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(407) 830-6331
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REPLY TO ALTAMONTE SPRINGS

January 22, 2003

VIA HAND DELIVERY

RECEIVED-FPSC
03 JAN 22 PM 12:08
COMMISSION
CLERK

Ms. Blanca Bayo
Commission Clerk and Administrative Services Director
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

030067-WU

RE: O & S Water Company, Inc.; Application for Approval of Special Service Availability Contract
Our File No.: 35012.03

Dear Ms. Bayo:

Enclosed please find for filing an original and seven (7) copies of O & S Water Company, Inc.'s Application for Approval of Special Service Availability Contract.

Should you have any questions regarding this matter, please do not hesitate to give me a call.

Very truly yours,

MARTIN S. FRIEDMAN
For the Firm

MSF/dmp
Enclosure

cc: Mr. Jack Olsen (w/enclosure)

DOCUMENT NUMBER-DATE
00667 JAN 22 03
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application by O&S WATER COMPANY, INC. for Approval of Special Service Availability Contract (Developer Agreement) with Avatar Properties Inc. and Bulk Water Service Agreement with the Florida Governmental Utility Authority
_____/

Docket No. 030067-WU

APPLICATION FOR APPROVAL OF SPECIAL SERVICE AVAILABILITY CONTRACT

O&S WATER COMPANY, INC. (***O&S***) by and through its undersigned attorneys and pursuant to Rule 25-30.550(2), Florida Administrative Code, requests the Commission to approve (1) the Developer Agreement between O&S and Avatar Properties Inc. (***API***), a copy of which is attached hereto as Exhibit "A", and the Bulk Water Service Agreement between O&S and the Florida Governmental Utility Authority (***FGUA***) attached to this Application as Exhibit "B" (collectively, ***Agreements***).

A. The name and address of the Applicant is:

O&S Water Company, Inc.
P.O. Box 422364
Kissimmee, Florida 34742-2364

B. The name and address of the Applicant's representative authorized to receive notices and communications with respect to the Application is:

Martin S. Friedman, Esq.
Rose Sundstrom & Bentley, LLP
600 South North Lake Boulevard, Suite 160
Altamonte Springs, Florida 32701
Telephone: (407) 830-6331
Facsimile: (407) 830-8522
Email: mfriedman@rsbattorneys.com

FACTS

1. API is the owner of the property which is described in Exhibit "A" and has plans to develop

the property by constructing residential and/or commercial structures on it in a project to be known as "Bellalago".

2. O&S is certificated by the Commission, and has the exclusive right, to provide water service to an unincorporated area of Osceola County, Florida (***Service Area***), which includes Bellalago.

3. FGUA is a legal entity and public body created by interlocal agreement pursuant to Section 163.01(7)(g) 1, Florida Statutes, and is not regulated by the Florida Public Service Commission (***Commission***). Bellalago is within FGUA's exclusive wastewater service area and FGUA will provide Bellalago with wastewater service.

4. Pursuant to the Developer Agreement and its development plans for Bellalago, API will (a) construct and install certain water distribution lines, facilities and equipment necessary to provide water service to Bellalago (***Distribution System***), and (b) convey the Distribution System to O&S in order to obtain water service for Bellalago.

5. API has agreed to construct a water treatment plant and transmission main within FGUA's Poinciana service area to provide water to Bellalago (***Plant***). API has agreed to convey the Plant to FGUA to induce it to sell bulk water to O&S for redelivery to customers within Bellalago. FGUA will own and operate the Plant and expand as necessary to provide water service within its Poinciana service area.

6. Pursuant to the Bulk Water Service Agreement, O&S will purchase water from FGUA for redelivery to customers within the southern portion of the Service Area on the terms and conditions specified in the Bulk Water Service Agreement.

7. Pursuant to the Developer Agreement, O&S will invoice customers in the southern portion of the Service Area for water usage and other costs and charges permitted under its existing Tariff.

8. Pursuant to the Bulk Water Service Agreement, FGUA will charge O&S $1.05 per each thousand gallons of water delivered to O&S through the Distribution System, plus all other applicable charges, surcharges, rates, fees and other payments imposed on or required to be paid by O&S or its customers in accordance with applicable federal, state and local laws, statutes, rules and regulations as they exist or as they may be amended from time to time, including FGUA's tariffs, rules and regulations.

9. O&S and API have entered into the Developer Agreement and O&S and FGUA have entered into the Bulk Water Service Agreement in settlement of a dispute over the right to provide water

service to Bellalago in a pending lawsuit entitled, "O and S Water Company, Inc. v. Avatar Properties, Inc.", Case No. CI01-OC-2532, filed in the Circuit Court of the Ninth Judicial District, Osceola County, Florida

10. The construction of the Plant by API and its conveyance to FGUA, and the approval by the Commission of the Bulk Water Service Agreement, the Developer Agreement and an amendment to O&S certificated service area (which will be subject to a separate docket) are conditions precedent to the completion of the Bulk Water Service Agreement and the complete resolution of the lawsuit between O&S and API.

REQUESTED ACTIONS

O&S requests the Commission to:

1. Approve the Developer Agreement between O&S and API.
2. Approve the Bulk Water Service Agreement between O&S and FGUA.
3. Grant such other relief to O&S as is just and reasonable.

Respectfully submitted on this
21st day of January, 2003 by:

ROSE, SUNDSTROM & BENTLEY, LLP
600 S. North Lake Boulevard
Suite 160
Altamonte Springs, FL 32701
Telephone: (407) 830-6331
Facsimile: (407) 830-8255
Email: mfriedman@rsbattorneys.com

BY: _____
Martin S. Friedman
For the Firm

EXHIBIT "A"

Developer Agreement

This Instrument Prepared By:
Martin S. Friedman, Esquire
Rose, Sundstrom & Bentley, LLP
650 S. North Lake Boulevard
Suite 420
Altamonte Springs, FL 32701

BELLALAGO
NAME OF PROJECT

DEVELOPER AGREEMENT

THIS AGREEMENT made and entered into this 15th day of November 2002, by and between AVATAR PROPERTIES INC., a Florida Corporation, whose address is 201 Alhambra Circle, 12th Floor, Coral Gables, Florida 33134, (hereinafter "Developer"), and O & S WATER COMPANY, INC., a Florida corporation, whose address is 501 E. Oak Street, Suite A, Kissimmee, Florida, 34744, (hereinafter "Service Company"),

WHEREAS, Developer owns or controls lands located in Osceola County, Florida, and described in Exhibit "A," attached hereto and made a part hereof as if fully set out in this paragraph (hereinafter the "Property"), and Developer has plans to develop the Property by constructing residential and/or commercial structures thereon; and

WHEREAS, Developer desires that the Service Company provide potable water ("Water Service" or "Utility Service") for Developer's Property; and

WHEREAS, the Service Company is willing to provide Water Service to the Property, in accordance with the provisions of this Agreement and Service Company's Tariff, Service Availability Policy (except as modified hereby), and Bulk Service Agreement with the Florida Governmental Utility Authority ("FGUA"), thereafter operate applicable facilities so that the occupants of the improvements on the Property will receive adequate Utility Service from Service Company;

NOW, THEREFORE, for and in consideration of the premises, the mutual undertakings and agreements herein contained and assumed, Developer and Service Company hereby covenant and agree as follows:

1.0 Recitals. The foregoing statements are true and correct and incorporated herein.

2.0 Definitions. The following definitions and references are given for the purpose of interpreting the terms as used in this Agreement and apply unless the context indicates a different meaning:

(a) "Consumer" - The person(s) or entity(s) on the Property that actually utilizes the services of Service Company, which may include Developer.

(b) "Consumer Installation" - All facilities ordinarily on the Consumer's side of the Point of Delivery.

(c) "Contribution-in-aid-of-Construction (CIAC)" - The sum of money and/or the value of property represented by the cost of the Utility Systems including pump stations and treatment plants constructed or to be constructed by a Developer or owner, which Developer or owner transfers, or agrees to transfer, to Service Company at no cost to Service Company to provide Utility Service to the Property.

