

BOARD OF COUNTY COMMISSIONERS
DESOTO COUNTY

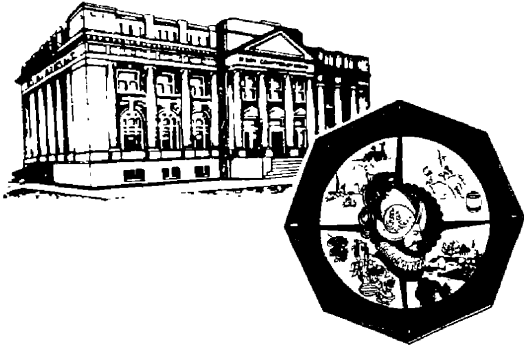
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Administration Building
Suite 201
201 East Oak Street
Arcadia, Florida 34266
(863) 993-4800
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September 29, 2003

Ms. Blanca Bayo
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Dear Ms. Bayo:

In order to fully apprise the Florida Public Service Commission of DeSoto County's utility interests, please find enclosed:

1. The Settlement and Acquisition of the Florida Water Service Corporation in DeSoto County.
2. The service area grant to Florida Water Services Corporation in DeSoto County now attributed to DeSoto County
3. The Countywide utility service area delineation adopted from the previous grant to Florida Water Services Corporation.
4. The interlocal agreement between DeSoto County and the City of Arcadia delineating the service areas, wholesale rights, and other matters.
5. A separate map indicating the Lake Suzy Utilities service area within DeSoto County and the remaining service area being DeSoto County's as well as depicting the Peace River/Manasota Regional Water Supply Authority facilities.
6. The purchase and sale agreement between Kingsway Utilities and DeSoto County with its service area owned by DeSoto County.
7. Peace River/Manasota Regional Water Supply Authority agreement granting DeSoto County capacity and the agreement delineating DeSoto County as the water wholesaler within the County.
8. Notice to Florida Public Service Commission

If there are any questions or concerns, please do not hesitate to contact my office. Thank you for your assistance.

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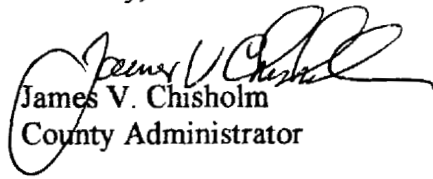
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FILED AT TALLAHASSEE, FLORIDA

Sincerely,



James V. Chisholm
County Administrator

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR DESOTO COUNTY, FLORIDA
CIVIL ACTION

DESOTO COUNTY, a Political
Subdivision of the State of Florida,

Petitioner,

vs.

CASE NO. 142001CA-000575

FLORIDA WATER SERVICES CORPORATION,
a Florida corporation; et al,

Defendants.

STIPULATED ORDER OF TAKING AND STIPULATED FINAL JUDGMENT

THIS CAUSE, having come before me for consideration upon the Joint Motion for entry of Stipulated Order of Taking and a Stipulated Final Judgment made by Petitioner, DESOTO COUNTY, a Political Subdivision of the State of Florida ("*DeSoto County*"), and the Defendant, FLORIDA WATER SERVICES CORPORATION ("*Florida Water*"), it appearing to the Court that the parties were authorized to enter into such Joint Motion, and the Court being otherwise fully advised in the premises, it is now, therefore,

ORDERED AND ADJUDGED:

1. Florida Water has been properly served with process and the Court has jurisdiction over the parties and the subject matter of this cause.
2. DeSoto County has complied with the applicable provisions of Chapters 73 and 74, Fla. Stat., is properly exercising its delegated authority, and is entitled to acquire the property as set forth in the Petition in Eminent Domain. All other conditions precedent to DeSoto County's requested relief have been performed, excused or have occurred.
3. The pleadings filed by DeSoto County establish, and the Court hereby finds, that a reasonable necessity exists for the acquisition of the property set forth in the Petition in Eminent Domain and Declaration of Taking for the valid purpose set forth in Petition.

4. Florida Water does have and recover from DeSoto County the total sum of SIX HUNDRED THOUSAND AND 00/100 DOLLARS (\$600,000.00) as full compensation for the acquisition of all property set forth in the Petition, including severance damages, and all other damages claimed by Florida Water, its officers, principles, successors and assigns now and in the future, arising from the acquisition of the foregoing property and said sum includes all attorneys fees, expert witness fees and costs incurred by Florida Water in this action.

5. Within twenty (20) days of this Stipulated Order of Taking and Stipulated Final Judgment, DeSoto County shall pay to Florida Water the sum of SIX HUNDRED THOUSAND AND 00/100 DOLLARS (\$600,000.00) representing full compensation for the acquisition of the property set forth in the Petition. Said payment shall be forwarded by U.S. Mail to Forrest Ladsen, Florida Water Services Corporation, P.O. Box 609520, Orlando, Florida 32860-9250.

DONE AND ORDERED in Chambers at Arcadia, DeSoto County, Florida this 1 day of Nov, 2001.

/S/ Don T. Hall

~~JAMES S. PARKER~~
Circuit Court Judge


I hereby certify that conformed copies of the foregoing have been sent to the parties listed below this 2 day of Nov, 2001:

Robert J. Gill, Esquire
Tracy A. Marshall, Esquire

Suzella Hernandez
for Deputy Clerk/Judicial Assistant *J. Gill*


JOINT MOTION FOR STIPULATED ORDER OF TAKING
AND STIPULATED FINAL JUDGMENT

The parties, by their undersigned attorneys, respectfully move for the entry of the foregoing Stipulated Order of Taking and Stipulated Final Judgment in this cause.



ROBERT J. GILL, ESQUIRE
FBN 0290785
RUDEN, McCLOSKEY, SMITH,
SCHUSTER & RUSSELL, P.A.
1549 Ringling Blvd., Suite 600
Sarasota, Florida 34236
(941) 365-0140

Dated: 10/29/01



GRAY, HARRIS & ROBINSON, P.A.
R. Dean Cannon, Jr.
301 East Pine Street
Orlando, Florida 32801
(407) 843-8880
FBN: 086330

Dated: 10/19/01

ORDINANCE NUMBER 1999-01

AN ORDINANCE OF DESOTO COUNTY, FLORIDA, RELATING TO THE REGULATION OF WATER AND SEWERAGE SYSTEMS AND BULK WATER UTILITIES IN DESOTO COUNTY, FLORIDA; PROVIDING FOR DEFINITION OF TERMS USED IN THE ORDINANCE; AUTHORIZING THE BOARD OF COUNTY COMMISSIONERS TO PRESCRIBE CLASSES AND CONDITIONS OF SERVICE; TO SET RATES, FEES AND CHARGES FOR SERVICES; TO ESTABLISH HEARING PROCEDURES; TO GRANT FRANCHISES FOR WATER AND SEWERAGE SYSTEMS AND BULK WATER UTILITIES; TO PRESCRIBE CONDITIONS FOR SUCH ISSUANCE; TO EVALUATE PROPERTY FOR RATE PURPOSES; TO INSPECT UTILITY PROPERTY; TO MODIFY RATES, FEES AND CHARGES; TO INVOKE PENALTIES AND REVOKE FRANCHISES UNDER CERTAIN CONDITIONS; REQUIRING FURNISHING OF SERVICE BY SUCH UTILITIES; PROHIBITING RATES, FEES AND CHARGES NOT APPROVED AS PROVIDED IN THIS ORDINANCE; PROVIDING EXEMPTIONS AND PENALTIES; PROVIDING THAT THIS ORDINANCE SHALL BE APPLICABLE TO ALL PUBLIC UTILITIES NOW OR HEREAFTER OPERATING UNDER A FRANCHISE GRANTED BY THE BOARD OF COUNTY COMMISSIONERS OF DESOTO COUNTY; PROVIDING FOR REPORTS, FEES, RECORDS, ACCOUNTS AND RULES FOR DEPRECIATION; PROVIDING FOR APPLICATIONS FOR FRANCHISES; PROVIDING FOR APPLICATIONS FOR FRANCHISE BOUNDARY CHANGES; PROVIDING FOR APPLICATIONS FOR TRANSFERS OF FRANCHISES; PROVIDING FOR SETTING OF RATES, FEES AND CHARGES; PROVIDING FOR RATE HEARINGS; PROVIDING FOR RECEIVERS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR REVOCATION OF FRANCHISES; PROVIDING FOR THE REPEAL OF DESOTO COUNTY ORDINANCES INCONSISTENT HERewith; PROVIDING FOR JUDICIAL REVIEW; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WITNESSETH

WHEREAS, pursuant to Section 367.171, Florida Statutes, the Board of County Commissioners of DeSoto County (the "Board") has enacted Resolution Number 1997-22, revoking Resolution Number 1984-22, thereby rescinding the Florida Public Service Commission's jurisdiction over water and sewerage systems in DeSoto County, and restoring such regulatory authority to the Board; and

WHEREAS, Section 367.171, Florida Statutes, requires the Board to adopt regulations pertaining the water and sewerage systems in DeSoto County; and

WHEREAS, pursuant to Section 125.01(1)(k)(1), Florida Statutes, the Board is authorized to regulate water and sewerage systems in DeSoto County; and

WHEREAS, pursuant to Section 125.01(t), Florida Statutes, the Board is authorized to adopt ordinances and resolutions necessary for the exercise of its powers; and

WHEREAS, public hearings were held by the Board on January 12, 1999 and February 23, 1999; and

WHEREAS, public notice required by law has been provided.

THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DESOTO COUNTY, FLORIDA, that:

SECTION 1. Definitions.

As used in this ordinance, the following terms mean:

(a) "Audited financial statement" means a collection of the following as defined by the American Institute of Certified Public Accountants: accountant report (opinion), balance sheet, profit/loss statement, changes in financial position/cash flow statement, notes to the financial statement, supplemental information, and accountant's report on supplemental information.

(b) "Board" means the Board of County Commissioners of DeSoto County, Florida

(c) "Bulk water utility" means every person owning, leasing, constructing or managing any water system or water source, or both, supplying untreated or treated water to bulk users or distributors of water for consideration, but shall not include those which are excepted in subsection (v) of this section.

(d) "Contributions-in-aid-of-construction (CIAC)" means any amount or item of money, service or property received by a utility from any contributor or other person or governmental agency, any portion of which is provided at no cost to the utility, which represents an addition or transfer to the capital of the utility and which is utilized to offset the acquisition, improvement or construction costs of the utility's property, facilities or equipment used to provide service to the public. The term includes system capacity charges, main extension charges, plant expansion fees and customer connection charges

(e) "Contributor" means a person, builder, developer or other entity who makes a contribution-in-aid-of-construction.

(f) "Customer" means any person, firm, association, corporation, governmental agency or similar organization who is receiving service from the utility, further classified as:

- (1) "Residential" means any residence, building, unit or living quarters intended for occupancy or residence by one or more persons for which the primary use shall be domestic living purposes;
- (2) "Commercial" means any nonresidential, nonindustrial business enterprises including by way of example retail stores, hotels, motels, restaurants and schools, etc;
- (3) "Industrial" means any manufacturing or processing establishment including, but not limited to, hospitals and medical offices, mortuaries, photographic processing facilities, metal plating facilities, electronic manufacturing facilities, synthetic organic manufacturing facilities and newspaper production facilities;

(g) "Customer's installation" shall mean all pipes, back-flow prevention devices,

shut-offs, valves, fixtures, and appliances or apparatus of every kind and nature used in connection with or forming a part of an installation for utilizing water or sewer for any purpose, located on the customer's side of the point of delivery, whether such installation is owned outright by customer or used by customer under lease or otherwise. The customer's sewer installation (service lateral) includes the facilities from the house or structure to the wye including connection the wye, located near or at the property line, including the required cleanout device.

(h) "Department" means DeSoto County Utilities Department.

(i) "Equivalent dwelling unit" (EDU's) means the utilization of a building's space in such a manner as to have the potential usage of 240 gallons per day for potable water usage and 240 gallons per day for sewer usage. The foregoing notwithstanding, if the applicant can produce historic data demonstrating that the actual historic usage is different from the standard set forth herein, the Board may authorize an EDU based upon the usage indicated by the historic data.

(j) "Franchisee" means the holder of a public water system, public sewerage system, or bulk water utility franchise governed by this ordinance.

(k) "Gross Receipts" shall mean all revenues received by the franchisee, including miscellaneous revenues, but excluding interest earned on invested funds and proceeds from resale to other franchisees.

(l) "Official date of filing" means the date of written notification from the county utility department an application is complete.

(m) "Off-site facilities" means either the water distribution and transmission mains and facilities or the sewage collection and interceptor mains and facilities, including but not

limited to, manholes, collection mains, sewage force mains and sewage pumping stations, the purpose of which is either to provide water service to properties within the service territory of the service utility or to collect sewage received from properties within the territory.

(n) "On-site facilities" means the portion of the water distribution system or the sewage collection and treatment system that has been, or is to be, located wholly within the property to which service is to be extended. If off-site facilities cross the property of the customer via an easement, the on-site facilities shall mean the water distribution system or the sewage collection system that is located on the customer's property, exclusive of the off-site facilities.

(o) "Person" means any natural person, firm, association, corporation, business, trust, partnership, cooperative, limited dividend or mutual association, or any other legal entity.

(p) "Point of delivery" means the point where the utility's pipes or meters are connected to pipes of the customer. The "point of delivery" should be located at or near the property line. "Point of delivery" for sewer systems means where the customer's pipes are connected to the utility's system. "Point of delivery" for water systems shall mean the outlet connection of the meter assembly for metered service or the point at which the utility's piping connects to the customer's piping for non-metered service.

(q) "Public sewerage system" means any real property attachments, fixtures, treatment plants, pumping stations, intercepting sewers, pressure lines, mains, laterals, appurtenances, easements, rights or other real or personal property used or useful or having present capacity for future use in connection with the collection, treatment, purification, or disposal of sewage and sewage effluent and residue in excess of two thousand (2000) gallons

per day.

- (r) "Public sewerage system" shall not include:
- (1) governmentally owned or operated sewage systems;
 - (2) sewage systems for disposal of industrial waste for manufacturing plants;
 - (3) septic tanks;
 - (4) sewerage systems owned or operated by legally created sewage districts;
 - (5) sewer systems not owned by a franchisee, downline from a franchisee's master meter, operated and submetered by a master metered customer of the franchisee for resale to individual residential or commercial consumers occupying property owned or otherwise lawfully controlled by the master metered customer;
 - (6) at the Board's discretion, non-profit sewer systems owned and controlled by homeowner/condominium associations, provided all customers of the system are eligible to become members of the association.

(s) "Public utility" means every person owning, leasing, constructing, operating or managing any public water or public sewerage system, as defined herein, in the unincorporated area of the county for compensation, but shall not include those which are excepted under subsections (r) and (u) of this section. A bulk water utility as defined in subsection (c) of this section shall be deemed a public utility.

(t) "Public water system" means any real property, attachments, fixtures,

impounded water, water mains, laterals, valves, meters, plants, wells, pumps, pipes, tanks, reservoirs, systems, treatment facilities, equipment, easements, rights or other real or personal property used or useful or having present capacity for future use in connection with obtaining, treating, supplying and distributing water to nine (9) or more equivalent dwelling units for business, industrial, residential, or other human consumption.

(u) "Public water system" shall not include:

- (1) property used solely or principally in the business of bottling, selling, distributing or furnishing bottled water or portable treatment facilities;
- (2) water systems utilized by manufacturing plants primarily for providing water for its manufacturing operations, or for use by its employees on the premises;
- (3) water systems owned or operated by a governmental agency or a legally created public water district;
- (4) water systems not owned by a franchisee, downline from a franchisee's master meter, operated and submetered by a master metered customer of the franchisee for resale to individual residential or commercial consumers occupying property owned or otherwise lawfully controlled by the master metered customer;
- (5) at the Board's discretion, non-profit water systems owned and controlled by homeowner/condominium associations provided all customers of the system are eligible to become members of the association.

(v) "Rate schedule" refers to rates or charges for a particular classification of

service.

(w) "Wastewater lateral" means the line between the main line up to and including the wye, located near or at the property line, including all pipes and fittings to make the connection from the wye to the main line.

SECTION 2. Authority of the Board.

The Board has the authority to:

(a) grant franchises for the operation of public utilities, prescribe and enforce regulations for the protection of the health, safety and welfare of the citizens of DeSoto County, Florida;

(b) prescribe, after a public hearing, fair and reasonable classifications of service, standards of quality and measurement for equipment used, and service rules and regulations to be observed by every public utility;

(c) prescribe, after a public hearing, uniform systems and classifications of accounts to be kept by public utilities and the books, papers and records to be maintained and the manner in which the books, records and papers shall be maintained;

(d) determine and set, after public hearing, the rates, fees and charges that may be collected by a public utility for its services, except that changes in rates for pass-through and indexing are exempt from this public hearing requirement;

(e) require every public utility to charge a fair and reasonable sum as an operating expense for depreciation and to credit the sum so charged to a depreciation reserve which shall be charged with retirement of depreciable property from service;

(f) ascertain and fix the value of the whole or any part of the property of any public utility, as necessary to exercise the Board's jurisdiction;

(g) require Public Utilities to file annual reports of a uniform content and form as prescribed by the Board;

(h) require special reports regarding any matter about which the Board is authorized to inquire or to keep itself informed for purposes of enforcement of any of the provisions of this ordinance or any rules and regulations made pursuant to it;

(i) prescribe and collect reasonable fees for the administration and enforcement of this ordinance. A schedule for such fees and charges shall be adopted by resolution;

(j) employ and fix the compensation of accountants, technical, legal and clerical employees necessary to carry out this ordinance;

(k) prescribe by resolution, adopted at a duly noticed public hearing, rules and regulations governing the provision of service by Utilities, customer relations, and any other matters affecting the public interest, or is reasonably necessary and proper for administration and enforcement of this ordinance;

(l) to require as a condition of the franchise, the franchisee's consent to entry by County agents and employees upon any property occupied by any public utility at any reasonable time (which shall ordinarily be during normal business hours, except in the case of an emergency), and to set up and use thereon all necessary equipment to make investigations, inspections, examinations, and tests, or to exercise any power under this ordinance, provided that the public utility has the right to reasonable notice of, and to be represented at, the making of any investigations, inspections, examinations and tests;

(m) expend public funds, after public hearing, for the installation of a system of fire hydrants and supply pipes together with necessary accessories, to provide fire protection in areas served by a public water system; the cost of such an installation shall be prorated to all

properties in the area to be served whether improved or unimproved; the utility company shall bill each property owner for the proportionate share of the cost and reimburse the County for the public funds expended; in the event a customer should make a partial payment of a bill, the portion of the bill represented by the utility's rates, fees or charges shall be credited first and the remainder, if any, will be credited to the County; after ninety (90) days from the date of billing, any unpaid costs shall be deemed delinquent and shall be a lien upon the land in favor of the county which may be enforced in the same manner as are liens for County ad valorem property taxes;

(n) authorize the owner of property on which are located multiple residential or commercial units, or a person otherwise lawfully in control of that property, to engage in the not-for-profit sale of water and/or sewer service to the consumers occupying the individual residential or commercial units located on the property; and

(o) construct, operate and maintain publicly owned water and sewerage utilities, and enter into agreements with other governmental bodies, Public Utilities and other legal entities, including individuals, for all legal purposes connected with such construction, operation and maintenance, including but not limited to agreements with public utility franchisees for the reservation of specific quantities of water supply, water or sewerage treatment capacity, and sale and purchase of water. Such an agreement between the Board and an existing public utility franchisee shall constitute an amendment to the existing franchise and may provide for rate adjustments pursuant to the terms of the agreement without the necessity of a rate hearing. No public hearing shall be required for amendment of a franchise by such agreement.

(p) Nothing herein shall be construed to limit other powers or authority conferred

upon the Board by law.

SECTION 3. Franchises.

(a) Franchise Requirements. After the effective date of this ordinance, no person shall build, install, maintain or operate any public water or public sewerage system or bulk water utility in the unincorporated area of the County unless the Board has granted a franchise to the person or unless the person is determined by the Board to be exempt under this ordinance. All franchises heretofore granted by the Florida Public Services Commission before March 5, 1997 shall remain in force in accordance with their respective tariffs and provisions until revised in accordance with requirements of this Ordinance.

(b) Franchise Term. The Board may grant a franchise to a public water or sewerage utility for any period of time not exceeding twenty (20) years, and to a bulk water utility for any period of time not exceeding thirty (30) years. At any time before the expiration of an original franchise, and upon application of a franchisee, the Board may grant a franchise or a renewal thereof to a public water or sewerage utility for additional periods of time, each period not exceeding twenty (20) years, and to a bulk water utility for additional periods of time, each period not exceeding thirty (30) years. Provided, any franchise existing on March 5, 1997 shall have an initial term twenty (20) years, beginning on the date of the adoption of this Ordinance.

(c) Responsibility to Serve Entire Area. A franchisee shall have the responsibility of serving the entire area covered by the franchise upon acceptance of the franchise; provided, however, that service will be initiated within a reasonable time after any request for such services, upon reasonable terms and conditions approved by the Board, when economically feasible.

- (d) **Franchise Agreement Requirements.** Each franchise agreement shall specify:
- (1) terms and conditions necessary to protect the public health, safety and general welfare;
 - (2) whether the franchise is for a public water system or public sewerage system or a bulk water utility, or more than one of them;
 - (3) that the franchisee for a public water system or public sewerage system shall provide installations, pipes, lines, extensions, mains, and laterals for both systems so that one system will not be extended without the other system being extended at the same time, unless justification for such extension is accepted and approved by the Board;
 - (4) the geographic area to be served by the franchisee; the franchise may be exclusive or non-exclusive for the area; the franchise for a bulk water utility shall specify the area to be served by the system and may include all or part of an area covered by the franchise of a Public Water Utility, but the bulk sale of water within that area shall be only to the franchised Public Water Utility.
 - (5) that the system shall be approved by the appropriate governmental agencies as to design, construction, operation, capacity, maintenance and expansion;
 - (6) that the issuance of the franchise is not a bar to acquisition of the public utility by the County or any other governmental agency by lawful means; and
 - (7) Franchisee's consent to entry by County agents and employees upon

any property occupied by any public utility at any reasonable time, and to set up and use thereon all necessary equipment to make investigations, inspections, examinations, and tests, or to exercise any power under this ordinance, provided that the public utility has the right to reasonable notice of, and to be represented at, the making of any investigations, inspections, examinations and tests.

(8) that the Franchisee shall file with the Board copies of the construction plans for the system which must be approved by the appropriate governmental agencies prior to any construction being initiated, and that upon completion, a set of the as-built drawings shall be filed with the Board.

(e) Franchise Agreement Amendments. Franchise agreements may be amended upon mutual consent of the parties thereto.

(f) Compliance County Ordinances Required. No franchisee shall provide water hookups to any property unless the customer provides evidence to the franchisee that customer has obtained all applicable building permits required by DeSoto County.

SECTION 4. Application for Franchise.

(a) Form of Application. An application for a franchise shall be made in such form as may be prescribed by the county and shall be executed by the person who will be the franchisee, or by an authorized representative of the franchise applicant. The Board may require an applicant to file a certified copy of its certificate of incorporation, if any; an audited financial statement; and other data such that the Board can determine whether or not the applicant is qualified for a franchise under this ordinance. The Board may require the applicant

to post a bond, satisfactory to the Board in form and sureties, to guarantee compliance with any conditions imposed by the Board for issuance of a franchise.

(b) **Minimum Filing Requirements.** The applicant shall submit an original and ten (10) copies of an application which shall provide:

- (1) The applicant's full, accurate name and address.
- (2) The character of its organization, i.e., corporation, partnership, individual proprietorship, association, etc.
- (3) The names and addresses of all corporate officers and directors, or the names and addresses of all persons owning an interest in the utility which is not a corporation.
- (4) The date the utility was established.
- (5) Evidence that the utility owns the land where the utility facilities are located or a copy of the agreement which provides for the continuous use of the land or in the case of a new utility that the utility has the financial ability to acquire property for facilities.
- (6) If the applicant is a new utility seeking approval of initial rates, a cost study supporting the requested rates shall be submitted.
- (7) A description of the territory to be served using metes and bounds with township, range and section references.
- (8) A general area map indicating the area to be served and a simplified description of the area by referring to street and other geographical landmarks. Water and sewer plant sites shall be indicated.
- (9) The serial numbers and dates of approval of engineering plans and

—

specifications for any proposed water or sewer system given by the Florida Department of Health and Rehabilitative Services, Environmental Engineering, and permit numbers and or dates of issuance of any permits for sewer systems issued by the Department of Environmental Protection, if available. If permits have not been issued, then a conceptual plan showing the layout of the proposed system, including, where applicable, the source of water, method of treatment of water, and method of disposing sewage effluent, which sources and methods shall be demonstrated to be adequate to protect the public health, safety and welfare.

- (10) A detailed statement (balance sheet) of the financial condition of the applicant showing all assets and liabilities of every kind and character.
- (11) A statement of profit and loss (operating statement) of the applicant for the preceding calendar or fiscal year, if the applicant has operated for such period, or any lesser period if the applicant has not operated for a full year.
- (12) Audited financial statement of the applicant.
- (13) A statement listing those entities providing the principal funding to the utility.
- (14) A schedule showing the projected cost of the proposed system(s) by the National Association of Regulatory Utility Commissioners (NARUC) account numbers and the related capacity of each system in equivalent dwelling units (EDU's) and gallons per day.

- (15) A schedule showing the projected operating revenues and expenses of the proposed system by NARUC account numbers when 80% of the designed capacity of the system is being utilized.
- (16) A schedule showing the projected capital structure including the methods of financing for the construction and operation of the utility for the initial five years of the development.
- (17) A description of the types of customers anticipated, e.g., single family homes, mobile homes, duplexes, golf course clubhouse, commercial, industrial, etc.
- (18) A description of the method or methods the applicant intends to use to recover the investments in the plant(s); i.e., by charging system capacity fees, by including an amount in the sales price for lots, residences, etc, or by some other method requiring contribution in aid of construction and/or depreciation.,

(c) Board Determinations. Upon receipt of the application the Director of Public Works shall review the application to determine if the application is incomplete. If the Director determines the application is incomplete the Director may request further information from the Applicant. Upon the expiration of sixty (60) days from the date of filing, the Director shall make a final determination regarding whether the application is complete (unless an extension is agreed to by the Applicant) and shall forward the application to the Board with his or her determinations and recommendations. Upon receipt of the application, with the Director's determinations and recommendations, the Board may grant, deny, or amend, in whole or in part, an application upon such conditions as it deems proper, and after requiring such further

information as it deems necessary. Before any franchise is granted, the Board shall consider whether:

- (1) the applicant has the technical means to build, install and operate the proposed public utility;
- (2) the applicant has sufficient financial resources to serve the area for which an application is made;
- (3) the proposed system has or will have sufficient capacity to serve the area for which the franchise is sought;
- (4) the conceptual plan showing the layout of the proposed system filed by the applicant demonstrates that the source of water, method of treatment of water, and method of disposing of sewage effluent are adequate to protect the public health, safety, and welfare;
- (5) the applicant's proposed rates, fees, and charges are just, reasonable, compensatory, and not unfairly discriminatory;
- (6) the application is consistent with the County Comprehensive Plan or and County Ordinances.
- (7) utility service will be needed in the franchise area and will be provided by the applicant within five (5) years from the date of the application;
- (8) there will be a favorable economic impact from the utility service provided by the applicant;
- (9) the proposed system would be in competition with, or a duplication of, any other system, or portion thereof, and whether such other system, or portion thereof, is inadequate to meet the needs of the public and

that the person(s) operating the other system is unable, refuses, or neglects to provide reasonably adequate service; and

(10) the Board has jurisdiction to hear the application.

(d) **Public Hearing Requirement.** The Board shall hold a public hearing on the application before any franchise is granted. Notice of the hearing, the name of the applicant, the area to be included in the franchise, the proposed rates and connection charges, the period for which the franchise is requested, and the time and place of the hearing shall be published by the County in a newspaper of general circulation in DeSoto County at least ten (10) days prior to the date of the hearing.

(e) **Cancellation of Franchise.** The Board may prescribe a reasonable time within which the authority granted in a franchise shall be exercised. If the service authorized by the franchise is not provided within the time prescribed, the franchise may be canceled, but the Board may extend the time for good cause shown, if application therefor is made before expiration of the time prescribed in the franchise. In such event the Board may impose such conditions as it deems proper to assure the provision of adequate service at reasonable cost.

(f) **Application Fee.** The applicant shall pay the Board an application fee in accordance with the fee schedule then adopted by the Board. The fee shall not be refunded.

SECTION 5. Application for Franchise Boundary Change.

(a) It is the general policy of the Board to allow only for extensions of franchise territories to contiguous parcels of land and in such manner as to not create "pockets" of unserved areas. Any application not adhering to this general policy shall detail the public interest to be served by such variation. The franchisee shall file with the Director of Public Works an original application and ten (10) copies which shall provide:

- (1) Legal description on a separate sheet of the proposed franchise extension area, using metes and bounds with township, range and section references, including a statement of the number of acres contained therein. In the event that there may be a dispute regarding the exact boundaries of two adjoining utilities, the County may require a survey be performed of the existing or proposed franchise area, which survey shall be certified and sealed by a Florida registered professional land surveyor.
- (2) General area map indicating area to be served and a simplified description of the area by referring to streets and other geographical landmarks. Water and/or sewer plant sites shall be indicated,.
- (3) The name and address of any entity which owns property within the area to be added to the franchise and which is requesting an extension of the franchise.
- (4) Estimated number of equivalent dwelling units (EDU's) and service connections.
- (5) Letter submitted by a Florida Registered Professional Engineer for the franchisee, indicating the effect the addition to the franchise area will have on the total permitted capacity and the utility's ability to meet applicable State and County regulatory requirements.
- (6) A conceptual plan showing the layout of the proposed system, including, where applicable, the source of water, the method of treatment of water, the method of disposing of sewage effluent, which sources and

methods shall be demonstrated to be adequate to protect public health safety and welfare.

- (7) A schedule showing the entire projected cost of the planned systems, including plant expansions and line extensions for the proposed franchise expansion, by NARUC account numbers and the rated capacity of each system in equivalent dwelling units (EDU's).
- (8) A description of the types of customers anticipated in the proposed franchise extension area (e.g. single family homes, mobile homes, duplexes, golf club clubhouse, commercial, industrial,, etc.).
- (9) Description of the plan for financing the planned capital improvements and copy of all developer agreements pertaining to the proposed franchise extension, if applicable.

(b) As a prerequisite for the Board's consideration of a utility's request for a franchise boundary change, the utility must meet ALL the following requirements:

- (1) Be current in the payment of the franchise administration fees.
- (2) Be current in the filing of its annual financial report and audited financial statement, if required.
- (3) Be current in payment of any amounts due to a bulk water utility or other supplier of water, including any governmental entity supplying water to franchisee, for the sale of water to franchisee.

(c) Board Determination. Upon receipt of the application the Director of Public Works shall review the application to determine if the application is incomplete. If the Director determines the application is incomplete the Director may request further information from the

Applicant. Upon the expiration of sixty (60) days from the date of filing the Director shall make a final determination regarding whether the application is complete (unless an extension is agreed to by the Applicant) and shall forward the application to the Board with his or her determination and recommendations. Upon receipt of the application, with the Director's determinations and recommendations, the Board may grant, deny or amend, in whole or in part, an application for franchise area extension upon such conditions as it deems proper, and after requiring such further information as it deems necessary. Before any extension is granted, the Board shall consider whether:

- (1) the applicant has the technical means to serve the area for which an extension is requested;
- (2) the applicant has sufficient financial resources to serve the area for which an extension is requested;
- (3) the system has or will have sufficient capacity to serve the area for which the franchise area extension is sought;
- (4) the conceptual plan showing the layout of the proposed system filed by the applicant demonstrates that the source of water, method of treatment of water, method of treatment of wastewater, and method of disposing of sewage effluent are adequate to protect the public health, safety, and welfare;
- (5) the application is consistent with the County Comprehensive Plan or any County Ordinance.
- (6) utility service will be needed in the proposed extension area and will be provided by the applicant within a reasonable period of time set by the

Board of County Commissioners, which shall not exceed five (5) years from the date of the application; and that

- (7) there will be a favorable economic impact from the utility service provided by the applicant;
- (8) the proposed system would be in competition with, or a duplication of, any other system, or portion thereof, and whether such other system, or portion thereof, is inadequate to meet the needs of the public and that the person(s) operating the other system is unable, refuses, or neglects to provide reasonably adequate service; and
- (9) the Board has jurisdiction to hear the application.

(d) **Public Hearing Requirement.** The Board shall hold a public hearing on the application before any franchise boundary change is granted. Notice of the hearing, the name of the applicant, the area to be included in the franchise boundary change, and the time and place of the hearing shall be published by the County in a newspaper of general circulation in DeSoto County at least ten (10) days prior to the date of the hearing.

(e) **Application Fee.** The applicant shall pay the Board an application fee in accordance with the fee schedule then adopted by the Board. The fee shall not be refunded. At the applicant's option, and with the written concurrence of the person causing the request, this fee may be charged to the person causing the request for extension.

SECTION 6. Application for Transfer of Franchise.

When a utility proposes to sell, transfer or assign its franchise, facilities or any portion of those facilities, or majority organizational control, the franchisee shall apply to the County for authorization of the transactions, and shall receive the approval of the Board prior to such

selling, transferring or assignment being effected.

(a) **Minimum Filing Requirements.** The franchisee shall file with Public Works an original application and ten (10) copies which shall provide the following:

- (1) the full name and address of the seller (transferor)
- (2) the full name and address of the buyer (transferee);
- (3) the type of business organization of the transferee (corporation, partnership, individual proprietorship);
- (4) the names and addresses of corporate officers and directors of transferee;
- (5) the audited financial statement of the transferee (person, company or corporation to whom the franchise is to be transferred), together with an inventory of capital assets, except when the transferee is a wholly-owned subsidiary of the franchise.
- (6) The date and state of incorporation or organization of transferee; if a corporation, copies of the corporate charter of the transferee and amendments thereto;
- (7) the names and locations of any other public utilities owned by the transferee;
- (8) the date on which the proposed transfer is expected to be accomplished;
- (9) the names and addresses of the proposed principal owners (principal owners are those owners who have ten percent or more of the voting rights or the right to participate in ten percent or more of the profit from

- the utility);
- (10) a copy of the contract for sale, which should include or provide for the disposition of:
- (10.1) customer deposits and accumulated interest thereon;
 - (10.2) any guaranteed revenue contracts;
 - (10.3) developer agreements;
 - (10.4) customer advances;
 - (10.5) debt of the utility;
 - (10.6) leases;
 - (10.7) purchase price and terms of payment;
 - (10.8) balance sheet which lists the assets purchased and liabilities assumed (or not assumed); and
 - (10.9) schedule of contributions in aid of construction and its accumulated depreciation.
- (11) a statement from the transferee as to the financing of the purchase;
- (12) a statement of facts relied upon by the transferor to demonstrate that the transfer is in the public interest, including a summary of the transferee's experience in water and/or sewer utility operations and a showing of the transferee's financial ability to provide the service;
- (13) the rate base of the transferor as of the proposed date of transfer;
- (14) the proposed rate base of the transferee as of the date of transfer;
- (15) a statement setting out the reasons for the inclusion of an acquisition adjustment;

(16) a statement by the transferor that it will furnish the transferee with all the books and records of the utility, or duplicates thereof.

(b) As a prerequisite for the Board's consideration of a utility's request for approval of a franchise transfer, the utility must meet ALL the following requirements:

- (1) Be current in the payment of the franchise administration fees.
- (2) Be current in the filing of its annual financial report and audited financial statement, if required.
- (3) Be current in payment of any amounts due to a bulk water utility or other supplier of water, including any governmental entity supplying water to franchisee, for the sale of water to franchisee.

(c) Board Determinations. Upon receipt of the application the Director of Public Works shall review the application to determine if the application is incomplete. If the Director determines the application is incomplete the Director may request further information from the Applicant. Upon the expiration of sixty (60) days from the date of filing, the Director shall make a final determination regarding whether the application is complete (unless an extension is agreed to by the Applicant) and shall forward the application to the Board with his or her determinations and recommendations. Upon receipt of the application, with the Director's determinations and recommendations, the Board may grant, deny or amend, in whole or in part, an application for transfer of franchise upon such conditions it deems proper, and after requiring such further information as it deems necessary. Before any transfer is granted, the Board shall consider the following:

- (1) that the application is made in good faith;
- (2) that the proposed transfer is in the public interest;

- (3) that the utility is in regulatory compliance; and
- (4) the economic impact, if any, on the utility customer base.

(d) **Public Hearing Requirement.** The Board shall hold a public hearing on the application before any franchise transfer is granted. Notice of the hearing, the name of the transferor, transferee, the rate base of the transferor as of the proposed date of transfer, the proposed rate base of the transferee as of the date of transfer, and the time and place of the hearing shall be published by the County in a newspaper of general circulation in DeSoto County at least ten (10) days prior to the date of the hearing

(e) **Transfers to Homeowners Association.** Transfers to homeowners associations or similar groups or organizations shall be subject to the following additional provisions:

- (1) The transferee shall be a corporation not for profit organized under the laws of the State of Florida. All users of the service or services of the utility shall be members of the corporation and each shall be entitled to one vote in the affairs of the corporation.
- (2) The members of the corporation shall have voted to purchase the franchise not more than ninety (90) days prior to the filing of the application for transfer. The majority vote required for approval shall be that provided in the corporate charter or by-laws, but in no event shall be less than fifty percent (50%) of the members, plus one.

(f) **Name Change.** Changes in the name of a corporation or other entity holding a public utility franchise, even though not involving a transfer of the franchise or of assets, shall not be made without the approval of the Board. The Board shall grant or reject the request by a duly adopted resolution.

(g) Application Fee. The applicant shall pay the Board an application fee in accordance with the adopted Fee Resolution . The fee shall not be refunded.

SECTION 7. Rates, Fees and Charges.

(a) The County adopts as minimum standards of regulation for the setting of rates, fees and charges, the provisions of Section 367.081, Florida Statutes, excepting paragraph (4)(a), and the provisions of Section 367.082, Florida Statutes, as such statutes may be amended or renumbered in the future. The County further adopts as minimum standards for the setting of rates, fees and charges, the provision of Chapter 25-30, Part V "Rate Adjustment Changes", F.A.C., excepting Rules 25-30.455 and 25-30.456, F.A.C., as such rules may be amended or renumbered in the future.

(b) Where the word "commission" is used in the statutes and rules cited in subsection (a) of this section, this word shall be read to mean the Board of County Commissioners of DeSoto County when the context implies or admits. The foregoing notwithstanding, the word "commission" as used in Rules 25-30.415 and 25-30.420(1), F.A.C., shall be read to mean the Florida Public Service Commission. References to "commission forms" shall be read to mean forms promulgated by the Florida Public Service Commission. References to the "Director of the Division of Water and Wastewater" and "Division of Water and Wastewater," or the "Director of the Division of Records and Reporting" and "Division of Records and Reporting," or the "Director of the Division of Consumer Affairs" and "Division of Consumer Affairs," shall be read to mean the DeSoto County Director of Public Works and DeSoto County Department of Public Works, whose address is 201 E. Oak Street, Suite 203, Arcadia, Florida 34266. References to "Rule 25-30.110(3), F.A.C." shall be read to mean Section 10(a) of this Ordinance.

SECTION 8. Rate Hearings.

(a) The County adopts as minimum standards for rate setting proceedings Chapter 25-22, Part IV "Decisions Determining Substantial Interest", F.A.C., as such rules existed on June 30, 1998, excepting Rules 25-22.025, 25-22.033, 25-22.0405, 25-22.0406, 25-22.0408, 23-22.045(1), and 25-22.049, F.A.C. The provision of these rules notwithstanding, the scope of these rules shall be limited to the conduct of rate setting proceedings. These rules shall not apply to proceedings which concern the award of franchises, change of franchise boundaries, transfer of franchises, the revocation of franchises, appointment of receivers or enforcement proceedings.

(b) Rate proceedings may be heard by the entire Board of County Commissioners sitting en banc. Alternatively the Board may designate a member of the Board, or appoint a Hearing Examiner, to hear any rate proceeding and present to the Board a recommended order for final decision. The provisions of any rule incorporated by subsection (a) notwithstanding, nothing herein shall be construed to entitle any person to assignment of their case to the Division of Administrative Hearings for a hearing before an Administrative Law Judge.

(c) The County may retain a Hearing Examiner to hear any rate application, and Rate Consultants to review such rate application. Fees and costs of such Hearing Examiner and Rate Consultants shall be paid by the Utility which has submitted the rate application and shall be recovered in said Utility's rate base. The Utility shall be required to deposit with the County reasonable retainer(s) set by the Board to ensure the payment of such fees and costs. Additional retainers may be required as the initial retainer(s) is depleted. Upon conclusion of the rate proceedings, and submission and payment of the Hearing Examiner's and/or Rate Consultants' final invoice(s), any remaining retainer amounts shall be returned to the Utility.

The Utility shall be allowed to recover in its base rate, the County's rate case charges assessed against Utility.

(d) Subpoenas may be applied for from, and shall be issued by, the Clerk of Courts in and for DeSoto County, Florida.

(e) Where the word "commission" is used in the above rules this word shall be read to mean the Board of County Commissioners of DeSoto County when the context implies or admits. References to "commission forms" shall be read to mean forms promulgated by the Florida Public Service Commission. References to the "Director of the Division of Water and Wastewater" and "Division of Water and Wastewater," or the "Director of the Division of Records and Reporting" and "Division of Records and Reporting," or the "Director of the Division of Consumer Affairs" and "Division of Consumer Affairs," shall be read to mean the DeSoto County Director of Public Works and DeSoto County Department of Public Works, whose address is 201 E. Oak Street, Suite 203, Arcadia, Florida 34266. References to the "Division of Administrative Hearing," "DOAH" or "Hearing Officer" shall be read to mean a Hearing Examiner retained by the Board. References to the "Florida Administrative Law Weekly" shall be read to mean a newspaper of general circulation in DeSoto County. References to "§120.57 hearings" shall be read to mean rate setting proceeding pursuant to this ordinance. References to Sections 120.595, 350.01, 350.113, 364.335, 365.05, 366.06, 367.045, and 367.0814, Florida Statute, and Rule 25-22.008, F.A.C., shall not be construed to adopt said statutes and rule, and such references shall be disregarded. References to Rule 25-22.006, F.A.C., shall not be construed to adopt said rule, however, confidential information shall continue to be treated in whatever manner may be provided by law.

SECTION 9. Availability of Service.

Each public utility shall, where economically feasible, furnish within a reasonable time and reasonable terms and conditions to each person within its franchised area applying therefor reasonably adequate and efficient service in accordance with its franchise and the rules and regulations prescribed by the Board. If the furnishing of service by a public utility requires the extension of or an addition to its existing facilities, the public utility may require the applicant for such service to pay reasonable sums for service availability or reasonable deposits guaranteeing compensatory revenues from the territory to be served or reasonable contributions in aid of construction to help defray the cost of the facilities which will be used and useful in furnishing the service, or reasonable construction or other advances evidenced by refundable or nonrefundable agreements, or any combination thereof, as a condition precedent to furnishing service. All rates, fees and charges demanded or received by any public utility for any service rendered, or to be rendered, by it and each rule and regulation of the public utility shall be fair and reasonable. No public utility shall create or give an undue or unreasonable preference or advantage to any person or locality.

SECTION 10. Reports, Fees, Records, Accounts, Map, Complaints and Rules for Depreciation.

(a) **Annual Reporting Requirements.** Each franchisee collecting rates, fees or charges shall file with the Director of Public Works, an audited financial statement, and an annual financial report on forms prescribed by the Board in accordance with the standards of the National Association of Regulatory Utility Commissioners (NARUC).

- (1) The annual financial report filed by any franchisee which has annual gross receipts of more than fifty thousand dollars (\$50,000) shall be accompanied by an audited financial statement prepared by a certified

public accountant. Waivers to the filing of the audited financial statement may be granted by the Board at its discretion.

- (2) The annual financial report and audited financial statement shall be filed within one hundred and twenty (120) days after the end of the franchisee's fiscal year.
- (3) If the franchisee provides service in DeSoto County through a subsidiary or separate operating division of a parent corporation which does business in locations other than DeSoto County, the annual financial report and audited financial statement required by this subsection shall be provided by the franchisee in such form as to clearly reveal the financial details of the DeSoto County franchise as a separate operational unit of the parent corporation. Where individual system or county audited financial statements are unavailable, a consolidated audited may be substituted.

(b) Franchise Administration Fee and Reporting Requirements. Each franchisee shall pay to the County a franchise administration fee to be established by the Board by Resolution. This fee shall defray all County's expense of regulating the Public Utilities franchises. Such fee shall be determined after public hearing by Board resolution from time to time, and shall become effective not less than thirty (30) days after adoption of an implementing resolution, and shall be charged pro rata to the customers of the public utility. Expenses incurred by the County as a court appointed receiver, for operation, maintenance of and repair of abandoned franchised Public Utilities (including costs associated with extraordinary repairs to protect the health, safety and welfare of the general public) shall be borne by the customers of such

ORDINANCE NUMBER 99 - 10

AN ORDINANCE OF DESOTO COUNTY, FLORIDA, RELATING TO THE GRANTING OF A FRANCHISE FOR THE PROVISION OF WATER AND SEWER SERVICES AS SET FORTH IN ORDINANCE NUMBER 1999-01 TO THE FLORIDA WATER SERVICES CORPORATION. ESTABLISH SPECIFIC SERVICE AREAS AND DISTRICTS IN WHICH FLORIDA WATER WILL BE GIVEN THE AUTHORITY TO OPERATE WATER AND SEWER UTILITY SERVICES TO ALL CUSTOMERS IN THE SPECIFIED AREAS. TO PROVIDE LEGAL DESCRIPTIONS OF THE AREAS TO BE FRANCHISED TO FLORIDA WATER SERVICES CORPORATION AND PROVIDE FOR THE CONDITIONS UNDER WHICH SUCH SERVICES SHALL BE FURNISHED. ESTABLISH TERM OF THE FRANCHISE AND THE RESPONSIBILITY OF THE FRANCHISEE TO SERVE ALL CUSTOMERS IN THEIR DESIGNATED FRANCHISE AREA; SETTING FORTH A PROCEDURE FOR THE ESTABLISHMENT OF WATER & SEWER RATES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WITNESSETH

WHEREAS, pursuant to the provisions of DeSoto County Ordinance Number 1999-01, Florida Water Services Corporation hereinafter known as (FWSC) has applied for a public water and sewer system franchise agreement with DeSoto County hereinafter known as (County); and

WHEREAS, Ordinance Number 1999-01 enacted on February 23, 1999 established the authority, process and procedures for the granting of water and sewer franchises within DeSoto County; and

WHEREAS, the application of FWSC being considered in this Ordinance are governed by the applicable provisions of Ordinance Number 1999-01; and

WHEREAS; a public hearing was duly held by the Board of County Commissioners on June 8, 1999 in which Ordinance Number 11 was enacted which describes the proposed franchise area sought to be served by Florida Water Services Company; and

WHEREAS; public notice as to the official consideration of this Ordinance has been provided in accordance with applicable legal requirements.

THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DESOTO COUNTY, FLORIDA, that:

SECTION I. DEFINITIONS

The definitions as set forth in Ordinance 1999-01 shall be applicable for purposes of Ordinance interpretation for this Ordinance.

SECTION II. TERMS AND CONDITIONS

- A. **Public Health Safety & Welfare:** Said water & sewer system will be operated in such a manner as to insure the protection of the health, safety and general welfare. In addition to the general meaning of this requirement, FWSC shall insure that it meets all Federal and State requirements for the operation of their systems, at all times.
- B. **Specific Service to be Geographically Defined:** The franchise granted herein is for the operation of a public water and sewerage system to be operated within the specified franchise areas within the County.

See Exhibit A for the legal description of the franchise area(s) which are applicable under the provisions of this Ordinance.

- C. **Provision of Service in Franchise Areas:** As provided for in Ordinance 199-01; FWSC will insure that water and sewerage disposal systems and facilities will be made available (in the area specified in Exhibit A) to include: installations, pipes, lines, extensions, mains and laterals for both systems so that one system will not be extended without the other system being extended at the same time, unless justification for such extension is accepted and approved by the Board;
- D. **Exclusive Franchise for Service of Franchised Areas:** The County herein grants the FWSC the exclusive right to provide water and sewerage services to the area specified in Exhibit A. This exclusive franchise means that the County will not authorize any other provider to provide service in these areas unless or until this Franchise Agreement with FWSC has been determined to be null and void and/or the FWSC has been found to be in violation of this Ordinance to extent that the County requires another provider to make service available in these areas.
- E. **Construction Standards:** The water and sewer system shall be constructed in accordance with all applicable Federal and State standards.

F. **Acquisition of the System by the County or Other Governmental Agency:**

The granting of this franchise to FWSC is not a prohibition to the acquisition of the System by the County or any other Governmental Agency, by lawful means.

G. **Consent of Entry:** FWSC consents to entry by the County agents and employees upon any property occupied by any public utility at any reasonable time and to set up and use thereon all necessary equipment to make investigations, inspections, examinations and tests, or to exercise any power under this Ordinance and Ordinance Number 1999-01, provided that the FWSC has the right to reasonable notice of and to be represented at the making of any investigations, inspections, examinations and tests.

H. **Franchise Agreement Amendments:** Amendments to this Ordinance may be made by mutual consent of both parties.

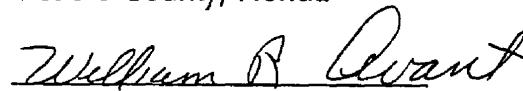
I. **Compliance with County Ordinances:** As set forth in Ordinance 1999-01; FWSC herein agrees that it will not provide hookups for water and sewer utilities unless the Customer provides evidence to FWSC that they have obtained all applicable building permits as required by DeSoto County.

SECTION III. FINDINGS

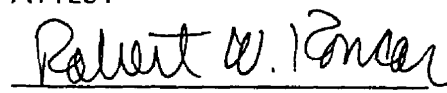
Compliance with Requirements of Ordinance 1999-01 The County herein finds that FWSC has been all of the requirements set forth in Ordinance 1999-01 which include but are not limited to the findings set forth in Section 4. (C) Board Determinations (1) through (10).

PASSED THIS 8TH DAY OF JUNE, 1999

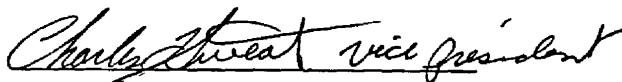
Board of County Commissioners
DeSoto County, Florida


William R. Avant
Chairman


ATTEST


Robert W. Koncar
County Administrator

Florida Water Services Corporation


Charles Street vice president

APPROVED AS TO LEGAL FORM:


Preston T. Everett

EFFECTIVE DATE: 6-17-99

DeSoto County Proposal
Legal Description

Township 37 South, Range 25 East, DeSoto County, Florida.

Section 27, 28, 29

All of said Sections.

Section 30

The Northeast $\frac{1}{4}$ of said Section 30 and the North $\frac{1}{4}$ of the East $\frac{1}{4}$ Southeast $\frac{1}{4}$ of said Section 30.

Section 32

The East $\frac{1}{2}$ of said Section 32 and the East $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of said Section 32 and the South $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of said Section 32 and the North $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of said Section 32 and the South $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of said Section 32 less and except:

The Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 32; and the East $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 32; and the East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ less the West 25 feet of said Section 32; and the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ less the West 25 feet of said Section 32; and the East 70 feet of the West 360 feet of the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 32 less the right-of-way on North side of State Road 70.

Section 33, 34

All of said Sections.

Township 38 South, Range 25 East, DeSoto County, Florida.

Section 3, 4, 5

All of said Sections.

Section 6

The South $\frac{1}{2}$ of said Section 6 less and except the Forest Pines subdivision as follows:

The East $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ and the Southeast $\frac{1}{4}$ of said Section 6 less 12 acres East of Scott Road and less the 5 acre boundary to Brantly Road (PB 9 Pg 20).

Township 39 South, Range 23 East, DeSoto County, Florida.

Section 10

All of the South $\frac{1}{2}$ of Section 10 less and except that part of Section 10 lying South and West of the Seaboard Coast Line railroad and North and West of the Seaboard Coast Line railroad.

Section 11

That part of the South $\frac{1}{2}$ of Section 11 lying North and West of the Peace River.

Section 13

All of said Section.

Section 14

All of said Section 14 lying South and East of the Peace River.

Section 15

All of said Section 15 lying North and West of the Peace River less and except that portion lying North and West of the Seaboard Coast Line railroad.

Section 16

All of said Section 16 lying South and East of the Seaboard Coast Line railroad.

Section 17

All of said Section 17 lying South and East of the Seaboard Coast Line railroad.

Section 19

All of Section 19 lying South and East of the Seaboard Coast Line railroad.

Section 20

All of said Section 20 lying South and East of the Seaboard Coast Line railroad.

Section 21

All of said Section.

Section 22

All of said Section 22 lying South and West of the Peace River.

Sections 23, 24, 25

All of said Sections.

Section 26

All of said Section 26 East of the Peace River.

Section 29

All of said Section.

Section 30

All of said Section 30 lying South and East of the Seaboard Coast Line railroad.

Section 35

All of said Section 35 East of the Peace River.

Section 36

All of Said Section.

Township 39 South, Range 24 East, DeSoto County, Florida.

Sections 17, 18, 19, 20, 29, 30, 31, 32

All of said Sections.

ORDINANCE NO. 2002 - 04

DESOTO COUNTY, FLORIDA

AN ORDINANCE OF DESOTO COUNTY, FLORIDA, CREATING A COUNTY OWNED WATER AND WASTEWATER SYSTEM UTILITY; ESTABLISHING RULES; ESTABLISHING EXCLUSIVE SERVICE AREA; PROVIDING FOR DEFINITIONS; PROVIDING FOR RATES, CHARGES AND SERVICE SCHEDULES; PROVIDING FOR THE AMENDMENT AND/OR REPEAL OF ANY ORDINANCE TO THE EXTENT THAT IT IS INCONSISTENT HERewith; PROVIDING FOR PENALTY; PROVIDING FOR THE RECOVERY OF COSTS AND THE IMPOSITION OF LIENS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to the authority of Sections 125.01(k)(1) and 367.171, Florida Statutes, the Board is authorized to adopt ordinances and resolutions necessary for the exercise of its powers; and

WHEREAS, on the 23rd day of February, 1999, DeSoto County Board of County Commissioners (hereinafter referred to as "the Board") passed Ordinance No. 1999-01 relating to the regulation of water and sewerage systems and bulk water utilities in DeSoto County; and

WHEREAS, on the 8th day of June, 1999, the Board passed Ordinance No. 99-10 granting a franchise for the provision of water and wastewater services to Florida Water Services Corporation; and

WHEREAS, the said Florida Water Services Corporation franchise was transferred to DeSoto County by Stipulated Settlement Agreement dated November 1, 2001; and

WHEREAS, the Board desires to expand the utility franchise area to include all of unincorporated DeSoto County less and except those areas presently being served by the City of Arcadia and those areas presently being served by Aquasource Utilities, Inc. (hereinafter referred to as the "service area"); and

WHEREAS, the Board desires to establish rules and rates to be implemented in the providing of water and wastewater services to the service area; and

WHEREAS, a public hearing was held by the Board on February 26, 2002; and

WHEREAS, public notice required by law has been provided.

THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DESOTO COUNTY, FLORIDA, that:

SECTION 1. There is hereby created a County-owned water and wastewater service utility in accordance with Florida Statutes, Chapter 153, for the service area

SECTION 2. Chapter 12 is hereby added to the DeSoto County Code of Ordinances and shall read as follows:

Chapter 12

County Water and Wastewater Service Utilities

Sec. 12.30. Ordinance Repealed. Sections 3 and 4 of DeSoto County Ordinance 1999-01 and all other portions of said Ordinance which may be inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent herewith, and all other portions of said Ordinance shall remain in full force and effect.

Sec. 12.31. Definitions.

As used in this ordinance, the following terms mean:

(a) *Capacity reservation fees* means those fees charged by the county to reserve water and wastewater capacity corresponding to the proposed use. Each developer, builder or property owner requiring utilities services shall be required to make payments to the county in accordance with this ordinance.

(b) *Connection charges* means those charges of the county required to be paid by a customer as a condition precedent to the interconnection of the county's utility system with a customer's property.

(c) *Contributions-in-aid-of-construction (CIAC)* means the sum of money and/or property represented by the value of the water distribution and sewage collection facilities constructed by a customer and conveyed to the county as an inducement to the county to provide service in accordance with the county's water and wastewater extension policies set forth in this ordinance.

(d) *County water* shall mean the water provided under the DeSoto County utility created by this ordinance.

(e) *County service boundaries* shall mean all unincorporated portions of DeSoto County

excepting agreements and franchises existing as of the date of the adoption of this ordinance unless otherwise authorized by the Board of County Commissioners, also excluding multi-jurisdictional Florida Public Service Commission boundaries and incorporated portions of DeSoto County.

(f) *Cross connection* means a connection or arrangement of piping or appurtenances through which water of questionable quality, wastes or other contaminants can enter the public potable water supply system.

(g) *Customer installation* means all pipes, fixtures, meters and appurtenances of any kind and nature used in connection with or forming a part of an installation for utilizing water or wastewater services for any purpose, located on the customer's side of the point of delivery, whether such installation is owned outright by a customer or by contract, lease or otherwise.

(h) *Developer* means any person who engages in the business of making improvements to or upon real property located within or without the county as owner or legally constituted agent for the owner of such real property.

(i) *Easements* means rights of ingress or egress, dedications, rights-of-way, conveyances or other property interests necessary or incidental to the installation, extension, repair, maintenance, construction or reconstruction of the county's utility system or any components thereof, over or upon the customer's property.

(j) *Equivalent residential unit (ERU)*. One water ERU shall be equal to 255 gallons per day of water use. One sewer ERU shall be equal to 215 gallons per day of wastewater discharge.

(k) *Main* means a pipe, conduit or other facility installed to convey water or wastewater service from individual laterals or to other mains.

(l) *Off-site facilities* means those components of water and sewer systems, located outside customer's property with facilities of the county, in accordance with the size required by the county.

(m) *On-site facilities* means those components of water distribution and sewage collection facilities located upon the customer's property.

(n) *Point of delivery* means the point where the county pipes are connected with the pipes of the customer. Unless otherwise indicated, the point of delivery for water shall be at the discharge side of the water meter. Unless otherwise indicated, the point of delivery for wastewater service shall be at the upstream connection of the cleanout, which is placed at or about the public right-of-way or utility easement. In the absence of a cleanout, the point of delivery is at the sewer lateral connection to the sewer main of the county.

(o) *Property* means the land or improvements upon land of which the customer is owner or over which the customer has control either by contract or possessory interest sufficient to authorize

the customer to make application for service, or adjacent right-of-way which services the land or site being developed. The county shall require proof of such interest prior to the furnishing of service by copy of instrument of conveyance, contract or appropriate verified statement contained in the application for service.

(p) *Rate schedule* means the schedule of rates or charges for the particular classification of service.

(q) *Service* includes, in addition to all water and wastewater utilities required by the customer, the readiness and ability on the part of the county to furnish water or wastewater services to the customer.

(r) *Service availability charge* means the charge to customers for availability of service as may be determined from time to time by the county and as presently set forth in the schedule of rates and charges provided for in this ordinance.

(s) *Service lines and lateral lines* mean those pipes of the county that connect to the customer's lines.

(t) *Sewage* means human excrement and gray water (household showers, dish washing operations, etc.).

(u) *Utilities engineer* means the professional engineer, licensed under the provisions of Chapter 471 Florida Statutes as designated by the County Administrator.

(v) *Utilities director* means the person designated by the County Administrator to coordinate the county utility operation.

(w) *Utility system* means the county's water distribution and sewage collection systems, and any component parts thereof, which systems are distinguished in this ordinance as the context determines.

(x) *Wastewater* means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated.

Sec. 12.32. Authority.

Pursuant to Article VIII, Sec. 1(f), Florida Constitution, and F.S. Sec. 125.01(1)(k), and other applicable general and special laws, specifically F.S. 153, the Board of County Commissioners is authorized to provide, regulate, purchase, construct, improve, extend, enlarge and reconstruct water and wastewater facilities; and to operate, manage and control water and wastewater facilities within the county.

