

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for water and sewer ) DOCKET NO. 900519-WS  
certificates in Pasco County by SOUTH ) ORDER NO. 24641  
PASCO UTILITIES, INC. ) ISSUED: 6-10-91  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
J. TERRY DEASON  
BETTY EASLEY  
GERALD L. GUNTER  
MICHAEL MCK. WILSON

FINAL ORDER APPROVING AGREEMENT, AND GRANTING  
WATER AND WASTEWATER CERTIFICATES

AND

NOTICE OF PROPOSED AGENCY ACTION  
SETTING RATES AND CHARGES AND  
APPROVING SERVICE AVAILABILITY CHARGES AND POLICY

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission (Commission) that the actions discussed herein are preliminary in nature, except for the approval of the parties' agreement and the granting of certificates, and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

South Pasco Utilities, Inc. (South Pasco or utility) proposes to operate as a Class C water and wastewater utility at build-out which is scheduled for late 1992. The current operation, Hillcrest RV Resort, Inc. (Hillcrest or the RV Park), located in Pasco County, is a recreational vehicle park having 260 unmetered water and wastewater connections, plus a club house, swimming pool and whirlpool area. An additional 236 water and wastewater connections

DOCUMENT NUMBER-DATE

05767 JUN 10 1991

FSC-RECORDS/REPORTING

are planned, during the second phase of the development, for a total of nearly 500 connections at build-out. At present all connections are served through a six inch water meter and single wastewater connection to the forcemain. The utility has been approached by two developers to furnish water and wastewater service to a small area adjacent to the service area which will consist of residential and general service customers. The annual revenue is projected to be \$24,726 for water and \$28,317 for wastewater at build-out. The net operating income is projected to be \$2,099 for water and \$2,361 for wastewater.

The certificate application was filed May 30, 1990, pursuant to Section 367.041, Florida Statutes. On June 7, 1990, the utility was informed by letter that the application was improperly filed and needed to be refiled pursuant to Section 376.045, Florida Statutes. In addition, nearly a dozen discrepancies were noted in the filing which were listed in the letter of June 7, 1990. The utility had failed to properly provide notice in a local newspaper when it initially filed its application and the filing of the required notice was not completed until September 8, 1990. A timely objection to the application was filed by Pasco County on August 27, 1990. The matter was set for hearing and assigned to the Division of Administrative Hearings (DOAH) on October 5, 1990. Prior to the matter being heard by DOAH, the parties settled their dispute by agreement, subject to Commission approval. Because of the agreement entered into, DOAH issued an order on March 19, 1991, which canceled the hearing and remanded the case to the Commission.

#### THE AGREEMENT

On February 26, 1991, South Pasco and the Board of County Commissioners of Pasco County executed an Agreement, contingent upon Commission approval, which sets forth the conditions under which South Pasco Utilities may be required in the future to obtain bulk wastewater service from Pasco County. A copy of the Joint Motion and the Agreement are attached hereto as Attachment B. Beginning in the year 2000 or as soon thereafter as the County extends its wastewater mains to a certain point in proximity to South Pasco's existing lift station, the County will have the option to provide bulk wastewater treatment services. Other provisions of the Agreement identify responsibilities of the parties related to the interconnection between South Pasco and the County's wastewater treatment service. We find that the provisions of the Agreement are reasonable and settlement of this dispute is

in the public interest. Accordingly, we approve the agreement and dismiss Pasco County's objection.

CERTIFICATES

As previously stated, on May 30, 1990, South Pasco filed its application for original water and wastewater certificates to provide service in Pasco County. The application is now in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for original certificate and initial rates and charges. The application contains a check in the amount of \$300, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The utility has provided evidence in the form of a warranty deed that the utility owns the land upon which the utility's facilities are located as required by Rule 25-30.033(1)(j), Florida Administrative Code.

Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.033(1)(l), (m) and (n), Florida Administrative Code. A description of the territory requested by the utility is appended hereto as Attachment A. In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code.

The utility's proposed service territory is located west of the City of Zephyrhills in eastern Pasco County. The owner of the RV Park developed the area and constructed the water and wastewater systems which were placed in service during 1987. The utility systems have been operated as a landlord and tenant relationship in which the provider does not receive specific compensation for water and wastewater service to the territory. The systems were sized during the initial phase of construction so that sufficient capacity would be available for expansion in the future. Water and wastewater service were not readily available from any other system, private or municipal, when the systems were initially constructed. Pasco County currently has sufficient water and wastewater system capacity but has withdrawn its objection to the application. No other service is available in the area. The systems have been operated in accordance with regulations and are under no violations or sanctions from any regulatory agencies based upon response to our inquiry to the Department of Environment Regulation (DER) earlier in the process.