(d) "Equivalent Residential Connection (ERC)" - A factor used to convert a given average daily flow (ADF) to the equivalent number of residential connections. For this purpose the average daily flow of one equivalent residential connection (ERC) is 350 gallons per day (gpd) for water service. The number of ERC's contained in a given ADF is determined by dividing that ADF by 350 gpd.

(e) "Point of Delivery" - For water service is at the outflow point at the water meter serving the customer's property.

(f) "Property" - The area or parcel of land described in Exhibit "A."

(g) "Service" - The readiness and ability on the part of Service Company to furnish and maintain Utility Service to the Point of Delivery (pursuant to applicable rules and regulations of applicable regulatory agencies).

(8) "Rules and Regulations" - The Rules and Regulations set forth in the latest revision of the Service Company's Tariff as approved by the Florida Public Service Commission.

3.0 Assurance of Title. Within a period of forty-five (45) days after the execution of this Agreement, at the expense of Developer, Developer agrees to deliver to Service Company a copy of Title Insurance Policy or an opinion of title from a qualified attorney-at-law, with respect to the Property, which opinion shall include a current report on the status of the title, setting out the name of the legal title holders, the outstanding mortgages, taxes, liens and covenants. The provisions of this paragraph are for the purpose of evidencing Developer's legal right to grant the exclusive rights of service contained in this Agreement.

4.0 Connection Charges. Developer shall pay plant capacity charges in an amount equal to the charges imposed by the Florida Governmental Utility Authority ("FGUA") for providing capacity to serve the Property. To the extent Developer has connection fee credits with the FGUA pursuant to the Poinciana Utility Systems Water and Wastewater Capacity Expansion Agreement dated April 1, 1999, as amended, Developer may utilize those credits in lieu of payment of Service Company's plant capacity charges. Payment of the plant capacity charges does not and will not result in Service Company waiving any of its rates or rules and regulations, and their enforcement shall not be affected in any manner whatsoever by Developer making payment of same. Service

Company shall not be obligated to refund to Developer or Consumer any portion of the value of the plant capacity charges for any reason whatsoever, nor shall Service Company pay any interest or rate of interest upon the connection charges paid. Developer shall not be responsible for the payment of main extension charges or guaranteed revenue charges as set forth in the Service Company's Tariff as approved by the Florida Public Service Commission; however, meter installation, backflow preventor, and tap-in fees are payable as set forth elsewhere in this Agreement.

4.1 Neither Developer nor any person or other entity holding any of the Property by, through or under Developer, or otherwise, shall have any present or future right, title, claim or interest in and to the connection charges paid or to any of the water facilities and properties of Service Company, and all prohibitions applicable to Developer with respect to no refund of connection charges, no interest payment on said connection charges and otherwise, are applicable to all persons or entities.

4.2 Any user or consumer of Utility Service shall not be entitled to offset any bill or bills rendered by Service Company for such service or services against the connection charges paid. Developer shall not be entitled to offset the connection charges against any claim or claims of Service Company.

4.3 Developer shall be required to make an advance deposit in the amount of $5,000 pursuant to Rule 25-30.540, Florida Administrative Code, at the time of execution of this Agreement to cover engineering, administrative, and legal expenses incurred by the Service Company in execution or performance of this Agreement.

4.4 Developer shall also pay for other charges or costs to provide a service as may be required under Service Company's Tariff including, but not limited to, meter installation fees, backflow prevention device installation fees, customer connection (tap-in) fees, and application, plan review and inspection fees, as more specifically set forth in Service Company's Service Availability Policy, incorporated herein by reference.

5.0 On-Site and Off-Site Systems. Developer hereby covenants and agrees to construct the on-site water distribution system. The term "on-site water distribution system" means and includes all water distribution lines, facilities and equipment, including meters (except those used in connection with consumer service which are addressed elsewhere in this Agreement), fire hydrants, and pumping stations, constructed within the boundaries of Developer's Property adequate in size to serve each building within the Property or as otherwise required by Service Company. Developer shall also construct the off-site water transmission system. The term "off-site water transmission systems" means and includes all water distribution mains, facilities, and equipment, including pump stations, located outside the boundaries of Developer's Property and constructed in accordance with Service Company's standard requirements for the purpose of connecting on-site systems to Service Company's water transmission system at an appropriate point from an hydraulic and general engineering standpoint.

5.1 Developer shall cause to be prepared three (3) copies of the applications for permits and three (3) sets of finalized engineering plans prepared and sealed by a professional engineer

registered in the State of Florida. Plans shall show the on-site and off-site water systems proposed to be installed to provide service to the Property. Developer shall cause his engineer to submit specifications governing the material to be used and the method and manner of installation. All such plans and specifications submitted to Service Company's engineer shall meet the minimum specifications of Service Company and shall be subject to the approval of Service Company, which approval shall not be unreasonably withheld or delayed in any way whatsoever. No construction shall commence until Service Company and appropriate regulatory agencies have approved such plans and specifications in writing. When permits and approved plans are returned by appropriate regulatory agencies to Developer, Developer shall submit to Service Company one copy of the water permit and approved plans.

5.2 After the approval of plans and specifications by Service Company and appropriate regulatory agencies, Developer, or the engineer of record, shall set up a preconstruction conference with engineer of record, utility contractor, appropriate building official(s), all other utility companies involved in the development of the Property, and Service Company. The Service Company shall use its best efforts to attend such pre-construction conference.

5.3 Developer shall provide to Service Company's inspector, twenty-four (24) hours notice prior to commencement of construction. Developer shall cause to be constructed, at Developer's own cost and expense, the on-site and off-site water distribution systems as shown on the approved plans and specifications.

5.4 During the construction of the on-site and off-site systems by Developer, Service Company shall have the right to inspect such installations to determine compliance with the approved plans and specifications. The engineer of record shall also inspect construction to assure compliance with the approved plans and specifications. Service Company, engineer of record and utility contractor shall be present for all standard tests for pressure, exfiltration, line and grade, and all other normal engineering tests to determine that the systems have been installed in accordance with the approved plans and specifications, and good engineering practices. Developer agrees to pay to Service Company, or Service Company's authorized agent, a reasonable sum to cover the cost of inspection of installations made by Developer or Developer's contractor.

5.5 At the date of execution of this Developer Agreement, the on-site systems have been installed for the first phase of the Bellalago development consisting of approximately 300 lots. Service Company waives the requirements of Paragraphs 5.1 - 5.4 for these on-site systems only upon compliance by Developer with the provisions of Paragraphs 5.6 and 5.7.

5.6 Upon completion of construction, Developer's engineer of record shall submit to Service Company a copy of the signed certification of completion submitted to the appropriate regulatory agencies. The engineer of record shall also submit to Service Company ammonia mylars and, if available, computerized (digital) drawings of the as-built plans prepared and certified by the engineer of record, and a certified survey of the location of the water mains.

5.7 By these presents, Developer hereby transfers to Service Company, title to the on-site and off-site systems. Such conveyance shall take effect at the time Service Company issues its final letter of acceptance. As further evidence of said transfer of title, upon the completion of the installation, but prior to the issuance of the final letter of acceptance and the rendering of service by Service Company, Developer shall:

(a) Convey to Service Company, by bill of sale in form satisfactory to Service Company's counsel, the on-site and off-site installations as constructed by Developer and approved by Service Company.

(b) Provide Service Company with copies of invoices from contractor for such installation.

(c) Provide to the Service Company Releases of Lien for all contractor's invoices and an executed notarized affidavit in a form satisfactory to Service Company's counsel of Developer's right to convey the property and assuring that work has been fully paid for such utility systems installed by Developer by reason of work performed or services rendered in connection with the installation of the systems.

(d) Assign any and all warranties and/or maintenance bonds and the rights to enforce same to the Service Company which Developer obtains from any contractor constructing such utility systems. Developer hereby warrants and guarantees for one year from the date of transfer that the system is free of defects, and functions or will function as designed. Developer shall immediately repair any defects or Service Company may make repair at Developer's expense.

(e) Provide Service Company with all appropriate operation/maintenance and parts manuals and shop drawings.

