

**RESOLUTION NO. 22-26**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF COOPER CITY, FLORIDA, APPROVING AND AUTHORIZING THE EXECUTION OF WATER AND SEWER DEVELOPER’S AGREEMENT WITH MATTAMY PALM BEACH, LLC FOR THEIR SIENNA PROJECT FOR 30 WATER AND SEWER ERCs AT A TOTAL COST OF \$108,137.40, ATTACHED HERETO AS EXHIBIT “A” AND INCORPORATED HEREIN; AUTHORIZING AND DIRECTING THE APPROPRIATE CITY OFFICIALS TO TAKE ANY AND ALL ACTIONS NECESSARY TO EFFECTUATE THE INTENT OF THIS RESOLUTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City is owner of the Utility system and provides water distribution and sewage collection services (“SERVICES”); and

**WHEREAS**, Mattamy Palm Beach, LLC, a Delaware limited liability company, hereinafter called "DEVELOPER" is requesting 30 Equivalent Resident Connections (“ERCs”) for their Sienna Project, located generally on the North side of Sheridan Street, approximately 1500 feet east of Pine Island Road, Cooper City; and

**WHEREAS**, there is sufficient capacity in the City’s Utility system to service this development; and

**WHEREAS**, Section 19-107 of the City Code requires the “Developer” to execute a Water and Sewer Developer’s Agreement and pay contribution charges to the City before the “SERVICES” could be provided; and

**WHEREAS**, the contribution charges for 30 water and sewer ERCs shall be \$40,463.10 and \$67,674.30 respectively for a total cost of \$108,137.40; and

**WHEREAS**, the Utilities Director / City Engineer recommends approval of Water and Sewer Developer's Agreement with Mattamy Palm Beach, LLC for their Sienna Project for 30 water and sewer ERCs at a total cost of \$108,137.40; and

**WHEREAS**, the City Commission finds that approving and authorizing the aforementioned Water and Sewer Developer's Agreement are in the best interests of the citizens and residents of the City of Cooper City

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF COOPER CITY, FLORIDA:**

**Section 1: Recitals Adopted.** That each of the above recitals is hereby adopted and confirmed. All exhibits attached hereto and incorporated herein and made a part hereof.

**Section 2:** That the City Commission hereby approves and authorizes the Water and Sewer Developer's Agreement with Mattamy Palm Beach, LLC for their Sienna Project for 30 water and sewer ERCs at a total cost of \$108,137.40, attached hereto as Exhibit "A" and made a part hereof by this reference.

**Section 3:** That the appropriate City officials are hereby authorized and directed to take any and all actions necessary to effectuate the intent of this Resolution.

**Section 4: Conflicts.** All resolutions inconsistent or in conflict herewith shall be and are hereby repealed insofar as there is conflict or inconsistency.

**Section 4: Severability.** If any section, sentence, clause, or phrase of this Resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this resolution.

**Section 5: Effective Date.** This Resolution shall become effective upon its passage and adoption by the City Commission.

**PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.**

\_\_\_\_\_  
GREG ROSS  
Mayor

ATTEST:

\_\_\_\_\_  
TEDRA ALLEN  
City Clerk

ROLL CALL

Mayor Ross \_\_\_\_\_  
Commissioner Pulcini \_\_\_\_\_  
Commissioner Meltzer \_\_\_\_\_  
Commissioner Green \_\_\_\_\_  
Commissioner Shrouder \_\_\_\_\_

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Jacob G. Horowitz  
City Attorney

EXHIBIT A

**The CITY OF COOPER CITY**  
**WATER AND SEWER**

**DEVELOPER'S AGREEMENT**

FOR: Sienna  
(NAME OF DEVELOPMENT)

**GENERAL LOCATION:** North side of Sheridan Street approximately 1500 feet east of Pine Island Road, Cooper City, Broward County, Florida

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THIS AGREEMENT effective this \_\_\_\_\_ day of \_\_\_\_\_, 2022,  
made and entered into by and between:

THE CITY OF COOPER CITY, a municipal corporation of  
The State of Florida, hereinafter called "CITY"

and

Mattamy Palm Beach LLC, a Delaware Limited liability company  
hereinafter called "DEVELOPER",

**THIS WATER AND SEWER DEVELOPER'S AGREEMENT** made and entered into, this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by and between **The City of Cooper City**, a municipal corporation of the State of Florida, hereinafter designated as the "**CITY**", and **Mattamy Palm Beach LLC**, a Delaware limited liability company authorized to do business in Florida, hereinafter designated as the "**DEVELOPER**".

**WITNESSETH:**

**WHEREAS**, the **DEVELOPER** desires water and sewer service to be rendered to property owned by the **DEVELOPER**, and

**WHEREAS**, the, **CITY** operates the water and sewage systems operated within the **CITY** boundaries.

**NOW, THEREFORE**, in consideration of the mutual covenants entered into between the parties hereto to be made and performed and in consideration of the benefits to accrue to each of the respective parties, it is covenanted and agreed to as follows:

1. **DEVELOPER'S PROPERTY.** The **DEVELOPER** owns a certain tract of land in the City of Cooper City, Florida, which is legally described in **Exhibit "A"** attached hereto and made a part hereof, hereinafter described as the "**PROPERTY.**" The **DEVELOPER** has requested that the **CITY** render water and sewer service to the **PROPERTY** and the **CITY** agrees to do so subject to the terms, covenants and conditions contained herein.

2. **WAIVER.** No delay or failure to exercise a right under this Agreement or any other Agreement shall impair or shall be construed to be a waiver thereof. No waiver or indulgence of any breach of this Agreement or series of breaches shall be deemed or construed as a waiver of any other breach of same or as voiding or altering any other obligation of the parties under this Agreement or any other Agreement. No order or directive given by the **CITY**, or its agents shall be considered as waiving any portion of this Agreement unless done in writing by a person having actual authority to grant such waiver.

3. **DEVELOPER ACKNOWLEDGMENT.** The **DEVELOPER** hereby acknowledges and agrees that any right to connect the **PROPERTY** to the **CITY'S** water and sewer system is subject to the terms, covenants and conditions set forth in, any and all current, subsequent or future agreements, court orders, judgments, consent orders, consent decrees and the like entered into between the **CITY** and the United States, State of Florida and/or any other governmental entity, and all other current, subsequent or future enforcement and regulatory rules, actions and proceedings.

