

This instrument was prepared by  
and upon recording should be returned to:  
Stefanie Beskovoyne, Esq.  
City of Port St. Lucie  
Utility Systems Department  
1001 SE Prineville Street  
Port St. Lucie, FL 34983

**WELL SITE  
CONVEYANCE AGREEMENT  
(Wylder Development)**

This **WELL SITE CONVEYANCE AGREEMENT** (“Agreement”) is made and entered into effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between **MIDWAY GLADES DEVELOPERS, LLC**, a Delaware limited liability company (“Developer”), and the **CITY OF PORT ST. LUCIE, FLORIDA**, a Florida municipal corporation (“City”) (Developer and City sometimes individually referred to as a “Party” and collectively as the “Parties”).

**WITNESSETH**

**WHEREAS**, Developer is the owner of certain real property located south of Midway Road, West of Glades Cut-Off Road within the development located in the City limits of Port St. Lucie in St. Lucie County, Florida, which is known as “Wylder;” and

**WHEREAS**, a predecessor in title to the real property petitioned for and was granted annexation into the municipal limits of the City of Port St. Lucie, Florida via Ordinance 02-126 on November 25, 2002; and

**WHEREAS**, the Developer desires to convey three approximately one-acre Floridan well sites which are necessary to draw water from the Floridan aquifer to be treated by the James E. Anderson Reverse Osmosis Water Treatment Facility to the City of Port St. Lucie, which sites are depicted generally on **Exhibit “A”**, attached hereto and made a part hereof, as F37, F38, and F39 (collectively the “Well Sites”),

**NOW, THEREFORE**, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**Section 1. Incorporation by Reference.** The above recitals are true and correct and are made a part of this Agreement by reference.

**Section 2. Schedule for Conveyance of Well Sites.** Developer has conveyed or agrees to convey or cause the conveyance of the Well Sites to the City within ninety (90) days of entering this Agreement. By executing and delivering this Agreement to the City, Developer shall be deemed to have given the City written notice of its intent to convey the Well Sites to the City in accordance with this Agreement, and the sixty (60) days prior to such conveyance shall be referred to herein as the “Pre-Conveyance Notice Period”. Additionally, the City reserves the right to reject the conveyance of a Well Site, by giving written notice thereof to

Developer, if the City determines that the Well Site does not meet the requirements set forth in Section 3 of this Agreement during the applicable Pre-Conveyance Notice Period.

**Section 3. Requirements for Well Sites.** Each Well Site conveyed or caused to be conveyed by Developer to the City shall comply with all of the following requirements:

(a) Size. Each Well Site will be at least one (1) acre of Net Usable Acres as confirmed by a survey. “Net Usable Acres” shall mean the acreage of the particular land to be conveyed shall be net of and not include any wetlands on such land, any environmental contaminants on such land in violation of applicable law, any road rights-of-way or off-site drainage facilities, existing infrastructure, any easements, or any protected species, any of which would adversely affect the use of such land for its intended purpose.

(b) Characteristics of Land. The soils, topographic, and vegetative conditions on each Well Site shall not prevent or unreasonably impair the construction of the well of standard design in the City of Port St. Lucie, as shall be reasonably determined by the City during the Pre-Conveyance Notice Period, provided however that Developer shall not be required to fill or grade same. There shall not be any title encumbrances, development orders, resolutions, declarations of covenants or other restrictions encumbering the Well Site which would prohibit the Well Site from being entitled or used for well site purposes.

(c) Inspection of Well Sites. Developer agrees to allow the City access to each Well Site for making inspections and investigation of each Well Site to ensure compliance with the provisions of this Agreement prior to conveyance of each Well Site to the City.

In the event that any of the Well Sites does not satisfy any of the foregoing requirements, or any other requirements set forth in this Agreement, such event shall not be deemed an event of default by Developer, and Developer shall not be obligated to cure such defect with respect to the Well Site, but the City shall have the right to reject the conveyance of the Well Site as set forth in Section 2 above.

**Section 4. Conveyance of Well Sites.** Each Well Site conveyed or caused to be conveyed by Developer to the City shall be conveyed in accordance with the following requirements:

(a) Special Warranty Deed. Each Well Site shall be conveyed at no cost to the City in fee simple title, by special warranty deed (the “Deed”), using the form attached hereto and made a part hereof as **Exhibit “B”**, free and clear of all liens and encumbrances that would prevent the use of the Well Site for its intended purpose. The Deed from Developer to the City for each Well Site shall contain a covenant restricting its use for utility purposes and for no other purposes without the prior written consent of Developer, or Developer’s heirs, successors, and assigns. The City shall pay any recording fees or documentary stamp taxes due with respect to the recording of the Deed.