(f) Further cause to be conveyed to Service Company, free and clear of all encumbrances, all easements and/or rights-of-way covering areas in which such systems are installed, by recordable document in form satisfactory to Service Company's counsel.

Service Company agrees that the issuance of the final letter of acceptance for such installations installed by Developer shall constitute the assumption of responsibility by Service Company for the continuous operation and maintenance of such systems from that date forward.

6.0 Agreement to Serve. Upon the completion of construction of the on-site and off-site water distribution systems, their inspection, and the other terms of this Agreement and Service Company's Service Availability Policy, Service Company covenants and agrees that it will oversee the connection of the on-site and off-site water distribution systems installed by Developer to the central facilities of Service Company in accordance with the terms and intent of this Agreement.

Such connection shall at all times be in accordance with rules, regulations and orders of the applicable governmental authorities. Service Company agrees that once it provides Utility Service to the Property and Developer or others have connected Consumer Installations to its System, that thereafter Service Company will continuously provide, at its cost and expense, but in accordance with the other provisions of this Agreement, including rules and regulations and rate schedules, Utility Service to the Property in a manner to conform with all requirements of the applicable governmental authority having jurisdiction over the operations of Service Company.

7.0 Application for Service: Consumer Installations. Developer, or any owner of any parcel of the Property, or any occupant of any building or unit located thereon shall not have the right to and shall not connect any Consumer Installation until formal written application has been made to Service Company by the prospective user of service, or either of them, in accordance with the then effective rules and regulations of Service Company and approval for such connection has been granted.

7.1 Although the responsibility for connecting the Consumer Installation to the lines of Service Company at the Point of Delivery is that of the Developer or entity other than Service Company, with reference to such connections, the parties agree as follows:

(a) All Consumer Installation connections must be inspected by Service Company before backfilling and covering of any pipes.

(b) Notice to Service Company requesting an inspection of a Consumer Installation connection may be given by the plumber or Developer, and the inspection will be made within twenty-four (24) hours, not including Saturdays, Sundays, and holidays.

(c) If Service Company fails to inspect the Consumer Installation connection within forty-eight (48) hours after such inspection is requested by Developer or the owner of any parcel, Developer or owner may backfill or cover the pipes without Service Company's approval and Service Company must accept the connection as to any matter which could have been discovered by such inspection.

(d) If the Developer does not comply with the foregoing inspection provisions, Service Company may refuse service to a connection that has not been inspected until Developer complies with these provisions.

(e) The cost of constructing, operating, repairing or maintaining Consumer Installations shall be that of Developer or a party other than Service Company.

(f) If reasonably required by Service Company's Rules and Regulations, backflow prevention devices, the size, materials and construction of which shall be approved by Service Company shall be installed at no expense to Service Company.

8.0 Exclusive Right to Provide Service. Developer, as a further and essential consideration of this Agreement, agrees that Developer, or the successors and assigns of Developer, shall not (the words "shall not" being used in a mandatory definition) engage in the business or businesses of providing Utility Service to the Property during the period of time Service Company, its successors and assigns, provide Utility Service to the Property, it being the intention of the parties hereto that under the foregoing provision and also other provisions of this Agreement, Service Company shall have the sole and exclusive right and privilege to provide Utility Service to the Property and to the occupants of such buildings or units constructed thereon.

8.1 Developer shall have the right, at its option and expense, to construct a temporary water treatment facility (hereinafter "the Temporary Facility") for purposes of providing water service for its administrative offices, model homes, maintenance facilities, and for landscape irrigation, testing water mains and other purposes as authorized by Service Company, all located on Property, until Water Service has been made available by Service Company under this Agreement. Prior to construction, Developer shall submit drawings and specifications to service Company for its review and approval, which approval shall not be unreasonably withheld or delayed in any way whatsoever. After the lines are flushed and disinfected (Service Company shall be present for all testing) in accordance with regulatory requirements and a letter of clearance received from the appropriate regulatory agency allowing the temporary system to be placed in service, Developer shall turn the system over to Service Company to operate and maintain pursuant to an operations and maintenance agreement to be executed between Developer and Service Company. In the event Developer exercises this option, Developer shall discontinue its operation simultaneously with Water Service becoming available from Service Company under this Agreement. Developer shall dismantle the plant and abandon all wells located on the property except those wells that the Developer intends to use for non-potable water supply purposes, if any, all in accordance with applicable regulatory requirements.

9.0 Rates. Service Company agrees that the rates to be charged to Developer and individual consumers of Utility Service shall be those set forth in the tariff of Service Company approved by the applicable governmental agency. However, notwithstanding any provision in this Agreement, Service Company, its successors and assigns, may establish, amend or revise, from time to time in the future, and enforce rates or rate schedules so established and enforced and shall at all times be reasonable and subject to regulations by the applicable governmental agency, or as may be provided by law.

9.1 Notwithstanding any provision in this Agreement to the contrary, Service Company may establish, amend or revise, from time to time, in the future, and enforce rules and regulations covering Utility Service to the Property. However, all such rules and regulations so established by Service Company shall at all times be reasonable and subject to such regulations as may be provided by law.

9.2 Any such initial or future decreased or increased rates, rate schedules, and rules and regulations established, amended or revised and enforced by Service Company from time to time in the future, as provided by law, shall be binding upon Developer; upon any person or other entity

holding by, through or under Developer; and upon any user or consumer of the Utility Service provided to the Property by Service Company.

10.0 Binding Effect of Agreement. This Agreement shall be binding upon and shall inure to the benefit of Developer, Service Company and their respective assigns and successors by merger, consolidation, conveyance or otherwise, subject to the provisions of paragraph 22.0 hereof.

11.0 Notice. Until further written notice by either party to the other, all notices provided for herein shall be in writing and transmitted by messenger, by mail or by telegram, and if to Developer, shall be mailed or delivered to Developer at:

Avatar Properties Inc.
201 Alhambra Circle, 12th Floor
Coral Gables, FL 33134
Attention: President

with copy to:

Avatar Properties Inc.
201 Alhambra Circle, 12th Floor
Coral Gables, FL 33134
Attention: General Counsel

and if to the Service Company, at:

O & S Water Company, Inc.
501 E. Oak Street, Suite A,
Kissimmee, Florida, 34744
Attention: Jack Olsen

with a copy to :

Rose, Sundstrom & Bentley, LLP
650 S. North Lake Boulevard, Suite 420
Altamonte Springs, FL 32701
Attention: Martin S. Friedman, Esquire

12.0 Laws of Florida. This Agreement shall be governed by the laws of the State of Florida and it shall be and become effective immediately upon execution by both parties hereto, subject to any approvals which must be obtained from governmental authority, if applicable.

13.0 Costs and Attorney's Fees. In the event the Service Company or Developer is required to enforce this Agreement by Court proceedings or otherwise, by instituting suit or otherwise, then the prevailing party shall be entitled to recover from the other party all costs incurred, including reasonable attorney's fees, including such fees and costs of any appeal.

14.0 Force Majeure. In the event that the performance of this Agreement by either party to this Agreement is prevented or interrupted in consequence of any cause beyond the control of either party, including but not limited to Act of God or of the public enemy, war, national emergency, allocation or of 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, earthquake, sinkhole or other casualty or disaster or catastrophe, unforeseeable failure or breakdown of transmission or other facilities (which will be repaired by Service Company as soon as reasonably possible), governmental rules or acts or orders or restrictions or regulations or requirements, acts or action of any government or public or governmental authority or commission or board or agency or agent or official or officer, the enactment of any statute or ordinance or resolution or regulation or rule or ruling or order, order or decree or judgment or restraining order or injunction of any court, said party shall not be liable for such non-performance.

15.0 Indemnification. Each party agrees to indemnify and hold the other harmless from and against any and all liabilities, claims, damages, costs and expenses (including reasonable trial and appellate attorney's fees) to which such party may become subject by reason of or arising out of the other party's performance of this Agreement. This indemnification provision shall survive the actual connection to Service Company's water system.

