER.

**SECTION 28. STRICT COMPLIANCE.** Failure to insist upon strict compliance of any of the terms, covenants, or conditions in this

Agreement shall not be deemed a waiver thereof, nor shall any waiver of any right hereunder at any one time be deemed a waiver of such right at any other time.

**SECTION 29. LIABILITY.** DEVELOPER, on its own behalf and on behalf of its successors and assigns, agree to hold harmless and indemnify the COUNTY, the Seminole County Board of County Commissioners, its employees and agents from any and all claims, damages, causes of actions or other liabilities that arise out of or in relation to the FDEP's denial of applicable permits to provide water or sewer service to the Property. The COUNTY's obligations hereunder shall be contingent upon the DEVELOPER's obtaining any and all necessary and required permits from FDEP and all other applicable agencies.

**SECTION 30. TIME OF THE ESSENCE.** Time is hereby made of the essence of this Agreement in all respects.

**SECTION 31. ENTIRE AGREEMENT AND INCORPORATION BY REFERENCE.** This Agreement and its Exhibits constitutes the entire agreement of the parties and expressly supersedes all negotiations, previous agreements or representations whether verbal or written, and may not be amended in any way whatsoever except by a writing executed by both parties hereto in a manner equal in dignity to the execution of this Agreement; provided however, that documents for the implementation of this Agreement, including all permits, engineering design and construction contracts, plans and specifications for the utility facilities as and when approved and filed with COUNTY's Public Works Department are incorporated herein by reference.

SECTION 32. BINDING EFFECT. This Agreement shall inure to the benefit of and be binding upon the heirs, successors, personal representatives and assigns of the parties hereto and shall constitute a covenant running with the Property.

SECTION 33. GOVERNING LAW. This Agreement shall be governed by the laws of the State of Florida and the ordinances, resolutions and policies of COUNTY not prohibited thereby.

SECTION 34. EFFECTIVE DATE. This Agreement shall be effective upon proper execution by both parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement with the named exhibits attached to be executed on the day and year first above written.

K. Scott Benson  
(Witness Signature)

K. SCOTT BENSON  
(Print or Type Name)

[Signature]  
(Witness Signature)

DAVID E. SMITH, JR.  
(Print or Type Name)

CENTEX HOMES, a Nevada general partnership

By: Centex Real Estate Corporation, a Nevada corporation

By: [Signature]  
Name: Patrick J. Knight  
its: Division President  
Date: May 11, 2004

STATE OF FLORIDA  
COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this 11 day of MAY, 2004, by Patrick J. Knight, as Division President of Centex Real Estate Corporation, a Nevada corporation, as general partner of Centex Homes, a Nevada general partnership, on behalf of the company, who is personally known to me or ~~who has produced~~ [Signature] as identification and he acknowledged before me that he had the authority to and did execute same.

[Signature]  
NOTARY PUBLIC

(Print or Type Name)  
CANDE CRAVEN  
State of Florida at Large  
Notary Public, State of Florida  
Commission No:             
My Commission Expires My comm. exp. Mar. 23, 2008  
Comm. No. DD 291224

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

ATTEST:

\_\_\_\_\_  
MARYANNE MORSE  
Clerk to the Board of  
County Commissioners of  
Seminole County, Florida.

By: \_\_\_\_\_  
DARYL G. MCLAIN, Chairman

Date: \_\_\_\_\_

For the use and reliance  
of Seminole County only.

Approved as to form and  
legal sufficiency.

As authorized for execution  
by the Board of County Commissioners  
at their \_\_\_\_\_, 20\_\_\_\_  
regular meeting.

*Sharon E. Dietrich* 6-9-04  
County Attorney

SED/lpk  
1/28/04 3/2/04  
CUA-SEWER-CENTEX

7 Attachments:

- Exhibit ``A'' - Legal Description
- Exhibit ``B'' - Survey
- Exhibit ``C'' - Connection Fees
- Exhibit ``D'' - Warranty Deed
- Exhibit ``E'' - Bill of Sale
- Exhibit ``F'' - Easement(s)
- ~~Exhibit ``G'' - Sewer Agreement~~

*Retain*

**EXHIBIT "A"**  
**DESCRIPTION OF CENTEX PROPERTY**

A Tract of land being a portion of Section 35 & 36, Township 21 South, Range 31 East, Seminole County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Section 35; thence North 00°13'35" West along the East line of the Southeast ¼ of said Section 35 for a distance of 40.00 feet to the POINT OF BEGINNING; thence South 89°57'28" West along the North right-of-way of McCulloch Road and a line 40.00 feet North of and parallel to the South line of the Southeast ¼ of said Section 35 for a distance of 926.01 feet; thence North 00°19'24" West along the East line of the West 400.00 feet of the Southeast ¼ of the Southeast ¼ of said Section 35 and the East line of Tract 301 at Carillon per Plat thereof recorded in Plat Book 46, Page 31-37 Public Records of Seminole County, Florida, for a distance of 1284.74 feet; thence North 89°48'32" East along the North line of the Southeast ¼ of the Southeast ¼ of Section 35 for a distance of 928.18 feet; thence South 00°13'35" East along the East line of the Southeast ¼ of said Section 35 for a distance of 663.57 feet; thence North 89°58'56" East along the North line of the South ½ of the Southwest ¼ of Southwest ¼ of Section 36, Township 21 South, Range 31 East for a distance of 1299.92 feet; thence South 00°06'39" East along a line 25.00 feet West of and parallel to the East line of the Southwest ¼ of the Southwest ¼ of said Section 36 and the West right-of-way of Lockwood Road per Plat Book 5, Page 82 Public Records of Seminole County, Florida, for a distance of 623.72 feet; thence South 89°59'20" West along a line 40.00 feet North of and parallel to the South line of the Southwest ¼ of the Southwest ¼ of said Section 36 and the North right-of-way of McCulloch Road for a distance of 1298.66 feet to the POINT OF BEGINNING.

Contains: 45.970 Acres, more or less.