The utility systems have been successfully operated and managed by Mr. George L. Black, Jr. who is the sole corporate officer. A review of Mr. Black's personal financial statement indicates that he possesses the financial wherewithal to continue to successfully manage and operate the systems as well as provide any necessary infusion of capital or operating funds should the need arise. The systems serving Hillcrest are operating properly according to DER and should continue to be so operated. With nearly four years of successful management of the systems, it appears to us that the trend is a positive one and no adverse conditions appear to be in existence at this time.

There has been and continues to be a need for service in the area for the current RV park and for the prospective addition of 236 connections in an expansion. Paragraph 4. C., of the Joint Motion filed in this case and dated February 28, 1991, states that approval of this application will not be inconsistent with the local comprehensive plan. The only other systems in the area are those of Pasco County.

Based on the above information, we find it is in the public interest to grant the application for original certificates. Accordingly, we find it appropriate to grant South Pasco Water Certificate No. 535-W and Wastewater Certificate No. 466-S to serve the territory described in Attachment A to this Order.

#### RATES AND CHARGES

In original certificate applications, we determine rates which will allow the utility to earn a fair rate of return on investment when the treatment plant reaches 80 percent of capacity. The utility is projected to serve approximately 300 equivalent residential connections (ERC's) at buildout. It is anticipated that the system will reach the anticipated build out in late 1992. From the information supplied by the utility, we calculated proforma schedules of rate base, operating income and capital structure to be used in determining initial rates. We utilized a factor of 350 gallons per day (GPD) as being typical for an RV connection taking into account the substantial irrigation of the park and the use of water as a cooling medium for the park's common buildings. Wastewater usage was established at 235 GPD based upon experience over the past several years. It should be noted that the park is highly seasonal in occupancy and revenues will vary greatly from time to time during the year.

Raw plant costs were provided by the utility in a cost study which took into account the developer's actual costs to construct the facilities and included general, administrative and engineering costs of a nominal amount. Capital costs were reconciled to rate base and return on equity was adjusted to the most recent leverage graph amount. Water treatment and pumping consists of a single 10-inch well, a 5,000 gallon hydropneumatic tank and chlorination at the well head. DER has permitted the capacity to be 577,000 GPD. Wastewater treatment and disposal consists of steel treatment structure designed for 78,000 GPD and is permitted by DER for 50,000 GPD. Secondary treatment of the wastewater is provided and the final effluent is disposed of in a percolation pond. The disposal of effluent from a small wastewater treatment facility to percolation ponds is acceptable to DER. Furthermore, it would be unreasonable to abandon the already constructed and properly operating percolation pond in favor of spray irrigation or some other reuse scheme. We find that disposal of final effluent to a percolation pond is satisfactory in the circumstances.

We analyzed and made adjustments as necessary to recognize the impact of adjusted rate of return on equity and other minor adjustments upon the operating costs of the utility provided by the utility in its filing. Adjustments were then made to bring the rates into agreement with the resultant adjusted revenue requirement.

The utility's proforma capital structure was adjusted to reflect reconciliation to the rate base and to the most recent return on equity. We calculated the return on common equity to be 13.11 percent using the current leverage formula, authorized by Order No. 24246, effective April 9, 1991.

These calculations were used as a tool in establishing initial rates and are not intended to establish rate base. This is consistent with Commission policy in original certificate applications. We find that in future proceedings involving such things as calculation of AFUDC and interim rates, the appropriate return on equity should be 13.11 percent. Commission policy is to include a 100 basis point range on both sides of the mid-point of the return on equity, resulting in a range from 12.11 percent to 14.11 percent.

The approved rates are calculated using the base facility charge rate structure and are based on the revenue requirements of

\$24,726 and \$28,317, for the water and wastewater systems, respectively. The utility does not require customer deposits since only a single master metered customer is to be served at present. The approved rates and charges, which we find to be fair, just and reasonable, are as follows:

South Pasco Utilities, Inc.