MISCELLANEOUS PROVISIONS

16.0 The rights, privileges, obligations and covenants of Developer and Service Company shall survive the completion of the work of Developer with respect to completing the facilities and services to any development phase and to the Property as a whole.

17.0 This Agreement supersedes all previous agreements or representations, either verbal or written, heretofore in effect between Developer and Service Company, made with respect to the matters herein contained, and when duly executed, constitutes the agreement between Developer and Service Company. No additions, alterations or variations of the terms of this Agreement shall be valid, nor can provisions of this Agreement be waived by either party, unless such additions, alterations, variations or waivers are expressed in writing and duly signed.

18.0 Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural, and the masculine, feminine and neuter genders shall each include the others.

19.0 Whenever approvals of any nature are required by either party to this Agreement, it is agreed that same shall not be unreasonably withheld or delayed.

20.0 The submission of this Developer Agreement for examination by Developer does not constitute an offer but becomes effective only upon execution thereof by Service Company, and approval by the Florida Public Service Commission ("FPSC") pursuant to Rule 25-30.550 (2), Florida Administrative Code, as well as the FPSC's approval of the Bulk Service Agreement between Service Company and the Florida Governmental Utility Authority.

21.0 Failure to insist upon strict compliance of any of the terms, covenants, or conditions herein shall not be deemed a waiver of such terms, covenants, or conditions, nor shall any waiver or relinquishment of any right or power hereunder at any one time or times be deemed a waiver or relinquishment of such right or power at any other time or times.

22.0 Because of inducements offered by Developer to Service Company, Service Company has agreed to provide Utility Service to Developer's project. Developer understands and agrees that capacity reserved hereunder cannot and shall not be assigned by Developer to third parties without the written consent of Service Company, except in the case of a bona-fide sale of Developer's Property. Such approval shall not be unreasonably withheld or delayed in any way whatsoever. Moreover, Developer agrees that this Agreement is a superior instrument to any other documents, representations, and promises made by and between Developer and third parties, both public and private, as regards the provisions of Utility Service to Developer's property.

23.0 It is agreed by and between the parties hereto that all words, terms and conditions contained herein are to be read in concert, each with the other, and that a provision contained under one heading may be considered to be equally applicable under another in the interpretation of this Agreement.

24.0 The parties hereto recognize that prior to the time Service Company may actually commence upon a program to carry out the terms and conditions of this Agreement, Service Company may be required to obtain approval from various state and local governmental authorities having jurisdiction and regulatory power over the construction, maintenance and operation of Service Company. The Service Company agrees that it will diligently and earnestly, at its sole cost and expense, but with the cooperation of Developer make the necessary proper applications to all governmental authorities and others and will pursue the same to the end that it will use its best efforts to obtain such approvals.

25.0 This Developer Agreement is the joint effort of both parties, and no rules of contractual interpretation requiring construction against the party drafting an agreement shall be applicable against either party.

IN WITNESS WHEREOF, Developer and Service Company have executed or have caused this Agreement, with the named Exhibits attached, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement.

WITNESSES:

O & S WATER COMPANY, INC.

Print Name Christina Stewart

By: Jack Olsen
JACK P. OLSEN
VICE PRESIDENT

AVATAR PROPERTIES INC.

Print Name Gloria J. Jackson

By

DENNIS J. GETMAN
Executive Vice President

STATE OF FLORIDA
COUNTY OF OSCEOLA

The foregoing instrument was acknowledged before me this 21st day of Nov., 2002, by Jack Olsen, the Vice Pres. of O & S Water Company, Inc., a Florida corporation, on behalf of the corporation. He is personally known to me, ~~or has produced~~ ~~as identification.~~

~~NOTARY PUBLIC~~ - State of Florida at Large
Printed Name:
My Commission Expires:

Kathleen K Pace
My Commission CC887040
Expires November 29, 2003

STATE OF FLORIDA
COUNTY OF Miami Dade

The foregoing instrument was acknowledged before me this 15th day of November, 2002, by Dennis J. Getman as E.Vice President of Avatar Properties Inc., a Florida corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ as identification.

OFFICIAL NOTARY SEAL
JULIE MOTES
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. DD162833
MY COMMISSION EXP. NOV. 4,2006

NOTARY PUBLIC - State of Florida
Printed Name: Julie Motes
My Commission Expires:

EXHIBIT "A"
LEGAL DESCRIPTION

EXHIBIT "A"
LEGAL DESCRIPTION

PARCEL "A"

All of Government Lot 4 and that portion of Government Lot 3 lying South of the Osceola County Property as described in Deed Book 1174, page 1288, lying above the high water mark of Lake Tohopekaliga, in Section 28, Township 26 South, Range 29 East, Osceola County, Florida.

AND

All of Section 29 lying South of Mac Overstreet Road and East of the right of way of Pleasant Hill Road, LESS AND EXCEPT the following: From the Southeast corner of the Southwest quarter of Section 29, Township 26 South, Range 29 East, Osceola County, Florida, run West along the South line of said Southwest quarter, 1545.3' to the Point of Beginning; run thence North at right angles to said South line, 500.0' run thence West, parallel to said South line, 347' more or less to the East right of way line of Pleasant Hill Road; run thence Southerly along the East right of way of said road, to the South line of said Southwest quarter; run thence East 441.41' more or less to the Point of Beginning.

AND

All of the East 1/2, and the Northeast 1/4 of the Southwest 1/4 of Section 32 Township 26 South Range 29 East LESS AND EXCEPT: Begin at the North quarter corner of Section 32, Township 26 South, Range 29 East, thence run N89°32'55"East, parallel with the North line of said Section 32, 330.00 feet; thence run S00°06'34"East, 660.00 feet; thence run S89°32'55" West, 330.00 feet to a point on the West line of the Northeast quarter of said Section 32, thence run N00°06'34"West parallel with said West line of the Northeast quarter of said Section 32, 660.00 feet to the Point of Beginning.

AND

All of the West 1/2 of Section 33, Township 26 South, Range 29 East, Less and except: Commencing at the Northwest corner of the Northwest 1/4 of said Section 33, go thence S67°08'14"E, 1190.53 ft. to the Point of Beginning; thence N90°00'00"E, 450.00 ft; thence S00°00'00"W, 550.00 ft; thence N90°00'00"W, 450.00 ft; thence N00°00'00"W, 550.00 ft to the Point of Beginning; and Government Lots 1 and 2 above the ordinary high water line of Lake Tohopekaliga, of said Section 33; LESS the North 495.0 feet of the said Government Lot 1.

All lying and situate within Osceola County, Florida.

PARCEL "B"

A PARCEL OF LAND LOCATED IN SECTION 29, TOWNSHIP 26 SOUTH, RANGE 29 EAST IN OSCEOLA COUNTY, FLORIDA; BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST ONE-QUARTER OF SECTION 29, TOWNSHIP 26 SOUTH, RANGE 29 EAST; THENCE N 89° 43' 56" E, ALONG THE NORTH LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 29, A DISTANCE OF 110.00 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF PLEASANT HILL ROAD (CR-531); THENCE DEPART SAID NORTH LINE ON A BEARING OF S 01° 02' 01" E, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 642.58 FEET; THENCE S 00° 59' 19" E, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 646.44 FEET; THENCE S 00° 07' 22" E, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 835.64 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, SAID CURVE HAVING A RADIUS OF 2220.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE AND SAID RIGHT OF WAY LINE A DISTANCE OF 731.56 FEET THROUGH A CENTRAL ANGLE OF 18° 52' 51" (CHORD DISTANCE 728.26 FEET; CHORD BEARING S 09° 33' 47" E) TO THE POINT OF TANGENCY; THENCE S 19° 00' 13" E, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 416.25 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S 19° 00' 13" E, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 400.20 FEET; THENCE DEPART SAID RIGHT OF WAY LINE ON A BEARING OF N 75° 13' 36" E A DISTANCE OF 1002.89 FEET; THENCE N 18° 35' 45" W A DISTANCE OF 400.00 FEET; THENCE S 75° 13' 36" W A DISTANCE OF 1005.75 FEET TO THE POINT OF BEGINNING. Less Road Right of Way.