Sec. 12.33. Findings.

The Board of County Commissioners of DeSoto County finds, determines and declares the following:

- (a) As the population of the county increases, the demand for central water and wastewater services will also increase.
- (b) In order to protect the health, safety and welfare of its citizens, it is necessary and appropriate that the Board of County Commissioners coordinate and regulate the provision of water and wastewater infrastructure that is necessary for development within the unincorporated areas of the County.
- (c) In order to accomplish these goals, the Board deems it necessary to enact this water and wastewater service area regulatory ordinance.

Sec. 12.34. Creation of Service Area and Establishment of Boundaries.

There is hereby created and established DeSoto County's Exclusive Water and Wastewater Service Area (hereinafter referred to as the service area) consisting of all unincorporated areas of DeSoto County less and except those areas presently being served by the City of Arcadia and those areas presently being served by Aquasource Utilities, Inc. as such areas exist on the date this ordinance is enacted.

Sec. 12.35. Other Utilities of Similar Character Prohibited.

- (a) No person or entity other than the County and/or its designees shall provide water or wastewater services (other than bottled water) to any person or location within the County's Service Area without the County's express written permission. No person or entity other than the County and/or its designee shall construct or use water and/or wastewater transmission lines, pipes, mains, pumping station or the like on or within established rights-of-way for the purpose of providing water and/or wastewater service to land located within the County's service area without the County's express written permission. These prohibitions shall not be deemed to prohibit private water wells and/or septic tanks for individual structures if mandatory connection is not required.
- (b) When cost effective and in the best interests of the County's citizens, the County may contract with other water and/or wastewater utilities that meet County standards to operate within portions of the County's Service Area.

Sec. 12.36. Comprehensive Plan.

Nothing contained in this ordinance shall be construed to allow the County or its designees to provide

water and/or wastewater service to any area within the County's Service Area if providing such service(s) would be inconsistent with the County's Comprehensive Plan.

Sec. 12.37. Connection to Water and Wastewater Systems.

Mandatory connection to County water and wastewater facilities shall be required in accord with the provisions of Sec. ~~12.37~~ hereof.

12.56

Sec. 12.38. Florida Public Service Commission.

Nothing contained in this ordinance is intended to affect or amend the existing service territories of the water and wastewater utilities regulated by the Florida Public Service Commission pursuant to F.S. ch. 367, nor shall this ordinance be construed to affect the powers granted by the Florida Legislature to the Florida Public Service Commission.

Sec. 12.39. Code Enforcement.

This ordinance may be enforced by any method prescribed by law, including injunctive relief and the provisions of Code Enforcement and ordinance enacted thereof.

Sec. 12.40. Uniform applicability of regulations.

In the absence of specific written agreement to the contrary entered into prior to the effective date of the ordinance, the regulations set out in this ordinance apply without modification or change to each and every consumer to whom the County renders service.

Sec. 12.41. Application for service.

It shall be unlawful for any person to use county water without first making application to the County for service no less than 48 hours before the service is desired and paying all charges incident to the application. The applications shall be made on forms furnished by the County and shall constitute an agreement by the customer with the County to abide by the rules of the County in regard to its service of water. Applications for service requested by firms, partnerships, associations and corporations shall be tendered only by their duly authorized agents, and the official title of the agent shall be shown on the application.

Sec. 12.42. Free service prohibited.

No free water or wastewater service shall be furnished or rendered to a person or to the county, the state, or a public agency or instrumentality. Every user of the county's water and wastewater system shall be subject to the equal and uniform rates and charges provided in this article for the class of user within which the user falls, without reduction or other discrimination. Any ordinance or resolution in conflict with this section is repealed to the extent of the conflict.

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Sec. 12.43. Furnishing service for use by other property.

Utility service purchased from the County shall be used by the consumer only for the purposes specified in the application for service. The consumer shall not sell or otherwise dispose of such utility service supplied by the county. All utility service furnished by the County to the consumer shall be through county meters and may not be remetered by the consumer for the purpose of selling or otherwise disposing of such service except for agreements and franchises existing as of the date of the adoption of this ordinance, unless otherwise authorized by the Board of County Commissioners. In no case shall a consumer, except with the written consent of the county, extend water or wastewater lines across a street, alley, lane, court, property line, avenue or other public thoroughfare or right-of-way in order to furnish utility service for adjacent property, even though such adjacent property is owned by him.

Sec. 12.44. Unauthorized connection or use; discontinuance of service; fine imposed; assessment of cost; liens.

No person, without prior written consent of the utilities director, or authorized representative, shall tap any pipe or main belonging to a county water or wastewater system for the purpose of taking or using water from the system or from such pipe or main for connecting to the wastewater system, or for any other purpose. Connections to the county's utilities system for any purpose whatsoever are to be made only as authorized by the county. Any unauthorized interconnection, extension, remetering, meter tampering or disconnection, sale or disposition of utility service shall constitute a violation of this ordinance and shall be subject to the penalties provided for herein.

In case of any unauthorized interconnection, extension, remetering, meter tampering or disconnection, sale or disposition of utility service, the customer's utility service may be subject to a fine of \$500.00 per violation plus an additional \$100.00 per day for each day that the violation continues, reimbursement charges for unauthorized use of services and/or discontinuance of service until such unauthorized use or disposition is corrected and full payment is made for such service. Payment will be calculated based on proper classification and rate schedules, and reimbursement in full made to the county for services used without proper authorization or metering, any extra expenses incurred by the county as the result of such unauthorized use, tampering or damage to county property, including administrative costs, testing, inspections and court costs. The Board shall assess the above-stated costs incurred against the real property of the customer, which assessment, when made, shall constitute a lien upon the said property. Any lien provided for herein shall constitute a lien against the assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. In addition, unauthorized use may result in appropriate criminal prosecution by the county.

Sec. 12.45. Consumer deposits.

Before rendering service, a deposit or guarantee satisfactory to the county to secure the payment of bills and any expenses incurred by the county is required; and, upon payment, the county shall give

the customer a nonnegotiable and nontransferable deposit receipt. Such deposit shall bear no interest. Deposits for residential customers will be applied to payment of the customer account after one year of on-time payments. Deposits for commercial customers shall remain with the county for the term of service. Deposits shall be made in accordance with the rate schedules of the county in effect at the time of payment. Upon final settlement of a customer's account, the deposit may be applied by the county to any account balance due; and any remaining balance of the deposit will be refunded upon adequate identification. The county may require additional deposits for customers whose services have been previously disconnected due to nonpayment or who have tampered with metered service. Such additional deposit shall be equal to the annual average of monthly service charges and may be imposed as a condition to restore or continue service.

Sec. 12.46. Billing.

Bills for service shall be rendered periodically at intervals no less than monthly and not greater than quarterly at the direction of the utilities director and shall be due when rendered. A bill shall be deemed rendered when mailed by United States mail, postage prepaid, or when delivered to the customer's address shown on the application for service. No partial payment of any bill rendered will be accepted by the county unless authorized by the utilities director or authorized representative, in writing, indicating the reason therefore, such as a contested billing, consumption or hardship.

Sec. 12.47. Delinquent bills; procedure for contesting charges.

Delinquent utility fees and charges shall be deemed liens upon the real property or premises as provided by law, and may be foreclosed as provided by law. All statements and billings for utility services shall be deemed delinquent if not paid within 20 days of the billing date shown thereon. Any customer contesting any statement or billing shall first present same to the county's utility department with a statement of explanation or contest in writing prior to the bill's becoming delinquent.

Sec. 12.48. Adjustment of bills; meter readings and inspections.

When a customer is determined by the county to have been overcharged or undercharged as a result of incorrect meter reading, defective metering, incorrect application of rate schedule fees and charges, or mistake in billing, the amount so determined shall constitute an adjustment to the next billing. The adjustment shall be accomplished over a period not to exceed 60 days, unless otherwise directed by the utilities director or authorized representative and so noted on the account. The county shall read and inspect meters periodically to determine their condition and accuracy and as a basis for periodic billings. If a customer requests an inspection or re-reading of a meter, the county may impose a service charge therefore in accordance with policies for service established by the county.

Sec. 12.49. Access to premises.

As a condition to providing service, the customer shall grant to the county or its authorized agents or employees access to the customer's property during all reasonable hours and, in the event of an

emergency, at any time, for the purposes of reading meters or maintaining, inspecting, repairing, installing or removing the county's property, and for any other purposes incident to providing, maintaining or terminating service.

Sec. 12.50. Inspections of consumer's installation; unauthorized alterations.

The county reserves the right to inspect and approve any customer installation prior to providing service and from time to time thereafter to ensure compliance with applicable laws, ordinances of the county, and rules and regulations affecting such installation. No changes or increases in any customer installation which will materially affect proper operation of the county utility system shall be made by a customer without express written consent of the utility engineer and approval of the utilities director. The customer shall be responsible for the cost of making changes or repairs resulting from any unauthorized alteration, and the county may require payment or reimbursement for unauthorized or un-metered service and for corrective repairs as a condition to restore or continue service.

Sec. 12.51. Water meters generally.

- (a) Each customer of the county receiving water must have a water meter which measures flow and which is the ultimate basis for water charges. Meters two inch in size or less shall be furnished by, installed by and remain the property of the county and shall be accessible to and subject to its control. Meters are not transferable to another property, including meters issued for construction purposes. Meters larger than two inches shall be provided and installed by customers. Meter type, design and installation shall be prescribed and approved by the utilities engineer. The customer shall provide meter space to the county at a suitable and readily accessible location.
- (b) Before a meter is installed, all meter installation fees, connection charges and contributions-in-aid-of-construction which are due must be paid. The installation fee to be paid is the amount in effect when the meters are installed.
- (c) Customers may have separate meters for irrigation purposes only. The meter to be furnished by the county shall be sized to be compatible with the existing line and main sizes according to county standards and specifications. The customer shall be required to provide a proper service connection and service line in accordance with the county standards and specifications. Meter sizes other than those originally specified or intended shall be as approved by the utilities engineer.

Sec. 12.52. All water to pass through meter.

That portion of the customer's installation for water service shall be arranged so that all water service shall pass through a meter approved by the county and used for measuring the quantity of water passing through same. No person shall make or cause to be made any connection to the county water system in such manner as to cause water to be supplied without such water's passing through the

meter approved by the county or make or cause to be made any connection to the county utility system in such manner as to take or use water without the consent of the county.

Sec. 12.53. Meter testing.

The county reserves the right to remove the meter and check, repair or replace it at any time at no cost to the customer. Should a customer desire his meter to be checked at any time, he may have this work done subject to a meter testing fee if the meter is found to register within an acceptable range (two percent or less error). Should the meter be tested and found to be registering over two percent more than is actually used, the last three month's service bill will be adjusted accordingly, the meter will be repaired or replaced, and the fee returned. In any other case, the amount of the fee shall be retained by the county to defray the cost of testing and added to the next bill for service.

Sec. 12.54. Damaging or tampering with county facilities.

No person shall:

- (a) Damage or knowingly cause to be damaged any meter, pipe or fittings connected with or belonging to a county utility system or tamper or meddle with any meter or other appliance or any part of such system in such manner as to cause loss or damage to the county.
- (b) Prevent any meter installed for registering water from registering the quantity which otherwise would pass through the same.
- (c) Alter the index or break the seal of any such meter.
- (d) In any way hinder or interfere with the proper action or just registration of any such meter.
- (e) Fraudulently use, waste or suffer the waste of water passing through any such meter, pipe or fitting, or other appliance or appurtenance connected with or belonging to such system after such meter, pipe, fitting, appliance or appurtenance has been tampered with, injured or altered.

Sec. 12.55. Private fire service connections.

- (a) A private fire service connection is to be used for fire purposes only and is to have no connection whatsoever with any service lines that may be used for other than fire purposes, and, because of the danger of pollution, shall have no connection with any other source of supply, with exception of a tank or fire pump installed as a secondary supply. There shall be a backflow preventer installed by the customer at his expense in each county connection to prevent the water from these secondary supplies from

flowing into the county mains.

- (b) The customer shall not draw any water whatsoever through this connection for any purpose except the extinguishing of fires, or for periodic tests of the fire system, which tests shall be made in the presence of a representative of the county. Any authorized representative of the county shall have free access to the building at any reasonable time for the purpose of inspecting any of the equipment.
- (c) The customer shall set in this connection, at the point of delivery, a double check detector fitted with a bypass, on which shall be set a meter, installed by the customer at his expense or installed by the county at the customer's expense, the purpose of which shall be to indicate whether or not water is being used through this connection and for the further purpose of showing any leakage, if same exists. All meters shall become the property of the county.
- (d) Violation by the customer of any of the regulations in this section shall justify the county to disconnect said pipes, or stop the flow of water through same.
- (e) The right is reserved by the county to shut off the supply at any time in case of accident, or to make alterations, extensions, connections or repairs; and, if possible, the county agrees to give due and ample notice of such shutoff.
- (f) The county does not make any guarantee as to a certain pressure in this pipe or in the main supplying same, and shall not be, under any circumstances, held liable for loss or damage to the owner for a deficiency or failure in the supply of water, whether occasioned by shutting off of water in case of accident or alteration, extensions, connections or repairs, or for any cause whatsoever.
- (g) When fire line valves or connections are used in case of fire or for any other reason whatsoever, the customer shall immediately notify the county and the county shall forthwith reseal the used valves or connections.

Sec. 12.56. Use of septic tanks or other private sewage disposal systems.

- (a) It shall be unlawful for any person to construct, install or repair septic tanks or other sewage disposal systems in or upon any property which abuts or is within 200 feet of a sanitary sewer main available to such property for use.
- (b) The owner of a properly functioning on-site sewage treatment and disposal system will be required to connect the system or the building's plumbing to a county-owned or operated sewer system when service is available. Sewer service is deemed available to an existing building with less than 1000 gallons per day estimated wastewater flow, if a gravity line, a low pressure line or a vacuum sewage collection line is in a public

easement or right-of-way that abuts the property line of the lot or tract on which the building is located. Sewer service is deemed available to an existing building with 1000 gallons per day or greater wastewater flow if a sewer line, force main or lift station exists in a public easement or right of way that abuts the property line of the lot or tract on which the building is located or is within 200 feet of the property line with access via a public right of way or easement. This mandatory connection requirement applies to properties available to be served by a county-owned or operated system both in the incorporated areas of the county, and in unincorporated areas of the county.

- (c) The requirement for mandatory connection of existing onsite sewage treatment and disposal systems to a county owned or operated central sewer system will be subject to the provisions of Section 381.00655-67, Florida Statutes, except where modified herein. The county will also record the notice of availability in the public record. The owner shall have the option of prepaying required connection charges over a period determined by the sewer utility system operator but not less than two years. Payment of connection fees by 24 equal installments on the monthly utility bill will be without interest. Payment of amortized connection fees by a schedule over periods greater than two years will incur interest and administrative costs.
- (d) A property owner who fails to comply with mandatory connection requirements may be subject to the following:
 - (1) Monthly service availability charges;
 - (2) Property lien for connection fees and/or accruing services charges;
 - (3) Other enforcement action as may be necessary to prevent a public health threat.

Sec. 12.57. Termination of service.

- (a) The county will provide for orderly expansion of facilities and regulation thereof in a manner calculated to ensure continuous service to all customers. Inherent in this obligation is the governmental prerogative of necessity to terminate consumption which is adverse to the continuous, orderly and uninterrupted operation and maintenance of its utility service. Accordingly, the county reserves the right by unilateral act in its sole discretion to refuse service, or to terminate service temporarily, or to discontinue service in all instances when conditions exist which would constitute an emergency of public concern, when the providing of any service would constitute a threat to the safety, health or welfare of customers generally or a significant portion of the customer population, or when a customer does not comply with the terms of service. When discontinuance or termination of service can be

remedied by an act of the customer, the county shall provide notice of remedial action to the customer in order that service may be continued uninterrupted. Acts considered to be remedial by the customer, and for which service may be terminated or interrupted, are the following:

- (1) Failure to pay required deposits for service, service fees, fines or reimbursement charges.
 - (2) Failure of the customer to meet provisions of the developer's agreement or other agreements with the county.
 - (3) Failure to correct deficiencies in piping or other components upon the customer's property after reasonable notice thereof by the county.
 - (4) Use of service for any other property or purpose than that described in the permit or applications.
 - (5) When requested by customer, in which case resumption of service shall be accomplished in accordance with county policy as provided in this article.
- (b) The county reserves the right by unilateral act in its sole discretion to refuse service, to terminate service temporarily, or to discontinue service without notice under the following circumstances:
- (1) Causing, or allowing to exist, a hazardous condition with respect to the location, use of or access to any utility service or component.
 - (2) Alteration or modification of any transmission or metering component or device used in providing any utility service to the customer.
 - (3) Total or partial destruction of, or abandonment of, any structure, including any vacancy for a duration which, in the county's opinion, may create a hazardous or unsafe condition or constitute a nuisance.

State law reference(s)--Restrictions on termination of service, F.S. § 125.485.

Sec. 12.58. Rate schedules established; amendments to rate schedules.

- (a) Rate schedules for each utility are identified as follows:
- (1) Schedule A, Water and Wastewater Rates and Charges.
 - (2) Schedule B, Water and Wastewater Connection Charges.

These rate schedules and charges may be amended from time to time by resolution of the Board of County Commissioners by reference to the affected schedule and utility service, and it shall not be necessary to amend this article or any part thereof.

(b) Capital Charges (a/k/a Impact Fees) are identified as follows:

- (1) Water Capital Charges = One Thousand Dollars (\$1,000.00) per ERU
- (2) Sewer Capital Charges = One Thousand Five Hundred Dollars (1,500.00) per ERU.

Sec. 12.59. Policy regarding extensions to new development.

New development may require the extension of mains to provide service, as well as modification or expansion of existing facilities or plants to accommodate new service demands. Where the county has already provided facilities and/or systems for service of new development, the cost thereof is to be borne by property owners, builders or developers within the county's service areas to defray or partially defray such costs. The allocable share of each is to be charged as described in this article. It is the declared policy of the county by this article to establish a uniform method of determining charges for availability of services so that all such contributions shall be nondiscriminatory among the various customers served by the county's systems and shall be applied as nearly as possible with uniformity to all customers and prospective customers within the county's service areas. The county specifically reserves its rights to fix and determine rates, charges and contributions required for the provisions, consumption, operation, maintenance, extension and expansion of its utility services as provided in this article and as authorized by law. Each customer is hereby notified that the county, in the exercise of its governmental responsibility to provide for the health, safety and welfare of all customers of its utility services, has the authority and responsibility to amend its schedules of rates, charges and contributions from time to time to ensure the perpetuation of service.

Sec. 12.60. Developer agreements required.

Prior to utility plan approval by the utilities engineer and execution of water and/or sewer main extension applications to state agencies by the county, the builder or developer shall be required to execute a developer's agreement. This agreement shall run with the land and be binding on the developer, its successors, assigns and any other subsequent owner of the land. The agreement will set forth such reasonable provisions governing developer and county responsibility pertaining to the installation of service facilities; the interconnection of plumber's lines with the facilities of the county; the manner and method of payment of contributions, fees and charges; guaranteed revenue provisions; standards of construction or specifications; regulations, policies, practices and procedures of the county; prohibitions against improper use of the county's facilities; and other matters normally associated with and contained in developer agreements. Developer agreements shall only apply to specific parcels of property and are not assignable or transferable in any manner to any other parcel of property.

Sec. 12.61. Existing developer agreements.

The county recognizes that certain developers have in the past and for the present are installing, at no cost and expense to the county, off-site water distribution and sewage collection facilities as well as the on-site water distribution and sewage collection facilities. The county also recognizes that it has entered into certain agreements with developers, whereby those developers funded the construction of water treatment and sewer treatment facilities, which agreements provide for funding to be in lieu of any contributions-in-aid-of-construction or capacity charges. The county does hereby declare that nothing in this article shall abrogate, obviate or avoid the terms and provisions of those agreements, except the county's right to amend rate and charge schedules from time to time as provided in this article.

Sec. 12.62. Developer contributions generally.

The facilities are on-site and off-site as defined in this article. The requirement for such contributions is for the purpose of defraying the cost of the utility systems and to partially defray the cost of the hydraulic share of the systems. Cash payment by the developer of such contributions to the county shall be a condition precedent to the execution of permit applications to the state department of environmental protection for the construction of the utilities systems, or as stipulated in the developer agreement. In the event that payment by the developer of such contributions to the county is in the form of facilities, these facilities shall be transferred to the county as defined in this article as a condition precedent to the rendering of service by the county.

Sec. 12.63. Construction of on-site facilities in developments.

Each developer shall be responsible for the design, installation, inspection and testing of the complete water distribution and sewage collection systems located in the streets adjoining or within the boundaries of the developer's property. The term "complete water distribution and sewage collection systems," as used in this section, shall include all component parts of a water distribution system, including water mains, valves, fittings, services, hydrants and all appurtenances as shown upon the approved design of such water distribution system and all the component parts of the sewage collection system, including all collection mains, laterals to the point of cleanout within rights-of-way or easements, force mains, lift or pumping stations, including the site for same, and all other appurtenances as shown on the approved design for the installation of such sewage collection system.

Sec. 12.64. Design of facilities in developments.

The county shall recognize the design of water and sewer facilities prepared by a registered professional engineer regularly engaged in the field of sanitary engineering, covering the design of the developer's on-site water distribution and sewage collection system; provided, however, that each such design shall be fully subject to the approval of the utilities engineer and shall conform in all respects to county criteria, for the facilities ultimately to be accepted by the county for ownership, operation and maintenance. Notwithstanding any other factors or developer needs, water distribution

mains shall not less than six inches (6") in diameter.

Sec. 12.65. Conveyance of easements and rights-of-way.

As a prerequisite to the construction of any water distribution or sewage collection system proposed to be connected to the facilities of the county, the developer shall agree to grant to the county such easements or rights-of-way corresponding with the installation of the proposed facilities. Such grant or conveyance shall be in the form satisfactory to the county attorney. Such conveyances shall be made without cost to the county. The county reserves the right to require such easement or right-of-way to the point at which the meter is proposed to be installed or at the point of delivery of service, being the point at which the facilities of the county join with the customer's facilities upon installation. Such easements and rights-of-way shall be conveyed and accepted upon completion, approval and acceptance of the work done by the developer.

Sec. 12.66. Inspection of facilities installed by developers.

The county shall inspect the installation of all water distribution or sewage collection facilities installed by a developer or the developer's contractors, which facilities are proposed to be transferred to the county for ownership, operation and control. These systems must meet the same criteria as that of county-owned systems. Such inspections are intended to ensure that water and sewer lines and/or lift stations are installed in accordance with approved designs and are further consistent with the criteria and specifications governing the kind and quality of such installation. Service lines will be inspected and approved by a county utilities inspector before roads or other impervious surfaces are constructed over such lines.

Sec. 12.67. Testing of facilities installed by developers.

Representatives of the county may be present at tests of component parts of water distribution or sewage collection systems for the purpose of determining that the system, as constructed, conforms to the county's criteria for exfiltration, infiltration, pressure testing, line and grade. Such tests will be performed by the developer or the developer's contractor, but only under the direct supervision of the engineer of record or his authorized inspector. The results of such testing shall be certified by the engineer of record. The utility engineer shall be notified at least two working days prior to any inspections or testing performed in accordance with this article.

Sec. 12.68. Transfer of on-site facilities in developments to county.

- (a) Each developer who has constructed portions of the water distribution and/or sewage collection system on the developer's own property prior to interconnection with the county's existing facilities shall convey such component parts of the utility system to the county by bill of sale in form satisfactory to the county attorney, together with such evidence as may be required by the county that the utility system proposed to be transferred to the county is free of all liens and encumbrances.

- (b) Any facilities in the category of customer's lines, plumber's lines or customer's installation located on the discharge side of the water meter or on the customer's side of the point of delivery of service shall not be transferred to the county and shall remain the property of the developer, a subsequent owner-occupant, or their successors and assigns. Such customer's lines, plumber's lines or customer's installation shall remain the maintenance responsibility of the developer, subsequent owner or subsequent customers.
- (c) The county shall not be required to accept title to any component part of the water distribution or sewage collection system as constructed by the developer until the utilities engineer has approved the construction of said lines and accepted the tests to determine that such construction is in accordance with the criteria established by the county, and the Board of County Commissioners has evidenced its acceptance of such lines for the county's ownership, operation and maintenance.
- (d) The developer shall maintain accurate cost records establishing the construction costs of all utility facilities constructed by the developer and proposed to be transferred to the county. Such cost information shall be furnished to the county concurrently with the bill of sale, and such cost information shall be a prerequisite for the acceptance by the county of the portion of the water distribution and sewage collection system constructed by the developer.
- (e) The county may refuse connection and deny the commencement of service to any customer seeking to be connected to portions of the water distribution and/or sewage collection systems installed by the developer until such time as the provisions of this section have been fully met by the developer or the developer's successors or assigns.

Sec. 12.69. Payment of costs of off-site facilities by developers.

- (a) The location, size or proposed density of the developer's property may make service to such property dependent upon the extension of off-site water distribution and/or sewage collection facilities, as defined in this article.
- (b) It is the county's policy to apportion the cost of main transmission and collection lines and pumping stations pro rata against the properties receiving service from such main transmission lines located off-site as to the developer's property. Since each developer draws from the hydraulic capacity of such lines, the county will require that the developer pay his property's hydraulic share of the cost of the off-site main transmission and collection facilities through which service is rendered to the developer's property. The charge for the developer's share of off-site facilities will be applicable to the developer's property on a fair-share basis whether or not the main transmission lines and/or pumping stations have been previously constructed or may be constructed for future service.
- (c) The contributions-in-aid-of-construction charge shall be assessed against property benefitted

by improvements of water mains and/or sanitary sewers in proportion to the benefits to be derived therefrom. The equitable and just method of determining and prorating the special benefits is hereby prescribed based on consideration of both the number of units served and the number of total acres of property thereby benefitted. Assessment so determined shall be computed for each benefitted property as to the total of the number of ERU's served in accordance with schedule B referred to in section 12.59. Charges shall be due and payable at time of execution of a state department of environmental protection construction permit or as stipulated in the developer agreement.

Sec. 12.70. Connection charges for developers.

- (a) The county declares that it will require the developer to contribute a portion of the cost of treatment plant facilities. Such contributions by the developer, owner or builder are defined for purposes of this article as connection charges.
- (b) The county will require, prior to the execution of a Water & Wastewater Capacity Application, that charges set out in the Water and Wastewater Capacity Application Form be paid to the county in accordance with the schedule of charges as a prerequisite for service.

Sec. 12.71. Adjustment of charges applicable to developers--Amendment by Board.

The County Administrator may file with the Board a higher contribution schedule, and in support, detail the reasons requiring such increased contributions. Such reasons may include and be related to increasing standards of service; inadequate or incorrect estimates of the total anticipated contributions versus the actual investment levels required by the county for water distribution and sewer collection facilities; actual experience with regard to matters of service area density having a direct bearing upon contributions received versus the cost of construction of the facilities; matters of net investment bearing upon rates and charges required of consumers; and/or such other matters which may reasonably bear upon the needs, necessities or considerations requiring such change. Based upon these and any other factors affecting the systems, the Board of County Commissioners may by resolution at a public hearing amend schedules for rates, charges or contributions.

Sec. 12.72. Capital expansion and improvement fund.

All connection and contributions-in-aid-of-construction charges shall be deposited in a trust fund in a bank or trust company, which fund is hereby created and designated as the capital expansion and improvement fund. Said fund shall constitute a trust fund and shall be kept separate and distinct from all other funds and used only for the payment of the cost or debt service associated with constructing or acquiring additions, extensions and improvements to the utility system.

Sec. 12.73. Inspection fees for developers.

The cost of engineering inspection of the required improvements shall be paid by the developer at the time the state department of environmental protection application is executed by the county. The amount of the fee shall be pursuant to the Developer Agreement. Charges shall be due and payable at time of execution of department of environmental protection construction permit or as stipulated in the developer agreement.

Sec. 12.74. Reservation of capacity.

- (a) Each developer, builder or property owner proposing to construct single-family residential, multifamily, or commercial and industrial buildings requiring the use of water and/or sewer service shall be required to reserve water and wastewater capacity corresponding to the proposed use of such construction.
- (b) Concurrently with the submission of water and/or sewer subdivision plans, or site plans, the person submitting such plans shall be required to subscribe for that number of equivalent residential units of service equal to the number of single-family, multifamily, residential or commercial ERU's and further corresponding to that number of equivalent residential units required to serve the system proposed to be installed.
- (c) Capacity reservation fees shall be based upon and be equal to the minimum monthly availability charge as set forth in Schedule "A," and shall be paid monthly, commencing on the date stipulated in the developer agreement (as provided in section 12.59) or date of execution by the county of the state department of environmental protection permit. These payments shall continue unabated until all units reserved have been occupied by a customer receiving active water and/or sewer services. As such active customers are connected to the subject system, the number of capacity reservations shall be reduced accordingly; and monthly payments shall continue only for the number of units not then connected. It is the responsibility of the developer, builder or property owner to notify the county in writing of any change in ownership to allow for proper billing of capacity reservation fees. Billing of the subsequent owner will begin the month following property transfer upon timely receipt of transfer notification. The county retains the right to deny approval on future phases or projects for developers who are delinquent in paying capacity reservation fees.
- (d) Commercial and industrial capacity reservation fees shall be determined as provided in this section until such time as the building permit for the particular project or system is issued, at which time charges shall be payable for service availability in accordance with the county's water and sewer service availability charge schedule.

Sec. 12.75. Credit for construction extensions.

There may be times when the county will require a developer to size water and/or sewer mains and pumping stations to provide service to the developer's property and at the same time be sized in accordance with the county's master plan. All amounts expended by the developer, over and above

the developer's requirement, as determined by the utilities engineer, will be reimbursed by the county to the developer in accordance with the terms of the developer's agreement. Notwithstanding the developer's requirements, water distribution mains shall be no less than six inches (6") in diameter. The agreement shall provide for contribution-in-aid-of-construction fee credits appropriate to the developer's property.

Secs. 12.76-12.110. Reserved.

Sec. 12.111. Cross Connection Control.

The purpose of cross connection control is to:

- (1) Protect the public potable water supply of the county from the possibility of contamination or pollution by isolating within the customer's internal distribution system or the customer's private water system such contaminants or pollutants that could backflow into the public water system.
- (2) Provide for the elimination or control of existing cross connections, actual or potential, between the customer's in-plant potable water systems and non-potable water systems, plumbing fixtures and industrial pipe systems.
- (3) Provide for the maintenance of a continuing program of cross connection control that will systematically and effectively prevent the contamination or pollution of all potable water systems and will be in compliance with rule 17-555.360(1)--(5), Florida Administrative Code.

Sec. 12.112. Manual of cross connection control.

The Board of County Commissioners may adopt, repeal or amend by resolution a cross connection control program for the county. Compliance with the manual and the cross connection program contained therein is required.

Sec. 12.113. Inspections by County.

The customer's system must be open for inspection at all reasonable times to authorized representatives of the county utilities department to determine whether cross connections or other structural or sanitary hazards, including violations of these regulations, exist. When such a condition becomes known, the director of public works or his designated representative shall deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the condition in conformance with state statutes and county ordinances relating to plumbing and water supplies and the regulations adopted pursuant thereto.

Sec. 12.114. Inspections by customer.

It shall be the duty of the customer-user at any premises where backflow prevention assemblies are installed to have certified inspections and operational tests made at least once a year. In those instances where the county deems the hazard to be great enough, certified inspections may be required at more frequent intervals. These inspections and tests shall be at the expense of the water user and shall be performed by the assembly manufacturer's representative or by a certified tester approved by the county. It shall be the duty of the customer-user to see that these tests are made in a timely manner. The customer-user shall notify the county utilities department, in writing, at least 48 hours in advance, when tests are to be undertaken so that it may have a representative witness the tests if so desired. These assemblies shall be repaired, overhauled or replaced at the expense of the customer-user whenever said assemblies are found to be defective. Records of such tests, repairs and overhaul shall be kept and made available to the county utilities department within 30 days of such test, repair or overhaul.

Sec. 12.115. Penalties.

Any violation of any of the provisions of this ordinance shall be prosecuted in the same manner as misdemeanors are prosecuted. Such violation shall be prosecuted in the name of the State of Florida in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and, upon conviction the violator shall be punished for each violation by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the County jail not to exceed sixty (60) days or both such fine and imprisonment. Each incident or separate occurrence that violates this ordinance shall be deemed a separate offense. Each day any violation of any provision of this ordinance shall continue shall be deemed a separate offense, unless otherwise provided.

Sec. 12.116. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Sec. 12.117. Conflict.

Any ordinance or part thereof in conflict with any part of this Ordinance or any Special Act or part thereof in conflict with any part of this Ordinance is hereby repealed to the extent of the conflict.

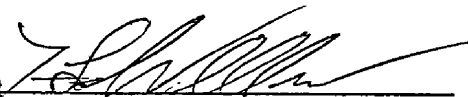
Sec. 12.118. Effective Date.

This Ordinance shall take effect immediately upon filing with the Department of State.

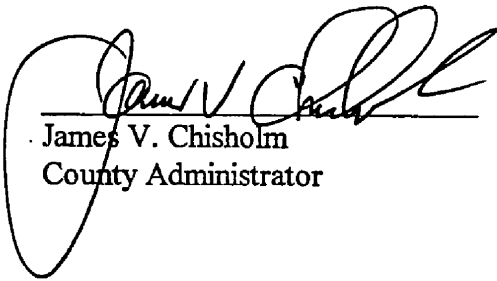
DULY PASSED AND ADOPTED by the Board of County Commissioners, DeSoto County, Florida, this 26th day of February, 2002.

BOARD OF COUNTY COMMISSIONERS
DESOTO COUNTY, FLORIDA


(SEAL)

By: 
T. L. Welles, Chairman

ATTEST:


James V. Chisholm
County Administrator

Approved as to form and
legal sufficiency:


Preston T. Everett, Jr.
County Attorney

Schedule "A"

Water and Wastewater Service Rates and Charges

The DeSoto County Board of County Commissioners hereby set the following Rates and Charges for Water and Wastewater service:

Water - \$23.85 – base rate 0-3,000 gallons
\$3.96 – for each 1,000 over 3,000
\$4.46 -- for each 1,000 over 10,000

Wastewater - \$28.98 – base rate 0-3,000 gallons
\$4.84 – for each 1,000 over 3,000
\$5.34 - for each 1,000 over 10,000

Deposit for Service - \$80.00

Schedule "B"

Water and Wastewater Connection Charges

The DeSoto County Board of County Commissioners hereby set the following Connections Charges for Water and Wastewater:

Water & Wastewater Connection Charges shall be determined by the size of the water meter installed.

Below ¾" Meter	\$90.00
¾" Meter	\$110.00
1" Meter	\$140.00
1 ½" Meter	\$300.00
2" Meter	\$385.00
Greater than 2" ..	Actual Cost

**INTERLOCAL BULK WATER AND WASTEWATER SUPPLY
AGREEMENT BETWEEN THE CITY OF ARCADIA
AND DESOTO COUNTY**

THIS AGREEMENT, made and entered into this 30th day of January, 2001, by and between the CITY OF ARCADIA, a municipal corporation hereinafter called "City" and DESOTO COUNTY, a political subdivision of the State of Florida hereinafter called "County".

WITNESSETH

WHEREAS, City and County desire to cooperate in developing an efficient and economical plan for the provision of water and wastewater services in the unincorporated areas of the County; and

WHEREAS, the City presently has raw water and wastewater treatment plant capacity; and

WHEREAS, in addition to maintaining the economic base of the City's system, and maximizing the efficient use of existing facilities, the County desires to cooperate with the City for water and wastewater service extension to the Walmart project and Agri-Civic Center sites; however, additional connections may be granted by the County upon request to the City from the County; and

WHEREAS, the County desires to encourage annexation into the City developments which connect to utilities receiving service as a direct benefit of this agreement; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein the parties hereby agree as follows:

1. The services to be provided by the City to the County shall be for water and wastewater.
2. **Service Locations**-The City on and after February 1, 2001 shall provide bulk rate treated water to the County and designate locations for connections to its municipal systems closest to East Highway 70.
3. **Rates**-The rate to the County for said treated water and wastewater shall be determined by the City based upon the cost necessary to provide this service

which is established as seventy five percent (75%) of the City's unincorporated county rate per 1,000 gallons. The City shall notice the County of anticipated rate adjustments as provided by State Law or ninety (90) days whichever is greater.

4. **Meters**-The master meters for said bulk rate locations shall be installed and maintained by the County at County's expense.
5. **Meter Accuracy and Failure**-The parties hereto agree that should the metering equipment be found to be inaccurate beyond two percent (2%) accuracy, the meter will be assumed to be inaccurate since the last meter check, or for a period of three (3) months, whichever time is less and the following month's billing will be adjusted to show a credit or additional charge to the County for metered flow for that period.
6. **Pressure and Flow**-The City agrees to operate their system such that adequate flow and fifty pounds per square inch (50 psi) pressure is provided at the master meter. Backflow prevention from the County system to the City shall be provided by the County which is acceptable to the City. The County may augment its system's needs as they may be developed in the future.
7. **Water Restrictions**-The parties recognize that State or Regional entities may declare a water restriction from time to time. The reduction of flow shall be on a pro rata basis as with the customers of the City's System.
8. **Water Quality**-The parties recognize that both entities will be operating potable drinking water systems in compliance with Local, State and Federal Laws and/or Regulations. Both parties agree to meet or provide water of superior quality with respect to such laws and/or regulations. The infrastructure and/or quality of materials permitted for use within each respective system shall be in accordance with the American Water Works Association (AWWA) standards appropriate for potable use and commonly used for such use in Florida.

9. **Payment** - The parties agree that the City shall bill the County for providing the services necessary on a monthly basis in accordance with the City's standard billing procedures.
10. **Connection** - The County shall advise the City of all requests for water service. Such work shall be supervised and directed by the County and must meet all applicable State and local standards. All materials, construction methods and techniques of installation of the distribution system in DeSoto County, which may connect to the distribution system of the City of Arcadia shall be of an equivalent standard of those used by the City. It shall be the responsibility of DeSoto County to furnish proof from its staff. Engineers or other appropriate source to the City and/or Public Works Director and/or other appropriate members of the staff of the comparability and equivalency of all such material and standards of performance as previously mentioned when necessary.
11. **Pre-Annexation Agreements** - All customers of the County who receive water and wastewater service from the County as furnished pursuant to the terms of this agreement and who benefit from said connection to the City's system, shall, as a condition precedent to receipt of such service, execute the City's standard pre-annexation agreement subject to mutually acceptable conditions to be determined by both parties.
12. **Limit of Supply** - The City's obligation to provide water service under this Agreement is limited to the amount of water available to the City under its existing water use permit, as it may be modified from time to time, and the capacity of the City's water treatment and delivery infrastructure. However, the City shall endeavor to meet all reasonable water needs in its service area in a reasonable time and service shall not be unreasonably withheld.
13. **Duration of Agreement** - It is in the parties' best interest that this Agreement terminates on December 31, 2011. However, the City agrees that it is willing to continue to provide water, wastewater and reclaimed water services beyond the expiration of this Agreement provided the parties

negotiate an additional ten (10) year agreement based on terms mutually agreeable to all parties.

14. **Indemnification.**

a. In consideration of the mutual covenants in this Agreement, the City and County jointly agree to indemnify each other as well as their officers, agents and employees from all claims, liability, actions, loss, cost and expense, including attorney's fees with respect to potentially affected third parties. Nothing contained herein shall create any liability beyond the scope of Section 768.28 Florida Statutes as currently in effect or lawfully amended in the future.

b. Further, County agrees to indemnify and save harmless City, its agents, servants, and employees from and against any claim, demand, liability or cause of action of whatsoever kind or nature arising from this agreement as brought by Florida Water Services Corporation, its successors and assigns, including attorneys fees and court costs.

15. **Earlier Agreements, Ordinances and Resolutions** - This agreement is in Settlement of a declared Chapter 164, Florida Statutes, interlocal governmental dispute. All earlier agreements, ordinances and/or resolutions of the parties shall be amended to reflect those applicable portions of this agreement.

16. **Notice** - All notices under this Agreement shall be in writing and delivered to:

DeSoto County
C/O County Administrator
201 E. Oak Street, Suite 201
Arcadia, Florida 34266
Copy to County Attorney

City of Arcadia
C/O City Administrator
121 W. Hickory Street
Arcadia, Florida 34265
Copy to City Attorney

17. **Extent of Agreement** - This Agreement represents the entire and integrated agreement between the County and City and supersedes all prior negotiations, representations or agreement, either written or oral. This

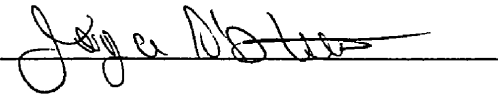
Agreement may only be amended, supplemented, modified, changed or canceled by a duly executed written instrument.

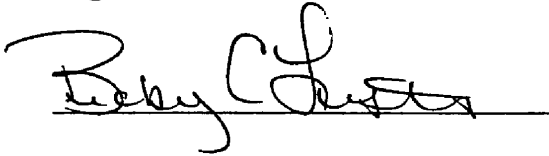
- 18. **Contract Binding Upon Successors** - This Agreement shall inure to and be binding upon the successors of each of the parties hereto.
- 19. **Execution and Agreement** - The parties hereto agree that upon execution of the Agreement by the appropriate officials, said Agreement shall be deemed effective as of the date filed in the office of the Clerk of the Circuit Court in and for DeSoto County, Florida, as required by Section 163.01(11), Florida Statutes.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature.

Signed, sealed and delivered
in the presence of:


CITY OF ARCADIA, FLORIDA

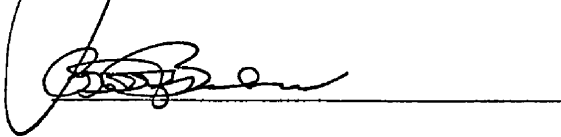




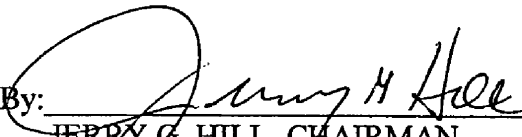
By: 
ROBERT W. HEINE
MAYOR

Executed this 1st day of February,
2001, in DeSoto County, Florida.






BOARD OF COUNTY COMMISSIONERS
DESOTO COUNTY

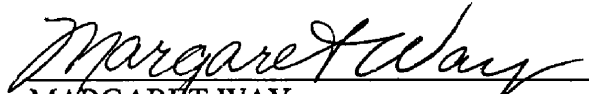
By: 
JERRY G. HILL, CHAIRMAN

Executed this 30th day of January,
2001, in DeSoto County, Florida.

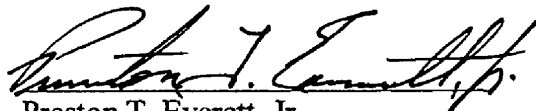
ATTEST:

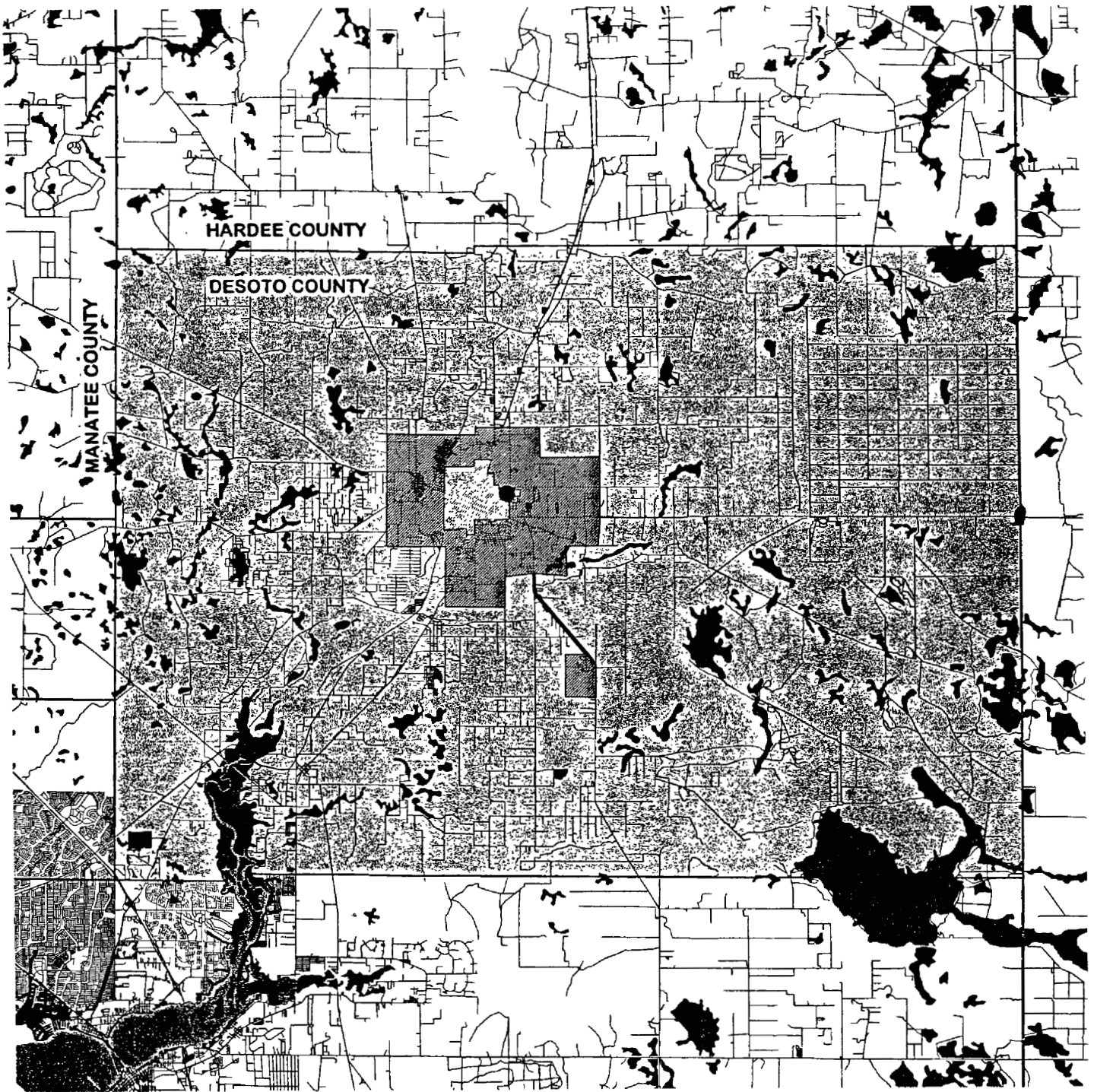

JAMES V. CHISHOLM
COUNTY ADMINISTRATOR

ATTEST:







MARGARET WAY
CITY RECORDER

Approved as to form:


Preston T. Everett, Jr.
County Attorney



Legend

-  Desoto County Service Area
-  Lake Suzy Water Service Area
-  Arcadia WTP
-  Arcadia City Boundary
-  Arcadia Water Service Area

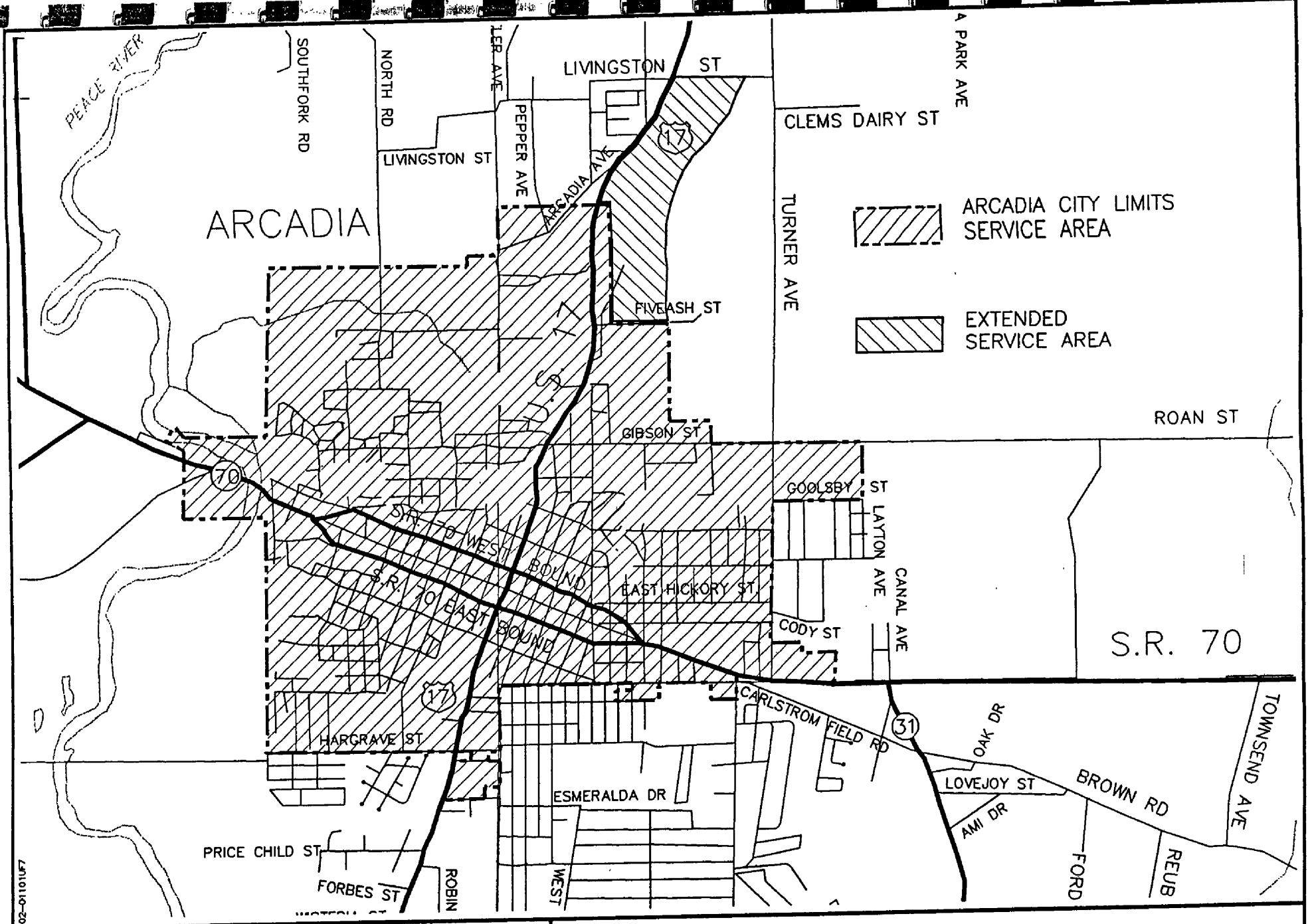


**WATER PLANNING ALLIANCE
REGIONAL SYSTEM PLANNING AND ENGINEERING STUDY**

DESOTO COUNTY SERVICE AREA

DATE	REVISED	PREPARED BY:
		LEGGETTE, BRASHEARS & GRAHAM, INC.
		Professional Ground-Water and Environmental Engineering Services
		Cypress Point Office Park
		10014 North Dale Mabry Highway, Suite 205
		Tampa, Florida 33618
		(813) 968-5882
DRAWN: TDH	CHECKED: DAW	DATE: 7/10/2003
		FIGURE: 1-DECO-1





7410101UF-02

FIGURE
1-2



HARTMAN & ASSOCIATES, INC.
engineers, hydrogeologists, surveyors & management consultants
4415 METRO PARKWAY - SUITE 216 - FORT MYERS, FL 33916
TELEPHONE (941) 277-5155 - FAX (941) 277-5189

DESOTO COUNTY
LIMITS OF ARCADIA WATER AND WASTEWATER SYSTEM

ASSET PURCHASE AGREEMENT
DESOTO COUNTY, FLORIDA

This Agreement is entered into on this 26th day of November, 2002 by and between Kingsway Properties, Inc., a Florida corporation, (hereinafter referred to as "Seller") and DeSoto County, a Florida corporation (hereinafter referred to as "Purchaser").

WITNESSETH

WHEREAS the Seller is the owner of a sewage collection system in DeSoto County, Florida, and serving contiguous residential developments more fully described on Exhibit 1 (Plans), attached, (hereinafter referred to as the "Property"); and

WHEREAS Purchaser is engaged through its operating subsidiaries in the business of furnishing sewer service to the public. Purchaser desires to acquire, and Seller desires to sell the sewage collection facilities (collectively the "Facilities") installed to provide sewer service to the Property, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants as hereinafter set forth, the parties hereto agree as follows:

ARTICLE I
REPRESENTATIONS BY SELLER

Seller represents and warrants that:

- 1) Seller is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Florida. Seller's Certificate of Incorporation contains charter powers authorizing it to construct, operate and maintain a public sewage collection system.
- 2) Seller is, and at the Closing (the "Closing" as hereinafter defined) will be, the owner of the Facilities with good and marketable title, free and clear of all liens and encumbrances.
- 3) Previously Seller has obtained from the Florida Public Service Commission (hereinafter referred to as the "Commission") a Certificate of Public Convenience and Necessity, and authorization and approval of rates, rules and regulations for sewer service within the Property.
- 4) Seller will cooperate fully, at no expense to Seller, with Purchaser in any and all applications or petitions to public authorities deemed necessary or desirable by Purchaser in connection with the purchase of the Facilities from Seller as contemplated herein.
- 5) Attached hereto as Exhibit 2 (List of Facilities) is a detailed list of the Facilities of Seller to be acquired by Purchaser, pursuant to this Agreement. Said Facilities include all sewer utility assets, equipment and real estate owned or leased by the Seller within the Property, including but not limited to a complete central sewage collection system. The engineering plans and specifications for the Facilities have been attached hereto as Exhibit 1. Said Facilities expressly do not include

cash on hand, accounts receivable both of which shall remain with the Seller after Closing.

- 6) Attached hereto as Exhibit 3 (Disclosure List) is a list describing, as of the date of this Agreement, the following:
 - (a) All pending or threatened action at law, suits in equity or administrative proceedings relating to the Facilities;
 - (b) All contracts or obligations of any nature between Seller and any other party, including all developer agreements relating to the Property.
 - (c) All real estate in the Property owned by Seller to be transferred hereunder.
- 7) Except as indicated in Exhibit 3, there are no pending or threatened actions at law or suits in equity relating to the Facilities, or any pending or threatened proceedings before the Commission or any other governmental agency.
- 8) Except as indicated in Exhibit 3, there are no contracts or obligations of any nature between Seller and any other party relating to the Facilities.
- 9) Neither Seller nor any entity or individual affiliated with Seller has executed any agreement with purchasers of lots within the Property, or any other parties, whereunder such purchases or other parties have acquired any interest in the Facilities used or to be used in rendering service to them.
- 10) Facilities are capable of rendering sewer utility service in the ordinary course of business in compliance with all federal, state and local rules and regulations including but not limited to all rules and regulations related to environmental protection.
- 11) Prior to the Closing, the consummation of the transactions contemplated herein will have been duly authorized by all necessary action, corporate or otherwise, on behalf of Seller.
- 12) Seller has filed all tax returns which are required to be filed, and each return which has been filed is true and correct, and Seller has paid all taxes shown as payable on such returns when and as required by applicable law.
- 13) No representation or warranty by Seller in this Agreement, or any statement or certificate furnished or to be furnished to Purchaser pursuant hereto or in connection with the transactions contemplated herein, contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements contained herein or therein not misleading.

ARTICLE II

CLOSING AND PURCHASE PRICE

- 1) **Closing**
 - (a) The Closing shall take place prior to the end of December, 2002, at the offices of the County, or at such other time and place as Seller and Purchaser may agree upon.
 - (b) At the Closing, the Seller will, upon due performance by Purchaser of its obligations under the Agreement, deliver:
 - (i) such good and sufficient warranty deeds, bills of sale with covenants of

warranty, and sufficient instruments of sale, in form and substance reasonably satisfactory to Purchaser's counsel, as shall be required to vest in Purchaser good, indefeasible and marketable title to all of the Facilities and related real estate used or to be used for the sewer system in the Property, free and clear of liens and encumbrances of every nature;

- (ii) all of the files, documents, papers, agreements, books of account, customer lists, original cost invoices, engineering drawings, and records possessed by Seller pertaining to the sewer utility business conducted by Seller in the Property, other than its minute books and stock records, and any other records reasonably needed by Seller;
- (iii) all orders, permits, licenses or certificates issued or granted to Seller by any governmental authority in connection with any authorization related to the construction, operation or maintenance of its Facilities or the conduct of its sewer utility business.

- (c) At the Closing and from time to time thereafter, Seller shall execute and deliver such further instruments of sale, conveyance, transfer and assignment, and take such other action as Purchaser may reasonably request, in order more effectively to sell, convey, transfer and assign to Purchaser any of the Seller's Facilities, to confirm the title of Purchaser thereto and to assist Purchaser in exercising rights with respect thereto.

2) Purchase Consideration

At the Closing Purchaser shall, upon due performance by Seller of its obligations under the Agreement, deliver to the Seller, the Purchase Price (the "Purchase Price") in the amount of One hundred thousand dollars (\$100,000).

ARTICLE III

COMMISSION APPROVAL

1) Commission Approval

Following the Closing, Purchaser will file a petition with the Commission requesting transfer of the Public Utility. Seller agrees to cooperate fully with Purchaser in Purchaser's application for such transfers and approvals.

ARTICLE IV

GENERAL

- 1) Upon purchase of the Facilities of Seller, Purchaser agrees to supply all customers within the Property with adequate and customary sewer utility service, and to operate, maintain and repair Facilities acquired herein.
- 2) The failure of either party hereto to enforce any of the provisions of this Agreement or the waiver thereof in any instance by either party shall not be construed as a general waiver or relinquishment on its part of any such provisions, but the same shall, nevertheless, be and remain in full force and effect.
- 3) Any notice of delivery required to be made hereunder may be made by mailing a copy thereof addressed to the appropriate party as follows:

If to Purchaser: James V. Chisholm, County Administrator
 DeSoto County
 201 East Oak Street, Suite 201
 Arcadia, Florida 34266

If to Seller: Mrs. Lucy Schmidt
 12313 S.W. Kingsway Circle
 Lake Suzy, Florida 34266

Delivery when made by registered or certified mail, shall be deemed complete upon mailing.

- 4) The Exhibits to this Agreement are a part hereof and are hereby incorporated in full by reference.
- 5) This Agreement shall be governed by the laws of the State of Florida.
- 6) The representations and warranties contained herein shall survive, and continue in effect, after the Closing. Purchaser agrees to indemnify Seller, its successors and assigns, and hold it harmless against any loss, damage, liability, expense or cost accruing or resulting from any misrepresentation or breach of any representation, warranty or agreement on the part of Purchaser under this Agreement or from any misrepresentation in or material omission from any certificate or other document furnished or to be furnished to Seller by Purchaser; Seller agrees to indemnify Purchaser, its successors and assigns, and hold it harmless against any loss, damage, liability, expense or cost, accruing or resulting from any misrepresentation or breach of any representation, or warranty or agreement made or to be performed by Seller under this Agreement or from any misrepresentation in or material omission from any certificate or other documents furnished or to be furnished to Purchaser by Seller.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year above first written.

DESOTO COUNTY

By: Ronald P. Neads
Ronald P. Neads, Chairman

ATTEST:

James V. Chisholm
James V. Chisholm, Administrator

KINGSWAY PROPERTIES, INC.

By: Brad Bishop
~~Mrs. Lucy Schmidt~~
Brad Bishop
William Harwood
WILLIAM HARWOOD

ATTEST:

William Harwood
GCH/jjlc/02.0287.002/Coress/asset purchase agreement
WILLIAM HARWOOD

EXHIBITS

Contents

Exhibit 1 Plans

Exhibit 2 Facilities and Other Assets

Exhibit 3 Disclosures

EXHIBIT 1

FACILITY ENGINEERING PLANS

(Full Sheets)

SECTION 1

Kingsway Properties Utilities, Inc. Facilities

The Kingsway Properties Utilities, Inc., serves a primarily residential service area off Kings Way Highway, primarily within DeSoto County, Florida. The system consists of wastewater only facilities and discharges its sewage via wholesale agreement to Lake Suzy Utilities, Inc., which in turn discharges its sewage into its wholesale provider.