MONTHLY RATES - WATER

Residential, General Service and Multi-Residential Service

Base Facility Charge

<u>Meter Size:</u>	<u>Utility</u>	<u>Commission Approved</u>
5/8" x 3/4"	\$ 6.18	\$ 6.64
1"	15.45	16.60
1-1/2"	31.00	33.30
2"	49.44	53.12
3"	92.70	99.59
4"	154.90	165.99
6"	309.00	331.97
 <u>Gallonage Charge</u> per 1,000 gallons	 \$ 0.54	 \$ 0.54

Miscellaneous Service Charges

	<u>Utility</u>	<u>Commission Approved</u>
Initial Connection Fee	\$ 15.00	\$ 15.00
Normal Connection Fee	15.00	15.00
Violation Connection Fee	15.00	15.00
Premises Visit Fee (in lieu of disconnection)	10.00	10.00

MONTHLY RATES - WASTEWATER

Residential

Base Facility Charge

<u>Meter Size:</u>	<u>Utility</u>	<u>Commission Approved</u>
All Meter Sizes	\$ 17.44	\$ 10.00

Gallonage Charge

per 1,000 gallons (10,000 gallon maximum)	\$ 0.48	\$ 0.48
--	---------	---------

General Service and Multi-Residential Service

Base Facility Charge

<u>Meter size:</u>	<u>Utility</u>	<u>Commission Approved</u>
5/8" x 3/4"	\$ 17.44	\$ 10.00
1"	43.65	25.00
1-1/2"	87.00	50.00
2"	139.52	80.00
3"	261.60	150.00
4"	436.00	250.00
6"	872.00	500.00

Gallonage Charge

per 1,000 gallons	\$ 0.48	\$ 0.59
-------------------	---------	---------

Miscellaneous Service Charges

	<u>Utility</u>	<u>Commission Approved</u>
Initial Connection Fee	\$ 15.00	\$ 15.00
Normal Connection Fee	15.00	15.00
Violation Connection Fee	Actual Cost	Actual Cost
Premises Visit Fee (in lieu of disconnection)	10.00	10.00

The utility shall file tariff pages reflecting the approved rates and charges within thirty days of the effective date of this Order. The monthly service rates shall be effective for meter readings on or after thirty days from the stamped approval date on the tariff pages. The miscellaneous service charges approved herein shall be effective for service rendered on or after the stamped approval date on the revised tariff pages.

Service Availability Policy and Charges

We reviewed the utility's proposed service availability policy and found it to be sufficient. Lines at this time are to be retained by the RV Park. Any future connections are to be dealt with in a developer agreement for lines or any metering or connection hardware that may be required. The utility will receive service availability charges based on connections projected for the second phase (236 connections) adjusted for projected flows of 350 GPD per connection for water and 235 GPD for wastewater. The utility designed its plant capacity charges to achieve the 75 percent target of net CIAC to net plant at proposed build out pursuant to Rule 25-30.580, Florida Administrative Code. The charges will be recovered using the future ERC's as a basis. While this has the appearance of resulting in recovery only from future customers, we find it appropriate in this instance where the only true current customer of the utility is the RV Park served as a general service master metered customer, and where both the utility and the resort are both owned by the developer. The occupants of the RV Park are transient visitors who pay for their stay with no specific charge for water and wastewater service.

Our analysis indicates that these charges will result in a contribution level of approximately 75 percent when the systems reach build-out. The approved plant capacity charges are \$127 for water and \$911 for wastewater.

The service availability charges shall be effective for all connections made on or after the stamped approval date on the tariff pages.

It is, therefore

ORDERED by the Florida Public Service Commission that the Agreement between South Pasco Utilities, Inc. and Pasco County is hereby approved. It is further



ORDER NO. 24641  
DOCKET NO. 900519-WS  
PAGE 9

ORDERED that the objection by Pasco County is hereby dismissed. It is further

ORDERED that the application of South Pasco Utilities, Inc. for water and wastewater certificates is hereby approved. It is further

ORDERED that the findings made in the body of this Order are hereby approved in every respect. It is further

ORDERED that all matters contained in the body of this Order are incorporated by reference herein. It is further

ORDERED that all provisions of this Order, except for the granting of certificates and approval of Agreement, are issued as proposed agency action and shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that South Pasco Utilities, Inc. is authorized to charge the new rates and charges as set forth in the body of this Order. It is further

ORDERED that the rates approved herein shall be effective for meter readings taken on or after thirty (30) days after the stamped approval date on the revised tariff pages. It is further

ORDERED that the miscellaneous service charges approved herein shall be effective for service rendered on or after the stamped approval date on the revised tariff pages. It is further

ORDERED that the service availability policy of South Pasco Utilities, Inc. is hereby approved. It is further

ORDERED that South Pasco Utilities, Inc. is authorized to charge the service availability charges set forth in the body of this Order. It is further

ORDERED that the service availability charges approved herein shall be effective for all connections made on or after the stamped approval date on the tariff pages. It is further

ORDER NO. 24641  
DOCKET NO. 900519-WS  
PAGE 10

ORDERED that prior to implementation of the rates and charges approved herein, South Pasco Utilities, Inc. shall submit and have approved a proposed notice to its customers of the increased rates and charges and the reasons therefor. The notice will be approved upon Staff's verification that it is consistent with our decision herein. It is further

ORDERED that prior to implementation of the rates and charges approved herein, South Pasco Utilities, Inc. shall submit and have approved revised tariff pages. The revised tariff pages will be approved upon Staff's verification that the pages are consistent with our decision herein and that the protest period has expired. It is further

ORDERED that this docket will be closed if no timely protest is received from a substantially affected person.