EXHIBIT "A"

THAT PORTION OF THE NORTHWEST ¼ AND THE NORTHWEST ¼ OF THE SOUTHWEST ¼, SECTION 32, TOWNSHIP 26 SOUTH, RANGE 29 EAST, OSCEOLA COUNTY, FLORIDA, LYING EAST OF PLEASANT HILL ROAD; LESS AND EXCEPT: BEGINNING AT THE NORTHWEST CORNER OF SAID NORTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 32, THENCE NORTH 89 DEGREES 59' 51" EAST, ALONG THE NORTH LINE OF SAID NORTHWEST ¼ OF THE SOUTHWEST ¼, A DISTANCE OF 420.00 FEET; THENCE SOUTH 00 DEGREES 10' 19" EAST, PARALLEL WITH THE WEST LINE OF SAID NORTHWEST ¼ OF THE SOUTHWEST ¼, A DISTANCE OF 420.00 FEET; THENCE SOUTH 89 DEGREES 59' 51" WEST, PARALLEL WITH THE NORTH LINE OF SAID NORTHWEST ¼ OF THE SOUTHWEST ¼, A DISTANCE OF 420.00 FEET TO THE WEST LINE OF SAID NORTHWEST ¼ OF THE SOUTHWEST ¼; THENCE NORTH 00 DEGREES 10' 19" WEST, ALONG SAID WEST LINE, A DISTANCE OF 420.00 FEET TO THE POINT OF BEGINNING. LESS THE WEST 60.00 FEET THEREOF FOR RIGHT OF WAY OF PLEASANT HILL ROAD.

ALSO LESS AND EXCEPT: (CEMETERY ENCROACHMENT AREA) COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 32, TOWNSHIP 26 SOUTH, RANGE 29 EAST, OSCEOLA COUNTY, FLORIDA; THENCE NORTH 89 DEGREES 59'51" EAST, ALONG THE NORTH LINE OF SAID NORTHWEST ¼ OF THE SOUTHWEST ¼, A DISTANCE OF 420.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 89 DEGREES 59' 51" EAST, ALONG SAID NORTH LINE, 34.16 FEET; THENCE SOUTH 00 DEGREES 06' 59" WEST, A DISTANCE OF 437.29 FEET; THENCE SOUTH 89 DEGREES 39'03" WEST, A DISTANCE OF 391.96 FEET TO THE EAST RIGHT OF WAY LINE OF PLEASANT HILL ROAD; THENCE NORTH 00 DEGREES 10' 19" WEST, ALONG SAID EAST RIGHT OF WAY LINE 19.66 FEET; THENCE NORTH 89 DEGREES 59' 51" EAST, PARALLEL WITH THE NORTH LINE OF SAID NORTHWEST ¼ OF THE SOUTHWEST ¼, A DISTANCE OF 360.00 FEET; THENCE NORTH 00 DEGREES 10' 19" WEST, PARALLEL WITH THE WEST LINE OF SAID NORTHWEST ¼ OF THE SOUTHWEST ¼, A DISTANCE OF 420.00 FEET TO THE POINT OF BEGINNING.

EXHIBIT "B"

Bulk Water Service Agreement

[Attached is an unexecuted copy of the Bulk Water Service Agreement between O&S and FGUA. A copy of the fully executed Bulk Water Service Agreement will be substituted when received from FGUA. The Bulk Water Service Agreement was approved by the FGUA Board on January 16, 2003.]

BULK WATER SERVICE AGREEMENT

BY AND BETWEEN

FLORIDA GOVERNMENTAL UTILITY AUTHORITY

AND

O & S WATER COMPANY, INC.

JANUARY ___, 2003

BULK WATER SERVICE AGREEMENT

This Bulk Water Service Agreement, is made and entered into this _____ day of January, 2003, by and between the FLORIDA GOVERNMENTAL UTILITY AUTHORITY ("FGUA"), a legal entity and public body created by interlocal agreement pursuant to Section 163.01(7)(g)1, Florida Statutes, and O & S WATER COMPANY, INC., ("O&S"), a Florida corporation.

W I T N E S S E T H :

WHEREAS, the FGUA currently provides water and wastewater utility services within the Poinciana Service Area, which traverses Polk County and Osceola County, Florida;

WHEREAS, O&S is a utility that is certificated by the Florida Public Service Commission and has the exclusive right to provide potable water to the public in an unincorporated area of Osceola County, which is immediately adjacent to the FGUA's Poinciana Service Area;

WHEREAS, O&S does not currently provide potable water services to the public in the southern portion of its certificated service area;

WHEREAS, on or about July 19, 2001, the Board of Directors of the FGUA adopted Resolution No. 2001-04, which expressed the FGUA's ability and intent to provide water and wastewater services within the southern portion of the O&S service area, subject to the rights of O&S;

WHEREAS, Avatar Properties Inc., is currently building a mixed use development called Bellalago within the southern portion of the O&S service area and will demand both water and wastewater services within the near future;

WHEREAS, API has agreed to construct a water treatment plant and transmission main within the FGUA's Poinciana Service Area to provide potable water to the Bellalago development and convey these facilities to the FGUA, which facilities the FGUA will upsize over time, if necessary, to serve the entire Southern Service Area; and

WHEREAS, API has also agreed to construct all necessary pipes and distribution systems to deliver water from the water treatment plant to Bellalago customers and convey the distribution system to O&S;

WHEREAS, the parties now agree that it is in their mutual best interests and the best interest of the public and future customers within the southern portion of the O&S service area for O&S to purchase bulk water from the FGUA in lieu of constructing its own plant for service to the Southern Service Area; and

WHEREAS, the parties also agree that it is in their mutual best interests to form a cooperative relationship for the provision by the FGUA of retail wastewater services to the public within the Southern Service Area.

NOW, THEREFORE, in consideration of the premises and the payment by each to the other of the sum of Ten Dollars ($10.00),

and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, FGUA and O&S hereby agree as follows:

SECTION 1. RECITALS. The above recitals are true and correct and are hereby incorporated into this Agreement by reference.

SECTION 2. DEFINITIONS. The following words shall have the following meanings unless the context hereof requires otherwise:

"Abnormal Occurrence" shall mean an event at a water or pump station facility that has the potential to cause a violation of a utility permit as is reportable to any regulatory agency that oversees the utility operations, including, but not limited to equipment failures and line breaks.

"Agreement" shall mean this Bulk Water Service Agreement by and between the Florida Governmental Utility Authority and O&S Water Company, Inc.

"API" shall mean Avatar Properties Inc., a Florida Corporation, that is building a residential development called Bellalago within the Southern Service Area.

"Back-Flow Preventer" shall mean the device installed at the Connection Point, which is designed to prevent the backward flow of water from the Distribution System to the Transmission Main.

"Chlorine Analyzer" shall mean the device installed pursuant to this Agreement, which is designed to record on a continuous basis the concentration of chlorine entering the O&S Distribution System.

"Connection Point" shall mean that location, as identified in Exhibit B attached hereto, where the FGUA's Transmission Main shall be physically connected to the O&S Distribution System for the purpose of transmitting potable water to the Southern Service Area. As the Southern Service Area develops, there may be other Connection Points which will be at locations agreed upon by FGUA and O&S.

"Customers" shall mean the retail water customers of O&S within the Southern Service Area.

"Distribution System" shall mean those utility facilities, including but not limited to, mains, pipes, meters and appurtenant facilities that are necessary to convey potable water from the Connection Point to the Customers.

"ERC" shall mean 450 GPD expressed on a maximum daily flow for water.

"Force Majeure" shall include, but not be limited to, acts of God, Strikes, lockouts, or other industrial disturbances, acts of any public enemy, wars, blockades, riots, acts of armed forces, epidemics, delays by carriers, inability to obtain materials or rights-of-way on reasonable terms, acts or failures to act by

public authorities nor under the control of either party to this Agreement, or acts or failures to act by regulatory authorities.

"GPD" shall mean gallons per day.

"Interlocal Agreement" shall mean that certain Amended and Restated Interlocal Agreement Relating to Establishment of the FGUA, dated as of December 1, 2000, as it may be amended from time to time.