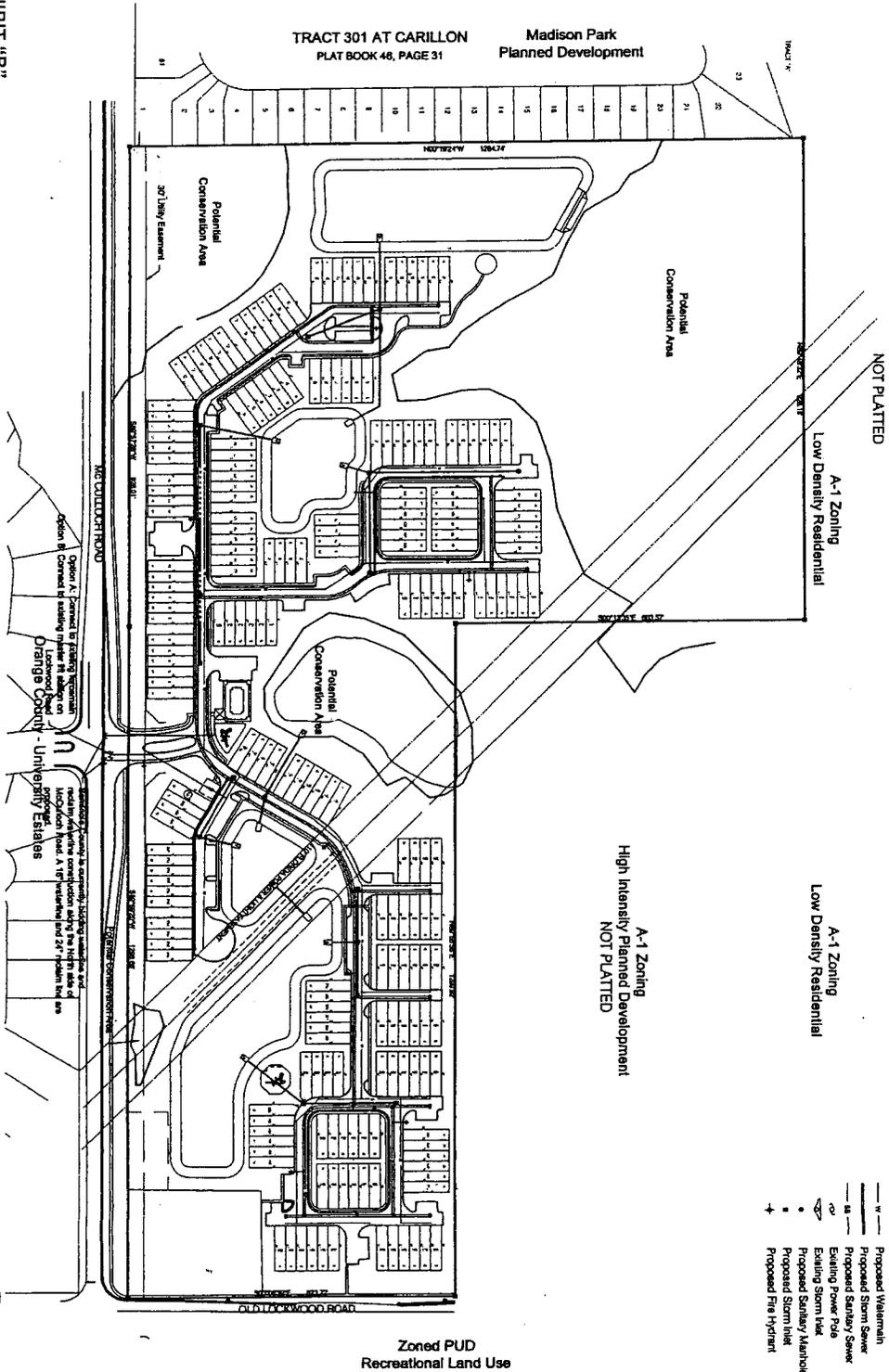
**EXHIBIT "B"**

**Property Survey**

EXHIBIT "B"

TRACT 301 AT CARILLON  
PLAT BOOK 46, PAGE 31

Madison Park  
Planned Development



NOT PLATTED

Low Density Residential  
A-1 Zoning

Low Density Residential  
A-1 Zoning

High Intensity Planned Development  
A-1 Zoning  
NOT PLATTED

Zoned PUD  
Recreational Land Use

- Legend**
- Existing Watermain
  - Existing Recycled Water Line
  - Existing Foremain
  - Existing Watermain
  - Proposed Watermain
  - Proposed Storm Sewer
  - Proposed Sanitary Sewer
  - Existing Power Pole
  - Proposed Storm Pole
  - Proposed Sanitary Manhole
  - Proposed Storm Inlet
  - Proposed Fire Hydrant



Professional Land Surveyor  
No. 10000  
April 1, 2008

Professional Engineer  
No. 10000  
April 1, 2008



Utility Plan  
Final Master Plan  
Hawthorn Glen  
Barnstable County, Florida

REV.	DATE	DESCRIPTION	BY
1	08-19-09	Prepared per FPC meeting 08-27-09	bd

daly design group inc.  
Land Planning, Landscape Architecture, Project Management, Development Consulting  
819 N. Pennsylvania Ave., Winter Park, Florida 32789 (407) 740-7370 www.dalydesign.com

EXHIBIT "C"

Sewer Connection Fees

Developer agrees to pay Seminole County the following connection fees to induce the County to reserve the following plant capacities for Developer's proposed connections within the "Property". Developer understands that the plant capacities are only reserved upon payment of Charges by Developer to Seminole County. The fees set forth below are the connection fees in effect as of the date of this Developer Agreement and are subject to changes in accordance with the terms thereof.

Payment Schedule\*

Customer Category	Number Of Units	ERC Factor	Total ERCs	Total Gallons	Charge Per Gallon	Total Charges
Orange County Connection Fees	N/A	300	225	67,500	\$8.29	\$ 559,575.00
4" ISCO Unimag MagMeter						\$ <u>20,000.00</u>
						\$ 579,575.00

\* Fees shall become due and payable by Developer to Seminole County thirty (30) days after approval of this Agreement by the Seminole County Board of County Commissioners

EXHIBIT "D"

WARRANTY DEED (Partnership to County)

THIS WARRANTY DEED is made this \_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_, between \_\_\_\_\_ (Print or  
Type), a Florida partnership, whose address is \_\_\_\_\_  
\_\_\_\_\_ (Print or Type), hereinafter called the GRANTOR, and  
SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address  
is Seminole County Services Building, 1101 East First Street, Sanford, Florida  
32771, hereinafter called the GRANTEE.

W I T N E S S E T H:

That the GRANTOR, for and in consideration of the sum of ONE AND NO/100  
DOLLARS (\$1.00) and other valuable considerations, to GRANTORS in had paid by the  
GRANTEE, the receipt whereof is hereby acknowledged by these presents does grant,  
bargain, sell, release, convey and confirm unto the GRANTEE, all that certain  
land lying and being in the County of Seminole, State of Florida, more  
particularly described as follows:

Property Appraiser's Parcel Identification Number \_\_\_\_\_

This Instrument Prepared by:

Address:

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

AND the GRANTOR hereby covenants with said GRANTEE that it is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances.

The property conveyed herein may include roads, lines (water, sewer or other), drainage facilities or systems, or other facilities or systems which will become the responsibility of the COUNTY. The GRANTOR represents that any and all facilities or systems located in, or, upon or within the conveyed property are free from all latent and patent design, construction or other defects. The GRANTOR hereby represents to the COUNTY that it has no knowledge of any latent or patent defects. GRANTOR hereby assigns, transfers and conveys to the COUNTY any and all rights against any and all firms or entities which may have caused such latent or patent defects including, but not limited to any and all warranties, claims and other forms of indemnification. By execution of this document the GRANTOR affirmatively represents that it has the contractual right, consent and lawful authority of any and all forms to take this action in this document and in this form. The GRANTOR recognizes that the COUNTY is relying upon the GRANTOR's representations as herein expressed. The GRANTOR, further, accepts responsibility over and agrees to indemnify and hold the COUNTY harmless from and against any and all damages, liabilities, costs and matters relating to latent and patent defects in any way relating to or arising from this conveyance.

IN WITNESS WHEREOF, the GRANTOR has hereunto set its hand and seal the day and year first above written.

WITNESSES: Signed Sealed and delivered in our presence:

\_\_\_\_\_  
(Type Partnership Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature) , GRANTOR

\_\_\_\_\_  
(Legibly Print/Type/or Stamp Name)

\_\_\_\_\_  
(Type) TITLE

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Legibly Print/Type/or Stamp Name)

\_\_\_\_\_  
(Legibly Print/Type/or Stamp Name)

STATE OF )  
 )  
COUNTY OF )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by \_\_\_\_\_ (name of acknowledging partner or agent), partner (or agent) on behalf of \_\_\_\_\_ (name of partnership), a partnership. He/she is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and did (did not) take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Signature) Notary Public, in and for the County and State Aforementioned (Affix Seal)

\_\_\_\_\_  
(Legibly Print/Type/or Stamp Name)

My Commission Expires:

Project Name:  
Development Review Committee #:

## EXHIBIT "E"

### BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that CENTEX HOMES, GP, a Nevada General Partnership, having its principal place of business at 385 Douglas Avenue, Suite 2000, Altamonte Springs, Florida 32714, hereinafter referred to as "SELLER" for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration paid by SEMINOLE COUNTY, a political subdivision of the State of Florida, located at 1101 East First Street, Sanford, Florida 32771, County of Seminole, State of Florida, hereafter known as "BUYER", the receipt of which is hereby acknowledged by the SELLER has granted, bargained, sold, transferred and delivered to BUYER, its successors, heirs, executors, administrators and assigns forever, the following described property, hereinafter referred to as "Property":

All of the on-site water and sewer lines, up to the point of connection, including valves and other appurtenances for the project known as Hawthorne Glen, as recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_ of the Public Records of Seminole County, Florida.

TO HAVE AND TO HOLD the same unto the BUYER, its executors, administrators and assigns forever.

