

STATE OF FLORIDA

SCANNED
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Commissioners:
E. LEON JACOBS, JR., CHAIRMAN
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI



CAPITAL CIRCLE OFFICE CENTER
2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FL 32399-0850

Public Service Commission

January 24, 2001

Citizens First Bank
1129 Main Street
The Villages, Florida 32159

Re: Account Numb
(Docket No. 960305-WS)

Sumter Utility Company

Dear Sir or Madam:

As the Florida Public Service Commission's designated agent in such matters, and as a signatory on the above-referenced escrow account, I hereby authorize you to release \$334,896.26 from the account to Little Sumter Utility Company. I have enclosed a copy of the Company's Request to Release Funds from Escrow, dated January 12, 2001, and a copy of Commission staff's authorization for release of the indicated amount pursuant to Commission Order No. PSC-96-1132-FOF-WS.

Please do not hesitate to call if you have any questions concerning this matter.

Sincerely,

Blanca S. Bayo
Blanca S. Bayo

bsb/kf
Enclosure

cc: Rosanne Gervasi, Division of Legal Services
Sally Moniz, Division of Economic Regulation
John F. Wise, Treasurer, Little Sumter Utility Company

- PP _____
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- EG _____
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FPSC-RECORDS/REPORTING

REDACTED



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

RECEIVED-PPSC
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RECORDED AND
REPORTING

DATE: January 23, 2001
TO: DIVISION OF RECORDS AND REPORTING (BAYO)
FROM: SALLY MONIZ, DIVISION OF ECONOMIC REGULATION
ROSANNE GERVASI, DIVISION OF LEGAL SERVICES
RE: REQUEST BY LITTLE SUMTER UTILITY COMPANY TO RELEASE
FUNDS FROM ESCROW ACCOUNT

S.M.
om
RD
RTM

By Order No. PSC-96-1132-FOF-WS, issued in Docket 960305-WS on September 10, 1996, the Commission directed Little Sumter Utility Company (LSU) to establish an escrow account that can only be used to fund conservation programs approved by the Southwest Florida Water Management District (SWFWMD). The order required that a request to release funds from the escrow account be accompanied by an explanation of the specific use of the funds and documentation that the funds will be used to further a conservation program approved by the water management district.

On January 16, 2001, the utility filed a request to release \$334,896.26 from the escrow account. According to the Request, the utility expended \$555,300 on wastewater effluent modifications to increase the amount of reclaimed water available for golf course irrigation and will request additional releases as funds become available. Along with this request, the utility provided a letter from the SWFWMD agreeing that the proposed expansion of the reclaimed water system appeared to further LSU's conservation program. In its request, the utility has provided copies of the following: the letter from CH2MHill explaining the project and requesting approval, the letter from Farner Barley & Associates, Inc. discussing the wastewater treatment plant construction and the water conservation requirements for the water use permits, and the proposal and agreement between LSU and Encore, the construction company that was hired to make the modifications to its effluent disposal system.

Accordingly, the utility's request to release funds from the escrow account should be authorized. Pursuant to the escrow account, the bank will disburse funds to the utility upon written instructions from the Commission through the Director of the Division of Records and Reporting. Therefore, we request that you provide written instructions to Citizens First Bank to release \$334,896.26 from the escrow account to Little Sumter Utility Company.

cc: Division of Policy Analysis & Intergovernmental Liaison (Bethel, Golden)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application for rate) Docket No. 960305-WS
increase in Sumter County by)
LITTLE SUMTER UTILITY COMPANY)
_____)

REQUEST TO RELEASE FUNDS FROM ESCROW

LITTLE SUMTER UTILITY COMPANY ("LSU"), by and through its undersigned officer and pursuant to Order No. PSC-96-1132-FOF-WS, requests the Director of the Division of Records and Reporting to provide written instructions to the Citizens First Bank ("Bank") to release \$334,896.26 from the escrow account held in such Bank, and in support thereof states:

1. Order No. 96-1132-FOF-WS established an escrow account to be used to pay for conservation programs targeted to make customers reduce their consumption.
2. LSU has expended the following amounts of money on wastewater effluent modifications to increase the amount of reclaimed water available for golf course irrigation ("Project").

Encore Construction Company ("Encore") \$555,300

3. CH2Mhill letter dated March 17, 2000 to Southwest Florida Water Management District ("SWFWMD") explaining the Project and requesting conceptual approval from SWFWMD.
4. SWFWMD letter dated March 29, 2000 indicating conceptual approval of the Project.
5. Farner Barley & Associates, Inc. letter (including attachment) dated August 10, 2000 discussing the wastewater treatment plant construction and the water conservation requirements for the LSU/SWFWMD water use permits.

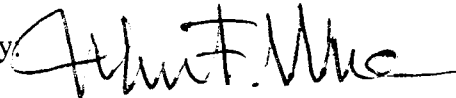
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RECEIVED
FLORIDA PUBLIC SERVICE
COMMISSION

6. Standard Form of Agreement between Owner and Design Builder – Part 1 and Part 2 between LSU and Encore.
7. I hereby certify that the improvements in the amount of \$555,300 have been completed and that the Contractor (Encore) has been paid in full.
8. Pursuant to the Escrow Agreement, the Bank shall disburse funds to LSU upon written instructions of the FPSC, Director of Division of Records and Reporting.
9. LSU will request additional releases for this Project as funds become available in the escrow account.

WHEREFORE, LSU requests the Director of Records and Reporting provide written instructions to the Bank to pay \$334,896.26 from the escrow account to Little Sumter.

