



**Interoffice Memorandum**

March 6, 2020

**TO:** Mayor Jerry L. Demings  
and Board of County Commissioners

**FROM:** Raymond E. Hanson, P.E., Director  
Utilities Department

A handwritten signature in cursive script, appearing to read "Raymond E. Hanson for".

**SUBJECT: BCC AGENDA ITEM – Consent Agenda  
March 24, 2020 BCC Meeting  
First Amendment to Agreement for Establishing the  
Retail Rate for Reclaimed Water for Flamingo Crossings  
East**

**Contact Person: Andres Salcedo, P.E.  
Deputy Director, Utilities Department  
407-254-9719**

On February 25, 2020, the Board approved an agreement with Flamingo Crossings, LLC and ACC OP DCP LLC to establish a retail rate for Flamingo Crossings East (the agreement) Operator's six-inch reclaimed water meter.

The first amendment to the agreement is to modify the current volume charge from \$1.05 to \$1.08 per 1,000 gallons of reclaimed water for use above the monthly allowance, equivalent to the current volume charge for use above the monthly allowance for a retail meter.

Orange County Attorney's Office and Risk Management staff have reviewed the document and find it acceptable as to form. Orange County Utilities staff recommends approval.

**Action Requested: Approval and execution of First Amendment to Agreement for Establishing the Retail Rate for Reclaimed Water for Flamingo Crossings East by and between Orange County, Flamingo Crossings, LLC, and ACC OP DCP LLC.**

**District 1.**

**FIRST AMENDMENT TO AGREEMENT FOR ESTABLISHING THE RETAIL RATE  
FOR RECLAIMED WATER FOR FLAMINGO CROSSINGS EAST**

**THIS FIRST AMENDMENT TO AGREEMENT FOR ESTABLISHING THE RETAIL RATE FOR RECLAIMED WATER** (the “**Amendment**”) is made and entered into as of the date of last execution below (the “**Effective Date**”), by and between **ORANGE COUNTY** (the “**County**”), a charter county and political subdivision of the state of Florida, whose address is 201 S. Rosalind Avenue, Orlando, Florida 32801, **FLAMINGO CROSSINGS, LLC** (the “**Owner**”), a Florida limited liability company, whose address is 1375 Buena Vista Drive, Lake Buena Vista, Florida 32830, and **ACC OP DCP LLC** (the “**Lessee**”), a Delaware limited liability company, whose address is 12700 Hill Country Boulevard, Suite T-200, Austin, Texas 78738. The Owner and the Lessee may be referred to in this Agreement collectively as the “**Operator**”. The County, the Owner, and the Lessee may also be referred to in this Agreement individually as a “**Party**” or collectively as the “**Parties.**”

**RECITALS**

**WHEREAS**, on February 25, 2020, the Parties entered into that certain Agreement for Establishing the Retail Rate for Reclaimed Water for Flamingo Crossings East (the “**Agreement**”); and

**WHEREAS**, the Agreement contains the incorrect volume charge for reclaimed water usage above the monthly allowance; and

**WHEREAS**, the Parties wish to amend the Agreement to include the current volume charge for reclaimed water usage above the monthly allowance.

**NOW, THEREFORE**, in consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt of which is acknowledged by the Parties, the Parties agree as follows:

**SECTION 1. RECITALS INCORPORATED.** All of the recitals set forth above are true and correct, and are incorporated in and made a part of this Agreement by this reference.

**SECTION 2. RATES AND PAYMENT.** Subsection 3.a)i. of the Agreement is hereby amended in its entirety as follows:

i. As of the Effective Date, the Operator agrees to pay the following charges for the Meter Assembly serving the Property: (1) a fixed monthly charge of \$441.65, which is equivalent to the current fixed monthly charge for a six-inch wholesale meter and includes an allowed monthly usage of up to 499,000 gallons, and (2) a current volume charge for usage above the monthly allowance of \$1.08 per 1,000 gallons of reclaimed water usage, which is equivalent to the current volume charges for usage above the allowed monthly usage for a retail meter. Effective October 1<sup>st</sup> of each year, an automatic annual increase of three percent will be applied to the fixed monthly charge and the volume charge for usage above the allowed monthly usage to the charges in effect immediately preceding the automatic annual increase. However, this automatic annual increase will be waived each year in which the Board repeals by resolution the annual automatic three percent increase for its rates, fees, and charges contained in the then current Reclaimed Water Charge Schedule.

**SECTION 3. EFFECTIVE DATE.** This Amendment becomes effective on the date the last Party signs this Amendment.

**SECTION 4. MISCELLANEOUS.** All other terms and provisions of the Agreement, unless specifically modified by this Amendment, remain in full force and effect.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed as of the dates indicated below by their duly authorized representatives.

**ORANGE COUNTY, FLORIDA**

By: Board of County Commissioners

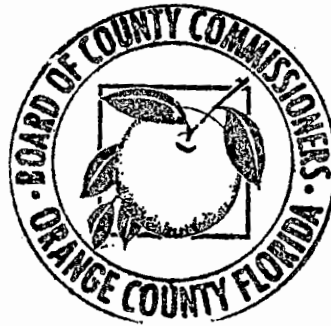
By: *Jerry L. Demings*  
for Jerry L. Demings  
Orange County Mayor

Date: MAR 24 2020

ATTEST: Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

By: *Katie Smith*  
Deputy Clerk

Print Name: **Katie Smith**



**OWNER: Flamingo Crossings, LLC**

By: Walt Disney Imagineering Research & Development, Inc., a Delaware limited liability company, its Manager

By: [Signature]

Print Name: Page P. Pierce

Title: V.P.

Date: 03/06/2020

Signed, sealed, and delivered in our presence as witnesses:

Signature: [Signature]

Print Name: Laurie A. Acevedo

Signature: [Signature]

Print Name: Martin Penczkowski

STATE OF Florida  
COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 6th day of March, 2020, by Page P. Pierce as V.P. of Walt Disney Imagineering Research & Development, Inc., a Delaware limited liability company, the Manager of Flamingo Crossings, LLC, a Florida limited liability company, on behalf of said entities, who  is personally known to me or  has produced \_\_\_\_\_ as identification.

(Notary Seal)

[Signature]  
Notary Public

Laurie A. Acevedo  
Name Printed or Stamped

My Commission Expires: 8/27/2023

LESSEE: ACC OP DCP LLC, a Delaware limited liability company

By: American Campus Communities Operating Partnership LP, a Maryland limited partnership, its Managing Member

By: [Signature]

Print Name: William Talbot

Title: Vice President

Date: March 4, 2020

Signed, sealed, and delivered in our presence as witnesses:

Signature: [Signature]

Print Name: SAM NEWMAN

Signature: [Signature]

Print Name: LUCAS LAGERA

STATE OF TEXAS  
COUNTY OF TRAVIS

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 4<sup>th</sup> day of March, 2020, by William Talbot as Vice President of American Campus Communities Operating Partnership LP, a Maryland limited partnership, the Managing Member of ACC OP DCP LLC, a Delaware limited liability company, on behalf of said entities, who  is personally known to me or  has produced \_\_\_\_\_ as identification.

(Notary Seal)

Karen L Wilson  
Notary Public

Karen L Wilson  
Name Printed or Stamped

My Commission Expires: March 19, 2021