4. **PROVISION OF SERVICE AND CONSTRUCTION CHARGES.** The **CITY** will provide an adequate domestic water supply for the **PROPERTY** and will receive and

dispose of sanitary sewage from the **PROPERTY** as provided herein. The **DEVELOPER** shall pay a one time Construction Charge in the amount of **N/A** for the privilege of connecting to the subportion of the **CITY'S** water and sewer system designated in the copy of the final approved site plan attached hereto as Exhibit "B" (the "Subportion"). Said Construction Charges shall be deemed to be a reimbursement of **DEVELOPER'S** share of the costs of constructing the Subportion. Construction Charges received by the **CITY** from future developers connecting to the Subportion shall be used by the **CITY** to reimburse the **DEVELOPER** for that portion of the Subportion utilized by a future developer, as determined by the **City** pursuant to the **City Code**.

5. **GUARANTEED REVENUES.** **DEVELOPER** shall pay to **CITY** a fee to defray the cost to **CITY** of maintaining reserve water and sewer systems (the "**GUARANTEED REVENUE**"). The **GUARANTEED REVENUE** is equal to the applicable monthly service availability charge for water and sewer service.

a. **DEVELOPER** shall pay to **CITY**, **GUARANTEED REVENUES** when due, at the rates in effect when due, and as amended from time to time. **GUARANTEED REVENUES** are equal to the service availability charge for water and sewer service. **GUARANTEED REVENUES** are due and payable monthly.

b. The payment of **GUARANTEED REVENUES** required by this Agreement shall commence six (6) months after the effective date of this Agreement. Has a plat for the property been recorded with Broward County \_\_\_YES\_\_**X**\_\_NO. If NO, then **GUARANTEED REVENUES** commence one (1) year after the effective date of this Agreement. **GUARANTEED REVENUES** shall be due for all UNITS or equivalent residential connections ("ERC"), as defined in Section 19-72 of the City's Code of Ordinances. ERC shall be assigned to the **PROPERTY**

unless otherwise specified by this Agreement. **GUARANTEED REVENUES** shall be calculated based on the prevailing rate at the time permits are issued.

c. **GUARANTEED REVENUES**, if initiated, shall no longer accrue for a unit when metered water and sewer services are established at a particular building and the required customer deposits are paid to the **CITY**. However, if accounts are open in **DEVELOPER'S** name and closed without a new account being established, the **GUARANTEED REVENUES** shall resume.

d. The parties acknowledge the **GUARANTEED REVENUE** payments made by **DEVELOPER** shall be considered as revenue (income).

6. **CONTRIBUTION PAYMENTS FROM DEVELOPER.** Contribution charges are computed based upon the representations made by the **DEVELOPER** on the final approved site plan for the **PROPERTY**. A copy of the final approved site plan shall be reduced to 8 ½ ' x 14' and attached hereto as **Exhibit "C"**. The contribution charges for both water and sewer services shall be calculated according to the rates set by resolution of the City Commission and the payment of which shall be a condition precedent to the execution of this Agreement. The contribution charges applicable for this Agreement are summarized as follows:

**CONTRIBUTION (WATER)**

Residential..... # 30 Units X 1.0 ERC's Per Unit @ \$1,348.77 Per ERC  
Non-Residential. # 0 ERC's @\$ \_\_\_\_\_ Per ERC  
Total ERC's 30 (WATER)

**CONTRIBUTION (SEWER)**

Residential... .. # 30 Units X 1.0 ERC's Per Unit @ \$2,255.81 Per ERC  
Non-Residential. #0 ERC's @\$ \_\_\_\_\_ Per ERC  
Total ERC's 30 (SEWER)



**CONTRIBUTION CHARGES IN THE AMOUNT OF \$108,137.40 ARE DUE AT THE TIME THIS AGREEMENT IS APPROVED BY CITY COMMISSION.**

Upon the CITY'S collection and expenditure of the Contribution Charge for the construction of the CITY'S utility system which is intended to enable the CITY to serve the PROPERTY, all Contribution Charges shall become non-refundable.

7. **OTHER USES ON THE PROPERTY.** If the DEVELOPER constructs buildings other than those outlined in Exhibit "C" attached, or otherwise changes the use of structures built at the PROPERTY, the CITY shall determine if additional capacity is needed, as calculated using Exhibit "D" attached hereto. If additional capacity is required, additional connection charges, computed at prevailing rates, capacity allocation, if available, and construction connection charges, if any, shall be required of the DEVELOPER. If requested by the CITY, the DEVELOPER shall provide the CITY a list of all tenants and building units and/or use prior to the installation of any water meters by the CITY for the PROPERTY. The CITY may require DEVELOPER to make certain modifications to CITY'S water and sewer systems in order to alleviate the burden that providing service to the PROPERTY has on the systems. The required modifications are set forth in Exhibit "E" and shall be performed by DEVELOPER at DEVELOPER'S sole cost and expense. The DEVELOPER will not receive a Certificate of Occupancy prior to the completion of the required modifications.

It is understood that the services provided by the City pursuant to this agreement are for the uses and capacity set forth herein. If a larger meter is needed, then the DEVELOPER will be charged additional contribution charges, which must be paid at the prevailing rate at the time of the application for a larger meter or for additional ERCs to accommodate the larger meter.

8. **DESIGN AND CONSTRUCTION OF FACILITIES.** The **DEVELOPER** at its own cost and expense shall cause to be designed, constructed and installed all of the necessary water and/or sewer facilities provided for in this Agreement unless otherwise specified. The facilities shall include any and all water mains, valves, fittings, fire hydrants, firelines, service connections, service lines, shutoffs, meter boxes, air release valves, gravity sewer mains, laterals, manholes, and all appurtenances thereto for a complete installation. The final design and construction of the facilities shall be subject to approval by the **CITY** and require an engineering permit from the Office of the City Engineer.