Respectfully submitted on this
12th day of January, 2001, by:

Little Sumter Utility Company
1100 Main Street
The Villages, FL 32159
(352) 753-6270

By: 
John F. Wise
Treasurer



An Equal Opportunity Employer

Southwest Florida Water Management District

2379 Broad Street, Brooksville, Florida 34609-6899
(352) 796-7211 or 1-800-423-1476 (FL only)
SUNCOM 628-4150 TDD only 1-800-231-6103 (FL only)
World Wide Web: <http://www.swfwmd.state.fl.us>

Tampa Service Office
7601 Highway 301 North
Tampa, Florida 33637-6759
(813) 985-7481 or
1-800-836-0797 (FL only)
SUNCOM 578-2070

Bartow Service Office
170 Century Boulevard
Bartow, Florida 33830-7700
(863) 534-1448 or
1-800-492-7862 (FL only)
SUNCOM 572-6200

Venice Service Office
115 Corporation Way
Venice, Florida 34292-3524
(941) 486-1212 or
1-800-320-3503 (FL only)
SUNCOM 526-6900

Lecanto Service Office
3600 West Sovereign Path
Suite 226
Lecanto, Florida 34461-8070
(352) 527-8131
SUNCOM 667-3271

March 29, 2000

John Parker
Little Sumter Utility Company
1100 Main Street
The Villages, FL 32159

SUBJECT: Reclaimed Water System Expansion - Little Sumter Utility Company
Dear Mr. Parker:

This letter is in response to a March 17, 2000 request from Mr. William J. McElroy of CH2MHILL. He wrote on your behalf to describe recent water conservation activities by the Little Sumter Utility Company (LSU) and related plans to expand the current reclaimed water system. He also specifically requested a letter from the District acknowledging, and conceptually approving, the proposed expansion of the reclaimed water system.

My personal knowledge of the proposed LSU expansion is based on the content of Mr. McElroy's letter and also as a result of previous contacts with both your office and the District's permit evaluator (Vivian Bielski, P.G.). You have stated that this expansion will increase the future available supply of reclaimed water to an average daily flow of 2.1 m.g.d.

The District generally supports the concept of using reclaimed water. Through the appropriate use of reclaimed water for selected industrial processes and irrigation of golf courses, lawn and landscape areas, and certain agricultural products, the demand for higher-quality water supplies can be minimized. In addition, when reclaimed water is available to customers, the per capita (per person) use by a potable water utility's system will be lower than it otherwise would have been.

As such, based on the information provided and subject to any subsequent detailed information which might be to the contrary, the proposed expansion of the reclaimed water system would appear to further LSU's overall water conservation program. Please note that, to maximize the effectiveness of a reclaimed water program, it is becoming increasingly important to maintain some level of control over how efficiently the water is used; this control may be accomplished through volumetric rates, contractual allowances for interruptible service, a community watering schedule (water restrictions), or a combination of these mechanisms.

Please contact me if I can be of any further assistance.

Sincerely,

Lois Ann Sorensen
Demand Management Coordinator

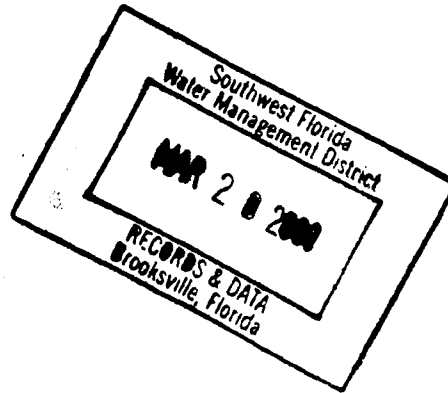
LAS

cc: William J. McElroy, P.E.
File of Record, Water Use Permit 20 010404.001
Kathy Foley

- Ronald C. Johnson**
Chair, Lake Wales
- Brenda Menendez**
Vice Chair, Tampa
- Sally Thompson**
Secretary, Tampa
- Ronnie E. Duncan**
Treasurer, Safety Harbor
- Monroe "Al" Coogler**
Lecanto
- Joe L. Davis, Jr.**
Wauchula
- Rebecca M. Eger**
Sarasota
- John P. Harlee, IV**
Bradenton
- Watson L. Haynes, II**
St. Petersburg
- John K. Renke, III**
New Port Richey
- Pamela Stinnette-Taylor**
Tampa
- E. D. "Sonny" Vergara**
Executive Director
- Gene A. Heath**
Assistant Executive Director
- Edward B. Helvenston**
General Counsel



CH2MHILL



March 17, 2000

103533.C0.LS

CH2M HILL

3011 SW Williston Road

Gainesville, FL

32608-3928

P.O. Box 147009

Gainesville, FL

32614-7009

Tel 352.335.7991

Fax 352.335.2959

Proud Sponsor of

National Engineers Week 2000

Ms. Lois Ann Sorensen
Demand Management Coordinator
Southwest Florida Water Management District
2379 Broad Street
Brooksville, Fl 34609-6899

Subject: Water Conservation - Little Sumter Utility Company

Dear Ms. Sorensen:

As you probably recall, the Little Sumter Utility Company (LSU) provides water and wastewater services to a significant portion of The Villages development. The LSU service area covers the Sumter and Marion Counties portions of the development.

The Public Service Commission (PSC) requires that LSU maintain an escrow account that accumulates the difference in water user payments generated between the first and second tiers of their water use rate structure. The PSC requires LSU to document that use of the escrow account funds will "further the conservation program approved by the water management district for this utility".