AND the SELLER, hereby covenants with the said BUYER that it is the lawful owner of the Property; that it has good right and lawful authority to sell and convey said Property; that it is hereby fully warrants the title to said Property and will defend the same against the lawful claims of all persons whomsoever; and that said Property is free of all encumbrances except those described herein.

The property conveyed herein may include roads, lines (water, sewer or other), drainage facilities or systems, or other facilities or systems which will become the responsibility of the COUNTY. The GRANTOR represents that any and all facilities or systems located in or, upon or within the conveyed property are free from all latent and patent design, construction or other defects. The GRANTOR hereby represents to the COUNTY that it has no knowledge of any latent or patent defects. GRANTOR hereby assigns, transfers and conveys to the COUNTY any and all rights against any and all firms or entities which may have caused such latent or patent defects including, but not limited to any and all warranties, claims and other forms of indemnification. By execution of this document the GRANTOR affirmatively represents that it has the contractual right, consent and lawful authority of any and all forms to take this action in this

This instrument prepared by: Susan E. Dietrich  
Assistant County Attorney  
Seminole County Services Building  
1101 East First Street  
Sanford, Florida 32771

document and in this form. The GRANTOR recognizes that the COUNTY is relying upon the GRANTOR's representations as herein expressed. The GRANTOR, further, accepts responsibility over and agrees to indemnify and hold the COUNTY harmless from and against any and all damages, liabilities, costs and matters relating to latent and patent defects in any way relating to or arising from this conveyance within a period of two (2) years after the conveyance of property to COUNTY under this instrument.

IN WITNESS WHEREOF, the GRANTOR has hereunto set its hand and seal the day and year first above written.

ATTEST:

CENTEX HOMES GP:

By: CENTEX REAL ESTATE CORP.  
a Nevada corporation,  
its General Partner

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
its: \_\_\_\_\_  
Date: \_\_\_\_\_

(CORPORATE SEAL)

ATTEST:

By: AAA HOLDINGS, L.P.  
a Delaware limited partnership,  
its General Partner

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
its: \_\_\_\_\_  
Date: \_\_\_\_\_

(CORPORATE SEAL)

ATTEST:

By: NOMAS CORP.  
a Nevada corporation,  
its General Partner

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
its: \_\_\_\_\_  
Date: \_\_\_\_\_

(CORPORATE SEAL)

SED/lpk  
4/9/04  
centex bos

## EXHIBIT "F"

### UTILITY EASEMENT

**THIS UTILITY EASEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **CENTEX HOMES, GP**, a Nevada General Partnership, whose address is 385 Douglas Avenue, Suite 2000, Altamonte Springs, Florida 32714, hereinafter referred to as the "GRANTOR," and **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as the "GRANTEE".

### W I T N E S S E T H:

**FOR AND IN CONSIDERATION** of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, GRANTOR does hereby grant and convey to the GRANTEE and its assigns, an exclusive easement and right-of-way for utility purposes, with full authority to enter upon, excavate, construct and maintain, as the GRANTEE and its assigns may deem necessary, water pipes, sewer pipes, mains and any other utility facilities and appurtenances over, under, upon and through the following described lands situate in the County of Seminole, State of Florida, to-wit:

See Exhibit "A," attached hereto and incorporated herein.

**TO HAVE AND TO HOLD** said easement and right-of-way unto said GRANTEE and its assigns forever.

**THE GRANTEE** and its assigns shall have the right to clear, keep clear and remove from said right-of-way all trees, undergrowth, and other obstructions that may interfere with location, excavation, operation or maintenance of the utilities or any facilities installed thereon by the GRANTEE and its assigns, and the GRANTOR, its successors and assigns, agree not to build, construct or create, or

This instrument prepared by: Susan E. Dietrich  
Assistant County Attorney  
Seminole County Services Building  
1101 East First Street  
Sanford, Florida 32771

Permit others to build, construct or create any buildings or other structures on the said right-of-way that may interfere with the location, excavation, operation or maintenance of the utilities, or any facilities installed thereon. Notwithstanding the issuance of any permit to construct a fence or other structure, the GRANTOR recognizes and consents to the right of the GRANTEE or an authorized utility company if applicable, to remove the fence or other structure from the easement area without compensation or reimbursement to the GRANTOR if the fence or other structure is deemed to impede the purpose or utility of the easement.

**GRANTOR** does hereby covenant with the GRANTEE, that it is lawfully seized and possessed of the real estate above described, that it has a good and lawful right to convey the said easement and that it is free from all encumbrances, except those of record set forth in Exhibit "B," attached hereto and incorporated herein.

The property conveyed herein may include roads, lines (water, sewer or other), drainage facilities or systems, or other facilities or systems which will become the responsibility of the COUNTY. The GRANTOR represents that any and all facilities or systems located in or upon or within the conveyed property are free from all latent and patent design, construction, or other defects. The GRANTOR hereby represents to the COUNTY that it has no knowledge of any latent or patent defects. GRANTOR hereby assigns, transfers, and conveys to the COUNTY any and all rights against any and all firms or entities which may have caused such latent or patent defect including, but not limited to, any and all warranties, claims, and other forms of indemnification. By execution of this document the GRANTOR affirmatively represents that it has the contractual right, consent, and lawful authority of any and all forms to take this action in this document and in this form. The GRANTOR recognizes that the COUNTY is relying upon the GRANTOR's representations as herein expressed. The GRANTOR further accepts responsibility over and agrees to indemnify and hold the COUNTY harmless from and against any and all damages, liabilities, costs, and matters relating to latent and patent defects in any way relating to or arising from this conveyance within a period

of two (2) years after the conveyance of property to COUNTY by means of this instrument.

IN WITNESS WHEREOF, the GRANTOR has hereunto set its hand and seal the day and year first above written.

ATTEST:

CENTEX HOMES GP:

By: CENTEX REAL ESTATE CORP.  
a Nevada corporation,  
its General Partner

\_\_\_\_\_  
(CORPORATE SEAL)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
its: \_\_\_\_\_  
Date: \_\_\_\_\_

ATTEST:

By: AAA HOLDINGS, L.P.  
a Delaware limited partnership,  
its General Partner

\_\_\_\_\_  
(CORPORATE SEAL)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
its: \_\_\_\_\_  
Date: \_\_\_\_\_

ATTEST:

By: NOMAS CORP.  
a Nevada corporation,  
its General Partner

\_\_\_\_\_  
(CORPORATE SEAL)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
its: \_\_\_\_\_  
Date: \_\_\_\_\_

SED/lpk  
4/9/04  
centex-ue

Attachments:  
Exhibit "A" -  
Exhibit "B" -

**CONDITIONAL UTILITY AGREEMENT  
FOR  
WATER SERVICE**

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between **SEMINOLE COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY" and **CENTEX HOMES**, hereinafter referred to as "DEVELOPER," a Nevada General partnership.

**W I T N E S S E T H:**

**WHEREAS**, DEVELOPER owns lands located in Seminole County, Florida as described in Exhibit "A" and shown on the Survey in Exhibit "B" attached hereto (the "Property"), and DEVELOPER intends to develop the Property; and

**WHEREAS**, DEVELOPER has requested that the COUNTY provide central water service for the Property; and

**WHEREAS**, the County is willing to provide central water service to the Property and thereafter to operate the utility facilities so that the occupants of the improvements on the Property will receive water service from COUNTY in accordance with the provisions of this Agreement;

**NOW, THEREFORE**, for and in consideration of the premises and the mutual undertakings and agreements herein contained and assumed, DEVELOPER and COUNTY hereby covenant and agree as follows:

**SECTION 1. PREAMBLE.** The foregoing statements are true and correct.

**SECTION 2. DEFINITIONS.** The following definitions of terms used in this Agreement shall apply unless the context indicates a different meaning:

(a) **"Application"** - A request in writing from DEVELOPER or a consumer on forms provided by COUNTY requesting specific water service pursuant to the DEVELOPER's Agreement.

