

EXHIBIT E



TOWN OF DUNDEE, FLORIDA CONCURRENCY CERTIFICATION POTABLE WATER CAPACITY

APPLICANT: [Name of Applicant]

DEVELOPMENT: [Name of Development] ("Development")

PARCEL NUMBER(S): [Polk County Property Appraiser Parcel Numbers]

LEGAL DESCRIPTION: [Attach Legal Description and Map]

REQUEST: Section 6.01.07.03 of the Land Development Code of the Town of Dundee – *Adequacy Determination Potable Water*

I. General Narrative.

The Town of Dundee (the "Town") is a Florida municipal corporation vested with home rule authority pursuant to the *Municipal Home Rule Powers Act* (Ch. 166, Fla. Stat.) and Article VIII, §2 of the Florida Constitution.

Section(s) 163.3161 through 163.3215, Florida Statutes (2024), the *Local Government Comprehensive Planning and Land Development Regulation Act*, empowers and mandates that the Town plan for future development and growth.

Pursuant to *Section 6.01.07.04 of the Land Development Code of Dundee* (hereafter the "LDC"), the Town is the sole provider of water utility service(s) within its Chapter 180, Florida Statutes, Utility Service Area (the "USA") and all new development is required to connect to the Town's Water System.

Pursuant to applicable Florida law, the Development is a *master planned community* which is located within the corporate limits of the Town and the USA; and, pursuant to *Section 7.02.08 of the LDC*, the Development is a residential development project to be *built in phases*.

On _____, 202__, at a duly noticed public meeting, the Town Commission of the Town of Dundee (the "Town Commission") passed and adopted *Town of Dundee Resolution No. _____* approving the Certified Subdivision Plan for the Development with Conditions (hereafter the "CSP").



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Pursuant to *Sec. 54-9 of the Code of Ordinances of the Town of Dundee, Florida* (hereafter the "Code") and *Sections 6.01.04, 6.01.07.03, and 6.01.10(C) of the LDC*, as a *condition of approval* of the CSP, the Town required that a *Concurrency Developer's Agreement* be negotiated and entered into between the Applicant and Town in order to identify and address, at a minimum, the following: (i) at that time, the Town did not have the necessary utility infrastructure, utility facilities, and/or allocable potable water capacity to serve the Development; (ii) the CSP, for the purpose of providing a basis upon which a final subdivision plat for the Development may be considered for approval, would not be considered complete until the Town has the ability to provide allocable potable water capacity for the Development; and (iii) by entering into the *Concurrency Developer's Agreement*, the Applicant acknowledged and agreed to assume all risk(s) associated therewith.

The Applicant did in fact negotiate and enter into a *Concurrency Developer's Agreement* and *Water Supply Allocation Agreement* for the Development (hereafter collectively the "Agreements") with the Town. Pursuant to the terms and conditions of the Agreements, any credit or increase to the Town of Dundee Public Supply Water Use Permit, Permit No. 20005893.014 (hereafter the "Town WUP"), by virtue of any transferred agricultural well(s) shall be allocated to the Development.

Pursuant to applicable law which includes, but shall not be limited to, *Section 6.01.04 of the LDC*, where concurrency deficiencies are identified, agreement(s) entered into in order to provide the needed service(s) shall be a condition of development approval of and/or for any development plan(s).

On _____, 2025, pursuant to the Code, the LDC, and applicable provision(s) of the Agreements, the Applicant submitted a request to the Town for an *adequacy determination* related to potable water concurrency for the Development.

Based on the aforementioned, this *adequacy determination* shall **not** modify the terms and conditions of the Agreements (see **Exhibit "B"**); and, in the event of any conflict(s) between the findings set forth in the *adequacy determination* and the terms and conditions set forth in the Agreements, this Agreements shall be the governing document(s) and take precedence.



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II. Moratorium.

On September 10, 2024, at a duly noticed public meeting, the Town Commission passed and adopted *Town of Dundee Ordinance No. 24-09* (the "Ordinance") establishing a moratorium on the acceptance and processing of applications for residential annexations, rezonings, building permits, planned developments, master planned communities, development order(s), and development permits, amongst others.