In your letter of January 29, 1999, SWFWMD reviewed (and made recommendations on) a series of public educational advertisements to promote water conservation and water quality protection within LSU. Following this, LSU published the notices daily in the Villages Daily Sun for approximately six months and is now continuing their publication on a monthly basis.

LSU is now planning on using available escrow funds for wastewater facility modifications to increase the amount of future reclaimed water available for golf course irrigation within the service area. The estimated average daily capacity of the LSU wastewater facility (as designed) is 0.9 mgd. (Reuse of this reclaimed water is covered under their current SWFWMD Water Use Permit No. 2011404.01, which is pending approval for modification at the April 2000 Governing Board meeting.) The improvements will involve the addition of two more effluent pump stations and another oxidation ditch and effluent filtration system. These facility modifications should increase the future average daily flow of reclaimed water to 2.1 mgd. LSU will provide additional details to SWFWMD water use permitting staff (Ms. Vivian Bielski, P.G.) at a later date, regarding the plan for expansion of the current reclaimed water system.

Ms. Lois Ann Sorensen

Page 2

March 20, 2006

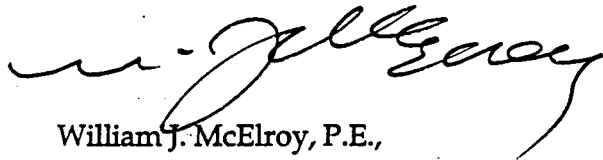
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The reuse of reclaimed water (and available stormwater) for golf course irrigation is a significant component of the water conservation program at LSU and The Villages. Since this program is, in effect, approved by SWFWMD through issuance of the associated water use permits, we wanted to make you aware of the desired expansion of the LSU reclaimed water system.

Accordingly, it is respectfully requested that SWFWMD send a letter to Mr. John Parker of LSU acknowledging, and conceptually approving, the desired reclaimed water system expansion. This letter should provide the documentation required by the PSC for the use of the water conservation escrow account funds.

Sincerely,

CH2M HILL



William J. McElroy, P.E.,
Senior Project Manager

GNV\Document2

c: John Parker/LSU



**FARNER
BARLEY**
AND ASSOCIATES, INC.

ENGINEERS ▲ SURVEYORS ▲ PLANNERS

VIA FAX AND U.S. MAIL

August 10, 2000

Mr. John Parker
LITTLE SUMTER UTILITY COMPANY
1100 Main Street
The Villages, Florida 32159

RE: LITTLE SUMTER UTILITY COMPANY WASTEWATER TREATMENT PLANT
PHASE II CONSTRUCTION (FBA #921141.198)

Dear John:


Based upon our review of the attached proposal from Encore Construction Company, dated November 30, 1999, in the amount of \$555,300.00, we certify that the proposed improvements are required to produce treated wastewater effluent to meet the minimum water quality requirements of FDEP for irrigation of The Villages golf courses.

By constructing these facilities LSU will meet the water conservation measures as outlined in the LSU Southwest Florida Water Management District Water Use Permit.

Should you have any questions concerning this proposal, please feel free to contact me.

Sincerely,

FARNER, BARLEY & ASSOCIATES, INC.


Robert E. Farner, P.E.

REF/km

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ENCORE

CONSTRUCTION COMPANY

November 30, 1999

When Performance Counts
Ltr #256-004

Mr. John Parker
LITTLE SUMTER UTILITY COMPANY
1100 Main Street
The Villages, FL 32159

RE: LSU WWTF – Phase II
Traveling Bridge Filter and
2 (ea) Effluent Pumps and Computer Upgrade

PROPOSAL

Dear John,

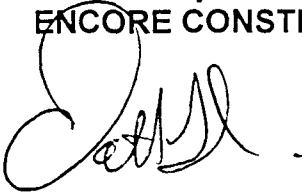
We propose to furnish all labor, material and equipment to install the above referenced scope of work per plans developed by the Design-Build Team of Encore Construction Company/Farner Barley, Inc. per the following breakdown:

Engineering & Permitting (Civil & Elec.)	\$ 47,650
General Conditions (Supt/Trailer/Phone/Etc.)	\$ 29,150
Sitework	\$ 11,300
Concrete Structure	\$ 48,600
Traveling Bridge (Equipment & Installation)	\$214,000
Metals (Material & Labor)	\$ 20,700
Painting	\$ 5,750
Electrical	\$ 42,000
Instrumentation	\$ 29,000
Computer Programming Upgrade	\$ 11,550
Yard Piping	\$ 57,600
Effluent Pumps (Equipment & Installation)	\$ 38,000
Total Cost Breakout	\$555,300

November 30, 1999
Page 2 – Ltr #256-004

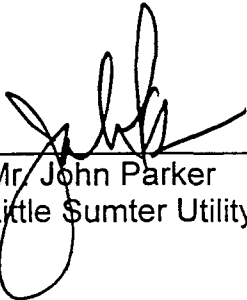
If this proposal is acceptable, please indicate by executing and returning one copy to our office. We appreciate this opportunity to be of service.

Respectfully,
ENCORE CONSTRUCTION COMPANY



Patrick T. Rainey
President

Accepted by:



Mr. John Parker
Little Sumter Utility

cc: Robert Farner Farner Barley & Associates

THE AMERICAN INSTITUTE OF ARCHITECTS



AIA Document A191

**Standard Form of Agreement Between
Owner and Design/Builder
1985 EDITION**

*THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES;
CONSULTATION WITH AN ATTORNEY IS ENCOURAGED.*

This Document comprises two separate Agreements: Part 1 Agreement—Preliminary Design and Budgeting and Part 2 Agreement—Final Design and Construction. Hereinafter, the Part 1 Agreement is referred to as Part 1 and the Part 2 Agreement is referred to as Part 2. Before executing Part 1, the parties should reach substantial agreement on Part 2.