By ORDER of the Florida Public Service Commission this 10th  
day of JUNE, 1991.

  
\_\_\_\_\_  
STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

CB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

As identified in the body of this order, our action except for the approval of the parties' agreement and the granting of certificates, is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(e) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on JULY 1, 1991. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If the relevant portion of this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

ORDER NO. 24641  
DOCKET NO. 900519-WS  
PAGE 12

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

ATTACHMENT A

SOUTH PASCO UTILITIES, INC.

TERRITORY DESCRIPTION

The following described lands located in portions of Section 15, Township 26S, Range 21E, Pasco County, Florida:

Section 15

Tracts 40-44, 53-60, 69, 70, 75, and 76, ZEPHYRHILLS COLONY COMPANY LANDS in Section 15, Township 26, Range 21, as recorded in Plat Book 1, Page 55 of the Public Records of Pasco County, Florida together with Lots 41 through 60, PEPPER DEVELOPMENT PROPERTIES NO. 2, as recorded in Plat Book 3, Page 137, of the Public Records of Pasco County, Florida, and being more particularly described as:

Commencing at the Southwest corner of the Northwest 1/4 of said Section 15, run South 89°56'36" East, 25.0 feet to the East right-of-way line of SOUTH ALLEN ROAD for a POINT OF BEGINNING; thence North 00°15'16" West, 1,328.61 feet; thence South 89°58'22" East, 643.62 feet; thence South 00°15'07" East, 332.23 feet; thence South 89°57'54" East, 1,980.80 feet to the West right-of-way line of LANE ROAD; thence South 00°14'39" East, 997.48 feet; thence South 00°15'21" East, 666.0 feet; thence North 89°58'18" West, 1,310.74 feet; thence North 00°22'19" West, 25.0 feet ; thence North 89°58'18" West, 1,310.74 feet; thence North 00°29'18" West, 642.33 feet; to the POINT OF BEGINNING. Said parcel containing 104.36 acres M.O.L.

BEFORE THE STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

RECEIVED  
1991 MAR 14 PM 3:36  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS

SOUTH PASCO UTILITIES, INC., )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 PASCO COUNTY, )  
 )  
 Respondent, )  
 )  
 and )  
 )  
 FLORIDA PUBLIC SERVICE COMMISSION, )  
 )  
 Intervenor. )

CASE NO. 90-6415 MAR 25 1991

Fla. Public Service Commis  
Division of Water and Sew

RECEIVED

VED

MAR 21 1991  
LEGAL DIVISION

JOINT MOTION FOR RECOMMENDED ORDER  
DISMISSING OBJECTION  
BASED UPON STIPULATED SETTLEMENT

PASCO COUNTY, Respondent, hereinafter referred to as "the County," by and through its undersigned attorney, and SOUTH PASCO UTILITIES, INC., Petitioner, hereinafter referred to as "South Pasco," by and through its undersigned attorneys, move the Hearing Officer to enter a Recommended Order Dismissing Objection, based upon the following stipulated facts and agreements:

1. South Pasco filed an Application with and before the Florida Public Service Commission on May 30, 1990, requesting that South Pasco be granted water and wastewater certificates of authority, pursuant to §367.045, Florida Statutes, 1989.

The said Application was denominated as Docket No. 900519-WS by the Florida Public Service Commission.

2. On June 28, 1990, the County timely filed with and before the Florida Public Service Commission its objections to the said Application in Docket No. 900519-WS.

3. The County and South Pasco have reached an amicable settlement of the disputes which caused the County to file its above-said objections.

4. The County and South Pasco hereby stipulate and agree as follows:

A. The above recitals are true, correct, and a part of this Stipulation.

B. South Pasco hereby deletes from the above-said Application in Docket No. 900519-WS all of that land lying and being west of Allen Road.

C. The granting of water and/or wastewater certificates of authority to South Pasco by the Florida Public Service Commission as applied for in Docket No. 900519-WS, except the lands lying west of Allen Road, pursuant to this Stipulated Settlement, is not and will not be inconsistent with the County's Comprehensive Plan, developed pursuant to §163.3161 through §163.3211, Florida Statutes, or any other official plan of the County, whether proposed or final.