(b) Title, Survey and Closing Costs. No later than ten (10) days after the execution of this Agreement, Developer shall deliver to the City any soil studies, or other studies or reports, in Developer's possession or custody relating to the physical characteristics of the land being conveyed as Well Sites. During the Pre-Conveyance Notice Period the City shall obtain at the City's sole cost and expense: (i) a title report showing ownership and any matters appearing in the Public Records of St. Lucie County, Florida; (ii) a title opinion confirming there is nothing impacting title that would prohibit or limit the usability of the Well Site for utility purposes; and (iii) a survey certified to the City and Developer.

(c) Disclosure of Interested Parties. Not less than ten (10) days prior to the closing date of conveyance of each Well Site to the City, Developer shall provide to the City an affidavit and certificate of beneficial interest, in such form and content as the City may reasonably require (but no disclosure shall be required as to any entity which is a public company whose shares are registered on a national stock exchange), as necessary to comply with all disclosure provisions of Section 286.23, Florida Statutes, or shall demonstrate exemption from such disclosure. By executing this Agreement, Developer acknowledges receipt of written notice of the requirement to make such disclosure.

#### **Section 5. Post Conveyance Obligations.**

(a) Infrastructure for Utilities. The City shall be responsible for, and shall pay the cost of, any and all applicable charges, fees, and costs whatsoever for the construction, maintenance and other services to and within the Well Sites. Developer shall have no responsibility for providing utilities to the Well Sites.

(b) Maintenance of Well Sites. After conveyance of each Well Site to the City, the City shall be responsible for the maintenance of each such Well Site and any improvements or landscaping thereon, and shall secure and maintain such Well Sites, so that they do not create an unattractive appearance to nearby homes.

(c) Architectural Review. With respect to any building constructed on a Well Site, the City shall provide an exterior finish, color, landscaping and roof design and appearance compatible and consistent with those applicable to the surrounding subdivisions. Landscaping shall be provided along the perimeter of each Well Site. Prior to such construction, the City shall obtain approval from Developer of building elevations and landscaping plans, which approval shall not be unreasonably withheld. If Developer desires architectural improvements beyond what is shown in the "general well house" design depicted in Exhibit "C" to the Deed attached hereto, then Developer shall pay the City for the increase in the cost of construction resulting from such improvements. The Deed from Developer to the City for each Well Site shall contain a covenant containing the foregoing restriction.

**Section 6. Recording of Agreement.** This Agreement, and any supplement to or other amendment of this Agreement, shall be recorded in the public records of St. Lucie County, Florida by and at the expense of the City, and shall be considered as a covenant running with the land and binding upon the heirs, successors, and assigns of both Developer and the City.

**Section 7. Notices.** All notices or other communications hereunder shall be in writing

and shall be deemed duly given if delivered in person (including any over-night delivery service) or sent by certified mail, return receipt requested, and addressed as follows or to such other party or address as may be designated by one party to the other.

If to City:

City of Port St. Lucie  
121 SW Port St. Lucie Boulevard  
Port St. Lucie Florida 34984  
Attention: City Manager

With copy to:

City of Port St. Lucie  
121 SW Port St. Lucie Boulevard  
Port St. Lucie Florida 34984  
Attention: City Attorney

If to Developer:

Midway Glades Developers, LLC  
864 S.E. Becker Road  
Port St. Lucie, FL 34984  
Attention: Austin Burr  
Brennan Dwyer and Patricia Nolan

With copy to:

Dean, Mead, Minton and Moore  
1903 S. 25<sup>th</sup> Street, Suite 200  
Fort Pierce, FL 34990  
Attention: W. Lee Dobbins

**Section 8. Indulgence Not Waiver.** The indulgence of either Party with regard to any breach or failure to perform any provision of this Agreement shall not be deemed to constitute a waiver of the provision or any portion of this Agreement, either at the time the breach or failure occurs, or at any time throughout the term of this Agreement.

**Section 9. Entire Agreement; Amendment.** This Agreement constitutes the entire Agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior oral or written agreements between the parties relating to this Agreement. This Agreement may only be amended by written document executed by both Parties.

**Section 10. Interpretation; Venue.** This Agreement shall be interpreted as a whole unit, and section headings are for convenience only. All interpretations shall be governed by the laws of the State of Florida. In the event it is necessary for either party to initiate legal action regarding this Agreement, venue shall be in the Nineteenth Judicial Circuit in and for St. Lucie County, Florida, for claims under state law, and in the Southern District of Florida for claims justiciable in federal court. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT. This clause shall survive the expiration or termination of this Agreement.

**Section 11. Default.**

(a) With respect to any event of default and/or breach under this Agreement, neither party shall be deemed in default and/or breach unless:

- i. the party alleging such default and/or breach shall have provided written notice of the alleged default and/or breach to the other party;
- ii. the alleged defaulting and/or breaching party shall have failed within a

period of thirty (30) days after receipt of such notice to commence such action as is reasonably necessary to cure said default and/or breach and thereafter diligently pursue to cure such default within a reasonable time; and

iii. the alleging party is in compliance with the provisions of this Agreement.

