

GAS SERVICE AGREEMENT

THIS GAS SERVICE AGREEMENT (this "Agreement") is made and entered into this 6th day of February, 2009 by and between the City of Leesburg, Florida, a municipal corporation organized under the laws of the State of Florida, located at 501 W. Meadow Street, Leesburg, Florida 34748, (hereinafter referred to as "City"), and Southwinds Partners, L.L.P., a Florida limited liability limited partnership, located at 329 North Park Avenue, Suite 300, Winter Park, Florida 32789 (hereinafter referred to as "Owner"), sometimes collectively referred to as "Party" or "Parties".

WITNESSETH:

WHEREAS, Owner is developing a townhome development located in Leesburg, Florida, known as Southwinds Cove Phase I (hereafter referred to as the "Development"), in accordance with the master plan for the Development on file with the City; and

WHEREAS, Section 22-7 of the Code of Ordinances of the City of Leesburg, Florida, requires that natural gas lines and appurtenances be paid for by the developer; and

WHEREAS, the City has agreed to provide natural gas service ("Service") to the Development under the terms and conditions set forth below.

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, City and Owner do agree as follows:

1. The City shall, subject to the provisions of this Agreement, supply Service to the Development. A map of the Development is attached as Exhibit "A" to this Agreement and by reference is made a part hereof.

2. Owner shall ensure that one hundred twelve (112) of the planned one hundred twelve (112) units in the Development are equipped with:

- A. a natural gas water heater; and
- B. a natural gas furnace or Hydro Heat.

3. Owner shall be responsible for installing and connecting all natural gas appliances to the outlet of City gas meters installed as part of the System (as defined herein).

4. The Parties understand that the City is relying upon the assurances from Owner as the primary consideration for the execution of this Agreement.

5. The Owner is obligated to pay the full materials and installation costs incurred by City for all natural gas main pipelines and appurtenances, meter sets, and ancillary facilities necessary to provide Service to the Development (the "System"). The Owner's estimated costs of material and installation of the System, to be funded by Owner as set forth below, is approximately One Hundred and Twenty Three Thousand, Six Hundred and Ninety Five Dollars (\$ 123,695). Notwithstanding inclusion of this estimate herein, Owner shall be obligated to pay the full cost of the material and installation of the System.

6. The City will contract for, or at its option, have done by in-house personnel, the actual installation of the System. The City will follow all legal requirements for bidding and award of the contract. When the City has a firm estimate of the total cost of the installation of the System, it shall provide said estimate to the Owner, together with all supporting information and documentation as reasonably requested by Owner. As a condition precedent to the City commencing construction under Paragraph 8, Owner shall place in escrow with the City funds equal to that estimate to be used to pay for the construction as it proceeds. If at any time the City reasonably anticipates that the cost of construction will exceed the original estimate, it shall notify Owner in writing as soon as practicable. In turn, Owner shall within fifteen (15) days of receiving such notice, place into the escrow account an amount sufficient to cover the increased costs of the construction. If Owner fails to place the additional funds into the escrow account, the City at its option may halt construction of the System until Owner deposits the additional funds together with any other costs incurred as a result of the cessation of construction into the escrow account.

7. Owner agrees to pay any and all costs that City incurs in the collection of any unpaid reimbursement fees from Owner, including reasonable attorney's fees and court costs and any attorney



fees and costs for appellate proceedings efforts to collect any judgment entered in favor of the City and in any proceedings in receivership, bankruptcy, or insolvency.

8. The City shall, within one hundred twenty (120) days of the execution of this Agreement, take all initial steps necessary to both provide Service to the Development and lay all underground pipes that are part of the System. The City shall not, however, be responsible for delays caused by the Owner, weather, the availability of materials, or other things beyond the reasonable control of the City.

9. The System shall be owned, installed, repaired, replaced, and maintained by City.

10. The Owner shall grant to the City all easements needed to install the natural gas pipelines within the Development, and shall dedicate those easements to the perpetual use of the City and its successors in interest for the purpose of laying, maintaining, repairing and replacing the System.

11. The City shall bear responsibility for installing the System to supply the Service reflected in this Agreement. Owner and City will share trench space, which will be dug by the Owner's water and or electric utility contractor at no charge to the City. Each unit within the Development will be individually metered.

12. The City shall provide, when requested, individual residential unit hookups to the System within the Development. The City shall ensure that such Service is provided at the same rates and on the same terms as those provided to other natural gas customers of the City within a comparable service area. The Parties understand that any and all hookup fees, meter charges and impact fees shall be paid by the residential customers at the time Service is hooked up to the residential unit.

13. The Parties agree that the laws of the State of Florida shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it. The parties agree that in the event of any litigation arising under or construing this Agreement, exclusive venue shall lie only in Lake County, Florida.

14. The Parties understand and agree that this Agreement sets forth the entire understanding between the parties and supersedes and takes precedence over any and all prior negotiations, representations and agreements, oral or written, all of which are deemed to have merged into this

Agreement and to have been extinguished thereby, except to the extent they are specifically set forth herein. Each party warrants, for the benefit and reliance of the other, that it has not entered into this Agreement in reliance on or on the basis of any promise, undertaking, representation or agreement of the other party, except as specifically set forth within the four corners of this instrument, and the parties mutually waive and disclaim any and all rights, remedies and causes of action which may otherwise exist, based wholly or partly on any such promise, undertaking, representation or agreement of the other party, except as specifically set forth within the four corners of this instrument.

15. This Agreement may be assigned to any successor of the Owner with written consent from the City. However, this Agreement may not be assigned separately from the real property comprising the Development or any portion thereof. Owner shall notify any purchaser or mortgagee of the provisions of this Agreement and the responsibilities the purchaser or mortgagee will incur by taking title to the property.

16. The Parties understand and agree that this Agreement may not be amended orally, by implication, by course of conduct, or in any manner other than by way of a written instrument approved by the Leesburg City Commission and duly executed by both parties hereto.



IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date herein above written.

CITY OF LEESBURG

BY: _____
Mayor

ATTEST:

City Clerk

Approved as to form and content:

City Attorney



SOUTHWINDS PARTNERS, L.L.P.,
a Florida limited liability limited partnership

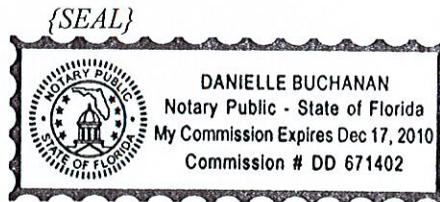
By: Southwinds Cove Managers,
L.L.C., a Florida limited liability
company, its general partner

By: [Signature]
Print Name: Jay P. Brock
Title: Manager

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 6th day of February 2009,
by Jay P. Brock, as Manager of Southwinds Cove Managers, L.L.C., a Florida limited liability
company, as general partner of SOUTHWINDS PARTNERS, L.L.P., a Florida limited liability limited
partnership, on behalf of the company and partnership. He/She is personally known to me or has
produced _____ as identification.

[Signature]
Printed Name: Danielle Buchanan
Notary Public, State of Florida
Commission No. DD 671402
My commission expires: 12/17/2010



[Handwritten mark]