D. The potable water and sanitary sewer service, provided and proposed to be provided by South Pasco in the above-said Docket No. 900519-WS, are not and will not be in competition

with, or duplicative of, any system or portion of a system now owned or proposed by the County.

E. Potable water and sanitary wastewater (sewer) services are necessary in the lands described in South Pasco's Application in Docket No. 900519-WS.

F. The County does not have a present specific intention to extend or modify its wastewater (sewer) system to provide wastewater service to the lands described in South Pasco's Application in the above-said Docket No. 900519-WS.

G. The County stipulates and agrees that upon the entry of a Recommended Order Dismissing Objection, its objections filed in the above-said Docket No. 900519-WS are hereby withdrawn.

H. The County stipulates and agrees that South Pasco has the ability to provide potable water and sanitary sewer (wastewater) services to the lands described in South Pasco's Application for water and wastewater certificates of authority in Docket No. 900519-WS, with the exception of those lands lying west of Allen Road.

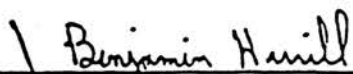
5. The execution of this Joint Motion for Recommended Order Dismissing Objection is a specific precondition of any settlement of the dispute between the County and South Pasco.


6. The undersigned have contacted counsel for the Public Service Commission and are authorized to represent that said counsel has no objection to the entry of a Recommended Order Dismissing Objection, and remanding this cause to the Public Service Commission for further agency action.



WHEREFORE, Pasco County and South Pasco Utilities, Inc. jointly move the Hearing Officer to enter a Recommended Order dismissing the objections filed by Pasco County in Docket No. 900519-WS, in accordance with the stipulations of fact and agreements set forth herein, and remanding this proceeding to the Florida Public Service Commission for disposition of South Pasco's Application, as modified herein, for water and wastewater certificates of authority, in accordance with §367.045(3), Florida Statutes.

Respectfully submitted this 28<sup>th</sup> day of February, 1991.

  
\_\_\_\_\_  
J. Benjamin Harrill, Esquire  
Pasco County Attorney  
7530 Little Road  
New Port Richey, Florida 34654  
(813) 847-8120  
Attorney for Pasco County,  
Respondent  
Florida Bar #275557

  
\_\_\_\_\_  
Robert M.C. Rose, P.A.  
Rose, Sundstrom & Bentley  
2548 Blairstone Pines Drive  
Tallahassee, Florida 32301  
(904) 877-6555  
Attorneys for South Pasco  
Utilities, Inc.,  
Petitioner  
Florida Bar #95414

AGREEMENT BETWEEN  
SOUTH PASCO UTILITIES, INC. AND PASCO COUNTY

THIS AGREEMENT, made and entered into this 21<sup>st</sup> day of February, 1991, by and between South Pasco Utilities, Inc., a Florida corporation, organized under the laws of the State of Florida, hereinafter referred to as "South Pasco," and Pasco County, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing body thereof, hereinafter referred to as "County."

W I T N E S S E T H :

WHEREAS, South Pasco has applied to obtain certificates of authorization from the Florida Public Service Commission authorizing the provision of public water and sewer service to an area located in an unincorporated area of the County, pursuant to Section 367.045, Florida Statutes, 1989; and

WHEREAS, the County timely filed its written objection pursuant to §367.045(4), Florida Statutes, 1989, requesting a hearing; and

WHEREAS, the County and South Pasco, in order to avoid the risks and costs of the hearing, have concluded this Agreement by which those parties have amicably disposed of disputed matters between them; and

WHEREAS, subject to the conditions and limitations set forth herein, the County desires to provide bulk wastewater treatment services to South Pasco beginning on January 1, 2000,

or as soon thereafter as the County shall have extended its sewer mains on Allen Road to a point approximately due west of the existing lift station of South Pasco; and

WHEREAS, in conjunction with the requested service, the County will withdraw its objections to South Pasco's application for water and wastewater certificates of authorization as set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises which shall be deemed an integral part of this Agreement and of the mutual covenants and conditions set forth herein, the County and South Pasco, intending to be legally bound thereby, agree as follows:

Section 1. Purpose.

It is the purpose and intent of this Agreement to provide for central potable water and sanitary sewer services to the lands described on Exhibit "A" which is attached to and hereby made a part of this Agreement.

Section 2. Potable Water Service.

South Pasco shall provide water service to the lands described in Exhibit "A." In the event that the County and South Pasco shall agree, in the future, that the County shall provide potable water to South Pasco or to the lands described in Exhibit "A," then, in that event, this Section 2 shall become void and have no further force and effect.

Section 3. Bulk Wastewater Treatment Service.