"Meter" shall mean the water meter installed at the Connection Point, which is designed to measure the amount of potable water delivered from the Transmission Main into the Distribution System and which meets the standards prescribed for the accuracy of such devices by the American Water Works Association.

"Plant" shall mean the water treatment plant, wells, and all necessary appurtenances, designed to treat and produce potable water to the Connection Point that is to be constructed by API and conveyed to the FGUA to provide potable water to the Southern Service Area.

"Pressure Recorder" shall mean the device installed pursuant to this Agreement, which is designed to record on a continuous basis the pressure of the water entering O&S's Distribution System.

"Southern Service Area" shall mean that area of Osceola County, as shown in Exhibit A attached hereto, that is currently within the FGUA's wastewater service area and O&S's water service

area, as it may be amended to include all of API's Bellalago development and a portion of the Yates Development.

"Transmission Main" shall mean an adequately sized water transmission main, as determined by FGUA's and O&S's engineers, connecting the water treatment plant to the Connection Point. The initial Connection Point (Exhibit "B") is to be constructed by API and conveyed to the FGUA to provide potable water to the Southern Service Area.

"Yates Development" shall mean the 150-acre development planned on property owned by Henry Yates in the Southern Service Area.

SECTION 3. CONDITIONS PRECEDENT. The following events are conditions precedent to the effectiveness of this Agreement: (1) the construction of the Plant and Transmission Main by API and the conveyance of the Plant and Transmission Main to the FGUA; and (2) the Florida Public Service Commission's approval of this Agreement, the Developer Agreement between O&S and API and of an amendment to O&S's certification, allowing O&S to expand its water service area to include the entire Southern Service Area. Within thirty (30) days of the full execution of this Agreement, O&S shall file an application with the Florida Public Service Commission to amend its certificate in accordance with this provision.

SECTION 4. BULK WATER SUPPLY AGREEMENT.

4.1 The FGUA hereby agrees to sell and O&S hereby agrees to buy and pay for an amount of potable water from the Plant which shall not exceed 450 GPD maximum daily flow per ERC for Customers within the Southern Service Area.

4.2 Attached as Exhibit "C" is the schedule of currently anticipated connections within the Southern Service Area. In order to confirm adequate potable water capacity and to aid in future utility planning, within thirty (30) days of the effective date of this Agreement, O&S shall provide the FGUA with an estimate of the number and a schedule of all future connections within the Southern Service Area during the term of this Agreement. O&S shall update these projections by March 1 of each year and within thirty (30) days of each annual submission by O&S, the FGUA shall confirm the availability of the requested potable water supply. FGUA shall annually, by March 1, provide O&S with a schedule showing the number of ERCs remaining for which API has service availability credits.

4.3 Notwithstanding any other provisions contained herein, the FGUA shall not be liable for any damages, direct or consequential, as a result of the inability or failure to provide potable water pursuant to this Agreement on a temporary, emergency or permanent basis due to Force Majeure or other circumstances not within the control of the FGUA.

4.4 In the event of an Abnormal Occurrence, both the FGUA and O&S shall abide by and provide proper response and notification to each other and to applicable governmental regulatory agencies and Customers.

4.5 In consideration of the mutual undertakings and covenants exchanged in this Agreement, O&S agrees not to compete with the FGUA in the production of water within the Southern Service Area during the term of this Agreement. To this end, O&S agrees not to design, construct, purchase, install, acquire (or cause the same to be done) any water wells, water plants or other water production facilities during the term of this Agreement to provide service to the Southern Service Area. Additionally, O&S acknowledges that the FGUA has the exclusive right to provide bulk potable water to O&S to serve the Southern Service Area and O&S covenants that it will not accept potable water from any other source during the term of this Agreement. Notwithstanding the foregoing, O&S and FGUA acknowledge that it may be prudent to interconnect their respective water facilities in the future to ensure reliable and efficient water service to their respective customers. Nothing in this Agreement is intended to impede the parties from agreeing to interconnect their respective facilities in the future for such purpose or to impede O&S from interconnecting its own facilities with each other, at the sole cost of O&S, with such interconnect to be used solely to provide

emergency supplies between the parties. In the event that O&S elects to interconnect any other part of the O&S service area to the Southern Service Area then, at least ninety (90) days prior to establishing such interconnect, O&S shall give notice to FGUA of such election. O&S shall place a meter at the point of interconnection between other portions of the O&S service area and the Southern Service Area. O&S shall give the FGUA notice within two (2) hours of the utilization of the interconnect to transfer water from the Southern Service Area to other portions of the O&S service area. It being understood between the parties that such interconnect is established for utilization in emergency situations to ensure reliability of water service delivery.

SECTION 5. FEES AND CHARGES.

5.1 O&S shall pay no capacity impact fees to FGUA in connection with capacity in the Plant and Transmission Main for 2,300 ERCs of that capacity received for the Bellalago development. O&S shall pay to FGUA capacity impact fees and other charges uniformly imposed by FGUA for capacity for other connections to the Plant and Transmission Main within the Southern Service Area at the time such connections are made.

5.2 As consideration for the supply of potable water provided to O&S by the FGUA, O&S shall pay to the FGUA a rate in the amount of one dollar and five cents ($1.05) for each thousand gallons of potable water delivered to O&S at the Connection Point, as

registered on the Meter. This rate shall be subject to change in accordance with section 4.04 of the Interlocal Agreement. O&S shall also pay to the FGUA any and all other applicable charges, surcharges, rates, fees, or other payments imposed on or required to be paid by O&S or the Customers in accordance with applicable federal, state, and local laws, statutes, rules and regulations, as they may exist or may be amended from time to time, including the FGUA's tariffs, rules, and regulations.

5.3 The rate for the delivery of potable water to O&S as provided for in Section 5.2 of this Agreement shall be adjusted annually by FGUA in order to recover the cost of providing bulk water service. The adjustment to the bulk monthly rate for service shall be conducted as follows:

(i) Effective each October 1 or any month thereafter, the rates for service will be adjusted by an index factor applied to the rate in effect prior to October 1. The index factor will be the General Price Deflator Index as published on or about March 1 by the Florida Public Service Commission each year and shall apply to service rendered on and after October 1 following the publication of such index. To the extent that the index is not published by the Florida Public Service Commission, then the FGUA will apply the U.S. Bureau of Labor Statistics, Consumer Price Index -- All Urban Consumers; U.S. City Average based on the percent change in such index for the twelve months ended March 31.

The adjusted rate resulting from the application of the aforementioned index will be rounded to the nearest cent. The FGUA will not index the rate for bulk potable water service to O&S more than once during the fiscal year reporting period of the FGUA (defined as the twelve months ending September 30).

(ii) The FGUA shall periodically review the bulk water rates for service to ensure proper cost recovery. This review may be conducted no sooner than every three (3) years by the FGUA, and the bulk rate shall be adopted in accordance with the result of that review.

The determination of the rate for the delivery of potable water to O&S will be based on standard ratemaking and cost allocation practices recognized in the industry for such service. The rate shall include the cost of water production, treatment, and delivery of water to the Point of Delivery, including metering (the "cost of service"), and shall not include any costs for water distribution, customer accounting and billing or other similar costs which relate to service to the ultimate customer. The cost of service shall recognize administrative costs and allocated overheads necessary to operate the FGUA System and provide service. Additionally, the cost of service shall include allowances for the renewal, replacement, and betterment of facilities necessary to provide service and the cost of financing improvements of the System, including the initial cost of acquisition of the allocable

facilities to provide service to O&S by the FGUA. To the extent that taxes, surcharges or other costs are imposed upon the System that affects the ability to provide service under this Agreement, such costs will also be recognized in the derivation of the rate for service. The determination and regulatory approval of the rate shall be the responsibility of the FGUA and no approval of any rate adjustment shall be required from O&S prior to implementation.