9. **INSPECTION.** **DEVELOPER** shall, at its sole cost and expense, retain the services of a licensed engineer for the purposes of providing necessary inspection and supervision of the work performed to ensure compliance with accepted engineering practices as well as with the approved plans and specifications. **DEVELOPER** shall notify the **CITY** in writing within five (5) days of such an engagement. A copy of each field report shall be submitted to the **CITY** by the engineer. The **CITY** shall retain the right, but not be obligated, to make engineering inspections of all the construction work performed by the **DEVELOPER** under the terms of this Agreement including private facilities not to be conveyed to the **CITY**. Such inspections shall not be construed to constitute any representation or guarantee on the part of the **CITY** as to the quality and condition of materials and workmanship. Any inspections by the **CITY** shall not relieve the **DEVELOPER** of any responsibility for proper construction of said facilities in accordance with approved plans and specifications. Furthermore, any inspections by the **CITY** shall not relieve the **DEVELOPER** of responsibility for the quality and condition of materials and workmanship.

10. **TESTS.** During construction and at the time when various tests are required, the **CITY'S** engineer or its authorized representative, together with the **DEVELOPER'S** engineer and contractor, shall jointly be present to witness tests for determination of conformance with approved plans and specifications. The **DEVELOPER** shall notify the **CITY** a minimum of twenty-four (24) hours in advance of the tests. Copies of test results shall be furnished to the **CITY** upon the completion of each test.

11. **CONSTRUCTION MEETINGS.** **DEVELOPER** shall arrange for a pre-construction meeting with the **CITY** prior to the commencement of each phase of construction. Notification for each meeting shall be made in writing and must be received by all parties at least seventy-two (72) hours in advance of the proposed meeting. The meeting shall be held at least twenty-four (24) hours prior to the commencement of each phase of construction. The **CITY** reserves the right to schedule construction meetings with the **DEVELOPER'S** representatives (Engineer, Project Manager, Construction Superintendent and others) at a place designated by the **CITY** with respect to project related matters upon twenty-four (24) hours notice.

12. **SUBCONTRACTORS AND CONSULTANTS.** The **CITY** reserves the right, at any time, to bar any subcontractor or consultant employed by the **DEVELOPER** from engaging in any sort of work or activity related to this Agreement, if such be in the interests of the **CITY**. In the event the **CITY** rejects any subcontractor or consultant, said subcontractor or consultant will immediately cease work on anything related to this Agreement. The **DEVELOPER** shall not be entitled to compensation for any monies previously paid to any subcontractor or consultant if said subcontractor or consultant is rejected by the **CITY**.

13. **COMPLIANCE WITH ALL LAWS.** The **DEVELOPER**, at its own cost and expense, shall comply with all applicable laws, statutes, rules, and ordinances in carrying out the activities contemplated herein.

14. **APPROVALS AND PERMITS.** The **DEVELOPER** shall be fully responsible for obtaining all required approvals from all appropriate governmental and regulatory agencies and all necessary permits for all facilities contemplated in this Agreement. Notwithstanding anything else contained herein to the contrary, this Agreement shall not constitute or be interpreted as a waiver of any requirements of any other agency of Broward County and/or any requirements of the Code the City of Cooper City or of the Code of Broward County. The **DEVELOPER** is responsible for obtaining all permits as may be required for the work contemplated herein.

15. **CITY AS PERMITTEE.** Certain federal, state and county agencies, including but not limited to the State of Florida Department of Transportation, the South Florida Water Management District, the Central Broward Water Control District, the U.S. Army Corps of Engineers and Florida railway entities may require that the **CITY** be named as permittee for certain construction activities even though the **DEVELOPER'S** contractor will actually perform the work. To insure that the **CITY** will incur no costs or liability as a result of being named permittee on such permits, the **DEVELOPER** shall provide sufficient security as acceptable to the **CITY** which shall indemnify and protect the **CITY** from all claims, actions, judgments, liability, loss, cost and expense, including reasonable attorney's fees, related to work performed by the **DEVELOPER** pursuant to such permits. The security shall be furnished prior to the start of construction and shall be in an amount equal to the **CITY'S** cost estimate for the permit work.

The **DEVELOPER** shall have sixty (60) days to resolve any claims by a permittor. Otherwise, the **CITY** shall be entitled to pay said claims from the security. The **DEVELOPER** shall be liable for all costs in excess of the security.

16. **OWNERSHIP OF WATER METER.** The **CITY** shall own and install the required water meter as a part of any water service installation. Ownership by the **CITY** shall terminate at the outlet side of each water meter. The **DEVELOPER** shall pay all applicable installation charges.

17. **TREATMENT AND TRANSMISSION CAPACITY.** In addition to the covenants and conditions set forth herein, water and sewer service to be rendered by the **CITY** is subject to the following:

- a. issuance of a valid operation permit by the State of Florida for the **CITY'S** sewage treatment facility serving the **PROPERTY** which allows additional connections,
- b. sufficient available capacity in the **CITY'S** sewage system and connection approval,
- c. available water by the **CITY**.

However, in no event will the **CITY** be obligated to supply any more water or sewage treatment capacity in any one year than is called for by the building connection schedule attached as **Exhibit "D"**. Any variation from said connection schedule which results in increased yearly demand on the water resources or sewage treatment facility capacity of the **CITY** not specifically provided for in **Exhibit "D"** shall be subject to the written approval and consent of the **CITY** and shall be dependent on the availability of the water resource and the various

restrictions placed on the supply of water or the disposal of sewage by local, state and federal government agencies and the physical limitations on the **CITY'S** supply and treatment capacity. If the **DEVELOPER** does not utilize the yearly amount of water or sewage treatment facility allocation projected in **Exhibit "D"**, said amount will be available to the **DEVELOPER** in the next calendar year subject to the limitations and provisions specified herein.

18. **ALLOCATION OF CAPACITY.** The **CITY** agrees to include the aforesaid allocation in its regional water supply, production and transmission facilities and regional sanitary sewer system, once the **DEVELOPER** is granted necessary sewer allocation. However, it is mutually agreed and understood by the **CITY** and the **DEVELOPER** that the allocation of capacity by the **CITY** does not guarantee the ability of the **CITY** to supply water for the **PROPERTY** or the ability to receive and dispose of sewage originating from the **PROPERTY**. Capacity allocation is subject to local, state and federal agencies and other regulatory bodies having jurisdiction. In connection therewith, the **DEVELOPER** agrees that the **CITY** shall not be liable or in any way responsible for any costs, claims or losses incurred by the **DEVELOPER** as a result of actions by regulatory bodies, which are related to capacity allocation.