PART 1 AGREEMENT—PRELIMINARY DESIGN AND BUDGETING

AGREEMENT

made as of the 10th day of December in the year of Nineteen
Hundred and Ninety Nine

BETWEEN the Owner: The Little Sumter Utility Company
(Name and address) 1100 Main Street
The Villages, FL 32159

and the Design/Builder: Encore Construction Company, a Florida corporation; and
(Name and address) Farmer Barley & Associates, Inc., a Florida corporation;
a joint venture.

For the following Project:
(Include Project name, location and detailed description of scope.)
Little Sumter Utility Wastewater Facility Expansion - Phase II
Encore Job #256 - Filters & Effluent Pumps & Computer Upgrade

The architectural services described in Article 2 will be provided by the following person or entity who is lawfully licensed to practice architecture: Architectural services will be
(Name and address) provided on behalf of Design/Builder.

The Owner and the Design/Builder agree as set forth below.

shall take appropriate action with reasonable promptness.

3.5 Prior to commencement of Basic Services, the Owner shall furnish a legal description and a ~~certified land survey of the site/giving, as applicable, grades and lines of streets, alleys, pavements and adjoining property; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, elevations and contours of the site; locations, dimensions and complete data pertaining to existing buildings, other improvements and trees; and full information concerning available services and utility lines, both public and private, above and below grade, including inverts and depths.~~

3.6 The Owner shall furnish services of geotechnical engineers and other consultants when such services are deemed necessary by the Design/Builder. Geotechnical engineers or other consultants shall be selected by mutual agreement. Such services shall include, as required, applicable test borings, test pits, soil bearing values, percolation tests, air and water pollution tests, and other necessary operations for determining subsoil, air and water conditions, with reports and appropriate professional recommendations.

3.7 The services, information, surveys and reports required by Paragraphs 3.5 and 3.6 shall be furnished at the Owner's expense, and the Design/Builder shall be entitled to rely upon their accuracy and completeness.

3.8 If the Owner observes or otherwise becomes aware of any fault or defect in the Work, the Owner shall give prompt written notice thereof to the Design/Builder.

3.9 The Owner shall furnish required information and services and shall render decisions with reasonable promptness to avoid delay in the orderly progress of the Design/Builder's services.

3.10 The Owner shall communicate with contractors only through the Design/Builder.

ARTICLE 4

TIME

4.1 The Design/Builder shall provide the Basic and Additional Services as expeditiously as is consistent with reasonable skill and care and shall complete the services in the time provided in Article 10.

ARTICLE 5

PAYMENTS

5.1 The initial payment provided in Article 9 shall be made upon execution of this Part 1 and credited to the Owner's account as provided in Subparagraph 9.1.2.

5.2 Subsequent payments for Part 1 Basic Services, Additional Services and Reimbursable Expenses shall be made monthly on the basis set forth in Article 9.

5.3 Within ten days of the Owner's receipt of a properly submitted Application for Payment, the Owner shall make payment to the Design/Builder.

5.4 Payments due the Design/Builder under Part 1 which are not paid when due shall bear interest from the date due at the rate specified in Paragraph 9.5, or in the absence of a specified rate, at the legal rate prevailing where the principal office of the Design/Builder is located.

ARTICLE 6 ARBITRATION

6.1 Claims, disputes and other matters in question between the parties to Part 1 arising out of or relating to Part 1 shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect unless the parties agree otherwise. No arbitration arising out of or relating to Part 1 shall include, by consolidation or joinder or in any other manner, an additional person not a party to Part 1 except by written consent containing specific reference to Part 1 and signed by the Owner, Design/Builder and any other person sought to be joined. Consent to arbitration involving an additional person or persons shall not constitute consent to arbitration of a dispute not described therein or with a person not named therein. This provision shall be specifically enforceable in any court of competent jurisdiction.

6.2 Notice of demand for arbitration shall be filed in writing with the other party to Part 1 and with the American Arbitration Association. The demand shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when the applicable statute of limitations would bar institution of a legal or equitable proceeding based on such claim, dispute or other matter in question.

6.3 The award rendered by arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

6.4 Unless otherwise agreed in writing, the Design/Builder shall carry on the services and maintain progress during any arbitration proceedings, and the Owner shall continue to make payments to the Design/Builder in accordance with Part 1.

6.5 This Article 6 shall survive completion or termination of Part 1.

ARTICLE 7

MISCELLANEOUS PROVISIONS

7.1 This Part 1 shall be governed by the law of the place ^{Owner} where the principal office of the ~~Design/Builder~~ is located.

7.2 The table of contents and the headings of articles and paragraphs are for convenience only and shall not modify rights and obligations created by Part 1.

7.3 In case a provision of Part 1 is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected.

7.4 SUCCESSORS AND ASSIGNS

7.4.1 This Part 1 shall be binding on successors, assigns and legal representatives of and persons in privity of contract with the Owner or Design/Builder. Neither party shall assign, sublet or transfer an interest in Part 1 without written consent of the other.

7.4.2 This Paragraph 7.4 shall survive completion or termination of Part 1.

7.5 EXTENT OF AGREEMENT

7.5.1 Part 1 represents the entire agreement for Preliminary Design and Budgeting and supersedes all prior negotiations, representations or agreements. Part 1 may be

ARTICLE 9
BASIS OF COMPENSATION

The Owner shall compensate the Design/Builder in accordance with Article 5, Payments, and the other provisions of Part 1 as described below.