The purpose of the Ordinance was to place a temporary moratorium on the acceptance and processing of applications for residential *development orders* and *development permits* for real property consisting of more than one (1) acre located within the corporate limits of the Town of Dundee, Florida, in order for the Town to address, amongst other things, potable water capacity and applicable level(s) of service in the Town's water utility system.

A copy of the Ordinance is attached hereto as **Exhibit "A"** and incorporated herein by reference.

Pursuant to *Section 5* and *Section 6* of the Ordinance (see **Exhibit "A"**), the Ordinance provided for certain exception(s) to the moratorium imposed which include, but are not limited to, the following: (i) any credit/increase received to the Town's Public Supply Water Use Permit (hereafter the "Town WUP") arising out of the transfer of agricultural wells pursuant to and/or in accordance with the Agreements; and (ii) any individual exceptions authorized by the Town Commission for those developers with *extraordinary hardship(s)* or *vested development rights*.

On _____, 20____, the Applicant submitted the *Town of Dundee Development Services – Hardship Application* (hereafter the "Application"); and, on _____, 20____, at a duly noticed public meeting, the Town Commission [result of public hearing] the Application and entered **HARDSHIP ORDER NO. _____** (hereafter the "Order") which provided _____.

A copy of the Order is attached hereto as **Exhibit "B"** and incorporated herein by reference.

This *adequacy determination* shall modify the terms and conditions of the Order (see **Exhibit "B"**); and, in the event of any conflict(s) between the findings set forth in this



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adequacy determination and the terms and conditions set forth in the Order, this *adequacy determination* shall be the governing document and take precedence.

III. Public Supply Water Use Permit, Permit No. 20005893.014.

On May 20, 2025, the Southwest Florida Water Management District (SWFWMD) held a Governing Board Meeting (hereafter the "SWFWMD Meeting"); and, at that time, SWFWMD *conditionally approved* Consent Agenda Item No. 2.5 which consisted of the Town's application for the renewal of the Town WUP (hereafter the "WUP Renewal").

The conditions of approval for the WUP Renewal are memorialized and made a part of the WUP Renewal which was issued on May 20, 2025. The WUP Renewal authorizes an annual average quantity increase from 917,500 gallons per day (GPD) to 1,702,700 GPD.

A copy of the WUP Renewal is attached hereto as **Exhibit "C"** and incorporated herein by reference.

Pursuant to the terms and conditions set forth in the WUP Renewal, the approved increase in withdrawals from the Upper Floridian Aquifer (UFA) above the 2025 demand is supported by *impact offsets* associated with the pending retirement of eighteen (18) existing water use permits related to the land use transition(s) of and/or for the agricultural wells which are the subject of the Agreements.

As a direct result of the WUP Renewal, on _____, 2025, at a duly notice public meeting, the Town Commission approved *Town of Dundee Resolution No. _____-25* (hereafter the "Resolution") supporting certain amendments to the *Town of Dundee 2030 Comprehensive Plan*, the Code, and the LDC in order to amend the Town's level of service requirements for an *Equivalent Residential Connection* (ERC) from 360 GPD to 250 GPD for a standard single-family dwelling unit.

IV. Adequacy Determination and Certification.

Unless specifically provided for in this *Certification of Sufficient Potable Water Capacity* (hereafter the "Certification"), this Certification shall not constitute a waiver or variance from applicable law which includes, but shall not to be limited to, the *Code of Ordinances of the Town of Dundee, Florida*; the *Land Development Code of Dundee*;



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and/or applicable provision(s) and conditions set forth in any agreement(s), *development order(s)* and/or *development permit(s)*¹ entered into or issued for the Development.

Pursuant to *Sec. 54-2 of the Code*, land development within the corporate limits of the Town of Dundee, Florida, and/or Town of Dundee *utility service area* shall be permitted only where adequate water facilities exist.