19. **FACILITIES EASEMENTS.** If the facilities contemplated herein or any portion thereof are installed within private property outside of public right-of-way, the facilities shall be installed in the center of a twelve (12) foot wide easement for water facilities and fifteen (15) foot wide easement for sewer facilities. Both require a twenty-five (25) foot minimum vertical clearance above the finished grade. The **CITY** shall have twenty-four (24) hour access to the easement for emergency purposes. If the facilities are not located in platted easements, then easements shall be granted to the **CITY** by the **DEVELOPER** prior to the **CITY'S**

installation of a water meter and/or the rendition of sewer service to the **PROPERTY**. The **DEVELOPER** may not place any structures in an easement area which would prevent the **CITY**, at its sole discretion, from making full use of the easement, and the **DEVELOPER** shall remove same, at the **DEVELOPER'S** cost, at the direction of the **CITY**. The **DEVELOPER** may place structures in the easement area if such structures may be removed, with minimal effort by the **CITY**. In the event that such structures need to be removed in order for the **CITY** to make use of the easement; the **DEVELOPER** hereby recognizes that **DEVELOPER** has placed such structures in the easement area at **DEVELOPER'S** own risk, and that the **CITY** shall not be liable for any costs incurred by the **DEVELOPER** in replacing any such structures removed by the **CITY**.

20. **CONVEYANCE OF TITLE.** Conveyance of all easements shall be by plat or separate instruments in recordable form as approved by the **CITY** and shall be accompanied by a written opinion of title by an attorney licensed to practice law in the State of Florida, which states that the **DEVELOPER** is the owner of the property interest to be conveyed, subject only to liens, encumbrances and restrictions as are acceptable to the **CITY**. The opinion shall also state that upon execution by the **DEVELOPER**, a valid and enforceable easement will be vested to the **CITY**. The **DEVELOPER** shall pay for all applicable recording fees and for all applicable documentary stamps. The details for all conveyances are specified herein. Failure of the **DEVELOPER** to provide proper conveyances shall be cause for the **CITY** to refuse to render service to the **PROPERTY**.

21. **DRAWINGS AND CONVEYANCE DOCUMENTS.** Following completion of the water and/or sewer facilities contemplated herein for **CITY** ownership, the **CITY** shall

provide conveyance documents, which may include bills of sale, releases of lien and grants of easement for execution by the **DEVELOPER**. The properly executed documents shall be delivered to and accepted by the **CITY** prior to the rendition of water and/or sewer service by the **CITY**. The **DEVELOPER** shall pay for all applicable recording fees and for all applicable documentary stamps. These conveyances shall be accompanied by copies of paid bills and/or lien waivers, releases, or satisfactions from all persons who performed work on the **PROPERTY** or on the water and/or sewer facilities and all persons who incorporate materials into the **PROPERTY** or into the water and/or sewer facilities, together with a breakdown of the actual cost of said facilities. Concurrently, the **DEVELOPER** shall furnish the **CITY** with one (1) set of mylar as-built drawings showing specific locations and depths among other things, of all facilities as located by a licensed surveyor, along with four (4) prints of the as-built drawings which have been sealed by a surveyor and certified by the engineer of record. An additional copy of As-Built drawings shall be provided in an electronic format compatible with the C.A.D. format. Approval by the **CITY** of all required conveyance documents, drawings and survey specified herein shall constitute final acceptance by the **CITY** of said facilities. After final acceptance, the facilities shall remain at all times the sole, complete, and exclusive property of the **CITY** and under the exclusive control and operation of the **CITY**.

22. **WARRANTY AND MAINTENANCE BOND.** The **DEVELOPER** warrants that the water and sewer facilities to be owned by the **CITY** shall be free from defects in materials and workmanship for a period of one (1) year from final acceptance by the **CITY**. On the Effective Date, **DEVELOPER** shall deliver to the **CITY** a performance bond or other security in a form acceptable to the City Attorney in an amount equal to one hundred ten (110) percent of the estimated cost of construction as approved by the **CITY**. Upon completion of construction and



simultaneously with the transfer of the water and/or sewer facilities to the **CITY**, the Bond shall be reduced to twenty-five (25) percent of the certified completed cost of the water and/or sewer facilities. The remaining Bond shall be held for an initial one (1) year period and shall act as a maintenance bond, which shall guarantee the warranty. Release of the remaining Bond shall be contingent upon the satisfactory inspection of all improvements, and the approval of the City Commission. If it becomes necessary to repair and/or replace any part of the facilities during the initial one (1) year period, then the warranty as to those items repaired and/or replaced shall continue to remain in effect for an additional period of one (1) year from the date of final acceptance by the **CITY** of those repairs and/or replacements. The bonds shall have as the surety thereon only such surety company as is acceptable to the **CITY** and which is authorized to write bonds of such character and amount under the laws of the State of Florida.

23. **CONDITION OF AGREEMENT.** Both the **DEVELOPER** and the **CITY** recognize that time is of the essence and that this Agreement shall be deemed null and void and unenforceable if the **DEVELOPER** fails to comply with any of the following conditions, where applicable:

- a. After Effective Date of this Agreement, work on the water and/or sewer facilities shall commence within one hundred eighty (180) days from the Effective Date. Work shall be considered to have commenced and be in active progress when engineering drawings are submitted to the **CITY** for review and approval, and, upon the **CITY'S** issuance of said approval, a full complement of workmen and equipment is present at the site to diligently incorporate materials and equipment into the construction of the water and/or sewer facilities throughout the day on each full working day, weather permitting.

- b. Once the **DEVELOPER** commences work on the water and/or sewer facilities, said work cannot be suspended, abandoned, or not in active progress for a period exceeding one hundred eighty (180) days.
- c. The remedies specified herein are cumulative with and supplemental to any other rights which the **CITY** may have pursuant to the law or any other provision of this Agreement.

24. **INDEMNIFICATION; INSURANCE.**

(a) The **DEVELOPER** shall defend, indemnify and hold harmless the **CITY** and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the **CITY** or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the **DEVELOPER** or its employees, agents, servants, partners, principals, contractors and/or subcontractors. The **DEVELOPER** shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the **CITY**, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The **DEVELOPER** expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the **DEVELOPER** shall in no way limit the responsibility of **DEVELOPER** to defend, indemnify, keep and save harmless the **CITY** or its officers, employees, agents and instrumentalities as herein provided. In the event that the provisions of Sec. 725.06(2) and / or Sec. 725.08(2), Florida Statutes are applicable to work performed by or through **DEVELOPER** pursuant to this Agreement, this paragraph shall be deemed to provide

for **DEVELOPER** to defend, indemnify and hold **CITY** harmless solely to the fullest extent allowed by said statutes, as applicable.