(b) **"Connection Fees"** - A fee or charge paid to the COUNTY by DEVELOPER for the purpose of obtaining water capacity. Connection fees will be utilized for the acquisition, improvement, expansion and construction of facilities required to furnish present or future water capacity and service to the Property. The amount shall be determined in accordance with the COUNTY schedule of rates in effect from time to time.

(c) **"Consumer Installation"** - All facilities ordinarily on the consumer's side of the point of delivery (e.g. curb stop, lateral connections.)

(d) **"Consumer's Point of Delivery"** - Unless otherwise specified herein, the point where the water service is connected to the DEVELOPER's or consumer's service lateral. The water meter will be set at the consumer's property line unless otherwise provided.

(e) **"Contribution-in-Aid-of-Construction (CIAC)"** - The sum of money and/or the value of property required as a prerequisite to service to the Property.

(f) **"Development Phase"** - A subdivision or construction phase of the construction of utility facilities on Property.

(g) **"Developer's Point of Delivery"** - The point where the water service enters the DEVELOPER's Property or the point of connection of DEVELOPER's off-site installation to the COUNTY's system pursuant to Section 8.

(h) **"Equivalent Residential Connection (ERC)"** - A factor used to convert a given average daily flow (ADF) to the equivalent number of residential connections. For this purpose the average daily flow of one equivalent residential connection (ERC) is 350 gallons per day (GPD). The number of ERC's contained in a given ADF is determined by dividing that ADF by 350 GPD. (Note: ERC's are calculated as a whole number).

(i) **"Facilities"** - See Utility Facilities.

(j) **"FDEP"** - The Florida Department of Environmental Protection, or its successor agency.

(k) **"GPD"** - Gallons per day.

(l) **"Installation"** - See Utility Facilities.

(m) **"Property"** - The land described in Exhibit "A" and shown on the survey in Exhibit "B" attached hereto.

(n) **"Service" or "Utility Service"** - The readiness and ability of the COUNTY to furnish and maintain water service to the point of delivery.

(o) **"Service Rates" or "Rates"** - The COUNTY's existing and future schedules of rates and charges for water service, including connection fees, meter set fees, and all other fees and charges which from time to time are in effect pursuant to ordinances, resolutions or policies adopted by COUNTY. The schedules of Service Rates shall be of general and uniform application within the COUNTY-wide water and sewer utility system.

(p) **"Utility Facilities" or "Facilities" or "Installations"** - Utility facilities means and includes all equipment, fixtures, wells, pumps, lines, mains, manholes, lift stations, pumping stations,

laterals, service connections, and appurtenances together with all real property, easements and rights-of-way necessary to provide water service to the Property whether located on-site or off-site. The words "Utility Facilities," "Water Facilities," "Facilities," or "Installations" shall be interchangeable unless otherwise indicated by the context.

**SECTION 3. CAPACITY ALLOCATION.** The parties agree that the capacity needed to provide service to the Property is 71,200 gallons per day for potable water supply, which is estimated to be 224 ERC.

Capacity allocation is subject to the Florida Department of Environmental Protection (Section 403.021, Florida Statutes, and Florida Administrative Code Rules 17-4.07 and 17-4.15) approval of applicable permits for the Property. Should the Florida Department of Environmental Protection (FDEP) refuse to issue applicable permit(s) solely because capacity is not available, the DEVELOPER may request COUNTY to rescind the allocation of capacity.

DEVELOPER agrees that the number of units of capacity (ERC's) reserved hereby shall not exceed the number of units of development pursuant to Exhibits "A" and "B", and that the gallonage calculation to determine number of ERC's is for the purpose of allocating a given number of units of capacity (ERC) for the Property and not for purposes of any other calculations.

**SECTION 4. AGREEMENT TO SERVE.** Upon the completion of construction of water facilities by DEVELOPER, satisfactory inspections, the issuance of the final letter of acceptance by COUNTY, and subject to the terms of this Agreement, COUNTY agrees to permit connection of the water facilities installed by the DEVELOPER to the central facilities of

COUNTY and to provide utility service in accordance with the terms and intent of this Agreement. Such connections shall at all times be in accordance with rules, regulations and orders of the applicable governmental authorities. COUNTY agrees that once DEVELOPER or others have connected consumer installations to COUNTY's central facilities, COUNTY will continuously provide water service to the Property subject to continued compliance by DEVELOPER or consumer with all applicable COUNTY requirements for such service.

**SECTION 5. CONNECTION FEES.** In addition to the Contributions in Aid of Construction (CIAC) where applicable, the DEVELOPER hereby agrees to pay to the COUNTY all applicable connection fees in accordance with the schedule in effect at the time of payment. Payment of the connection fees shall not excuse the DEVELOPER from payment of any other charges uniformly made, including, but not limited to, meter fees and meter set fees. The COUNTY shall not be obligated to refund any portion of connection fees paid nor shall the COUNTY pay interest on connection fees paid.

Should the FDEP not issue the applicable permit(s) solely because capacity is not available, refunds of the connection fees shall be made by the COUNTY within thirty days of written notification by the DEVELOPER of the FDEP's denial. Such requests to the COUNTY for refunds must be accompanied by a written request from the DEVELOPER that the COUNTY rescind the capacity allocation.

The DEVELOPER shall be obligated to pay connection fees, or any initial portion thereof, in accordance with the applicable COUNTY resolution in effect at the time the DEVELOPER is required to make

payment. No user or consumer of water service shall be entitled to offset any bill rendered by the COUNTY for such service against connection fees paid. The DEVELOPER shall not be entitled to offset connection fees paid or payable against any claims of the COUNTY.

**SECTION 6. PAYMENT OF CONNECTION FEES.** The DEVELOPER shall be required to pay the connection fees for each Equivalent Residential Connection (ERC) in accordance with Exhibit "C" attached hereto. Connection fees shall be due and payable in accordance with the applicable COUNTY resolution in effect at the time of payment. A monthly operating charge shall be assessed for each remaining unit or ERC which has not been transferred to a consumer after two (2) years from the date the COUNTY accepts the DEVELOPER's infrastructure or at the time of final inspection pertaining to a private system. Failure to pay monthly operating charge(s) may result in the termination and recapture of capacity allocation.

**SECTION 7. ON-SITE INSTALLATIONS.** To induce COUNTY to provide service to the Property, DEVELOPER agrees to construct and to transfer ownership and control to COUNTY as contribution-in-aid-of-construction the on-site water facilities constructed by the DEVELOPER or located on the Property. The term "on-site installations" means and includes all water distribution and supply mains, lines and pipes, and related facilities from the point of entry of COUNTY facilities at DEVELOPER's property line to the Point of Delivery excluding consumer installations, adequate in size and design to serve each lot or unit within the Property or as otherwise required by COUNTY. DEVELOPER shall install at its sole expense, all of the aforesaid facilities within the Property in

accordance with the plans, specifications and all other pertinent documents approved by the COUNTY and in accordance with Section 9, "Procedures for Construction of Installations" herein.

**SECTION 8. OFF-SITE INSTALLATIONS.** To induce COUNTY to provide service to the Property, DEVELOPER agrees to construct and to transfer ownership and control to COUNTY as a contribution-in-aid-of-construction all necessary off-site installations from DEVELOPER's Property to the COUNTY's existing facilities. The term "off-site installations" means and includes all water distribution and supply mains, lines and pipes and related facilities adequate in size and design to serve the Property or as otherwise required by COUNTY. Such off-site installations shall be in accordance with the master plans of the COUNTY as they relate to the water and sewer utility system. DEVELOPER shall install all of the off-site installations at its sole expense and in accordance with the plans, specifications and other pertinent documents approved by COUNTY, except that in no event shall DEVELOPER be required to oversize lines to the benefit of other properties without prior agreement for reimbursement on behalf of such other properties. DEVELOPER shall construct the off-site installations in accordance with Section 9, "Procedures for Construction of Installations" herein.

