

RESOLUTION R-21-135

A RESOLUTION OF THE MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS APPROVING THE TERMINATION OF A 1979 AGREEMENT AMENDED IN 1984, BY AND BETWEEN MANATEE COUNTY AND ASSIGNEE AND SUCCESSOR-IN-INTEREST, CHAMPION HOME COMMUNITIES, INC.; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 1979, Manatee County entered into a written agreement ("Agreement") with developers of the Rosedale community to provide up to 180,000 gallons per day of reclaimed water for the irrigation of the Rosedale golf course at the Rosedale Golf and Country Club; and

WHEREAS, pursuant to the Agreement, amended in 1984, the County would provide free reclaimed water if the developers agreed to store the reclaimed water in ponds on its property; and

WHEREAS, at that time, Manatee County had inadequate storage facilities for reclaimed water, including reclaimed water that would be produced by a newly constructed wastewater facility built to serve 950 homes in the Rosedale Community; and

WHEREAS, the Agreement appears to have been assigned by the original parties (Champion Home Communities, Inc.; Creekwood Investors, Ltd.; and Aristek/Champion Joint Venture No. 2) to Champion Home Communities, Inc., and

WHEREAS, Florida law provides that a party to a contract may terminate a contract at-will, with reasonable notice, if there is no termination date in the contract and no indication that the parties intended to create a perpetual contract; and

WHEREAS, the Agreement is silent as to a termination date; and

WHEREAS, the 1984 amendment indicates that the primary obligations of the parties (to provide free reclaimed water or to store reclaimed water) would cease once the County established rates for reclaimed water, and once the County acquired adequate effluent storage capacity; and

WHEREAS, on or around 2014, Manatee County began storing reclaimed water, by injecting it into deep wells, and started selling reclaimed water to private entities at established rates; and

WHEREAS, the Manatee County Code and its bond covenants prohibit free service and require the County to sell reclaimed water to similarly situated customers at the same established rates; and

WHEREAS, the County is required to keep its utility system financially self-sufficient while maintaining a rate structure that operates in an equitable manner; and

WHEREAS, the Utilities Department has given Champion Home Communities reasonable written notice that it intends to terminate the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Manatee County, Florida, that:

SECTION 1. Approval of Termination. The Agreement entered into in 1979 and amended in 1984, by and between Manatee County and assignee and successor in interest, Champion Home Communities, Inc., providing free reclaimed water for the Rosedale golf course in exchange for storage of reclaimed water, is hereby terminated by the Manatee County Board of County Commissioners, effective upon the date signed below. Champion Home Communities may seek to enter into a new agreement with the County for the purchase of reclaimed water at established rates, subject to availability.

SECTION 2. SEVERABILITY. Should any section, subsection, sentence, clause, or provision of this Resolution be determined to be unconstitutional, invalid, inoperative, void, or otherwise unenforceable by a court of competent jurisdiction, such finding shall not affect the remaining portions of this Resolution so long as the remaining portions can be given legal effect absent the invalid portions.

SECTION 3. EFFECTIVE DATE. This Resolution shall be effective upon adoption.

DULY ADOPTED with a quorum present and voting, on the 11th day of September, 2021.



**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: [Signature]
Chairperson

**ATTEST: ANGELINA M. COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER**

By: [Signature]
Deputy Clerk