(b) The **DEVELOPER** shall cause its engineers, consultants and contractors to maintain through that portion of the duration of this Agreement during which **DEVELOPER** is to construct water and sewer facilities and for one year thereafter, liability insurance, issued by a company authorized to do business in the State of Florida, and of a type that will protect **DEVELOPER** and the **CITY** from any acts of **DEVELOPER**, its engineers, consultants or its contractors in connection with the performance of the construction of any water and sewer facilities which **DEVELOPER** is required to provide pursuant to this Agreement, resulting in any claims against the **CITY** or **DEVELOPER** or both. The **DEVELOPER** shall provide Certificate(s) of Insurance naming the **CITY** as an additional insured on a primary and non-contributory basis, and shall provide waivers of subrogation and endorsements. The minimum amount of insurance coverage to be maintained shall be as follows:

GENERAL LIABILITY	PER OCCURRENCE	AGGREGATE
Comprehensive, including	\$1,000,000	\$2,000,000
Premises-Operations		
Contractual Liability		
Personal Injury		
Explosion and Collapse		
Underground Hazard		
Products/Completed Operations		
Broad Form Property Damage		
Independent Contractors		
Cross Liability and Severability of Interest Clause		
AUTOMOBILE LIABILITY	PER PERSON	PER OCCURRENCE
Comprehensive, including	\$500,000	\$1,000,000
Owned		
Hired		
Non-Owned		
PROFESSIONAL LIABILITY	\$1,000,000	

WORKERS' COMPENSATION Statutory Amount

A certificate of insurance showing the required coverage, waivers of subrogation, and showing the **CITY** as an additional insured on a primary and non-contributory basis shall be provided to **CITY** prior to commencement of any work in accordance with this Agreement. The certificate(s), along with their endorsements, shall also provide notice of change or cancellation to the **CITY** as required by law.

25. **FORCE MAJEURE.** Should either party be prevented from performing any obligations herein, including but not limited to water and/or sewer service, due to or resulting from a force majeure or inevitable accident or occurrence, such party shall be excused from performance for the duration of such event of force majeure or the inevitable accident or occurrence. As used herein, force majeure shall mean an act of God which includes but is not limited to sudden, unexpected or extraordinary forces of nature such as floods, washouts, storms, hurricanes, fires, earthquakes, landslides, epidemics, explosions or other forces of nature. Inevitable accidents or occurrences shall mean those which are unpreventable by either party and shall include but not be limited to strikes, lockouts, other industrial disturbances, wars, blockades, acts of public enemies, insurrections, riots, federal, state, county and local governmental restraints and restrictions, military action, civil disturbances, explosions, conditions in federal, state, county and local permits, bid protests, manufacturing and delivery delays, unknown or unanticipated soil, water or ground conditions and cave-ins, or otherwise, and other causes reasonably beyond the control of either party, whether or not specifically enumerated herein.

26. **SERVICE CHARGES.** The **DEVELOPER** agrees to pay to the **CITY** the prevailing service charges for water supply and fire protection, sewage collection and disposal within the **PROPERTY** as may be applicable until the responsibility for payment of said charges is properly transferred in accordance with the **CITY'S** regulations.

27. **USE OF FACILITIES BY CITY.** The **CITY** reserves the right to make full use of the water and/or sewer facilities to be owned by the **CITY** as contemplated herein to serve other customers at any time.

28. **ASSIGNMENT OF AGREEMENT.** The terms of this Agreement shall run with the **PROPERTY** and be binding on the **DEVELOPER**, its successors, assigns and all other subsequent owners of the **PROPERTY**. No right to any water supply and sewage disposal service commitment provided for in this Agreement shall be transferred, assigned or otherwise conveyed to any other party without the express written consent of the Utilities Director of the **CITY** or his designee except as noted below. The consent of the **CITY** shall not be required in connection with the sale, lease or other conveyance of the **PROPERTY** or any residential units or commercial establishments to any party who will be the ultimate user of the **PROPERTY**, including but not limited to a bona fide purchaser, lessee, resident or occupant. The intent of this paragraph is to require consent of the **CITY** for assignments or transfers of any water and sewage disposal capacity allocation to any party who holds such **PROPERTY** as an investment for resale or who intends to develop for sale a portion of the **PROPERTY**, so that the **CITY** may adequately determine the demand for water and sewage disposal capacity and plan for the fair and equitable allocation of water and sewage disposal capacity among the residents of the **CITY**. Consent, when required, shall not unreasonably be withheld by the **CITY**. If the

**PROPERTY** is transferred or conveyed, the **DEVELOPER** shall remain liable to the **CITY** for all sums of money and all obligations due hereunder unless released in writing by the **CITY**.

29. **EXCLUSIVE RIGHTS OF CITY.** **CITY** shall have the exclusive right to furnish water service and sewage collection service to consumers within the **PROPERTY** covered by this Agreement.

30. **WELLS PROHIBITED EXCEPT FOR IRRIGATION.** **DEVELOPER**, his successors and assigns, and the owners and occupants of buildings on the **PROPERTY** shall not install or maintain any water wells except for irrigation purposes. These wells shall not be connected to any potable water system.

31. **PROMULGATION OF REASONABLE RULES OF SERVICES.** The **CITY** shall have the right to promulgate from time to time reasonable rules and regulations relating to the furnishing of water service and sewage collection service to consumers within the **PROPERTY** encompassed by this Agreement. Such rules and regulations may relate to, but are not limited to, rates, deposits, water conservation programs, and connection charges and the right to discontinue services under certain conditions. The water and sewer rates to be charged by **CITY** to said customers shall be the rates now or hereafter charged to other customers within the area of service of the **CITY**. **DEVELOPER** hereby acknowledges and agrees that rates are subject to change at any time by **CITY**.