The system consists of two (2) duplex pumping stations, both with two (2) pumps. Each pump is equipped with a three horsepower motor and is in operable condition. The system has approximately 129 service connections of six-inch PVC. There is approximately 5,000 linear feet of eight-inch PVC installed for sanitary sewer collection. There is approximately 7,300 linear feet of four-inch force main which transmits the wastewater from the two pump stations to the wholesale meter. There are a total of approximately 17 four-foot diameter concrete manholes which are used in the collection system to convey the raw wastewater from the customers and allow such flows to enter the two (2) pumping stations.

UTILITY NAME: KINGSWAY PROPERTIES UTILITIES, INC.

YEAR OF REPORT
DECEMBER 31, 1996

WASTEWATER UTILITY PLANT ACCOUNTS

Acct. No. (a)	Account Name (b)	Previous Year (c)	Additions (d)	Retirements (e)	Current Year (f)
351	Organization	\$ 870	\$ 0	\$	\$ 870
352	Franchises	0	0		0
353	Land and Land Rights	0	0		0
354	Structures and Improvements	0	0		0
360	Collection Sewers - Force	22960	0		22960
361	Collection Sewers - Gravity	64895	0		64895
362	Special Collecting Structures				
363	Services to Customers				
364	Flow Measuring Devices	4965	0		4965
365	Flow Measuring Installations	780	0		780
370	Receiving Wells	42573	0		42573
371	Pumping Equipment				
380	Treatment and Disposal Equipment				
381	Plant Sewers				
382	Outfall Sewer Lines				
389	Other Plant and Miscellaneous Equipment				
390	Office Furniture and Equipment				
391	Transportation Equipment				
392	Stores Equipment				
393	Tools, Shop and Garage Equipment				
394	Laboratory Equipment				
395	Power Operated Equipment				
396	Communication Equipment				
397	Miscellaneous Equipment				
398	Other Tangible Plant				
	Total Wastewater Plant	\$ 137043	\$	\$	\$ 137043 *

* This amount should tie to sheet F-5.

UTILITY NAME: KINGSWAY PROPERTIES UTILITIES, INC.

YEAR OF REPORT
DECEMBER 31, 1996

WASTEWATER OPERATION AND MAINTENANCE EXPENSE

Acct. No.	Account Name	Amount
701	Salaries and Wages - Employees	\$ _____
703	Salaries and Wages - Officers, Directors, and Majority Stockholders	_____
704	Employee Pensions and Benefits	_____
710	Purchased Wastewater Treatment	18256
711	Sludge Removal Expense	_____
715	Purchased Power	956
716	Fuel for Power Production	_____
718	Chemicals	_____
720	Materials and Supplies	1165
730	Contractual Services:	_____
	Operator and Management	730
	Testing	_____
	Other	_____
740	Rents	_____
750	Transportation Expense	_____
755	Insurance Expense	_____
765	Regulatory Commission Expenses (Amortized Rate Case Expense)	_____
770	Bad Debt Expense	_____
775	Miscellaneous Expenses	_____
	Total Wastewater Operation And Maintenance Expense	\$ 21107

* This amount should tie to Sheet F-3.

WASTEWATER CUSTOMERS

Description (a)	Type of Meter ** (b)	Equivalent Factor (c)	Number of Active Customers		Total Number of Meter Equivalents (c x e) (f)
			Start of Year (d)	End of Year (e)	
5/8"	D	1.0	128	128	0
3/4"	D	1.5	_____	_____	_____
1"	D	2.5	_____	_____	_____
1 1/2"	D,T	5.0	_____	_____	_____
2"	D,C,T	8.0	_____	_____	_____
3"	D	15.0	_____	_____	_____
3"	C	16.0	_____	_____	_____
3"	T	17.5	_____	_____	_____
4"	D,C	25.0	_____	_____	_____
4"	T	30.0	_____	_____	_____
6"	D,C	50.0	_____	_____	_____
6"	T	62.5	_____	_____	_____
Other (Specify): _____ _____	_____ _____	_____ _____	_____ _____	_____ _____	_____ _____
Unmetered Customers			_____	_____	_____
Total			_____	_____	128

D = Displacement
C = Compound
T = Turbine

UTILITY NAME: KINGSWAY PROPERTIES UTILITIES, INC.

YEAR OF REPORT
DECEMBER 31, 1996

PUMPING EQUIPMENT

Lift Station Number _____	<u>One</u>	<u>Two</u>	_____	_____	_____	_____
Make or Type and nameplate data on pump <u>Hydromatic</u>	<u>2</u>	<u>2</u>	_____	_____	_____	_____
Year installed _____	<u>1986</u>	<u>1989</u>	_____	_____	_____	_____
Rated capacity _____	<u>100CPM</u>	<u>100GPM</u>	_____	_____	_____	_____
Size _____	<u>3HP</u>	<u>3HP</u>	_____	_____	_____	_____
Power:						
Electric _____	<u>XX</u>	<u>XX</u>	_____	_____	_____	_____
Mechanical _____	_____	_____	_____	_____	_____	_____
Nameplate data of motor _____	<u>110/220</u>	<u>110/220</u>	_____	_____	_____	_____
	<u>1 Ø</u>	<u>1 Ø</u>	_____	_____	_____	_____

SERVICE CONNECTIONS

Size (inches) _____	<u>6</u>	_____	_____	_____	_____	_____
Type (PVC, VCP, etc.) _____	<u>PVC</u>	_____	_____	_____	_____	_____
Average length _____	<u>15'</u>	_____	_____	_____	_____	_____
Number of active service connections _____	<u>128</u>	_____	_____	_____	_____	_____
Beginning of year _____	<u>128</u>	_____	_____	_____	_____	_____
Added during year _____	<u>0</u>	_____	_____	_____	_____	_____
Retired during year _____	<u>0</u>	_____	_____	_____	_____	_____
End of year _____	<u>128</u>	_____	_____	_____	_____	_____
Give full particulars concerning inactive connections _____	_____	_____	_____	_____	_____	_____

COLLECTING AND FORCE MAINS

	Collecting Mains				Force Mains			
Size (inches) _____	<u>8</u>	_____	_____	_____	_____	<u>4</u>	_____	_____
Type of main _____	<u>PVC</u>	_____	_____	_____	_____	<u>PVC</u>	_____	_____
Length of main (nearest foot) _____	<u>4673</u>	_____	_____	_____	_____	_____	_____	_____
Beginning of year _____	<u>4673</u>	_____	_____	_____	_____	<u>7280</u>	_____	_____
Added during year _____	<u>0</u>	_____	_____	_____	_____	<u>0</u>	_____	_____
Retired during year _____	<u>0</u>	_____	_____	_____	_____	<u>0</u>	_____	_____
End of year _____	<u>4673</u>	_____	_____	_____	_____	<u>7280</u>	_____	_____

MANHOLES

Size (inches) _____	<u>4'</u>	_____	_____	_____
Type of Manhole _____	<u>Concrete</u>	_____	_____	_____
Number of Manholes:				
Beginning of year _____	<u>17</u>	_____	_____	_____
Added during year _____	<u>0</u>	_____	_____	_____
Retired during year _____	<u>0</u>	_____	_____	_____
End of Year _____	<u>17</u>	_____	_____	_____

UTILITY NAME: KINGSWAY PROPERTIES, INC.

YEAR OF REPORT
DECEMBER 31, 1996

SYSTEM NAME: Sewage discharged to Deep Creek Utilities
(Florida Water Services)

TREATMENT PLANT

Manufacturer _____ Type _____ "Steel" or "Concrete" _____ Total Capacity _____ Average Daily Flow _____ Effluent Disposal _____ Total Gallons of Wastewater treated _____		_____ _____ N/A _____ _____ _____ _____	
--	--	---	--

MASTER LIFT STATION PUMPS

Manufacturer _____ Capacity (GPM's) _____ Motor: Manufacturer _____ Horsepower _____ Power (Electric or Mechanical) _____			_____ _____ N/A _____ _____ _____ _____			
---	--	--	---	--	--	--

PUMPING WASTEWATER STATISTICS

Months	Gallons of Treated Wastewater	Effluent Reuse Gallons to Customers	Effluent Gallons Disposed of on site
January _____	_____	N/A	_____
February _____	_____	_____	_____
March _____	_____	_____	_____
April _____	_____	_____	_____
May _____	_____	_____	_____
June _____	_____	_____	_____
July _____	_____	_____	_____
August _____	_____	_____	_____
September _____	_____	_____	_____
October _____	_____	_____	_____
November _____	_____	_____	_____
December _____	_____	_____	_____
Total for year _____	_____	_____	_____

If Wastewater Treatment is purchased, indicate the vendor: Florida Water Services

ADDENDUM TO AGREEMENT

This Addendum by and between Kingsway Properties, Inc. (the "Seller") and DeSoto County, (the "Purchaser") is entered into this 26th day of November, 2002, to amend the terms and conditions of that certain Asset Purchase Agreement (the "Agreement") of even date herewith. The Agreement is amended as follows:

- A. The name of the Seller shall read – Kingsway Properties Utilities, Inc., a Florida corporation; and the name of the Buyer shall read DeSoto County, a political subdivision of the State of Florida.
- B. ARTICLE I shall be entitled REPRESENTATIONS AND WARRANTIES BY SELLER and shall include the following after item 13.
- 14) The Seller is not a foreign person such that would require compliance with FIRPTA;
 - 15) The Seller is not in violation of any environmental laws nor will the execution of the agreement result in the violation of any laws;
 - 16) The use of such facilities does not violate any zoning certifications and there is no construction work-in-progress related to the utility system;

Seller warrants that:

- 17) The Seller will not materially change the physical condition, general financial structure, or operation of the utility system;
- 18) The Seller will provide full disclosure of all material facts and that the representations and warranties made in the Agreement will be true and correct at the time of closing;
- 19) Through Closing, the Seller shall operate, maintain, insure the utility system in a manner consistent with normal use and in compliance with applicable laws permits and requirements;

BB (Seller) / RPN (Purchaser)
Initialed for Identification

- 20) Through Closing, the Seller shall keep in effect insurance for the utility system;
- 21) Through Closing, the Seller will not dispose of or encumber any of the Purchased Assets without the consent of the Purchaser;
- 22) Through Closing, the Seller will not enter into any transaction exceeding \$5,000 in value except in furtherance of the Agreement;
- 23) Through Closing, the Seller shall bear the risk of loss, damage or destruction of the assets prior to and including the closing date;
- 24) Through Closing, the Seller will provide reasonable access to the records and facilities related to the utility system;
- 25) The Seller shall indemnify the Purchaser of all claims that may arise from a third party as a result of acts, errors, and/or omissions of the Seller;
- 26) The Seller will provide billing services and transitional assistance for the first billing cycle after the Date of Closing.

C. An ARTICLE V entitled PURCHASER'S REPRESENTATIONS shall be included as follows: Purchaser represents that:

- 1) Purchaser has fulfilled and complied with provisions of Section 125.3401, Florida Statutes;
- 2) The representations made in the Agreement by Purchaser will be true and correct at the time of closing;
- 3) Purchaser will adopt and deliver to the Seller a resolution approving the execution and performance of the Agreement;
- 4) After closing, the Purchaser will fulfill the obligations to furnish wastewater service to all existing customers who comply with the ordinances and resolutions of the Purchaser.
- 5) The Purchaser shall indemnify the Seller of all claims that may arise from a third party as a result of acts, errors, and/or omissions of the Purchaser.

D. The following shall be added to ARTICLE II, Section 1) Closing

(d) Adjustments and Prorations: Closing Costs

- (i) Taxes owed by the Seller related to all real and personal property will prorated through the day of closing;

BB (Seller) / RPN (Purchaser)
Initialed for Identification

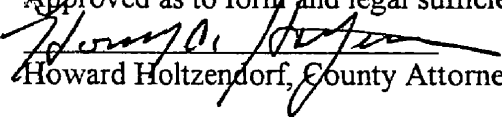
- (ii) All rates, fees, and charges for water service through the closing date shall be the property of the Seller;
- (iii) The Seller is responsible for the payment of all invoices for services, materials and supplies through the date of closing;
- (iv) The Seller shall retain all connection charges paid up through the closing date;
- (v) Documentary Stamps on the deed/easements will not be paid by Seller.

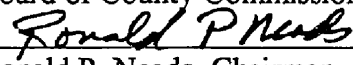
E. The following shall be added to ARTICLE IV GENERAL

- 6) Each party is responsible for its own professional fees and costs related to the preparation and execution of the Agreement.
- 7) Each party warrants to provide information and documentation as may be reasonably required to carry out the provisions of the Agreement. Certain agreements are included in the exhibits of the Agreement and will be assumed by the Purchaser upon closing. Specifically, this Agreement is contingent upon the assignment of that certain Sewer Purchase Agreement between Deep Creek Utilities, Inc. and Kingsway Properties, Inc., dated August 6, 1985, to the Purchaser or alternatively upon the Purchaser entering into a new Agreement for wastewater treatment with Deep Creek Utilities, Inc., whichever Purchaser deems most prudent.
- 8) The Agreement may not be changed or modified unless in writing and signed by the party affected by such change, or by formal amendment. The terms of the Agreement shall not be enforceable by any third party not included as a formal party to the Agreement. The Agreement is binding and enforceable upon the Seller and Purchaser in accordance with the laws of Florida. Time is of the essence in performing the provisions of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

Attest: 
 James V. Chisholm, County Administrator

Approved as to form and legal sufficiency

 Howard Holtzendorf, County Attorney

DeSoto County
 Board of County Commissioners

 Ronald P. Neads, Chairman

Kingsway Properties Utilities, Inc.

Brad Bishop

~~Mrs. Lucy Schmidt~~

Brad Bishop

Attest:

AMENDED INTERLOCAL AGREEMENT CREATING THE
PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY

THIS AMENDED INTERLOCAL AGREEMENT, entered into this 21st day of May, 1991, by and between CHARLOTTE COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing board thereof ("Charlotte"); DESOTO COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing board thereof ("DeSoto"); MANATEE COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing board thereof ("Manatee"); and SARASOTA COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing board thereof ("Sarasota").

WITNESSETH:

WHEREAS, Charlotte, DeSoto, Manatee and Sarasota find it is in the public interest and welfare to enter into a new 1991 Interlocal Agreement creating the Peace River/Manasota Regional Water Supply Authority (Authority); and

WHEREAS, the Authority was first established by Charlotte, DeSoto, Manatee, Sarasota and Hardee Counties on February 26, 1982 through an Interlocal Agreement entered on the same date, a copy of which is attached hereto as *Exhibit A*; and

WHEREAS, on March 16, 1983 Hardee County withdrew from the Authority under the terms of the February 26, 1982 Interlocal Agreement; and

WHEREAS, Charlotte, DeSoto, Manatee and Sarasota entered into a new Interlocal Agreement reestablishing the Authority on February 1, 1984, a copy of which is attached hereto as *Exhibit B*; and

WHEREAS, Charlotte, DeSoto, Manatee and Sarasota have approved a Memorandum of Intent, a copy of which is attached hereto as *Exhibit C*, which describes procedures for acquiring, operating and expanding the Peace River Regional Water Treatment Facility, along with appurtenant or associated installations, real property and fixtures and water transmission facilities located within Charlotte, DeSoto and Sarasota Counties, and procedures governing the votes of the Authority Board; and

WHEREAS, Charlotte, DeSoto, Manatee and Sarasota have decided to enter into an Amended Interlocal Agreement superseding the existing Interlocal Agreement in order to implement the commitments made in the above-mentioned Memorandum of Intent; and

WHEREAS, Charlotte, DeSoto, Manatee and Sarasota wish to set forth certain agreements among themselves with respect to the Peace River/Manasota Regional Water Supply Authority pursuant to the provisions of Section 373.1962, Florida Statutes and pursuant to the provisions of Section 163.01, Florida Statutes; and

WHEREAS, it is recognized and found by Charlotte, DeSoto, Manatee and Sarasota that provisions for water supply needs and protection of water resources can best be accomplished by maintaining a regional water supply authority whose primary function shall be to ensure future water supply and the development, recovery, storing and supplying of water resources for county or municipal purposes in such a manner as will give priority to encouraging conservation and reducing adverse environmental effects of excessive or improper withdrawals of water from concentrated areas; and

NOW, THEREFORE, in consideration of the foregoing premises, which shall be deemed an integral part of this Agreement, and of the mutual covenants and agreements hereafter set forth, Charlotte, DeSoto, Manatee and Sarasota intending to be legally bound hereby agree as follows:

1. DEFINITIONS. In the absence of a clear implication otherwise, capitalized terms used in this Agreement and attached Exhibits shall have the following meanings:

1.1. Administrative Cost. Costs incurred by the Authority, which are not covered under specific water supply contracts, to properly manage its functions including but not limited to keeping records, recording and distribution of minutes, meeting announcement and coordination of respective member staff input. This term does not include any Capital and Operation Cost, Peace River Debt Service Cost, Peace River Operating and Maintenance Cost or Peace River Facility Use Cost.

1.2. Authority Board. The Authority's governing body.

1.3. Capital and Operation Cost. Costs incurred by the Authority for personnel, staffing, operation, construction or acquisition of the Water Supply Facilities and associated planning and engineering studies necessary to implement such activities. This term does not include any Administrative Cost, Peace River Debt Service Cost, Peace River Operating and Maintenance Cost or Peace River Facility Use Cost.

1.4. Director. A Member's appointed representative on the Authority Board.

1.5. Environmental Permit. All licenses, permits, authorizations or other approvals from any government or governmental agency, whether federal, state, regional or local, necessary or convenient for the acquisition, construction and operation of the Water Supply Facilities, including but not limited to any general water use permit, temporary water use permit or individual water use permit issued by the Southwest Florida Water Management District or any successor agency.

1.6. Fiscal Year. The period beginning on each October 1, and ending on the immediately following September 30.

1.7. Member(s). Members of the Authority. The membership shall consist of Charlotte, DeSoto, Manatee and Sarasota, except as may be amended pursuant to Sections 10 or 11.

1.8. Normal Vote Method. A procedure by which each Director on the Authority Board is assigned one vote.

1.9. Quorum. For Normal Vote Method decisions, the Quorum shall consist of any three (3) Directors out of the four (4) Directors currently comprising the Authority Board. For Weighted Vote decisions, a majority of the-weighted votes shall constitute a Quorum.

1.10. Peace River Regional Water Treatment Facility. All real property, interest in real property, fixtures, personal property, wells, buildings, treatment systems, pumps, pipes, storage facilities, reservoirs, aquifer storage facilities and appurtenant or associated facilities located in DeSoto and Sarasota Counties, which are to be transferred by Charlotte to the Authority pursuant to that certain "Acquisition Agreement" by and among the Authority, Charlotte, DeSoto, Manatee, Sarasota and the Southwest Florida Water Management District and any expansion of said facilities undertaken pursuant to that certain "Peace River Water Supply Contract" by and among the Authority, Charlotte, DeSoto, Manatee and Sarasota, as more specifically described in *Exhibit 1.10*. The foregoing notwithstanding, this term shall not include the construction, acquisition or use of any groundwater production wells. "Groundwater production wells" shall not include facilities withdrawing water from the Peace River through the use of horizontal wells not more than 50 feet deep or aquifer storage and recovery wells.

1.11. Peace River Debt Service Cost. For any Fiscal Year, all costs including reserve or coverage requirements, if any, incurred by the Authority during such Fiscal Year in connection with the Peace River Regional Water Treatment Facility for any principal payments, interest payments,

redemption premiums, if any, and service charges with respect to amortization of indebtedness. This term has the same definition as the "Debt Service Cost" under that certain "Peace River Water Supply Contract" entered into by the Authority, Charlotte, DeSoto, Manatee and Sarasota.

1.12. Peace River Facility Use Cost. For any Fiscal Year, an amount equal to the ad valorem taxes that would have been collected by all taxing authorities located within DeSoto County for the Peace River Regional Water Treatment Facility, as if these installations were still privately owned. This term has the same definition as the "Facility Use Cost" under that certain "Peace River Water Supply Contract" entered into by the Authority, Charlotte, DeSoto, Manatee and Sarasota.

To determine the Peace River Facility Use Cost, DeSoto and Charlotte shall jointly select a real estate appraiser with an MAI or SRA designation. DeSoto and Charlotte shall instruct the appraiser to appraise the Peace River Regional Water Treatment Facility each Fiscal Year in a manner comparable to that utilized by the DeSoto County Property Appraiser to appraise the value of similar property. If DeSoto and Charlotte cannot agree on an appraiser, then the choice of such appraiser shall be made by a coin flip to choose one of the two appraisers recommended by DeSoto and Charlotte. After the appraiser arrives at the tax appraisal value of the property, the Authority shall determine the Peace River Facility Use Cost by applying the appropriate millage rates to such value. The Authority shall be entitled to any discount available to the taxpayers of DeSoto County for early payment of taxes, if paid accordingly.

1.13. Peace River Operating and Maintenance Cost. For any Fiscal Year, all cost incurred by the Authority in operating, maintaining and securing the Peace River Regional Water Treatment Facility during such Fiscal Year (regardless of the quantity of water, if any, being produced or delivered by the Authority), including but not limited to, the general and administrative costs of the Authority related to the budgeted operation, maintenance and security of the Peace River Regional Water Treatment Facility (as confirmed by audit), capital expenditures of the Authority for items

such as tools, equipment and vehicles necessary for the operation, maintenance and security of the Peace River Regional Water Treatment Facility (as confirmed by audit) and all costs incurred in obtaining and maintaining any Environmental Permit for the Peace River Regional Water Treatment Facility. This term has the same definition as the "Operating and Maintenance Cost" under that certain "Peace River Water Supply Contract" entered into by Authority, Charlotte, DeSoto, Manatee and Sarasota.

1.14. Water Supply Facilities. All real property, interest in real property, fixtures, personal property, wells, treatment systems, pumps, pipes, storage facilities, reservoirs, aquifer storage and recovery facilities, water transmission mains, any future expansion of said facilities and appurtenant or associated installations owned, leased or otherwise controlled by Charlotte, DeSoto, Manatee, Sarasota or the Authority. This term shall not include the Peace River Regional Water Treatment Facility.

1.15. Weighted Vote Method. A procedure by which the number of votes assigned to each Member representative on the Authority Board is determined based on the amount of water from the Peace River Regional Water Treatment Facility consumed within that Member's jurisdiction. Under this voting method, each Member representative on the Authority Board has one vote for each full 100,000 gallons produced from the Peace River Regional Water Treatment Facility and delivered to consumers located within said Member's geographic boundaries on an annual basis as measured by the Authority during the immediately preceding Fiscal Year. However, the foregoing notwithstanding, each Director on the Authority Board shall have at least one vote.

2. **FORMATION**. The Authority was established on February 26, 1982 and has remained in continuous existence since that date. The Authority was created pursuant to Sections 373.196, 373.1962 and 163.01, Florida Statutes and other applicable law.

3. TERRITORY. The geographic territory of the Authority consists of all of DeSoto County, Florida, Manatee County, Florida and Sarasota County, Florida and that portion of Charlotte County, Florida located within the territorial boundaries of the Southwest Florida Water Management District.

4. AUTHORITY BOARD. All powers, privileges and duties vested in or imposed on the Authority shall be exercised and performed by and through a governing body in accordance with the following:

4.1. Name. The governing body of the Authority shall be designated and known as the Authority Board.

4.2. Composition of the Authority Board. The Authority Board shall be composed of the Member representatives of the Authority. Each Member shall duly appoint one Director to the Authority Board. Such appointment shall be at the sole discretion of the appointing Member and shall be a member of the appointing Member's Board of County Commissioners. A Member may appoint an alternate Director to the Authority Board and such alternate shall have the power to vote in the absence of the primary designated Director. Alternate Directors do not have to be members of the appointing Member's Board of County Commissioners. Appointments to the Authority Board shall serve at the pleasure of the appointing Member.

4.3. Voting Procedure. All votes on questions, orders, resolutions, regulations or other decisions coming before the Authority Board shall be conducted as follows:

4.3.1. The Authority Board shall set the Peace River Operating and Maintenance Cost and establish water rates under the Peace River Water Supply Contract entered into by the Authority, Charlotte, DeSoto, Manatee and Sarasota dealing with operation and maintenance of the Peace River Regional Water Treatment Facility by enacting a portion of its budget relating exclusively to the Peace River Regional Water Treatment Facility and amending such portion of its

budget when necessary, according to the Weighted Vote Method. No Member shall use its authority under either the Weighted Vote Method or the Normal Vote Method to impede the Authority's ability to operate the Peace River Regional Water Treatment Plant in a sound and reasonable manner.

4.3.2. The Authority Board shall make all other decisions, except for those decisions specified in Section 4.3.1., by the Normal Vote Method, including but not limited to setting the Peace River Debt Service Cost and Peace River Facility Use Cost.

4.3.3. A majority vote of the Membership shall be necessary for any Authority Board action, regardless of whether the vote is governed by the Normal Vote Method or the Weighted Vote Method. For example, there must be at least three Directors on the Authority Board who vote in favor of the proposed action under the Normal Vote Method and at least 50.1% of the weighted votes who vote in favor of the proposed action under the Weighted Vote Method.

4.3.4. In the event an immediate danger to the public health, safety or welfare resulting from the commission of an illegal act or failure to comply with a valid regulatory rule or order requires emergency action and the Authority finds itself unable to respond to the emergency because of the vote of one or two of its Directors under the Weighted Vote Method, the Authority Board may by majority vote using the Normal Vote Method suspend the Weighted Vote Method for the duration of the emergency. At the conclusion of the emergency, the Weighted Vote Method will again apply to those situations coming within the ambit of Section 4.3.1.

4.3.5. In the event an immediate danger to the public health, safety or welfare resulting from the commission of an illegal act or failure to comply with a valid regulatory rule or order requires emergency action relating directly or indirectly to the Peace River Regional Water Treatment Facility and the Authority finds itself unable to respond to the emergency because of the vote of two or three of its Directors under the Normal Vote Method, the Authority Board may by

majority vote using the Weighted Vote Method suspend the Normal Vote Method for the duration of the emergency. At the conclusion of the emergency, the Normal Vote Method will again apply to those situations coming within the ambit of Section 4.3.2.

4.4. Authority Board Officers. The Authority Board shall elect one Director as chairman and one Director as vice-chairman. The chairman shall preside at Authority Board meetings and shall execute all contracts and other legal documents on behalf of the Authority. The chairman shall be elected for the term of one (1) year. If the chairman shall cease to be a Director or shall for any reason be unable to serve as chairman, a successor shall be elected by the Authority Board for the unexpired portion of the term. The vice-chairman shall be elected for a term of one (1) year and shall assume all of the duties of the chairman in his/her absence. If neither the chairman or vice-chairman is in attendance and willing to chair a meeting at which a quorum is present, the Authority Board may elect a chairman pro-tem for the duration of that meeting.

4.5. Power of the Authority Board. All powers, privileges and duties vested in or upon the Authority shall be exercised and performed by and through the Authority Board in accordance with this Section; provided, however, the exercise of any and all executive, administrative and ministerial powers may be delegated by the Authority Board to any of its officers, staff, employees, agents or designees, which delegation may be redelegated or withdrawn by the Authority Board. The Authority Board shall fix and publish to the Members the time and place or places at which its regular meetings shall be held, and shall provide for the calling and holding of special meetings at the request of any member upon appropriate notice. The Authority Board shall adopt rules, regulations, resolutions and orders for conducting its business.

4.6. Compensation of Directors. Directors shall serve without compensation, but shall be reimbursed for per diem and travel in accordance with Section 112.061 Florida Statutes.

5. GENERAL POWERS OF THE AUTHORITY. The Authority shall have the following powers and duties:

5.1. The right to exercise any and all provisions or powers granted to the Authority by Section 373.1962, Florida Statutes, said provisions being incorporated by reference herein, and to whatever rules, regulations, resolutions, by-laws, and organization necessary to perform the intended functions of the Authority. The procedures for conducting any elections or referenda required and the qualifications of an elector shall be as provided by Chapters 97 through 106, Florida Statutes, known as "The Florida Election Code;" and

5.2. The full and complete right to contract; and

5.3. The authority to prescribe, fix, maintain, and regulate fees, charges, or rents for the use of any of the Authority facilities or services by persons or things at the discretion of the Authority Board, subject to the provisions of Section 4.3.1.; and

5.4. The right to acquire land, submerged lands and properties or interests therein by purchase, gift, condemnation or otherwise, and to hold or dispose of same upon such terms and conditions as the Authority Board shall deem necessary and prudent and to improve such land or lands so acquired in any manner which promotes or has a tendency to promote the public good of the region and which relate to the duties and authority specified in this Section; and

5.5. The right to apply for and receive Environmental Permits; and

5.6. The authority to borrow money, issue bonds and other types of securities, mortgage, pledge or otherwise encumber any of the Authority's property or assets upon terms and conditions to be determined by the Authority Board. This power shall be full and complete in all respects in order to promote, construct, accomplish, maintain, and operate any of the public purposes or projects enumerated in this Section; provided, however, that the power to borrow money and issue water revenue bonds shall be limited to requiring only those parties who voluntarily consent to pay back

any borrowed money or pledge their water revenue to the payment of any issued Authority bonds; and

5.7. The right to adopt and enforce reasonable rules and regulations or procedures pertaining to the use, acquisition, maintenance, development, operation, or disposal of any of the services, facilities, or projects enumerated or authorized in this Section; and

5.8. The right to acquire, to do, and to perform all things enumerated in this Section separately or in conjunction with a county, municipality or other political subdivision of the state whether the same is within or without the territorial limits of the Authority; and

5.9. The authority to employ a staff and such other technical assistants and other employees as the Authority Board shall determine to be necessary; and

5.10. The right to conduct and pay for studies, plans, and designs to effectuate the purpose of the Authority, which action may include, but is not limited to, work plans for providing existing water supply and for expansion, staffing plans, and financing plans; and

5.11. The right to enter into interlocal agreements or other contracts with public or private entities, if necessary, for the purpose of selling or purchasing water; and

5.12. The right to produce and supply water on a regional basis; provided, however, the Authority shall not engage in local distribution of water and will only provide water at rates, fees and charges necessary to pay its budgeted expenditures; and

5.13. The right to enter contracts with public or private entities for provision of assistance in planning, financing and constructing any and all facilities and services as determined appropriate and desirable by the Authority Board; provided however, the Authority shall not enter into any management contract with respect to the Peace River Regional Water Treatment Facility, which jeopardizes the tax exempt status of any revenue bonds issued by Charlotte regarding the facility; and

5.14. The right to secure funding and to contract for appropriate engineering and financial feasibility studies to evaluate the applicability of the Authority assuming responsibility for the production and supplying of water on a regional basis or to further effectuate the purposes of the Authority; provided, however, such funding and contracting shall not be included in that portion of the budget relating to the Peace River Water Supply Contract entered into by the Authority, Charlotte, DeSoto, Manatee and Sarasota nor included in rates, fees or charges of those persons purchasing water from the Authority under said Peace River Water Supply Contract; and

5.15. The right to maintain an office at such place or places within the territorial boundary of the Authority as the Authority Board may designate; and

5.16. The right to employ and compensate such personnel, consultants and technical and professional assistants as the Authority Board shall deem necessary to the exercise of the Authority's powers and to the performance of the duties set forth in this Section; provided, that to the extent such employment and compensation is involved with water supply under the Peace River Water Supply Contract entered into by the Authority, Charlotte, DeSoto, Manatee and Sarasota, it shall be limited to the amount set forth in that portion of the budget as adopted and amended under the Weighted Vote Method; and

5.17. The right to accept and receive, utilize or expand, in furtherance of its functions, funds, grants, and services from the federal government or its agencies, from departments, agencies and instrumentalities of state, municipal, county, or other local governments, or from private or civic sources; and

5.18. The right to invest any surplus money in the Authority treasury, including such money in any sinking fund or other fund established for the purpose of providing for the payment of the principal or interest of any bonded or other indebtedness or for any other purpose, not required for the immediate necessities of the Authority, in its bonds, or in treasury notes, or bonds, of the

United States, or of this state, and such investment may be made by direct purchase of any issue of such bonds or treasury notes, or part thereof, at the original sale of the same, or by subsequent purchase of such bonds or treasury notes. Any bonds or treasury notes thus purchased and held may from time to time, be sold and the proceeds reinvested in bonds or treasury notes, as above provided. Sales of any bonds or treasury notes thus purchased and held shall, from time to time, be made in season so that the proceeds may be applied to the purposes for which the money, with which the bonds or treasury notes were originally purchased, were placed in the treasury of the Authority; and

5.19. The right to have and exercise such powers as are reasonably implied herefrom and necessary and proper to carry out the objectives and purposes of the Authority; and

5.20. The right to provide other services as may be agreed upon by the Members through amendment of this Agreement.

6. FUNDING. It is intended and mandated that funding of Capital and Operation Costs will be secured on a user-pay-basis. However, it is acknowledged Administrative Costs of the Authority may be obtained from the Members, and that funds available for feasibility studies and planning will be sought by the Authority from the federal and state government, including but not limited to the Department of Environmental Regulation, Department of Community Affairs, the Southwest Florida Water Management District, the Basin Boards of the Southwest Florida Water Management District and appropriate utilities and agencies. The foregoing notwithstanding, each Member shall have sole discretion over its contributions to the Authority under this Section.

7. EXISTING OPERATION. The Members may continue to operate and expand their existing Water Supply Facilities. The Members shall have a preferential right to purchase water from the Authority for use by said Members. The Authority will provide water to its Members, when requested and paid for by the requesting Members. If agreed to by the Members, the Authority will

treat water to standards which are required to make the water compatible with the receiving Member's utility system.

8. DEVELOPMENT OF FUTURE WATER SUPPLY FACILITIES. The Authority and its Members shall develop new Water Supply Facilities as follows:

8.1. General. The Authority will develop new Water Supply Facilities to meet the water demands of its Members; provided, however, the Authority shall not acquire, develop, construct or operate a Water Supply Facility without the express written consent of the governing body of the Member County in whose territory the Water Supply Facility is or will be located. Members will continue to have the right to acquire, develop, construct or operate Water Supply Facilities within their own territorial boundaries; provided, however, Members shall not acquire, develop, construct or operate Water Supply Facilities outside their own territorial boundaries without the express written consent of the governing body of the Member County in whose territory the Water Supply Facility is or will be located.

8.2. Procedure for the Authority. Whenever the Authority intends to apply or seek the transfer of an Environmental Permit for a Water Supply Facility, it shall notify in writing the Member County in whose territory the Water Supply Facility is or will be located of its intentions no less than thirty (30) days prior to submitting the application or requesting the transfer. Upon receiving said notice, the Member County in whose territory the Authority intends to develop the Water Supply Facility shall have thirty (30) days in which to notify the Authority of its objection to developing the Water Supply Facility. The Authority shall immediately withdraw its application or request for the Environmental Permit upon receiving a timely objection to the Water Supply Facility from the Member County in whose territory the Water Supply Facility is or will be located. The foregoing notwithstanding, this procedure shall not apply to Environmental Permits relating to the Peace River Regional Water Treatment Facility, except for Environmental Permits relating to

groundwater production wells, which shall be treated in accordance with this Section. "Groundwater production wells" shall not include facilities withdrawing water from the Peace River through the use of horizontal wells not more than 50 feet deep or aquifer storage and recovery wells.

8.3. Procedure for the Authority's Members. Whenever a Member intends to apply or seek the transfer of an Environmental Permit for a Water Supply Facility which is located or will be located outside its territorial boundaries, it shall notify in writing the Member County in whose territory the Water Supply Facility is or will be located of its intentions no less than thirty (30) days prior to submitting the application or requesting the transfer. Upon receiving said notice, the Member County in whose territory the applicant Member intends to develop the Water Supply Facility shall have thirty (30) days in which to notify the applicant Member of its objection to developing the Water Supply Facility. The Member shall immediately withdraw its application or request for transfer of the Environmental Permit upon receiving a timely objection to the Water Supply Facility from the Member County in whose territory the Water Supply Facility is or will be located.

8.4. Survival. The provisions of this Section shall survive the termination of this Agreement or the withdrawal of a Member.

9. EMERGENCY INTERCONNECT. The Authority and its Members shall seek the interconnection of the water utility systems owned, operated or controlled by the Authority's Members with Authority Water Supply Facilities and the Peace River Regional Water Treatment Facility for the purpose of facilitating the transfer of water among the Authority's Members under emergency conditions. The Authority and its Members shall make available capacity, if any, in their Water Supply Facilities, including the Peace River Water Treatment Facility to the Member(s) experiencing an emergency at the established rate.

10. WITHDRAWAL FROM THE AUTHORITY. A Member may withdraw from the Authority only upon giving the other Members one hundred and eighty (180) days prior written notice of its intention to withdraw. Any Member who withdraws from the Authority shall continue to be responsible for any financial or contractual obligations it has specifically assumed while a Member of the Authority, including but not limited to the withdrawing Member's obligations under that certain "Acquisition Agreement" entered into by the Authority, Charlotte, DeSoto, Manatee, Sarasota and the Southwest Florida Water Management District or its obligations under that certain "Peace River Water Supply Contract" entered into by the Authority, Charlotte, DeSoto, Manatee and Sarasota.

11. NEW MEMBERS. Admission of new Members to the Authority and any amendment of this Agreement to reflect said new Members shall be by unanimous vote of the Authority Board.

12. AMENDMENT. This Agreement may be amended in writing executed by all the then current Authority Members in the same manner as this Agreement.

13. PRIOR AGREEMENTS. All negotiations, proposals and agreements prior to the date of this Agreement, including but not limited to the Interlocal Agreement of February 26, 1982, a copy of which is attached hereto as *Exhibit A*, the Interlocal Agreement of February 1, 1984, a copy of which is attached hereto as *Exhibit B* and the Memorandum of Intent, a copy of which is attached hereto as *Exhibit C* are superseded. This Agreement shall constitute the entire interlocal agreement of the Charlotte, DeSoto, Manatee and Sarasota with respect to the formation, general powers and general obligations of the Authority. The foregoing notwithstanding, this Agreement shall not supersede the Peace River Water Supply Contract or the Acquisition Agreement, both of which shall be read in pari materia with this Agreement. In the event this Agreement is determined to be invalid, illegal or unenforceable in its entirety, the Interlocal Agreement of February 1, 1984, a copy of which

is attached hereto as *Exhibit B*, shall be restored to full force and effect and the Authority shall be governed by that agreement.

14. BUDGETS. The Authority shall establish its budgets in the following manner:

14.1. Tentative Budgets. The Authority shall establish a tentative budget no later than May 15, for the ensuing Fiscal Year. The tentative budget shall include all anticipated expenditures of the Authority for its projects and activities for the ensuing Fiscal Year, including Capital and Operating Costs and Administrative Costs. Separate portions of the tentative budget shall be established for each Authority Water Supply Facility and the Peace River Regional Water Treatment Facility. The portion of the tentative budget relating to the Peace River Regional Water Treatment Facility shall set forth the Peace River Operating and Maintenance Cost.

14.2. Final Budgets. The Authority shall establish a final budget no later than August 15, for the ensuing Fiscal Year. The final budget shall include all anticipated expenditures of the Authority for its projects and activities for the ensuing Fiscal Year, including Capital and Operating Costs and Administrative Costs. Separate portions of the final budget shall be established for each Authority Water Supply Facility and the Peace River Regional Water Treatment Facility. The portion of the final budget relating to the Peace River Regional Water Treatment Facility shall set forth the Peace River Operating and Maintenance Cost.

14.3. Budget Adoption Procedure. The Authority's tentative budget shall be adopted at a regularly scheduled meeting in accordance with normal notice and procedure requirements applicable to such meeting. The Authority's final budget shall be adopted at a public hearing preceded by published notice in a newspaper of general circulation within the territorial boundaries of each of the Authority's Member Counties. This notice shall be published one time only at least fourteen (14) days prior to the public hearing. Additionally, the Authority shall provide copies of the tentative budget and all supporting documentation to its Members at least thirty (30) days prior to

the public hearing. The public shall be given a reasonable opportunity to address the Authority Board.

14.4. Audit. At the close of each Fiscal Year the Authority shall have an audit performed of all of its accounts by an independent certified public accounting firm.

14.5. Rate Making Procedure. The Authority shall adopt rates, fees and charges relating to the reservation of water capacity in the Peace River Regional Water Treatment Facility so as to generate sufficient revenue to pay all budgeted annual expenditures of that portion of the budget relating to the Peace River Regional Water Treatment Facility. Any surplus resulting from a prior Fiscal Year's Peace River Regional Water Treatment Facility operations shall be used solely as a source of revenue within the next Fiscal Year's budget.

15. DEFAULT AND REMEDY. The Authority Members agree the sole remedy for a breach of this Agreement shall be specific performance.

16. DISSOLUTION OR MODIFICATION OF THE AUTHORITY. Should the Authority be adjudged bankrupt or insolvent or dissolved by law or other proceeding, or transferred or assigned to another governmental agency or body, or if the Legislature of the State of Florida changes (a) the composition of the current Members of the Authority or (b) the method of determining the composition of the Members of the Authority or the Directors of the Authority Board, other than as set forth in this Agreement, then the Peace River Regional Water Treatment Facility shall be transferred by operation of law to those Members holding a Water Allocation in the facility under that certain Peace River Water Supply Contract entered into by the Authority, Charlotte, DeSoto, Manatee and Sarasota in proportion to the sum of all Water Allocations under said Peace River Water Supply Contract; provided, however, those Members taking title to the Peace River Regional Water Treatment Facility shall continue making payment, when due, on its applicable portion, as computed directly above, of the Peace River Debt Service Cost, if any.

17. RECLASSIFICATION OF THE PEACE RIVER. The Authority shall not use its formation or existence as grounds for requesting the Department of Environmental Regulation to reclassify all or any portion of the Peace River as an Outstanding National Resource Water, an Outstanding Florida Water or Class I Water as those terms are defined and used in Florida Administrative Code Chapter 17-302.

18. APPLICABLE LAW AND VENUE. The laws of the State of Florida shall govern the validity, interpretation, construction and performance of this Agreement and venue for any suit involving this Agreement shall be in Hillsborough County, Florida.

19. ASSIGNMENT. No assignment, delegation, transfer or novation of this Agreement or any part thereof shall be made unless approved in writing by all Members.

20. NOTICES. All notices, demands, requests and other communications hereunder shall be deemed sufficient and properly given, if in writing and delivered in person to the following addresses or sent by certified or registered mail, postage prepaid with return receipt requested, at such addresses; provided, if such notices, demands, requests or other communications are sent by mail, they shall be deemed as given on the third day following such mailing which is not a Saturday, Sunday or a day on which United States mail is not delivered: the Authority Executive Director's Office, the Charlotte County Administrator's Office, the DeSoto County Administrator's Office, the Manatee County Administrator's Office and the Sarasota County Administrator's Office. The Authority or any Member may, by like notice, designate any further or different addresses to which subsequent notices shall be sent. Any notices hereunder signed on behalf of the notifying party by a duly authorized attorney at law shall be valid and effective to the same extent as if signed on behalf of such party by a duly authorized officer or employee.

21. RELATIONSHIP OF THE PARTIES. No Authority Member shall have any responsibility to perform services for or to assume contractual obligations which are the obligations

of another Member. Nothing herein shall be deemed to constitute any Member a partner or joint venturer, or to create any fiduciary relationship among the Members.

22. THIRD PARTY BENEFICIARIES. No right or cause of action shall accrue upon or by reason hereof, or for the benefit of any person not expressly named as a party in this Agreement, except for any bond holders and/or credit enhancers relating to revenue bonds issued with respect to the Peace River Regional Water Treatment Facility and Water Supply Facilities owned, leased or otherwise controlled by the Authority.

23. WAIVER. Unless otherwise specifically provided by the terms of this Agreement, no delay or failure to exercise a right resulting from any breach of this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as may be deemed expedient. Any waiver shall be in writing and signed by the party granting such waiver. If any representation, warranty or covenant contained in this Agreement is breached by any party and thereafter waived by another party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive, either expressly or impliedly, any other breach under this Agreement.

24. SECTION CAPTIONS AND REFERENCES. The section headings and captions contained herein are included for convenience only and shall not be considered part of this Agreement or affect in any manner its construction or interpretation. Except as otherwise indicated, all references herein to sections are to sections of this Agreement.

25. SEVERABILITY. In the event that any provision of this Agreement shall, for any reason, be determined invalid, illegal or unenforceable in any respect the parties hereto shall negotiate in good faith and agree to such amendments, modifications or supplements of this Agreement or such other appropriate actions as shall, to the maximum extent practicable in the light of such determination implement and give effect to the intentions of the parties as reflected herein,

and the other provisions of this Agreement, as amended, modified, supplemented or otherwise affected by such action, shall remain in full force and effect.

26. ATTORNEYS FEES AND COST. In the event there is a breach of this Agreement and it becomes necessary for any party to employ the services of an attorney either to enforce the Agreement or pursue other remedies, with litigation or adversarial administrative proceedings, the losing party or parties shall pay to the successful party or parties reasonable attorney's fees and such reasonable costs and expenses as are incurred in enforcing the Agreement or pursuing other remedies.

27. FURTHER ASSURANCES. The Members each shall use all reasonable efforts to provide such information, execute such further instruments and documents and take actions as may be reasonably requested by another party and not inconsistent with the provisions of this Agreement and not involving the assumption of obligations or liabilities different from, in excess of or in addition to those expressly provided for in this Agreement to carry out the intent of this Agreement.

28. CONSENTS. To the extent the consent of any party to this Agreement is required as a condition to the action of other parties, such consent shall not be unreasonably withheld.

29. EXECUTION OF DOCUMENTS. This Agreement shall be executed in fifteen (15) duplicate originals, any of which shall be regarded for all purposes as an original and all of which shall constitute one and the same instrument. A true and correct copy of this Agreement and any subsequent amendments shall be recorded with the clerk of the circuit court in Charlotte, DeSoto, Manatee and Sarasota Counties.

30. AMBIGUITY. The parties agree that each one has played an equal part in the negotiation and drafting of this Agreement, and in the event of any ambiguity should be asserted or realized in the interpretation or construction of this Agreement, the result of such ambiguity shall be equally assumed and realized by each party.

IN WITNESS WHEREOF, Charlotte, DeSoto, Manatee and Sarasota have executed this Contract on the day, month and year first above written.

CHARLOTTE COUNTY

WITNESS:

[Signature]
Carolyn L. LeBeau

By: [Signature]
Date: 5/16/91

Approved as to form:

[Signature]
Attorney for Charlotte County

DESOTO COUNTY

WITNESS:

[Signature]
Dandra S. Claman

By: [Signature]
Date: 5/21/91

Approved as to form:

[Signature]
Attorney for DeSoto County

MANATEE COUNTY

WITNESS:

[Signature]
Diane E. Volcan

By: [Signature]
Date: 5/16/91

Approved as to form:

[Signature]
Attorney for Manatee County

R. B. SHORE
ATTEST:
R. B. SHORE, CLERK OF CIRCUIT COURT

[Signature]
BY: RICHARD H. ASHLEY, CHIEF DEPUTY CLERK

SARASOTA COUNTY

WITNESS:

[Signature]
[Signature]

By: [Signature]

Date: 5/15/91

Approved as to form

[Signature]
Attorney for Sarasota County

STATE OF FLORIDA
COUNTY OF CHARLOTTE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, Wm. E. Hall Jr., to me known to be the person described in and who executed the foregoing instrument on behalf of the Charlotte County, and Wm. E. Hall Jr., acknowledged before me that Wm. E. Hall Jr., executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this 15th day of May, 1991.

[Signature]
Notary Public, My
Commission
Expires: NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. APR. 19, 1994
BONDED THRU GENERAL INS. UND.

STATE OF FLORIDA
COUNTY OF DESOTO

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, R. V. Griffin, to me known to be the person described in and who executed the foregoing instrument on behalf of the DeSoto County, and R. V. Griffin, acknowledged before me that R. V. Griffin, executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this 9th day of May, 1991.

Carol Heitman
Notary Public, My
Commission
Expires: Notary Public, State of Florida at Large
My Commission Expires Nov. 1, 1993

STATE OF FLORIDA
COUNTY OF MANATEE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, _____, to me known to be the person described in and who executed the foregoing instrument on behalf of Manatee County, and _____, acknowledged before me that _____, executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this ___ day of _____, 1991.

Notary Public, My
Commission
Expires:

STATE OF FLORIDA
COUNTY OF SARASOTA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, Mark F. Roberts, to me known to be the person described in and who executed the foregoing instrument on behalf of Sarasota County, and Mark F. Roberts, acknowledged before me that Mark F. Roberts, executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this 15 day of May, 1991.

Mark F. Roberts
Notary Public, My
Commission
Expires:

NOTARY PUBLIC, STATE OF FLORIDA.
MY COMMISSION EXPIRES: APRIL 17, 1992.
BONDED THRU NOTARY PUBLIC UNDERWRITERS.

INTERLOCAL AGREEMENT
CREATING THE PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY
BETWEEN
CHARLOTTE, DESOTO, HARDEE, MANATEE, POLK AND SARASOTA COUNTIES

THIS AGREEMENT, made and entered into this 26th day of February, 1982, by and between CHARLOTTE, DESOTO, HARDEE, MANATEE, POLK, and SARASOTA COUNTIES, hereinafter referred to as "COUNTY" or "COUNTIES," each of which is a political subdivision existing pursuant to Article VIII of the Constitution of the State of Florida.

W I T N E S S E T H:

WHEREAS, the parties to this Agreement wish to set forth certain agreements among themselves respecting the creation of a regional water supply authority, pursuant to the provisions of Chapter 373.1962, Florida Statutes, and to the provisions of Section 163.01, Florida Statutes; and

WHEREAS, it is recognized by the COUNTIES hereto that the water needs and protection of water resources can better be met by forming a regional authority whose prime function shall be to supply water; and

NOW, THEREFORE, it is agreed as follows:

1. There are rapidly growing water supply problems that require cooperative and coordinated efforts on a regional basis to achieve adequate and dependable supplies of water where needed without resulting in adverse effects upon the areas from whence such water is withdrawn.

2. The COUNTIES agree to form the PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY, hereinafter referred to as "AUTHORITY," pursuant to Chapter 373.1962, Florida Statutes for such purposes.

3. It is intended that funding of operational and capital costs of the AUTHORITY will be secured on a "user pay" basis. However, it is acknowledged that initial organizational costs as well as funds for special studies and planning may be sought from the Basin Boards of Southwest Florida Water Management District with the understanding that such funds will be repaid. Should the AUTHORITY determine that a need exists for funding assistance directly from the member COUNTIES, the COUNTIES would have to approve of the funding method and amount, and the funds would be subject to repayment.

4. The geographic territory of the AUTHORITY shall include all of the areas of each of the COUNTIES which is within the geographic limit of the Manasota and Peace River Basins of Southwest Florida Water Management District.

5. Each COUNTY to this Agreement may continue to operate and expand its existing and future facilities. Nothing in this document shall preclude future independent actions by such COUNTY provided that no facility shall be expanded by one COUNTY into another COUNTY without concurrence of the other COUNTY.

6. The AUTHORITY shall have an Authority Board composed of one (1) duly appointed representative from each COUNTY to this Agreement. Each such Authority Board member shall have one (1) vote. An Alternate Representative may also be appointed by each COUNTY. Such Alternate Representative shall have authority to vote in the absence of the primary representative. All powers, privileges and duties vested in or imposed upon the AUTHORITY shall be exercised and performed by and through its Authority Board; provided, however, that the exercise of any and all executive, administrative and ministerial powers may be delegated by said Authority Board to any of its officers, staff or agents. Any such delegation may be redelegated or withdrawn by the Authority Board.

7. The Authority Board may exercise any and all provisions granted to the AUTHORITY by Chapter 373.1962 Florida Statutes, and may establish whatever rules, regulations and organization necessary to perform the intended functions of the AUTHORITY.

8. Any COUNTY may withdraw from the AUTHORITY at any time, but if a COUNTY does withdraw, it shall continue to be responsible for any financial obligation it has specifically assumed while it was a member of the AUTHORITY.

9. Notwithstanding the provisions of paragraph 6 hereof, in the event one (1) or more COUNTIES withdraw from the AUTHORITY, the voting power of the remaining members shall then be weighted in order to maintain equal voting power between Inland and Coastal Counties. CHARLOTTE, MANATEE and SARASOTA COUNTIES are classified as Coastal Counties. DESOTO, HARDEE and POLK COUNTIES are classified as Inland Counties.

10. The Authority Board members representing each COUNTY and their alternate shall be appointed by the respective Boards of County Commissioners to serve for specific terms.

11. The AUTHORITY shall not initiate or be a party to any action to reclassify the Peace River as to quality.

AFFIRMATION:

(1) CHARLOTTE COUNTY hereby affirms that, at a duly constituted meeting of the Board of County Commissioners on the 9th day of FEBRUARY 1982, it approved the terms of this Agreement and the execution thereof by CHARLOTTE COUNTY and does hereby enter into this Agreement.

Attest: [Signature] Clerk of Circuit Court [Signature] Chairman, Charlotte County Commissioners

(2) DESOTO COUNTY hereby affirms that, at a duly constituted meeting of the Board of County Commissioners on the 9th day of Feb. 1982, it approved the terms of this Agreement and the execution thereof by DESOTO COUNTY and does hereby enter into this Agreement.

Attest: [Signature] Clerk of Circuit Court [Signature] Chairman, DeSoto County Commissioners
County Administrator

(3) HARDEE COUNTY hereby affirms that, at a duly constituted meeting of the Board of County Commissioners on the 11th day of February, 1982, it approved the terms of this Agreement and the execution thereof by HARDEE COUNTY and does hereby enter into this Agreement.

Attest: Patricia Richardson D.C. Maurice Henderson
Clerk of Circuit Court Chairman, Hardee County Commissioners

(4) MANATEE COUNTY hereby affirms that, at a duly constituted meeting of the Board of County Commissioners on the 16th day of February, 1982, it approved the terms of this Agreement and the execution thereof by MANATEE COUNTY and does hereby enter into this Agreement.

Attest: [Signature] Leslie E. Fisher
Clerk of Circuit Court Chairman, Manatee County Commissioners

(5) POLK COUNTY hereby affirms that, at a duly constituted meeting of the Board of County Commissioners on the _____ day of _____, 1982, it approved the terms of this Agreement and the execution thereof by POLK COUNTY and does hereby enter into this Agreement.

Attest: _____
Clerk of Circuit Court Chairman, Polk County Commissioners

(6) SARASOTA COUNTY hereby affirms that, at a duly constituted meeting of the Board of County Commissioners on the 23rd day of FEBRUARY, 1982, it approved the terms of this Agreement and the execution thereof by SARASOTA COUNTY and does hereby enter into this Agreement.

Attest: [Signature] Mary Carolyn [Signature]
DEPUTY Clerk of Circuit Court Chairman, Sarasota County Commissioners

IN WITNESS WHEREOF, the COUNTIES hereto have executed this Agreement the day and year first above written.

EXHIBIT B

INTERLOCAL AGREEMENT
CREATING THE PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY
BETWEEN
CHARLOTTE, DESOTO, MANATEE, AND SARASOTA COUNTIES

1
2
3 THIS AGREEMENT, made and entered into this 15 day of
4 Feb, 1984, by and between CHARLOTTE, DESOTO, MANATEE,
5 and SARASOTA COUNTIES, hereinafter referred to as "COUNTY" or
6 "COUNTIES", each of which is a political subdivision existing pur-
7 suant to Article VIII of the Constitution of the State of Florida.

8 W I T N E S S E T H:

9 WHEREAS, on February 26, 1982, an interlocal agreement
10 creating The Peace River/Manasota Regional Water Supply Authority
11 was entered into between the Counties of Charlotte, DeSoto,
12 Hardee, Manatee and Sarasota; and

13 WHEREAS, by letter dated March 16, 1983 from John Roy Gough,
14 Commissioner, the Hardee County Commission officially withdrew
15 from participation in The Authority under the terms of the
16 February 26, 1982 agreement; and

17 WHEREAS, the other four counties, which are the parties to
18 this Agreement, wish to set forth certain agreements among them-
19 selves respecting the creation of a regional water supply
20 authority, pursuant to the provisions of Chapter 373.1962,
21 Florida Statutes, and to the provisions of Section 163.01,
22 Florida Statutes; and

23 WHEREAS, it is recognized by these four COUNTIES that the
24 water needs and protection of water resources can better be met by
25 forming a regional authority whose prime function shall be to
26 supply water.

27 NOW, THEREFORE, it is agreed as follows:

28 1. DEFINITIONS SECTION

29 Quorum: The full membership of the Authority established
30 by this Interlocal Agreement.

31 Capital and Operational Expenses: All personnel and
32 staffing, construction or acquisition and operation of
33 water supply, distribution and/or treatment facilities

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and associated planning and engineering studies necessary to implement such construction.

Administrative Costs: Costs incurred to properly manage the functions of the Authority including, but not limited to, keeping of records, recording, and distribution of minutes, meeting announcements, and coordination of respective member staff input.

2. There are rapidly growing water supply problems that require cooperative and coordinated efforts on a regional basis to achieve adequate and dependable supplies of water where needed without resulting in adverse effects upon the areas from whence such water is withdrawn.
3. The COUNTIES agree to form the PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY, hereinafter referred to as "AUTHORITY" pursuant to Chapter 373.1962, Florida Statutes for such purposes.
4. It is intended that funding of capital and operational expenses will be secured on a "user pay" basis. However, it is acknowledged that initial administrative costs may be obtained from member governments, and that funds for special studies and planning will be sought from the Basin Boards of Southwest Florida Water Management District with the understanding that such funds will be repaid.
5. The geographic territory of the AUTHORITY shall include all of the areas of each of the COUNTIES which is within the geographic limit of the Manasota and Peace River Basins of Southwest Florida Water Management District.
6. Each COUNTY to this Agreement may continue to operate and expand its existing and future facilities. Nothing in this document shall preclude future independent actions by such COUNTY provided that no facility shall be expanded by one COUNTY into another COUNTY.

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7. The AUTHORITY shall have an Authority Board composed of or (1) duly appointed representative from each COUNTY to this Agreement. Each such Authority Board member shall have or (1) vote. An alternate representative may also be appointed by each COUNTY. Such Alternate Representative shall have authority to vote in the absence of the primary representative. All powers, privileges and duties vested in or imposed upon the AUTHORITY shall be exercised and performed by and through its Authority Board acting as a quorum; provided, however, that the exercise of any and all executive, administrative and ministerial powers may be delegated by said Authority Board to any of its officers, staff or agents. Any such delegation may be redelegated or withdrawn by the Authority Board.
8. The Authority Board may exercise any and all provisions granted to the AUTHORITY by Chapter 373.1962, Florida Statutes, and may establish whatever rules, regulations and organization necessary to perform the intended functions of the AUTHORITY.
9. Any COUNTY may withdraw from the AUTHORITY at any time, but if a COUNTY does withdraw, it shall continue to be responsible for any financial obligation it has specifically assumed while it was a member of the AUTHORITY.
10. Notwithstanding the provisions of paragraph 6 hereof, authorization to proceed on capital and operational expenses by the Authority shall require a unanimous vote of the quorum. Authorization to finance administrative costs shall require a majority vote of the quorum.
11. Admission of new member COUNTIES to the AUTHORITY shall require a unanimous vote of the quorum.
12. The Authority Board members representing each COUNTY and their alternate shall be appointed by the respective Board of County Commissioners to serve for specific terms.

13. The AUTHORITY shall not use the formation or existence of this AUTHORITY as a reason for reclassifying all or any portion of the Peace River as to quality.

14. By entering into this Agreement, it is the parties' intention that the Interlocal Agreement on this same subject dated February 26, 1982, entered into between the counties of Charlotte, DeSoto, Hardee, Manatee and Sarasota be, and the same is hereby, superseded and replaced for all purposes by this Agreement.

IN WITNESS WHEREOF, the COUNTIES hereto have executed this Agreement the day and year first below written.

(1) CHARLOTTE COUNTY hereby affirms that, at a duly constituted meeting of the Board of County Commissioners on the 10th day of January, 1983, it approved the terms of this Agreement and the execution thereof by CHARLOTTE COUNTY and does hereby enter into this Agreement.