9.1 COMPENSATION FOR BASIC SERVICES

9.1.1 FOR BASIC SERVICES, compensation shall be as follows:

9.1.2 AN INITIAL PAYMENT of _____ dollars (\$) shall be made upon execution of Part 1 and credited to the Owner's account as follows:

To be paid as set forth in Part 2 Agreement.

9.1.3 SUBSEQUENT PAYMENTS shall be as follows: N/A.

9.2 COMPENSATION FOR ADDITIONAL SERVICES

9.2.1 FOR ADDITIONAL SERVICES, compensation shall be as follows: N/A.

9.3 REIMBURSABLE EXPENSES

9.3.1 Reimbursable Expenses are in addition to Compensation for Basic and Additional Services and include actual expenditures made by the Design/Builder and the Design/Builder's employees and contractors in the interest of the Project for the expenses listed as follows: N/A.

9.3.2 FOR REIMBURSABLE EXPENSES, compensation shall be a multiple of N/A () times the amounts expended.

9.4 DIRECT PERSONNEL EXPENSE is defined as the direct salaries of personnel engaged on the Project, and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits.

9.5 INTEREST PAYMENTS

9.5.1 The rate of interest for past due payments shall be as follows: N/A.

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Design/Builder's principal places of business, at the location of the Project and elsewhere may affect the validity of this provision. Specific legal advice should be obtained with respect to deletion, modification or other requirements, such as written disclosures or waivers.)

9.6 IF THE SCOPE of the Project is changed materially, the amount of compensation shall be equitably adjusted.

9.7 The compensation set forth herein shall be equitably adjusted if through no fault of the Design/Builder the services have not been completed within () months of the date of Part 1.

THE AMERICAN INSTITUTE OF ARCHITECTS



AIA Document A191

**Standard Form of Agreement Between
Owner and Design/Builder**
1985 EDITION

*THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES;
CONSULTATION WITH AN ATTORNEY IS ENCOURAGED.*

This Document comprises two separate Agreements: Part 1 Agreement—Preliminary Design and Budgeting and Part 2 Agreement—Final Design and Construction. Hereinafter, the Part 1 Agreement is referred to as Part 1 and the Part 2 Agreement is referred to as Part 2.

PART 2 AGREEMENT—FINAL DESIGN AND CONSTRUCTION

AGREEMENT

made as of the 10th day of December in the year of Nineteen
Hundred and Ninety Nine

BETWEEN the Owner: The Little Sumter Utility Company
(Name and address) 1100 Main Street
The Villages, FL 32159

and the Design/Builder: Encore Construction Company, a Florida corporation; and
(Name and address) Farmer Barley & Associates, Inc., a Florida corporation;
a joint venture.

For the following Project:
(Include Project name, location and detailed description of scope.)

Little Sumter Utility Wastewater Facility Expansion - Phase II -
Encore Job #256 - Filters & Effluent Pumps & Computer Upgrade

The architectural services described in Article 2 will be provided by the following person or entity who is lawfully licensed to practice architecture: The architectural services will be
(Name and address) provided on behalf of Design/Builder.

The Owner and the Design/Builder agree as set forth below.

Copyright © 1985 by The American Institute of Architects, 1735 New York Avenue, N.W., Washington, D.C. 20006.
Reproduction of the material herein or substantial quotation of its provisions without written permission of the AIA
violates the copyright laws of the United States and will be subject to legal prosecution.

2.2.8 The Design/Builder shall correct Work which does not conform to the Construction Documents.

2.2.9 The Design/Builder warrants to the Owner that materials and equipment incorporated in the Work will be new unless otherwise specified, and that the Work will be of good quality, free from faults and defects, and in conformance with the Contract Documents. Work not conforming to these requirements shall be corrected in accordance with Article 9.

2.2.10 The Design/Builder shall pay all sales, consumer, use and similar taxes which were in effect at the time the Design/Builder's Proposal was first submitted to the Owner, and shall secure and pay for building and other permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the Work which are either customarily secured after execution of Part 2 or are legally required at the time the Design/Builder's Proposal was first submitted to the Owner.

2.2.11 The Design/Builder shall give notices and comply with laws, ordinances, rules, regulations and lawful orders of public authorities relating to the Project.

2.2.12 The Design/Builder shall pay royalties and license fees. The Design/Builder shall defend suits or claims for infringement of patent rights and shall save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for such loss when a particular design, process or product of a particular manufacturer is required by the Owner. However, if the Design/Builder has reason to believe the use of a required design, process or product is an infringement of a patent, the Design/Builder shall be responsible for such loss unless such information is promptly given to the Owner.

2.2.13 The Design/Builder shall be responsible to the Owner for acts and omissions of the Design/Builder's employees and parties in privity of contract with the Design/Builder to perform a portion of the Work, including their agents and employees.

2.2.14 The Design/Builder shall keep the premises free from accumulation of waste materials or rubbish caused by the Design/Builder's operations. At the completion of the Work, the Design/Builder shall remove from and about the Project the Design/Builder's tools, construction equipment, machinery, surplus materials, waste materials and rubbish.

2.2.15 The Design/Builder shall prepare Change Orders for the Owner's approval and execution in accordance with Part 2 and shall have authority to make minor changes in the design and construction consistent with the intent of Part 2 not involving an adjustment in the contract sum or an extension of the contract time. The Design/Builder shall promptly inform the Owner, in writing, of minor changes in the design and construction.