Included on Attachment A to this Agreement is the rate calculation used by the FGUA in the development of the initial bulk water rate for service to O&S equal to $1.05 per thousand gallons of metered water at the Point of Delivery. This calculation represents the basis for rate determination and will be considered in the development of subsequent rate adjustments in the future (not the index rate adjustment). The cost allocation process reflected in Attachment A was considered as being a reasonable basis for cost allocation between the parties in the determination of the rates for service. The development of the rates for service will be based on the best available information to the FGUA, including actual costs and associated water production and sales statistics.

(iii) After the third anniversary of the effective date of this Agreement, in the event that there is an anticipated or actual change in the operations or financing of improvements to the applicable facilities necessary to provide service to O&S which

will result in a significant impact to the FGUA and which is not reflected in the then existing rates for service, the FGUA will have the ability to adjust the then existing rates for service to reflect such increase in expenditures. A significant event is considered as an ongoing expenditure (or financing of an improvement) that would increase the cost of providing service to O&S using the rate calculation reflected in Attachment A by five percent (5.0%) and will not be considered as an index adjustment for rate adjustment purposes as referenced in Section 5.3(i) above. The FGUA will be required to notify O&S of the change in costs and the basis for the revised rates at least sixty (60) days prior to the effective date of the proposed change in rates for service.

(iv) The FGUA will notify O&S of any rate adjustment, including the application of a rate index, at least sixty (60) days prior to its effective date. The notification will include, but not be limited to: (a) the proposed rate to become effective expressed on a per thousand gallons of metered water basis; (b) the existing bulk water rate and the overall change in the bulk water service rate due to the change; (c) calculations which support the derivation of the proposed bulk water rate; (d) the effective date of the proposed bulk service rate; and (e) notification of the public hearing process for the adoption of the proposed bulk water rate. The FGUA will have the right to implement the revised rates even if disputed by O&S and O&S will be required to pay the rates

for service as implemented by the FGUA subject to a determination by a court of competent jurisdiction and during such time as such review is pending. To the extent that the rates are adjusted as a result of any action between the parties, any refunds or additional charges will be addressed separately as to payment between the parties.

5.4 The FGUA will invoice O&S monthly based upon a Meter reading as of the last week of each month showing the prior month's reading; the current month's reading; the total number of gallons of potable water supplied to O&S; the gallonage rate; and the amount owed and unpaid by O&S. O&S shall make payment based upon these meter readings within thirty (30) days of receipt of the invoice from the FGUA. Any failure to pay on or before the due date shall be considered delinquent and subject O&S to late payment fees in accordance with FGUA's tariff.

5.5 In the event O&S disputes the accuracy of the meter reading, it must notify the FGUA in writing within fifteen (15) days of receipt of the invoice and demonstrate through appropriate calibration testing that the meter was either not properly calibrated, improperly read, or was not otherwise functioning properly. All meter readings not disputed within fifteen (15) days of receipt of the invoice by O&S are final and not subject to dispute. All disputes regarding meter readings shall be resolved in accordance with paragraph 16.9 hereof.

SECTION 6. INTERCONNECTION AND METERING.

6.1 The potable water provided by FGUA to O&S shall be produced at the Plant and transmitted through the Transmission Main, both of which will be paid for and installed by API at API's sole cost and expense and conveyed to the FGUA. The FGUA shall own, operate, and maintain the Plant and the Transmission Main.

6.2 The potable water received by O&S from the FGUA shall be transmitted from the Connection Point to Customers through the Distribution System. O&S shall own, operate, and maintain the Distribution System. The FGUA shall not be liable for any loss of service or for any other damages, either direct or consequential, due to defects in the construction, maintenance, repair, or operation of the Distribution System.

6.3 The Transmission Main shall interconnect with the Distribution System at the Connection Point. The FGUA shall, at its sole cost and expense, cause the installation of the water Meter at the Connection Point for billing purposes. The FGUA shall own, operate, and maintain the Meter.

6.4 The FGUA shall also cause, at its sole cost and expense, the installation of the Back-Flow Preventer at the Connection Point, which will prevent the backward flow of potable water from the Distribution System into the Transmission Main. The FGUA shall own, operate, and maintain the Back-Flow Preventer. At O&S's option, it may install at its expense on the Transmission Main, a

Pressure Recorder and/or Chlorine Analyzer which shall be conveyed to FGUA which shall thereafter operate and maintain such equipment in accordance with the manufacturer's specifications and good engineering practice.

6.5 The Meter shall be calibrated no less frequently than annually by a qualified third party technician. Upon reasonable notice, O&S shall have access to inspect the Meter, Back-Flow Preventer, Chlorine Analyzer and Pressure Recorder. Also, upon seventy-two (72) hours' notice to the FGUA, O&S may, no more than twice annually, have a qualified meter calibration and back-flow preventer personnel inspect, test and calibrate the Meter and the Back-Flow Preventer at O&S's sole cost and expense, but not before the FGUA approves the qualifications of the meter and back-flow technician.

6.6 The maintenance and operation to be performed by the FGUA and O&S pursuant to this section shall be performed in such a manner as is necessary to meet the standards prescribed by any applicable regulatory agencies and the maintain the Plant, Transmission Main, Meter, Back-Flow Preventer, Chlorine Analyzer, Pressure Recorder and Distribution System at a level of performance, maintenance and repair which will not adversely affect existing and future customers of either the FGUA or O&S.

SECTION 7. WATER QUALITY AND PRESSURE.

7.1 The FGUA will deliver potable water to the Connection Point which meets all applicable quality requirements set forth by the rules and regulations of Florida Department of Environmental Protection (FDEP) and the United States Environmental Protection Agency (EPA) applicable to public drinking water of the FGUA.

7.2 The FGUA shall maintain a water pressure that is sufficient to meet the minimum requirements established by the Florida Department of Environmental Protection, Osceola County Health Department, as well as fire flow requirements as mandated by the Osceola County Fire Marshall.

7.3 The FGUA shall have no responsibility for the quality, quantity or pressure of the water after the water passes through the Meter, unless the quality, quantity, or pressure problem existed at the inflow side of the Meter.

SECTION 8. EASEMENTS. Each party will provide to the other party, at no cost, such easements as are necessary for the construction, operation and maintenance of the Plant, Transmission Main, Connection Point, Meter, Pressure Recorder, Chlorine Analyzer, Back-Flow Preventer and Distribution System. Except as provided by this Agreement, neither party shall have any rights to or within the public drinking water system of the other.

SECTION 9. WASTEWATER TREATMENT SERVICES.

9.1 O&S acknowledges that the FGUA has the exclusive right to provide wastewater disposal and treatment services and reclaimed water services within the Southern Service Area. In consideration of the mutual undertakings and covenants exchanged in this Agreement, O&S agrees not to compete with the FGUA in the provision of wastewater disposal and treatment services and reclaimed water services within the Southern Service Area. Moreover, O&S agrees to refer any future customers requesting water services from O&S in the Southern Service Area to the FGUA for the provision of wastewater services and reclaimed water services.

9.2 Given the interconnected nature of water and wastewater services, O&S hereby agrees to assist the FGUA upon request in enforcing payment for wastewater services by disconnecting the Customer's potable water service for nonpayment to the FGUA. O&S will receive its tariffed disconnect fee from the FGUA for disconnects requested by the FGUA. O&S will not reconnect water service until all past due fees and charges have been paid in full. FGUA will indemnify and save O&S harmless from and against any claim, demands, damages or liability whatsoever (including attorney's fees) as a result of O&S disconnecting water service pursuant to this provision. Provided, however, this indemnification shall not be construed to require the FGUA to indemnify and save harmless O&S for O&S's own negligence.

SECTION 10. RIGHT TO PURCHASE.

10.1 If O&S intends to offer its Utility System for sale, it shall notify FGUA of the offer, stating the price and terms and conditions of sale. FGUA shall have the right to accept the offer to purchase the Utility System at the price and upon the terms and conditions as set forth in the offer within fifteen (15) days from the date of receipt of the notice.

10.2 If O&S receives a bona fide offer to purchase any part or all of the assets comprising its Utility System, then O&S shall notify FGUA of the offer and terms thereof and FGUA shall have fifteen (15) days from such notice within which to match the offer on the same terms and conditions. If FGUA does not accept the offer then such right shall terminate and O&S shall be free to accept the original offer. If FGUA accepts the offer, the transaction shall be closed in accordance with the terms of the original offer.