ATTEST:

Franklin B. Dell
Clerk of the Circuit Court

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By: [Signature]
Chairman

(2) DESOTO COUNTY hereby affirms that, at a duly constituted meeting of the Board of County Commissioners on the 13th day of December, 1983, it approved the terms of this Agreement and the execution thereof by DESOTO COUNTY and does hereby enter into this Agreement.

ATTEST:

[Signature]
County Administrator

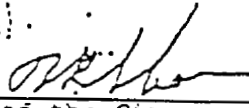
BOARD OF COUNTY COMMISSIONERS
OF DESOTO COUNTY, FLORIDA

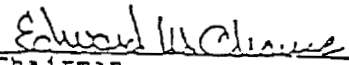
By: [Signature]
Chairman

(3) MANATEE COUNTY hereby affirms that, at a duly constituted meeting of the Board of County Commissioners on the 15th day of October, 1983, it approved the terms of this

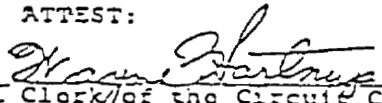
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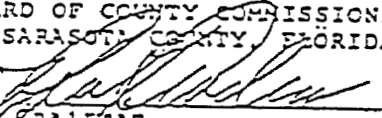
Agreement and the execution thereof by MANATEE COUNTY and does hereby enter into this Agreement.

ATTEST:

Clerk of the Circuit Court


BOARD OF COUNTY COMMISSIONERS:
OF MANATEE COUNTY, FLORIDA
By: 
Chairman 10/4/83

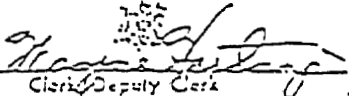
(4) SARASOTA COUNTY hereby affirms that, at a duly constituted meeting of the Board of County Commissioners on the 8th day of November 1983, it approved the terms of this Agreement and the execution thereof by SARASOTA COUNTY and does hereby enter into this Agreement.

ATTEST:

Clerk of the Circuit Court

BOARD OF COUNTY COMMISSIONERS
OF SARASOTA COUNTY, FLORIDA
By: 
Chairman

APPROVED AS TO FORM AND CONTENT:


WALLACE L. STOREY, DIRECTOR
DEPARTMENT OF LEGAL SERVICES
SARASOTA COUNTY, FLORIDA

ATTEST:
Clerk of Circuit Court and Ex-Officio
Clerk to Board of County Commissioners,
Sarasota County, Florida
By: 
Clerk/Deputy Clerk

MEMORANDUM OF INTENT

It is the intent of Charlotte, Manatee, Sarasota and DeSoto Counties to acquire, operate and expand the the Peace River Water Treatment Plant, as well as the appropriate water transmission facilities located within Charlotte, DeSoto and Sarasota Counties in accordance with the concepts contained herein. These concepts will be implemented through water supply contracts, amendments to the Peace River/Manasota Regional Water Supply Authority Interlocal Agreement and other agreements acceptable to the four counties in form and substance. Nothing contained herein shall be binding upon any party unless and until such documents are approved, fully executed and exchanged by all parties.

ACQUISITION

1. Charlotte County shall acquire the General Development Utilities, Inc. water supply facilities located in DeSoto, Sarasota and Charlotte Counties, with the intended exception of the water treatment and distribution system located within the City of North Port. Simultaneously, or as soon as legally possible, upon acquisition of these facilities, Charlotte County shall transfer the Peace River Water Treatment Plant and the appropriate water transmission facilities, located in Charlotte, DeSoto and Sarasota Counties to the Peace River/Manasota Regional Water Supply Authority.

2. DeSoto County shall move to abate its condemnation proceeding, pending acquisition of the General Development Utilities, Inc. water supply facilities by Charlotte County. Once the facilities are acquired and transferred to the Peace River/Manasota Regional Water Supply Authority, DeSoto County shall dismiss the proceeding.

3. DeSoto, Manatee and Sarasota Counties shall cooperate with Charlotte County in its acquisition of the General Development Utilities, Inc. water supply facilities so long as Charlotte County makes reasonable progress to acquire these facilities and upon acquiring the facilities simultaneously, or as soon as legally possible, transfers the Peace River Water Treatment Plant and appropriate water transmission facilities located within Charlotte, DeSoto and Sarasota Counties, to the Peace River/Manasota Regional Water Supply Authority. If Charlotte County is unable or unwilling to acquire the General Development Utilities, Inc. water supply facilities Charlotte County shall cooperate with the Peace River/Manasota Regional Water Supply Authority in its acquisition of the Peace River Water Treatment Plant and the appropriate water transmission facilities located within Charlotte, DeSoto and Sarasota

Counties. In either case, the cost of acquiring the water supply facilities shall not require an increase of the water rate to existing consumers.

4. Southwest Florida Water Management District and/or Basin Board funds shall be used by the Peace River/Manasota Regional Water Supply Authority for payment to Charlotte County to assist in defraying the cost of acquiring the facilities no later than at the time the Peace River Water Treatment Plant and appropriate water transmission facilities located within Charlotte, DeSoto and Sarasota Counties are transferred to the Authority.

5. Charlotte County will finance the acquisition of all the General Development Utilities, Inc. water supply facilities. Charlotte shall transfer the Peace River Water Treatment Plant and appropriate water transmission facilities located within Charlotte, DeSoto and Sarasota Counties to the Peace River/Manasota Regional Water Supply Authority without liens or other forms of indebtedness. The bond documents and other evidence of indebtedness issued by Charlotte County to finance the acquisition of the General Development Utilities, Inc. water supply facilities shall not conflict with the parties' obligations to transfer the facilities as specified herein, to enter into water supply contracts and to abide by the weighted vote/majority vote procedure.

VALUATION

6. The value of the General Development Utilities, Inc. water supply facilities to be transferred by Charlotte County to the Peace River/Manasota Regional Water Supply Authority, will be expressed as a percentage of the entire water, sewer, and/or gas facilities being acquired by Charlotte County, and will be negotiated by Charlotte County and the Peace River/Manasota Regional Water Supply Authority, which shall be adjusted after a final acquisition value is determined for the facilities. If agreement cannot be reached through negotiation, the parties will submit the issue to binding arbitration under Chapter 682, Florida Statutes. In the arbitration Charlotte County would choose one arbitrator, the Authority would choose the second arbitrator and the two arbitrators would select a third arbitrator.

7. The identification and valuation of those facilities at the Peace River Water Treatment Plant, which are sized greater than necessary to meet the current capacity of the plant, will be negotiated by Charlotte County and the Peace River/Manasota Regional Water Supply Authority, after a final acquisition value is determined, for the purpose of determining the amount to be held for future use. The value of the amount to be held for future use will ultimately be refunded to Charlotte County based upon the portion of the value established in conjunction with paragraph #6 above. If agreement cannot be reached through negotiation, the parties will submit the issue to binding arbitration under Chapter 682, Florida Statutes. In the arbitration Charlotte County would choose one arbitrator, the Authority would select the second arbitrator and the two arbitrators would select a third arbitrator.

EXISTING CAPACITY

8. The present capacity of the Peace River Water Treatment Plant would be allocated to Charlotte County, General Development Utilities, Inc. (North Port Service Area), DeSoto County and Sarasota County (Myakka Utilities) in the same proportion as existing water use.

9. Charlotte County, General Development Utilities, Inc. (North Port Service Area), DeSoto County and Sarasota County (Myakka Utilities) shall enter "Take-or-Pay" Water Supply Contracts with the Peace River/Manasota Regional Water Supply Authority. Charlotte County shall pay no capital component in the rate base of existing plant capacity by virtue of its capital contribution of the Plant Facility.

OPERATION OF PEACE RIVER PLANT

10. The Peace River/Manasota Regional Water Supply Authority shall establish the operation and maintenance budget used to set the rate charged all customers of the Peace River Water Treatment Plant using the weighted vote method. However, no member of the Authority shall use its authority under the weighted vote method to impede the Authority's ability to operate the Plant in a sound and reasonable manner. For purposes of this document, "weighted vote method" means a procedure for voting on issues as defined herein, by which the number of votes assigned to each member of the Board of Director is determined based on the amount water from the Plant consumed within that member's territorial jurisdiction. Under the weighted vote method, each member of the Authority's Board of Directors has one vote for each full 100,000 gallons produced from the Plant and delivered to consumers residing within the geographic boundaries of said member's government on an annual average daily basis as measured during the immediately preceding fiscal year of the Authority. However, the foregoing notwithstanding, each member of the Authority Board Directors shall have at least one vote.

11. All the parties recognize that emergency situations may occur that would require suspension of the weighted vote method. It is the intent of the parties to define those emergency situations in the agreements entered into by the parties for the purpose of implementing this Memorandum of Intent.

12. The operation and maintenance budget used to set the rate charged all customers of the Peace River Water Treatment Plant shall be established by weighted vote of the Authority Board of Directors at a duly noticed public hearing no later than August 15 for the immediately succeeding fiscal year (October 1 - September 30). These rates may be modified by the Authority Board of Directors during the course of a fiscal year at a duly noticed public hearing, except that any such change must be in conformance with the operation and maintenance budget as it may be amended and approved by the weighted vote method. The Authority shall maintain accounts and

records for all funds received and disbursed by it with respect to operation and maintenance of the Plant. At the close of the fiscal year, the Authority shall have an audit of these accounts, to be performed by an independent certified public accounting firm.

13. Establishment of the operation and maintenance budget used to set the rate charged all customers of the Peace River Water Treatment Plant is defined as the Board of Director's approval of such budget by the weighted vote method. Any modification, amendment or budget transfer related to the operation and maintenance budget must also be approved in the same manner. This process shall not include approval or modification of the principal, interest, financing expenses and coverage costs, as specifically set forth in bond documents, which costs shall be established by majority vote of the Authority Board of Directors with each Director having one vote. Those costs falling under the operation and maintenance budget shall include, but not be limited to the following items:

A. Personnel Costs

- 1) Operations
 - Supervision
 - Maintenance
 - Water Testing
 - Monitoring
 - Water Use Permits
 - Technical Support
 - Training
 - Fringe Benefits
 - Payroll Adjustment
 - Taxes
 - Insurance

- 2) Administration
 - Supervision
 - Finance
 - Accounting
 - Purchasing
 - Support Services
 - Fringe Benefits
 - Taxes
 - Insurance

B. Supplies/Materials Costs

- 1) Operations
 - Supplies/Materials
 - Repair Parts
 - Fuel/Oil
 - Chemicals
 - Laboratory
 - Plant/Grounds Material
 - Instrumentation

- 2) Administration - Office Supplies
- C. Other Services/Charges
- 1) Operations
 - Power
 - Utilities
 - Communication
 - Repair Services
 - Insurance Premium
 - Legal
 - Professional Services
 - Project Allocation
 - Interest Expense
 - 2) Administration
 - Utilities
 - Advertising
 - Communication
 - Rent
 - Repair Services
 - Computer Service
 - Insurance Premium
 - Legal Services
 - Professional Services

14. All decisions, other than the establishing or amendment of the operation and maintenance budget, of the Peace River/Manasota Regional Water Supply Authority relating to the Peace River Water Treatment Plant shall be by majority vote of its Board of Directors, with each Director having one vote. Examples of decisions by the Authority Board of Directors, which would not be subject to the weighted vote method are: (1) Plant operation; (2) Financing and construction; (3) Expansion of Plant facilities; (4) Employment and termination of personnel; (5) Supervision and management of personnel; (6) Granting of fringe benefits and payroll adjustments; (7) Purchasing equipment and supplies; (8) Retention of legal counsel and other professionals; (9) Execution and interpretation of contracts; (10) Compliance with land use regulations, environmental rules, permit conditions, consent orders and other administrative orders; (11) Application for permits; (12) Initiation and settlement of litigation; and, (13) Acquisition of insurance. All majority vote decisions will be made within the fiscal constraints of the operation and maintenance budget.

EXPANSION OF THE PEACE RIVER PLANT

15. The Peace River/Manasota Regional Water Supply Authority will establish a plant capacity expansion policy by contract with Charlotte, Manatee, Sarasota and DeSoto Counties, whereby each member county would be able to obtain future capacity in the Peace River Water Treatment Plant upon conformance with a clearly defined set of criteria. Expansion of Plant capacity and the allocation of said capacity to member counties will

occur at intervals to be set by mutual agreement of the parties, with the exception of the first expansion, which shall occur soon after acquisition of the General Development Utilities, Inc. facility and the transfer of the Peace River Water Treatment Plant and the appropriate water transmission facilities located in DeSoto and Sarasota Counties to the Peace River/Manasota Regional Water Supply Authority. The decision to expand Plant capacity and to allocate the expanded capacity to the member counties shall be made by majority vote of the Authority Board of Directors, with each Director having one vote.

16. The initiation of an expansion of the capacity of the Peace River Water Treatment Plant shall occur at the request of one or more member counties of the Peace River/Manasota Regional Water Supply Authority in order to meet reasonably anticipated future demands or to satisfy present demands currently served by other sources of water supply, which are no longer capable of supplying those needs, and are not reasonably and economically replaceable.

17. The expansion of the Peace River Water Treatment Plant will be handled solely by the Peace River/Manasota Regional Water Supply Authority. The Authority shall design, develop and construct Plant expansions. The member counties may choose to undertake their own financing and contribute the cost of constructing a Plant expansion to the Authority, or allow the water authority to undertake the financing in their stead. Any member county receiving an increased allocation from the Plant shall pay to the Peace River/Manasota Regional Water Supply Authority, which shall then refund the money to Charlotte County, a percentage of the original acquisition cost attributable to installations capable of producing water in excess of the Plant's current capacity.

18. If financed by the Peace River/Manasota Regional Water Supply Authority, any expansion effort shall be secured solely using revenues to be generated by the new customers for which facility expansion is undertaken.

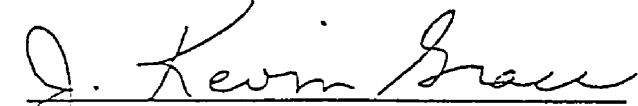
MISCELLANEOUS

19. The rate charged by the Peace River/Manasota Regional Water Supply Authority for water produced from the Peace River Water Treatment Plant shall contain a charge, which is intended to replace the ad valorem tax revenue to be lost to DeSoto County by virtue of public ownership of the General Development Utilities, Inc. water supply facilities located within DeSoto County. This charge shall be adjusted annually to account for the appreciation and/or depreciation of the water supply facilities.

20. The Peace River/Manasota Regional Water Supply Authority Interlocal Agreement shall be amended to permit decisions of the Authority Board of Directors by majority vote of members counties. The Amended Interlocal Agreement shall establish a procedure for breaking tie votes.


Additionally, the agreement shall provide that any decision of the Authority or any of its member counties to acquire, develop, construct or operate a water supply facility within the jurisdiction of another county, shall require the express written consent of the county from which water will be withdrawn, pumped or diverted, with the exception of the Peace River Water Treatment Plant and any expansions thereto.

CHARLOTTE COUNTY



Kevin Grace

MANATEE, SARASOTA &
DESOTO COUNTIES



Edward de la Parte, Jr.

EXHIBIT 1.10

Assets Transferred from Charlotte County to the
Peace River/Manasota Regional Water Supply Authority

Representation of Property to be transferred from Charlotte County, Florida (County) to the Peace River/Manasota Regional Water Supply Authority (Authority). The property will be transferred after the County acquires it from General Development Utilities (GDU). The property consists of all of the assets and property that the County acquires from GDU that lies within the boundaries of Desoto County, Florida and the City of North Port which lies within Sarasota County, Florida. All property and assets within the boundaries of Charlotte County are retained by the County.

Generally, the property is described as the following:

1. Water Plant

The Peace River Water Treatment Plant located near SR 769 in Desoto County. The water plant is a 12 mgd water plant that includes the major components outlined in Table 1.

Table 1

Major Component Capacity of the Peace River
Water Treatment Plant

Component	Design Nominal Capacity ^a
Raw Water Diversion Structure	45.0 mgd
Raw Water Pumps	24.0 mgd Installed 12.0 mgd Firm
Raw Water Transmission Pipe	24.2 mgd
Retention Pond Water Pumps	24.2 mgd Installed 12.0 mgd Firm
Retention Pond to WTP Raw Water Line	24.2 mgd
Upflow Flocculator Clarifiers	12.0 mgd
Declining Rate Filters	15.0 mgd
Finished Water Storage	2.0 MG ^b
High Service Pumps	26.6 mgd Installed 18.7 mgd Firm
Standby Generator	1010 Kw.

May 15, 1991 Draft
Prepared by E. de la Parte

PEACE RIVER WATER SUPPLY CONTRACT

THIS CONTRACT, entered into this 21st day of May, 1991, by and between the PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY, an interlocal governmental agency created and existing pursuant to Sections 373.1962 and 163.01, Florida Statutes, acting by and through its Board of Directors, the governing board thereof ("Authority"); CHARLOTTE COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing board thereof ("Charlotte"); DESOTO COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing board thereof ("DeSoto"); MANATEE COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing board thereof ("Manatee"); and SARASOTA COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing Board thereof ("Sarasota").

WITNESSETH:

WHEREAS, the Authority was first established by Charlotte, DeSoto, Manatee, Sarasota, and Hardee Counties on February 26, 1982; and

WHEREAS, on March 16, 1983 Hardee County withdrew from the Authority under the terms of the February 26, 1982 Interlocal Agreement; and

WHEREAS, Charlotte, DeSoto, Manatee and Sarasota entered a new Interlocal Agreement reestablishing the Authority on February 1, 1984 and

WHEREAS, the Authority was created for the purpose of developing, storing and supplying water for county and municipal purposes in such a manner as will give priority to reducing adverse environmental effects of excessive or improper withdrawals from concentrated areas. See 373.1962(1), Fla. Stat.; and

WHEREAS, the Authority is required to acquire, design, construct, operate, and maintain facilities in the locations and at the times necessary to insure that an adequate water supply will be available to all citizens within the Authority's boundaries. See 373.1962(7), Fla. Stat.; and

WHEREAS, the Authority has determined the need of citizens residing within Charlotte, DeSoto, Manatee and Sarasota Counties for an adequate source of drinking water can best be met by acquiring, operating and expanding the water supply facilities owned by General Development Utilities, Inc. and General Development Corporation located within Sarasota, Charlotte and DeSoto Counties, excluding the water system serving City of North Port, in a cooperative and coordinated manner; and

WHEREAS, the Authority, Charlotte, Manatee, DeSoto and Sarasota agree the acquisition, operation and expansion of the water supply facilities owned by General Development Utilities, Inc. and General Development Corporation, which are currently located in and serving the City of North Port is best left to the City of North Port; and

WHEREAS, the Authority, Charlotte, Manatee, DeSoto and Sarasota have approved a Memorandum of Intent, a copy of which is attached hereto as *Exhibit A*, which describes procedures for acquiring, operating and expanding the Peace River Regional Water Treatment Facility, along with appurtenant or associated installations, real property and fixtures and water transmission facilities located within Charlotte, DeSoto and Sarasota Counties; and

WHEREAS, the Authority, Charlotte, DeSoto, Manatee and Sarasota agree Charlotte should acquire the Peace River Regional Water Treatment Facility, along with appurtenant or associated

installations, real property and fixtures and water transmission facilities owned by General Development Utilities, Inc. and General Development Corporation located in Charlotte, Sarasota and/or DeSoto Counties, with the intended exception of the water system located in and serving North Port; and

WHEREAS, Charlotte agrees it shall transfer to the Authority the Peace River Regional Water Treatment Facility, along with appurtenant or associated installations, real property and fixtures simultaneously, or as soon as legally possible, upon taking title to said facilities; and

WHEREAS, Charlotte desires to purchase water produced by the Authority from the Peace River Regional Water Treatment Facility, according to the terms and conditions of this Contract, for use in Charlotte County, and the Authority desires to sell Charlotte water produced from this facility, according to the terms and conditions of this Contract; and

WHEREAS, DeSoto desires to purchase water produced by the Authority from the Peace River Regional Water Treatment Facility, according to the terms and conditions of this Contract, for use in DeSoto County, and the Authority desires to sell DeSoto water produced from this facility, according to the terms and conditions of this Contract; and

WHEREAS, Charlotte, Sarasota, Manatee and DeSoto, for use in their respective county areas may desire to purchase water produced by the Authority from future expansions of the Peace River Regional Water Treatment Facility, according to the terms and conditions of this Contract, and the Authority desires to sell Charlotte, Sarasota, Manatee and DeSoto water produced from future expansions of this facility, according to the terms and conditions of this Contract.

NOW, THEREFORE, in consideration of the foregoing premises, which shall be deemed an integral part of this Contract, and of the mutual covenants and agreements hereafter set forth, the Authority, Charlotte, DeSoto, Manatee and Sarasota, intending to be legally bound hereby agree as follows:

1. DEFINITIONS. In the absence of a clear implication otherwise, capitalized terms used in this Contract and in the attached exhibits shall have the following meanings:

1.1. Acquisition Agreement. That certain contract by and among the Authority, Charlotte, DeSoto, Manatee, Sarasota and the Southwest Florida Water Management District, a copy of which is attached hereto as *Exhibit 1.1*.

1.2. Amended Interlocal Agreement. That certain contract by and among Charlotte, DeSoto, Manatee and Sarasota, a copy of which is attached hereto as *Exhibit 1.2*.

1.3. Base Rate Charge. For any Contract Year, the rate established by the Authority for the Water Allocations in the Peace River Regional Water Treatment Facility. It is the sum of the Debt Service Cost, Facility Use Cost and those fixed cost components of the Operating and Maintenance Cost budgeted by the Authority for operating, maintaining and securing the Peace River Regional Water Treatment Facility and repaying Charlotte for the cost of acquiring the Peace River Regional Water Treatment Facility, as determined according to Section 9.1 of the Acquisition Agreement, regardless of the quantity of water, if any, being produced or delivered by the Authority.

1.4. Contract Year. The period between execution of the Contract and September 30, 1991 and thereafter the fiscal year of the Authority (beginning on each October 1, and ending on the immediately following September 30) and thereafter during the term of this Contract.

1.5. Debt Service Cost. For any Contract Year, all costs including reserve or coverage requirement, if any, incurred by the Authority during such Contract Year in connection with the Peace River Regional Water Treatment Facility for principal payments, interest payments, redemption premiums, if any, and service charges with respect to amortization of indebtedness.

1.6. Delivery Point(s). The point(s) of connection between the Peace River Regional Water Treatment Facility and the distribution systems of those parties to this Contract having a

Water Allocation. The initial Delivery Point(s) for Charlotte and DeSoto and are specifically described in *Exhibit 1.6*.

1.7. Environmental Permits. All licenses, permits or other approvals from any government or governmental agency, whether federal, state, regional or local, necessary or convenient for the acquisition, construction and operation of the Peace River Regional Water Treatment Facility, including but not limited to any general water use permit, temporary water use permit or individual water use permit issued by the Southwest Florida Water Management District or any successor agency.

1.8. Facility Use Cost. For any Contract Year, an amount equal to the ad valorem taxes that would have been collected by all taxing authorities located solely in DeSoto County for that portion of the Peace River Regional Water Treatment Facility located within DeSoto County, as if such facilities were still privately owned.

To determine the Facility Use Cost, DeSoto and Charlotte shall jointly select a real estate appraiser with an MAI or SRA designation. DeSoto and Charlotte shall instruct the appraiser to appraise the Peace River Regional Water Treatment Facility each Contract Year in a manner comparable to that utilized by the DeSoto County Property Appraiser to appraise the value of similar property. If DeSoto and Charlotte cannot agree on an appraiser, then the choice of such appraiser shall be made by a coin flip to choose one of the two appraisers recommended by DeSoto and Charlotte. After the appraiser arrives at the tax appraisal value of the property, the Authority shall determine the Facility Use Cost by applying the appropriate millage rates to such value. The Authority shall be entitled to any discount available to the taxpayers of DeSoto County for early payment of taxes if paid accordingly.

1.9. Operating and Maintenance Cost. For any Contract Year, all costs incurred by the Authority in operating, maintaining and securing the Peace River Regional Water Treatment Facility

during such Contract Year, including, but not limited to, the general and administrative costs of the Authority related to the operation, maintenance and security of the Peace River Regional Water Treatment Facility (as confirmed by audit), capital expenditures of the Authority for items such as tools, equipment and vehicles necessary for the operation, maintenance and security of the Peace River Regional Water Treatment Facility and all costs incurred in obtaining and maintaining the Environmental Permits for the Peace River Regional Water Treatment Facility. Said cost shall not include depreciation.

1.10. Peace River Regional Water Treatment Facility. All real property, interest in real property, fixtures, personal property, wells, buildings, treatment systems, pumps, pipes, storage facilities, reservoirs, aquifer storage and recovery facilities and appurtenant or associated facilities located in DeSoto and Sarasota Counties, which are to be transferred by Charlotte to the Authority pursuant to the Acquisition Agreement, as more specifically described in *Exhibit 1.10*.

1.11. Water Allocation. For any Contract Year, the quantity of water committed by the Authority to be produced from the Peace River Regional Water Treatment Facility and transported to the Delivery Point(s), which committed amounts shall not differ from those amounts specified in Section 1.11.1, except as modified in accordance with Section 1.11.2.

1.11.1. Initial Allocation.

User	Annual Rate (MGY)
Charlotte	4,149
DeSoto	18.25 · 4.14%

The total initial allocation of the Peace River Regional Water Treatment Facility is 4,37 MGY. In addition to the above described allocations, an allocation of 211 MGY is made to General Development Utilities, Inc. under that certain Peace River—GDU Water Supply Contract between the Authority and General Development Utilities, Inc. Additionally, if the City of

Port should acquire the water supply facilities currently owned by General Development Utilities, Inc. and General Development Corporation and located within its municipal boundaries, it shall succeed to General Development Utilities, Inc.'s initial water allocation and be entitled to obtain 224 MGY of Charlotte's initial allocation for a total initial allocation of 435 MGY, according to the terms and conditions of that certain Peace River/Manasota Regional Water Supply Authority—North Port Water Supply Contract by and between the Authority and the City of North Port and that certain City of North Port—Charlotte County Interlocal Utility Agreement by and between the City of North Port and Charlotte County.

If at any time, there is insufficient potable water available to fully meet the Water Allocations described above, then the parties shall have their Water Allocations reduced on a pro rata basis. Additionally, the Water Allocations described above shall be based on water flowing from the treatment plant. The parties shall absorb losses in the distribution system, if any, due to line losses, etc.

1.11.2. Expansion of Entitlement. Charlotte, DeSoto, Manatee, Sarasota or any combination thereof upon reasonable prior written notice and for a reasonable increment of expansion, may cause the Authority to expand the Peace River Regional Water Treatment Facility to increase its allocations identified in Section 1.11.1, obtain an allocation or increase its then current allocation; provided, (a) the additional water is needed to meet reasonably anticipated future demands of the party or to satisfy present demands currently served by other sources of water supply, which are no longer capable of supplying those needs, and are not reasonably and economically replaceable, and (b) the Authority is able to obtain all the necessary Environmental Permits. All capacity shall be completely allocated to those parties holding Water Allocations at times and the Authority shall not own, operate or maintain capacity for persons not holding Water Allocations. The acquisition, construction, alteration or expansion of facilities and appurtenances

associated installations or real and personal property needed to meet the new or expanded Water Allocation shall be paid completely and fully by the party(s) requesting same, which payment shall be securely available before expansions begins. Expansions may be financed for the requesting party(s) through the issuance of Authority revenue bonds, capital contributions from the party(s) requesting expansion, capital contributions from the Southwest Florida Water Management District, the Manasota Basin or the Peace River Basin, or other governmental grants, or any combination thereof; provided, no party hereto, except a party(s) requesting such expansion shall be liable for such expansion costs. Any expansion, financing, engineering costs, etc. must be paid in full in advance or monies must be otherwise made currently available to meet financing, engineering and construction payments, etc. pursuant to a letter of credit or by cash or a cash equivalent before the Authority shall begin the expansion of the Peace River Regional Water Treatment Facility. Only the party(s) requesting the new or increased Water Allocation shall be responsible for all capital and non-capital cost incurred by the Authority in supplying the new or increased Water Allocation and the water rates, fees and charges shall be appropriately adjusted by the Authority to reflect the new allocation of capacity.

Additionally, since Charlotte advanced the entire cost for the Authority to acquire the Peace River Regional Water Treatment Facility, including facilities available for expansion, the party(s) requesting the new or increased Water Allocation, other than Charlotte, shall be obligated to pay Charlotte through the Authority the appropriate part of the value of the oversized portions of the Peace River Regional Water Treatment Facility utilized by said party in said expansion, as such value is determined pursuant to the Acquisition Agreement; said payment to be proportionate to the percentage of the oversized facilities utilized by the Authority to supply the new or increased Water Allocation.

1.12. Water Use Rate Charge. For any Contract Year, the rate established by the Authority for the sale of water from the Peace River Regional Water Treatment Facility. It consists of the variable cost component of the Operating and Maintenance Cost.

2. TERM. The term of this Contract shall begin on the date of its complete execution by all parties and end on the last day of the Contract Year in which the thirty-fifth (35th) anniversary of the execution date falls. This term may be extended at any time prior to expiration of the initial term at the option of any one party for another thirty-five (35) years, said extension to expire on the last day of the Contract Year in which the seventieth (70th) anniversary of the execution date falls. Such option must be exercised at least two (2) years prior to expiration. The term of the Contract may be extended by any party in five (5) year increments for a total of seven such increments.

3. CONDITIONS PRECEDENT. All rights, obligations and liabilities of the Authority, Charlotte, Sarasota, Manatee and DeSoto shall be subject to the satisfaction of the conditions precedent identified in Section 3.1

3.1. Conditions Precedent. The following are conditions precedent to the parties' right, obligations and liabilities under this Contract:

3.1.1. The complete execution of this Contract by the Authority, Charlotte, Sarasota, Manatee and DeSoto.

3.1.2. The execution and delivery of the deed documents by Charlotte to the Escrow Agent in accordance with Section 6.1 of the Acquisition Agreement.

3.1.3. The delivery of the deed documents by the Escrow Agent to the Authority once Charlotte acquires title to the water supply facilities currently owned by General Development Utilities, Inc. and General Development Corporation in Sarasota, DeSoto and Charlotte Counties in accordance with Sections 6.1 and 11 of the Acquisition Agreement.

3.1.4. Transfer of the Peace River Regional Water Treatment Facility to the Authority without lien or other form of indebtedness in accordance with Sections 4.1, 5.1 and 6.1 of the Acquisition Agreement, except for easements, restrictions, limitations and covenants of record affecting such facility in existence on the date this Contract is fully executed by all parties.

3.1.5. Payment by the Authority to Charlotte in accordance with Section 10.1 of the Acquisition Agreement.

3.1.6. Acquisition by Charlotte of water supply facilities currently owned by General Development Utilities, Inc. and General Development Corporation in Sarasota, Charlotte and DeSoto Counties in accordance with Section 7.1 of the Acquisition Agreement.

3.1.7. The representations set forth in Section 4 are true and correct as of the date this Contract is fully executed by all parties.

3.1.8. All applicable permits, licenses, easements, interests in real and personal property and authorizations necessary for the operation and maintenance of the Peace River Regional Water Treatment Facility shall have been obtained by or on behalf of the Authority.

3.1.9. No change shall have occurred on or before the date this Contract is fully executed by all the parties in any applicable federal, state or local law, or any applicable federal, state or local rule, regulation or ordinance thereunder, or an interpretation thereof by any applicable regulatory authority, that would make the execution or delivery of this Contract, or that would make compliance by the parties with the terms and conditions of said Contract or the consummation by the parties of the transactions contemplated thereunder, a violation of such law, rule, regulation or ordinance.

3.2. Satisfaction of the Conditions Precedent. The parties shall exercise good faith and due diligence in satisfying the conditions precedent set forth in Section 3.1 and the Authority shall

give prompt notice to the other parties when the foregoing conditions precedent have been satisfied or waived in writing by all the parties.

4. REPRESENTATIONS OF THE PARTIES. The Authority, Manatee, DeSoto, Sarasota and Charlotte make the following representations:

4.1. Each party is duly organized and existing in good standing under the laws of the State of Florida and is duly qualified and authorized to carry on the governmental functions and operations as contemplated by this Contract.

4.2. Each party has the power, authority and legal right to enter into and perform its obligations set forth in this Contract, and the execution, delivery and performance hereof by it (a) has been duly authorized by its governing board; (b) does not require any other approvals by any other governmental officer or body; (c) does not require any consent or referendum of the voters; (d) will not violate any judgment, order, law or regulation applicable to the party; and, (e) does not constitute a default under, or result in the creation of, any lien, charge, encumbrance or security interest upon the assets of the party under any agreement or instrument to which it is a party or by which the party and its assets may be bound or affected.

4.3. This Contract has been duly entered into and delivered by its governing board and, as of the date of its full execution by all parties and constitutes a legal, valid and binding obligation of the party, fully enforceable in accordance with its terms.

4.4. Other than the pending condemnation litigation involving Charlotte vs. General Development, Utilities, Inc., General Development Corporation and others involving acquisition of the Peace River Regional Water Treatment Facility and the interpleader action initiated by General Development Utilities, Inc. and General Development Corporation, there is no action, suit or proceeding, at law or in equity, before or by any court or governmental authority, pending or, to the best of the party's knowledge, threatened against the party, wherein any unfavorable decision, ruling

or finding would materially adversely affect the performance by the party of its obligations hereunder or the other transactions contemplated hereby, or which, in any way, would adversely affect the validity or enforceability of this Contract, or any other agreement or instrument entered into by the party in connection with the transaction contemplated hereby.

4.5. To the extent permitted by State law, each party hereby irrevocably waives any and all defenses it may have on the grounds of sovereign immunity in any action which may be brought by the other parties against it in connection with this Contract.

5. DELIVERY OF WATER ALLOCATION. During each Contract Year, the Authority shall use its best efforts to deliver those parties holding a Water Allocation their allocation from the Peace River Regional Water Treatment Facility, as follows:

5.1. Delivery Schedule. The Authority shall not be required to deliver water to a party in excess of that party's Water Allocation, nor shall the Authority be required to provide water to a party, if prohibited by any applicable federal, state, regional or local statute, rule, ordinance, law, administrative order or judicial decree or in violation of applicable Environmental Permits.

5.2. Source of Water. The Authority's obligation to supply Charlotte, DeSoto, Manatee and Sarasota with their Water Allocation is limited to water produced from the Peace River Regional Water Treatment Facility. The Authority is not required to provide water to satisfy their Water Allocations from any other source or any particular component of the Peace River Regional Water Treatment Facility. The Authority, however, shall use its best efforts to utilize the most cost-effective components of the Peace River Regional Water Treatment Facility in supplying each party its Water Allocation.

5.3. Delivery Point. The Authority shall only deliver water from the Peace River Regional Water Treatment Facility to each party at their Delivery Point(s).

6. EXCESS WATER. Each party shall have the right to transfer a part of its Water Allocations to another party upon notice to the Authority in writing and Water Allocations shall thereupon be amended as appropriate.

7. WATER CHARGE. For each Contract Year, all parties purchasing water from the Peace River Regional Water Treatment Facility shall pay the Authority the applicable adopted Base Rate Charge and Water Use Rate Charge:

7.1. Rate-Setting. The Authority Board shall fix the initial Base Rate Charge and Water Use Rate Charge for the use of and the services and facilities to be furnished by the Peace River Regional Water Treatment Facility to be paid by the parties to this Contract. After the system or systems shall have been in operation, the Authority Board may revise the Base Rate Charge and Water Use Rate Charge from time to time; provided, however, that such rates, fees and charges shall be so fixed and revised so as to provide sums, which, with other funds available for such purposes, shall be sufficient at all times to pay the expenses of operating and maintaining the Peace River Regional Water Treatment Facility, including reserves for such purposes. The Authority shall charge and collect such rates, fees and charges as fixed or revised, and such rates, fees and charges shall not be subject to the supervision or regulation by any other commission, board, bureau, agency or other political subdivision or agency of the county or state. Such rates, fees and charges shall be just and equitable and uniform for users of the same class. Rates shall consist of two portions. One is the Base Rate Charge, which shall be computed as to provide the Authority with monies for fixed and variable costs of operating the facility, including a capital cost component to repay Charlotte for its acquisition of the Peace River Regional Water Treatment Facility, which shall be paid by contracting parties hereto for the Water Allocation which they have reserved under this contract without regard to whether or not party takes any water from the Peace River Regional Water Treatment Facility during any given month. In other words, each party shall have a rate component which must be paid

by it for "base facility charge" which is arrived at by multiplying the base facility charge rate per 1000 gallons x the number of 1000 gallons allocated to that party each month without regard to actual water service. There shall be a second rate known as the Water Use Rate Charge payable monthly by each party who has a Water Allocation from the Authority, which shall be tied to the actual amount of water delivered to said party at its Delivery Point. This rate shall therefore be based and computed upon the quantity of water consumed by that party and its customers. The combined water rate shall be so designed as to permit the Authority Board to pay all its appropriate expenditures, both those which are fixed and nonvariable and those that vary in accordance with commodity used, or any combination of the foregoing factors as may be determined by the Authority Board on any other equitable basis. All such rates and charges shall be non-discriminatory with respect to the geographical boundaries of the parties for users of the same class. A copy of the schedules of all rates, fees and charges as adopted shall be kept on file in the office of the Authority and shall be provided to each of the member parties upon adoption thereof. Revisions of Chapter 153, Florida Statutes, Part I shall govern the procedures and provisions of setting rates, fees and charges by the Authority to the extent they are not incompatible with the provisions of this Contract or the provisions of the Amended Interlocal Agreement. The foregoing notwithstanding, a party to this Contract shall not be liable for any charges established by the Authority pursuant to this Section, unless it purchases water from the Peace River Regional Water Treatment Facility or holds a Water Allocation.

7.2. Accounting, Audits and Adjustments. The Authority shall maintain accounts and records for all funds received and disbursed by it with respect to the Peace River Regional Water Treatment Facility in accordance with generally accepted accounting practices applicable to governmentally owned and operated water utilities. On or before each January 31, beginning on the January 31 immediately following the Contract Year during which all conditions precedent in

Section 3.1 are satisfied, the Authority shall complete an audit. Said audit shall be conducted by a nationally recognized certified public accounting firm experienced in water utility audits. All unappropriated surplus derived by the Authority from payment by the parties of the Base Rate Charge and Water Use Rate Charge shall be used by the Authority to reduce the amount of income required to be raised in the next ensuing Contract Year.

7.3. Water Charge to Purchasers. All purchasers of water and those parties holding Water Allocations shall pay the Authority on a monthly basis their share of the Base Rate Charge for that month and their Water Use Rate Charge based on actual amount of water delivered to the purchaser. An invoice for these charges shall be sent on or before the 15th day of the calendar month following the calendar month in which the charges were incurred. The purchasers shall submit payment to the Authority for the monthly charges within thirty (30) days of receipt of the invoice.

7.4. Source of Payments. When Charlotte, DeSoto, Manatee or Sarasota acquire a Water Allocation, their obligation to pay any monies due under this Section do not constitute general indebtedness of Charlotte, DeSoto, Manatee and Sarasota. Neither the Authority nor the holders of any revenue bonds issued by the Authority in order to finance the expansion, alteration, improvement, replacement or operation of the Peace River Regional Water Treatment Facility shall have a right to require or compel Charlotte, DeSoto, Manatee or Sarasota to exercise their ad valorem taxing power to pay their obligations and liabilities under this Contract or to compel payment from any source other than as indicated in this Section. Each of the foregoing governments, however, shall and do hereby do covenant to set water rates for their respective customers at a level sufficient to pay all monies due the Authority under this Contract within thirty (30) days as they come due. Failure to pay monies hereunder shall create a debt with respect to the non-paying party's utility system. The Authority may discontinue a water supply to any party hereunder that fails to pay its water rates within sixty (60) days after billing.

7.5. Payment of Facility Use Cost to DeSoto. The Authority shall collect the budgeted Facility Use Cost in its monthly Base Rate Charge to all its customers. Such cost shall be fully paid to DeSoto each month on the last day of the month for all such monies collected by the Authority as of the 20th day of each month.

7.6. Payment of Capital Cost Component to Charlotte. The Authority shall collect the budgeted capital component intended to repay Charlotte for its cost in acquiring and transferring the Peace River Regional Water Treatment Facility to the Authority in its monthly Base Rate Charge to all its customers. Such component shall thereupon be fully paid to Charlotte each month on the last day of the month for all such monies collected by the Authority as of the 20th day of each month.

8. ADDITIONAL REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE AUTHORITY. The Authority hereby represents, warrants and covenants to Charlotte, DeSoto, Manatee and Sarasota as follows:

8.1. Water Quality. The Authority shall use its best efforts to deliver those parties holding a Water Allocation, water of good and uniform quality from the Peace River Regional Water Treatment Facility to the Delivery Point(s). At a minimum, the water delivered by the Authority to the Delivery Point(s) shall be stabilized and shall meet all Federal, State, regional or local laws, regulations and orders relating to drinking water quality and pressure, which are applicable to water produced, stored and transported at and through the Peace River Regional Water Treatment Facility.

8.2. Water Measurement. The Authority shall use its best efforts to measure all water delivered to those parties holding a Water Allocation at the Delivery Point(s). The Authority shall maintain complete and accurate records of its water measurements. Water flow measurement recorded by the Authority shall be the exclusive means of determining the quantity of water delivered to the Delivery Point(s) under this Contract.

8.3. Environmental Permits. The Authority shall use its best efforts to obtain all Environmental Permits necessary to provide the parties their Water Allocations.

8.4. Financing the Peace River Regional Water Treatment Facility. The Authority shall use its best efforts to set adequate reserves and budgeted expenditures necessary to cover costs to be incurred in operating, maintaining, repairing or replacing the Peace River Regional Water Treatment Facility. Expansion of the Peace River Regional Water Treatment Facility shall be at the sole cost of the party(s) requesting the expansion.

8.5. Acquisition of Real Property. The Authority shall use its best efforts to acquire all interests in real property (if any) necessary to the construction, management and operation of the Peace River Regional Water Treatment Facility. The Authority shall retain in its own name any interest in real property acquired in connection with the Peace River Regional Water Treatment Facility.

9. ADDITIONAL REPRESENTATIONS, WARRANTIES AND COVENANTS OF CHARLOTTE, DESOTO, MANATEE AND SARASOTA. Charlotte, DeSoto, Manatee and Sarasota hereby represent, warrant and covenant to the Authority as follows:

9.1. Irrevocable Commitment to Pay. Charlotte, DeSoto, Manatee and Sarasota recognize that circumstances, such as equipment failure, construction delays, failure to obtain Environmental Permits, limitations on Environmental Permits, transmission line ruptures or defects, acts of God, etc., may prevent the performance by the Authority of its obligations pursuant to this Contract generally and Sections 5 and 8 specifically. Nevertheless, the parties shall pay their respective Base Rate Charge throughout the term of this Contract in the manner provided in Section 7. Said payments by the parties shall be made without notice or demand and without set-off, counterclaim, abatement, suspension or deduction, as provided in Section 7. The Authority is undertaking the operation and maintenance of the Peace River Regional Water Treatment Facility in part on the

representations, warranties and covenants of Charlotte, DeSoto, Manatee and Sarasota set forth in this Section 9.1. The foregoing notwithstanding, a party to this Contract shall not be liable for any charges established by the Authority pursuant to Section 7, unless it purchases water from the Peace River Regional Water Treatment Facility or holds a Water Allocation.

9.2. Acquisition of Real Property. Charlotte, DeSoto, Manatee and Sarasota shall promptly cooperate with the Authority in acquiring all interests in real property necessary to construct, manage and operate the Peace River Regional Water Treatment Facility.

9.3. Utility System Charges. Charlotte, DeSoto, Manatee and Sarasota shall fix, revise, maintain and collect such fees, rates, tariffs, rentals, or other charges for the use of products, services, and facilities of their utility systems as shall be necessary to fund the timely payment of their respective obligations and liabilities under this Contract.

9.4. Utility System Operation and Maintenance Account. Each party shall maintain its utility system throughout the term of this Contract for the purpose of paying its obligations and liabilities under this Contract. At all times during the term of this Contract, the parties' obligations and liabilities hereunder may be paid from their utility system revenues.

9.5. Cooperation on Environmental Permits. Charlotte, DeSoto, Manatee and Sarasota shall promptly cooperate and assist the Authority in obtaining any and all Environmental Permits necessary or convenient to the acquisition, alteration, replacement, expansion or operation of the Peace River Regional Water Treatment Facility.

9.6. Cooperation on the Construction of the Peace River Regional Water Treatment Facility. Charlotte, DeSoto, Manatee and Sarasota shall promptly cooperate and assist the Authority in operating and replacing or expanding the Water Supply Facilities; provided, however, said cooperation shall not require the expenditure of funds by any of the parties, except a party(s) requesting and requiring an expansion of the facilities.

10. PLEDGE OF CONTRACT REVENUES. The Authority is not authorized to pledge any payments, interest, or other income or revenues derived under this Contract for the purpose of securing any revenue bonds issued by the Authority to finance the operation or replacement of the Peace River Regional Water Treatment Facility. The Authority may only pledge revenues derived under this Contract for expansion of the facility when expressly agreed to by the party(s) requesting such expansion.

11. DESIGNATION AS REPRESENTATIVE AND CO-APPLICANT STATUS. The Authority and those parties holding a Water Allocation shall be co-applicants for any and all Environmental Permits needed to construct, operate or maintain the Peace River Regional Water Treatment Facility. The parties shall waive all objections to the party status of any other party to this Contract in any administrative or judicial proceeding needed for the issuance of Environmental Permits relating to the acquisition, operation or replacement of the Peace River Regional Water Treatment Facility, or the modification or renewal of any existing or future Environmental Permit relating to the acquisition, operation or replacement of the Peace River Regional Water Treatment Facility. Those parties not wishing to directly participate in the process of obtaining Environmental Permits or in any judicial or administrative proceeding relating to such Environmental Permits shall designate the Authority as their representative with respect to any such Environmental Permit or in any such administrative or judicial proceeding.

12. DEFAULT AND REMEDY. The parties recognizing the region's paramount need for a safe and dependable source of water supply agree this Contract may not be terminated prior to the normal expiration date specified in Section 2 and the remedy for a breach of the Contract shall be specific performance, as well as monetary damages.

13. APPLICABLE LAW AND VENUE. The laws of the State of Florida shall govern the validity, interpretation, construction and performance of this Contract and venue for any suit involving this Contract shall be in Hillsborough County, Florida.

14. ASSIGNMENT AND SERVICE. No assignment, delegation, transfer or novation of this Contract or any part thereof shall be made unless approved in writing by all parties. Additionally, no party hereto may utilize water produced from the Peace River Regional Water Treatment Facility under their initial Water Allocation to provide service either directly or indirectly outside its territorial boundaries, except for direct sale to another party at its territorial boundaries.

15. NOTICES. All notices, demands, requests and other communications hereunder shall be deemed sufficient and properly given, if in writing and delivered in person to the following addresses or sent by certified or registered mail, postage prepaid with return receipt requested, at such addresses; provided, if such notices, demands, requests or other communications are sent by mail, they shall be deemed as given on the third day following such mailing which is not a Saturday, Sunday or a day on which United States mail is not delivered: the Authority Executive Director's Office, the Charlotte County Administrator's Office, the DeSoto County Administrator's Office, the Manatee County Administrator's Office and the Sarasota County Administrator's Office. Any party may, by like notice, designate any further or different addresses to which subsequent notices shall be sent. Any notices hereunder signed on behalf of the notifying party by a duly authorized attorney at law shall be valid and effective to the same extent as if signed on behalf of such party by a duly authorized officer or employee.

16. RELATIONSHIP OF THE PARTIES. No party shall have any responsibility to perform services for or to assume contractual obligations which are the obligations of another party. Nothing herein shall be deemed to constitute any party a partner or joint venturer, or to create any fiduciary relationship among the parties.

17. THIRD PARTY BENEFICIARIES. No right or cause of action shall accrue upon or by reason hereof, or for the benefit of any person not expressly named as a party in this Contract, except for any bond holders and/or credit enhancers relating to revenue bonds issued in whole or in part with respect to the Peace River Regional Water Treatment Facility.

18. WAIVER. Unless otherwise specifically provided by the terms of this Contract, no delay or failure to exercise a right resulting from any breach of this Contract shall impair such right or shall be construed to be a waiver of thereof, but such right may be exercised from time to time and as often as may be deemed expedient. Any waiver shall be in writing and signed by the party granting such waiver. If any representation, warranty or covenant contained in this Contract is breached by any party and thereafter waived by another party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive, either expressly or impliedly, any other breach under this Contract.

19. AUTHORIZED REPRESENTATIVES. For purposes of this Contract, the parties' authorized representatives are as follows: the Authority Executive Director, the Manatee County Administrator, the Sarasota County Administrator, the DeSoto County Administrator and the Charlotte County Administrator. Any party may change its authorized representative at any time by written notice to the other parties.

20. SECTION CAPTIONS AND REFERENCES. The section headings and captions contained herein are included for convenience only and shall not be considered part of this Contract or affect in any manner its construction or interpretation. Except as otherwise indicated, all references herein to sections are to sections of this Contract.

21. SEVERABILITY. In the event that any provision of this Contract shall, for an reason, be determined invalid, illegal or unenforceable in any respect the parties hereto shall negotiate in good faith and agree to such amendments, modifications or supplements to th

Contract or such other appropriate actions as shall, to the maximum extent practicable in the light of such determination implement and give effect to the intentions of the parties as reflected herein, and the other provisions of this Contract, as amended, modified, supplemented or otherwise affected by such action, shall remain in full force and effect.

22. ATTORNEYS FEES AND COST. In the event there is a breach of this Contract and it becomes necessary for any party to employ the services of an attorney either to enforce the Contract or pursue other remedies, with litigation or adversarial administrative proceedings, the losing party or parties shall pay to the successful party or parties reasonable attorney's fees and such reasonable costs and expenses as are incurred in enforcing the Contract or pursuing other remedies.

23. AMENDMENT. This Contract may only be amended by a writing duly executed by the Authority, Charlotte, DeSoto, Manatee and Sarasota.

24. NO OTHER AGREEMENTS. All negotiations, proposals and agreements prior to the date of this Contract, including but not limited to the Memorandum of Intent, a copy of which is attached hereto as *Exhibit A* are superseded. This Contract shall constitute the entire agreement of the Authority, Charlotte, DeSoto, Manatee and Sarasota with respect to the operation, maintenance, alteration, replacement and expansion of the Peace River Regional Water Treatment Facility. The foregoing notwithstanding, this Contract shall not supersede the Acquisition Agreement nor the Amended Interlocal Agreement, both of which shall be read in pari materia with this Contract.

25. FURTHER ASSURANCES. The Authority, Charlotte, DeSoto, Manatee and Sarasota each shall use all reasonable efforts to provide such information, execute such further instruments and documents and take actions as may be reasonably requested by another party and not inconsistent with the provisions of this Contract and not involving the assumption of obligations or liabilities different from, in excess of or in addition to those expressly provided for in this Contract to carry out the intent of this Contract.

26. CONSENTS. To the extent that the consent of any party to this Contract is required as a condition to the action of other parties, such consent shall not be unreasonably withheld.

27. SUCCESSORS AND ASSIGNS. This Contract shall be binding upon and inure to the benefit of the respective successors, permitted assigns, administrators and trustees of the Authority, Charlotte, DeSoto, Manatee and Sarasota.

28. EXECUTION OF DOCUMENTS. This Contract shall be executed in fifteen (15) duplicate originals, any of which shall be regarded for all purposes as an original and all of which shall constitute one and the same instrument.

29. INTERLOCAL AGREEMENT. This Contract shall constitute an interlocal agreement pursuant to Section 163.01, Florida Statutes. A true and correct copy of this Contract and any subsequent amendments shall be recorded with the clerk of the circuit court in Charlotte, DeSoto, Manatee and Sarasota Counties.

30. AMBIGUITY. The parties agree that each one has played an equal part in the negotiation and drafting of this Contract, and in the event of any ambiguity should asserted or realized in the interpretation or construction of this Contract, the result of such ambiguity shall be equally assumed and realized by each party.

31. EMERGENCY INTERCONNECT. The Authority and its Members shall seek the interconnection of the water utility systems owned, operated or controlled by the parties with Authority water supply facilities and the Peace River Regional Water Treatment Facility for the purpose of facilitating the transfer of water among the Authority's Members under emergency conditions. The Authority and its Members shall make available capacity, if any, in their water supply facilities, including the Peace River Water Treatment Facility to the Member(s) experiencing an emergency at the established rate.

IN WITNESS WHEREOF, the Authority, Charlotte, DeSoto, Manatee and Sarasota have executed this Contract on the day, month and year first above written.

PEACE RIVER/MANASOTA
REGIONAL WATER SUPPLY
AUTHORITY

WITNESS:

David M. Aldrich
Katrina B. Miller

By: Edward W. Chace

Date: 5/15/91

Approved as to form:

[Signature]
Authority Attorney

CHARLOTTE COUNTY

WITNESS:

Franklin C. Bowman
George S. LaBranch

By: [Signature]

Date: 5/16/91

Approved as to form:

Matthew S. Monte
Attorney for Charlotte County

DESOTO COUNTY

WITNESS:

Fredrick C. Ault
Samuel P. Chaman

By: [Signature]

Date: 5/21/91

Approved as to form:

[Signature]
Attorney for DeSoto County

MANATEE COUNTY

WITNESS:

Thomas J. Liberty
Diana S. Vollmer

Approved as to form:

Edward de la Pade
Attorney for Manatee County

By: Patricia M. Glass
Date: 5/14/91 5/13/91

ATTEST: R. B. SHORE
R. B. SHORE, CLERK OF CIRCUIT COURT

BY: Richard H. Ashley
RICHARD H. ASHLEY, CHIEF DEPUTY CLERK
SARASOTA COUNTY

WITNESS:

Jose Y. Garcia
David M. Collins

Approved as to form:

Shirley Cousins
Attorney for Sarasota County

By: Shirley Cousins
Date: 5/15/91

STATE OF FLORIDA
COUNTY OF MANATEE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, Edward M. Collins, to me known to be the person described in and who executed the foregoing instrument on behalf of the Peace River/Manasota Regional Water Supply Authority, and Edward M. Collins, acknowledged before me that Edward M. Collins, executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this 15 day of May, 1991.

William A. Bush
Notary Public, My
Commission
Expires: **NOTARY PUBLIC, STATE OF FLORIDA.
MY COMMISSION EXPIRES: APRIL 17, 1992.
BONDED THRU NOTARY PUBLIC UNDERWRITERS.**

STATE OF FLORIDA
COUNTY OF CHARLOTTE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, Wm. L. Keel, Jr., to me known to be the person described in and who executed the foregoing instrument on behalf of the Charlotte County, and Wm. L. Keel, Jr., acknowledged before me that Wm. L. Keel, Jr., executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this 16th day of May, 1991.

Joan M. Hillon
Notary Public, My
Commission
Expires: NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. APR. 19, 1994
BONDED THRU GENERAL INS. UMO.

STATE OF FLORIDA
COUNTY OF DESOTO

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, R. D. Griffin, to me known to be the person described in and who executed the foregoing instrument on behalf of the DeSoto County, and R. D. Griffin, acknowledged before me that R. D. Griffin, executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this 21st day of May, 1991.

Carol Heitman
Notary Public, My
Commission
Expires: Notary Public, State of Florida at Large
My Commission Expires Nov. 1, 1993

STATE OF FLORIDA
COUNTY OF MANATEE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, _____, to me known to be the person described in and who executed the foregoing instrument on behalf of Manatee County, and _____, acknowledged before me that _____, executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this ___ day of _____, 1991.

Notary Public, My
Commission
Expires:

STATE OF FLORIDA
COUNTY OF SARASOTA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, Charley Richards, to me known to be the person described in and who executed the foregoing instrument on behalf of Sarasota County, and Charley Richards, acknowledged before me that Charley Richards, executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this 15 day of May, 1991.

Wally P. [Signature]
Notary Public, My
Commission
Expires: **NOTARY PUBLIC, STATE OF FLORIDA.
MY COMMISSION EXPIRES: APRIL 17, 1992.
BONDED THRU NOTARY PUBLIC UNDERWRITERS.**

MEMORANDUM OF INTENT

It is the intent of Charlotte, Manatee, Sarasota and DeSoto Counties to acquire, operate and expand the the Peace River Water Treatment Plant, as well as the appropriate water transmission facilities located within Charlotte, DeSoto and Sarasota Counties in accordance with the concepts contained herein. These concepts will be implemented through water supply contracts, amendments to the Peace River/Manasota Regional Water Supply Authority Interlocal Agreement and other agreements acceptable to the four counties in form and substance. Nothing contained herein shall be binding upon any party unless and until such documents are approved, fully executed and exchanged by all parties.

ACQUISITION

1. Charlotte County shall acquire the General Development Utilities, Inc. water supply facilities located in DeSoto, Sarasota and Charlotte Counties, with the intended exception of the water treatment and distribution system located within the City of North Port. Simultaneously, or as soon as legally possible, upon acquisition of these facilities, Charlotte County shall transfer the Peace River Water Treatment Plant and the appropriate water transmission facilities, located in Charlotte, DeSoto and Sarasota Counties to the Peace River/Manasota Regional Water Supply Authority.
2. DeSoto County shall move to abate its condemnation proceeding, pending acquisition of the General Development Utilities, Inc. water supply facilities by Charlotte County. Once the facilities are acquired and transferred to the Peace River/Manasota Regional Water Supply Authority, DeSoto County shall dismiss the proceeding.
3. DeSoto, Manatee and Sarasota Counties shall cooperate with Charlotte County in its acquisition of the General Development Utilities, Inc. water supply facilities so long as Charlotte County makes reasonable progress to acquire these facilities and upon acquiring the facilities simultaneously, or as soon as legally possible, transfers the Peace River Water Treatment Plant and appropriate water transmission facilities located within Charlotte, DeSoto and Sarasota Counties, to the Peace River/Manasota Regional Water Supply Authority. If Charlotte County is unable or unwilling to acquire the General Development Utilities, Inc. water supply facilities Charlotte County shall cooperate with the Peace River/Manasota Regional Water Supply Authority in its acquisition of the Peace River Water Treatment Plant and the appropriate water transmission facilities located within Charlotte, DeSoto and Sarasota

Counties. In either case, the cost of acquiring the water supply facilities shall not require an increase of the water rate to existing consumers.

4. Southwest Florida Water Management District and/or Basin Board funds shall be used by the Peace River/Manasota Regional Water Supply Authority for payment to Charlotte County to assist in defraying the cost of acquiring the facilities no later than at the time the Peace River Water Treatment Plant and appropriate water transmission facilities located within Charlotte, DeSoto and Sarasota Counties are transferred to the Authority.

5. Charlotte County will finance the acquisition of all the General Development Utilities, Inc. water supply facilities. Charlotte shall transfer the Peace River Water Treatment Plant and appropriate water transmission facilities located within Charlotte, DeSoto and Sarasota Counties to the Peace River/Manasota Regional Water Supply Authority without liens or other forms of indebtedness. The bond documents and other evidence of indebtedness issued by Charlotte County to finance the acquisition of the General Development Utilities, Inc. water supply facilities shall not conflict with the parties' obligations to transfer the facilities as specified herein, to enter into water supply contracts and to abide by the weighted vote/majority vote procedure.

VALUATION

6. The value of the General Development Utilities, Inc. water supply facilities to be transferred by Charlotte County to the Peace River/Manasota Regional Water Supply Authority, will be expressed as a percentage of the entire water, sewer, and/or gas facilities being acquired by Charlotte County, and will be negotiated by Charlotte County and the Peace River/Manasota Regional Water Supply Authority, which shall be adjusted after a final acquisition value is determined for the facilities. If agreement cannot be reached through negotiation, the parties will submit the issue to binding arbitration under Chapter 682, Florida Statutes. In the arbitration Charlotte County would choose one arbitrator, the Authority would choose the second arbitrator and the two arbitrators would select a third arbitrator.

7. The identification and valuation of those facilities at the Peace River Water Treatment Plant, which are sized greater than necessary to meet the current capacity of the plant, will be negotiated by Charlotte County and the Peace River/Manasota Regional Water Supply Authority, after a final acquisition value is determined, for the purpose of determining the amount to be held for future use. The value of the amount to be held for future use will ultimately be refunded to Charlotte County based upon the portion of the value established in conjunction with paragraph #6 above. If agreement cannot be reached through negotiation, the parties will submit the issue to binding arbitration under Chapter 682, Florida Statutes. In the arbitration Charlotte County would choose one arbitrator, the Authority would select the second arbitrator and the two arbitrators would select a third arbitrator.