2.2.16 The Design/Builder shall notify the Owner when the Work or an agreed upon portion thereof is substantially completed by issuing a Certificate of Substantial Completion which shall establish the Date of Substantial Completion, shall state the responsibility of each party for security, maintenance, heat, utilities, damage to the Work and insurance, shall include a list of items to be completed or corrected and shall fix the time within which the Design/Builder shall complete items listed therein. Disputes between the Owner and Design/Builder regarding the Certificate of Substantial Completion shall be resolved by arbitration.

2.2.17 The Design/Builder shall maintain in good order at the site one record copy of the drawings, specifications, product data, samples, shop drawings, Change Orders and other Modifications, marked currently to record changes made during construction. These shall be delivered to the Owner upon completion of the design and construction and prior to final payment.

ARTICLE 3 OWNER

3.1 The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized representative shall examine documents submitted by the Design/Builder and shall promptly render decisions pertaining thereto to avoid delay in the orderly progress of the Work.

3.2 The Owner may appoint an on-site project representative to observe the Work and to have such other responsibilities as the Owner and Design/Builder agree in writing prior to execution of Part 2.

3.3 The Owner shall cooperate with the Design/Builder in securing building and other permits, licenses and inspections, and shall pay the fees for such permits, licenses and inspections if the cost of such fees is not identified as being included in the Design/Builder's Proposal.

3.4 The ~~Owner~~ ^{Design/Builder} shall furnish services by land surveyors, geotechnical engineers and other consultants for subsoil, air and water conditions, in addition to those provided under Part 1 when such services are deemed necessary by the Design/Builder to carry out properly the design services under this Part 2.

3.5 The ~~Owner~~ ^{Design/Builder} shall furnish structural, mechanical, chemical, geotechnical and other laboratory or on-site tests, inspections and reports as required by law or the Contract Documents.

3.6 The services, information, surveys and reports required by Paragraphs 3.4 and 3.5 shall be furnished at the Owner's expense, and the Design/Builder shall be entitled to rely upon their accuracy and completeness.

3.7 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or nonconformity with the Design or Construction Documents, the Owner shall give prompt written notice thereof to the Design/Builder.

3.8 The Owner shall furnish required information and services and shall promptly render decisions pertaining thereto to avoid delay in the orderly progress of the design and construction.

3.9 The Owner shall, at the request of the Design/Builder and upon execution of Part 2, provide a certified or notarized statement of funds available for the Project and their source.

3.10 The Owner shall communicate with contractors only through the Design/Builder.

ARTICLE 4 TIME

4.1 The Design/Builder shall provide services as expeditiously as is consistent with reasonable skill and care and the orderly progress of design and construction.

4.2 Time limits stated in the Contract Documents are of the essence of Part 2. The Work to be performed under Part

5.3 INTEREST PAYMENTS

5.3.1 Payments due the Design/Builder under Part 2 which are not paid when due shall bear interest from the date due at the rate specified in Article 13, or in the absence of a specified rate, at the legal rate prevailing where the principal improvements are to be located.

ARTICLE 6

PROTECTION OF PERSONS AND PROPERTY

6.1 The Design/Builder shall be responsible for initiating, maintaining and providing supervision of safety precautions and programs in connection with the Work.

6.2 The Design/Builder shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to: (1) employees on the Work and other persons who may be affected thereby; (2) the Work and materials and equipment to be incorporated therein; and (3) other property at or adjacent to the site.

6.3 The Design/Builder shall give notices and comply with applicable laws, ordinances, rules, regulations and orders of public authorities bearing on the safety of persons and property and their protection from damage, injury or loss.

6.4 The Design/Builder shall be liable for damage or loss (other than damage or loss to property insured under the property insurance provided or required by the Contract Documents to be provided by the Owner) to property at the site caused in whole or in part by the Design/Builder, a contractor of the Design/Builder or anyone directly or indirectly employed by either of them, or by anyone for whose acts they may be liable, except damage or loss attributable to the acts or omissions of the Owner, the Owner's separate contractors or anyone directly or indirectly employed by them or by anyone for whose acts they may be liable and not attributable to the fault or negligence of the Design/Builder.

ARTICLE 7

INSURANCE AND BONDS

7.1 DESIGN/BUILDER'S LIABILITY INSURANCE

7.1.1 The Design/Builder shall purchase and maintain in a company or companies authorized to do business in the state in which the Work is located such insurance as will protect the Design/Builder from claims set forth below which may arise out of or result from operations under the Contract by the Design/Builder or by a contractor of the Design/Builder, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable:

- .1 claims under workers' or workmen's compensation, disability benefit and other similar employee benefit laws which are applicable to the Work to be performed;
- .2 claims for damages because of bodily injury, occupational sickness or disease, or death of the Design/Builder's employees under any applicable employer's liability law;
- .3 claims for damages because of bodily injury, sickness or disease, or death of persons other than the Design/Builder's employees;
- .4 claims for damages covered by usual personal injury liability coverage which are sustained (1) by a person as a result of an offense directly or indi-

- rectly related to employment of such person by the Design/Builder or (2) by another person;
- .5 claims for damages, other than to the Work at the site, because of injury to or destruction of tangible property, including loss of use; and
- .6 claims for damages for bodily injury or death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle.

7.1.2 The insurance required by the above Subparagraph 7.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever are greater.

7.1.3 The Design/Builder's liability insurance shall include contractual liability insurance applicable to the Design/Builder's obligations under Paragraph 11.7.