(b) Subject to the right to cure set forth in Section 11(a) above, in the event of a default and/or breach by the City or Developer, the non-defaulting party shall be entitled to pursue all remedies available at law and/or equity.

*[Signatures and acknowledgments appear on the following page(s)]*

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the day and year first above written.

CITY:

CITY OF PORT ST. LUCIE, a  
Florida municipal corporation

Attest:

\_\_\_\_\_  
Sally Walsh, City Clerk

(Seal)

By: \_\_\_\_\_  
Shannon M. Martin, Mayor

Approved as to form and correctness:

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
City Attorney

*(Remainder of page intentionally left blank)*

Witnesses:

DEVELOPER:

MIDWAY GLADES DEVELOPERS, LLC,  
a Delaware limited liability company

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_  
Its: Authorized Signatory

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of MIDWAY GLADES DEVELOPERS, LLC, a Delaware limited liability company, on behalf of the company.

[Notary Seal]

\_\_\_\_\_  
Notary Public-State of Florida  
Print Name:  
My commission expires:

\* \* \*

**Exhibit “A”  
Well Sites**



**Exhibit "B"**  
**Special Warranty Deed Form**

Prepared by and return to:

Parcel Identification Nos.:

**Special Warranty Deed**

**This Special Warranty Deed** made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, between **MIDWAY GLADES DEVELOPERS, LLC**, a Delaware limited liability company whose mailing address is \_\_\_\_\_ ("Grantor"), and the **CITY OF PORT ST. LUCIE**, a Florida municipal corporation ("Grantee").

(Whenever used herein the terms Grantor and Grantee include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

**Witnesseth**, that said Grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said Grantee, and Grantee's heirs and assigns forever, the following described land, situate, lying and being in **ST. LUCIE COUNTY, FLORIDA**, to-wit:

See attached **Exhibit "A"** made a part hereof and incorporated herein ("Property")

**Subject to** (a) taxes and assessments for the year 20\_\_ and subsequent years not yet due or payable; (b) all laws, ordinances, regulations, restrictions, prohibitions and other requirements imposed by governmental authority, including, but not limited to, all applicable building, zoning, land use and environmental ordinances and regulations; (c) conditions, restrictions, limitations, easements and other matters of record, if any, but this reference shall not operate to reimpose any of the same; (d) rights of any parties in possession of the Property, if any; (e) matters which would be disclosed by an accurate survey of the Property; and (f) those matters set forth on **Exhibit "B"** attached hereto and made a part hereof.

**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** Grantor hereby covenants with said Grantee that Grantor is lawfully seized of said land in fee simple; that Grantor has good right and lawful authority to sell and convey said land; that Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under Grantor but no others.

**In Witness Whereof**, Grantor has hereunto set Grantor's hand and seal the day and year first above written.

Signed, Sealed and Delivered  
in the presence of:

MIDWAY GLADES DEVELOPERS, LLC,  
a Delaware limited liability company

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Witness #1 (as to Grantor)

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Witness #2 (as to Grantor)

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of MIDWAY GLADES DEVELOPERS, LLC, a Delaware limited liability company, on behalf of said company, who is personally known to me or who has produced \_\_\_\_\_ as identification.

(NOTARY SEAL)

\_\_\_\_\_  
Name: \_\_\_\_\_  
Typed, printed or stamped  
I am a Notary Public of the State of Florida  
having a commission number of \_\_\_\_\_  
and my commission expires: \_\_\_\_\_

**Exhibit “A”**

(Legal Description of Site to be conveyed)

**Exhibit "B"**  
(to Special Warranty Deed)

Grantee's acceptance of title to the Property is subject to any condition, restriction, limitation or other matter of record, however, shall not be construed as a waiver by Grantee of Grantee's claim of exemption, as a government purchaser, to the enforcement of any such condition, restriction, limitation or other matter of record against Grantee pursuant to *Ryan v. Manalapan*, 414, So.2d 193 (Fla. 1982).

Use of the Property is hereby forever restricted to and for use as a well site and related utility purposes (the "Permitted Use") and for no other purpose without the prior written consent of Grantor, or Grantor's successors and assigns.

Maintenance of Well Sites. Grantee shall be responsible for the maintenance of the Property and any improvements or landscaping thereon, and shall secure and maintain the Property, so that it does not create an unattractive appearance to nearby homes.

Architectural Review. With respect to any building constructed on the Property, Grantee shall provide an exterior finish, color, landscaping and roof design and appearance compatible and consistent with those applicable to the surrounding subdivisions. Landscaping shall be provided along the perimeter of the Property. Prior to such construction, Grantee shall obtain approval from Grantor, or Grantor's successors and assigns, of building elevations and landscaping plans, which approval shall not be unreasonably withheld. If Grantor desires architectural improvements beyond what is shown in the "general well house" design depicted in Exhibit "C" attached hereto, then Grantor shall pay Grantee for the increase in the cost of construction resulting from such improvements.

