

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application of ISLAND )  
ENVIRONMENTAL UTILITY, INC., for )  
original Water Certificate in Charlotte )  
County, Florida. ) DOCKET NO. 020745-SU  
\_\_\_\_\_ )

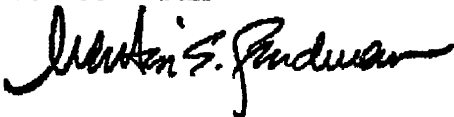
**NOTICE OF FILING**

Applicant, ISLAND ENVIRONMENTAL UTILITY, INC., hereby notices filing in the above-referenced docket the Exhibits to the Rebuttal Testimony of John R. Boyer, which were inadvertently not attached to the Rebuttal Testimony of John R. Boyer when filed with the Clerk on January 14, 2004.

Respectfully submitted on this  
15th day of January, 2004, by:

ROSE, SUNDSTROM & BENTLEY, LLP  
600 S. North Lake Boulevard  
Suite 160  
Altamonte Springs, Florida 32701  
(407) 830-6331  
(407) 830-8522 Fax

By: \_\_\_\_\_



MARTIN S. FRIEDMAN

DOCUMENT NUMBER-DATE

00627 JAN 15 2004

FPSC-COMMISSION CLERK

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 020745-SU**

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice and Exhibits to Rebuttal Testimony of John R. Boyer have been furnished by Hand Delivery this 15<sup>th</sup> day of January, 2004, to:

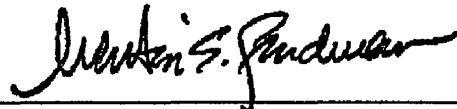
Rosanne Gervasi, Esquire  
Office of General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

and by U.S. Mail on the 15<sup>th</sup> day of January, 2004 to:

Jannette Knowlton, Esquire  
Assistant County Attorney  
18500 Murdock Circle  
Port Charlotte, FL 33948

Mr. Ronald Koenig  
8006 Lago Vista Drive  
Tampa, FL 33614

Mrs. Linda Bamfield  
Post Office Box 5063  
Grove City, FL 34224



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MARTIN S. FRIEDMAN

BEFORE THE PUBLIC SERVICE COMMISSION  
REGARDING THE APPLICATION FOR CERTIFICATE TO PROVIDE  
WASTEWATER SERVICE IN  
CHARLOTTE COUNTY, FLORIDA BY  
ISLAND ENVIRONMENTAL UTILITY, INC.

Docket No. 020745-SU

**EXHIBITS TO  
REBUTTAL TESTIMONY OF  
JOHN R. BOYER**

Exhibit \_\_\_\_ (JRB-4)

Copy of Application for certificate and amendments

Exhibit \_\_\_\_ (JRB-4)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application of ISLAND )  
ENVIRONMENTAL UTILITY, INC. )  
for an original Wastewater Certificate )  
in Charlotte County, Florida. ) DOCKET NO. 020745-SU  
\_\_\_\_\_ )

**CORRECTED AMENDMENT TO APPLICATION FOR ORIGINAL CERTIFICATE**

Island Environmental Utility, Inc. ("Utility"), by and through its undersigned attorneys, files this Corrected Amendment to its Application for an Original Certificate as follows:

1. The Utility no longer intends to purchase the wastewater plant and facilities from Knight Island Utility, Inc., nor provide service within the area currently being served by Knight Island Utility, Inc.. Thus, attached is Second Amended Exhibit "E" reflecting the deletion of the Knight Island Utility, Inc., area from this Application. Also attached is a corrected Original Sheet No. 3.1 of Exhibit "D" to reflect the revised service area.

2. No permits have yet been issued. The Utility intends to enter into an agreement with the Englewood Water District to provide bulk wastewater treatment and disposal.