7.1.4 Certificates of Insurance, and copies of policies if requested, acceptable to the Owner shall be delivered to the Owner prior to commencement of design and construction. These Certificates as well as insurance policies required by this Paragraph shall contain a provision that coverage will not be cancelled or allowed to expire until at least thirty days' prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment, an additional certificate evidencing continuation of such coverage shall be submitted along with the application for final payment.

7.2 OWNER'S LIABILITY INSURANCE

7.2.1 The Owner shall be responsible for purchasing and maintaining, in a company or companies authorized to do business in the state in which the principal improvements are to be located, Owner's liability insurance to protect the Owner against claims which may arise from operations under this Project.

7.3 PROPERTY INSURANCE

7.3.1 Unless otherwise provided under this Part 2, the Owner shall purchase and maintain, in a company or companies authorized to do business in the state in which the principal improvements are to be located, property insurance upon the Work at the site to the full insurable value thereof. ~~Property insurance shall include interests of the Owner, the Design/Builder, and their respective contractors and subcontractors in the Work.~~ It shall insure against perils of fire and extended coverage and shall include all risk insurance for physical loss or damage including, without duplication of coverage, theft, vandalism and malicious mischief. If the Owner does not intend to purchase such insurance for the full insurable value of the entire Work, the Owner shall inform the Design/Builder in writing prior to commencement of the Work. The Design/Builder may then effect insurance for the Work at the site which will protect the interests of the Design/Builder and the Design/Builder's contractors and subcontractors, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Design/Builder is damaged by failure of the Owner to purchase or maintain such insurance without notice to the Design/Builder, then the Owner shall bear all reasonable costs properly attributable thereto. If not covered under the all risk insurance or not otherwise provided in the Contract Documents, the Design/Builder shall effect and maintain similar property insurance on portions of the Work stored off-site or in transit when such portions of the Work are to be included in an Application for Payment.

- .3 by cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 by the method provided below.

8.1.5 If none of the methods set forth in Clauses 8.1.4.1, 8.1.4.2 or 8.1.4.3 is agreed upon, the Design/Builder, provided a written order signed by the Owner is received, shall promptly proceed with the Work involved. The cost of such Work shall then be determined on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including the expenditures for design services and revisions to the Contract Documents. In case of an increase in the contract sum, the cost shall include a reasonable allowance for overhead and profit. In case of the methods set forth in Clauses 8.1.4.3 and 8.1.4.4, the Design/Builder shall keep and present an itemized accounting together with appropriate supporting data for inclusion in a Change Order. Unless otherwise provided in the Contract Documents, cost shall be limited to the following: cost of materials, including sales tax and cost of delivery; cost of labor, including social security, old age and unemployment insurance, and fringe benefits required by agreement or custom; workers' or workmen's compensation insurance; bond premiums; rental value of equipment and machinery; additional costs of supervision and field office personnel directly attributable to the change; and fees paid to architects, engineers and other professionals. Pending final determination of cost to the Owner, payments on account shall be made on the Application for Payment. The amount of credit to be allowed by the Design/Builder to the Owner for deletion or change which results in a net decrease in the contract sum will be actual net cost. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any, with respect to that change.

8.1.6 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed Change Order that application of agreed unit prices to quantities proposed will cause substantial inequity to the Owner or Design/Builder, applicable unit prices shall be equitably adjusted.

8.2 CONCEALED CONDITIONS

8.2.1 If concealed or unknown conditions of an unusual nature that affect the performance of the Work and vary from those indicated by the Contract Documents are encountered below ground or in an existing structure other than the Work, which conditions are not ordinarily found to exist or which differ materially from those generally recognized as inherent in work of the character provided for in this Part 2, notice by the observing party shall be given promptly to the other party and, if possible, before conditions are disturbed and in no event later than twenty-one days after first observance of the conditions. The contract sum shall be equitably adjusted for such concealed or unknown conditions by Change Order upon claim by either party made within twenty-one days after the claimant becomes aware of the conditions.

8.3 REGULATORY CHANGES

8.3.1 The Design/Builder shall be compensated for changes in the Work necessitated by the enactment or revision of codes, laws or regulations subsequent to the sub-

mission of the Design/Builder's Proposal under Part 1.

ARTICLE 9

CORRECTION OF WORK

9.1 The Design/Builder shall promptly correct Work rejected by the Owner or known by the Design/Builder to be defective or failing to conform to the Construction Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed, and shall correct Work under this Part 2 found to be defective or nonconforming within a period of one year from the date of Substantial Completion of the Work or designated portion thereof, or within such longer period provided by any applicable special warranty in the Contract Documents.

9.2 Nothing contained in this Article 9 shall be construed to establish a period of limitation with respect to other obligations of the Design/Builder under this Part 2. Paragraph 9.1 relates only to the specific obligation of the Design/Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design/Builder's liability with respect to the Design/Builder's obligations other than correction of the Work.

9.3 If the Design/Builder fails to correct defective Work as required or persistently fails to carry out Work in accordance with the Contract Documents, the Owner, by written order signed personally or by an agent specifically so empowered by the Owner in writing, may order the Design/Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the Owner's right to stop the Work shall not give rise to a duty on the part of the Owner to exercise the right for benefit of the Design/Builder or other persons or entities.

9.4 If the Design/Builder defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within seven days after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may give a second written notice to the Design/Builder and, seven days following receipt by the Design/Builder of that second written notice and without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design/Builder costs of correcting such deficiencies. If the payments then or thereafter due the Design/Builder are not sufficient to cover the amount of the deduction, the Design/Builder shall pay the difference to the Owner. Such action by the Owner shall be subject to arbitration.