**SECTION 9. PROCEDURES FOR CONSTRUCTION OF INSTALLATIONS.** DEVELOPER agrees that construction of all on-site and off-site installations as defined in Section 7 and 8 respectively, shall be in accordance with the following requirements:

(a) **Permits.** DEVELOPER shall submit applicable FDEP permit applications to COUNTY for signature prior to submission of permit

application to FDEP. DEVELOPER shall make application to COUNTY for Underground Utility Permits and any other applicable permits such as Right-of-Way Use Permits upon receipt of an approved permit from FDEP.

(b) **Plans and Specifications.** DEVELOPER will furnish COUNTY three (3) sets of all plans and specifications (Plans) for the installation to be constructed, prepared by a registered professional engineer. The plans shall be prepared in accordance with applicable COUNTY ordinances and policies including the Land Development Code, Water and Sewer Guidelines and System Requirements for connection to COUNTY-owned utilities. DEVELOPER shall obtain approval of the Plans from all agencies having jurisdiction including the FDEP and COUNTY, if applicable, and submit to COUNTY one (1) copy of any construction permits. No construction shall commence until the COUNTY and appropriate regulatory agencies have approved such Plans in writing and the COUNTY has received copies of the construction permits. If construction commences prior to all such approvals, COUNTY shall have no responsibility to accept any of the installations and COUNTY may elect to terminate this Agreement or withhold service until such time as DEVELOPER has obtained all required approvals. Should DEVELOPER wish to record the plat of a subdivision prior to construction of any installation, DEVELOPER shall post a performance bond which is one hundred ten percent (110%) of the cost of construction of the installation.

(c) **Pre-construction Conference.** After securing all permits and approvals of Plans by COUNTY and the other agencies, DEVELOPER or the engineer of record shall set up a preconstruction conference with the

engineer of record, utility contractor, the appropriate building officials and the COUNTY.

(d) **Notice to County.** DEVELOPER shall provide to COUNTY not less than forty-eight (48) hours written notice prior to commencement of construction and as-built surveys shall be submitted seven (7) days prior to final inspection. DEVELOPER shall provide to COUNTY forty-eight (48) hours notice, which may be either written or verbal, prior to any inspections or tests (other than final inspection) being performed as described herein. Notices shall be deemed given upon actual receipt of same by COUNTY.

(e) **Inspections and Tests.** During construction of any installation by DEVELOPER, COUNTY shall have the right to inspect such installation, including but not limited to the materials, equipment, piping and connections to determine compliance with the approved Plans. The engineer of record shall also inspect construction to insure compliance with approved Plans, permits and other applicable requirements. All standard tests and inspections for pressure, exfiltration, line and grade, and all other engineering tests and inspections shall be performed with the engineer of record and utility contractor present to determine that the systems have been installed in accordance with the approved Plans, permits and good engineering practices and are functioning satisfactorily for the purpose for which the installation was designed. It shall be the DEVELOPER's responsibility to insure that all construction and the installation fully meet approved Plans, permits and applicable requirements of law

and, upon completion, that the installation functions satisfactorily for the purpose for which it was designed.

(f) **Completion.** Upon completion of construction, DEVELOPER's engineer of record shall submit a signed certificate of completion certifying to COUNTY that the construction of the installation is complete, that the installation has been constructed in accordance with all permits, approved Plans, and applicable requirements of law, and as constructed, it will function for the purpose for which it was designed. If the certification is for a water distribution system, a copy of the bacteriological results and a sketch showing locations of all sample points shall be provided.

(g) **As-built and Other Plans.** At least seven (7) days prior to final inspection, DEVELOPER or his engineer shall also provide COUNTY with one (1) set of ammonia mylars of the "as-built" surveys prepared by the engineer of record showing the location of all installations as constructed. DEVELOPER shall provide COUNTY two (2) sets of approved paving and drainage plans and three (3) copies of the recorded subdivision plat. DEVELOPER shall provide proof satisfactory to COUNTY that the installation and all contractors, subcontractors, materialmen and laborers have been paid in full, together with the engineer's certificate of the total cost of the installation.

**SECTION 10. WATER METERS.** A water meter or meters necessary to serve the Property shall be installed by COUNTY at the Point of Delivery for residential development and by DEVELOPER for all other development. COUNTY shall designate the number, type, quality and size of said meter or meters. The water meter or meters and enclosures are to be installed

by the COUNTY after a building permit is issued for residential development and by DEVELOPER for all other types of development. The cost thereof and associated labor charges shall be paid by DEVELOPER prior to installation at the rates charged by COUNTY in effect at that time. All water meters and enclosures shall remain the property of COUNTY. The COUNTY shall also be responsible for the installation of a back flow prevention device to be installed on the consumer side of the meter for all residential development. The DEVELOPER shall be responsible as to all other types of development.

**SECTION 11. TITLE TO INSTALLATIONS CONSTRUCTED BY DEVELOPER.** As a condition precedent to the right to connect the on-site installations and any off-site installations to COUNTY's Utility System, DEVELOPER shall convey title to as much of those installations, including real property, easements and rights-of-way as are required by COUNTY in accordance with the following:

(a) **Compliance.** DEVELOPER shall be in compliance with this Agreement.

(b) **Time and Place of Conveyance.** Unless otherwise agreed upon in writing, conveyance shall be made when the COUNTY is prepared to issue its letter of acceptance to DEVELOPER and commence delivery of service to the Property. Upon completion of the installations, DEVELOPER shall deliver the necessary instruments of conveyance, properly executed, in substantially the same form attached hereto as Exhibit "D" (Warranty Deed), Exhibit "E" (Bill of Sale) and Exhibit "F" (Easements), together with funds sufficient to pay all costs of conveyance and recording. Delivery shall be made to the COUNTY's

Utilities Manager at the address shown herein for delivery of notices. Acceptance of the conveyance by the COUNTY shall not become final until the Board of County Commissioners duly accept same.

Upon a vote to accept conveyance by the COUNTY Commission, the instruments of conveyance will be recorded in the public records of Seminole County. The COUNTY will issue its letter of acceptance to DEVELOPER and COUNTY's obligations to provide service in accordance with this Agreement shall commence.

(c) **Assurance of Title.** DEVELOPER shall at its expense, deliver to COUNTY a title insurance policy or an opinion of title with respect to the Property confirming DEVELOPER's legal right to grant the deeds, easements and exclusive rights of service contained in this Agreement as a condition precedent to COUNTY's issuance of a letter of acceptance or delivery of service.

(d) **Conveyance.** DEVELOPER shall convey all of its interest in the installations to be conveyed to COUNTY by Warranty Deed, Bill of Sale, Easements, Endorsement, Assignments, Affidavits of No Liens and other good and sufficient instruments of transfer and conveyance, including necessary permits, as shall be effective to vest in COUNTY good and marketable title to the installations free and clear of all liens and encumbrances. Transfer of all manufacturers' and contractors' warranties, maintenance books and construction contracts shall be conveyed by unconditional assignment by DEVELOPER. DEVELOPER shall remain secondarily liable on such warranties and hereby agrees to indemnify and save harmless the COUNTY from any losses, damages, costs, claims, suits, debts or demands by reason of latent defects in the

installations which could not have been reasonably discovered upon normal engineering inspection, for a period of two (2) years from the date of acceptance by the COUNTY of said utility installations.

(e) **Maintenance Bond.** DEVELOPER shall provide the appropriate maintenance bonds required by the Land Development Code and the Water and Sewer Guidelines in effect at the time of conveyance.

(f) **Manuals.** DEVELOPER shall provide COUNTY will all operation, maintenance and parts manuals necessary for the operation and maintenance of the installations.

**SECTION 12. EASEMENTS.** DEVELOPER hereby grants to COUNTY, subject to the terms of this Agreement, the exclusive right to construct, own, maintain and operate water and sewer facilities to serve the Property; and the exclusive right to construct, own, maintain and operate said facilities in, under, upon and across the present and future streets, easements, reserved utility strips and utility sites, and any public place as provided and dedicated to public use in the record plats, or as provided for in agreements, dedications or grants made otherwise and independent of said record plats.

DEVELOPER hereby further agrees that the foregoing grants include the necessary right of ingress and egress to any part of the DEVELOPER's property upon which COUNTY is constructing or operating utility facilities. The foregoing grants shall continue for as long as COUNTY required such rights for the construction, ownership, maintenance, operation or expansion of the facilities.