32. **CITY NOT LIABLE FOR DEVELOPER'S OR CONSUMER'S PROPERTY.**  
The **CITY** shall not be liable or responsible for maintenance or operation of any pipes, pipelines,

valves, fixtures or equipment on any of the properties of the **DEVELOPER**, customers, consumers or users on the **PROPERTY** other than the water service lines and sewage collection system within easements granted to **CITY** pursuant to this Agreement.

33. **OVER-SIZE METERS ON SINGLE FAMILY HOMES.** It is assumed that a single family home on the **PROPERTY** will be serviced by a 5/8 inch water meter. If a larger water meter is needed, then **CITY** will be paid by **DEVELOPER**, Assignee, or Homeowner the additional ERC's at the rate prevailing at the time of the application for the larger meter.

34. **SYSTEM ON CONSUMER'S PROPERTY TO BE KEPT IN GOOD WORKING CONDITION.** Each consumer of water service or sewage collection service on the **PROPERTY** shall keep all water pipes, service lines, connections and necessary fixtures and equipment on the premises occupied by said consumer, and within the interior lines of the lot occupied by the consumer in good order and condition. The sale of water by **CITY** to the consumer shall occur at the consumer's side of the entire meter installation, but the obligation for the maintenance of the lines shall be as set forth above and in applicable **CITY** regulations. The "Clean-out" for the sewer lateral shall be at the property or easement line.

35. **CONDITIONS ON FIRE HYDRANT USE.** No water from **CITY'S** water distribution system shall be used or disbursed by **DEVELOPER** or his agents, through fire hydrants or water mains, or by any person, firm, corporation or agency, public or private, unless there has first been made adequate provisions for compensating **CITY** for such water, as provided for within **CITY'S** Utility Ordinance and implementing **CITY** resolutions.

36. **ENTIRE AGREEMENT.** This Agreement supersedes all previous agreements and representations, whether oral or written, between the **DEVELOPER** and the **CITY** and made with respect to the matters contained herein and when duly executed constitutes the complete Agreement between the **DEVELOPER** and the **CITY**.

37. **NOTICE.** All notices given pursuant to this Agreement shall be mailed by United States Postal Service registered or certified mail to the parties at the addresses specified below addresses otherwise properly furnished.

City of Cooper City

City Manager  
9090 S.W. 50th Place  
Cooper City, Florida 33328

DEVELOPER

Mattamy Palm Beach LLC  
4901 Vineland Road, Suite 450  
Orlando, FL 32811  
Attn: Leslie C. Candes, Esq.

40. **RECORDING OF AGREEMENT.** This Agreement is being recorded in the public records of Broward County, Florida, for the particular purpose of placing all owners and occupants, their successors and assigns, upon notice of the provisions herein contained. The **DEVELOPER** shall pay all recording fees.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the day and year indicated below:

Signed, sealed and delivered  
in the presence of:

**THE CITY OF COOPER CITY**

\_\_\_\_\_  
MAYOR GREG ROSS

DATE: \_\_\_\_\_



ATTEST:

\_\_\_\_\_  
CITY MANAGER

DATE: \_\_\_\_\_


\_\_\_\_\_  
CITY CLERK

Approved as to form and legal sufficiency for the use and reliance of the CITY only:

\_\_\_\_\_  
CITY ATTORNEY

**DEVELOPER**

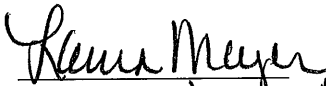
**MATTAMY PALM BEACH LLC**

BY: 

NAME: ANTHONY PACOMBO

TITLE: Vice President

DATE: 6-15-22

  
WITNESS Laura Meyer

  
WITNESS Tera Toto

**EXHIBITS**

The following exhibits are attached, as part of this Agreement and are incorporated into this Agreement:

EXHIBIT "A" - Legal Description of PROPERTY

EXHIBIT "B" - Receipt from third party for a portion of Construction charge

Included \_\_\_\_\_ Not Included  X

EXHIBIT "C" - A copy of the site plan of the PROPERTY reduced to 8 1/2" by 14" page size

EXHIBIT "D"- Building Connection Schedule: a listing for the PROPERTY indicating the number of buildings to be built, the number of ERC's allocated to each building, the number of meters per building, and the meter size(s)

EXHIBIT "E" - Modifications of CITY'S water or sewer facilities if required by CITY, if applicable

Included \_\_\_\_\_ Not Included  X

Exhibit A

**SIENNA AT COOPER CITY**

LEGAL DESCRIPTION:

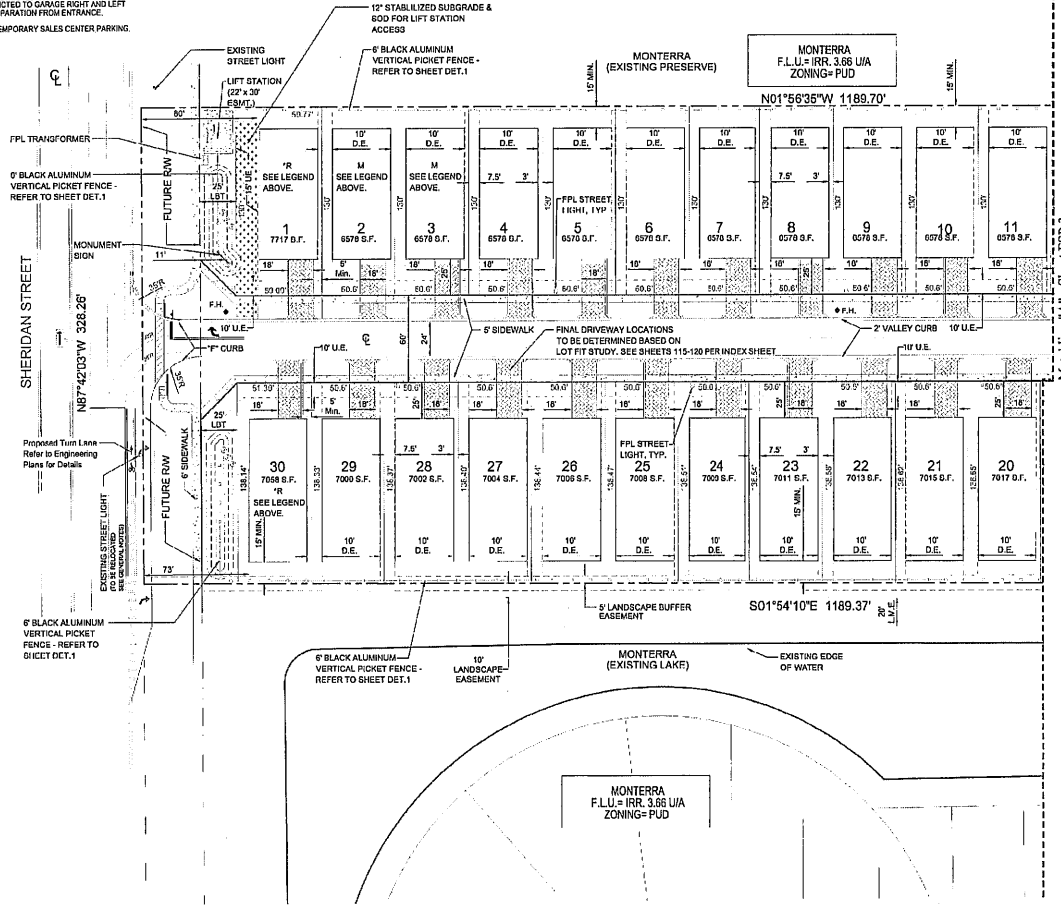
TRACT 53 IN SECTION 4 OF "THE EVERGLADES SUGAR AND LAND CO. SUBDIVISION OF SECTIONS 4, 5, 8, 9, 16, 17, 20, 21, 28, 29, 32 AND 33, TWP 51 SO., RANGE 41 EAST", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 75, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, LESS THAT PORTION LYING WITHIN 130.00 FEET OF THE SOUTH BOUNDARY OF SAID SECTION 4.