1. Subject to the conditions and limitations set forth

herein, the County may, at its option, provide bulk wastewater treatment services to South Pasco, beginning on January 1, 2000, as set forth hereinafter.

(a) The County, at its cost, may install sewer lines on Allen Road, designed and constructed to make sewer (wastewater) service available from the County to South Pasco.

(b) South Pasco, at its cost, will extend a force main from its existing lift station approximately due west to Allen Road, designed and constructed of sufficient diameter and material strength to safely transmit the raw sewage (wastewater) of South Pasco to the facilities of the County.

(c) If the County has not extended its Allen Road sewer main by January 1, 2000, South Pasco shall extend its force main to Allen Road within a reasonable time after the County has extended the Allen Road sewer main to a point approximately due west of South Pasco's lift station, such reasonable time not to exceed six (6) months.

(d) The point of connection between the force main of South Pasco and the main of the County shall be on the east side of Allen Road at a location mutually agreed upon between the parties.

(e) The County shall incur the cost of the connection of the line of South Pasco with the facilities of the County.

(f) The County shall install, as part of its connection to the South Pasco system, an appropriate metering device(s)

at the point of connection for the purposes of determining the amount of wastewater treatment services being provided by the County pursuant to this Agreement. It shall be the responsibility of the County to pay all costs associated with the purchase, installation, and repairs of such meter(s). The County shall own and operate the meter(s), and the County shall have the absolute right of access for testing, reading purposes, and for any necessary repairs to maintain the integrity of the County's wastewater collection system. South Pasco shall also be provided reasonable access to the meter(s) for testing and reading purposes.

2. Meter Reading and Payments. The County will invoice South Pasco on a monthly basis in accordance with meter readings taken. South Pasco shall make payment based upon the meter readings within thirty (30) days after receipt of the invoice from the County. In the event that the payment is not made within thirty (30) days after receipt of the invoice, South Pasco agrees to pay interest or penalties as established from time to time in the County's utility service regulations on the outstanding balance until paid in full. Nothing contained herein, including the charging of interest, shall extend the due date for any payment, and any failure to pay on or before the due date shall be considered a default under the

terms of this Agreement. The County shall be liable for the costs of the purchase and installation of any meters or similar equipment or devices used to measure the amount of wastewater treated. In the event South Pasco disputes the accuracy of any meter reading, it must demonstrate through appropriate calibration testing that the meter is either not properly calibrated or is not functioning properly.

3. Monthly Service Rate. South Pasco agrees to pay the County a wholesale wastewater service rate of Three and 14/100 (\$3.14) Dollars per thousand (1,000) gallons of wastewater delivered by South Pasco to the County, based upon the meter readings, as set forth in Section 3, paragraph 2, on page 4 hereof; provided, however, this rate, including any or all components thereof, may be adjusted upward or downward by the Board of County Commissioners from time to time in accordance with the County's rate-setting procedures. The County agrees to provide notice to South Pasco of any rate increase for bulk wastewater customers at least sixty (60) days in advance of implementing such increase under this Agreement.

4. Impact Fees. In addition to the monthly service rate, South Pasco agrees to pay impact fees to the County as follows:

a. South Pasco shall not be required to pay to the County any up-front impact fees for connections within its Florida Public Service Commission certificated territory as applied for in Docket 900519-WS (except for lands lying west of Allen Road).

b. Commencing at the time when South Pasco first delivers raw wastewater to Pasco County's sewer facilities, as set forth in Section 3.1. of this Agreement, South Pasco will pay to Pasco County, Pasco County's sewer service impact fee as specified in Section 3.4.c. hereof below.

c. The amount of the impact fee shall be One Dollar (\$1.00) for each one thousand (1,000) gallons of raw wastewater (sewage) delivered by South Pasco to the County, in accordance with the meter readings as specified in Section 3, paragraph 2, on page 4 of this Agreement. South Pasco shall not be liable for or obligated to pay this impact fee for a period longer than twenty-five (25) years.

5. Treatment Capacity. The County agrees to treat wastewater pursuant to this Agreement, provided sufficient capacity is available at the County's wastewater treatment facilities and all appropriate permits have been obtained by South Pasco from State regulatory agencies. In the event that the County's wastewater system lacks sufficient capacity to treat South Pasco's sewage on January 1, 2000, or thereafter, when the County shall extend the Allen Road

sewer main, as described hereinabove, then South Pasco shall not be obligated to extend the main to Allen Road.

a. South Pasco agrees to abide by the Pasco County Sewer Use Ordinance, including the Regulations for Discharge to Pasco County Wastewater System (attached as Exhibit "B"), in its entirety and as it may be changed from time to time by requirement of Federal or State authorities and/or by the County.

b. South Pasco agrees that it shall not engage in wastewater treatment services on its own, or utilize treatment services from others from the date of South Pasco's connection with the County's system and during the term of this Agreement provided the County has available capacity to adequately treat wastewater flows from South Pasco.

