

**DEVELOPER'S AFFIDAVIT CONFIRMING
NO ASSIGNMENT OF & RIGHT TO RECEIVE REFUND**

STATE OF FLORIDA
COUNTY OF _____

Before me, the undersigned authority, this day personally appeared _____ (the "Affiant"), who, being duly sworn states as follows:

1. The Affiant is over the age of 21, has personal knowledge of the information contained in this Affidavit and is the _____ of _____, a Florida limited liability company (the "Developer"). Further, Affiant is authorized to make this Affidavit.

2. In _____, Developer and the Utilities Commission, City of New Smyrna Beach, Florida ("Utilities Commission") entered into that certain Developer's Agreement for Water, Wastewater, Reclaimed Water, and Electric Energy Services as amended pursuant to that certain 2007 Addendum and Infrastructure Policy (the original Developer's Agreement and the 2007 Addendum shall collectively be referred to as the "Developer's Agreement").

3. Pursuant to the Developer's Agreement, Developer contributed certain funds for the construction of infrastructure improvements described therein. In the event a true up determined that the amount contributed by Developer exceeded the actual infrastructure costs allocable to Developer, the Developer's Agreement provided for a refund of such excess to Developer (the "Refund").

4. As part of the close out of the 2007 Addendum and Infrastructure Policy, the Utilities Commission completed a program reconciliation, results of which are contained in the Reconciliation Report dated February 22, 2021, prepared by Utilities Commission staff and adopted by reference in Resolution No. 2021-02 (the "Reconciliation Report").

5. The Reconciliation Report determines that certain refunds should be made by the Utilities Commission, including the refund to the undersigned, and the amount of the refund is acceptable to the undersigned.

6. A true up has been performed and it has been determined that a Refund is due and payable.

7. (Pick One)

Developer has not assigned the right to the Refund to any other third party and further Developer is entitled to the Refund or any portion thereof.

The Developer assigned the right to the Refund to _____ by written instrument dated _____, 20__, (the "Assignment"), a true and correct copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, and as required by the Developer's Agreement, Developer obtained the written consent to the Assignment from the Utilities Commission dated _____, 20__.

(The rest of this page is left intentionally blank.)

FURTHER AFFIANT SAYETH NOT.

Signed this ____ day of _____, 2021.

"AFFIANT"

By: _____
Title: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ____ physical presence or
____ online notarization, this ____ day of _____ 2021, by _____.
He/She is personally known to me or has produced _____ as identification.

(NOTARY SEAL)

Print Name: _____
State of Florida Notary Public
Commission No.: _____
My Commission Expires: _____