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MEMORANDUM

June 4, 1997

TO : ALICE CROSBY, DIVISION OF LEGAL SERVICES  
DIVISION OF RECORDS AND REPORTING

FROM : MARTHA GOLDEN, DIVISION OF WATER AND WASTEWATER *MAR GOLDEN*

RE : DOCKET NO. ~~95000~~-WS - RESOLUTION OF THE BOARD OF COUNTY  
COMMISSIONERS OF MANATEE COUNTY DECLARING MANATEE COUNTY  
SUBJECT TO THE PROVISIONS OF CHAPTER 367, FLORIDA  
STATUTES - REQUEST FOR EXEMPTION FROM FLORIDA PUBLIC  
SERVICE COMMISSION REGULATION FOR PROVISION OF WATER AND  
WASTEWATER SERVICE BY FAIR LANE ACRES, INC.

On October 10, 1995, the Manatee County Board of County Commissioners adopted a resolution pursuant to Section 367.171, Florida Statutes, declaring that that the water and wastewater utilities in that County shall become subject to the provision of the Water and Wastewater Regulatory Law, Chapter 367, Florida Statutes. The resolution was acknowledged by this Commission on November 9, 1995, by Order No. PSC-95-1393-POF-WS. Although the Commission no longer requires applications for exemptions, at the time the Commission received jurisdiction over Manatee County, a formal request for exempt status was still required. At that time, Section 367.031, Florida Statutes, required that a utility subject to the jurisdiction of this Commission must obtain a certificate of authorization or an order recognizing the exempt status of the system. Accordingly, on June 3, 1996, Fair Lane Acres, Inc. filed an application for exemption pursuant to Section 367.022(7), Florida Statutes.

The utility originally operated under the names Fair Lane Utilities Company and Fair Lane Water. The utility provides water and wastewater service to the Fair Lane Acres Subdivision, which consists primarily of mobile homes. The utility was originally owned and operated by the developer of the Fair Lane Acres Subdivision. The residents of the subdivision are represented by two separate homeowner's associations. Prior to the Commission receiving jurisdiction over Manatee County, the developer and one of the homeowner's associations began negotiations for the sale and purchase of the utility. Staff informed the parties that in order to qualify for an exemption as a non-profit association, all of the customers of the utility would have to be members of the association. Therefore, a separate non-profit corporation was formed under the name Fair Lane Acres, Inc. (Fair Lane), for the purpose of operating the utility. On May 8, 1996, Fair Lane purchased the assets of Fair Lane Utilities Company and Fair Lane Water.

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As stated above, on June 3, 1996, this Commission received an application from Fair Lane for an exemption pursuant to Section 367.022(7), Florida Statutes. The primary contact person is Ms. Janis Koch, President. Ms. Koch's mailing address is 806 50th Avenue West, Bradenton, Florida 34207. The mailing and physical address for the utility is 819 49th Avenue Terrace West, Bradenton, Florida 34207.

Fair Lane will provide water and wastewater service solely to members who own and control it. The applicant provided the Articles of Incorporation as filed with the Secretary of State and the Bylaws. These documents clearly show the requirements for membership and that the members' voting rights are one vote per unit of membership. On January 14, 1997, the Commission received a letter from the Secretary of Fair Lane which indicates that the developer no longer has control over the subdivision or utility. The property owners have been in control of the utility facilities since they purchased the utility assets on May 8, 1996.

In addition, the applicant provided proof of ownership of the utility and the utility's site, in the form of a warranty deed. Further, the applicant acknowledged Section 837.06, Florida Statutes, regarding false statements.

Based on the above, an order should be issued as soon as possible approving Fair Lane Acres, Inc.'s application for exemption pursuant to Section 367.022(7), Florida Statutes, as a nonprofit corporation. In the event of any change of circumstances or method of operation, Fair Lane Acres, Inc. or its successor(s) in interest, should be ordered to notify the Commission within thirty days of such change so that its exempt status may be reevaluated.

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