EXISTING CAPACITY

8. The present capacity of the Peace River Water Treatment Plant would be allocated to Charlotte County, General Development Utilities, Inc. (North Port Service Area), DeSoto County and Sarasota County (Myakka Utilities) in the same proportion as existing water use.

9. Charlotte County, General Development Utilities, Inc. (North Port Service Area), DeSoto County and Sarasota County (Myakka Utilities) shall enter "Take-or-Pay" Water Supply Contracts with the Peace River/Manasota Regional Water Supply Authority. Charlotte County shall pay no capital component in the rate base of existing plant capacity by virtue of its capital contribution of the Plant Facility.

OPERATION OF PEACE RIVER PLANT

10. The Peace River/Manasota Regional Water Supply Authority shall establish the operation and maintenance budget used to set the rate charged all customers of the Peace River Water Treatment Plant using the weighted vote method. However, no member of the Authority shall use its authority under the weighted vote method to impede the Authority's ability to operate the Plant in a sound and reasonable manner. For purposes of this document, "weighted vote method" means a procedure for voting on issues as defined herein, by which the number of votes assigned to each member of the Board of Director is determined based on the amount water from the Plant consumed within that member's territorial jurisdiction. Under the weighted vote method, each member of the Authority's Board of Directors has one vote for each full 100,000 gallons produced from the Plant and delivered to consumers residing within the geographic boundaries of said member's government on an annual average daily basis as measured during the immediately preceding fiscal year of the Authority. However, the foregoing notwithstanding, each member of the Authority Board, Directors shall have at least one vote.

11. All the parties recognize that emergency situations may occur that would require suspension of the weighted vote method. It is the intent of the parties to define those emergency situations in the agreements entered into by the parties for the purpose of implementing this Memorandum of Intent.

12. The operation and maintenance budget used to set the rate charged all customers of the Peace River Water Treatment Plant shall be established by weighted vote of the Authority Board of Directors at a duly noticed public hearing no later than August 15 for the immediately succeeding fiscal year (October 1 - September 30). These rates may be modified by the Authority Board of Directors during the course of a fiscal year at a duly noticed public hearing, except that any such change must be in conformance with the operation and maintenance budget as it may be amended and approved by the weighted vote method. The Authority shall maintain accounts and

records for all funds received and disbursed by it with respect to operation and maintenance of the Plant. At the close of the fiscal year, the Authority shall have an audit of these accounts, to be performed by an independent certified public accounting firm.

13. Establishment of the operation and maintenance budget used to set the rate charged all customers of the Peace River Water Treatment Plant is defined as the Board of Director's approval of such budget by the weighted vote method. Any modification, amendment or budget transfer related to the operation and maintenance budget must also be approved in the same manner. This process shall not include approval or modification of the principal, interest, financing expenses and coverage costs, as specifically set forth in bond documents, which costs shall be established by majority vote of the Authority Board of Directors with each Director having one vote. Those costs falling under the operation and maintenance budget shall include, but not be limited to the following items:

A. Personnel Costs

- 1) Operations
 - Supervision
 - Maintenance
 - Water Testing
 - Monitoring
 - Water Use Permits
 - Technical Support
 - Training
 - Fringe Benefits
 - Payroll Adjustment
 - Taxes
 - Insurance

- 2) Administration
 - Supervision
 - Finance
 - Accounting
 - Purchasing
 - Support Services
 - Fringe Benefits
 - Taxes
 - Insurance

B. Supplies/Materials Costs

- 1) Operations
 - Supplies/Materials
 - Repair Parts
 - Fuel/Oil
 - Chemicals
 - Laboratory
 - Plant/Grounds Material
 - Instrumentation

- 2) Administration - Office Supplies
- C. Other Services/Charges
 - 1) Operations - Power
 - Utilities
 - Communication
 - Repair Services
 - Insurance Premium
 - Legal
 - Professional Services
 - Project Allocation
 - Interest Expense
 - 2) Administration - Utilities
 - Advertising
 - Communication
 - Rent
 - Repair Services
 - Computer Service
 - Insurance Premium
 - Legal Services
 - Professional Services

14. All decisions, other than the establishing or amendment of the operation and maintenance budget, of the Peace River/Manasota Regional Water Supply Authority relating to the Peace River Water Treatment Plant shall be by majority vote of its Board of Directors, with each Director having one vote. Examples of decisions by the Authority Board of Directors, which would not be subject to the weighted vote method are: (1) Plant operation; (2) Financing and construction; (3) Expansion of Plant facilities; (4) Employment and termination of personnel; (5) Supervision and management of personnel; (6) Granting of fringe benefits and payroll adjustments; (7) Purchasing equipment and supplies; (8) Retention of legal counsel and other professionals; (9) Execution and interpretation of contracts; (10) Compliance with land use regulations, environmental rules, permit conditions, consent orders and other administrative orders; (11) Application for permits; (12) Initiation and settlement of litigation; and, (13) Acquisition of insurance. All majority vote decisions will be made within the fiscal constraints of the operation and maintenance budget.

EXPANSION OF THE PEACE RIVER PLANT

15. The Peace River/Manasota Regional Water Supply Authority will establish a plant capacity expansion policy by contract with Charlotte, Manatee, Sarasota and DeSoto Counties, whereby each member county would be able to obtain future capacity in the Peace River Water Treatment Plant upon conformance with a clearly defined set of criteria. Expansion of Plant capacity and the allocation of said capacity to member counties will

occur at intervals to be set by mutual agreement of the parties, with the exception of the first expansion, which shall occur soon after acquisition of the General Development Utilities, Inc. facility and the transfer of the Peace River Water Treatment Plant and the appropriate water transmission facilities located in DeSoto and Sarasota Counties to the Peace River/Manasota Regional Water Supply Authority. The decision to expand Plant capacity and to allocate the expanded capacity to the member counties shall be made by majority vote of the Authority Board of Directors, with each Director having one vote.

16. The initiation of an expansion of the capacity of the Peace River Water Treatment Plant shall occur at the request of one or more member counties of the Peace River/Manasota Regional Water Supply Authority in order to meet reasonably anticipated future demands or to satisfy present demands currently served by other sources of water supply, which are no longer capable of supplying those needs, and are not reasonably and economically replaceable.

17. The expansion of the Peace River Water Treatment Plant will be handled solely by the Peace River/Manasota Regional Water Supply Authority. The Authority shall design, develop and construct Plant expansions. The member counties may choose to undertake their own financing and contribute the cost of constructing a Plant expansion to the Authority, or allow the water authority to undertake the financing in their stead. Any member county receiving an increased allocation from the Plant shall pay to the Peace River/Manasota Regional Water Supply Authority, which shall then refund the money to Charlotte County, a percentage of the original acquisition cost attributable to installations capable of producing water in excess of the Plant's current capacity.

18. If financed by the Peace River/Manasota Regional Water Supply Authority, any expansion effort shall be secured solely using revenues to be generated by the new customers for which facility expansion is undertaken.

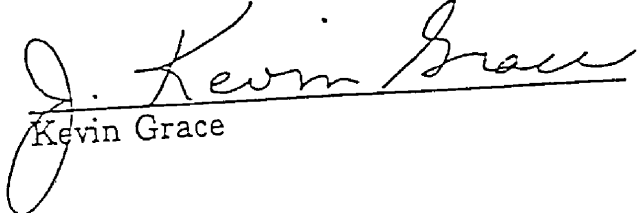
MISCELLANEOUS

19. The rate charged by the Peace River/Manasota Regional Water Supply Authority for water produced from the Peace River Water Treatment Plant shall contain a charge, which is intended to replace the ad valorem tax revenue to be lost to DeSoto County by virtue of public ownership of the General Development Utilities, Inc. water supply facilities located within DeSoto County. This charge shall be adjusted annually to account for the appreciation and/or depreciation of the water supply facilities.

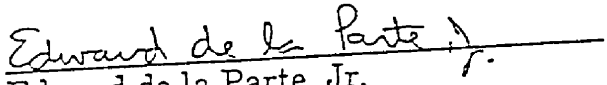
20. The Peace River/Manasota Regional Water Supply Authority Interlocal Agreement shall be amended to permit decisions of the Authority Board of Directors by majority vote of members counties. The Amended Interlocal Agreement shall establish a procedure for breaking tie votes.

Additionally, the agreement shall provide that any decision of the Authority or any of its member counties to acquire, develop, construct or operate a water supply facility within the jurisdiction of another county, shall require the express written consent of the county from which water will be withdrawn, pumped or diverted, with the exception of the Peace River Water Treatment Plant and any expansions thereto.

CHARLOTTE COUNTY


Kevin Grace

MANATEE, SARASOTA &
DESOTO COUNTIES


Edward de la Parte, Jr.

ACQUISITION AGREEMENT

THIS CONTRACT, entered into this ____ day of _____, 1991, by and between the PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY, an interlocal governmental agency created and existing pursuant to Sections 373.1962 and 163.01, Florida Statutes, and acting by and through its Authority Board, the governing board thereof ("Authority"); CHARLOTTE COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing board thereof ("Charlotte"); DESOTO COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing board thereof ("DeSoto"); MANATEE COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing board thereof ("Manatee"); SARASOTA COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing board thereof ("Sarasota"); and the SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT, a state agency created and existing pursuant to Section 373.069, Florida Statutes, and acting by and through its Governing Board, the governing board thereof ("SWFWMD").

WITNESSETH:

WHEREAS, DeSoto and Charlotte have taken steps to condemn the water utility system and underlying real property owned by General Development Utilities, Inc. and General Development Corporation located in Charlotte, Sarasota and DeSoto Counties, with the exception of the water system serving the City of North Port; and

WHEREAS, Charlotte has taken steps to oppose DeSoto's acquisition of the Peace River Regional Water Treatment Facility, along with appurtenant or associated installations, real property and fixtures and the pipeline connecting the Peace River Regional Water Treatment Facility to the City of North Port water system, to Charlotte's water system and to DeSoto's water system.

WHEREAS, DeSoto, Manatee and Sarasota have taken steps to oppose Charlotte's acquisition of the Peace River Regional Water Treatment Facility, along with appurtenant or associated installations, real property and fixtures and the pipeline connecting the Peace River Regional Water Treatment Facility to the City of North Port water system, to Charlotte's water system and to DeSoto's water system; and

WHEREAS, the Authority desires to obtain the Peace River Regional Water Treatment Facility, along with appurtenant or associated installations, real property and fixtures and the pipeline connecting the Peace River Regional Water Treatment Facility to the City of North Port water system, to Charlotte's water system and to DeSoto's water system, most immediately for the benefit of those citizens currently served by said facilities and subsequently for the benefit of the entire Authority region; and

WHEREAS, SWFWMD favors the acquisition by the Authority of the Peace River Regional Water Treatment Facility, along with appurtenant or associated installations, real property and fixtures and the pipeline connecting the Peace River Regional Water Treatment Facility to the City of North Port water system, to Charlotte's water system and DeSoto's water system; and

WHEREAS, the Authority, Charlotte, DeSoto, Manatee and Sarasota have approved a Memorandum of Intent, a copy of which is attached hereto as *Exhibit A*, which describes procedures for acquiring, operating and expanding the Peace River Regional Water Treatment Facility, along with appurtenant or associated installations, real property and fixtures and water transmission facilities located within Charlotte, DeSoto and Sarasota Counties; and

WHEREAS, the Authority, Charlotte, DeSoto, Manatee, Sarasota and SWFWMD believe it is in the best interest of the region to acquire the water supply facilities owned by General Development Utilities, Inc. and General Development Corporation and located within Sarasota, Charlotte and DeSoto Counties, excluding the water system serving the City of North Port, in a cooperative and coordinated manner; and

WHEREAS, the Authority, Charlotte, DeSoto, Manatee, Sarasota and SWFWMD agree the acquisition of the water supply facilities owned by General Development Utilities, Inc. and General Development Corporation located within the City of North Port, which are currently serving the City of North Port is best left to the City of North Port; and

WHEREAS, the Authority, Charlotte, DeSoto, Manatee, Sarasota and SWFWMD agree Charlotte should acquire the Peace River Regional Water Treatment Facility, along with appurtenant or associated installations, real property and fixtures and water transmission facilities owned by General Development Utilities, Inc. and General Development Corporation located in Charlotte, Sarasota and DeSoto Counties, with the intended exception of the water system located within and serving the City of North Port in accordance with the terms and conditions of this Agreement; and

WHEREAS, Charlotte agrees it shall transfer to the Authority the Peace River Regional Water Treatment Facility, along with appurtenant or associated installations, real property and fixtures and the pipeline connecting the Peace River Regional Water Treatment Facility to the City of North Port water system, to Charlotte's water system and DeSoto's water system simultaneously, or as soon as legally possible, upon taking title to said facilities in accordance with the terms and conditions of this Agreement; and

WHEREAS, SWFWMD has agreed to help fund the acquisition by Charlotte of the water system owned by General Development Utilities, Inc. and General Development Corporation

located in Charlotte, Sarasota and DeSoto Counties, with the intended exception of the water system serving the City of North Port by contributing to the Authority a sum not to exceed Two Million and Fifty Thousand (\$2,050,000.00) Dollars from funds budgeted in Fiscal Year 1990-1991 toward the acquisition, operation and expansion of the Peace River Regional Water Treatment Facility and Pipeline in accordance with that certain "Interlocal Agreement Between the Peace River/Manasota Regional Water Supply Authority and the Southwest Florida Water Management District for Acquisition of the General Development Utilities Plant," a copy of which is attached hereto as *Exhibit B*; and

WHEREAS, the Authority agrees to use a portion of the funds it receives from SWFWMD to assist Charlotte in acquiring the water system owned by General Development Utilities, Inc. and General Development Corporation, as described above.

NOW, THEREFORE, in consideration of the foregoing premises, which shall be deemed an integral part of this Agreement, and of the mutual covenants and agreements hereafter set forth, the Authority, Charlotte, DeSoto, Manatee, Sarasota and SWFWMD intending to be legally bound hereby agree as follows:

1. DEFINITIONS. In the absence of a clear implication otherwise, capitalized terms used in this Agreement and in the attached exhibits shall have the following meanings:

1.1. Charlotte Facilities. All real property, interest in real property, fixtures, personal property, water transmission mains, sewer plant, gas plant, sewer collection facilities and appurtenant or associated facilities located in Charlotte County, which are to be transferred by the Authority to Charlotte pursuant to Sections, 4.2, 5.2 and 6.2, as more specifically described in *Exhibit 1.1*.

1.2. Escrow Agent. SWFWMD is the Escrow Agent under Sections 4 and 11.

1.3. Peace River Regional Water Treatment Facility. All real property, interest in real property, fixtures, personal property, wells, buildings, treatment systems, pumps, pipelines, storage

facilities, reservoirs, aquifer storage and recovery facilities and appurtenant or associated facilities located in DeSoto and Sarasota Counties, which are to be transferred by Charlotte to the Authority pursuant to Sections 4.1, 5.1 and 6.1, as more specifically described in *Exhibit 1.3*.

2. TERM. The term of this Agreement shall begin on the date of its complete execution by all parties and end on the last day of the Authority's fiscal year in which the fifth (5th) anniversary of the execution date falls, unless terminated early pursuant to Section 15. This term may be extended prior to the expiration of the initial term for an additional term specified by mutual agreement of all parties, said extension to expire on the last day of the Authority's fiscal year in which the additional term expires, unless terminated early pursuant to Section 15. Any extension of the initial term shall be in writing executed by all parties in the same manner as this Agreement.

3. REPRESENTATIONS OF THE PARTIES. The Authority, Manatee, DeSoto, Sarasota, Charlotte and SWFWMD make the following representations:

3.1. Each party is duly organized and existing in good standing under the laws of the State of Florida and is duly qualified and authorized to carry on the governmental functions and operations as contemplated by this Agreement.

3.2. Each party has the power, authority and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery and performance hereof by each party (a) has been duly authorized by its governing board; (b) does not require any other approvals by any other governmental officer or body; (c) does not require any consent or referendum of any voters; (d) will not violate any judgement, order, law or regulation applicable to it; and, (e) does not constitute a default under, or result in the creation of, any lien, charge, encumbrance or security interest upon its assets of the party under any agreement or instrument to which it is a part or by which it and its assets may be bound or affected, except for SWFWMD as modified by that certain "Interlocal Agreement Between the Peace River/Manasota Regional Water Supply Authority and the

Southwest Florida Water Management District for Acquisition of the General Development Utilities Plant," a copy of which is attached hereto as *Exhibit B*.

3.3. This Agreement has been duly entered into and delivered by each party's governing board and, as of the date of its full execution by all parties constitutes a legal, valid and binding obligation of the party, fully enforceable in accordance with its terms.

3.4. There is no action, suit or proceeding, at law or in equity, before or by any court or governmental authority, pending or, to the best of each party's knowledge, threatened against the party, wherein any unfavorable decision, ruling or finding would materially adversely affect the performance by the party of its obligations hereunder or the other transactions contemplated hereby, or which, in any way, would adversely affect the validity or enforceability of this Agreement, or any other agreement or instrument entered into by the party in connection with the transaction contemplated hereby.

3.5. To the extent permitted by State law, each party hereby irrevocably waives any and all defenses it may have on the grounds of sovereign immunity solely in regards to any action which may be brought by other parties against it in connection with this Agreement.

4. TRANSFER OF THE PEACE RIVER REGIONAL WATER TREATMENT FACILITY AND THE CHARLOTTE FACILITIES. The Authority, Manatee, DeSoto, Sarasota, Charlotte and SWFWMD agree title to the Peace River Regional Water Treatment Facility and the Charlotte Facilities shall be transferred as follows:

4.1. Transfer the Peace River Regional Water Treatment Facility to the Authority Charlotte shall transfer title to the Peace River Regional Water Treatment Facility to the Authority according to the procedure specified in Section 6.1, once Charlotte acquires title to the Peace River Regional Water Treatment Facility pursuant to Section 7.1.

4.2. Transfer of the Charlotte Facilities to Charlotte. If the Authority should be permitted to acquire the Charlotte Facilities pursuant to Section 7.2, it shall transfer title to the Charlotte Facilities to Charlotte according to the procedure specified in Section 6.2, once the Authority acquires title to the Charlotte Facilities pursuant to Section 7.2.

5. POSSESSION OF THE PEACE RIVER REGIONAL WATER TREATMENT FACILITY AND THE CHARLOTTE FACILITIES. The Authority, Manatee, DeSoto, Sarasota, Charlotte and SWFWMD agree possession and control of the Peace River Regional Water Treatment Facility and the Charlotte Facilities shall be established as follows:

5.1. Possession of the Peace River Regional Water Treatment Facility by the Authority. The Authority shall be in possession and control of the Peace River Regional Water Treatment Facility once Charlotte acquires title to the Peace River Regional Water Treatment Facility.

5.2. Possession of the Charlotte Facilities by Charlotte. If the Authority should be permitted to acquire the Charlotte Facilities pursuant to Section 7.2, Charlotte shall be in possession and control of the Charlotte Facilities once the Authority acquires title to the Charlotte Facilities.

6. EXECUTION AND DELIVERY OF DEEDS. The Authority, Manatee, DeSoto, Sarasota, Charlotte and SWFWMD agree deeds and bills of sale to the Peace River Regional Water Treatment Facility and the Charlotte Facilities shall be executed and delivered as follows:

6.1. Execution and Delivery of Deed by Charlotte. In consideration for the performance of all covenants and conditions herein by the Authority, Manatee, DeSoto and Sarasota, Charlotte shall, on the date this Agreement is fully executed by all parties, execute a deed and bill of sale, in the form specified in *Exhibit 6.1*, to the Peace River Regional Water Treatment Facility in favor of the Authority. Charlotte shall deliver the deed and bill of sale to the Escrow Agent, together with an executed original of this Agreement. The Escrow Agent shall deliver the deed and bill of sale to the Authority once Charlotte acquires title to the Peace River Regional Water Treatment Facility.

pursuant to Section 7.1. However, if Charlotte fails to acquire title to the Peace River Regional Water Treatment Facility prior to the termination of this Agreement, the Escrow Agent shall return the deed and bill of sale to Charlotte. The execution and delivery by Charlotte of the deed and bill of sale to the Peace River Regional Water Treatment Facility in favor of the Authority shall be without lien or other form of indebtedness, except for easements, restrictions, limitations and covenants of record affecting such facility in existence on the date this Agreement is fully executed by all parties.

6.2. Execution and Delivery of Deed by the Authority. In consideration for the performance of all covenants and conditions herein by Charlotte, the Authority shall, on the date this Agreement is fully executed by all parties, execute a deed and bill of sale, in the form specified in *Exhibit 6.2*, to the Charlotte Facilities in favor of Charlotte. The Authority shall deliver the deed and bill of sale to the Escrow Agent, together with an executed original of this Agreement. The Escrow Agent shall deliver the deed and bill of sale to Charlotte once the Authority acquires title to the Charlotte Facilities pursuant to Section 7.2. However, if the Authority fails to acquire title to the Charlotte Facilities prior to the termination of this Agreement, the Escrow Agent shall return the deed and bill of sale to the Authority. The execution and delivery by the Authority of the deed and bill of sale to the Charlotte Facilities in favor of Charlotte shall be without lien or other form of indebtedness, except for easements, restrictions, limitations and covenants of record affecting such facility in existence on the date this Agreement is fully executed by all parties.

7. ACQUISITION OF THE WATER SUPPLY FACILITIES. The Authority, Charlotte, DeSoto, Manatee, Sarasota and SWFWMD agree the Peace River Regional Water Treatment Facility and the Charlotte Facilities are to be acquired in the following manner:

7.1. Acquisition of the Water Supply Facilities by Charlotte. Charlotte shall have the first and primary right under this Agreement to acquire the Peace River Regional Water Treatment Facility and the Charlotte Facilities. Charlotte shall proceed to acquire these facilities as follows:

7.1.1. Action by Charlotte. Charlotte shall acquire the Peace River Regional Water Treatment Facility and the Charlotte Facilities, with the intended exception of the water system located in and serving the City of North Port. Charlotte shall have two and a half years from the date this Agreement is fully executed by all the parties in which to acquire title and possession to the Peace River Regional Water Treatment Facility and the Charlotte Facilities in accordance with the terms and conditions of this Agreement. Simultaneously, or as soon as legally possible, upon acquisition of the Peace River Regional Water Treatment Facility and Charlotte Facilities, Charlotte shall transfer the Peace River Regional Water Treatment Facility to the Authority in accordance with Sections 4.1, 5.1 and 6.1. The acquisition of the Peace River Regional Water Treatment Facility and the Charlotte Facilities will be accomplished through negotiations with General Development Utilities, Inc. and General Development Corporation if possible, and condemnation, if necessary. Decisions concerning the terms and conditions of acquisition and the price to be paid by Charlotte for the Peace River Regional Water Treatment Facility and the Charlotte Facilities shall be made by Charlotte in accordance with the terms and conditions of this Agreement.

7.1.2. Action by the Authority DeSoto, Manatee, Sarasota and SWFWMD. As long as Charlotte is making reasonable progress to acquire the Peace River Regional Water Treatment Facility and the Charlotte Facilities, the Authority, DeSoto, Manatee, Sarasota and SWFWMD agree not to acquire nor attempt to acquire the Peace River Regional Water Treatment Facility and/or the Charlotte Facilities. The Authority, DeSoto, Manatee, Sarasota and SWFWMD shall cooperate with Charlotte in acquiring the Peace River Regional Water Treatment Facility and the Charlotte Facilities. If deemed necessary by Charlotte, DeSoto and Sarasota agree to join Charlotte as co-petitioners in any eminent domain proceeding initiated by Charlotte for the purpose of acquiring the Peace River Regional Water Treatment Facility and the Charlotte Facilities; provided however, Charlotte shall make all decisions on behalf of the co-petitioners in the condemnation proceeding

concerning the terms and conditions of acquisition and the price to be paid for the Peace River Regional Water Treatment Facility and the Charlotte Facilities and Charlotte shall be responsible for all expenses incurred by the co-petitioners in the condemnation proceeding.

7.1.3. Acquisition Procedures. Within thirty (30) days of the execution of this Agreement by all parties, Charlotte shall provide the Authority, DeSoto, Manatee, Sarasota and SWFWMD with its proposed time schedule for acquiring the Peace River Regional Water Treatment Facility and the Charlotte Facilities. Within thirty (30) days of the submission of said schedule and on the 15th day of each month thereafter during the two and a half years specified in Section 7.1.1. for the acquisition of the Peace River Regional Water Treatment Facility and the Charlotte Facilities, Charlotte will provide the Authority, DeSoto, Manatee, Sarasota and SWFWMD with a written status report referring to supporting documents, where available, summarizing Charlotte's progress to date in acquiring the Peace River Regional Water Treatment Facility and the Charlotte Facilities.

7.1.4. Acquisition Costs. All costs of acquiring the Peace River Regional Water Treatment Facility and the Charlotte Facilities shall be in accordance with normal and usual procedures and costs incurred by Charlotte in acquiring real and personal property by quick take condemnation or otherwise. All non-privileged information as to the cost of acquisition, including but not limited to the value of the Peace River Regional Water Treatment Facility and those portions of the Peace River Regional Water Treatment Facility, which are sized greater than necessary to meet the current capacity of the plant shall be a public record available upon request to the Authority, DeSoto, Manatee, Sarasota and SWFWMD.

7.2. Acquisition of the Water Supply Facilities by the Authority. If Charlotte fails to acquire the Peace River Regional Water Treatment Facility and the Charlotte Facilities within two and a half years from the date this Agreement is fully executed by all the parties or if Charlotte fail

to make reasonable progress to acquire the Peace River Regional Water Treatment Facility and the Charlotte Facilities as determined by Manatee, Sarasota and DeSoto, the Authority shall be authorized to acquire the facilities as follows:

7.2.1. Action by the Authority. The Authority shall acquire the Peace River Regional Water Treatment Facility and the Charlotte Facilities, with the intended exception of the water system located in and serving the City of North Port. The Authority shall have until the termination date of this Agreement in which to acquire title and possession to the Peace River Regional Water Treatment Facility and the Charlotte Facilities in accordance with the terms and conditions of this Agreement. Simultaneously, or as soon as legally possible, upon acquisition of the Peace River Regional Water Treatment Facility and the Charlotte Facilities, the Authority shall transfer the Charlotte Facilities to Charlotte in accordance with Sections 4.2, 5.2 and 6.2. The acquisition of the Peace River Regional Water Treatment Facility and the Charlotte Facilities will be accomplished through negotiation if possible, and condemnation, if necessary. Decisions concerning the terms and conditions of acquisition and the price to be paid by the Authority for the Peace River Regional Water Treatment Facility and the Charlotte Facilities shall be made by the Authority in accordance with the terms and conditions of this Agreement.

7.2.2. Action by the Charlotte, DeSoto, Manatee, Sarasota and SWFWMD. As long as the Authority is making reasonable progress to acquiring the Peace River Regional Water Treatment Facility and the Charlotte Facilities, Charlotte, DeSoto, Manatee, Sarasota and SWFWMD agree not to acquire nor attempt to acquire the Peace River Regional Water Treatment Facility and/or the Charlotte Facilities. Charlotte, DeSoto, Manatee, Sarasota and SWFWMD shall cooperate with the Authority in acquiring the Peace River Regional Water Treatment Facility and the Charlotte Facilities. If deemed necessary by the Authority, Charlotte, DeSoto and Sarasota agree to join the Authority as co-petitioners in any eminent domain proceeding initiated by the Authority

for the purpose of acquiring the Peace River Regional Water Treatment Facility and the Charlotte Facilities; provided however, the Authority shall make all decisions on behalf of the co-petitioners in the condemnation proceeding concerning the terms and conditions of acquisition and the price to be paid for the Peace River Regional Water Treatment Facility and the Charlotte Facilities and the Authority shall be responsible for all expenses incurred by the co-petitioners in the condemnation proceeding.

7.2.3. Acquisition Procedures. Within thirty (30) days after being permitted to acquire the Peace River Regional Water Treatment Facility and the Charlotte Facilities pursuant to Section 7.2.1., the Authority shall provide Charlotte, DeSoto, Manatee, Sarasota and SWFWMD with its proposed time schedule for acquiring the Peace River Regional Water Treatment Facility and the Charlotte Facilities. Within thirty (30) days of the submission of said schedule and on the 15th day of each month thereafter during the two and a half years specified in Section 7.2. for the acquisition of the Peace River Regional Water Treatment Facility and the Charlotte Facilities, the Authority will provide Charlotte, DeSoto, Manatee, Sarasota and SWFWMD with a written status report referring to supporting documents, where available, summarizing the Authority's progress to date in acquiring the Peace River Regional Water Treatment Facility and the Charlotte Facilities.

7.2.4. Acquisition Costs. All costs of acquiring the Peace River Regional Water Treatment Facility and the Charlotte Facilities shall be in accordance with normal and usual procedures and costs incurred by the Authority in acquiring real and personal property by quick take condemnation or otherwise. All non-privileged information as to the cost of acquisition, including but not limited to the value of the Charlotte Facilities and those portions of the Charlotte Facilities, which are sized greater than necessary to meet the current capacity of the plant shall be a public record available upon request to Charlotte, DeSoto, Manatee, Sarasota. and SWFWMD

8. FINANCING THE ACQUISITION OF THE WATER SUPPLY FACILITIES.

Financing for the acquisition of the Peace River Regional Water Treatment Facility and the Charlotte Facilities shall be limited as follows:

8.1. Financing by Charlotte. If Charlotte acquires the Peace River Regional Water Treatment Facility and the Charlotte Facilities, it shall be solely responsible for financing the acquisition of the Peace River Regional Water Treatment Facility and the Charlotte Facilities. The Authority, DeSoto, Sarasota, Manatee and SWFWMD shall not be liable on any of the obligations issued by Charlotte to finance the acquisition of the Peace River Regional Water Treatment Facility and the Charlotte Facilities, except solely to the extent such parties acquire water allocations or purchase water under the Peace River Water Supply Contract, in which case they shall be required to pay a capital cost component as part of the water rate which is intended to reimburse Charlotte for the acquisition of the Peace River Regional Water Treatment Facility in accordance with Section 9. The bond documents and other obligations issued by Charlotte to finance the acquisition of the Peace River Regional Water Treatment Facility and the Charlotte Facilities shall not conflict with Charlotte's obligation under Sections 4.1, 5.1 and 6.1 to transfer the Peace River Regional Water Treatment Facility to the Authority without liens or other forms of indebtedness, except for easements, restrictions, limitations and covenants of record affecting such facility in existence on the date this Agreement is fully executed by all parties. Charlotte shall make copies of all bond documents and other obligations available upon request to the Authority, DeSoto, Manatee, Sarasota and SWFWMD for review or copying at a reasonable time prior to issuance of the bonds or other obligations.

8.2. Financing by the Authority. If the Authority should be permitted to acquire the Peace River Regional Water Treatment Facility and the Charlotte Facilities pursuant to Section 7.2, it shall be solely responsible for financing the acquisition of the Peace River Regional Water

Treatment Facility and the Charlotte Facilities. Charlotte, DeSoto, Sarasota, Manatee and SWFWMD shall not be liable on any of the obligations issued by the Authority to finance the acquisition of the Peace River Regional Water Treatment Facility and the Charlotte Facilities. The bond documents and other obligations issued by the Authority to finance the acquisition of the Peace River Regional Water Treatment Facility and the Charlotte Facilities shall not conflict with the Authority's obligation under Sections 4.2, 5.2 and 6.2 to transfer the Charlotte Facilities to Charlotte without liens or other forms of indebtedness, except for easements, restrictions, limitations and covenants of record affecting such facility in existence on the date this Agreement is fully executed by all parties. The Authority shall make copies of all bond documents and other obligations available upon request to Charlotte, DeSoto, Manatee, Sarasota and SWFWMD for review or copying at a reasonable time prior to issuance of the bonds or other obligations.

9. VALUATION OF THE FACILITIES. The Authority, Charlotte, DeSoto, Manatee and Sarasota agree to value the Peace River Regional Water Treatment Facility as follows:

9.1. Determination of the Value of the Peace River Regional Water Treatment Facility. Upon completion of a voluntary transfer of the Peace River Regional Water Treatment Facility and Charlotte Facilities to Charlotte or upon entry of a final judgment in the valuation portion of a condemnation proceeding, Charlotte and the Authority shall jointly determine what portion of the final acquisition cost of the Peace River Regional Water Treatment Facility, Charlotte Facilities and other utility installations acquired from General Development Utilities, Inc. and General Development Corporation is properly attributable to the Peace River Regional Water Treatment Facility. Upon acquisition of the Peace River Regional Water Treatment Facility and Charlotte Facilities under the quick take procedure provided by Chapter 74, Florida Statutes and pending a final judgment in the valuation portion of a full condemnation proceeding, the value of such facilities will be expressed as a percentage, as specified in *Exhibit 9.1.A.*, of the entire, water, sewer,

and gas facilities acquired by Charlotte from General Development Utilities, Inc. and General Development Corporation; provided, however, the valuation corresponding to said percentage shall be reduced by the money contributed by the Authority pursuant to Section 10 directly to the acquisition cost of these facilities, according to the example specified in *Exhibit 9.1.B*. The contribution shall be applied to the good faith deposit under Chapter 74 and reapplied after final judgment can no longer be appealed.

9.2. Identification and Valuation of Oversized Portions of the Peace River Regional Water Treatment Facility. Upon determining a final value for the Peace River Regional Water Treatment Facility pursuant to Section 9.1, Charlotte and the Authority shall jointly determine the value of the major components of the Peace River Regional Water Treatment Facility, including land, which are sized greater than necessary to meet the current 12 MGD capacity of the plant. This value shall be expressed as a percentage. If the two parties cannot determine this percentage within sixty (60) days following the good faith valuation under Chapter 74, Florida Statutes of the Peace River Regional Water Treatment Facility pursuant to Section 9.1 or 12, they shall submit the issue to binding arbitration in accordance with the terms and conditions of Section 12. Charlotte's and/or the Authority's failure to determine the percentage of the oversized portions of the Peace River Regional Water Treatment Facility or their decision to submit the issue to binding arbitration shall in no way prevent the transfer of said facilities to the Authority pursuant to Sections 4.1, 5.1 and 6.1.

10. USE OF THE SWFWMD MONEY IN FUNDING THE ACQUISITION OF THE WATER SUPPLY FACILITIES. The money the Authority receives from SWFWMD pursuant to that certain "Interlocal Agreement Between the Peace River/Manasota Regional Water Supply Authority and the Southwest Florida Water Management District for Acquisition of the

General Development Utilities Plant," a copy of which is attached hereto as *Exhibit B* shall be used in part to fund the acquisition of the Peace River Regional Water Treatment Facility as follows:

10.1. Acquisition of the Facilities by Charlotte. If Charlotte acquires the Peace River Regional Water Treatment Facility and Charlotte Facilities in accordance with Section 7.1, the Authority shall pay Charlotte One Million Eight Hundred Thousand (\$1,800,000.00) Dollars, in accordance with that certain "Interlocal Agreement Between the Peace River/Manasota Regional Water Supply Authority and the Southwest Florida Water Management District for Acquisition of the General Development Utilities Plant," a copy of which is attached hereto as *Exhibit B*, once Charlotte takes title and possession to the Peace River Regional Water Treatment Facility and Charlotte Facilities and transfers title and possession of the Peace River Regional Water Treatment Facility and to the Authority in accordance with Sections 4.1, 5.1 and 6.1.

10.2. Acquisition of the Facilities by the Authority. If the Authority acquires the Peace River Regional Water Treatment Facility and Charlotte Facilities in accordance with Section 7.2, it shall use Two Million Fifty Thousand (\$2,050,000.00) Dollars in accordance with that certain "Interlocal Agreement Between the Peace River/Manasota Regional Water Supply Authority and the Southwest Florida Water Management District for Acquisition of the General Development Utilities Plant," a copy of which is attached hereto as *Exhibit B*, to help defray the cost of acquiring the Peace River Regional Water Treatment Facility and Charlotte Facilities once the Authority takes title and possession to the Peace River Regional Water Treatment Facility and Charlotte Facilities and transfers title and possession of the Charlotte Facilities to the Charlotte in accordance with Sections 4.2, 5.2 and 6.2.

11. ESCROW INSTRUCTIONS. Charlotte and the Authority both designate SWFWMD as their Escrow Agent in connection with this Agreement and SWFWMD hereby accepts this designation. On the date this Agreement is fully executed by all parties, Charlotte shall

deposit with the Escrow Agent at its principal place of business, as identified in Section 19, the deed and other documents specified in Section 4.1. Also, on the date this Agreement is fully executed by all parties, the Authority shall deposit with the Escrow Agent, at its principal place of business as identified in Section 19, the deed and other documents specified in Section 4.2. The Escrow Agent shall convey these deeds and other documents only at the time and under the conditions specified in Section 4. In addition to any other consideration received by SWFWMD under this Agreement, a non-refundable escrow fee of Ten (\$10.00) Dollars shall each be paid by Charlotte and the Authority to the Escrow Agent at the time the documents specified in this Section are deposited with the Escrow Agent.

12. ARBITRATION. Charlotte and the Authority shall arbitrate any disputes concerning the valuation of the Peace River Regional Water Treatment Facility and the Charlotte Facilities, as follows:

12.1. Selection of Arbitration Panel. Either Charlotte or the Authority may, by written notice to the other party within twenty (20) days after failing to determine the value of the oversized portions of the Peace River Water Treatment Facility pursuant to Section 9, advise that it seeks to arbitrate the determination of the oversized portions and it shall forthwith thereafter appoint an arbitrator, who shall be a Member of the Florida Bar. The other party shall, by written notice, within twenty (20) days after receipt of such notice by the first party, appoint a second arbitrator, who shall be a Member of the Florida Bar, and in default of such second appointment, the first arbitrator shall be the sole arbitrator. When two arbitrators have been appointed as herein provided, they shall, if possible agree on a third arbitrator, who shall be a Member of the Florida Bar, and shall appoint such arbitrator by written notice signed by both of them and a copy mailed to both Charlotte and the Authority within twenty (20) days of such appointment. In the event thirty (30) days shall elapse after the appointment of the second arbitrator without notice of appointment of the third arbitrator,

then either Charlotte or the Authority, or both may in writing request the Circuit Court of Hillsborough County to appoint the third arbitrator.

12.2. Arbitration Proceeding. On appointment of the three arbitrators, they shall hold an arbitration hearing at the Hillsborough County Courthouse, or such other location as mutually agreeable to the Authority and Charlotte within sixty (60) days after the first or third arbitrator(s) is appointed. At the hearing, the laws of evidence of the State of Florida shall apply, and the three arbitrators shall allow Charlotte and the Authority to present their case, evidence and witnesses, if any, in the presence of the other party. The party first seeking arbitration shall first present its case and the other party shall then respond. Each party may present rebuttal. The arbitration hearing shall be concluded within five (5) working days, unless otherwise ordered by the arbitrator(s), and the arbitrator(s)' decision on the valuation issue shall be made within thirty (30) days after the submission of evidence. A decision rendered by a majority of the arbitrator(s) shall be final and binding on both Charlotte and the Authority and judgment on such award may be entered by either party in the Hillsborough County Circuit Court.

12.3. Cost and Expenses of Arbitration. Charlotte and the Authority shall each bear its own arbitration costs and expenses; provided, however, Charlotte shall not be liable for payments of the Authority's costs and expenses, either indirectly or directly. The two parties shall split any fees and expenses incurred by the arbitrators under the payment limitations as set forth herein.

12.4. Effect of Arbitration. The Authority and Charlotte stipulate the provisions of this Section shall be a complete defense to any suit, action or proceeding instituted in any federal, state or local court or before any administrative tribunal with respect to the valuation of the oversized portions of the Peace River Regional Water Treatment Facility pursuant to Section 9. Nothing herein contained shall be deemed to give the arbitrators any authority, power or right to alter, change, amend, modify, add to, or subtract from any provision of this Agreement. This Section was prepared

by the parties pursuant to the provisions of the Florida Arbitration Code, Chapter 682, Florida Statutes, and shall be governed by such Code.

12.5. Survival. This Section shall survive the termination of this Agreement.

13. BREACH OF THE AGREEMENT. The Authority, DeSoto, Manatee, Sarasota, Charlotte and SWFWMD agree the following circumstances constitute a material and substantial breach of this Agreement entitling the parties to the remedies specified in Section 14 and to termination of the Agreement pursuant to Section 15:

13.1. Events of Breach by Charlotte. Each of the following shall constitute a material and substantial breach of this Agreement by Charlotte:

13.1.1. Failure on the part of Charlotte to transfer title to the Peace River Regional Water Treatment Facility to the Authority without liens or other forms of indebtedness in accordance with Sections 4.1 and 6.1, except for easements, restrictions, limitations and covenants of record affecting such facility in existence on the date this Agreement is fully executed by all parties.

13.1.2. Action on the part of Charlotte to oppose or interfere with the Authority's title, possession or control of the Peace River Regional Water Treatment Facility under Sections 4.1, 5.1 and 6.1.

13.1.3. Failure on the part of Charlotte to execute and deliver the deed and other documents to the Escrow Agent in accordance with Section 6.1.

13.1.4. Action on the part of Charlotte to oppose or interfere with the Authority's acquisition of the Peace River Regional Water Treatment Facility and Charlotte Facilities in accordance with Section 7.2.

13.1.5. Action on the part of Charlotte to acquire or attempt to acquire the Peace River Regional Water Treatment Facility and Charlotte Facilities during the time period in which the Authority shall have the primary right to acquire these installations as specified in Section 7.2.

13.1.6. Failure on the part of Charlotte to cooperate with the Authority's acquisition of the Peace River Regional Water Treatment Facility and Charlotte Facilities in accordance with Section 7.2.2.

13.1.7. Failure on the part of Charlotte to join as a co-petitioner in the condemnation of the Peace River Regional Water Treatment Facility and Charlotte Facilities by the Authority pursuant to Section 7.2.2, when requested by the Authority.

13.1.8. Action on the part of Charlotte to finance or attempt to finance the acquisition of the Peace River Regional Water Treatment Facility and Charlotte Facilities through the issuance of bonds or other forms of indebtedness, which conflict with Charlotte's obligation under Sections 4.1 or 6.1 to transfer the Peace River Regional Water Treatment Plant to the Authority without liens or other forms of indebtedness, except for easements, restrictions, limitations and covenants of record affecting such facility in existence on the date this Agreement is fully executed by all parties.

13.1.9. Failure on the part of Charlotte to comply with the procedures specified in Section 9 for valuing the Peace River Water Treatment Facility.

13.1.10. Failure on the part of Charlotte to abide by the results of the binding arbitration specified in Section 12.

13.1.11. Failure on the part of Charlotte to accurately represent one or more of the facts described in Section 3.

13.2. Events of Breach by the Authority. Each of the following shall constitute a material and substantial breach of this Agreement by the Authority:

13.2.1. Failure on the part of the Authority to transfer title to the Charlotte Facilities to Charlotte without liens or other forms indebtedness in accordance with Sections 4.2 and 6.2, if

the Authority should be permitted to acquire the Peace River Regional Water Treatment Facility and Charlotte Facilities pursuant to Section 7.2.

13.2.2. Action on the part of the Authority to oppose or interfere with Charlotte's title, possession or control of the Charlotte Facilities under Sections 4.2, 5.2 and 6.2, if the Authority should be permitted to acquire the Peace River Regional Water Treatment Facility and Charlotte Facilities pursuant to Section 7.2.

13.2.3. Failure on the part of the Authority to execute and deliver the deed and other documents to the Escrow Agent in accordance with Section 6.2.

13.2.4. Action on the part of the Authority to oppose or interfere with Charlotte's acquisition of the Peace River Regional Water Treatment Facility and Charlotte Facilities in accordance with Section 7.1.

13.2.5. Action on the part of the Authority to acquire or attempt to acquire the Peace River Regional Water Treatment Facility and Charlotte Facilities during the time period in which Charlotte shall have the primary right to acquire these installations as specified in Section 7.1.

13.2.6. Failure on the part of the Authority to cooperate with Charlotte's acquisition of the Peace River Regional Water Treatment Facility and Charlotte Facilities in accordance with Section 7.1.2.

13.2.7. Action on the part of the Authority to finance or attempt to finance the acquisition of the Peace River Regional Water Treatment Facility and Charlotte Facilities through the issuance of bonds or other forms of indebtedness, which conflict with the Authority's obligation under Sections 4.2 and 6.2 to transfer the Charlotte Facilities to Charlotte without liens or other forms of indebtedness, except for easements, restrictions, limitations and covenants of record affecting such facility in existence on the date this Agreement is fully executed by all parties, if the

Authority should be permitted to acquire the Peace River Regional Water Treatment Facility and Charlotte Facilities pursuant to Section 7.2.

13.2.8. Failure on the part of the Authority to comply with the procedures specified in Section 9 of this Agreement for valuing the Peace River Water Treatment Facility.

13.2.9. Failure on the part of the Authority to abide by the results of the binding arbitration specified in Section 12.

13.2.10. Failure on the part of the Authority to accurately represent one or more of the facts described in Section 3.

13.2.11. Failure on the part of the Authority to participate in funding the acquisition of the Peace River Regional Water Treatment Facility and Charlotte Facilities in accordance with Section 10.

13.3. Events of Breach by DeSoto, Manatee or Sarasota. Each of the following shall constitute a material and substantial breach of this Agreement by DeSoto, Manatee or Sarasota:

13.3.1. Action on the part of DeSoto, Manatee or Sarasota to oppose or interfere with the Authority's title, possession or control of the Peace River Regional Water Treatment Plant under Sections 4.1, 5.1 and 6.1.

13.3.2. Action on the part of DeSoto, Manatee or Sarasota to oppose or interfere with Charlotte's title, possession or control of the Charlotte Facilities under Sections 4.2, 5.2 and 6.2.

13.3.3. Action on the part of DeSoto, Manatee or Sarasota to oppose or interfere with Charlotte's acquisition of the Peace River Regional Water Treatment Facility and Charlotte Facilities in accordance with Section 7.1.

13.3.4. Action on the part of DeSoto, Manatee or Sarasota to oppose or interfere with the Authority's acquisition of the Peace River Regional Water Treatment Facility and Charlotte Facilities in accordance with Section 7.2.

13.3.5. Failure on the part of DeSoto, Manatee or Sarasota to cooperate with Charlotte's acquisition of the Peace River Regional Water Treatment Facility and Charlotte Facilities in accordance with Section 7.1.

13.3.6. Failure on the part of DeSoto, Manatee or Sarasota to cooperate with the Authority's acquisition of the Peace River Regional Water Treatment Facility and Charlotte Facilities in accordance with Section 7.2.

13.3.7. Action on the part of DeSoto, Manatee or Sarasota to acquire or attempt to acquire the Peace River Regional Water Treatment Facility and Charlotte Facilities during the time period in which Charlotte shall have the primary right to acquire these facilities as specified in Section 7.1.

13.3.8. Action on the part of DeSoto, Manatee or Sarasota to acquire or attempt to acquire the Peace River Regional Water Treatment Facility and Charlotte Facilities during the time period in which the Authority shall have the primary right to acquire these installations as specified in Section 7.2.

13.3.9. Failure on the part of DeSoto, Manatee or Sarasota to accurately represent one or more of the facts described in Section 3.

14. REMEDIES. The Authority, Charlotte, DeSoto, Sarasota, Manatee and SWFWMD agree the remedies identified in Section 14.1 are available to the parties in the event of a material and substantial breach of this Agreement, as described in Section 13.

14.1. List of Remedies. The following remedies are available to any party in the event of a material and substantial breach of this Agreement by another party:

14.1.1. Charlotte's obligation to transfer title to the Peace River Water Regional Water Treatment Facility to the Authority without liens or other forms of indebtedness in accordance with Sections 4.1 and 6.1, except for easements, restrictions, limitations and covenants of record affecting such facility in existence on the date this Agreement is fully executed by all parties, may be specifically enforced in a court of law for any event falling under Section 13.1.1.

14.1.2. Charlotte's obligation to execute and deliver the deed and other documents to the Escrow Agent in accordance with Section 6.1 may be specifically enforced in a court of law for any event falling under Section 13.1.3.

14.1.3. The Authority's obligation to transfer title to the Charlotte Facilities to Charlotte without liens or other forms of indebtedness in accordance with Sections 4.2 and 6.2, except for easements, restrictions, limitations and covenants of record affecting such facility in existence on the date this Agreement is fully executed by all parties, if the Authority is permitted to acquire the Peace River Regional Water Treatment Facility and Charlotte Facilities pursuant to Section 7.2 of this Agreement, may be specifically enforced in a court of law for any event falling under Section 13.2.1.

14.1.4. The Authority's obligation to execute and deliver the deed and other documents to the Escrow Agent in accordance with Section 4.2 may be specifically enforced in a court of law for any event falling under Section 13.2.3.

14.1.5. Charlotte shall be required to transfer the Peace River Regional Water Treatment Facility and Charlotte Facilities to the Authority free and clear of all liens and other form of indebtedness, except for easements, restrictions, limitations and covenants of record affecting such facility in existence on the date this Agreement is fully executed by all parties, for any event falling under Sections 13.1.1, 13.1.2, 13.1.3, 13.1.4, 13.1.5, 13.1.6 or 13.1.7.

14.1.6. The Authority shall be required to transfer the Charlotte Facilities to Charlotte free and clear of all liens or other forms of indebtedness, except for easements, restrictions, limitations and covenants of record affecting such facility in existence on the date this Agreement is fully executed by all parties, for any event falling under Sections 13.2.1, 13.2.2, 13.2.3, 13.2.4, 13.2.5, 13.2.6 or 13.2.7.

14.1.7. The Authority shall be entitled to receive from Charlotte the funds it contributed towards the acquisition of the Peace River Regional Water Treatment Facility and Charlotte Facilities pursuant to Section 10 for any event falling under Sections 13.1.1, 13.1.2, 13.1.3, 13.1.4, 13.1.5, 13.1.6 or 13.1.7.

14.2. Remedies are Cumulative. The remedies described in Section 14.1 are cumulative and supplemental of any other remedies available at law or equity to the parties for a material and substantial breach of this Agreement.

14.3. Survival. The remedies described in this Section shall survive the termination of this Agreement.

15. **EARLY TERMINATION.** The Authority, DeSoto, Manatee, Sarasota or SWFWMD agree the Agreement may only be terminated prior to the expiration of the term specified in Section 2, as follows:

15.1. Early Termination Procedure. The Agreement may only be terminated by a party unilaterally for events falling under Section 13. The party(s) terminating the Agreement shall notify all other parties in writing in accordance with the procedures specified in Section 19. This notice shall advise the parties of the events justifying the early termination of the Agreement. The effective date of termination shall occur within seven (7) days of the receipt of this notice by all parties.

15.2. Limits of Liability. If the Agreement is terminated under this Section, the parties' sole and exclusive remedies shall be limited to the remedies specified in Section 14.1 and damages accrued or accruing prior to the effective date of termination.

15.3. Survival. This Section shall survive the termination of the Agreement.

16. **INDEMNIFICATION**. Each party, with the exception of SWFWMD, agrees to the extent permitted by law, that it shall protect, indemnify, and hold harmless all other parties, jointly and severally and their respective officers, commissioners, directors, governing board members, employees and agents from and against all liabilities, actions, damages, claims, demands, judgements, losses, costs, expenses, suits, or actions and reasonable attorney's fees, and shall defend said persons in any suit, including appeals, for personal injury to, or death of, any person or persons, or for loss or damage to property arising out of the acts or omissions of such party, including its representatives and agents, in performance (or non-performance) of the party's obligations under this Agreement. This Section shall survive the termination of this Agreement only with respect to events that occur during the term of this Agreement.

17. **APPLICABLE LAW AND VENUE**. The laws of the State of Florida shall govern the validity, interpretation, construction and performance of this Agreement and venue for any suit involving this Agreement shall be in Hillsborough County, Florida.

18. **ASSIGNMENT**. This Agreement may not be assigned by any party without the prior written consent of all other parties.

19. **NOTICES**. All notices, demands, requests and other communications hereunder shall be deemed sufficient and properly given, if in writing and delivered in person to the following addresses or sent by certified or registered mail, postage prepaid with return receipt requested, at such addresses; provided, if such notices, demands, requests or other communications are sent by mail, they shall be deemed as given on the third day following such mailing which is not a Saturday,

Sunday or a day on which United States mail is not delivered: the Authority Executive Director's Office, the Charlotte County Administrator's Office, the DeSoto County Administrator's Office, the Manatee County Administrator's Office, the Sarasota County Administrator's Office and the SWFWMD Executive Director's Office. Any party may, by like notice, designate any further or different addresses to which subsequent notices shall be sent. Any notices hereunder signed on behalf of the notifying party by a duly authorized attorney at law shall be valid and effective to the same extent as if signed on behalf of such party by a duly authorized officer or employee.

20. RELATIONSHIP OF THE PARTIES. No party shall have any responsibility to perform services for or to assume contractual obligations which are the obligations of another party. Nothing herein shall be deemed to constitute any party a partner, joint venturer, agent or local representative of another party or to create any fiduciary relationship among the parties.

21. THIRD PARTY BENEFICIARIES. No right or cause of action shall accrue upon or by reason hereof, or for the benefit of any person not expressly named as a party in this Agreement, except for any bond holders and/or credit enhancers relating to revenue bonds issued with respect to the Peace River Regional Water Treatment Facility.

22. WAIVER. Unless otherwise specifically provided by the terms of this Agreement, no delay or failure to exercise a right resulting from any breach of this Agreement shall impair such right or shall be construed to be a waiver of thereof, but such right may be exercised from time to time and as often as may be deemed expedient. Any waiver shall be in writing and signed by the party granting such waiver. If any representation, warranty or covenant contained in this Agreement is breached by any party and thereafter waived by another party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive, either expressly or impliedly, any other breach under this Agreement.

23. AUTHORIZED REPRESENTATIVES. For purposes of this Agreement, the parties' authorized representatives are as follows: the Authority Executive Director, the Manatee County Administrator, the Sarasota County Administrator, the DeSoto County Administrator, the Charlotte County Administrator and the SWFWMD Executive Director. Any party may change its authorized representative at any time by written notice to the other parties.

24. SECTION CAPTIONS AND REFERENCES. The section headings and captions contained herein are included for convenience only and shall not be considered part of this Agreement or affect in any manner its construction or interpretation. Except as otherwise indicated, all references herein to sections are to sections of this Agreement.

25. SEVERABILITY. In the event that any provision of this Agreement shall, for any reason, be determined invalid, illegal or unenforceable in any respect the parties hereto shall negotiate in good faith and agree to such amendments, modifications or supplements of or this Agreement or such other appropriate actions as shall, to the maximum extent practicable in the light of such determination implement and give effect to the intentions of the parties as reflected herein, and the other provisions of this Agreement, as amended, modified, supplemented or otherwise affected by such action, shall remain in full force and effect.

26. ATTORNEYS FEES AND COST. In the event there is a breach of this Agreement and it becomes necessary for any party to employ the services of an attorney either to enforce or terminate the Agreement or pursue other remedies, with litigation or adversarial administrative proceedings, the losing party or parties shall pay to the successful party or parties reasonable attorney's fees and such reasonable costs and expenses as are incurred in enforcing or terminating the Agreement or pursuing other remedies. The foregoing notwithstanding, SWFWMD shall not be entitled to the payment of its attorneys fees and costs by the losing party or parties under this Section

nor shall SWFWMD be required to pay the attorneys fees and costs of any successful party or parties pursuant to this Section.

27. AMENDMENT. This Agreement may only be amended by a writing duly executed by the Authority, Charlotte, DeSoto, Manatee, Sarasota and SWFWMD.

28. NO OTHER AGREEMENTS. All negotiations, proposals and agreements prior to the date of this Agreement, including but not limited to the Memorandum of Intent, a copy of which is attached hereto as *Exhibit A* are superseded. This Agreement shall constitute the entire agreement of the Authority, Charlotte, DeSoto, Manatee, Sarasota and SWFWMD with respect to the acquisition, valuation and financing of the Peace River Regional Water Treatment Facility and Charlotte Facilities. The foregoing notwithstanding, this Agreement shall not supersede the Peace River Water Supply Contract, the Amended Interlocal Agreement or that certain "Interlocal Agreement Between the Peace River/Manasota Regional Water Supply Authority and the Southwest Florida Water Management District for Acquisition of the General Development Utilities Plant," a copy of which is attached hereto as *Exhibit B*, all three of which shall be read in pari materia with this Agreement.; and, provided further, this Agreement is contingent upon the full execution by all parties of these three contracts.

29. FURTHER ASSURANCES. The Authority, Charlotte, DeSoto, Manatee, Sarasota and SWFWMD each shall use all reasonable efforts to provide such information, execute such further instruments and documents and take actions as may be reasonably requested by another party and not inconsistent with the provisions of this Agreement and not involving the assumption of obligations or liabilities different from, in excess of or in addition to those expressly provided for in this Agreement to carry out the intent of this Agreement.

30. CONSENTS. To the extent that the consent of any party to this Agreement is required as a condition to the action of other parties, such consent shall not be unreasonably withheld.

31. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and inure to the benefit of the respective successors, permitted assigns, administrators and trustees of the Authority, Charlotte, DeSoto, Manatee, Sarasota and SWFWMD.

32. EXECUTION OF DOCUMENTS. This Agreement shall be executed in eighteen (18) duplicate originals, any of which shall be regarded for all purposes as an original and all of which shall constitute one and the same instrument.

33. INTERLOCAL AND INTERAGENCY AGREEMENT. This Agreement shall constitute an interlocal agreement pursuant to Section 163.01, Florida Statutes, and an interagency agreement pursuant to Chapter 373, Florida Statutes. A true and correct copy of this Agreement and any subsequent amendments shall be recorded with the clerk of the circuit court in Charlotte, DeSoto, Manatee, Sarasota and Hernando Counties.

34. AMBIGUITY. The parties agree that each one has played an equal part in the negotiation and drafting of this Agreement, and in the event of any ambiguity being asserted or realized in the interpretation or construction of this Agreement, the result of such ambiguity shall be equally assumed and realized by each party.

IN WITNESS WHEREOF, the Authority, Charlotte, DeSoto, Manatee, Sarasota and SWFWMD have executed this Agreement on the day, month and year first above written.

PEACE RIVER/MANASOTA
REGIONAL WATER SUPPLY
AUTHORITY

WITNESS:

By: _____

Date: _____

Approved as to form:

Authority Attorney

CHARLOTTE COUNTY

WITNESS:

By: _____

Date: _____

Approved as to form:

Attorney for Charlotte County

DESOTO COUNTY

WITNESS:

By: _____

Date: _____

Approved as to form:

Attorney for DeSoto County

MANATEE COUNTY

WITNESS:

By: _____

Date: _____

Approved as to form:

Attorney for Manatee County

SARASOTA COUNTY

WITNESS:

By: Charles Roberts

Date: 5/13/91

Approved as to form:

Wesley Murray
Attorney for Sarasota County

SOUTHWEST FLORIDA
WATER MANAGEMENT
DISTRICT

WITNESS:

By: _____

Date: _____

Approved as to form:

Attorney for Southwest Florida
Water Management District

STATE OF FLORIDA
COUNTY OF MANATEE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, _____, to me known to be the person described in and who executed the foregoing instrument on behalf of the Peace River/Manasota Regional Water Supply Authority, and _____, acknowledged before me that _____, executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this ___ day of _____, 1991.

Notary Public, My
Commission
Expires:

STATE OF FLORIDA
COUNTY OF CHARLOTTE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, _____, to me known to be the person described in and who executed the foregoing instrument on behalf of the Charlotte County, and _____, acknowledged before me that _____, executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this ___ day of _____, 1991.

Notary Public, My
Commission
Expires:

STATE OF FLORIDA
COUNTY OF DESOTO

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, _____, to me known to be the person described in and who executed the foregoing instrument on behalf of the DeSoto County, and _____, acknowledged before me that _____, executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this ___ day of _____, 1991.

Notary Public, My
Commission
Expires:

STATE OF FLORIDA
COUNTY OF MANATEE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, _____, to me known to be the person described in and who executed the foregoing instrument on behalf of Manatee County, and _____, acknowledged before me that _____, executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this ___ day of _____, 1991.