SAID LANDS LYING AND BEING IN THE CITY OF COOPER CITY, BROWARD COUNTY, FLORIDA.



**LEGEND**

"R" INDICATES LOT RESTRICTION. LOT MAY NEED TO BE RESTRICTED IN ITS CONFIGURATION DUE TO SITE CONSTRAINTS. LOTS 1 AND 30 ARE RESTRICTED TO GARAGE RIGHT AND LEFT RESPECTIVELY TO MAINTAIN SUFFICIENT DRIVEWAY SEPARATION FROM ENTRANCE. SEE DETAIL SHEET.  
 "M" INDICATES LOT IS DESIGNATED AS MODEL HOME AND TEMPORARY SALES CENTER PARKING. SEE DETAIL SHEET.  
 "LBT" INDICATES LANDSCAPE BUFFER TRACT.



1	REVISION	DATE
1	DRG Complete	7/1/11
2	DRG Complete	7/1/11
3	DRG Complete	7/1/11
4	DRG Complete	7/1/11
5	DRG Complete	7/1/11
6	DRG Complete	7/1/11
7	DRG Complete	7/1/11
8	DRG Complete	7/1/11
9	DRG Complete	7/1/11
10	DRG Complete	7/1/11
11	DRG Complete	7/1/11

Design and Entitlement Consultants, LLC  
 1127 Royal Palm Beach, FL 33411  
 Tel: (561) 797-0410  
 Email: info@designandentitlement.com



Sienna  
 Mattamy Homes Corporation  
 8701 Sheridan Street  
 Cooper City, FL 33024

Final Site Plan

SCALE: 1"=30'  
 CHECKED BY: K.D.D.  
 DRAWN BY: K.D.D.  
 DATE: 5.12.11

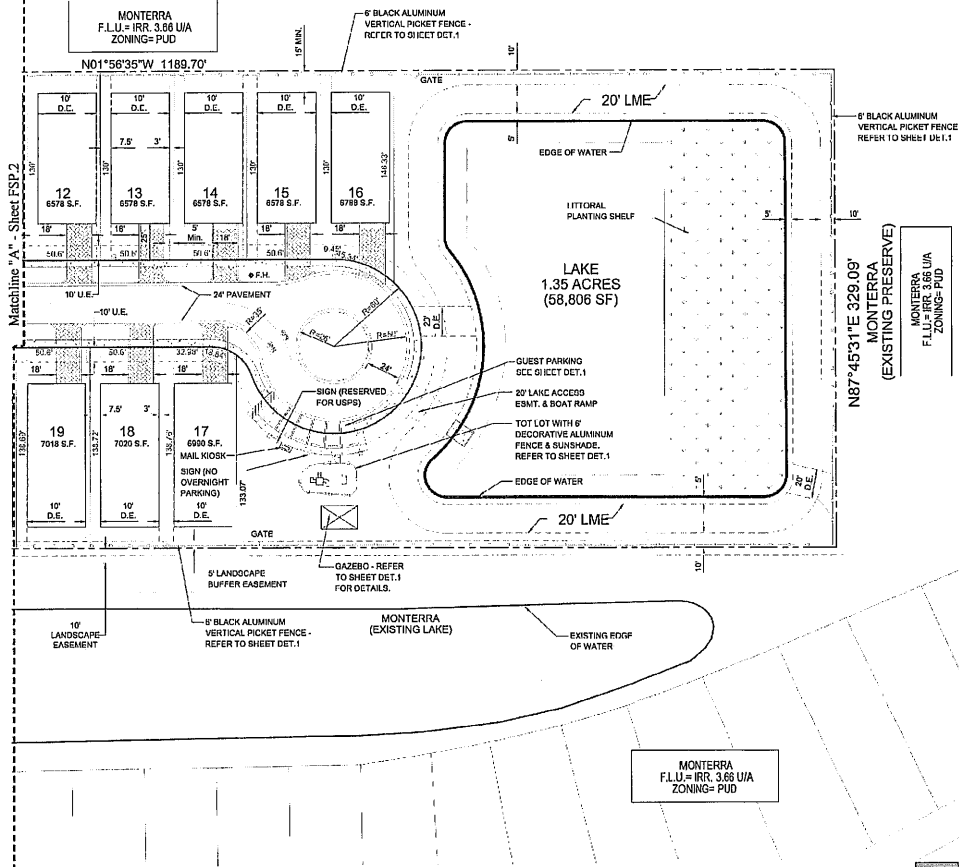
F.L.E. SP.1  
 SHEET  
**FSP.2**  
 2 OF 7 SHEETS



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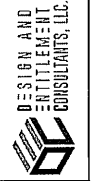
**LEGEND**

"R" INDICATES LOT RESTRICTION LOT MAY NEED TO BE RESTRICTED IN ITS CONFIGURATION DUE TO SITE CONSTRAINTS. LOTS 1 AND 30 ARE RESTRICTED TO GARAGE RIGHT AND LEFT RESPECTIVELY TO MAINTAIN SUFFICIENT DRIVEWAY SEPARATION FROM ENTRANCE.  
 M- INDICATES LCI IS DESIGNATED AS MODEL HOME AND TEMPORARY SALES CENTER PARKING. SEE DETAIL SHEET.  
 LBT- INDICATES LANDSCAPE BUFFER TRMCT.