Pursuant to *Section 6.01.01 of the LDC*, no development shall be approved unless public facilities are or will be available to serve a proposed development, such that the adopted *levels of service* ("LOS") are maintained, concurrent with the impacts of the proposed development; and, in accordance with *Section 54-9 of the Code* and *Article 6 of the LDC*, the Agreements shall be a condition of development approval of and/or for any development plan(s) arising out of and/or related to the Development.

For purposes of the Development and pursuant to applicable law which includes, but shall not be limited to, the Code, the LDC, and/or applicable provision(s) and conditions set forth in the Agreements, the Town has determined and certifies, as follows:

1. The terms, condition(s), and covenants set forth in the Agreements for the CSP shall remain in full-force and effect.
2. This Certification shall allocate potable water capacity for purposes of determining whether adequate potable water capacity is available and allocable to and/or for the Development.
3. This Certification shall not create any vested right(s) and/or development entitlement(s); and therefore, this Certification shall not be interpreted to create any vested right and/or entitlement to develop the Property in accordance with any development plan(s) and/or documents submitted to the Town for the Development.
4. Beginning on its effective date, this Certification shall constitute an adequacy determination and notice of concurrency certification under the Code and LDC of available potable water service capacity to serve the Development within

¹ For purposes of this Order, the terms *development order* and *development permit* shall have the meaning(s) provided in §163.3164, *Florida Statutes* (2024).



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the Town's municipal water system for a period not to exceed five (5) calendar years (the "Term"), subject to the terms, conditions, and provisions herein. This Certification is specific to the Development, limited to capacity only, and is nontransferrable. Upon approval by resolution of the Town Commission or otherwise of the final subdivision plat for the Development or final subdivision plat for a phase of the Development, the Term provided for herein shall terminate; and, pursuant to *Section 6.01.05(A) of the LDC*; the Development shall receive an allocation of potable water service capacity for the applicable term beginning on the effective date of the subject resolution and/or subdivision plat approval.

5. The Town shall not vest potable water capacity in and/or for the Development unless and until the Applicant has paid the applicable *connection fee(s)* as provided and specifically set forth in *Chapter 54 of the Code*.
6. The effective date of this Certification shall be the date on which this Certification is duly executed by the Town and Applicant.
7. This Certification shall not be executed in counterparts.
8. Pursuant to the Agreements and WUP Renewal, it has been found and determined that, for purposes of the Development, an *equivalent residential connection* (hereafter "ERC") shall equate to 250 GPD for each new residential connection; and pursuant to the WUP Renewal and Resolution, the Development shall be allocated potable water capacity for [Number] of residential units in and/or for the Development for the term set forth in Paragraph 4 (see above).
9. This Certification is related only to the allocation of potable water service capacity and shall not grant authority to alter the Property.
10. This Certification shall not waive any permitting requirements, including building permits, that may be required by Federal, State, or County agencies which may have jurisdiction.



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By executing this Certification, the Town and Applicant acknowledge, agree, and affirm that the Town has fully-satisfied and/or performed the obligations and requirements set forth in the Agreements; and the Applicant and its successors and assigns agree to indemnify and hold the Town, its elected and appointed officials, employees and agents harmless of and from any and all costs, expenses, damages, liability and claims (including reasonable attorneys' fees and costs) related to and/or arising out of this Certification, the Agreements, and the Applicant's transfer of the agricultural wells to the Town.

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Executed by the parties on the date shown adjacent thereto:

TOWN OF DUNDEE, FLORIDA:

[Date]

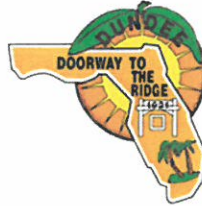
Joeseeph Carbone, Interim Town Manager

Attest:

Erica Anderson, Town Clerk

Approved as to Form:

Frederick J. Murphy, Jr., Town Attorney



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The Applicant:

[Applicant]
[Property Owner-if not applicant]

By: _____ [Date]
_____, _____

Witness

[Date]

Witness

[Date]

**STATE OF FLORIDA
COUNTY OF _____**

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2025, by _____, as _____, on its behalf, who is personally known to me or who has produced _____ as identification.

Notary Public, State of Florida
Printed Name: _____
My commission expires: _____