6. Notwithstanding any other provisions contained herein, the County shall not be liable for any damages as the result of its inability or unintentional failure to provide sewage treatment services pursuant to this Agreement, either on a temporary, emergency or permanent basis. The County shall use its best efforts to provide the treatment capacity needed by South Pasco to service its customers. Notwithstanding the foregoing, the County reserves the right to proportionately reduce the gallonage made available under this Agreement to comply



with reduced treatment capacity as restricted from time to time by governmental regulatory authorities.

7. Public Sewer Collection System. South Pasco shall, at its expense:

a. Purchase, install, repair or maintain South Pasco's entire wastewater transmission system, including all sewer lines, lift stations, and other facilities and appurtenances that may be necessary in order to transmit raw wastewater to the County's wastewater system at the point of connection on Allen Road.

b. Cause all South Pasco's sewer lines, lift stations, and all other facilities required for the transmitting of raw wastewater to the County system to be repaired and maintained in accordance with appropriate standards and specifications.

8. Permits. South Pasco shall have the responsibility of securing and maintaining all necessary permits from all governmental agencies having regulatory authority of South Pasco's wastewater transmission system. The County shall have the same responsibility as to its sewer system.

9. Quantity Deficiencies. The County shall not be liable in damages to South Pasco in the event that the quantity of sewage to be treated under this Agreement shall be curtailed or diminished at no fault of the County.

Section 4. General Provisions.

1. This Agreement shall be executed in two counterparts, each of which will be considered an original. This Agreement is

binding upon the successors and assignees of the parties hereto. The provisions of this Agreement constitute the entire terms and provisions of this Agreement between the parties hereto, and no amendment or alteration shall be binding unless the party affected thereby shall have executed a written instrument amending the Agreement. Whenever one party gives notice to the other party concerning any of the provisions of this Agreement, such notice shall be given by certified mail return receipt required. Said notice shall be deemed given when it is deposited in the United States Mail with sufficient postage prepaid (notwithstanding that the return receipt is not subsequently received). Notices shall be addressed as follows:

PASCO COUNTY:

County Administrator  
Pasco County Government Center  
7530 Little Road, Room 203  
New Port Richey, Florida 34654

SOUTH PASCO UTILITIES, INC.:

Mr. George L. Black, President  
P.O. Box 16800  
Tampa, Florida 33687

These addresses may be changed by giving notice as provided for in this paragraph.

2. No waiver of breach of any of the terms of this Agreement shall be construed to be a waiver of any succeeding breach.

Section 5. Default.

If either party materially fails or defaults in keeping, performing or abiding by the terms and provisions of this Agreement, then the non-defaulting party shall give written notice to the defaulting party specifying the nature of the default. If the

defaulting party does not cure the default within thirty (30) days after the date of written notice, then this Agreement, at the option of the non-defaulting party, shall terminate. Neither party shall be relieved of liability to the other for damages sustained by virtue of any party wrongfully exercising this provision. This paragraph is not intended to replace any other legal or equitable remedies available to any non-defaulting party under Florida law, but it is in addition thereto. Notwithstanding the foregoing, any failure to make timely payments shall be considered a material default under the terms of this Agreement, without the necessity for any written notice to South Pasco.

Section 6. Term.

This Agreement shall have a term of twenty-five (25) years commencing on the date of execution of this Agreement. This Agreement shall not be considered an obligation on the part of Pasco County to perform in any way other than as indicated in this Agreement. The County shall not be obligated under the terms of this Agreement to treat additional sewage from South Pasco in or from areas outside its certificated area or other areas intended to be served by South Pasco, all as identified on Exhibit "A," unless the County issues written notification that it does not object to such additional service. Pasco County also affirmatively states as part of this Agreement that its first responsibility is to the customers inside its own service limits and that it reserves the right to act in the best interest of those customers in all circumstances.

Section 7. Utility System Charges.

South Pasco shall diligently seek and pursue any necessary Florida Public Service Commission approval to fix, revise, maintain and collect such fees, rates, rentals or other charges for the use of the products, services and facilities of its utility system as shall be necessary to fund the timely payment of its respective obligations and liabilities under this Agreement. South Pasco shall maintain its utility system operation and maintain accounts throughout the term of this Agreement for the purpose of paying its obligations and liabilities hereunder.

Section 8. Miscellaneous Provision.