Notary Public, My
Commission
Expires:

STATE OF FLORIDA
COUNTY OF SARASOTA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, _____, to me known to be the person described in and who executed the foregoing instrument on behalf of Sarasota County, and _____, acknowledged before me that _____, executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this ___ day of _____, 1991.

Notary Public, My
Commission
Expires:

STATE OF FLORIDA
COUNTY OF HERNANDO

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, _____, to me known to be the person described in and who executed the foregoing instrument on behalf of the Southwest Florida Water Management District, and _____, acknowledged before me that _____, executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this ___ day of _____, 1990.

Notary Public, My
Commission
Expires:

AMENDED INTERLOCAL AGREEMENT CREATING THE PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY

THIS AMENDED INTERLOCAL AGREEMENT, entered into this _____ day of _____, 1991, by and between CHARLOTTE COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing board thereof ("Charlotte"); DESOTO COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing board thereof ("DeSoto"); MANATEE COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing board thereof ("Manatee"); and SARASOTA COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing board thereof ("Sarasota").

WITNESSETH:

WHEREAS, Charlotte, DeSoto, Manatee and Sarasota find it is in the public interest and welfare to enter into a new 1991 Interlocal Agreement creating the Peace River/Manasota Regional Water Supply Authority (Authority); and

WHEREAS, the Authority was first established by Charlotte, DeSoto, Manatee, Sarasota and Hardee Counties on February 26, 1982 through an Interlocal Agreement entered on the same date, a copy of which is attached hereto as *Exhibit A*; and

WHEREAS, on March 16, 1983 Hardee County withdrew from the Authority under the terms of the February 26, 1982 Interlocal Agreement; and

WHEREAS, Charlotte, DeSoto, Manatee and Sarasota entered into a new Interlocal Agreement reestablishing the Authority on February 1, 1984, a copy of which is attached hereto as *Exhibit B*; and

WHEREAS, Charlotte, DeSoto, Manatee and Sarasota have approved a Memorandum of Intent, a copy of which is attached hereto as *Exhibit C*, which describes procedures for acquiring, operating and expanding the Peace River Regional Water Treatment Facility, along with appurtenant or associated installations, real property and fixtures and water transmission facilities located within Charlotte, DeSoto and Sarasota Counties, and procedures governing the votes of the Authority Board; and

WHEREAS, Charlotte, DeSoto, Manatee and Sarasota have decided to enter into an Amended Interlocal Agreement superseding the existing Interlocal Agreement in order to implement the commitments made in the above-mentioned Memorandum of Intent; and

WHEREAS, Charlotte, DeSoto, Manatee and Sarasota wish to set forth certain agreements among themselves with respect to the Peace River/Manasota Regional Water Supply Authority pursuant to the provisions of Section 373.1962, Florida Statutes and pursuant to the provisions of Section 163.01, Florida Statutes; and

WHEREAS, it is recognized and found by Charlotte, DeSoto, Manatee and Sarasota that provisions for water supply needs and protection of water resources can best be accomplished by maintaining a regional water supply authority whose primary function shall be to ensure future water supply and the development, recovery, storing and supplying of water resources for county or municipal purposes in such a manner as will give priority to encouraging conservation and reducing adverse environmental effects of excessive or improper withdrawals of water from concentrated area and

NOW, THEREFORE, in consideration of the foregoing premises, which shall be deemed an integral part of this Agreement, and of the mutual covenants and agreements hereafter set forth, Charlotte, DeSoto, Manatee and Sarasota intending to be legally bound hereby agree as follows:

1. DEFINITIONS. In the absence of a clear implication otherwise, capitalized terms used in this Agreement and attached Exhibits shall have the following meanings:

1.1. Administrative Cost. Costs incurred by the Authority, which are not covered under specific water supply contracts, to properly manage its functions including but not limited to keeping records, recording and distribution of minutes, meeting announcement and coordination of respective member staff input. This term does not include any Capital and Operation Cost, Peace River Debt Service Cost, Peace River Operating and Maintenance Cost or Peace River Facility Use Cost.

1.2. Authority Board. The Authority's governing body.

1.3. Capital and Operation Cost. Costs incurred by the Authority for personnel, staffing, operation, construction or acquisition of the Water Supply Facilities and associated planning and engineering studies necessary to implement such activities. This term does not include any Administrative Cost, Peace River Debt Service Cost, Peace River Operating and Maintenance Cost or Peace River Facility Use Cost.

1.4. Director. A Member's appointed representative on the Authority Board.

1.5. Environmental Permit. All licenses, permits, authorizations or other approvals from any government or governmental agency, whether federal, state, regional or local, necessary or convenient for the acquisition, construction and operation of the Water Supply Facilities, including but not limited to any general water use permit, temporary water use permit or individual water use permit issued by the Southwest Florida Water Management District or any successor agency.

1.6. Fiscal Year. The period beginning on each October 1, and ending on the immediately following September 30.

1.7. Member(s). Members of the Authority. The membership shall consist of Charlotte, DeSoto, Manatee and Sarasota, except as may be amended pursuant to Sections 10 or 11.

1.8. Normal Vote Method. A procedure by which each Director on the Authority Board is assigned one vote.

1.9. Quorum. For Normal Vote Method decisions, the Quorum shall consist of any three (3) Directors out of the four (4) Directors currently comprising the Authority Board. For Weighted Vote decisions, a majority of the weighted votes shall constitute a Quorum.

1.10. Peace River Regional Water Treatment Facility. All real property, interest in real property, fixtures, personal property, wells, buildings, treatment systems, pumps, pipes, storage facilities, reservoirs, aquifer storage facilities and appurtenant or associated facilities located in DeSoto and Sarasota Counties, which are to be transferred by Charlotte to the Authority pursuant to that certain "Acquisition Agreement" by and among the Authority, Charlotte, DeSoto, Manatee, Sarasota and the Southwest Florida Water Management District and any expansion of said facilities undertaken pursuant to that certain "Peace River Water Supply Contract" by and among the Authority, Charlotte, DeSoto, Manatee and Sarasota, as more specifically described in *Exhibit 1.10*. The foregoing notwithstanding, this term shall not include the construction, acquisition or use of any groundwater production wells. "Groundwater production wells" shall not include facilities withdrawing water from the Peace River through the use of horizontal wells not more than 50 feet deep or aquifer storage and recovery wells.

1.11. Peace River Debt Service Cost. For any Fiscal Year, all costs including reserve or coverage requirements, if any, incurred by the Authority during such Fiscal Year in connection with the Peace River Regional Water Treatment Facility for any principal payments, interest payment

redemption premiums, if any, and service charges with respect to amortization of indebtedness. This term has the same definition as the "Debt Service Cost" under that certain "Peace River Water Supply Contract" entered into by the Authority, Charlotte, DeSoto, Manatee and Sarasota.

1.12. Peace River Facility Use Cost. For any Fiscal Year, an amount equal to the ad valorem taxes that would have been collected by all taxing authorities located within DeSoto County for the Peace River Regional Water Treatment Facility, as if these installations were still privately owned. This term has the same definition as the "Facility Use Cost" under that certain "Peace River Water Supply Contract" entered into by the Authority, Charlotte, DeSoto, Manatee and Sarasota.

To determine the Peace River Facility Use Cost, DeSoto and Charlotte shall jointly select a real estate appraiser with an MAI or SRA designation. DeSoto and Charlotte shall instruct the appraiser to appraise the Peace River Regional Water Treatment Facility each Fiscal Year in a manner comparable to that utilized by the DeSoto County Property Appraiser to appraise the value of similar property. If DeSoto and Charlotte cannot agree on an appraiser, then the choice of such appraiser shall be made by a coin flip to choose one of the two appraisers recommended by DeSoto and Charlotte. After the appraiser arrives at the tax appraisal value of the property, the Authority shall determine the Peace River Facility Use Cost by applying the appropriate millage rates to such value. The Authority shall be entitled to any discount available to the taxpayers of DeSoto County for early payment of taxes, if paid accordingly.

1.13. Peace River Operating and Maintenance Cost. For any Fiscal Year, all cost incurred by the Authority in operating, maintaining and securing the Peace River Regional Water Treatment Facility during such Fiscal Year (regardless of the quantity of water, if any, being produced or delivered by the Authority), including but not limited to, the general and administrative costs of the Authority related to the budgeted operation, maintenance and security of the Peace River Regional Water Treatment Facility (as confirmed by audit), capital expenditures of the Authority for items

such as tools, equipment and vehicles necessary for the operation, maintenance and security of the Peace River Regional Water Treatment Facility (as confirmed by audit) and all costs incurred in obtaining and maintaining any Environmental Permit for the Peace River Regional Water Treatment Facility. This term has the same definition as the "Operating and Maintenance Cost" under that certain "Peace River Water Supply Contract" entered into by Authority, Charlotte, DeSoto, Manatee and Sarasota.

1.14. Water Supply Facilities. All real property, interest in real property, fixtures, personal property, wells, treatment systems, pumps, pipes, storage facilities, reservoirs, aquifer storage and recovery facilities, water transmission mains, any future expansion of said facilities and appurtenant or associated installations owned, leased or otherwise controlled by Charlotte, DeSoto, Manatee, Sarasota or the Authority. This term shall not include the Peace River Regional Water Treatment Facility.

1.15. Weighted Vote Method. A procedure by which the number of votes assigned to each Member representative on the Authority Board is determined based on the amount of water from the Peace River Regional Water Treatment Facility consumed within that Member's jurisdiction. Under this voting method, each Member representative on the Authority Board has one vote for each full 100,000 gallons produced from the Peace River Regional Water Treatment Facility and delivered to consumers located within said Member's geographic boundaries on an annual basis as measured by the Authority during the immediately preceding Fiscal Year. However, the foregoing notwithstanding, each Director on the Authority Board shall have at least one vote.

2. FORMATION. The Authority was established on February 26, 1982 and has remained in continuous existence since that date. The Authority was created pursuant to Sections 373.196, 373.1962 and 163.01, Florida Statutes and other applicable law.

3. TERRITORY. The geographic territory of the Authority consists of all of DeSoto County, Florida, Manatee County, Florida and Sarasota County, Florida and that portion of Charlotte County, Florida located within the territorial boundaries of the Southwest Florida Water Management District.

4. AUTHORITY BOARD. All powers, privileges and duties vested in or imposed on the Authority shall be exercised and performed by and through a governing body in accordance with the following:

4.1. Name. The governing body of the Authority shall be designated and known as the Authority Board.

4.2. Composition of the Authority Board. The Authority Board shall be composed of the Member representatives of the Authority. Each Member shall duly appoint one Director to the Authority Board. Such appointment shall be at the sole discretion of the appointing Member and shall be a member of the appointing Member's Board of County Commissioners. A Member may appoint an alternate Director to the Authority Board and such alternate shall have the power to vote in the absence of the primary designated Director. Alternate Directors do not have to be members of the appointing Member's Board of County Commissioners. Appointments to the Authority Board shall serve at the pleasure of the appointing Member.

4.3. Voting Procedure. All votes on questions, orders, resolutions, regulations or other decisions coming before the Authority Board shall be conducted as follows:

4.3.1. The Authority Board shall set the Peace River Operating and Maintenance Cost and establish water rates under the Peace River Water Supply Contract entered into by the Authority, Charlotte, DeSoto, Manatee and Sarasota dealing with operation and maintenance of the Peace River Regional Water Treatment Facility by enacting a portion of its budget relative exclusively to the Peace River Regional Water Treatment Facility and amending such portion of

budget when necessary, according to the Weighted Vote Method. No Member shall use its authority under either the Weighted Vote Method or the Normal Vote Method to impede the Authority's ability to operate the Peace River Regional Water Treatment Plant in a sound and reasonable manner.

4.3.2. The Authority Board shall make all other decisions, except for those decisions specified in Section 4.3.1., by the Normal Vote Method, including but not limited to setting the Peace River Debt Service Cost and Peace River Facility Use Cost.

4.3.3. A majority vote of the Membership shall be necessary for any Authority Board action, regardless of whether the vote is governed by the Normal Vote Method or the Weighted Vote Method. For example, there must be at least three Directors on the Authority Board who vote in favor of the proposed action under the Normal Vote Method and at least 50.1% of the weighted votes who vote in favor of the proposed action under the Weighted Vote Method.

4.3.4. In the event an immediate danger to the public health, safety or welfare resulting from the commission of an illegal act or failure to comply with a valid regulatory rule or order requires emergency action and the Authority finds itself unable to respond to the emergency because of the vote of one or two of its Directors under the Weighted Vote Method, the Authority Board may by majority vote using the Normal Vote Method suspend the Weighted Vote Method for the duration of the emergency. At the conclusion of the emergency, the Weighted Vote Method will again apply to those situations coming within the ambit of Section 4.3.1.

4.3.5. In the event an immediate danger to the public health, safety or welfare resulting from the commission of an illegal act or failure to comply with a valid regulatory rule or order requires emergency action relating directly or indirectly to the Peace River Regional Water Treatment Facility and the Authority finds itself unable to respond to the emergency because of the vote of two or three of its Directors under the Normal Vote Method, the Authority Board may

majority vote using the Weighted Vote Method suspend the Normal Vote Method for the duration of the emergency. At the conclusion of the emergency, the Normal Vote Method will again apply to those situations coming within the ambit of Section 4.3.2.

4.4. Authority Board Officers. The Authority Board shall elect one Director as chairman and one Director as vice-chairman. The chairman shall preside at Authority Board meetings and shall execute all contracts and other legal documents on behalf of the Authority. The chairman shall be elected for the term of one (1) year. If the chairman shall cease to be a Director or shall for any reason be unable to serve as chairman, a successor shall be elected by the Authority Board for the unexpired portion of the term. The vice-chairman shall be elected for a term of one (1) year and shall assume all of the duties of the chairman in his/her absence. If neither the chairman or vice-chairman is in attendance and willing to chair a meeting at which a quorum is present, the Authority Board may elect a chairman pro-tem for the duration of that meeting.

4.5. Power of the Authority Board. All powers, privileges and duties vested in or upon the Authority shall be exercised and performed by and through the Authority Board in accordance with this Section; provided, however, the exercise of any and all executive, administrative and ministerial powers may be delegated by the Authority Board to any of its officers, staff, employees, agents or designees, which delegation may be redelegated or withdrawn by the Authority Board. The Authority Board shall fix and publish to the Members the time and place or places at which its regular meetings shall be held, and shall provide for the calling and holding of special meetings at the request of any member upon appropriate notice. The Authority Board shall adopt rules, regulations, resolutions and orders for conducting its business.

4.6. Compensation of Directors. Directors shall serve without compensation, but shall be reimbursed for per diem and travel in accordance with Section 112.061 Florida Statutes.

5. GENERAL POWERS OF THE AUTHORITY. The Authority shall have the following powers and duties:

5.1. The right to exercise any and all provisions or powers granted to the Authority by Section 373.1962, Florida Statutes, said provisions being incorporated by reference herein, and to whatever rules, regulations, resolutions, by-laws, and organization necessary to perform the intended functions of the Authority. The procedures for conducting any elections or referenda required and the qualifications of an elector shall be as provided by Chapters 97 through 106, Florida Statutes, known as "The Florida Election Code;" and

5.2. The full and complete right to contract; and

5.3. The authority to prescribe, fix, maintain, and regulate fees, charges, or rents for the use of any of the Authority facilities or services by persons or things at the discretion of the Authority Board, subject to the provisions of Section 4.3.1.; and

5.4. The right to acquire land, submerged lands and properties or interests therein by purchase, gift, condemnation or otherwise, and to hold or dispose of same upon such terms and conditions as the Authority Board shall deem necessary and prudent and to improve such land or lands so acquired in any manner which promotes or has a tendency to promote the public good of the region and which relate to the duties and authority specified in this Section; and

5.5. The right to apply for and receive Environmental Permits; and

5.6. The authority to borrow money, issue bonds and other types of securities, mortgage, pledge or otherwise encumber any of the Authority's property or assets upon terms and conditions to be determined by the Authority Board. This power shall be full and complete in all respects in order to promote, construct, accomplish, maintain, and operate any of the public purposes or projects enumerated in this Section; provided, however, that the power to borrow money and issue water revenue bonds shall be limited to requiring only those parties who voluntarily consent to pay back

any borrowed money or pledge their water revenue to the payment of any issued Authority bonds;
and

5.7. The right to adopt and enforce reasonable rules and regulations or procedures pertaining to the use, acquisition, maintenance, development, operation, or disposal of any of the services, facilities, or projects enumerated or authorized in this Section; and

5.8. The right to acquire, to do, and to perform all things enumerated in this Section separately or in conjunction with a county, municipality or other political subdivision of the state whether the same is within or without the territorial limits of the Authority; and

5.9. The authority to employ a staff and such other technical assistants and other employees as the Authority Board shall determine to be necessary; and

5.10. The right to conduct and pay for studies, plans, and designs to effectuate the purpose of the Authority, which action may include, but is not limited to, work plans for providing existing water supply and for expansion, staffing plans, and financing plans; and

5.11. The right to enter into interlocal agreements or other contracts with public or private entities, if necessary, for the purpose of selling or purchasing water; and

5.12. The right to produce and supply water on a regional basis; provided, however, the Authority shall not engage in local distribution of water and will only provide water at rates, fees and charges necessary to pay its budgeted expenditures; and

5.13. The right to enter contracts with public or private entities for provision of assistance in planning, financing and constructing any and all facilities and services as determined appropriate and desirable by the Authority Board; provided however, the Authority shall not enter into any management contract with respect to the Peace River Regional Water Treatment Facility, which jeopardizes the tax exempt status of any revenue bonds issued by Charlotte regarding the facility; and

5.14. The right to secure funding and to contract for appropriate engineering and financial feasibility studies to evaluate the applicability of the Authority assuming responsibility for the production and supplying of water on a regional basis or to further effectuate the purposes of the Authority; provided, however, such funding and contracting shall not be included in that portion of the budget relating to the Peace River Water Supply Contract entered into by the Authority, Charlotte, DeSoto, Manatee and Sarasota nor included in rates, fees or charges of those persons purchasing water from the Authority under said Peace River Water Supply Contract; and

5.15. The right to maintain an office at such place or places within the territorial boundary of the Authority as the Authority Board may designate; and

5.16. The right to employ and compensate such personnel, consultants and technical and professional assistants as the Authority Board shall deem necessary to the exercise of the Authority's powers and to the performance of the duties set forth in this Section; provided, that to the extent such employment and compensation is involved with water supply under the Peace River Water Supply Contract entered into by the Authority, Charlotte, DeSoto, Manatee and Sarasota, it shall be limited to the amount set forth in that portion of the budget as adopted and amended under the Weighted Vote Method; and

5.17. The right to accept and receive, utilize or expand, in furtherance of its functions, funds, grants, and services from the federal government or its agencies, from departments, agencies and instrumentalities of state, municipal, county, or other local governments, or from private or civic sources; and

5.18. The right to invest any surplus money in the Authority treasury, including such money in any sinking fund or other fund established for the purpose of providing for the payment of the principal or interest of any bonded or other indebtedness or for any other purpose, not required for the immediate necessities of the Authority, in its bonds, or in treasury notes, or bonds, of the

United States, or of this state, and such investment may be made by direct purchase of any issue of such bonds or treasury notes, or part thereof, at the original sale of the same, or by subsequent purchase of such bonds or treasury notes. Any bonds or treasury notes thus purchased and held may from time to time, be sold and the proceeds reinvested in bonds or treasury notes, as above provided. Sales of any bonds or treasury notes thus purchased and held shall, from time to time, be made in season so that the proceeds may be applied to the purposes for which the money, with which the bonds or treasury notes were originally purchased, were placed in the treasury of the Authority; and

5.19. The right to have and exercise such powers as are reasonably implied herefrom and necessary and proper to carry out the objectives and purposes of the Authority; and

5.20. The right to provide other services as may be agreed upon by the Members through amendment of this Agreement.

6. FUNDING. It is intended and mandated that funding of Capital and Operation Costs will be secured on a user-pay-basis. However, it is acknowledged Administrative Costs of the Authority may be obtained from the Members, and that funds available for feasibility studies and planning will be sought by the Authority from the federal and state government, including but not limited to the Department of Environmental Regulation, Department of Community Affairs, the Southwest Florida Water Management District, the Basin Boards of the Southwest Florida Water Management District and appropriate utilities and agencies. The foregoing notwithstanding, each Member shall have sole discretion over its contributions to the Authority under this Section.

7. EXISTING OPERATION. The Members may continue to operate and expand their existing Water Supply Facilities. The Members shall have a preferential right to purchase water from the Authority for use by said Members. The Authority will provide water to its Members, when requested and paid for by the requesting Members. If agreed to by the Members, the Authority will

treat water to standards which are required to make the water compatible with the receiving Member's utility system.

8. DEVELOPMENT OF FUTURE WATER SUPPLY FACILITIES. The Authority and its Members shall develop new Water Supply Facilities as follows:

8.1. General. The Authority will develop new Water Supply Facilities to meet the water demands of its Members; provided, however, the Authority shall not acquire, develop, construct or operate a Water Supply Facility without the express written consent of the governing body of the Member County in whose territory the Water Supply Facility is or will be located. Members will continue to have the right to acquire, develop, construct or operate Water Supply Facilities within their own territorial boundaries; provided, however, Members shall not acquire, develop, construct or operate Water Supply Facilities outside their own territorial boundaries without the express written consent of the governing body of the Member County in whose territory the Water Supply Facility is or will be located.

8.2. Procedure for the Authority. Whenever the Authority intends to apply or seek the transfer of an Environmental Permit for a Water Supply Facility, it shall notify in writing the Member County in whose territory the Water Supply Facility is or will be located of its intentions no less than thirty (30) days prior to submitting the application or requesting the transfer. Upon receiving said notice, the Member County in whose territory the Authority intends to develop the Water Supply Facility shall have thirty (30) days in which to notify the Authority of its objection to developing the Water Supply Facility. The Authority shall immediately withdraw its application or request for the Environmental Permit upon receiving a timely objection to the Water Supply Facility from the Member County in whose territory the Water Supply Facility is or will be located. The foregoing notwithstanding, this procedure shall not apply to Environmental Permits relating to the Peace River Regional Water Treatment Facility, except for Environmental Permits relating

groundwater production wells, which shall be treated in accordance with this Section. "Groundwater production wells" shall not include facilities withdrawing water from the Peace River through the use of horizontal wells not more than 50 feet deep or aquifer storage and recovery wells.

8.3. Procedure for the Authority's Members. Whenever a Member intends to apply or seek the transfer of an Environmental Permit for a Water Supply Facility which is located or will be located outside its territorial boundaries, it shall notify in writing the Member County in whose territory the Water Supply Facility is or will be located of its intentions no less than thirty (30) days prior to submitting the application or requesting the transfer. Upon receiving said notice, the Member County in whose territory the applicant Member intends to develop the Water Supply Facility shall have thirty (30) days in which to notify the applicant Member of its objection to developing the Water Supply Facility. The Member shall immediately withdraw its application or request for transfer of the Environmental Permit upon receiving a timely objection to the Water Supply Facility from the Member County in whose territory the Water Supply Facility is or will be located.

8.4. Survival. The provisions of this Section shall survive the termination of this Agreement or the withdrawal of a Member.

9. EMERGENCY INTERCONNECT. The Authority and its Members shall seek the interconnection of the water utility systems owned, operated or controlled by the Authority's Members with Authority Water Supply Facilities and the Peace River Regional Water Treatment Facility for the purpose of facilitating the transfer of water among the Authority's Members under emergency conditions. The Authority and its Members shall make available capacity, if any, in the Water Supply Facilities, including the Peace River Water Treatment Facility to the Member experiencing an emergency at the established rate.

10. WITHDRAWAL FROM THE AUTHORITY. A Member may withdraw from the Authority only upon giving the other Members one hundred and eighty (180) days prior written notice of its intention to withdraw. Any Member who withdraws from the Authority shall continue to be responsible for any financial or contractual obligations it has specifically assumed while a Member of the Authority, including but not limited to the withdrawing Member's obligations under that certain "Acquisition Agreement" entered into by the Authority, Charlotte, DeSoto, Manatee, Sarasota and the Southwest Florida Water Management District or its obligations under that certain "Peace River Water Supply Contract" entered into by the Authority, Charlotte, DeSoto, Manatee and Sarasota.

11. NEW MEMBERS. Admission of new Members to the Authority and any amendment of this Agreement to reflect said new Members shall be by unanimous vote of the Authority Board.

12. AMENDMENT. This Agreement may be amended in writing executed by all the then current Authority Members in the same manner as this Agreement.

13. PRIOR AGREEMENTS. All negotiations, proposals and agreements prior to the date of this Agreement, including but not limited to the Interlocal Agreement of February 26, 1982, a copy of which is attached hereto as *Exhibit A*, the Interlocal Agreement of February 1, 1984, a copy of which is attached hereto as *Exhibit B* and the Memorandum of Intent, a copy of which is attached hereto as *Exhibit C* are superseded. This Agreement shall constitute the entire interlocal agreement of the Charlotte, DeSoto, Manatee and Sarasota with respect to the formation, general powers and general obligations of the Authority. The foregoing notwithstanding, this Agreement shall not supersede the Peace River Water Supply Contract or the Acquisition Agreement, both of which shall be read in pari materia with this Agreement. In the event this Agreement is determined to be invalid, illegal or unenforceable in its entirety, the Interlocal Agreement of February 1, 1984, a copy of which

is attached hereto as *Exhibit B*, shall be restored to full force and effect and the Authority shall be governed by that agreement.

14. BUDGETS. The Authority shall establish its budgets in the following manner:

14.1. Tentative Budgets. The Authority shall establish a tentative budget no later than May 15, for the ensuing Fiscal Year. The tentative budget shall include all anticipated expenditures of the Authority for its projects and activities for the ensuing Fiscal Year, including Capital and Operating Costs and Administrative Costs. Separate portions of the tentative budget shall be established for each Authority Water Supply Facility and the Peace River Regional Water Treatment Facility. The portion of the tentative budget relating to the Peace River Regional Water Treatment Facility shall set forth the Peace River Operating and Maintenance Cost.

14.2. Final Budgets. The Authority shall establish a final budget no later than August 15, for the ensuing Fiscal Year. The final budget shall include all anticipated expenditures of the Authority for its projects and activities for the ensuing Fiscal Year, including Capital and Operating Costs and Administrative Costs. Separate portions of the final budget shall be established for each Authority Water Supply Facility and the Peace River Regional Water Treatment Facility. The portion of the final budget relating to the Peace River Regional Water Treatment Facility shall set forth the Peace River Operating and Maintenance Cost.

14.3. Budget Adoption Procedure. The Authority's tentative budget shall be adopted at a regularly scheduled meeting in accordance with normal notice and procedure requirements applicable to such meeting. The Authority's final budget shall be adopted at a public hearing preceded by published notice in a newspaper of general circulation within the territorial boundaries of each of the Authority's Member Counties. This notice shall be published one time only at least fourteen (14) days prior to the public hearing. Additionally, the Authority shall provide copies of the tentative budget and all supporting documentation to its Members at least thirty (30) days prior to

the public hearing. The public shall be given a reasonable opportunity to address the Authority Board.

14.4. Audit. At the close of each Fiscal Year the Authority shall have an audit performed of all of its accounts by an independent certified public accounting firm.

14.5. Rate Making Procedure. The Authority shall adopt rates, fees and charges relating to the reservation of water capacity in the Peace River Regional Water Treatment Facility so as to generate sufficient revenue to pay all budgeted annual expenditures of that portion of the budget relating to the Peace River Regional Water Treatment Facility. Any surplus resulting from a prior Fiscal Year's Peace River Regional Water Treatment Facility operations shall be used solely as a source of revenue within the next Fiscal Year's budget.

15. DEFAULT AND REMEDY. The Authority Members agree the sole remedy for a breach of this Agreement shall be specific performance.

16. DISSOLUTION OR MODIFICATION OF THE AUTHORITY. Should the Authority be adjudged bankrupt or insolvent or dissolved by law or other proceeding, or transferred or assigned to another governmental agency or body, or if the Legislature of the State of Florida changes (a) the composition of the current Members of the Authority or (b) the method of determining the composition of the Members of the Authority or the Directors of the Authority Board, other than as set forth in this Agreement, then the Peace River Regional Water Treatment Facility shall be transferred by operation of law to those Members holding a Water Allocation in the facility under that certain Peace River Water Supply Contract entered into by the Authority, Charlotte, DeSoto, Manatee and Sarasota in proportion to the sum of all Water Allocations under said Peace River Water Supply Contract; provided, however, those Members taking title to the Peace River Regional Water Treatment Facility shall continue making payment, when due, on its applicable portion, as computed directly above, of the Peace River Debt Service Cost, if any.

17. RECLASSIFICATION OF THE PEACE RIVER. The Authority shall not use its formation or existence as grounds for requesting the Department of Environmental Regulation to reclassify all or any portion of the Peace River as an Outstanding National Resource Water, an Outstanding Florida Water or Class I Water as those terms are defined and used in Florida Administrative Code Chapter 17-302.

18. APPLICABLE LAW AND VENUE. The laws of the State of Florida shall govern the validity, interpretation, construction and performance of this Agreement and venue for any suit involving this Agreement shall be in Hillsborough County, Florida.

19. ASSIGNMENT. No assignment, delegation, transfer or novation of this Agreement or any part thereof shall be made unless approved in writing by all Members.

20. NOTICES. All notices, demands, requests and other communications hereunder shall be deemed sufficient and properly given, if in writing and delivered in person to the following addresses or sent by certified or registered mail, postage prepaid with return receipt requested, at such addresses; provided, if such notices, demands, requests or other communications are sent by mail, they shall be deemed as given on the third day following such mailing which is not a Saturday, Sunday or a day on which United States mail is not delivered: the Authority Executive Director's Office, the Charlotte County Administrator's Office, the DeSoto County Administrator's Office, the Manatee County Administrator's Office and the Sarasota County Administrator's Office. The Authority or any Member may, by like notice, designate any further or different addresses to which subsequent notices shall be sent. Any notices hereunder signed on behalf of the notifying party by a duly authorized attorney at law shall be valid and effective to the same extent as if signed on behalf of such party by a duly authorized officer or employee.

21. RELATIONSHIP OF THE PARTIES. No Authority Member shall have any responsibility to perform services for or to assume contractual obligations which are the obligations

of another Member. Nothing herein shall be deemed to constitute any Member a partner or joint venturer, or to create any fiduciary relationship among the Members.

22. THIRD PARTY BENEFICIARIES. No right or cause of action shall accrue upon or by reason hereof, or for the benefit of any person not expressly named as a party in this Agreement, except for any bond holders and/or credit enhancers relating to revenue bonds issued with respect to the Peace River Regional Water Treatment Facility and Water Supply Facilities owned, leased or otherwise controlled by the Authority.

23. WAIVER. Unless otherwise specifically provided by the terms of this Agreement, no delay or failure to exercise a right resulting from any breach of this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as may be deemed expedient. Any waiver shall be in writing and signed by the party granting such waiver. If any representation, warranty or covenant contained in this Agreement is breached by any party and thereafter waived by another party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive, either expressly or impliedly, any other breach under this Agreement.

24. SECTION CAPTIONS AND REFERENCES. The section headings and captions contained herein are included for convenience only and shall not be considered part of this Agreement or affect in any manner its construction or interpretation. Except as otherwise indicated, all references herein to sections are to sections of this Agreement.

25. SEVERABILITY. In the event that any provision of this Agreement shall, for any reason, be determined invalid, illegal or unenforceable in any respect the parties hereto shall negotiate in good faith and agree to such amendments, modifications or supplements of this Agreement or such other appropriate actions as shall, to the maximum extent practicable in the light of such determination implement and give effect to the intentions of the parties as reflected herein,

and the other provisions of this Agreement, as amended, modified, supplemented or otherwise affected by such action, shall remain in full force and effect.

26. ATTORNEYS FEES AND COST. In the event there is a breach of this Agreement and it becomes necessary for any party to employ the services of an attorney either to enforce the Agreement or pursue other remedies, with litigation or adversarial administrative proceedings, the losing party or parties shall pay to the successful party or parties reasonable attorney's fees and such reasonable costs and expenses as are incurred in enforcing the Agreement or pursuing other remedies.

27. FURTHER ASSURANCES. The Members each shall use all reasonable efforts to provide such information, execute such further instruments and documents and take actions as may be reasonably requested by another party and not inconsistent with the provisions of this Agreement and not involving the assumption of obligations or liabilities different from, in excess of or in addition to those expressly provided for in this Agreement to carry out the intent of this Agreement.

28. CONSENTS. To the extent the consent of any party to this Agreement is required as a condition to the action of other parties, such consent shall not be unreasonably withheld.

29. EXECUTION OF DOCUMENTS. This Agreement shall be executed in fifteen (15) duplicate originals, any of which shall be regarded for all purposes as an original and all of which shall constitute one and the same instrument. A true and correct copy of this Agreement and any subsequent amendments shall be recorded with the clerk of the circuit court in Charlotte, DeSoto, Manatee and Sarasota Counties.

30. AMBIGUITY. The parties agree that each one has played an equal part in the negotiation and drafting of this Agreement, and in the event of any ambiguity should be asserted or realized in the interpretation or construction of this Agreement, the result of such ambiguity shall be equally assumed and realized by each party.

IN WITNESS WHEREOF, Charlotte, DeSoto, Manatee and Sarasota have executed this Contract on the day, month and year first above written.

CHARLOTTE COUNTY

WITNESS:

By: _____

Date: _____

Approved as to form:

Attorney for Charlotte County

DESOTO COUNTY

WITNESS:

By: _____

Date: _____

Approved as to form:

Attorney for DeSoto County

MANATEE COUNTY

WITNESS:

By: _____

Date: _____

Approved as to form:

Attorney for Manatee County

SARASOTA COUNTY

WITNESS:

By: _____

Date: _____

Approved as to form:

Attorney for Sarasota County

STATE OF FLORIDA
COUNTY OF CHARLOTTE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, _____, to me known to be the person described in and who executed the foregoing instrument on behalf of the Charlotte County, and _____, acknowledged before me that _____, executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this ___ day of _____, 1991.

Notary Public, My
Commission
Expires:

STATE OF FLORIDA
COUNTY OF DESOTO

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, _____, to me known to be the person described in and who executed the foregoing instrument on behalf of the DeSoto County, and _____, acknowledged before me that _____, executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this ___ day of _____, 1991.

Notary Public, My
Commission
Expires: .

STATE OF FLORIDA
COUNTY OF MANATEE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, _____, to me known to be the person described in and who executed the foregoing instrument on behalf of Manatee County, and _____, acknowledged before me that _____, executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this ___ day of _____, 1991.

Notary Public, My
Commission
Expires:

STATE OF FLORIDA
COUNTY OF SARASOTA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared, _____, to me known to be the person described in and who executed the foregoing instrument on behalf of Sarasota County, and _____, acknowledged before me that _____, executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this ___ day of _____, 1991.

Notary Public, My
Commission
Expires: .

EXHIBIT 1.6

Points of Delivery

The designated points of water delivery are as shown in Table 1 and further described in Figure 1.

Table 1

Designed Points of Water Delivery

County	Delivery Point
Charlotte County No. 1	At the County Line where 36 inch transmission line crosses the Sarasota/Charlotte County line near Hillsborough Boulevard.
Charlotte County No. 2	Where the 12 inch transmission main which parallels Kings Highway (SR 769) crosses from Desoto County into Charlotte County at the county line.
GDU/North Port No. 1	Where the 12 inch line in Hillsborough Boulevard connects to the 36 inch transmission line at the Sarasota/Charlotte County line.
Desoto County No. 1	At the master meter connection for Lake Suzy to the 12 inch transmission main near Kings Highway.

ADDENDUM TO EXHIBIT 1.6

Exhibit 1.6 is amended so that the Charlotte County No. 1 Delivery Point will be located at the end of of the 36 inch transmission line in Charlotte County, instead of the point where the 36 inch transmission line crosses the Sarasota/Charlotte County line near Hillsborough Boulevard.

EXHIBIT 1.10

Assets Transferred from Charlotte County to the
Peace River/Manasota Regional Water Supply Authority

Representation of Property to be transferred from Charlotte County, Florida (County) to the Peace River/Manasota Regional Water Supply Authority (Authority). The property will be transferred after the County acquires it from General Development Utilities (GDU). The property consists of all of the assets and property that the County acquires from GDU that lies within the boundaries of Desoto County, Florida and the City of North Port which lies within Sarasota County, Florida. All property and assets within the boundaries of Charlotte County are retained by the County.

Generally, the property is described as the following:

1. Water Plant

The Peace River Water Treatment Plant located near SR 769 in Desoto County. The water plant is a 12 mgd water plant that includes the major components outlined in Table 1.

Table 1

Major Component Capacity of the Peace River
Water Treatment Plant

Component	Design Nominal Capacity ^a
Raw Water Diversion Structure	45.0 mgd
Raw Water Pumps	24.0 mgd Installed 12.0 mgd Firm
Raw Water Transmission Pipe	24.2 mgd
Retention Pond Water Pumps	24.2 mgd Installed 12.0 mgd Firm
Retention Pond to WTP Raw Water Line	24.2 mgd
Upflow Flocculator Clarifiers	12.0 mgd
Declining Rate Filters	15.0 mgd
Finished Water Storage	2.0 MG ^b
High Service Pumps	26.6 mgd Installed 18.7 mgd Firm
Standby Generator	1010 Kw.

^a Actual available equipment may be less due to poor maintenance practice of GDU.
^b Charlotte County will retain the right to claim 2 mg of capacity of water storage for 5 years to meet the requirements of FDER 17-550, 17-555 and 17-560.

The operational scheme of the plant contains an off-site surface water storage reservoir with an approximate capacity of 1920 acre-ft. In addition, the aquifer storage and recovery (ASR) wells listed in Table 2 are also included.

Table 2
ASR Wells

GDU I.D. No.	SWFWMD I.D. No.	Permitted Capacity Average Day (gal)	Permitted Capacity Maximum Day (gal)	Casing Diameter (in.)	Total Depth (ft.)	Casing Depth (ft.)	Pump Capacity (gpm)
S-2	21.	702,000	1,000,000	8	890	570	700
T-1	35.	374,000	374,000	12	480	380	280
S-1	20.	500,000	500,000	12	920	570	350
S-6	25.	702,000	1,000,000	12	910	580	700
S-7	26.	702,000	1,000,000	12	915	575	700
S-8	27.	702,000	1,000,000	12	625	510	700

The plant is located on approximately 417 acres in sections 9, 10, 15 and 16 of Township 39 South, Range 23 East in Desoto County.

2. Water Transmission Facilities

Water Transmission Facilities are also included. They include the following:

- (a) Thirty-six (36) inch nominal diameter line traveling from the water plant through DeSoto and Sarasota Counties. The portion of the line transferred to the Authority ends at the Charlotte County boundary. The general route of the line is shown in Figure 1.
- (b) The twelve (12) inch nominal diameter water line which connects to the 36 inch line in DeSoto County and travels south and east to Kings Highway and southward along the Kings Highway Right-of-Way until it enters Charlotte County. Only the portion of the line within DeSoto County is transferred to the Authority. The general route of the line is shown in Figure 1.

CHARLOTTE COUNTY & G.D.U.
SERVICE FOR CITY OF NORTHPORT
CONNECTION POINTS TO PRMRWSA

36 INCH
TRANSMISSION LINE

SARASOTA CO.
DESOTO CO.

PEACE
RIVER
WTP

DESOTO COUNTY
CONNECTION POINT TO PRMRWSA

DESOTO CO.
CHARLOTTE CO.

12 INCH TRANSMISSION MAIN

CHARLOTTE COUNTY
CONNECTION POINTS TO
PEACE RIVER MANASOTA REGIONAL
WATER SUPPLY AUTHORITY
(PRMRWSA)

CHARLOTTE CO.
LEE CO.

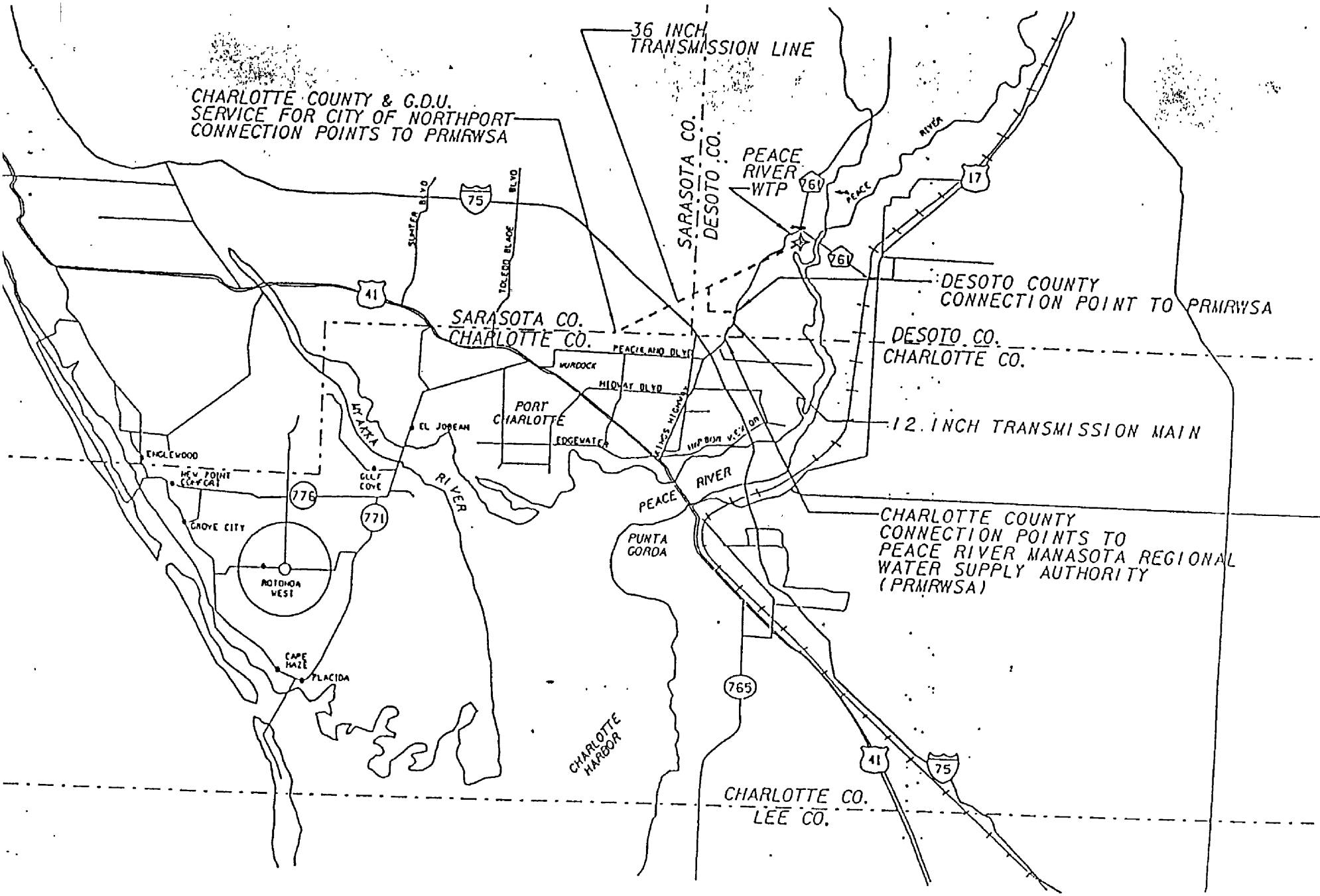


EXHIBIT 15

ADDENDUM TO EXHIBIT 1.10

Exhibit 1.10 is amended so that the portion of the Thirty-six (36) inch nominal diameter line extending from Sarasota County into Charlotte County is also transferred to the Authority.

AMENDED PEACE RIVER OPTION WATER SUPPLY CONTRACT

96059823

THIS CONTRACT, entered into this 8th day of March, 1996, by and between the PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY, an Independent Special District created and existing pursuant to Sections 373.1962 and 163.01, Florida Statutes, acting by and through its Board of Directors, the governing board thereof ("Authority"); CHARLOTTE COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing board thereof ("Charlotte"); DESOTO COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing board thereof ("DeSoto"); and SARASOTA COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners; the governing board thereof ("Sarasota").

WITNESSETH:

WHEREAS, the Authority was created for the purpose of developing, storing and supplying water for county and municipal purposes in such a manner as will give priority to reducing adverse environmental effects of excessive or improper withdrawals from concentrated areas; and

WHEREAS, the Authority is required to acquire, design, secure permits, construct, operate, and maintain facilities in the locations and at the times necessary to insure that an adequate water supply will be available to all citizens within the Authority's boundaries; and

WHEREAS, the Authority has determined that the potable water supply needs for citizens residing within Charlotte, DeSoto and Sarasota Counties, (said Counties hereinafter referred to as "Customers") can best be met in whole or in part by operating and expanding the Peace River Regional Water Supply Facility owned and operated by the Authority, in a cooperative and coordinated manner; and

WHEREAS, the Authority and the Customers, agree that it is necessary to expand the Peace River Regional Water Supply Facility, along with appurtenant or associated installations, real property and fixtures and Regional Transmission System in order to provide water to meet the water supply needs of Charlotte, DeSoto and

** OFFICIAL RECORDS **
BOOK 2855 PAGE 186

RECORDED 3/15/96 AT OFFICIAL RECORDS BOOK 2830, PAGES 2760 THROUGH 2811, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA. THIS DOCUMENT IS BEING RECORDED TO ADD PAGE 2 OF EXHIBIT B AND TO PLACE ALL PAGES IN THEIR PROPER SEQUENCE.

APPROVED BY
AUTHORITY BOARD
MAR 7 8 1996

Sarasota Counties; and

WHEREAS, it is the intent of the parties that this Contract govern the operation, maintenance, alteration, replacement and expansion of the Peace River Regional Water Supply Facility and Regional Transmission System as it relates to the additional 2,190 MGY (6 MGD) in System Capacity that will be created as a result of the expansion of the Peace River Regional Water Supply Facility; and

WHEREAS, the Southwest Florida Water Management District (SWFWMD) has determined that severely dropping potentiometric water elevations in the Floridan aquifer within the area designated as the Southern Water Use Caution Area are causing and will continue to cause salt water intrusion into potable water zones unless groundwater withdrawals from the area are capped or reduced; and

WHEREAS, SWFWMD has established a New Water Source Initiative program for which it has made funds available to cause development of new water sources within the Southern Water Use Caution Area that will help reduce the region's dependency upon groundwater; and

WHEREAS, the Authority has applied for and intends to use New Water Source Initiative funds from SWFWMD to assist in expansion of the Peace River Regional Water Supply Facility and Regional Transmission System; and

WHEREAS, the parties hereto have determined that the water to be made available by the expansion is needed to meet reasonably anticipated future demands of the Customers; and

WHEREAS, all of the expanded System Capacity shall be completely allocated to the Customers at all times and the Authority shall not own, operate or maintain capacity for persons not holding Water Allocations; and

WHEREAS, the costs of acquisition, construction, alteration or expansion of facilities and appurtenant or associated installations or real and personal property needed to meet these new or expanded Water Allocations shall be paid completely and fully by the Customer(s), which payment shall be assured before expansion begins; and

WHEREAS, expansion may be financed for the Customer(s) through the issuance of Authority revenue bonds, capital contributions from the Customer(s),

capital contributions from SWFWMD, or other governmental grants, or any combination thereof; and

WHEREAS, only the Customer(s) purchasing the new or increased Water Allocation shall be responsible for costs incurred by the Authority in supplying the new or increased Water Allocation, and the water rates, fees and charges shall be appropriately determined by the Authority to reflect the new allocation of capacities; and

WHEREAS, the Customers desire to purchase Water Allocations from the Authority resulting from the expansion of the Peace River Regional Water Supply Facility and Regional Transmission System, according to the terms and conditions of this Contract, and the Authority desires to sell the Customers Water Allocations resulting from expansions of these facilities, according to the terms and conditions of this Contract; and

WHEREAS, this Contract is intended to constitute the entire agreement of the Authority, Charlotte, DeSoto and Sarasota with respect to the Water Allocations and Capacity Allocations contained herein, and specifically supersedes and replaces the Peace River Option Water Supply Contract, dated September 20, 1995, entered into between the Authority, DeSoto and Sarasota.

NOW, THEREFORE, in consideration of the foregoing premises, which shall be deemed an integral part of this Contract, and of the mutual covenants and agreements hereafter set forth, the Authority and the Customers intending to be legally bound hereby agree as follows:

1. DEFINITIONS. In the absence of a clear implication otherwise, capitalized terms used in this Contract and in the attached exhibits shall have the following meanings:
 - 1.1 Base Rate Charge. For any Contract Year, the rate established by the Authority for Water Allocations from the System Capacity of the Peace River Regional Water Supply Facility and Capacity Allocations of the Regional Transmission System. It is the sum of all costs, such as the Debt Service Cost, Facility Use Cost and Operating and Maintenance Cost, budgeted by the Authority for expanding, operating, maintaining and securing the Peace River Regional Water Supply Facility and Regional

Transmission System regardless of the quantity of water, if any, being produced or delivered by the Authority.

- 1.2 Capacity Allocation. A portion of the hydraulic capacity of any segment of the Regional Transmission System, stated in percentage of water flow capacity purchased by a Customer. The Capacity Allocation for each Customer is attached hereto as Exhibit A.
- 1.3 Contract Year. The period between execution of the Contract on September 30, 1996, and each fiscal year of the Authority (beginning on each October 1, and ending on the immediately following September 30) thereafter during the term of this Contract.
- 1.4 Customers. Those member counties of the Authority who are parties to this Contract.
- 1.5 Debt Service Cost. For any Contract Year, all costs including reserve or coverage requirement, if any, incurred by the Authority during such Contract Year in connection with the Peace River Regional Water Supply Facility and Regional Transmission System for principal payments, interest payments, redemption premiums, if any, and service charges with respect to amortization of indebtedness.
- 1.6 Delivery Point(s). The point(s) of connection between the Regional Transmission System and the distribution system of the Customers to this Contract having a Water Allocation. The preliminary Delivery Point(s) for each customer is attached hereto as Exhibit B, with the final Delivery Point(s) to be established by the Authority and Customers during the design process.
- 1.7 Delivery Schedule. The Delivery Schedule sets forth the quantity of water to be delivered to a Customer at a delivery point through a specified period of time. The Delivery Schedule for each customer is attached hereto as Exhibit C.
- 1.8 Facility Use Cost. For any Contract Year, an amount equal to the ad valorem taxes that would have been collected by all taxing authorities located solely in DeSoto County for that portion of the Peace River

Regional Water Supply Facility and Regional Transmission System located within DeSoto County, as if such facilities were still privately owned.

To determine the Facility Use Cost, DeSoto and Charlotte shall follow the procedure prescribed by Section 1.8 of the Peace River Water Supply Contract dated May 21, 1991 between the Authority, DeSoto, Sarasota, Charlotte County and Manatee County. After the tax appraisal value of the property is arrived upon, the Authority shall determine the Facility Use Cost by applying the appropriate millage rates to such value. The Authority shall be entitled to any discount available to the taxpayers of DeSoto County for early payment of taxes if paid accordingly.

- 1.9 Operating and Maintenance Cost. For any Contract Year, all costs budgeted and reserves established by the Authority for operating, maintaining and securing the Peace River Regional Water Supply Facility and Regional Transmission System during such Contract Year, including, but not limited to: (a), the general and administrative costs of the Authority related to the operation, maintenance and security of the Peace River Regional Water Supply Facility and Regional Transmission System; (b), capital expenditures of the Authority for items such as tools, parts, equipment and vehicles necessary for the operation, maintenance and security of the Peace River Regional Water Supply Facility and Regional Transmission System, and; (c), all costs incurred in obtaining and maintaining the Permits for the Peace River Regional Water Supply Facility and Regional Transmission System.
- 1.10 Peace River Regional Water Supply Facility. All real property, interest in real property, fixtures, personal property, wells, buildings, treatment system, pumps, pipes, storage facilities, reservoirs, aquifer storage and recovery facilities and appurtenant or associated facilities owned by Authority, excluding the Regional Transmission System.
- 1.11 Peak Month Quantity. The Peak Month Quantity means the amounts set forth in Exhibit C times the number of days in the month and represents the amount beyond which a customer will become subject to the

additional charges provided for in Section 7.4.

- 1.12 Permits. All licenses, permits or other approvals from any government or governmental agency, whether federal, state, regional or local, necessary or convenient for the expansion, construction and operation of the Peace River Regional Water Supply Facility and Regional Transmission System.
- 1.13 Regional Transmission System. Those facilities, beginning at the Peace River Regional Water Supply Facility's primary discharge meter including appurtenant and associated facilities, owned by the Authority pertaining to the delivery and measurement of treated water to the Customers of the Authority including but not limited to primary transmission pipes, real property, interest in real property, fixtures and personal property. Regional Transmission System does not include the Aquifer, Storage and Recovery (ASR) system or its connecting piping.
- 1.14 System Capacity. The total combined capacities of the various components of the Peace River Regional Water Supply Facility resulting from this expansion of the Facility, which when considered in conjunction with each other, result in a capacity to produce a treated quantity of water on an average day basis expressed in million gallons per day (MGD) or million gallons per year (MGY). The total amount of System Capacity pursuant to this expansion of the Peace River Regional Water Supply Facility is 2,190 MGY.
- 1.15 Total Annual Quantity The Total Annual Quantity means the amount set forth in Exhibit C times the number of days in the year and represents the amount beyond which a customer will become subject to the additional charges provided for in Section 7.5.
- 1.16 Water Allocation. The percentage of total System Capacity purchased by a customer for a specified period of time which shall not differ from that set forth below:

Customer	Amount of System Capacity Allocated (MGY)	Percent of System Capacity Allocated
Charlotte	730.000	33.334%
DeSoto	45.625	2.083%
Sarasota	1,414.375	64.583%
Total	2,190.000	100.000%

2. **TERM.** The term of this Contract shall begin on the date of its complete execution by all parties and end on the last day of the Contract Year in which the thirty-fifth (35th) anniversary of the execution date falls. The rights and obligations of any Customer may be extended prior to expiration of the initial term at the option of that customer for another thirty-five (35) years, said extension to expire on the last day of the Contract Year in which the seventieth (70th) anniversary of the execution date falls. Such option must be exercised at least two (2) years prior to expiration.

3. **CONDITIONS PRECEDENT.** All rights, obligations and liabilities of the Authority and the Customers shall be subject to the satisfaction of the conditions precedent identified in Section 3.1.

3.1 Conditions Precedent. The following are conditions precedent to the parties' rights, obligations and liabilities under this Contract:

3.1.1 The complete execution of this Contract by the Authority and the Customers.

3.1.2 The representations set forth in Section 6 are true and correct as of the date this Contract is fully executed by all parties.

3.1.3 No change shall have occurred on or before the date this Contract is fully executed by all the parties in any applicable federal, state or local law, or any applicable federal, state or local rule, regulation or ordinance thereunder, or an interpretation thereof by any applicable regulatory authority, that would make the execution or delivery of this Contract, or that would make compliance by the parties with the terms and conditions of said Contract or the consummation by the parties of the transactions contemplated thereunder, a violation of such law, rule, regulation or

ordinance.

3.2 Satisfaction of the Conditions Precedent. The parties shall exercise good faith and due diligence in satisfying the conditions precedent set forth in Section 3.1 and the Authority shall give prompt notice to the other parties when the foregoing conditions precedent have been satisfied or waived in writing by all the parties.

4. FUNDING FROM SWFWMD. If funds are not received by Authority or are not otherwise irrevocably committed to the Authority from SWFWMD in accordance with the New Water Sources Funding Agreement between the Authority and SWFWMD attached hereto as Exhibit D, then any individual party, including the Authority, may terminate its participation in this Contract by providing ninety (90) days notice to all other parties of this Contract.

5. ADVANCE FUNDING. The Authority shall not authorize work under any contract related to the expansion of the Peace River Regional Water Supply Facility or Regional Transmission System unless all costs associated with the performance and administration of such work have been provided for in full and in advance. Said funds for costs may be made available pursuant to Exhibit D, a funding agreement between the Authority and the Federal Government, a letter of credit or by cash or cash equivalent prior to the authorization of such work.

6. REPRESENTATIONS OF THE PARTIES. The Authority, Charlotte, DeSoto, and Sarasota make the following representations:

6.1 Each party is duly organized and existing in good standing under the laws of the State of Florida and is duly qualified and authorized to carry on the governmental functions and operations as contemplated by this Contract.

6.2 Each party has the power, authority and legal right to enter into and perform its obligations set forth in this Contract, and the execution, delivery and performance hereof by it (a) has been duly authorized by its governing board; (b) does not require any other approvals by any other governmental officer or body; (c) does not require any consent or referendum of the voters; (d) will not violate any judgment, order, law or regulation applicable to the party; and, (e) does not constitute a default under, or result in the creation of, any lien,

charge, encumbrance or security interest upon the assets of the party under any agreement or instrument to which it is a party or by which the party and its assets may be bound or affected except as provided herein under Section 11.7.

6.3 This Contract has been duly entered into and delivered by its governing board and, as of the date of its full execution by all parties constitutes a legal, valid and binding obligation of said party, fully enforceable in accordance with its terms.

6.4 Other than the pending administrative proceedings regarding SWFWMD's proposed renewal of the water use permit application number 2010420.02 to the Authority, there is no action, suit or proceeding, at law or in equity, before or by any court or governmental authority, pending or, to the best of the party's knowledge, threatened against the party, wherein any unfavorable decision, ruling or finding would materially adversely affect the performance by the party of its obligations hereunder or the other transactions contemplated hereby, or which, in any way, would adversely affect the validity or enforceability of this Contract, or any other agreement or instrument entered into by the party in connection with the transaction contemplated hereby.

7. DELIVERY OF WATER . During each Contract Year, the Authority shall use its best efforts to deliver water to each Customer in accordance with the Customer's Delivery Schedule, as follows:

7.1 Delivery Schedule. The Authority shall not be required to deliver quantities of water to a Customer in excess of the Delivery Schedule attached hereto as Exhibit C. Water will be delivered only in accordance with a Customer's Delivery Schedule subject to completion of project construction and receipt of certification from the Florida Department of Environmental Protection to operate the system. The Authority shall not be required to deliver water to a Customer if prohibited by any applicable federal, state, regional or local statute, rule, ordinance, law, administrative order or judicial decree or in violation of applicable Permits. If at any time, there is insufficient potable water available to fully meet the Delivery Schedules described above for any reason,

then the Customers shall have their Delivery Schedules reduced on a pro-rata basis in accordance with the allocation percentages set forth in Section 1.16.

7.2 Source of Water. The Authority shall not be required to provide water to satisfy a Customer's Delivery Schedule from any other source than, or any particular component of, the Peace River Regional Water Supply Facility. The Authority, however, shall use its best efforts to utilize the most cost-effective combination of components of the Peace River Regional Water Supply Facility in supplying water to each Customer pursuant to its Delivery Schedule.

7.3 Delivery Point. The Authority shall deliver water from the Peace River Regional Water Supply Facility through the Regional Transmission System to each Customer only at their respective Delivery Point(s).

7.4 Exceedance of Delivery Schedule - Peak Month Quantity. In the event a Customer should receive delivery of water in excess of the Peak Month Quantity for any month, the Customer shall pay an additional charge derived by multiplying the monthly billing by 2.0 times the percent of water delivered in excess of the amount provided in the Delivery Schedule unless the exceedance is the result of an emergency transfer pursuant to Section 7.9, in which case no additional charge shall be placed upon the excess water usage occasioned by the emergency. In the event a Customer should exceed its Peak Month Quantity of water as established by the Delivery Schedule for a third month in the same fiscal year, the Authority shall consider initiating an evaluation of the need for expanding the existing System Capacity. The additional revenue received from such exceedance will be applied to initiate the expansion study as may be authorized by the Authority Board and any remaining balance may, at the discretion of the Authority Board, be applied as a credit toward the obligations of the other Customers of this Contract apportioned according to each of their purchased allocations.