10.3 The right to purchase by FGUA shall not apply as to any offer by O&S to sell to Osceola County or any offer from Osceola County to purchase the Utility System.

SECTION 11. EFFECTIVE DATE AND TERM. This Agreement shall become effective upon its execution by both FGUA and O&S for an initial term of thirty (30) years ("Initial Term"), which term shall commence on the date of installation of the Meter. The Initial Term shall be automatically extended for succeeding five-

year periods ("Extended Term"). Either party may elect not to continue this Agreement into an Extended Term or a succeeding Extended Term by giving the other party eighteen (18) months written notice of an intent to terminate this Agreement at the expiration of the Initial Term or of any succeeding Extended Term.

SECTION 12. EXCUSE FROM PERFORMANCE.

12.1 If either party is delayed from or prevented from performing any act required to be performed hereunder, and such prevention or delay is caused by Force Majeure not within the control of such said party raising this defense to performance, the performance of such act shall be excused for a period equal to the period of prevention or delay.

12.2 If for any reason during the term of this Agreement, other than the fault of the party raising this defense, any federal, state or local authorities or agencies fail to issue necessary permits, grant necessary approval, or require any change in the operation of the Plant, Transmission Main, Meter, Back-Flow Preventer, Pressure Recorder, Chlorine Analyzer, or Distribution System, then, to the extent that such governmental acts shall affect the ability of a party to perform any of the terms of this Agreement, in whole or in part, then the affected party shall be excused from performance thereof, and a new agreement shall be negotiated, if possible, by the parties hereto in conformity with such permits, approvals, or requirements.

SECTION 13. SUCCESSORS AND ASSIGNS. This Agreement and any easements granted pursuant hereto shall be binding upon and enure to the benefit of the parties hereto and their respective successors and assigns. Any party assigning its rights hereunder shall give the other party thirty (30) days' written notice of such assignment.

SECTION 14. NOTICE. All notices, demands, requests, demands or other communications by either party under this Agreement shall be in writing and shall be sent by (a) first-class, U.S. certified or registered mail, return receipt requested, with postage prepaid, or (b) by overnight delivery service or courier, or (c) telecopy or similar facsimile, with receipt confirmed, as follows:

If to FGUA:

Florida Governmental Utility Authority
Director of Operations
614 N. Wymore Road
Winter Park, Florida 32789
Attn: Charles L. Sweat

Copy to:

Nabors, Giblin and Nickerson, PA
1500 Mahan Drive, Suite 200
Tallahassee, Fl. 32308
Telephone: (850) 224-4070
Facsimile: (850) 224-4073
Attn: Heather J. Encinosa, Esquire

If to O&S:

O&S Water Company, Inc.
501 E. Oak, Suite A
Kissimmee, Florida 34744
Attn: Jack Olsen

Copy to:

Rose, Sundstrom & Bentley, LLP
600 S. North Lake Boulevard, Suite 160
Altamonte Springs, FL 32701
Telephone: (407) 830-6331
Facsimile: (407) 830-8522
Attn: Martin S. Friedman, Esquire

SECTION 15. INDEMNIFICATION. To the extent permitted by law, O&S and the FGUA agree to indemnify and hold each other harmless from the negligent acts or omissions of themselves, their officers, employees, or agents, from and against all claims, actions, damages, fees, fines, penalties, defense costs, suits or liabilities. However, the FGUA does not waive its right to sovereign immunity.

SECTION 16. MISCELLANEOUS PROVISIONS.

16.1 This Agreement shall not be altered, amended, changed, waived, terminated or otherwise modified in any respect or particular, and no consent or approval required pursuant to this Agreement shall be effective, unless the same shall be in writing and signed by and on behalf of the party to be charged.

16.2 All prior statements, understandings, commitments, representations and agreements between the parties, oral or written, are superseded by and merged in this Agreement, which

alone, fully and completely, expresses the agreement between the parties in connection with this transaction, and which is entered into after full investigation, neither party relying upon any statement, understanding, representation or agreement made by the other not embodied in this Agreement. This Agreement shall be given fair and reasonable construction in accordance with the intentions of the parties hereto, and without regard to the aid of canons requiring construction against the party drafting this Agreement.

16.3 No failure or delay of either party in the exercise of any right or remedy given to such party hereunder, or the waiver by any party of any condition hereunder for its benefit (unless the time specified herein for exercise of such right or remedy has expired) shall constitute a waiver of any other right or further right or remedy, nor shall any single or partial exercise of any right or remedy preclude other or further exercise thereof or of any other right or remedy. No waiver by either party of any breach hereunder or failure or refusal by the other party to comply with its obligations shall be deemed a waiver of any other or subsequent breach, failure or refusal to so comply.

16.4 This Agreement may be executed in one or more counterparts, each of which so executed and delivered shall be deemed an original, but all of which taken together shall constitute but one and the same agreement. It shall not be necessary for

the same counterpart of this Agreement to be executed by all the parties hereto.

16.5 Captioned headings of this Agreement are for convenience only and are not intended to be a part of this Agreement and shall not be construed to modify, explain or alter any of the terms, covenants or conditions herein contained.

16.6 This Agreement shall be interpreted and enforced in accordance with the laws of the State of Florida without reference to the principles of conflict of law. Proper venue for any action or proceeding to construe or enforce the provisions of this Agreement shall be in the circuit court in and for Osceola County, Florida.

16.7 Each of the parties to this Agreement agrees that at any time after the execution hereof, they will, on request of the other party, execute and deliver other documents and further assurances as may reasonably be required by such other party in order to carry out the intent of this Agreement.

16.8 If any provision of this Agreement shall be deemed unenforceable or invalid by a court of competent jurisdiction, the same shall not affect the remaining provisions of this Agreement, to the end that the provisions of this Agreement are intended to be and shall be separable. Notwithstanding the foregoing sentence, if (i) any provision of this Agreement is finally determined by a court of competent jurisdiction to be unenforceable or invalid in

whole or in part, (ii) such unenforceability or invalidity alters the substance of this Agreement, taken as a whole, so as to deny either party, in a material way, the realization of the intended benefit of its bargain, such party may terminate this Agreement within thirty (30) days after the final determination by notice to the other. If such party so elects to terminate this Agreement, this Agreement shall be terminated, and neither party shall have any further rights, obligations, or liabilities hereunder.

16.9 The parties hereby acknowledge and agree to cooperate and to work together to resolve any dispute between them including, but not limited to, mandatory mediation to resolve such disagreement prior to either party initiating litigation. If, after sixty (60) days' notice of a disagreement or dispute, such disagreement or dispute remains unresolved, then the party may request resolution by court of competent jurisdiction. In the event of such litigation, the non-prevailing party shall pay the costs of the prevailing party, including its reasonable attorney's and paralegal fees incurred in connection therewith, through and including all other legal expenses and the cost of any appeals in appellate courts related thereto. Wherever in this Agreement it is stated that one party shall be responsible for the attorney's fees and expenses of the other party, the same shall automatically be deemed to include fees and expenses in connection with all appeals and appellate proceedings related or incidental thereto. The first two sentences

of this subsection shall not apply if a party prevails in obtaining injunctive relief against the other party.

16.10 This Agreement shall not be deemed to confer the favor of any third parties or any rights whatsoever as third-party beneficiaries. The parties hereto intend by the provisions hereof to confer no such benefits or status.

IN WITNESS WHEREOF, O&S WATER COMPANY, INC., and the **FLORIDA GOVERNMENTAL UTILITY AUTHORITY** have caused this Agreement to be duly executed and entered on the date first written above.

FLORIDA GOVERNMENTAL UTILITY AUTHORITY

By: _____
Chair

O&S WATER COMPANY, INC.

By: _____
President

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EXHIBIT A

SOUTHERN SERVICE AREA

EXHIBIT B

CONNECTION POINT

EXHIBIT C

INITIAL SCHEDULE OF CONNECTIONS IN THE SOUTHERN SERVICE AREA