1. In the event either party's performance of this Agreement is prevented or interrupted by consequence of an act of God, or of the public enemy, or national emergency, allocation or other governmental restrictions upon the use or availability of labor or materials, rationing, civil insurrection, riot, racial or civil rights disorder or demonstration, strike, embargo, flood, tidal wave, fire, explosion, bomb detonation, nuclear fallout, windstorm, hurricane, sink holes, earthquake, or other casualty or disaster or catastrophe, unforeseeable failure or breakdown of pumping, transmissions or other facilities, governmental rules or acts or orders or restrictions of regulations or requirements, acts or actions of any government, except the County, or public or governmental authority or commission or bond or agency or official or officer, or judgment or a restraining order or injunction of any court, such party shall not be liable for such non-performance, and the time of performance

shall be extended for such time period that such party is diligently attempting to perform.

2. The parties hereto agree that from and after the date of execution hereof, each will, upon the request of the other, execute and deliver such other documents and instruments and take other actions as may be reasonably required to carry out the intent of this Agreement.

3. This Agreement shall be binding upon the heirs, representatives and assigns of the parties hereto and the provisions hereof shall constitute covenants running with the land for the benefit of the heirs, representatives and assigns of the party. However, this Agreement shall not be assigned by South Pasco without the express permission of the County; however, such consent shall not be unreasonably withheld by the County.

4. In the event the County ever elects to exercise its power of eminent domain for the purpose of acquiring all, or any part of the wastewater utility system which may be owned by South Pasco, the County will not be required to pay South Pasco for any value which might be attributable to the wastewater services provided by the County under the terms of this Agreement. In other words, such services provided by the County under this Agreement shall have no residual value in the event the County seeks to condemn all, or any part, of South Pasco's wastewater system. This shall not be construed as a waiver of any defense, including the defense of lack of authority, South Pasco may have to such an action by the County or to any claim for compensation as an ongoing business concern.

5. South Pasco agrees that upon execution of this Agreement it will immediately file the same with the Florida Public Service Commission for approval. South Pasco and Pasco County shall use their best efforts to obtain such approval. Notwithstanding any other provisions of this Agreement, the same must be approved in its entirety by the Florida Public Service Commission as a condition precedent to the effectiveness of the Agreement, and the effective date of this Agreement shall be the date of approval by the Florida Public Service Commission.

6. (a) Pursuant to the JOINT MOTION FOR RECOMMENDED ORDER DISMISSING OBJECTION BASED UPON STIPULATED SETTLEMENT by and between the County and South Pasco, a copy of which is attached to and made a part of this Agreement, the County withdraws all objections to the Application of South Pasco, as filed with the Florida Public Service Commission on May 30, 1990, in Docket No. 900519-WS, with the exception of those lands in said Application lying west of Allen Road in Pasco County.

(b) The issuance of an Order of the Florida Division of Administrative Hearings in Case No. 90-6415, styled South Pasco Utilities, Inc., Petitioner, versus Pasco County, Respondent, and Florida Public Service Commission, Intervenor, granting the above-said JOINT MOTION FOR RECOMMENDED ORDER DISMISSING OBJECTION BASED UPON STIPULATED SETTLEMENT, is and shall be a condition precedent to the effectiveness of this Agreement,

and the effective date of this Agreement shall not be any time prior to the issuance of such said Order.

(c) South Pasco and the County shall use their best efforts to obtain the issuance of the above-said Order.

7. This Agreement shall supersede and replace any existing agreement between Pasco County and South Pasco Utilities, Inc., for bulk wastewater services.

EXECUTED this 26<sup>th</sup> day of February, 1991, in Pasco County, Florida.

[SEAL]

BOARD OF COUNTY COMMISSIONERS  
OF PASCO COUNTY, FLORIDA

ATTEST:

By Jed Pittman

By Elaine H. Mitchell

[Signature]

Chairman

WITNESSES:

Alex Weiner  
[Signature]

SOUTH PASCO UTILITIES, INC.

By [Signature]  
George L. Black, Jr.  
President

STATE OF FLORIDA  
COUNTY OF PASCO  
THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL OF RECORD IN MY OFFICE IN WITNESS MY HAND AND THE COUNTY'S OFFICIAL SEAL THIS 17<sup>th</sup> day of March, 1991  
JED PITTMAN, CLERK TO THE BOARD  
BY Elaine H. Mitchell

ORDER NO. 24641  
DOCKET NO. 900519-WS  
PAGE 32

ATTACHMENT B  
PAGE 19 OF 19

APPROVED AS TO LEGAL FORM AND CONTENT  
Office of the County Attorney

By Ben Hamill Attorney