7.5 Exceedance of Delivery Schedule - Total Annual Quantity. In the event a Customer should receive delivery of water in excess of the Total Annual Quantity provided in the Delivery Schedule for a fiscal year, the exceeding Customer shall pay an additional charge derived by multiplying the total yearly

billings by 2.0 times the percent of water delivered in excess of the amount provided in its Delivery Schedule unless the exceedance is the result of an emergency transfer pursuant to Section 7.9, in which case no additional charge shall be placed upon the excess water usage occasioned by the emergency. The additional revenue received from such exceedance will be applied to initiate an expansion study as may be authorized by the Authority Board and any remaining balance may, at the discretion of the Authority Board, be applied as a credit toward the obligations of the other Customers of this Contract apportioned according to each of their purchased allocations.

7.6 Exceedance of Delivery Schedule - Cumulative Charges. In the event a Customer should in a given year exceed both its Total Annual Quantity provided for in the Delivery Schedule and its Peak Month Quantity provided for in the Delivery Schedule for one or more months, such additional charges shall be cumulatively billed.

7.7 Exceedance of Delivery Schedule - Prohibited Claims. In the event a Customer exceeds its Delivery Schedule, such Customer shall not claim or defend that the exceedance occurred under the May 21, 1991 Water Supply Contract. For the purposes of this contract, the delivery quantities for Charlotte and DeSoto County under the May 21, 1991 Water Supply Contract shall be as follows for each delivery year:

	Total Annual Quantity (MGD)	Peak Month Quantity (MGD)
Charlotte County	10.753	12.904
DeSoto County	0.050	0.060

The additional charges provided for under Sections 7.4, 7.5 and 7.6 herein shall not be applied to Charlotte County or DeSoto County until the amounts delivered to Charlotte or DeSoto exceeds the sum of the Total Annual Quantity or Peak Monthly Quantity set forth in this section combined with the Total Annual Quantity or Peak Monthly Quantity set forth in Exhibit C. The Authority

shall use its best efforts, including adoption of a policy and bringing any necessary legal action, to prohibit any other recipient of an allocation from exceeding their respective allocation. Said policy shall be adopted prior to delivery of water under this contract.

7.8 Surplus Water. Customer(s) may determine that the quantity of water scheduled for delivery in a given delivery year will be a surplus of their water demand. The Customer(s) may sell their surplus water by entering into an annual sales contract with others. The Authority will not be a party to the sales contract, but will be provided a copy of the executed document. The Customer(s) providing surplus water will continue their irrevocable commitment to pay for their Water Allocation under this Contract, and the Authority will invoice all Customers for their Water Allocations as if the surplus water sales contract did not exist. However, for purposes of determining the Exceedance of Delivery Schedule only, the Delivery Schedule of the Customer(s) receiving and the Customer(s) providing surplus water will be adjusted by the surplus water amount prior to any exceedance determination. The adjusted amount will reflect an increase in the receiving party's and a decrease in the providing party's Delivery Schedule by the amount purchased from the providing party as set forth in the sales contract. Under no circumstances, however, will the total amount for all parties set forth in the Delivery Schedule attached hereto be modified by any such water sales contract.

7.9 Emergency Transfers. In the event a Customer should experience a sudden, unexpected, and unavoidable interruption in an existing source of water, said Customer may arrange with another Customer a temporary transfer of water in order to relieve or mitigate the emergency. Such transfers may be initiated by the authorized representatives of the Customers agreeing to the transfer, by providing notice to the authorized representative of the Authority. Upon receipt of such notice the Authority shall begin making the requested transfer of water. Thereafter, a meeting of the Authority Board shall be scheduled as soon as practical for purposes of ratification and continuation of the emergency transfer. Upon ratification of the emergency transfer, the

see 7-13-9
interlocal
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Delivery Schedules of the Customer receiving and the Customer providing the emergency transfer will be adjusted by the emergency transfer amount, for purposes of determining any exceedance of the Delivery Schedules. In no event, shall the Authority be required to transfer water to the receiving Customer unless the amount to be transferred falls within the transferring customer's allocation under the Delivery Schedule.

7.10 Transfer of Allocation. Each party shall have the right to transfer a portion of its water allocation to another party upon notice to the Authority in writing whereupon the parties' water allocations capacity allocations and delivery schedules shall be revised as appropriate. Further, for a period of 365 days after the effective date of this Contract, DeSoto shall have the right to have transferred up to 438.0 MGY (1.2 MGD) of Sarasota's water allocation to DeSoto's water allocation. Such a transfer shall be made effective by DeSoto passing a resolution and delivering same to Sarasota and the Authority within 365 days of the effective date of the Agreement. Such resolution shall specify the total allocation DeSoto has elected to have transferred. The Authority upon receiving such resolution shall revise DeSoto and Sarasota's water allocations, capacity allocations and delivery schedules, and provide Charlotte, DeSoto and Sarasota with copies of such revised allocations and schedules. Copies of DeSoto's resolution and the revised allocations and schedules shall be recorded with the Clerks of the Circuit Court in Charlotte, DeSoto and Sarasota Counties.

8. WATER DEMAND PROJECTIONS. Beginning on October 1, 1999, the Customers shall review and submit by December 31, 1999, an update of their respective projected water demands for the next ten-year period. Said reviews will be accomplished every two years thereafter. Upon completion of the review and by December 31 of each year in which the review is accomplished, each Customer will send a copy of its updated projected water demands to the Authority. This will provide the Authority an opportunity to plan for future expansions, if needed, and allow the Customers to realize the maximum cost savings from use of the ASR system.

9. WATER CHARGE. For each Contract Year, all Customers purchasing water

from the Peace River Regional Water Supply Facility shall pay the Authority the applicable adopted Base Rate Charge:

9.1 Rate Setting. In conjunction with the budget development and adoption process, the Authority Board shall fix the Base Rate Charge to be paid by the Customers to this Contract for the services and facilities to be furnished by Authority. The Authority Board may revise the Base Rate Charge as necessary.

The Authority shall charge and collect such rates, fees and charges as fixed or revised, and such rates, fees and charges shall not be subject to the supervision or regulation by any other commission, board, bureau, agency or other political subdivision or agency of the county or state. Such rates, fees and charges shall be just, equitable and uniform for all Customers. Rates shall be based upon a Base Rate Charge which shall be computed so as to provide the Authority with monies for operating and maintaining the Peace River Regional Water Supply Facility and Regional Transmission System, including a capital cost component to repay Charlotte pursuant to Section 9.7 for those acquisition costs of the Peace River Regional Water Supply Facility pertaining to excess capacities. Said rates, fees and charges shall be paid by the Customers for the Water Allocation and Capacity Allocation purchased under this Contract without regard to whether or not any Customer takes water from the Peace River Regional Water Supply Facility during any given month.

Each Customer's Base Rate charge shall be derived annually without regard to the actual quantity of water delivered as follows:

THOSE BASE RATE CHARGES PERTAINING TO SYSTEM CAPACITY	TIMES	THE PERCENTAGE REPRESENTING EACH CUSTOMER'S WATER ALLOCATION
PLUS		
THOSE BASE RATE CHARGES PERTAINING TO EACH SEGMENT OF THE REGIONAL TRANSMISSION SYSTEM	TIMES	THE PERCENTAGE REPRESENTING EACH CUSTOMER'S CAPACITY ALLOCATION FOR EACH SEGMENT

However, the water rate shall be designed so as to permit the Authority to pay all its

appropriate expenditures, as may be determined by the Authority Board on any other equitable basis.

A copy of the schedules of all rates, fees and charges as adopted shall be kept on file in the office of the Authority and shall be provided to each of the member parties upon adoption thereof. Revisions of Chapter 153, Florida Statutes, Part I shall govern the procedures and provisions of setting rates, fees and charges by the Authority to the extent they are not incompatible with the provisions of this Contract or the provisions of the Amended Interlocal Agreement among Charlotte, DeSoto, Manatee and Sarasota Counties dated May 21, 1991.

9.2 Accounting, Audits and Adjustments. The Authority shall maintain accounts and records for all funds received and disbursed by it with respect to the Peace River Regional Water Supply Facility and Regional Transmission System in accordance with generally accepted accounting practices applicable to governmental owned and operated water utilities. On or before each January 31, beginning on the January 31 immediately following the Contract Year during which all conditions precedent in Section 3.1 are satisfied, the Authority shall complete an audit. Said audit shall be conducted by a nationally recognized certified public accounting firm experienced in water utility audits. All unappropriated surplus derived by the Authority from payments by the parties of the Base Rate Charge shall be used by the Authority to reduce the amount of income required to be raised in the next ensuing Contract Year.

9.3 Water Charge to Customers. All Customers shall pay the Authority on a monthly basis their share of the Base Rate Charge in twelve equal payments subject to any revisions as set forth in Section 9.1. An invoice for these charges as well as any exceedance charges, if any, shall be sent on the 1st day of the calendar month following the calendar month in which the charges were incurred. The Customers shall submit payment to the Authority for the monthly charges within thirty (30) days of receipt of the invoice. Failure to pay monies hereunder shall create a debt with respect to the non-paying party's utility system. The Authority may discontinue delivery of water to any party hereunder that fails to pay its water rates within ninety (90) days after the Authority has mailed its monthly invoice. The Customer shall be assessed an amount equal to 1% x the monthly invoice for each month the charge

remains unpaid.

9.4 Source of Payments. When Charlotte, DeSoto or Sarasota acquire a Water Allocation, their obligation to pay any monies due under this Contract do not constitute general indebtedness of Charlotte, DeSoto and Sarasota. Neither the Authority nor the holders of any revenue bonds issued by the Authority in order to finance the expansion, alteration, improvement, replacement or operation of the Peace River Regional Water Supply Facility or Regional Transmission System shall have a right to require or compel Charlotte, DeSoto or Sarasota to exercise their ad valorem taxing power to pay their obligations and liabilities under this contract or to compel payment from any source other than as indicated in this Section. Each of the foregoing governments, however, shall and do hereby covenant to set water rates for their respective customers at a level sufficient to pay all monies due the Authority under this Contract.

9.5 Payment of Facility Use Cost to DeSoto. The Authority shall collect the budgeted Facility Use Cost in its monthly Base Rate Charge to all its customers. Such collections received by the Authority as of the 20th day of each month shall be paid to DeSoto County by the last day of the month.

9.6 Repayment of SWFWMD Funds. Funds received from SWFWMD which are applied to the cost of expanding the Peace River Regional Water Supply Facility and Regional Transmission System shall be repaid by the Customers in accordance with the terms and requirements, if any, of Exhibit D. If repayment is required, the responsibility for repayment of said funds shall be on a pro-rata basis which reflects the Water Allocation or Capacity Allocation purchased by the party multiplied by the amount of said funds applied to the cost of those components used to produce the allocation.

9.7 Payment to Charlotte County for Oversized Facilities. Since Charlotte County advanced the initial cost for the Authority to acquire the Peace River Regional Water Supply Facility, including certain oversized facilities available for expansion, the Customer(s) other than Charlotte shall be obligated to pay Charlotte through the Authority the appropriate part of the value of the oversized portions of the Peace River Regional Water Supply Facility utilized by said Customer in said expansion as set forth

in Exhibit E.

10. ADDITIONAL REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE AUTHORITY. The Authority hereby represents, warrants and covenants to the Customers as follows:

10.1 Water Quality. The Authority shall use its best efforts to deliver water of good and uniform quality from the Peace River Regional Water Supply Facility to the Delivery Point(s). At a minimum, the water delivered by the Authority to the Delivery Point(s) shall be stabilized and shall meet all federal, state or regional, regulations and orders relating to drinking water, which are applicable to water produced, stored and transported at and through the Peace River Regional Water Supply Facility and Regional Transmission System.

10.2 Water Measurement. The Authority shall use its best efforts to measure all water delivered to the Delivery Point(s) of Customers with Delivery Schedules. The Authority shall own and maintain the meters at all Delivery Point(s). The Authority shall maintain complete and accurate records of its water measurements. Water flow measurements recorded by the Authority shall be the exclusive means of determining the quantity of water delivered to the Delivery Point(s) under this Contract. The metering equipment shall be of standard make and type, installed at a readily accessible location, and shall record flow with an accuracy sufficient to meet all applicable reporting requirements. The Authority will check the accuracy of the meters quarterly and provide appropriate recalibration. The Customers may be present when the meters are checked for accuracy, and the test records shall be made available for inspection by the Customers upon reasonable request.

10.3 Permits. The Authority shall use its best efforts to obtain all Permits necessary to provide the Customers with water in accordance with the Delivery Schedule.

10.4 Financing the Peace River Regional Water Supply Facility and Regional Transmission System. The Authority shall use its best efforts to borrow funds and to set adequate reserves and budgeted expenditures necessary to cover costs to be incurred in constructing, acquiring, operating, maintaining, repairing

or replacing the Peace River Regional Water Supply Facility and Regional Transmission System. Expansion of the Peace River Regional Water Supply Facility and Regional Transmission System shall be at the sole cost of the Customer(s) requesting the expansion.

10.5 Acquisition of Real Property. The Authority shall use its best efforts to acquire all interest in real property (if any) necessary for the expansion, construction, management and operation of the Peace River Regional Water Supply Facility and Regional Transmission System. The Authority shall retain in its own name any interest in real property acquired in connection with the Peace River Regional Supply Facility and Regional Transmission System.

10.6 Water Pressures. The Authority will use its best efforts to deliver water to the points of delivery at pressures in accordance with the schedule attached hereto as Exhibit F.

11. ADDITIONAL REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE CUSTOMERS. The Customers hereby represent, warrant and covenant to the Authority as follows:

11.1 Irrevocable Commitment to Pay. The Customers recognize that circumstances, such as equipment maintenance or failure, construction delays, failure to obtain Permits, limitations on Permits, transmission line ruptures or defects, acts of God, etc., may prevent the performance by the Authority of its obligations pursuant to this Contract. Under such circumstances, the Customers shall continue to pay their respective Base Rate Charge throughout the term of this Contract. Said payments by the Customers shall be made without notice or demand and without set-off, counterclaim, abatement, suspension or deduction. The Authority is undertaking the expansion, construction, operation and maintenance of the Peace River Regional Water Supply Facility and Regional Transmission System in part on the representations, warranties and covenants of the Customers set forth in this Contract.

11.2 Acquisition of Real Property. The Customers shall promptly cooperate with the Authority in acquiring all interests in real property necessary to

construct, manage and operate the Peace River Regional Water Supply Facility and Regional Transmission System.

11.3 Utility System Charges. The Customers shall fix, revise, maintain and collect such fees, rates, tariffs, rentals or other charges for the use of products, services and facilities of their utility systems as shall be necessary to fund the timely payment of their respective obligations and liabilities under this Contract as well as all other obligations payable from the revenues of their water system.

11.4 Cooperation on Permits. The Customers shall promptly cooperate with the Authority in obtaining any and all Permits necessary or convenient to the expansion, alteration, replacement, expansion or operation of the Peace River Regional Water Supply Facility and Regional Transmission System.

11.5 Cooperation on the expansion of the Peace River Regional Water Supply Facility. The Customers shall promptly cooperate with the Authority in operating or expanding the Peace River Regional Water Supply Facility.

11.6 Utility System Operation and Maintenance Account. Each Customer shall maintain its utility system operation and maintenance account throughout the term of this Contract for the purpose of paying its obligations and liabilities under this Contract. At all times during the term of this contract, the Customers' obligations and liabilities hereunder shall be paid from their utility system revenues.

11.7 Security for Customers' Obligations. The payment of the Customers' Base Rate Charge as well as other amounts due and owing under this Contract shall be secured by a pledge of and lien on the gross revenues received by each Customer from charges made and money collected from their respective customers for the supplying of water, which revenues are then designated by the Customers for the payment of expenses related to operation and maintenance of their water systems.

11.8 Priority of Payment. All monies received by the Authority from the Customers pursuant to this Contract shall be applied in the following order of priority:

FIRST: To the payment of the Customer's Base Rate Charges,

exclusive of those amounts provided in Section 9.7 and 9.5 hereof;

SECOND: To the payment of any charges due and owing by a Customer due to an Exceedance of the Delivery Schedule as provided in Sections 7.4, 7.5, or 7.6 of this Contract;

THIRD: On a pro rata basis, to the payment of the Facility Use Cost provided in Section 9.5 hereof and the Payment to Charlotte County for oversized facilities provided in Section 9.7 hereof;

FOURTH: To the repayment of SWFWMD Funds, in accordance with the terms and requirements, if any, of the funding agreement between the Authority and SWFWMD.

11.9 Assistance in Issuance of Bonds. Each of the Customers understands and recognizes that this Contract is being entered into in anticipation of the Authority seeking future funds through the sale of bonds and pledging as security for repayment of those bonds, revenues received pursuant to the terms of this Contract. The bond issue shall be structured to allow contributions for repairs and replacements related to component parts of the capital project to be separately accounted for within the Authority's accounting system. The amounts to be contributed shall reflect the relative need for the contribution. If practicable, no debt service coverage shall be required of the Customers, however if debt service coverage is required the amounts so paid shall benefit the Customer having paid same. Each Customer covenants to assist the Authority in any reasonable manner with respect to the issuance of such bonds, including but not limited to participation and assistance with any court proceeding seeking to validate the bonds pursuant to Chapter 75, Florida Statutes.

11.10 Limitation of Liability. The obligation of the respective Customers arising hereunder shall be several and not joint. In no event shall the obligation of one Customer constitute an indebtedness or obligation of any other Customer and the failure of one Customer to satisfy its obligations hereunder shall not in any manner give rise to any pecuniary liability of any of the other Customers hereto.

12. PLEDGE OF CONTRACT REVENUES. The Authority may pledge any payments, interest or other income or revenues derived under this Contract for the purpose of securing any revenue bonds issued by the Authority to finance the expansion of the Peace River Regional Water Supply Facility and Regional Transmission System.

13. DESIGNATION AS REPRESENTATIVE AND CO-APPLICANT STATUS. The Authority and the Customers shall be co-applicants for any Water Use Permits needed for the Peace River Regional Water Supply Facility. The Customers shall waive all objections to the Permit applications relating to the acquisition, operation, replacement or expansion of the Peace River Regional Water Supply Facility. The Customers hereby designate the Authority as their representative with respect to any such Permit or in any such administrative or judicial proceeding.

14. DEFAULT AND REMEDY. Recognizing the region's paramount need for a safe and dependable source of water supply, the parties agree this Contract may not be terminated prior to the normal expiration date specified in Section 2 and the remedy for a breach of the Contract shall be specific performance, injunctive relief and any other equitable relief, as well as monetary damages.

15. APPLICABLE LAW AND VENUE. The laws of the State of Florida shall govern the validity, interpretation, construction and performance of this Contract and venue for any suit involving this Contract shall be in Manatee County, Florida.

16. ASSIGNMENT AND SERVICE. No assignment, delegation, transfer or novation of this Contract or any part thereof shall be made unless approved in writing by all parties.

17. NOTICES. All notices, demands requests and other communications hereunder shall be deemed sufficient and properly given, if in writing and delivered in person to the following addresses or sent by certified or registered mail, postage prepaid with return receipt requested, at such addresses; provided, if such notices demands, requests or other communications are sent by mail, they shall be deemed as given on the third day following such mailing which is not a Saturday, Sunday or a day on which United States mail is not delivered: The Authority's Executive Director's Office, 1451 Dam Road, Bradenton, Florida 34202; the Charlotte County Administrator's Office, Charlotte County Administration Center, 18500 Murdock Circle, Port Charlotte,

Florida 33948-1094; the DeSoto County Administrator's Office, P O Drawer 2076, Arcadia, Florida 33821; and the Sarasota County Administrator's Office, P O Box 8, Sarasota, Florida 34230. Any party may, by like notice, designate any further or different addresses to which subsequent notices shall be sent. Any notices hereunder signed on behalf of the notifying party by a duly authorized attorney at law shall be valid and effective to the same extent as if signed on behalf of such party by a duly authorized officer or employee.

18. **RELATIONSHIP OF THE PARTIES.** No party shall have any responsibility to perform services for or to assume contractual obligations which are the obligations of another party. Nothing herein shall be deemed to constitute any party a partner or joint venturer, or to create any fiduciary relationship among the parties.

19. **THIRD PARTY BENEFICIARIES.** No right or cause of action shall accrue upon or by reason hereof, or for the benefit of any person not expressly named as a party in this Contract, except for any bond holders and/or credit enhancers relating to revenue bonds in whole or in part with respect to the Peace River Regional Water Supply Facility and Regional Transmission System.

20. **WAIVER.** Unless otherwise specifically provided by the terms of this Contract, no delay or failure to exercise a right resulting from any breach of this Contract shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as may be deemed expedient. Any waiver shall be in writing and signed by the party granting such waiver. If any representation, warranty or covenant contained in this Contract is breached by any party and thereafter waived by another party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive, either expressly or impliedly, any other breach under this Contract.

21. **AUTHORIZED REPRESENTATIVES.** For purposes of this Contract, the parties' authorized representatives are as follows: the Authority Executive Director, the Charlotte County Administrator; the Sarasota County Administrator and the DeSoto County Administrator. Any party may change its authorized representative at any time by written notice to the other parties.

22. **SECTION CAPTIONS AND REFERENCES.** The section headings and captions

contained herein are included for convenience only and shall not be considered part of this Contract or affect in any manner its construction or interpretation. Except as otherwise indicated, all references herein to sections are to sections of this Contract.

23. SEVERABILITY. In the event that any provision of this Contract shall, for any reason, be determined invalid, illegal or unenforceable in any respect the parties hereto shall negotiate in good faith and agree to such amendments, modifications or supplements to this Contract or such other appropriate actions as shall, to the maximum extent practicable in the light of such determination implement and give effect to the intentions of the parties as reflected herein, and the other provisions of this Contract, as amended, modified, supplemented or otherwise affected by such action, shall remain in full force and effect.

24. ATTORNEYS FEES AND COST. In the event there is a breach of this Contract and it becomes necessary for any party to employ the services of an attorney either to enforce the Contract or pursue other remedies, with litigation or adversarial administrative proceedings, the losing party or parties shall pay to the successful party or parties reasonable attorney's fees and such reasonable costs and expenses as are incurred in enforcing the Contract or pursuing other remedies, to the extent allowed by law.

25. AMENDMENT. This Contract may only be amended by a writing duly executed by the Authority, Charlotte, DeSoto and Sarasota.

26. ENTIRE AGREEMENT. All negotiations, proposals and agreements prior to the date of this Contract, that relate to the additional 2,190 MGY (6 MGD) in System Capacity that will be created as a result of the expansion of the Peace River Regional Water Supply Facility, are superseded. This Contract shall constitute the entire agreement of the Authority, Charlotte, DeSoto, and Sarasota with respect to the Water Allocations and Capacity Allocations herein, and specifically supersedes and replaces the Peace River Option Water Supply Contract dated September 20, 1995, entered into between the Authority, DeSoto and Sarasota. This Contract shall govern only the operation, maintenance, alteration, replacement and expansion of the Peace River Regional Water Supply Facility as it relates to the additional 2,190 MGY (6 MGD) in System Capacity that will be created as a result of the expansion of the Peace River

Regional Water Supply Facility. The foregoing notwithstanding, this Contract shall not supersede the Acquisition Agreement nor the Amended Interlocal Agreement among Charlotte, DeSoto, Manatee and Sarasota Counties, entered into on May 21, 1991, both of which shall be read in pari materia with this Contract. Nor shall this Contract supersede the Water Supply Contract of May 21, 1991 entered into among the Authority, Charlotte, DeSoto, Manatee, and Sarasota, as that Contract relates to the initial 4,378.25 MGY (12 MGD) allocated therein.

27. FURTHER ASSURANCES. The Authority, Charlotte, DeSoto, and Sarasota each shall use all reasonable efforts to provide such information, execute such further instruments and documents and take actions as may be reasonably requested by another party and not inconsistent with the provisions of this Contract and not involving the assumption of obligations or liabilities different from, in excess of or in addition to those expressly provided for in this Contract to carry out the intent of this Contract.

28. CONSENTS. To the extent that the consent of any party to this Contract is required as a condition to the action of other parties, such consent shall not be unreasonably withheld.

29. SUCCESSORS AND ASSIGNS. This Contract shall be binding upon and inure to the benefit of the respective successors, permitted assigns, administrators and trustees of the Authority, Charlotte, DeSoto and Sarasota.

30. EXECUTION OF DOCUMENTS. This Contract shall be executed in eight (8) duplicate originals, any of which shall be regarded for all purposes as an original and all of which shall constitute one and the same instrument.

31. INTERLOCAL AGREEMENT. This Contract shall constitute an interlocal agreement pursuant to Section 163.01, Florida Statutes. A true and correct copy of this Contract and any subsequent amendments shall be recorded with the clerk of the circuit court in Charlotte, DeSoto and Sarasota Counties.

32. AMBIGUITY. The parties agree that each one has played an equal part in the negotiation and drafting of this Contract, and in the event any ambiguity should be asserted or realized in the interpretation or construction of this Contract, the result of such ambiguity shall be equally assumed and realized by each party.

IN WITNESS WHEREOF, the Authority, Charlotte, DeSoto, and Sarasota have executed this Contract on the day, month and year first above written.

WITNESSES:

[Signature]

PEACE RIVER/MANASOTA REGIONAL
WATER SUPPLY AUTHORITY

By: [Signature]

Date: 3/8/96

Approved as to Form:

[Signature]
Attorney for Authority

WITNESSES:

[Signature]
[Signature]

Approved as to Form:

[Signature]
Attorney for Charlotte County
Renee Francis Lee MB

CHARLOTTE COUNTY
BOARD OF COUNTY COMMISSIONERS

By: [Signature]
Matthew D. DeBoer, Chairman

Date: March 7, 1996

ATTEST:

Barbara T. Scott, Clerk of Circuit Court
and Ex-officio Clerk to the Board of
County Commissioners

By: [Signature]
Deputy Clerk

DESOTO COUNTY

By: [Signature]

Date: 3/13/96

WITNESSES:

[Signature]
[Signature]

Approved as to Form:

[Signature]
Attorney for DeSoto County

RECORDER'S MEMO: Legibility of writing, typing, or
printing for reproductive purpose may be unsatisfactory
this document when received

SARASOTA COUNTY

By: [Signature]

Date: March 8, 1996

ATTEST:

BY: [Signature]
Deputy Clerk

Approved as to Form:

[Signature]
Attorney for Sarasota County

STATE OF FLORIDA
COUNTY OF Sarasota

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared Patricia Glass, to me known to be the person described in and who executed the foregoing instrument on behalf of the Peace River/Manasota Regional Water Supply Authority and acknowledged before me that he/she executed same as a free act and deed for the uses and purposes therein stated.

8 day of March, 1996. WITNESS my hand and official seal in the County and State last aforesaid, this



Jean Marie Campbell
MY COMMISSION # GC502044 EXPIRES
April 7, 1997
BONDED THRU TROY FAIR INSURANCE, INC.

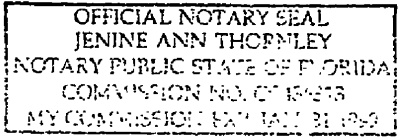
Jean Marie Campbell
Notary Public
Print Name: _____
My Commission Number: _____

STATE OF FLORIDA
COUNTY OF CHARLOTTE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared MATTHEW D. DEKER, to me known to be the person described in and who executed the foregoing instrument on behalf of the Charlotte County, Florida, and acknowledged before me that he/she executed same as a free act and deed for the uses and purposes therein stated.

7 day of MARCH, 1996. WITNESS my hand and official seal in the County and State last aforesaid, this

Jenine Ann Thornley
Notary Public
Print Name: JENINE ANN THORNLEY
My Commission Number: _____



STATE OF FLORIDA
COUNTY OF DESOTO

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared J. FELTON GARNER, to me known to be the person described in and who executed the foregoing instrument on behalf of the DeSoto County, Florida, and acknowledged before me that he/she executed same as a free act and

deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid, this 13th day of March, 1996.

Carol Heitman
Notary Public
Print Name: _____
My Commission Number: _____

CAROL HEITMAN
Notary Public, State of Florida
My comm. expires Nov. 1, 1997
Comm. No. CC322818

STATE OF FLORIDA
COUNTY OF SARASOTA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared EUGENE A. MATTHEWS, to me known to be the person described in and who executed the foregoing instrument on behalf of Sarasota County, Florida and acknowledged before me that he/she executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid, this 8th day of March, 1996.

Susan Kay Garland
Notary Public
Print Name: _____
My Commission Number: _____

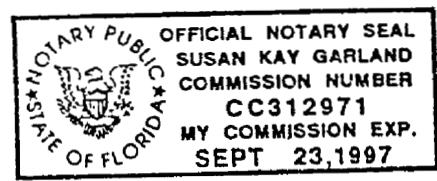


EXHIBIT A
CAPACITY ALLOCATION OF REGIONAL TRANSMISSION SYSTEM

TRANSMISSION PIPELINE SEGMENT	REGIONAL TRANSMISSION SYSTEM CAPACITY ALLOCATED						TOTAL CAPACITY ALLOCATED	
	CHARLOTTE COUNTY		SARASOTA COUNTY		DESOTO COUNTY		(MGD)	%
	(MGD)	%	(MGD)	%	(MGD)	%		
SEGMENT NO. 1 (36-Inch Diameter)	0.00	0.00%	13.75	98.21%	0.25	1.79%	14.00	100.00%
SEGMENT NO. 2 (48-Inch Diameter)	0.00	0.00%	28.00	100.00%	0.00	0.00%	28.00	100.00%
SEGMENT NO. 3 (30-Inch Diameter)	0.00	0.00%	8.00	100.00%	0.00	0.00%	8.00	100.00%

- (1) Pipeline capacity is based on instantaneous flow.
- (2) Pipeline capacity based on Hazen Williams Formula, C=120.
- (3) PRRWSF high service pumps design head is 80 psi.
- (4) Allowable headloss Segment No. 1 is 15 psi.
- (5) Allowable headloss of Segments No. 2 and 3 is 45 psi combined total.
- (6) MGD is million gallons per day flowrate.
- (7) Regional Transmission System Capacity Allocation subject to revision based on final design of pipeline diameter, length and pressure.

EXHIBIT A

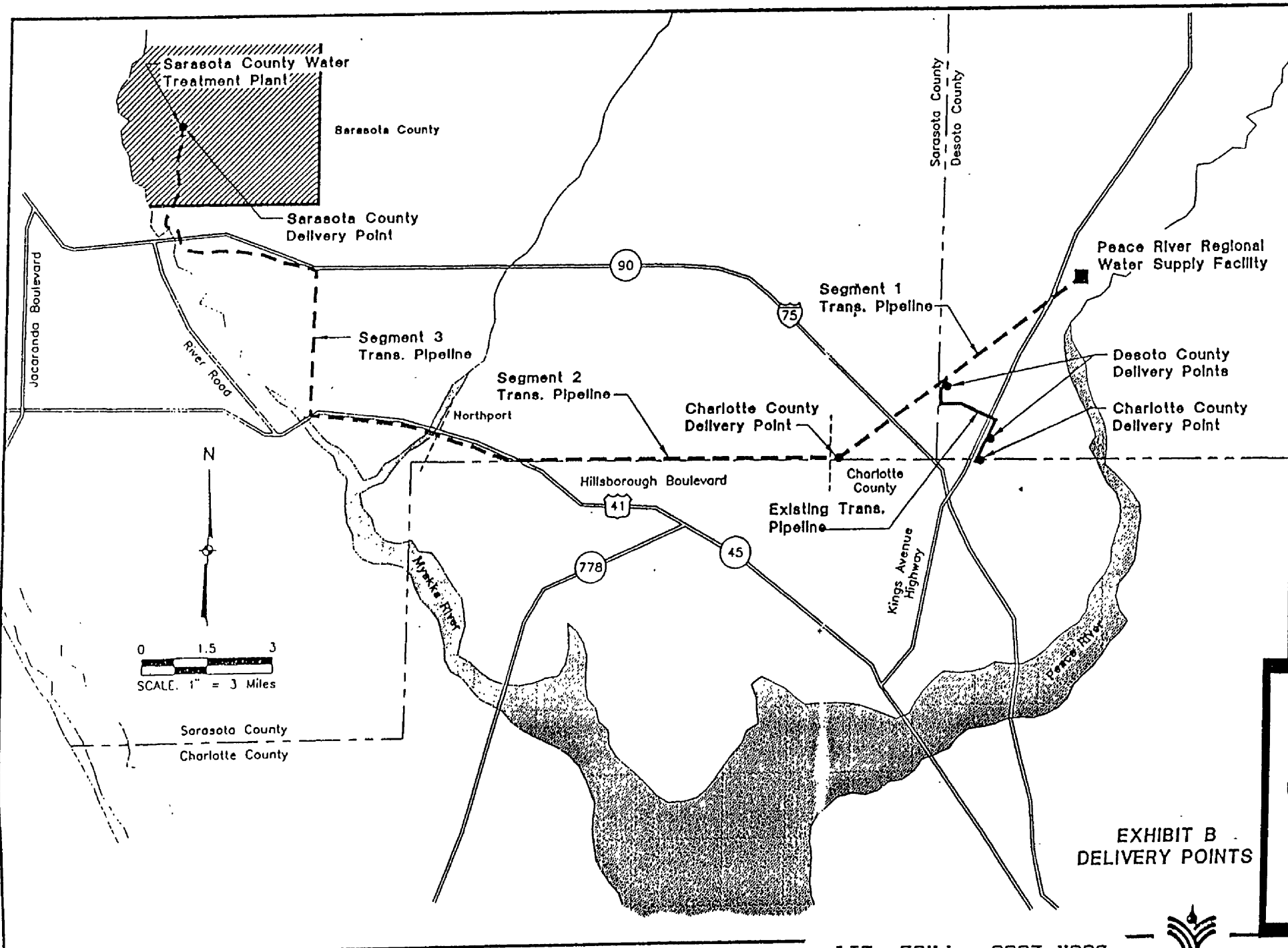


EXHIBIT B
DELIVERY POINTS

"B"



**EXHIBIT C
DELIVERY SCHEDULE**

DELIVERY YEAR	CHARLOTTE CO.		SARASOTA CO.		DESOTO CO.		TOTAL	
	TOTAL ANNUAL QUANTITY (MGD)	PEAK MONTH QUANTITY (MGD)	TOTAL ANNUAL QUANTITY (MGD)	PEAK MONTH QUANTITY (MGD)	TOTAL ANNUAL QUANTITY (MGD)	PEAK MONTH QUANTITY (MGD)	TOTAL ANNUAL QUANTITY (MGD)	PEAK MONTH QUANTITY (MGD)
Initial Year	0.841	1.009	1.679	2.015	0.080	0.096	2.600	3.120
2nd	1.124	1.349	2.196	2.635	0.080	0.096	3.400	4.080
3rd	1.433	1.720	2.777	3.333	0.090	0.108	4.300	5.160
4th	1.767	2.120	3.423	4.108	0.110	0.133	5.300	6.360
5th and Remaining Years	2.000	2.400	3.875	4.650	0.125	0.150	6.000	7.200

Delivery Year: The Initial Year is the period between the final completion of facilities construction and ending on the immediately following September 30. Succeeding Delivery Years begin on each October 1, and end on the immediately following September 30.

MGD: Total Annual Quantity and Peak Month Quantity are converted to average daily units expressed as Million Gallons per Day (MGD).

EXHIBIT
"C"



An Equal Opportunity Employer

Southwest Florida Water Management District

2379 Broad Street • Brooksville, Florida 34609-6899 • 1-800-423-1476 (Florida Only) or (904) 796-7211 • SUNCOM 628-4150 • T.D.D. Number Only (Florida Only): 1-800-231-6103

7601 Highway 301 North
Tampa, Florida 33637-6759
(813) 985-7481 SUNCOM 578-2070

170 Century Boulevard
Bartow, Florida 33830-7700
(813) 534-1448 SUNCOM 572-6200

115 Corporation Way
Venice, Florida 34292-3524
(813) 483-5970 SUNCOM 549-5970

2303 Highway 44 West
Inverness, Florida 34453-3809
(904) 637-1360

"D"

** OFFICIAL RECORDS **
BOOK 2855 PAGE 216

- Joe L. Davis, Jr.
Chairman, Wauchula
- Roy G. Harrell, Jr.
Vice Chairman, St. Petersburg
- Sally Thompson
Secretary, Tampa
- James E. Martin
Treasurer, St. Petersburg
- James L. Allen
Bushnell
- Ramon F. Campo
Brandon
- James L. Cox
Lakeland
- Rebecca M. Eger
Sarasota
- John T. Hamner
Bradenton
- Curtis L. Law
Land O' Lakes
- Virginia S. Roo
Tampa

- Peter G. Hubbell
Executive Director
- Mark D. Farrell
Assistant Executive Director
- Edward B. Helvenston
General Counsel

November 6, 1995

Peace River/Manasota Regional

NOV 13 1995

Water Supply Authority

Mr. Emilio D. (Sonny) Vergara
Executive Director
Peace River/Manasota Regional
Water Supply Authority
1451 Dam Road
Bradenton, Florida 34202

Subject: Peace River Option Project--New Water Sources Initiative

Dear Sonny:

Enclosed is a fully executed agreement between the Peace River/Manasota Regional Water Supply Authority and the Southwest Florida Water Management District for the above mentioned project.

Sincerely,

Bruce C. Wirth, P.E.
Director
Resource Projects Department

BCW/gb
Enclosure
cc: Jeff Vomacka
F006 Contract File

Excellence
Through
Quality
Service

EXHIBIT D

Contract No. 96CONNW0001

NEW WATER SOURCES FUNDING AGREEMENT
BETWEEN THE
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT
AND
THE PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY
FOR THE PEACE RIVER OPTION PROJECT (F006)

THIS AGREEMENT is entered into this 6th day of November, 1995, by and between the SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT, a public corporation created by Chapter 61-691, Laws of Florida, as amended, for itself and on behalf of the PEACE RIVER BASIN BOARD and the MANASOTA BASIN BOARD, hereinafter collectively referred to as the "DISTRICT," and the PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY, an independent special district created pursuant to Sections 373.1962 and 163.01, Florida Statutes, hereinafter referred to as the "AUTHORITY."

W I T N E S S E T H:

WHEREAS, it is the policy of the State of Florida, as described in Chapter 373, Florida Statutes, and related rules, that water management districts be responsible to protect and preserve the water resources of Florida; and

WHEREAS, the DISTRICT supports all feasible efforts aimed at promoting the quality, conservation and protection of all water sources; and

WHEREAS, the AUTHORITY has submitted the Peace River Option Project, hereinafter referred to as the "PROJECT" for funding assistance under the District's New Water Sources Initiative; and

WHEREAS, the parties hereto have reached an understanding that the AUTHORITY engage the professional services necessary to design, permit and implement said PROJECT; and

WHEREAS, the AUTHORITY represents that it possesses the requisite skills, knowledge, expertise and resources necessary to properly complete the PROJECT.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions herein contained, the parties agree as follows:

1. INDEPENDENT CONTRACTOR. The AUTHORITY shall perform as an independent Contractor and not as an employee, representative or agent of the DISTRICT.

APPROVED BY
AUTHORITY BOARD
OCT, - 4, 1995

2. COMPLIANCE WITH DISTRICT RULES AND REGULATIONS. During PROJECT design, the CONSULTANT and DISTRICT regulation staff shall meet to discuss applicable DISTRICT rules and regulations; and prior to PROJECT construction all permits required therefore shall be obtained.

3. SCOPE OF WORK
 - 3.1 Contracting with Consultant(s) and Contractor(s). The AUTHORITY shall engage the services of a consultant or consultants, hereinafter referred to as the "CONSULTANT," to design and a contractor or contractors, hereinafter referred to as the "CONTRACTOR," to implement the PROJECT in accordance with the PROJECT PLAN, attached as Exhibit "A" and made a part hereof. The AUTHORITY shall be responsible for administering the contract(s) with the CONSULTANT and CONTRACTOR and shall give notice to proceed to the CONSULTANT no later than March 1, 1996. The notice to proceed date shall be extended if conditions exist beyond the control of the AUTHORITY. One such condition would be the timely obtaining of the Water Use Permit.

 - 3.2 Approval of Contract and Scope of Work. The DISTRICT Project Manager shall review and approve in writing the contract, including the scope of work, between the AUTHORITY and the CONSULTANT and CONTRACTOR to ensure conformance with the PROJECT PLAN. Such approval shall not be arbitrarily withheld by the DISTRICT.

 - 3.3 Conservation Reinvestment Fund. The AUTHORITY shall establish, collect and administer funds for a Conservation Reinvestment Fund, of which the conditions are contained in Exhibit "B" (attached, and made a part hereof).

 - 3.4 Permits. Prior to the disbursement of any funds by the DISTRICT for CONSULTANT costs, the AUTHORITY shall obtain the necessary Water Use Permit. Prior to the disbursements of any funds by the DISTRICT for CONTRACTOR costs, the AUTHORITY shall obtain all other necessary permits from the appropriate agencies. When the PROJECT requires obtaining any DISTRICT permit, the permitting applicant shall be the owner or authorized agent of the land to be occupied or otherwise used by the PROJECT development, unless the applicant has power of eminent domain. If DISTRICT owned land is involved, or the DISTRICT is a co-applicant, the Florida Department of Environmental Protection shall be the permitting agency.

 - 3.5 Review of Design. The DISTRICT Project Manager shall review the final design to ensure that the major elements are in conformance with the PROJECT PLAN.

- 3.6 Certification of BID Documents. All construction bid documents require certification from a professional engineer representing the AUTHORITY attesting that the bid documents are in conformance with the PROJECT PLAN design.
- 3.7 Consultant and Contractor Selection. If required by law, the AUTHORITY will select the CONSULTANT by the Competitive Consultants Negotiation Act, otherwise the CONSULTANT shall be selected via a competitive bid process. The AUTHORITY shall select the CONTRACTOR via a competitive bid process. The DISTRICT shall reserve the right to review and comment on all project proposals prior to their award. Nothing contained herein shall create any obligation on the part of the DISTRICT to defend any challenge brought by any offeror regarding the selection of the CONSULTANT or CONTRACTOR.
- 3.8 District Recognition. The AUTHORITY shall develop a public awareness program to announce and promote the PROJECT, subject to written DISTRICT approval. Acknowledgment of partial funding assistance by the DISTRICT and the aforementioned basin boards will be integral to the public awareness effort. At a minimum, the public awareness effort will include press releases at the initiation and completion of the PROJECT and signage at the PROJECT site. The signage at the PROJECT site shall include recognition of funding by the DISTRICT and the aforementioned basin boards. All signage must meet with DISTRICT written approval as to quantity, form, content and location, and must be in accordance with local sign ordinances.
- 3.9 Completion Dates. The AUTHORITY shall commence construction on the PROJECT by October 1, 1997 and shall substantially complete the PROJECT by September 30, 2001. "Substantially complete" shall have the same meaning as provided in the contract between the AUTHORITY and the CONTRACTOR, as referenced in Section 3.2 above. If the AUTHORITY does not complete said work within aforementioned time frames, the AUTHORITY may be required to reimburse the DISTRICT up to the full amount paid to the AUTHORITY by the DISTRICT. The above time frame shall be extended if conditions exist beyond the control of the AUTHORITY or DISTRICT. Such agreement shall not be arbitrarily withheld by the DISTRICT or AUTHORITY.
4. REPORTS. The AUTHORITY shall submit quarterly status reports in writing to the DISTRICT's project manager beginning on January 1, 1996 and until the PROJECT is completed in accordance with this agreement.
5. PROJECT RECORDS AND DOCUMENTS. The AUTHORITY will permit the DISTRICT, upon request, to examine all PROJECT records, and the right to audit any PROJECT books, documents and papers during the PROJECT or following completion of the PROJECT. The AUTHORITY shall maintain the records, books, documents and papers for at least three (3) years following completion of the PROJECT. The

AUTHORITY recognizes and agrees that the DISTRICT is subject to the Public Records provisions of Chapter 119, Florida Statutes, and that all documents, papers, letters and other materials made or received by the AUTHORITY in conjunction with the PROJECT are subject to said provisions.

6. FUNDING

6.1 Amount. The estimated total cost of the PROJECT is Forty-Three Million, Nine Hundred Eighty One Thousand, One Hundred Ninety Three Dollars (\$43,981,193). The DISTRICT shall fund the "Eligible" PROJECT costs, as defined in Paragraph 6.2 below, up to a maximum amount of twenty one million dollars (\$21,000,000). The AUTHORITY shall fund the remaining PROJECT costs. The DISTRICT funding is split between the Governing Board, the Peace River Basin Board, and the Manasota Basin Board, and is anticipated to be over three Fiscal Years, 1995, 1996, and 1997. The AUTHORITY has received preliminary approval of Federal USEPA grant funds in the amount of \$6,052,000. When the AUTHORITY receives said funds, the DISTRICT's payment obligation under this Agreement shall be reduced by \$3,026,000. If more than \$6,052,000 of Federal funds is received by the AUTHORITY, then the District's payment obligation shall be reduced by an amount equivalent to 50% of such funds. The table below reflects anticipated future years funding by the DISTRICT's Governing and Basin Boards after receipt of the anticipated \$6,052,000 of Federal funding.

Governing Board NWSI FY 95 Appropriation	\$8,000,000
Governing Board NWSI FY 96 Appropriation	\$ 987,000
Peace River Basin Board FY 95	\$ 883,333
Peace River Basin Board FY 96	\$ 692,407
Peace River Basin Board FY 97	\$ 692,410
Manasota Basin Board FY 95	\$2,548,870
Manasota Basin Board FY 96	\$2,084,990
Manasota Basin Board FY 97	\$2,084,990
USEPA Grant Funds	<u>\$3,026,000</u>
Total	\$21,000,000

6.2 "Eligible" PROJECT Costs. "Eligible" PROJECT costs shall mean Engineering, Construction and Permitting (except Water Use Permitting) costs for:

- (i) Aquifer Storage Recovery (ASR) (further described in Exhibit "A") up to a maximum amount of One Million Dollars (\$1,000,000);

- (ii) Pipeline Segment #1 (further described in Exhibit "A") up to a maximum amount of Three Million Dollars (\$3,000,000);
- (iii) Pipeline Segment #2 (further described in Exhibit "A") up to a maximum amount of Eight Million Dollars (\$8,000,000); and
- (iv) Pipeline Segment #3 (further described in Exhibit "A") up to a maximum amount of Nine Million Dollars (\$9,000,000).

If and when the AUTHORITY receives the Federal Grant Funds, the maximum amounts set forth in (i) through (iv) above shall each be decreased proportionately.

- 6.3 Funding Condition. The DISTRICT's performance and payment obligation for each fiscal year is contingent upon an annual appropriation for the PROJECT by the DISTRICT's Governing Board. Upon the Governing Board's final approval of the DISTRICT's annual budget for each year this agreement is in effect, such budgeted funds shall be encumbered for use under this agreement in accordance with the terms and conditions herein. The PROJECT is budgeted cooperatively through the GOVERNING BOARD of the DISTRICT in Fiscal Year 1995 for eight million dollars (\$8,000,000) and the PEACE RIVER BASIN of the DISTRICT in Fiscal Year 1995 for eight hundred eighty three thousand, three hundred thirty three dollars (\$883,333) and the MANASOTA BASIN BOARD of the DISTRICT in Fiscal Year 1995 for two million, five hundred forty eight thousand, eight hundred seventy one dollars (\$2,548,870). The remaining funds up to the DISTRICT's funding commitment is anticipated to be available, contingent upon DISTRICT approval, in Fiscal Years 1996 and 1997.
- 6.4 Payment Method. Within thirty (30) days after receiving the AUTHORITY's invoice, the DISTRICT shall pay the AUTHORITY for the "Eligible" costs properly incurred and clearly set forth in an invoice provided by the AUTHORITY. The AUTHORITY shall submit invoices to the DISTRICT on a monthly basis. Each invoice shall include the following items: Proper documentation, a cover letter stating the amount of payment being requested, task(s) involved, copies of related requests for payment from the AUTHORITY to other funding agencies for the PROJECT, and copies of invoices and other supporting documentation from vendors to the AUTHORITY. Any invoices that include CONSULTANT labor costs shall detail the man-hour(s) and hourly rate(s) involved. Invoices from the AUTHORITY to the DISTRICT are to be sent to:

Accounts Payable Section
Southwest Florida Water Management District
Post Office Box 1166
Brooksville, Florida 34605-1166

- 6.5 Withholding Payment. If the AUTHORITY fails to perform its obligations in accordance with this agreement and in accordance with generally-accepted professional standards and in accordance with the project scope of work and budget, the DISTRICT, upon giving notice to the AUTHORITY of such failure, shall have the right to cease further payments, shall require the AUTHORITY to remedy such failure within a reasonable period of time and shall hold the AUTHORITY responsible for any additional costs incurred in making said remedy.
- 6.6 Cash Flow Reserve. Notwithstanding the requirements of this Section, the DISTRICT recognizes the AUTHORITY may need to establish a reserve of funds to meet cash flow requirements until such time as the project becomes further financed through the AUTHORITY's sale of revenue bonds. If the DISTRICT determines that such a reserve is warranted, the DISTRICT will consider providing an advance of funds not to exceed five hundred thousand dollars (\$500,000). Disbursement by the AUTHORITY of said advance funds shall be subject to the terms and conditions of this contract and may only be used to pay "Eligible" PROJECT costs..
- 6.7 Accounting and Replenishment of Cash Flow Reserve. The AUTHORITY shall provide the DISTRICT with a monthly accounting of all funds expended from the Cash Flow Reserve. Such accounting must include itemized statements equivalent to invoices required under this Agreement. The AUTHORITY may request replenishment of the funds in Cash Flow Reserve. Requests for replenishment should follow the payment method as described in Section 6.4 of this agreement. The AUTHORITY shall indicate in the cover letter the time period covering the request (date beginning and date ending), beginning balance of the Cash Flow Reserve as of the beginning date, interest earned for time period covering request, invoices paid in part or total, and ending balance of Cash Flow Reserve for time period of request. Requests shall be sequentially numbered and shall cover continuous time periods. Interest, if any, earned on idle funds of the Cash Flow Reserve shall be used to replenish the fund.
- 6.8 Final Accounting. Within three months of the completion of the project, the AUTHORITY will provide a final accounting of expenditures showing that the District's funds spent by the AUTHORITY went toward "Eligible" PROJECT costs as described in Paragraph 6.2 above.
7. PROJECT ABANDONMENT OR DEVIATION. It shall be considered a breach of this agreement if the AUTHORITY abandons or significantly modifies the PROJECT PLAN without the consent of the DISTRICT. If the DISTRICT (in its sole discretion) determines that such a breach has occurred, then the DISTRICT will give the AUTHORITY written notice of the breach and allow the AUTHORITY thirty (30) days to remedy the breach. If the AUTHORITY fails to remedy within this time period, then

this Agreement shall automatically terminate and the AUTHORITY shall repay to the DISTRICT all monies paid or advanced under this agreement. The term "significantly modifies" shall mean modified in an important and meaningful manner. The DISTRICT shall not act in an arbitrary or capricious manner.

8. INDEMNIFICATION. To the extent authorized by law, the AUTHORITY shall defend, indemnify, and save harmless the DISTRICT and its agents, employees and officers from all actions, causes, claims, demands, judgements, losses, payments, recoveries and suits of every kind arising out of, or resulting from, any act or omission of the AUTHORITY or its agents, employees, or subcontractors in relation to this agreement. However, nothing in this agreement shall be construed as a waiver of sovereign immunity under federal or Florida law.
9. THIRD PARTY BENEFICIARIES. Nothing in this agreement shall be construed to benefit any person or entity not a party to this agreement.
10. PROJECT MANAGERS. The DISTRICT and the AUTHORITY shall each designate an employee as its Project Manager for the purposes of giving directions and maintaining coordination. Each party shall notify the other in a timely manner of every successor to the original Project Manager.
11. NOTICES. Any notices pursuant to this agreement shall be sent to the other party at the address shown below, or such later address of which the sending party has received notice pursuant to this Section.

As to AUTHORITY: The Peace River Option Project Manager
Peace River/Manasota Regional Water Supply Authority
1451 Dam Road
Bradenton, Florida 34202

As to DISTRICT: Contracts Administration
Southwest Florida Water Management District
2379 Broad Street
Brooksville, Florida 34609-6899

12. GOVERNING LAW AND COMPLIANCE. This agreement and all actions taken pursuant thereto are governed by the laws of the State of Florida. The AUTHORITY shall abide by and assist the DISTRICT in satisfying all applicable federal, state and local laws, rules, regulations and guidelines, including but not limited to the Americans with Disability Act (ADA), relative to performance under this agreement. The AUTHORITY shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, handicap, disability, marital status or national origin.

13. INSURANCE. The AUTHORITY shall submit a letter to the DISTRICT providing documentation that the AUTHORITY is insured pursuant to the following:
 - A. The AUTHORITY is a public corporation of the State of Florida. As such it may be insured under the Florida Casualty Insurance Risk Management Trust Fund (FCIRMF) or it may be otherwise insured or self-insured for liability coverage. The AUTHORITY shall maintain in force during the entire term of the agreement general liability and vehicle liability coverage. Liability is limited pursuant to Section 768.28 and/or Chapter 284, Part II, Florida Statutes.
 - B. The AUTHORITY shall maintain in force workers' compensation benefits in accordance with Florida Statute 440 for the duration of the agreement.
 - C. The AUTHORITY shall provide on an annual basis, throughout the term of the agreement, documentation to the DISTRICT from the (FCIRMF), from the insurance carrier or on AUTHORITY letterhead that the above insurance is in effect.
 - D. The DISTRICT shall receive thirty (30) days prior written notice of any material change, cancellation or claim that would affect the required coverage.
 - E. Certificates of insurance general liability, vehicle liability and workers' compensation shall also be required from any contractor or consultant who performs services for the AUTHORITY pursuant to this agreement.
14. CONTRACT PERIOD. This agreement shall commence on the day of execution and shall remain in effect until September 30, 2002, unless completed or terminated earlier, or extended in writing by the DISTRICT.
15. ASSIGNMENT. The AUTHORITY may not assign or transfer its rights or obligations under this agreement without prior written consent of the DISTRICT.
16. RELEASE OF INFORMATION. The AUTHORITY shall promptly notify the DISTRICT of any publication or release of any information relative to performance under this agreement.
17. MODIFICATIONS. This agreement constitutes the entire agreement between the parties and may be amended only in writing, signed by all parties.
18. TERMINATION. Upon either party's default under this agreement, the party so defaulting shall remedy such default within 90 days after receiving notice of default from the other party. If the defaulting party does not remedy the default within this time period, and the default is not caused by a default of the other party, then the non-defaulting party may terminate this agreement by giving the defaulting party written

notice of termination. Termination shall be effective on the fifteenth (15th) day after the defaulting party's receipt of the notice of termination.

IN WITNESS WHEREOF, the lawful representatives of the parties hereto have executed this agreement on the day and year first noted above.

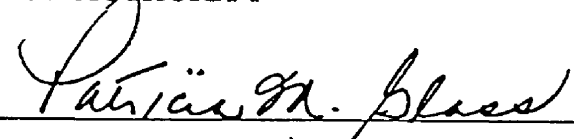
WITNESSED: SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

Uplanda Scrogue By: 
Peter G. Hubbell, Executive Director

Date: 11.6.95

Federal ID #59-0965067

ATTEST: PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY

Barbara W. Tyler By: 
Date: 10/25/95

BARBARA W. TYLER
Notary Public, State of Florida
My comm. expires July 30, 1996
Comm. No. CC209278 Federal ID #59-2417483

NEW WATER SOURCES FUNDING AGREEMENT
BETWEEN THE
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT
AND
THE PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY
FOR THE PEACE RIVER OPTION PROJECT (F006)

APPROVED BY	INITIALS	DATE
CONTRACTS	<u>TLD</u>	<u>10/24/95</u>
LEGAL	<u>[Signature]</u>	<u>10/24/95</u>
RISK MGMT	<u>[Signature]</u>	<u>10/24/95</u>
DEPT DIR.	<u>[Signature]</u>	<u>10/24/95</u>
DEPUTY EXEC DIR	<u>[Signature]</u>	<u>10-24-95</u>

APPROVED BY
AUTHORITY BOARD
OCT - 4 / 1995

EXHIBIT "A"
(includes A-1 through A-8)

"PROJECT PLAN"

(PEACE RIVER OPTION)
(SWFWMD PROJECT #F006)

The Peace River/Manasota Regional Water Supply Authority (AUTHORITY) shall carry out the "Peace River Option" PROJECT PLAN to expand its water supply and distribution system to meet the regional demands of its regional customers. Pursuant to this PLAN, the AUTHORITY shall: (i) increase the existing supply capacity from 12 to 18 million gallons per day (mgd); (ii) construct the number of Aquifer Storage and Recovery (ASR) wells necessary to support the expanded capacity as an inexpensive method of additional off-stream storage; and, (iii) construct a regional, interconnecting pipeline for use by the AUTHORITY'S regional customers consisting of approximately 30 miles of new pipelines. This PROJECT will help reduce the regional member government's reliance on ground water for public supply purposes. The proposed pipeline will also be available for use as an emergency back-up transmission main in the event the Peace River supply were to be rendered temporarily unavailable.

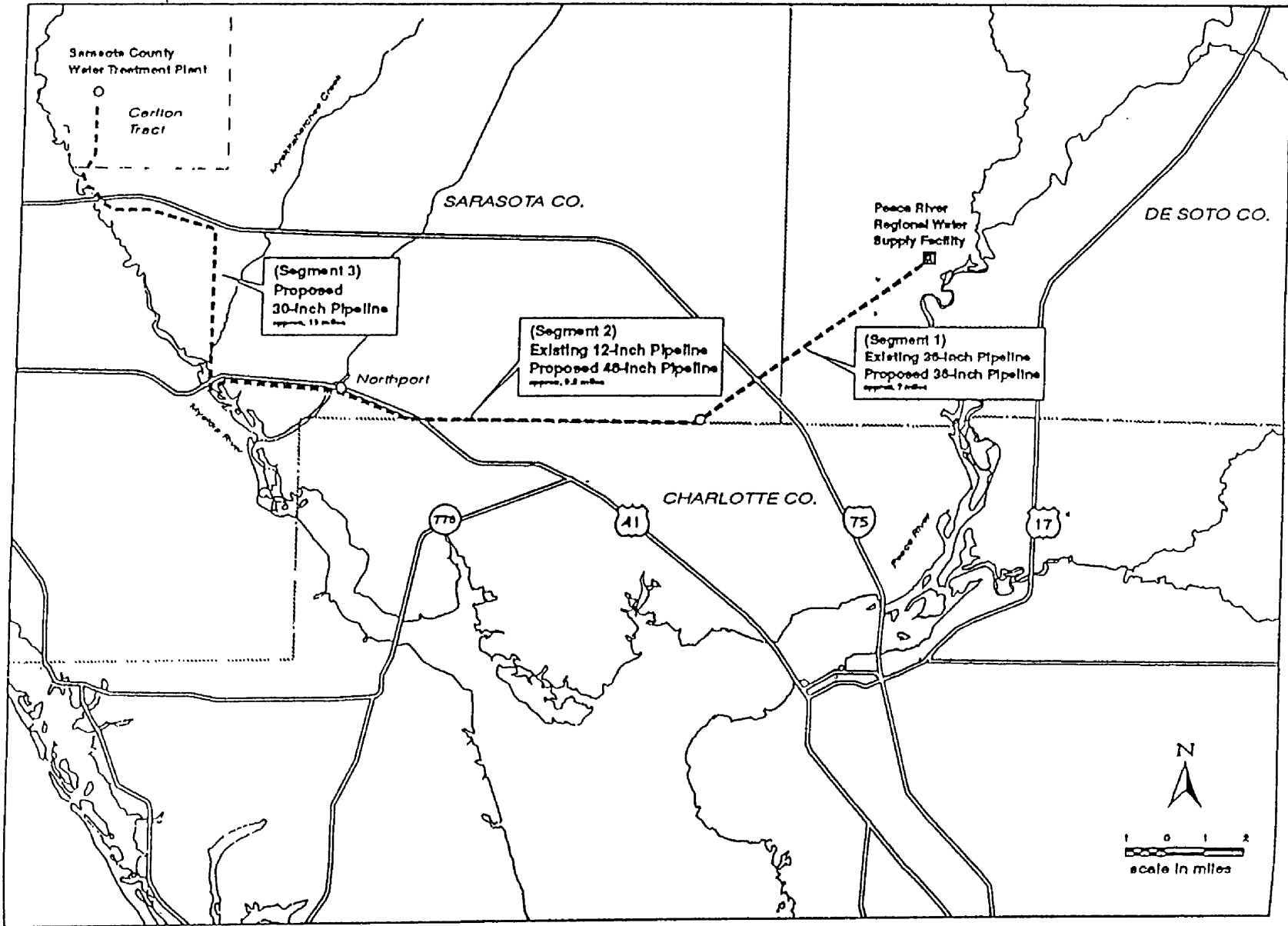
The AUTHORITY shall perform its services under this Agreement in accordance with the representations set forth in each page of this Exhibit. Significant deviation from any of the representations set forth in this Exhibit without the written consent of the DISTRICT shall be deemed a breach of this Agreement. "Significant deviation" shall mean a deviation in an important and meaningful manner. The DISTRICT shall not act in an arbitrary or capricious manner.