1	REVISED	1/1/11
2	DRG CORRECTA	1/1/11
3	DRG CORRECTA	1/1/11
4	DRG CORRECTA	1/1/11
5	DRG CORRECTA	1/1/11
6	DRG CORRECTA	1/1/11
7	DRG CORRECTA	1/1/11
8	DRG CORRECTA	1/1/11
9	DRG CORRECTA	1/1/11
10	DRG CORRECTA	1/1/11

Design and Entitlement Consultants, LLC  
 1177 Royal Palm Beach, FL 33411  
 Tel: (561) 707-5460  
 Email: info@designandentitlement.com



Sienna  
 Mattamy Homes Corporation  
 8701 Sheridan Street  
 Cooper City, FL 33024

Printed Date: 1/1/11

SCALE:	1"=20'
CHECKED BY:	K.D.D.
DRAWN BY:	K.D.D.
DATE:	8.12.11
FILE #:	SP1
SHEET:	FSP.3
OF:	7 SHEETS



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**EXHIBIT "D"**

**Building Connection Schedule**

<b>BUILDING #</b>	<b># OF UNITS</b>	<b># OF ERC's</b>	<b># OF METERS</b>	<b>METER SIZE</b>
Lots 1 - 30	30	30	30	5/8"
<b>TOTAL</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>5/8"</b>

## OPINION OF TITLE

This Opinion of Title is furnished to City of Cooper City, Broward County, Florida regarding a title search of the real property hereinafter described, it is hereby certified that the following report reflects a comprehensive search of the Public Records through and including the date of July 14, 2022 affecting the hereinafter described property.

I hereby certify that I have examined First American Title Insurance Company Marked-up Title Commitment No. 1062-5137047 covering the period from the beginning to July 14, 2022 at the hour of 4:32 PM, inclusive, of the following described property:

See Exhibit "A" attached hereto and by this reference made a part hereof (“**Property**”).

It is my opinion that on the last mentioned date, the fee simple title to the Property was vested in Mattamy Palm Beach LLC, a Delaware limited liability company pursuant to the Statutory Warranty Deed recorded on July 14, 2022 in Instrument No. 118273244.

Subject to the following encumbrances, liens and other exceptions:

**1. RECORDED MORTGAGES:**

None.

**2. RECORDED CONSTRUCTION LIENS, CONTRACT LIENS AND JUDGMENTS:**

None.

**3. GENERAL EXCEPTIONS:**

3.1 Taxes for 2022 and subsequent years, and taxes or special assessments which are not shown as existing liens by the Public Records.

3.2 Rights or claims of parties in possession not shown by the Public Records.

3.3 Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the Property.

3.4 Easements or claims of easements not shown by the Public Records.

3.5 Any lien or right to a lien for labor, equipment, material, or supplies heretofore or hereafter furnished, imposed by law and not shown by the Public Records.



- 3.6 Any adverse claim to all or any part of the Property which is now under water or which has previously been under water but filled or exposed through the efforts of man.

**4. SPECIAL EXCEPTIONS:**

- 4.1 Restrictions, dedications, conditions, reservations, easements and other matters shown on the plat of EVERGLADES SUGAR AND LAND CO. SUB OF SECTIONS 4, 5, 8, 9, 16, 17, 20, 21, 28, 29, 32 AND 33, TOWNSHIP 51 SOUTH, RANGE 41, EAST, as recorded in Plat Book 2, Page(s) 75, of the Public Records of Miami-Dade County, which is now part of Broward County, Florida, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c).

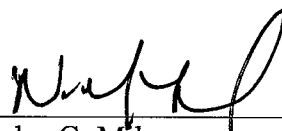
All recording references are to the Public Records of Broward County, Florida.

This opinion is solely for the benefit of the City of Cooper City and may not be quoted or relied on by, nor copies be delivered to, any other person, or used for any other purpose, without our prior written consent.

I, the undersigned, hereby certify that the foregoing report reflects a comprehensive search of a marked-up Title Commitment No. 1062-5137047 prepared by First American Title Insurance Company dated July 14, 2022 affecting the subject Property.

I further certify that the foregoing report reflects a comprehensive search of the Public Records of Broward County, Florida affecting the subject Property. I further certify that I am an attorney-at-law duly admitted to practice in the State of Florida, and a member in good standing of The Florida Bar.

Respectfully submitted on this 18th day of July , 2022.



Nicholas G. Milano  
Florida Bar Number: 975788  
HOLLAND & KNIGHT LLP  
P.O. Box 14070 (Zip Code 33302-4070)  
515 East Las Olas Boulevard, Suite 1200  
Fort Lauderdale, FL 33301

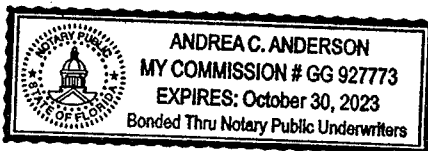
STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization this 18th day of July, 2022, by Nicholas G. Milano who is  personally known to me or  provided as identification.



Notary Public

Print Name



**Exhibit "A"**

**SIENNA AT COOPER CITY**

LEGAL DESCRIPTION:

TRACT 53 IN SECTION 4 OF "THE EVERGLADES SUGAR AND LAND CO. SUBDIVISION OF SECTIONS 4, 5, 8, 9, 16, 17, 20, 21, 28, 29, 32 AND 33, TWP 51 SO., RANGE 41 EAST", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 75, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, LESS THAT PORTION LYING WITHIN 130.00 FEET OF THE SOUTH BOUNDARY OF SAID SECTION 4.

SAID LANDS LYING AND BEING IN THE CITY OF COOPER CITY, BROWARD COUNTY, FLORIDA.