DEVELOPER, upon request of COUNTY, shall execute recordable easements acceptable to COUNTY to carry out the purposes of this Section.

The parties agree that in the event DEVELOPER and COUNTY agree to install any of the facilities in lands within the Property lying outside the streets and easement areas described above, then DEVELOPER or the owner shall grant to COUNTY the necessary easements for such "private property" installation.

Subject to COUNTY's prior written consent, the use of easements granted by DEVELOPER to COUNTY shall not preclude the use of other utilities of these easements, such as cable television, telephone, electric, or gas utilities, provided each does not interfere with COUNTY's use thereof.

COUNTY hereby agrees that all easement grants will be utilized in accordance with generally accepted practices of publicly owned water and sewer utilities with respect to the installation of all its facilities in any of the easement areas.

Where water and sewer utilities are to be installed in, under and across privately owned streets, rights-of-way, tracts and easements, the DEVELOPER agrees that the quality of restoration of landscaping and pavement associated with the COUNTY's maintenance activities on those utilities will only equal that which would be performed in streets, rights-of-way, tracts and easements dedicated to the public.

**SECTION 13. MORTGAGE LIENS.** Mortgagees, if any, holding prior liens on the Property shall be required to release such liens, subordinate their positions or join in any conveyance, grant or

dedication of the easements or rights-of-way, or give to COUNTY assurance by way of a "non-disturbance agreement," that in the event of foreclosure, mortgagee would continue to recognize the ownership and easement rights of COUNTY, as long as COUNTY complies with the terms of this Agreement. All facilities, save and except consumer installations, shall be covered by easements or rights-of-way if not located within platted or dedicated roads or rights-of-way for utility purposes.

**SECTION 14. COUNTY'S EXCLUSIVE RIGHT TO UTILITY FACILITIES.** DEVELOPER and COUNTY agree that all water facilities accepted by COUNTY in connection with providing service to the Property shall at all times remain in the sole and exclusive ownership of COUNTY. Any person or entity owning any part of the Property or any residence, building or unit constructed or located thereon, shall not have any right, title, claim or interest to such facilities for any purpose, including the furnishing of water services to others located within or beyond the limits of the Property. Subject to COUNTY's written consent, DEVELOPER may utilize other water sources for the Property for "non-domestic" uses such as for irrigation purposes.

**SECTION 15. EXCLUSIVE RIGHT TO PROVIDE SERVICE.** DEVELOPER shall not engage in the business of providing water or sewer services to the Property. DEVELOPER hereby grants COUNTY the sole and exclusive right to provide water services to the Property and to the occupants thereon.

**SECTION 16. SERVICE RATES.** The rates to be charged by COUNTY to the DEVELOPER or to a consumer for water service on the Property shall be those rates charged by COUNTY to its other customers pursuant to service rates from time to time in effect as defined herein. COUNTY

reserves the right to withhold or disconnect service at any time the service rates are not paid on a current basis within forty (40) days after the same are billed; provided that written notification of such delinquency has been made by COUNTY to the DEVELOPER or consumer being served. DEVELOPER or consumer, as the case may be, hereby agrees to save and hold harmless COUNTY for any loss or damages resulting from the exercise of this right.

The service to the Property shall be subject to such other regulations from time to time imposed on COUNTY with respect to the operations of its water and sewer systems, and except as limited by such regulations, the amounts of utility deposits, billing practices and times, liability for damage to COUNTY's Property and rate changes shall be exclusively within the discretion and control of COUNTY.

**SECTION 17. APPLICATION FOR SERVICE TO CONSUMER INSTALLATIONS.**

DEVELOPER, or any owner or occupant on the Property (consumer) shall not connect any consumer installation to the facilities of COUNTY until application has been made to COUNTY by the DEVELOPER or consumer and approval for such connection has been granted.

The DEVELOPER or the consumer shall be responsible for connecting the consumer installation to the meter and/or lines of COUNTY system at the point of delivery in accordance with the following requirements:

(a) Application for the installation of water meters and backflow preventors shall be made twenty-four (24) hours in advance, not including Saturdays, Sundays and holidays.

(b) All consumer installations may, at COUNTY's sole option, be inspected by COUNTY before backfilling and covering of any pipes.

(c) Written notice to COUNTY requesting an inspection of a consumer installation may be given by the DEVELOPER, the consumer or his contractor, and the inspection will be made within twenty-four (24) hours, not including Saturdays, Sundays and holidays, provided the water meter and backflow preventor, if applicable, have been previously installed.

(d) If COUNTY fails to inspect the consumer installation within forty-eight (48) hours, excluding Saturdays, Sundays and holidays, after such inspection is requested in writing, DEVELOPER or consumer may backfill or cover the pipes without COUNTY's inspection and approval.

(e) The cost of construction, operation, maintenance, repair or replacement of consumer installations shall be the responsibility of DEVELOPER or consumer and not the COUNTY.

**SECTION 18. WATER CONSERVATION.** DEVELOPER agrees to employ water conservation measures in development of the Property. Subject to COUNTY review and approval to encourage water conservation, such measures shall include but not be limited to:

(a) Installation of low flush toilets which utilize 3.5 gallons or less of water per flushing cycle.

(b) Installation of shower heads which have flow restrictors, pulsating features, flow control devices or other features which result in water conservation; and do not allow a flow exceeding 3.0 gallons per minute at 60 psi.

(c) No swimming pool filter backwash water, or any other swimming pool wastewater shall be discharged to the sanitary sewer system.

(d) Installation of spring-loaded/automatic shutoff water fixtures in all public restrooms, including lavatory fixtures.

**SECTION 19. INSPECTION.** COUNTY may, at its option and without notice, inspect DEVELOPER's utility facilities at all times whether before or after completion of construction and acceptance of same by the COUNTY. COUNTY, by inspecting or not inspecting to any extent whatsoever, shall not assume responsibility for construction or installation of DEVELOPER's utility facilities and shall in no way be deemed to waive any rights available to COUNTY for defaults on the part of DEVELOPER, or to consent to any defects, omissions or failures in the design, construction and installation of DEVELOPER's utility facilities.

**SECTION 20. RELOCATION OF UTILITY FACILITIES.** Any relocation of utility facilities required for DEVELOPER's convenience or necessity shall be done at DEVELOPER's expense provided such relocation can be accomplished without adverse impact on any other part of the facilities or other consumers.

**SECTION 21. NOTICES.** Any payment or notice required or permitted hereunder shall be in writing and be deemed properly made when hand delivered to the official hereinafter designated, or upon actual receipt when deposited in the United States mail, postage prepaid, addressed as set forth herein, or at such other address as shall have been specified by written notice to the other party delivered in accordance herewith:

COUNTY:     Director  
              Environmental Services Department  
              500 West Lake Mary Boulevard  
              Sanford, Florida 32773

Copy to: County Attorney  
Seminole County Services Building  
1101 East First Street  
Sanford, FL 32771

DEVELOPER: Centex Homes, GP  
385 Douglas Avenue, Suite 2000  
Altamonte Springs, Florida 32714

**SECTION 22. COSTS AND ATTORNEYS' FEES.** In the event COUNTY or DEVELOPER brings an action to enforce this Agreement by court proceedings or otherwise, then the prevailing party shall be entitled to recover from the other party all costs incurred, together with reasonable attorneys' fees at all levels, including appeals.

**SECTION 23. INTERPRETATION.** DEVELOPER and COUNTY agree that all words, terms and conditions contained herein are to be read in concert, each with the other, and that a provision contained under one heading may be considered to be equally applicable under another in the interpretation of this Agreement.

**SECTION 24. ASSIGNMENT.** This Agreement may not be assigned by DEVELOPER without the prior written consent of COUNTY, which shall not be unreasonably withheld, provided DEVELOPER's successor or assign expressly assumes DEVELOPER's obligations hereunder by execution of this Agreement. Capacity allocated hereunder may not be sold or assigned to any other property whether or not owned by DEVELOPER.