EXHIBIT A-1

APPROVED BY
AUTHORITY BOARD
OCT - 4, 1995

The Peace River Option

RECORDERS MEMO: Legibility of writing, typing, or printing for reproductive purpose may be unsatisfactory in this document when received



** OFFICIAL RECORDS **
BOOK 2855 PAGE 227

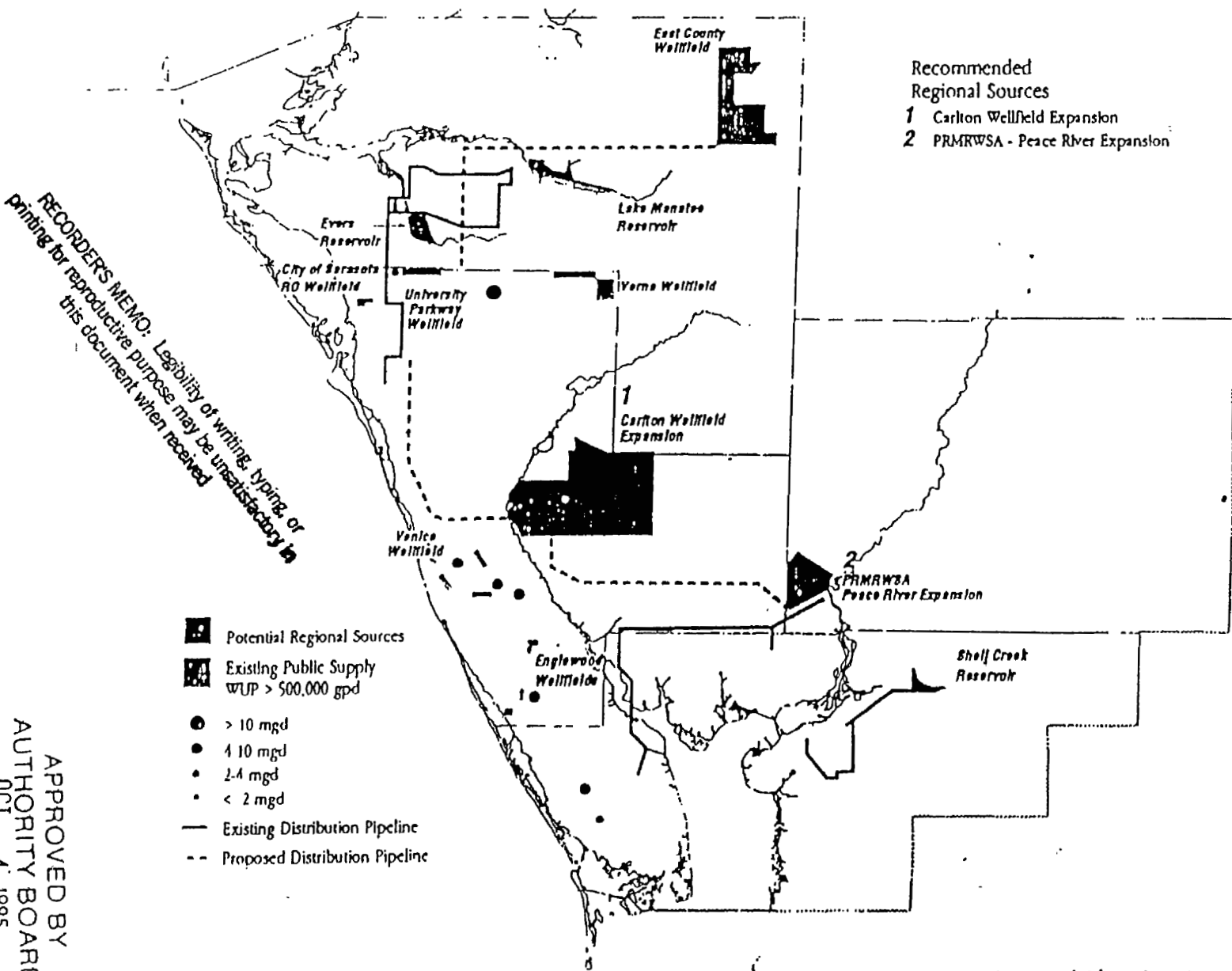
APPROVED BY
AUTHORITY BOARD
OCT - 4 / 1995

**Peace River/Manasota Regional
Water Supply Authority**
Potential Transmission and Delivery Layout

- Potential Water Service Supply Locations
- Potential Transmission Lines

EXHIBIT A-2

Recommended Future Regional Sources



RECORDERS MEMO: Legibility of writing, typing, or printing for reproductive purpose may be unsatisfactory in this document when received

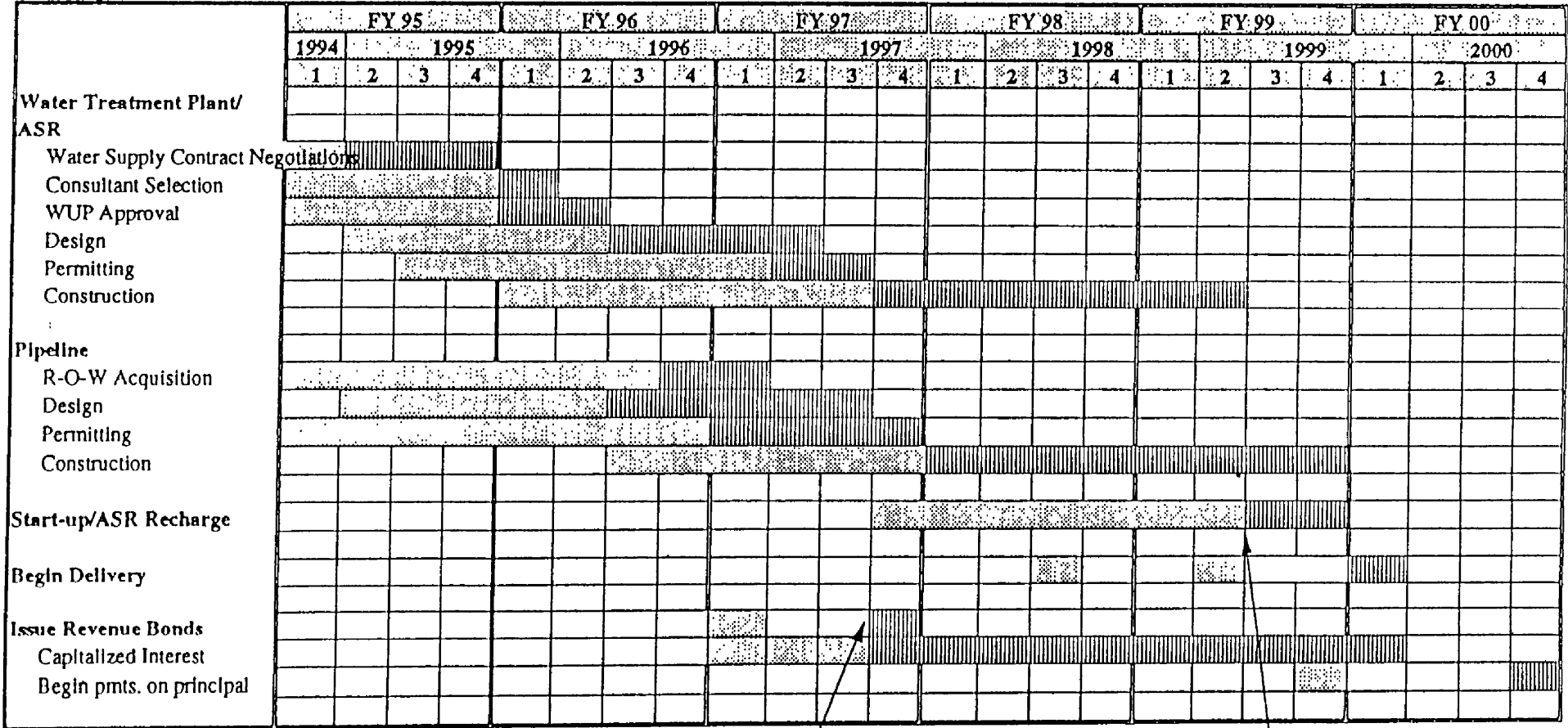
APPROVED BY
AUTHORITY BOARD
OCT - 4 / 1995

Figure 6 3-1 Recommended future regional sources for the Southern District Water Demand Planning Area.

** OFFICIAL RECORDS **
BOOK 2855 PAGE 228

PEACE RIVER OPTION

Project Schedule



Original Projections
 Current Projections

Issuance of revenue bonds will be subject to commitment of all NWSI funding, advice of Financial Advisor and project cash flow needs.

Billing to begin upon onset of ASR operations - projected 4/1/99

APPROVED BY
 AUTHORITY BOARD

DELIVERY SCHEDULE
 (SUBJECT TO FINAL WATER SUPPLY CONTRACT ALLOCATIONS)

DELIVERY YEAR	SARASOTA CO.		DESOTO CO.		TOTAL	
	TOTAL ANNUAL QUANTITY (MGD)	PEAK MONTH QUANTITY (MGD)	TOTAL ANNUAL QUANTITY (MGD)	PEAK MONTH QUANTITY (MGD)	TOTAL ANNUAL QUANTITY (MGD)	PEAK MONTH QUANTITY (MGD)
Initial Year	2.546	3.055	0.080	0.096	2.600	3.120
2nd	3.329	3.995	0.080	0.096	3.400	4.080
3rd	4.211	5.053	0.090	0.108	4.300	5.160
4th	5.190	6.228	0.110	0.133	5.300	6.360
5th and Remaining Years	5.875	7.050	0.125	0.150	6.000	7.200

Delivery Year: The Initial Year is the period between the final completion of facilities construction and ending on the immediately following September 30. Succeeding Delivery Years begin on each October 1, and end on the immediately following September 30.

MGD: Total Annual Quantity and Peak Month Quantity are converted to average daily units expressed as Million Gallons per Day (MGD).

APPROVED BY
AUTHORITY BOARD

Pre-engineering
Estimated Project Costs

Peace River Facility 6 mgd Expansion
Estimated Cost Schedule

Estimated Project Costs		FY 95	FY 96	FY 97	FY 98	FY 99	FY 00	Totals
Water Treatment Plant		6 mgd						
Water Supply Agreement Negotiation	30,000	30,000						30,000
Water Use Permit Application	20,000	20,000						20,000
Engineering	770,679		154,136	308,272	192,670	115,602		770,679
Permitting	128,447		0	128,447	0			128,447
Construction	5,137,860		0	1,027,572	2,568,930	1,541,358		5,137,860
Reimb for prelm. project costs	264,000				264,000			264,000
Reimb to Char Co for Excess Capa.	0							0
Total WTP	6,350,986	50,000	154,136	1,464,290	3,025,600	1,656,960	0	6,350,986
ASR								
Water Use Permit Application	20,000	20,000						20,000
Engineering *	1,072,418		214,484	428,967	268,104	160,863		1,072,418
Permitting *	178,736			178,736				178,736
Construction *	7,149,450			1,429,890	3,574,725	2,144,835		7,149,450
Total ASR	8,420,604	20,000	214,484	2,037,593	3,842,829	2,305,698	0	8,420,604
Pipeline Segment #1		36-inch						
R-O-W Acquisition	53,939			53,939				53,939
Engineering *	809,078		161,816	242,723	242,723	161,816		809,078
Permitting *	134,846			134,846				134,846
Construction *	5,393,850				2,696,925	2,696,925		5,393,850
Reimb to Char Co for Excess Capacity	0							0
Total Seg 1	6,391,712	0	161,816	431,508	2,939,648	2,858,741	0	6,391,712
Pipeline Segment #2		48-inch						
R-O-W Acquisition	1,300,793			1,300,793				1,300,793
Engineering *	1,300,793		260,159	325,198	325,198	390,238	0	1,300,793
Permitting *	216,799			216,799				216,799
Construction *	8,671,950			0	3,468,780	5,203,170	0	8,671,950
Total Seg 2	11,490,334	0	260,159	1,842,789	3,793,978	5,593,408	0	11,490,334
Pipeline Segment #3		30-inch						
R-O-W Acquisition	1,282,365		0	1,282,365				1,282,365
Engineering *	1,282,365		256,473	320,591	320,591	384,710	0	1,282,365
Permitting *	213,728			213,728				213,728
Construction *	8,549,100			0	3,419,640	5,129,460	0	8,549,100
Total Seg 3	11,327,558	0	256,473	1,816,684	3,740,231	5,514,170	0	11,327,558
Total Pipeline	29,209,604	0	678,447	4,090,981	10,473,858	13,966,318	0	29,209,604
Estimated Total Project Cost	43,981,193	70,000	1,047,066	7,592,864	17,342,287	17,928,975	0	43,981,193

* Allowable uses of SWFWMD funds (except that no SWFWMD funds shall be used for expenses relating to the Water Use Permit).

Revised 9/25/95

APPROVED BY
AUTHORITY BOARD
MAY 1, 1995

Pre-engineering
Estimated Project Costs

Peace River Fac. 5 mgd Expansion
Estimated Cost Schedule

Estimated Revenue Requirement By Year

	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00	Total
Estimated Project Costs	(70,000)	(1,047,066)	(7,592,864)	(17,342,287)	(17,928,975)	0	(43,981,193)
USEPA Grant *	186,000						186,000
SWFWMD Grant	0	892,932	2,239,401	9,994,824	7,872,843		21,000,000
Balance of Funds Required by Year	116,000	(154,134)	(5,353,463)	(7,347,463)	(10,056,132)	0	(22,981,193)
Estimated Cash Balance By Year	116,000	(38,134)	(5,391,598)	(12,739,060)	(22,795,193)	(22,795,193)	

* Disbursement of Federal funds are anticipated but are not yet received.

Application of Grant Funds By Project Component

Project Component	Estimated Project Cost	USEPA * Grant	SWFWMD Grant	Participant Project Cost
WTP	6,350,986		0	6,350,986
ASR	8,420,604		1,000,000	7,420,604
Pipeline Seg, 1	6,391,712		3,000,000	3,391,712
Pipeline Seg, 2	11,490,334		8,000,000	3,490,334
Pipeline Seg, 3	11,327,558		9,000,000	2,327,558
	43,981,193	0	21,000,000**	22,981,193

* Disbursement of Federal funds are anticipated but are not yet received.

** Subject to allowable reductions resulting from receipt of Federal funds.

APPROVED BY
AUTHORITY BOARD
MAY 4, 1995

Pre-Engineering
Estimated Project Costs

Peace River Facility, 6 mgd Expansion
Estimated Cost Schedule

Allocation of Estimated Project Costs

Allocation	6 mgd	WTP	ASR	Pipe Seg 1	Pipe Seg 2	Pipe Seg 3	
Sarasota County	5.875 mgd	97.92%	97.92%	98.21%	100.00%	100.00%	
DeSoto County	0.125 mgd	2.08%	2.08%	1.79%	0.00%	0.00%	
	6.000 mgd	100.00%	100.00%	100.00%	100.00%	100.00%	
Cost of Allocation							Total
		6,218,673	7,266,008	3,331,001	3,490,334	2,327,558	22,633,573
Sarasota County		132,312	154,596	60,712	0	0	347,620
DeSoto County		6,350,986	7,420,604	3,391,712	3,490,334	2,327,558	22,981,193

(Subject to final water supply contract allocations)

APPROVED BY
AUTHORITY BOARD
OCT 14 1995

** OFFICIAL RECORDS **
BOOK 2855 PAGE 233

Revised 9/25/95

Exhibit A-8

CONSERVATION REINVESTMENT FUND

1. The AUTHORITY shall establish, administer and collect funds for the Conservation Reinvestment Fund (hereinafter CRF).
2. The AUTHORITY shall collect funds for the CRF from the customers of the Peace River Option Water Supply Contract.
3. The AUTHORITY shall collect funds for the CRF in an amount equal to the total dollars contributed by the DISTRICT pursuant to this agreement *Multiplied By* the New Potable Water* *Divided By* the total gallons of water supplied by the PROJECT.
 - a. The amount collected from DeSoto County will be in accordance with the following formula:

$$\$74,500 \text{ X (times)} \quad \frac{(125,000^{**} - \text{Quantity Offsetting Existing Groundwater})}{125,000}$$
 - b. The amount collected from Sarasota County will be in accordance with the following formula:

$$\$20,925,500 \text{ X (times)} \quad \frac{(8,000,000^{**} - \text{Quantity Offsetting Existing Groundwater})}{8,000,000}$$

*"New Potable Water" means the gallons of water which is supplied by the PROJECT and approved by the DISTRICT as being available to meet new potable water demands and not used to offset existing groundwater use.
**Quantities subject to final negotiation of the water and capacity allocations to be contained in the Water Supply Contract.
4. The AUTHORITY shall collect all CRF funds within thirty (30) years after the effective date of this Agreement.
5. The amount of CRF funds collected under this Agreement may be based upon the number of new connections anticipated to be served beginning in the year 1999 and extending through the payment period, as long as the amount set forth in paragraph 3 above is fully collected.
6. All CRF funds shall be used by the AUTHORITY to finance future water conservation programs of benefit to the basins that contributed to the PROJECT. The type of conservation programs shall include, but not be limited to, plumbing retrofit, leak detection, toilet rebates, reuse projects, public education, and any other projects that would reduce or offset potable water demands.
7. The AUTHORITY shall not disburse CRF funds within any Basin in excess of the amount contributed by the Basin under this Agreement subject to any reduction as allowed for in paragraph 3 above. The funds contributed by the Governing Board will be disbursed on a project by project basis also subject to any reduction as allowed for in paragraph 3 above.
8. Funds shall be disbursed from the CRF only upon approval by the AUTHORITY's Board of Directors and the DISTRICT's Governing Board.

APPROVED BY
 AUTHORITY BOARD
 OCT, - 4, 1995

EXHIBIT E
PAYMENT TO CHARLOTTE FOR OVERSIZED FACILITIES

WATER SUPPLY FACILITIES COMPONENT	EXCESS CAPACITY COST ALLOCATION							
	WATER SUPPLY FACILITIES ACQUISITION COST		ORIGINAL ACQUISITION (12 MGD CAPACITY)		PHASE I EXPANSION (18 MGD CAPACITY)		FUTURE EXCESS CAPACITY COST ALLOCATION REMAINING	
	PERCENT OF ACQUISITION COST %	FACILITY COST (\$)	PERCENT OF ACQUISITION COST %	FACILITY COST (\$)	PERCENT OF ACQUISITION COST %	FACILITY COST (\$)	PERCENT OF ACQUISITION COST %	FACILITY COST (\$)
TREATMENT FACILITY								
North Port			5.56%	\$1,824,979	0.00%	\$0		
Charlotte County			50.24%	\$16,476,275	4.87%	\$1,595,942		
Sarasota County			0.00%	\$0	9.43%	\$3,092,137		
DeSoto County			0.24%	\$77,189	0.30%	\$99,746		
TOTAL TREATMENT FACILITY COST	84.41%	\$27,682,133	56.04%	\$18,378,444	14.60%	\$4,787,825	13.77%	\$4,515,864
TRANSMISSION PIPELINE								
North Port			0.89%	\$293,076	0.00%	\$0		
Charlotte County			8.07%	\$2,645,951	6.59%	\$2,161,294		
Sarasota County			0.00%	\$0	0.00%	\$0		
DeSoto County			0.04%	\$12,396	0.00%	\$0		
TOTAL TRANSMISSION PIPELINE COST	15.59%	\$5,112,717	9.00%	\$2,951,423	6.59%	\$2,161,294	0.00%	\$0
TOTAL ALL FACILITIES	100.00%	\$32,794,850	65.04%	\$21,329,867	21.19%	\$6,949,119	13.77%	\$4,515,864

RECORDER'S MEMO: Legibility of writing, typing, or printing for reproductive purpose may be unsatisfactory in this document when received

EXHIBIT E

PHASE I FACILITY EXPANSION
(18 MGD TREATMENT CAPACITY)

Process Description	Portion of Total Acquisition Cost (%)	Process Unit Cost (\$)	Process Capacity (mgd)	Previously Committed Process Capacity (mgd)	Process Capacity Available (mgd)	PHASE I EXPANSION (18 MGD)				
						Process Capacity Used (mgd)	Portion of Capacity Used (%)	Portion of Acquisition Cost Used (%)	Cost of Process Capacity Used (\$)	Process Capacity Remaining (mgd)
TREATMENT FACILITY:										
Activated Carbon Storage Tank	0.32%	\$104,944	30.0	12.0	18.0	6.0	20.0%	0.06%	\$20,989	12.0
Decarbonation/Ammoniation Basin	0.20%	\$65,590	15.0	12.0	3.0	3.0	20.0%	0.04%	\$13,118	0.0
Alum/Caustic Area	0.10%	\$32,795	30.0	12.0	18.0	6.0	20.0%	0.02%	\$6,559	12.0
Filters	3.69%	\$1,210,130	15.0	12.0	3.0	3.0	20.0%	0.74%	\$242,026	0.0
Filter Equipment	0.05%	\$16,397	15.0	12.0	3.0	3.0	20.0%	0.01%	\$3,279	0.0
Valve Boxes	0.15%	\$49,192	15.0	12.0	3.0	3.0	20.0%	0.03%	\$9,838	0.0
Maintenance Building	1.40%	\$459,128	30.0	12.0	18.0	6.0	20.0%	0.28%	\$91,826	12.0
Chlorination System	0.23%	\$75,428	12.0	12.0	0.0	0.0	0.0%	0.00%	\$0	0.0
Fuel Storage Tank	0.16%	\$52,472	30.0	12.0	18.0	6.0	20.0%	0.03%	\$10,494	12.0
Intake Structure	1.75%	\$573,910	30.0	12.0	18.0	6.0	20.0%	0.35%	\$114,782	12.0
Turbidimeter (Intake)	0.03%	\$9,838	30.0	12.0	18.0	6.0	20.0%	0.01%	\$1,968	12.0
Coagulant Aid Facility	0.10%	\$32,795	12.0	12.0	0.0	0.0	0.0%	0.00%	\$0	0.0
Activated Carbon Day Tank Structures	0.11%	\$36,074	30.0	12.0	18.0	6.0	20.0%	0.02%	\$7,215	12.0
Solid Contact Unit No. 1	0.81%	\$265,638	6.0	6.0	0.0	0.0	0.0%	0.00%	\$0	0.0
Mechanical Equipment Solid Contact Unit No. 1	0.30%	\$98,385	6.0	6.0	0.0	0.0	0.0%	0.00%	\$0	0.0
Solid Contact Unit No. 2	0.81%	\$265,638	6.0	6.0	0.0	0.0	0.0%	0.00%	\$0	0.0
Mechanical Equipment Solid Contact Unit No. 2	0.11%	\$36,074	6.0	6.0	0.0	0.0	0.0%	0.00%	\$0	0.0
Buildings	2.09%	\$685,412	30.0	12.0	18.0	6.0	20.0%	0.42%	\$137,082	12.0
Treated Water Storage Tank	2.13%	\$698,530	12.0	12.0	0.0	0.0	0.0%	0.00%	\$0	0.0
pH Transmitter Storage Tank	0.02%	\$6,559	12.0	12.0	0.0	0.0	0.0%	0.00%	\$0	0.0
Reservoir Pump Station	0.60%	\$196,769	30.0	12.0	18.0	6.0	20.0%	0.12%	\$39,354	12.0
Pentagon Splitter Box	0.36%	\$118,061	30.0	12.0	18.0	6.0	20.0%	0.07%	\$23,612	12.0
Septic Tank & Drainfield	0.03%	\$9,838	30.0	12.0	18.0	6.0	20.0%	0.01%	\$1,968	12.0
Intake Pumps	4.68%	\$1,534,799	24.0	12.0	12.0	6.0	25.0%	1.17%	\$383,700	6.0
High Service Pumps	3.26%	\$1,069,112	18.7	12.0	6.7	6.0	32.1%	1.05%	\$343,031	0.7
Air Compressors	0.26%	\$85,267	30.0	12.0	18.0	6.0	20.0%	0.05%	\$17,053	12.0
Chlorine Analyzer	0.07%	\$22,956	30.0	12.0	18.0	6.0	20.0%	0.01%	\$4,591	12.0
Retention Pond Pumps	4.13%	\$1,354,427	24.0	12.0	12.0	6.0	25.0%	1.03%	\$338,607	6.0
Diesel Fuel Tank	0.11%	\$36,074	24.0	12.0	12.0	6.0	25.0%	0.03%	\$9,019	6.0
Aerators	0.48%	\$157,415	24.0	12.0	12.0	6.0	25.0%	0.12%	\$39,354	6.0
Caustic Feed System	0.07%	\$22,956	30.0	12.0	18.0	6.0	20.0%	0.01%	\$4,591	12.0
Alum Feed System	0.07%	\$22,956	30.0	12.0	18.0	6.0	20.0%	0.01%	\$4,591	12.0
Generator	2.35%	\$770,679	12.0	12.0	0.0	0.0	0.0%	0.00%	\$0	0.0
Underground Storage Tanks	0.70%	\$229,564	24.0	12.0	12.0	6.0	25.0%	0.18%	\$57,391	6.0
Transfer Pump Station	0.40%	\$131,179	30.0	12.0	18.0	6.0	20.0%	0.08%	\$26,236	12.0
Transfer Pumps	3.11%	\$1,019,920	12.0	12.0	0.0	0.0	0.0%	0.00%	\$0	0.0
Meters	0.40%	\$131,179	12.0	12.0	0.0	0.0	0.0%	0.00%	\$0	0.0
Activated Carbon Day Tank (River)	0.75%	\$245,961	30.0	12.0	18.0	6.0	20.0%	0.15%	\$49,192	12.0
Activated Carbon Day Tank (Reservoir)	0.62%	\$203,328	24.0	12.0	12.0	6.0	25.0%	0.16%	\$50,832	6.0
Backwash Save-All Pump Station	0.06%	\$19,677	15.0	12.0	3.0	3.0	20.0%	0.01%	\$3,935	0.0
Backwash Save-All Pumps	0.33%	\$108,223	15.0	12.0	3.0	3.0	20.0%	0.07%	\$21,645	0.0
Lawn Sprinkling Pump Station	0.03%	\$9,838	30.0	12.0	18.0	6.0	20.0%	0.01%	\$1,968	12.0
Lawn Sprinkling Pump	0.25%	\$81,987	30.0	12.0	18.0	6.0	20.0%	0.05%	\$16,397	12.0
Coagulant System	0.11%	\$36,074	30.0	12.0	18.0	6.0	20.0%	0.02%	\$7,215	12.0
Activated Carbon Storage Tank Mixers/Pump	0.28%	\$91,826	30.0	12.0	18.0	6.0	20.0%	0.06%	\$18,365	12.0
Subtotal	38.07%	\$12,484,999						6.47%	\$2,121,823	
MCC @ 15% of Subtotal	5.71%	\$1,872,586	18.0	12.0	6.0	6.0	33.3%	1.90%	\$624,195	0.0
Valves (7% of Subtotal)	2.66%	\$872,343	18.0	12.0	6.0	6.0	33.3%	0.89%	\$290,781	0.0
Yard Piping (5% of Subtotal)	1.91%	\$626,382	12.0	12.0	0.0	0.0	0.0%	0.00%	\$0	0.0
Subtotal	48.35%	\$15,856,310						9.26%	\$3,036,800	
ASR Wells	12.77%	\$4,187,902	12.0	12.0	0.0	0.0	0.0%	0.00%	\$0	0.0
Site Work @ 5%	2.42%	\$793,635	30.0	12.0	18.0	6.0	20.0%	0.48%	\$158,727	12.0
Subtotal	63.54%	\$20,837,848						9.74%	\$3,195,527	
Land/Reservoir	11.34%	\$3,718,936	30.0	12.0	18.0	6.0	20.0%	2.27%	\$743,787	12.0
Engineering/Const. Management @ 15%	9.53%	\$3,125,349	22.1	12.0	10.1	6.0	27.1%	2.59%	\$848,511	4.1
Total Treatment Facility Cost	84.41%	\$27,682,133						14.60%	\$4,787,825	
TRANSMISSION PIPELINE:										
36-Inch Pipeline	11.84%	\$3,882,910	23.0	12.0	11.0	11.0	47.8%	5.66%	\$1,857,044	0.0
12-Inch Pipeline	1.72%	\$564,071	12.0	12.0	0.0	0.0	0.0%	0.00%	\$0	0.0
Subtotal	13.56%	\$4,446,982						5.66%	\$1,857,044	
Engineering/Const. Management @ 15%	2.03%	\$665,735	22.1	12.0	10.1	10.1	45.7%	0.93%	\$304,250	0.0
Total Transmission Pipeline Cost	15.59%	\$5,112,717						6.59%	\$2,161,294	
TOTAL ALL FACILITIES	100.00%	\$32,794,850						21.19%	\$6,949,119	

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ORIGINAL FACILITY ACQUISITION
(12 MGD TREATMENT CAPACITY)

** OFFICIAL RECORDS **
BOOK 2855 PAGE 236

Process Description	Portion of Total Acquisition Cost (%)	Process Unit Cost (\$)	Process Capacity (mgd)	Previously Committed Process Capacity (mgd)	Process Capacity Available (mgd)	ORIGINAL ACQUISITION (12 MGD)				
						Process Capacity Used (mgd)	Portion of Capacity Used (%)	Portion of Acquisition Cost Used (%)	Cost of Process Capacity Used (\$)	Process Capacity Remaining (mgd)
TREATMENT FACILITY:										
Activated Carbon Storage Tank	0.32%	\$104,944	30.0	0.0	30.0	12.0	40.0%	0.13%	\$41,977	18.0
Decarbonation/Ammoniation Basin	0.20%	\$65,590	15.0	0.0	15.0	12.0	80.0%	0.16%	\$52,472	3.0
Alum/Causic Area	0.10%	\$32,795	30.0	0.0	30.0	12.0	40.0%	0.04%	\$13,118	18.0
Filters	3.69%	\$1,210,130	15.0	0.0	15.0	12.0	80.0%	2.95%	\$968,104	3.0
Filter Equipment	0.05%	\$16,397	15.0	0.0	15.0	12.0	80.0%	0.04%	\$13,118	3.0
Valve Boxes	0.15%	\$49,192	15.0	0.0	15.0	12.0	80.0%	0.12%	\$39,354	3.0
Maintenance Building	1.40%	\$459,128	30.0	0.0	30.0	12.0	40.0%	0.56%	\$183,651	18.0
Chlorination System	0.23%	\$75,428	12.0	0.0	12.0	12.0	100.0%	0.23%	\$75,428	0.0
Fuel Storage Tank	0.16%	\$52,472	30.0	0.0	30.0	12.0	40.0%	0.06%	\$20,989	18.0
Intake Structure	1.75%	\$573,910	30.0	0.0	30.0	12.0	40.0%	0.70%	\$229,564	18.0
Turbidimeter (Intake)	0.03%	\$9,838	30.0	0.0	30.0	12.0	40.0%	0.01%	\$3,935	18.0
Coagulant Aid Facility	0.10%	\$32,795	12.0	0.0	12.0	12.0	100.0%	0.10%	\$32,795	0.0
Activated Carbon Day Tank Structures	0.11%	\$36,074	30.0	0.0	30.0	12.0	40.0%	0.04%	\$14,430	18.0
Solid Contact Unit No. 1	0.81%	\$265,638	6.0	0.0	6.0	6.0	100.0%	0.81%	\$265,638	0.0
Mechanical Equipment Solid Contact Unit No. 1	0.30%	\$98,385	6.0	0.0	6.0	6.0	100.0%	0.30%	\$98,385	0.0
Solid Contact Unit No. 2	0.81%	\$265,638	6.0	0.0	6.0	6.0	100.0%	0.81%	\$265,638	0.0
Mechanical Equipment Solid Contact Unit No. 2	0.11%	\$36,074	6.0	0.0	6.0	6.0	100.0%	0.11%	\$36,074	0.0
Buildings	2.09%	\$685,412	30.0	0.0	30.0	12.0	40.0%	0.84%	\$274,165	18.0
Treated Water Storage Tank	2.13%	\$698,530	12.0	0.0	12.0	12.0	100.0%	2.13%	\$698,530	0.0
pH Transmitter Storage Tank	0.02%	\$6,559	12.0	0.0	12.0	12.0	100.0%	0.02%	\$6,559	0.0
Reservoir Pump Station	0.60%	\$196,769	30.0	0.0	30.0	12.0	40.0%	0.24%	\$78,708	18.0
Pentagon Splitter Box	0.36%	\$118,061	30.0	0.0	30.0	12.0	40.0%	0.14%	\$47,225	18.0
Septic Tank & Drainfield	0.03%	\$9,838	30.0	0.0	30.0	12.0	40.0%	0.01%	\$3,935	18.0
Intake Pumps	4.68%	\$1,534,799	24.0	0.0	24.0	12.0	50.0%	2.34%	\$767,399	12.0
High Service Pumps	3.26%	\$1,069,112	18.7	0.0	18.7	12.0	64.2%	2.09%	\$686,061	6.7
Air Compressors	0.26%	\$85,267	30.0	0.0	30.0	12.0	40.0%	0.10%	\$34,107	18.0
Chlorine Analyzer	0.07%	\$22,956	30.0	0.0	30.0	12.0	40.0%	0.03%	\$9,183	18.0
Retention Pond Pumps	4.13%	\$1,354,427	24.0	0.0	24.0	12.0	50.0%	2.07%	\$677,214	12.0
Diesel Fuel Tank	0.11%	\$36,074	24.0	0.0	24.0	12.0	50.0%	0.06%	\$18,037	12.0
Aerators	0.48%	\$157,415	24.0	0.0	24.0	12.0	50.0%	0.24%	\$78,708	12.0
Causic Feed System	0.07%	\$22,956	30.0	0.0	30.0	12.0	40.0%	0.03%	\$9,183	18.0
Alum Feed System	0.07%	\$22,956	30.0	0.0	30.0	12.0	40.0%	0.03%	\$9,183	18.0
Generator	2.35%	\$770,679	12.0	0.0	12.0	12.0	100.0%	2.35%	\$770,679	0.0
Underground Storage Tanks	0.70%	\$229,564	24.0	0.0	24.0	12.0	50.0%	0.35%	\$114,782	12.0
Transfer Pump Station	0.40%	\$131,179	30.0	0.0	30.0	12.0	40.0%	0.16%	\$52,472	18.0
Transfer Pumps	3.11%	\$1,019,920	12.0	0.0	12.0	12.0	100.0%	3.11%	\$1,019,920	0.0
Meters	0.40%	\$131,179	12.0	0.0	12.0	12.0	100.0%	0.40%	\$131,179	0.0
Activated Carbon Day Tank (River)	0.75%	\$245,961	30.0	0.0	30.0	12.0	40.0%	0.30%	\$98,385	18.0
Activated Carbon Day Tank (Reservoir)	0.62%	\$203,328	24.0	0.0	24.0	12.0	50.0%	0.31%	\$101,664	12.0
Backwash Save-All Pump Station	0.06%	\$19,677	15.0	0.0	15.0	12.0	80.0%	0.05%	\$15,742	3.0
Backwash Save-All Pumps	0.33%	\$108,223	15.0	0.0	15.0	12.0	80.0%	0.26%	\$86,578	3.0
Lawn Sprinkling Pump Station	0.03%	\$9,838	30.0	0.0	30.0	12.0	40.0%	0.01%	\$3,935	18.0
Lawn Sprinkling Pump	0.25%	\$81,987	30.0	0.0	30.0	12.0	40.0%	0.10%	\$32,795	18.0
Coagulant System	0.11%	\$36,074	30.0	0.0	30.0	12.0	40.0%	0.04%	\$14,430	18.0
Activated Carbon Storage Tank Mixers/Pump	0.28%	\$91,826	30.0	0.0	30.0	12.0	40.0%	0.11%	\$36,730	18.0
Subtotal	38.07%	\$12,484,999						25.10%	\$8,232,156	
MCC @ 15% of Subtotal	5.71%	\$1,872,586	18.0	0.0	18.0	12.0	66.7%	3.81%	\$1,248,391	6.0
Valves (7% of Subtotal)	2.66%	\$872,343	18.0	0.0	18.0	12.0	66.7%	1.72%	\$581,562	6.0
Yard Piping (5% of Subtotal)	1.91%	\$626,382	12.0	0.0	12.0	12.0	100.0%	1.91%	\$626,382	0.0
Subtotal	48.35%	\$15,856,310						32.59%	\$10,688,490	
ASR Wells	12.77%	\$4,187,902	12.0	0.0	12.0	12.0	100.0%	12.77%	\$4,187,902	0.0
Site Work @ 5%	2.42%	\$793,635	30.0	0.0	30.0	12.0	40.0%	0.97%	\$317,454	18.0
Subtotal	63.54%	\$20,837,848						46.33%	\$15,193,847	
Land/Reservoir	11.34%	\$3,718,936	30.0	0.0	30.0	12.0	40.0%	4.54%	\$1,487,574	18.0
Engineering/Const. Management @ 15%	9.53%	\$3,125,349	22.1	0.0	22.1	12.0	54.3%	5.17%	\$1,697,022	10.1
Total Treatment Facility Cost	84.41%	\$27,682,133						56.04%	\$18,378,444	
TRANSMISSION PIPELINE:										
36-Inch Pipeline	11.84%	\$3,882,910	23.0	0.0	23.0	12.0	52.2%	6.18%	\$2,025,866	11.0
12-Inch Pipeline	1.72%	\$564,071	12.0	0.0	12.0	12.0	100.0%	1.72%	\$564,071	0.0
Subtotal	13.56%	\$4,446,982						7.90%	\$2,589,938	
Engineering/Const. Management @ 15%	2.03%	\$665,735	22.1	0.0	22.1	12.0	54.3%	1.10%	\$361,485	10.1
Total Transmission Pipeline Cost	15.59%	\$5,112,717						9.00%	\$2,951,423	
TOTAL ALL FACILITIES	100.00%	\$32,794,850						65.04%	\$21,329,867	

FIRST AMENDMENT
TO THE NEW WATER SOURCES FUNDING AGREEMENT
BETWEEN THE
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT
AND
THE PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY
FOR
THE PEACE RIVER OPTION PROJECT (F006)

This FIRST AMENDMENT is made and entered into by and between the SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT, a public corporation created by Chapter 61-691, Laws of Florida, as amended, for itself and on behalf of the Peace River and the Manasota Basin Boards, hereinafter collectively referred to as the "DISTRICT," and THE PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY, an independent special district of the State of Florida, hereinafter referred to as the "AUTHORITY."

WITNESSETH:

WHEREAS, the DISTRICT and the AUTHORITY entered into an Agreement for the development and implementation of The Peace River Option Project, dated November 6, 1995; and

WHEREAS, the parties hereto wish to amend the Agreement to recognize Charlotte County as a new customer of the Peace River Option Water Supply Contract; to include Charlotte County as a participant in the Conservation Reinvestment Fund and to revise the basis for collecting funds; and

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions contained herein, the parties hereby mutually agree to amend the original Agreement, dated November 6, 1995, as follows:

1. That Exhibit "B," Conservation Reinvestment Fund is hereby amended and replaced with Exhibit "B," Conservation Reinvestment Fund, Revision 1, dated July 1, 1997 attached hereto and made a part hereof.
2. This Amendment shall be effective upon execution by all parties.
3. The terms, covenants and conditions of the Agreement dated November 6, 1995 that have not been specifically amended herein, shall continue in existence, are hereby ratified, approved and confirmed, and shall remain binding upon the parties hereto.

WATER SALE AND PURCHASE AGREEMENT

(DeSoto County Sale to Sarasota County)

This Agreement is entered into this 13th day of July 1999, by and between DeSoto County, Florida, a political subdivision of the State of Florida, and Sarasota County, Florida, a political subdivision of the State of Florida (the "Agreement").

WITNESSETH:

WHEREAS, DeSoto County and Sarasota County are each member counties of the Peace River/Manasota Regional Water Supply Authority, an independent Special District created and existing pursuant to Sections 373.1962 and 163.01, Florida Statutes (the "Authority"); and

WHEREAS, DeSoto County and Sarasota County entered into the Amended Peace River Option Water Supply Contract dated March 8, 1996 between the Authority, Charlotte County, DeSoto County and Sarasota County (the "WSA Contract"); and

WHEREAS, Sarasota County has agreed, for the term of WSA Contract or any renewal term thereof, to immediately transfer 0.250 MGD of its allocation to DeSoto County pursuant to Section 7.10 of the WSA Contract, and further give DeSoto County a five (5) year option to effect the transfer of an additional 0.125 MGD of Sarasota County's allocation; and

WHEREAS, DeSoto County desires to sell surplus potable water to Sarasota County

and Sarasota County desires to purchase surplus potable water from DeSoto County; and

WHEREAS, neither DeSoto County nor Sarasota County intend that this Agreement shall modify or supersede the terms of the WSA Contract except as said Contract may relate to the transfer of up to 0.375 MGD of water allocation from Sarasota County to DeSoto County .

NOW, THEREFORE, in consideration of the foregoing premises, which shall be deemed an integral part of this Agreement, the mutual covenants and agreements hereafter set forth, and other good and valuable consideration, the parties intending to be legally bound by the terms hereof agree as follows:

Section 1. TERM. The term of this Agreement shall begin on the date of complete execution by both parties and shall end on September 30, 2016. The terms of this Agreement may be extended by mutual agreement of the parties.

Section 2. REPRESENTATIONS. DeSoto County and Sarasota County make the following representations:

2.1. Each is duly organized and existing in good standing under the laws of the State of Florida and is duly qualified and authorized to carry on the governmental functions and operations as contemplated by this Agreement.

2.2. Each party has the power, authority and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery and performance hereof by it (a) has been duly authorized by its Board of County Commissioners; (b) does not require any other approvals by any other governmental officer or body (except that the parties intend to notify the Authority of the existence of this Agreement); (c) does not require any consent or referendum of the voters; (d) will not violate any judgment, order, law or regulation

applicable to the party; and, (e) does not constitute a default under, or result in the creation of, any lien, charge, encumbrance or security interest upon the assets of the party under any agreement or instrument to which it is a party or by which the party and its assets may be bound or affected.

2.3. There is no action, suit or proceeding, at law or in equity, before or by any court or governmental authority, pending or, to the best of the parties' knowledge, threatened against the party, wherein any unfavorable decision or ruling or finding would materially adversely affect the performance by the party of its obligations hereunder or which, in any way would adversely affect the validity or enforceability of this Agreement.

Section 3. CONDITIONS PRECEDENT. This Agreement is made subject to the following conditions precedent:

3.1. Complete execution of this Agreement by DeSoto County and Sarasota County.

3.2. Execution and delivery of a separate agreement transferring up to 0.375 MGD of Sarasota County's allocation under the WSA to DeSoto County, a copy of which shall be attached hereto as Exhibit "A".

3.3. Continued validity of the parties' representations as of the date of the complete execution of this Agreement by the parties.

Section 4. WATER PURCHASE RIGHTS AND OBLIGATIONS. DeSoto County shall deliver and Sarasota County shall purchase up to 0.375 MGD of potable water upon completion and permitting of the expansion of the Peace River Regional Water Supply Facility and Peace River Regional Transmission System and each day thereafter throughout the term of this Agreement. DeSoto County shall determine the quantity of water to be sold to Sarasota County and shall notify Sarasota County in writing by June 1 of the quantity to be purchased

during the ensuing fiscal year (the "Annual Quantity") and Sarasota County shall purchase the Annual Quantity so determined by DeSoto County, up to an amount not to exceed 0.375 MGD. The Annual Quantity shall be expressed in millions of gallons per day (MGD) which shall not exceed 0.375 MGD. DeSoto County and Sarasota County recognize that circumstances, such as equipment maintenance or failure, construction delays, failure to obtain permits, limitations on permits, transmission line ruptures or defects, acts of God, etc., may prevent the performance by the Authority under the WSA Contract of its obligations pursuant to the WSA Contract to deliver water to DeSoto County. Under such circumstances, Sarasota County is obligated to pay for the Annual Quantity throughout the term of this Agreement so long as DeSoto County is obligated to pay the Authority. Furthermore, if at any time, the Authority should have insufficient potable water available to fully meet the Delivery Schedules of its customers under the WSA Contract for any reason, and as a consequence thereof the Authority should impose a pro-rata reduction in DeSoto County's Delivery Schedule as per paragraph 7.1 of the WSA Contract, there shall be a corresponding pro-rata reduction in Sarasota County's Annual Quantity under this Contract and Sarasota County shall remain obligated to pay for the full cost of its Annual Quantity so long as DeSoto County is obligated to pay the Authority.

Section 5. COST OF WATER.

5.1. The cost of water per thousand gallons for any given Fiscal year shall be calculated as the DeSoto County's Base Rate Charge as defined in paragraph 1.1 of the WSA Contract less that portion of the Debt Service Cost component of the Base Rate Charge allocated to DeSoto County with respect to the expansion of the Regional Transmission System.

The cost of water per thousand gallons according to the example set forth as Alternate 2 in the attached Exhibit "B" would be calculated as follows:

	Total Unit Cost / 1,000 Gallons	\$ 1.63
Less:	Transmission Expansion / 1,000 Gallons	<u>0.12</u>
	Cost / 1,000	\$ 1.51

5.2. For any given month the amount which Sarasota County shall pay DeSoto County shall be determined according to the following formula:

TOTAL MONTHLY COST OF WATER PURSUANT TO PARAGRAPH 5.1 = THE
ANNUAL QUANTITY EXPRESSED IN MGD X DAYS OF MONTH X 1000 X COST
PER THOUSAND GALLONS

Section 6. GENERAL CONDITIONS.

6.1. DeSoto County shall not be required to deliver water to Sarasota County until completion of the System contemplated under the terms of the WSA Contract and receipt of certification from the Florida Department of Environmental Protection to operate the System. The DeSoto County's obligation to deliver water to Sarasota County is limited to the water supplied under and WSA Agreement and transferred by Sarasota County to DeSoto County pursuant to that certain Transfer of Water Allocation Agreement attached hereto as Exhibit "A". DeSoto County is not required to provide water to provide Sarasota County with water from any source other than that set out herein.

6.2. DeSoto County will not be required to deliver water to Sarasota County if prohibited by any applicable federal, state, regional or local statute, rule, ordinance, law, administrative order or judicial decree or in violation of applicable permits. Those provisions of the WSA Contract which pertain to the Source of Water, Delivery Point, Water Quality,

Water Measurement and Water Pressures shall be applicable to this Agreement.

6.3. Sarasota County's obligation to pay money to DeSoto County hereunder does not constitute general indebtedness of Sarasota County. Neither DeSoto County nor the holders of any revenue bonds issued by DeSoto County shall have a right to require or compel Sarasota County to exercise its ad valorem taxing power to pay its obligations under this Agreement or to compel payment from any source. Sarasota County, however, shall and does hereby covenant to set water rates for its customers at a level sufficient to pay all monies due DeSoto County under this Agreement.

6.4. Sarasota County shall pay DeSoto County on a monthly basis in accordance with paragraph 5.2 above. DeSoto County shall send an invoice to Sarasota County for these charges on or before the last day of the calendar month following the month in which the charges were incurred. Sarasota County shall remit payment for the monthly charges within thirty(30)days of receipt of the invoice. Failure to pay monies due hereunder shall create a debt owing by the Sarasota County Utilities Department. Sarasota County may be assessed an amount equal to one percent (1%) of the monthly invoice for each month the invoice, or portion thereof, remains unpaid beyond the limited thirty (30) day grace period.

Section 7. DEFAULT AND REMEDY. Recognizing the region's paramount need for a safe and dependable source of water supply, the parties agree that this Agreement may not be terminated prior to the normal expiration date specified in Section 1 hereof and the remedy for a breach of this Agreement shall be specific performance, injunctive relief and any other equitable relief, as well as monetary damages.

Section 8. APPLICABLE LAW AND VENUE. The laws of the State of Florida shall govern the validity, interpretation, construction and performance of this Agreement and venue for any suit

involving this Agreement shall be in Manatee County, Florida.

Section 9. ASSIGNMENT AND SERVICE. No assignment, delegation, transfer or novation of this Agreement or any part thereof shall be made unless approved in writing by all parties.

Section 10. WAIVER. Unless otherwise specifically provided by the terms of this Agreement, no delay or failure to exercise a right resulting from any breach of this Agreement shall impair such right or shall be construed to be a waiver hereof, but such right may be exercised from time to time and as often as may be deemed expedient. Any waiver shall be in writing and signed by the party granting such waiver. If any representation, warranty or covenant contained in this Agreement is breached by any party and thereafter waived by another party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive, either expressly or impliedly, any other breach under this Agreement.

Section 11. SECTION CAPTIONS AND REFERENCES. The section headings and captions contained herein are included for convenience only and shall not be considered part of this Agreement or affect in any manner its construction or interpretation. Except as otherwise indicated, all references herein to section are to sections of this Agreement.

Section 12. SEVERABILITY. In the event that any provision of this Agreement shall, for any reason, be determined invalid, illegal or unenforceable in any respect, the parties hereto shall negotiate in good faith and agree to such amendments, modifications or supplements of this Agreement or such other appropriate actions as shall to the maximum extent practicable in the light of such determination implement and give effect to the intentions of the parties as reflected herein, and the other provisions of this Agreement, as amended, modified, supplemented or otherwise affected by such action, shall remain in full force and effect.

Section 13. ATTORNEYS' FEES AND COSTS. In the event there is a breach of this

Agreement and it becomes necessary for any party to employ the services of any attorney either to enforce this Agreement or pursue other remedies with litigation or adversarial administrative proceedings, the losing party shall pay to the successful party reasonable attorneys' fees and such reasonable costs and expenses as are incurred in enforcing this Agreement or pursuing other remedies, to the extent allowed by law.

Section 14. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and inure to the benefit of the respective successors, permitted assigns, administrators and trustees of this Agreement.


Section 15. INTERLOCAL AGREEMENT. This Agreement shall constitute an interlocal agreement pursuant to Section 163.01, Florida Statutes. A true and correct copy of this Agreement and any subsequent amendments shall be recorded with the Clerk of the Circuit Court in DeSoto and Sarasota counties.

Section 16. AMBIGUITY. The parties hereto agree that each one has played an equal part in the negotiation and drafting of this Agreement, and in the event of any ambiguity should be asserted or realized in the interpretation or construction of this Agreement, the result of such ambiguity shall be equally assumed and realized by each party.

IN WITNESS WHEREOF, DeSoto County and Sarasota County have entered into this Agreement on the day, month and year first above written.

DESOTO COUNTY FLORIDA, a political subdivision or the State of Florida

By: DeSoto County Board of County Commissioners

By: 
William R. Avant, Chairman

ATTEST:

Robert Koncar

Robert Koncar, County Administrator
and Ex-Officio Clerk of the Board of
County Commissioners of DeSoto County, Florida

APPROVED AS TO FORM AND CORRECTNESS:

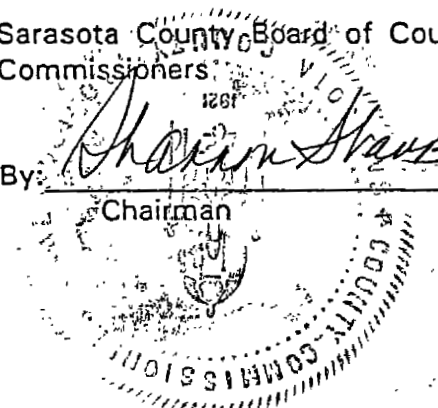
Preston T. Everett

~~Gay XXXXXXX~~ County Attorney
Preston T. Everett

SARASOTA COUNTY FLORIDA, a political
subdivision of the State of Florida

By: Sarasota County Board of County
Commissioners

By: Sharon Stubb
Chairman



ATTEST:

KAREN E. RUSHING, Clerk of the
Circuit and Ex-Officio Clerk of the
Board of County Commissioners of
Sarasota County, Florida

Karen E. Rushing

Deputy Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Step ED SED
County Attorney

EXHIBIT "A"

TRANSFER OF WATER ALLOCATION AGREEMENT

(Sarasota County to DeSoto County)

This Agreement is entered into this 13th day of July 1999, by and between DeSoto County, Florida, a political subdivision of the State of Florida, and Sarasota County, Florida, a political subdivision of the State of Florida (the "Agreement").

WITNESSETH:

WHEREAS, DeSoto County and Sarasota County are each member counties of the Peace River/Manasota Regional Water Supply Authority, an independent Special District created and existing pursuant to Sections 373.1962 and 163.01, Florida Statutes (the "Authority"); and

WHEREAS, DeSoto County and Sarasota County entered into the Amended Peace River Option Water Supply Contract dated March 8, 1996 between the Authority, Charlotte County, DeSoto County and Sarasota County (the "WSA Contract"); and

WHEREAS, Sarasota County has agreed, for the term of WSA Contract or any renewal term thereof, to transfer, effective immediately, 0.250 MGD of its allocation to DeSoto County pursuant to Section 7.10 of the WSA Contract; and

WHEREAS, Sarasota County has further agreed to give DeSoto County a five year option in which to effect the transfer of an additional 0.125 MGD of Sarasota County's allocation, pursuant to Section 7.10 of the WSA Contract, for the term of WSA Contract or

any renewal term thereof; and

WHEREAS, neither DeSoto County nor Sarasota County intend that this Agreement shall modify or supersede the terms of the WSA Contract except as said Contract may relate to the transfer of up to 0.375 MGD of water allocation from Sarasota County to DeSoto County.

NOW, THEREFORE, in consideration of the foregoing premises, which shall be deemed an integral part of this Agreement, and other good and valuable consideration, the parties intending to be legally bound by the terms hereof agree as follows:

Section 1. TRANSFER OF ALLOCATION. Sarasota County hereby transfers, effective immediately, and DeSoto County hereby accepts, for the term of WSA Contract or any renewal term thereof, 0.250 MGD of Sarasota County's Water Allocation under the WSA Contract. Pursuant to Section 7.10 of the WSA notice of this transfer of allocation shall be delivered to the Authority and revised allocations and schedules shall be recorded with the Clerks of Circuit Court in Charlotte, DeSoto and Sarasota Counties.

Section 2. OPTION FOR TRANSFER OF ADDITIONAL ALLOCATION. Sarasota County hereby gives DeSoto County a five year option, beginning on the effective date of this interlocal agreement, to effect the transfer of an additional 0.125 MGD of Sarasota County's Water Allocation under the WSA Contract for the term of WSA Contract or any renewal term thereof. This option may be exercised by DeSoto County through the adoption of a Resolution of the DeSoto County Board of County Commissioners and delivery of such Resolution to Sarasota County. Pursuant to Section 7.10 of the WSA, a copy of the Resolution exercising the option shall also be delivered to the Authority and revised allocations and schedules shall be recorded with the Clerks of Circuit Court in Charlotte, DeSoto and Sarasota Counties.

Section 3. PROHIBITION ON RESALE OF WATER. DeSoto County shall not sell water obtained pursuant to this Agreement to an entity for purposes of servicing customers located outside the territorial boundaries of DeSoto County, provided that, DeSoto County may sell water obtained pursuant to this Agreement without restriction to other members of the Authority.

Section 3-4. INTERLOCAL AGREEMENT. This Agreement shall constitute an interlocal agreement pursuant to Section 163.01, Florida Statutes. A true and correct copy of this Agreement and any subsequent amendments shall be recorded with the Clerk of the Circuit Court in DeSoto and Sarasota counties.

IN WITNESS WHEREOF, DeSoto County and Sarasota County have entered into this Agreement on the day, month and year first above written.

DESOTO COUNTY FLORIDA, a political subdivision or the State of Florida

By: DeSoto County Board of County Commissioners

By: William R Avant
William R Avant, Chairman


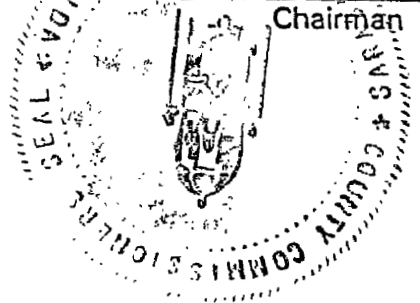
ATTEST:

Robert Koncar
Robert Koncar, County Administrator
and Ex-Officio Clerk of the Board of
County Commissioners of DeSoto County, Florida
APPROVED AS TO FORM AND CORRECTNESS:

Preston T. Everett
~~Gary A. Worlock~~, County Attorney
Preston T. Everett

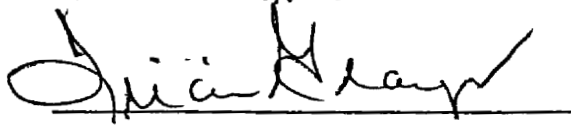
SARASOTA COUNTY FLORIDA, a political subdivision or the State of Florida

By: Sarasota County Board of County Commissioners

By: 
Chairman


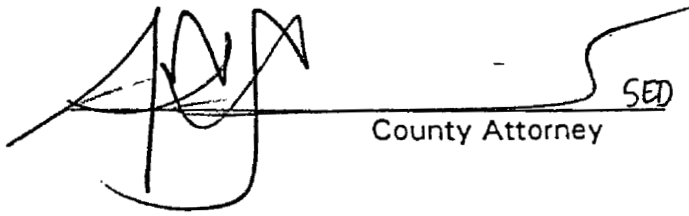
ATTEST:

KAREN E. RUSHING, Clerk of the Circuit and Ex-Officio Clerk of the Board of County Commissioners of Sarasota County, Florida

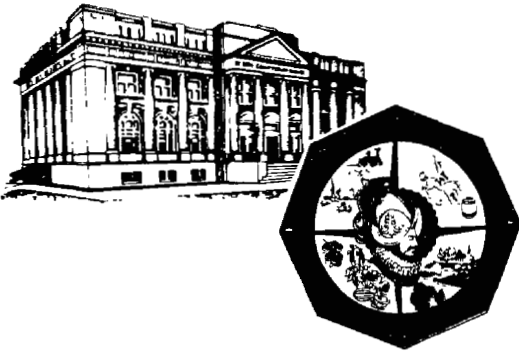


Deputy Clerk

APPROVED AS TO FORM AND CORRECTNESS:


County Attorney

BOARD OF COUNTY COMMISSIONERS
DESOTO COUNTY



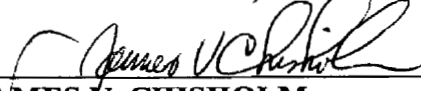
Administration Building
Suite 201
201 East Oak Street
Arcadia, Florida 34266
(863) 993-4800
SunCom 740-4800
Fax (863) 993-4809

NOTICE TO FLORIDA PUBLIC SERVICE COMMISSION

DeSoto County certifies the following statements to be true and correct:

1. DeSoto County Utilities, with its Utility Director, Vincent Akhimie, P.E., is neighboring utilities to Lake Suzy Utilities.
2. DeSoto County's service area includes all of the service areas surrounding Lake Suzy Utilities within DeSoto County.
3. Based upon review of the Florida Public Service Commission records, no notice has been given to DeSoto County concerning the transfer of Lake Suzy Utilities as of July 28th, 2003.
4. DeSoto County wishes to be noticed on any transfer of ownership, rate case, or other action concerning Lake Suzy Utilities, which is an AquaAmerica Florida, Inc. formerly an AquaSource Utility, Inc. property.
5. DeSoto County wishes to be an interested party in any and all activities concerning Lake Suzy Utilities.

**BOARD OF COUNTY COMMISSIONERS
DESOTO COUNTY, FLORIDA**



**JAMES V. CHISHOLM
COUNTY ADMINISTRATOR**