ARTICLE 10

ARBITRATION

~~10.1 Claims, disputes and other matters in question between the parties to this Part 2 arising out of or relating to Part 2 shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect unless the parties agree otherwise. No arbitration arising out of or relat-~~

11.10 EXTENT OF AGREEMENT

11.10.1 Part 2 represents the entire agreement between the Owner and Design/Builder and supersedes Part 1 and prior negotiations, representations or agreements. Part 2 may be amended only by written instrument signed by both Owner and Design/Builder.

ARTICLE 12

TERMINATION OF THE AGREEMENT

12.1 TERMINATION BY THE OWNER

12.1.1 This Part 2 may be terminated by the Owner upon fourteen days' written notice to the Design/Builder in the event that the Project is abandoned. If such termination occurs, the Owner shall pay the Design/Builder for Work completed and for proven loss sustained upon materials, equipment, tools, and construction equipment and machinery, including reasonable profit and applicable damages.

12.1.2 If the Design/Builder defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents or fails to perform the provisions of Part 2, the Owner may give written notice that the Owner intends to terminate Part 2. If the Design/Builder fails to correct the defaults, failure or neglect within seven days after being given notice, the Owner may then give a second

written notice and, after an additional seven days, the Owner may without prejudice to any other remedy make good such deficiencies and may deduct the cost thereof from the payment due the Design/Builder or, at the Owner's option, may terminate the employment of the Design/Builder and take possession of the site and of all materials, equipment, tools and construction equipment and machinery thereon owned by the Design/Builder and finish the Work by whatever method the Owner may deem expedient. If the unpaid balance of the contract sum exceeds the expense of finishing the Work, the excess shall be paid to the Design/Builder, but if the expense exceeds the unpaid balance, the Design/Builder shall pay the difference to the Owner.

12.2 TERMINATION BY THE DESIGN/BUILDER

12.2.1 If the Owner fails to make payment when due, the Design/Builder may give written notice of the Design/Builder's intention to terminate Part 2. If the Design/Builder fails to receive payment within seven days after receipt of such notice by the Owner, the Design/Builder may give a second written notice and, seven days after receipt of such second written notice by the Owner, may terminate Part 2 and recover from the Owner payment for Work executed and for proven losses sustained upon materials, equipment, tools, and construction equipment and machinery, including reasonable profit and applicable damages.

ARTICLE 14
OTHER PROVISIONS

- 14.1 The Basic Services to be performed shall be commenced on January 01, 2000 and, subject to authorized adjustments and to delays not caused by the Design/Builder, Substantial Completion shall be achieved in (120) calendar days.
As set forth in Paragraph 1 of Addendum A.
- 14.2 The Basic Services beyond those described in Article 2 are: Architectural Design, Engineering, Permitting (except for FDEP/Water District permits for Project 1) and construction of the improvements described in the Contract Documents, and the provision of such equipment, vehicles and other property as set forth therein.
- 14.3 The Design/Builder shall submit an Application for Payment on the last of each month.
- 14.4 The Design/Builder's Proposal includes: as described in 14.2 above.
(List below: this Part 2, Supplementary and other Conditions, the drawings, the specifications, and Modifications, showing page or sheet numbers in all cases and dates where applicable to define the scope of Work.)

Cost Breakdown - Attached
Addendum A

This Part 2 entered into as of the day and year first written above.

OWNER

Little Sumter Utility Company: _____

By: John Parker V.P.

DESIGN/BUILDER

Encore Construction Company: _____

By: Patrick T. Rainey

Patrick T. Rainey, President

Farner, Barley & Associates, Inc.: _____

By: Robert E. Farner

Robert E. Farner, President



CAUTION: You should sign an original AIA document which has this caution printed in red. An original assures that changes will not be obscured as may occur when documents are reproduced.

ADDENDUM A

Addendum to AIA Document A191 between Little Sumter Utility Company as Owner and Encore Construction Company, Florida Corporation; and Farner Barley & Associates, Inc., a Florida Corporation, a joint venture, as Design/Builder.

1. The Project shall commence on or before January 15, 2000 and, subject to authorized adjustments and to delays not caused by the Design/Builder, Substantial Completion shall be achieved on or before September 20, 2000. Final completion on or before October 20, 2000. If the Design/Builder fails to achieve Substantial Completion or Final Completion as of the date set forth above, the Owner shall be entitled to the sum of \$750.00 per day in liquidated damages.
2. The Contract Documents shall include the 1999 engineering Report for the Little Sumter Utility Company prepared by Farner Barley & Associates, Inc., dated April 21, 1999, and the plans prepared by Farner Barley & Associates, Inc. under Job No.921141.198 dated December 10, 1999 attached hereto as Attachment Two.

L.S.U. - PHASE II EXPANSION - FILTERS & EFFLUENT PUMPS
Cost Breakdown

1	Engineering & Permitting (Civil & Electric)	47,650
2	General Conditions (Supt/Trailer/Phone/Etc.)	29,150
3	Sitework	11,300
4	Concrete Structure	48,600
5	Traveling Bridge (Equipment & Installation)	214,000
6	Metals (Material & Labor)	20,700
7	Painting	5,750
8	Electrical	42,000
9	Instrumentation	29,000
10	Computer Programming Upgrade	11,550
11	Yard Piping	57,600
12	Effluent Pumps (Equipment & Installation)	<u>38,000</u>
	Total	555,300