**SECTION 25. STRICT COMPLIANCE.** Failure to insist upon strict compliance of any of the terms, covenants, or conditions in this Agreement shall not be deemed a waiver thereof, nor shall any waiver of any right hereunder at any one time be deemed a waiver of such right at any other time.

**SECTION 26. TIME OF THE ESSENCE.** Time is hereby made of the essence of this Agreement in all respects.

**SECTION 27. ENTIRE AGREEMENT AND INCORPORATION BY REFERENCE.** This Agreement constitutes the entire agreement of the parties and expressly supersedes all negotiations, previous agreements or representations whether verbal or written, and may not be amended in any way whatsoever, except by a writing executed by both parties hereto in a manner equal in dignity to the execution of this Agreement; provided however, that documents for the implementation of this Agreement, including all permits, engineering design and construction contracts, plans and specifications for the utility facilities as and when approved and filed with COUNTY's Public Works Department are incorporated herein by reference.

**SECTION 28. BINDING EFFECT.** This Agreement shall inure to the benefit of and be binding upon the heirs, successors, personal representatives and assigns of the parties hereto and shall constitute a covenant running with the Property.

**SECTION 29. LIABILITY.** DEVELOPER, on its own behalf and on behalf of its successors and assigns, agree to hold harmless and indemnify the COUNTY, the Seminole County Board of County Commissioners, its employees and agents from any and all claims, damages, causes of actions or other liabilities that arise out of or in relation to the FDEP's denial of applicable permits to provide water or sewer service to the Property. The COUNTY's obligations hereunder shall be contingent upon the DEVELOPER's obtaining any and all necessary and required permits from FDEP and all other applicable agencies.



BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

ATTEST:

\_\_\_\_\_  
MARYANNE MORSE  
Clerk to the Board of  
County Commissioners of  
Seminole County, Florida.

By: \_\_\_\_\_  
DARYL G. MCLAIN, Chairman

Date: \_\_\_\_\_

For the use and reliance  
of Seminole County only.

Approved as to form and  
legal sufficiency.

As authorized for execution  
by the Board of County Commissioners  
at their \_\_\_\_\_, 20\_\_\_\_  
regular meeting.

*Susan E. Dietrich 6-9-04*  
\_\_\_\_\_  
County Attorney  
SED/lpk  
4/8/04 6/9/04  
centex-cua-water

Attachments:

- Exhibit "A" - Legal Description
- Exhibit "B" - Survey
- Exhibit "C" - Connection Fees
- Exhibit "D" - Warranty Deed
- Exhibit "E" - Bill of Sale
- Exhibit "F" - Easement (s)

**EXHIBIT "A"**  
**DESCRIPTION OF CENTEX PROPERTY**

A Tract of land being a portion of Section 35 & 36, Township 21 South, Range 31 East, Seminole County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Section 35; thence North 00°13'35" West along the East line of the Southeast ¼ of said Section 35 for a distance of 40.00 feet to the POINT OF BEGINNING; thence South 89°57'28" West along the North right-of-way of McCulloch Road and a line 40.00 feet North of and parallel to the South line of the Southeast ¼ of said Section 35 for a distance of 926.01 feet; thence North 00°19'24" West along the East line of the West 400.00 feet of the Southeast ¼ of the Southeast ¼ of said Section 35 and the East line of Tract 301 at Carillon per Plat thereof recorded in Plat Book 46, Page 31-37 Public Records of Seminole County, Florida, for a distance of 1284.74 feet; thence North 89°48'32" East along the North line of the Southeast ¼ of the Southeast ¼ of Section 35 for a distance of 928.18 feet; thence South 00°13'35" East along the East line of the Southeast ¼ of said Section 35 for a distance of 663.57 feet; thence North 89°58'56" East along the North line of the South ½ of the Southwest ¼ of Southwest ¼ of Section 36, Township 21 South, Range 31 East for a distance of 1299.92 feet; thence South 00°06'39" East along a line 25.00 feet West of and parallel to the East line of the Southwest ¼ of the Southwest ¼ of said Section 36 and the West right-of-way of Lockwood Road per Plat Book 5, Page 82 Public Records of Seminole County, Florida, for a distance of 623.72 feet; thence South 89°59'20" West along a line 40.00 feet North of and parallel to the South line of the Southwest ¼ of the Southwest ¼ of said Section 36 and the North right-of-way of McCulloch Road for a distance of 1298.66 feet to the POINT OF BEGINNING.

Contains: 45.970 Acres, more or less.

**EXHIBIT "B"**

**Property Survey**

EXHIBIT "C"

Water Connection Fees

Developer agrees to pay Seminole County the following connection fees to induce the County to reserve the following plant capacities for Developer's proposed connections within the "Property". Developer understands that the plant capacities are only reserved upon payment of Charges by Developer to Seminole County. The fees set forth below are the connection fees in effect as of the date of this Developer Agreement and are subject to changes in accordance with the terms thereof.

Payment Schedule\*

<u>Customer Category</u>	<u>Number Of Units</u>	<u>ERC Factor</u>	<u>Total ERCs</u>	<u>Total Gallons</u>	<u>Charge Per Gallon</u>	<u>Total Charges</u>
Multi Family	160	335	160	53,600	\$2.83	\$ 151,688.00
Multi Family	64	275	<u>64</u>	<u>17,600</u>	\$2.83	\$ <u>49,808.00</u>
			<b>224</b>	<b>71,200</b>		<b>\$ 201,496.00</b>

\* Fees shall become due and payable by Developer to Seminole County thirty (30) days after approval of this Agreement by the Seminole County Board of County Commissioners

EXHIBIT "D"

WARRANTY DEED (Partnership to County)

THIS WARRANTY DEED is made this \_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_, between \_\_\_\_\_ (Print or  
Type), a Florida partnership, whose address is \_\_\_\_\_  
\_\_\_\_\_ (Print or Type), hereinafter called the GRANTOR, and  
SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address  
is Seminole County Services Building, 1101 East First Street, Sanford, Florida  
32771, hereinafter called the GRANTEE.

W I T N E S S E T H:

That the GRANTOR, for and in consideration of the sum of ONE AND NO/100  
DOLLARS (\$1.00) and other valuable considerations, to GRANTORS in had paid by the  
GRANTEE, the receipt whereof is hereby acknowledged by these presents does grant,  
bargain, sell, release, convey and confirm unto the GRANTEE, all that certain  
land lying and being in the County of Seminole, State of Florida, more  
particularly described as follows:

Property Appraiser's Parcel Identification Number \_\_\_\_\_

This Instrument Prepared by:

Address:

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

AND the GRANTOR hereby covenants with said GRANTEE that it is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances.

The property conveyed herein may include roads, lines (water, sewer or other), drainage facilities or systems, or other facilities or systems which will become the responsibility of the COUNTY. The GRANTOR represents that any and all facilities or systems located in, or, upon or within the conveyed property are free from all latent and patent design, construction or other defects. The GRANTOR hereby represents to the COUNTY that it has no knowledge of any latent or patent defects. GRANTOR hereby assigns, transfers and conveys to the COUNTY any and all rights against any and all firms or entities which may have caused such latent or patent defects including, but not limited to any and all warranties, claims and other forms of indemnification. By execution of this document the GRANTOR affirmatively represents that it has the contractual right, consent and lawful authority of any and all forms to take this action in this document and in this form. The GRANTOR recognizes that the COUNTY is relying upon the GRANTOR's representations as herein expressed. The GRANTOR, further, accepts responsibility over and agrees to indemnify and hold the COUNTY harmless from and against any and all damages, liabilities, costs and matters relating to latent and patent defects in any way relating to or arising from this conveyance.

IN WITNESS WHEREOF, the GRANTOR has hereunto set its hand and seal the day and year first above written.

WITNESSES: Signed Sealed and delivered in our presence:

\_\_\_\_\_  
(Type Partnership Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature) , GRANTOR

\_\_\_\_\_  
(Legibly Print/Type/or Stamp Name)

\_\_\_\_\_  
(Type) TITLE

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Legibly Print/Type/or Stamp Name)

\_\_\_\_\_  
(Legibly Print/Type/or Stamp Name)

STATE OF )  
 )  
COUNTY OF )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by \_\_\_\_\_ (name of acknowledging partner or agent), partner (or agent) on behalf of \_\_\_\_\_ (name of partnership), a partnership. He/she is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and did (did not) take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Signature) Notary Public, in and for the County and State Aforementioned (Affix Seal)

\_\_\_\_\_  
(Legibly Print/Type/or Stamp Name)

My Commission Expires:

Project Name:  
Development Review Committee #:

Wrptld.frm  
Rev. 5/26/93 - DRD/pa

## EXHIBIT "E"

### BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that CENTEX HOMES, GP, a Nevada General Partnership, having its principal place of business at 385 Douglas Avenue, Suite 2000, Altamonte Springs, Florida 32714, hereinafter referred to as "SELLER" for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration paid by SEMINOLE COUNTY, a political subdivision of the State of Florida, located at 1101 East First Street, Sanford, Florida 32771, County of Seminole, State of Florida, hereafter known as "BUYER", the receipt of which is hereby acknowledged by the SELLER has granted, bargained, sold, transferred and delivered to BUYER, its successors, heirs, executors, administrators and assigns forever, the following described property, hereinafter referred to as "Property":

All of the on-site water and sewer lines, up to the point of connection, including valves and other appurtenances for the project known as Hawthorne Glen, as recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_ of the Public Records of Seminole County, Florida.

TO HAVE AND TO HOLD the same unto the BUYER, its executors, administrators and assigns forever.

AND the SELLER, hereby covenants with the said BUYER that it is the lawful owner of the Property; that it has good right and lawful authority to sell and convey said Property; that is hereby fully warrants the title to said Property and will defend the same against the lawful claims of all persons whomsoever; and that said Property is free of all encumbrances except those described herein.

The property conveyed herein may include roads, lines (water, sewer or other), drainage facilities or systems, or other facilities or systems which will become the responsibility of the COUNTY. The GRANTOR represents that any and all facilities or systems located in or, upon or within the conveyed property are free from all latent and patent design, construction or other defects. The GRANTOR hereby represents to the COUNTY that it has no knowledge of any latent or patent defects. GRANTOR hereby assigns, transfers and conveys to the COUNTY any and all rights against any and all firms or entities which may have caused such latent or patent defects including, but not limited to any and all warranties, claims and other forms of indemnification. By execution of this document the GRANTOR affirmatively represents that it has the contractual right, consent and lawful authority of any and all forms to take this action in this

This instrument prepared by: Susan E. Dietrich  
Assistant County Attorney  
Seminole County Services Building  
1101 East First Street  
Sanford, Florida 32771

document and in this form. The GRANTOR recognizes that the COUNTY is relying upon the GRANTOR's representations as herein expressed. The GRANTOR, further, accepts responsibility over and agrees to indemnify and hold the COUNTY harmless from and against any and all damages, liabilities, costs and matters relating to latent and patent defects in any way relating to or arising from this conveyance within a period of two (2) years after the conveyance of property to COUNTY under this instrument.

**IN WITNESS WHEREOF**, the GRANTOR has hereunto set its hand and seal the day and year first above written.

ATTEST:

CENTEX HOMES GP:

By: CENTEX REAL ESTATE CORP.  
a Nevada corporation,  
its General Partner

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
its: \_\_\_\_\_  
Date: \_\_\_\_\_

(CORPORATE SEAL)

ATTEST:

By: AAA HOLDINGS, L.P.  
a Delaware limited partnership,  
its General Partner

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
its: \_\_\_\_\_  
Date: \_\_\_\_\_

(CORPORATE SEAL)

ATTEST:

By: NOMAS CORP.  
a Nevada corporation,  
its General Partner

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
its: \_\_\_\_\_  
Date: \_\_\_\_\_

(CORPORATE SEAL)

SED/lpk  
4/9/04  
centex bos

**EXHIBIT "F"**

**UTILITY EASEMENT**

**THIS UTILITY EASEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **CENTEX HOMES, GP**, a Nevada General Partnership, whose address is 385 Douglas Avenue, Suite 2000, Altamonte Springs, Florida 32714, hereinafter referred to as the "GRANTOR," and **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as the "GRANTEE".

**W I T N E S S E T H:**

**FOR AND IN CONSIDERATION** of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, GRANTOR does hereby grant and convey to the GRANTEE and its assigns, an exclusive easement and right-of-way for utility purposes, with full authority to enter upon, excavate, construct and maintain, as the GRANTEE and its assigns may deem necessary, water pipes, sewer pipes, mains and any other utility facilities and appurtenances over, under, upon and through the following described lands situate in the County of Seminole, State of Florida, to-wit:

See Exhibit "A," attached hereto and incorporated herein.

**TO HAVE AND TO HOLD** said easement and right-of-way unto said GRANTEE and its assigns forever.

**THE GRANTEE** and its assigns shall have the right to clear, keep clear and remove from said right-of-way all trees, undergrowth, and other obstructions that may interfere with location, excavation, operation or maintenance of the utilities or any facilities installed thereon by the GRANTEE and its assigns, and the GRANTOR, its successors and assigns, agree not to build, construct or create, or

This instrument prepared by: Susan E. Dietrich  
Assistant County Attorney  
Seminole County Services Building  
1101 East First Street  
Sanford, Florida 32771

Permit others to build, construct or create any buildings or other structures on the said right-of-way that may interfere with the location, excavation, operation or maintenance of the utilities, or any facilities installed thereon. Notwithstanding the issuance of any permit to construct a fence or other structure, the GRANTOR recognizes and consents to the right of the GRANTEE or an authorized utility company if applicable, to remove the fence or other structure from the easement area without compensation or reimbursement to the GRANTOR if the fence or other structure is deemed to impede the purpose or utility of the easement.

GRANTOR does hereby covenant with the GRANTEE, that it is lawfully seized and possessed of the real estate above described, that it has a good and lawful right to convey the said easement and that it is free from all encumbrances, except those of record set forth in Exhibit "B," attached hereto and incorporated herein.

The property conveyed herein may include roads, lines (water, sewer or other), drainage facilities or systems, or other facilities or systems which will become the responsibility of the COUNTY. The GRANTOR represents that any and all facilities or systems located in or upon or within the conveyed property are free from all latent and patent design, construction, or other defects. The GRANTOR hereby represents to the COUNTY that it has no knowledge of any latent or patent defects. GRANTOR hereby assigns, transfers, and conveys to the COUNTY any and all rights against any and all firms or entities which may have caused such latent or patent defect including, but not limited to, any and all warranties, claims, and other forms of indemnification. By execution of this document the GRANTOR affirmatively represents that it has the contractual right, consent, and lawful authority of any and all forms to take this action in this document and in this form. The GRANTOR recognizes that the COUNTY is relying upon the GRANTOR's representations as herein expressed. The GRANTOR further accepts responsibility over and agrees to indemnify and hold the COUNTY harmless from and against any and all damages, liabilities, costs, and matters relating to latent and patent defects in any way relating to or arising from this conveyance within a period

of two (2) years after the conveyance of property to COUNTY by means of this instrument.

IN WITNESS WHEREOF, the GRANTOR has hereunto set its hand and seal the day and year first above written.

ATTEST:

CENTEX HOMES GP:

By: CENTEX REAL ESTATE CORP.  
a Nevada corporation,  
its General Partner

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
its: \_\_\_\_\_  
Date: \_\_\_\_\_

(CORPORATE SEAL)

ATTEST:

By: AAA HOLDINGS, L.P.  
a Delaware limited partnership,  
its General Partner

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
its: \_\_\_\_\_  
Date: \_\_\_\_\_

(CORPORATE SEAL)

ATTEST:

By: NOMAS CORP.  
a Nevada corporation,  
its General Partner

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
its: \_\_\_\_\_  
Date: \_\_\_\_\_

(CORPORATE SEAL)

SED/lpk  
4/9/04  
centex-ue

Attachments:  
Exhibit "A" -  
Exhibit "B" -