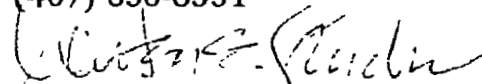
3. Since obtaining service from Englewood Water District will involve cost and expenses different from that of the Utility's original proposal to purchase an existing wastewater treatment plant, the Utility requests that this case be bifurcated and the certificate portion of the case be considered first and the rates and charges

established as was done with regard to North Sumter Utility Company, LLC, in Order No. PSC-02-0179-FOF-WS

WHEREFORE, Island Environmental Utility, Inc., requests this Court accept these amendments and bifurcate.

Respectfully submitted on this  
19<sup>TH</sup> day of December, 2002, by:

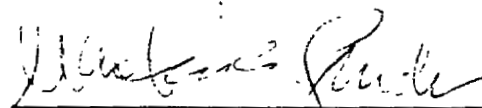
ROSE, SUNDSTROM & BENTLEY, LLP  
600 S. North Lake Boulevard, Suite 160  
Altamonte Springs, FL 32701  
(407) 830-6331



MARTIN S. FRIEDMAN  
For the Firm

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail this 19<sup>TH</sup> day of December, 2002, to: All persons and entities on the attached list.



MARTIN S. FRIEDMAN  
For the Firm

LEGAL DESCRIPTION

That portion of Sections 28, 32 and 33, and the South ½ of Section 29, Township 41 South, Range 20 East, and Sections 3 and 4, Township 42 South, Range 20 East, bounded on the West by the Gulf of Mexico, on the East by the Intercoastal Waterway, on the South by Gasparilla Pass, and on the North by Stump Pass, consisting of Thornton Key, Knight Island, Don Pedro Island and Little Gasparilla Island all in Charlotte County, Florida.

SECOND AMENDED  
EXHIBIT "E"

NAME OF COMPANY: ISLAND ENVIRONMENTAL UTILITY, INC.

WASTEWATER TARIFF

(Continued from Sheet No. 3.0)

DESCRIPTION OF TERRITORY SERVED

That portion of Sections 28, 32 and 33, and the South ½ of Section 29, Township 41 South, Range 20 East, and Sections 3, 4, 15, 16, 21, 22 and 27 Township 42 South, Range 20 East, bounded on the West by the Gulf of Mexico, on the East by the Intercoastal Waterway, on the South by Gasparilla Pass, and on the North by Stump Pass, consisting of Thornton Key, Knight Island, Don Pedro Island and Little Gasparilla Island in Charlotte County, Florida.

(Continued of Sheet No. 3.2)

JACK BOYER  
ISSUING OFFICER

PRESIDENT  
TITLE



LIST OF WATER AND WASTEWATER UTILITIES IN CHARLOTTE COUNTY

(VALID FOR 60 DAYS)  
12/18/2002-02/15/2003

<u>UTILITY NAME</u>	<u>MANAGER</u>
<u>CHARLOTTE COUNTY</u>	
BGCILLA UTILITIES, INC. (WU744) 7025-A PLACIDA ROAD ENGLEWOOD, FL 34224-6758	R. CRAIG NODEN (941) 697-2000
FLORIDA WATER SERVICES CORPORATION (WS565) P. O. BOX 609520 ORLANDO, FL 32960-9520	CARLYN KOWALSKY (407) 598-4297
FLORIDA WATER SERVICES CORPORATION (WS734) P. O. BOX 609520 ORLANDO, FL 32860-9520	CARLYN KOWALSKY (407) 598-4297
HUNTER CREEK UTILITIES, LLC (WS807) P. O. BOX 716 VAILS GATE NY 12584-0716	JOHN LEONETTE (845) 569-2590
LAKE SUZY UTILITIES, INC. (WS798) % AQUASOURCE, INC. 411 SEVENTH AVENUE, MD, 34-3 PITTSBURGH, PA 15219-1919	WILLIAM V. PFROMMER (412) 393-3623
LITTLE GASPARILLA WATER UTILITY, INC. (WU838) P. O. BOX 5145 GROVE CITY FL 34224-0145	JOHN R. BOYER (941) 626-8294
NHC UTILITIES, INC. (WU796) 3737 EL JOBEAN ROAD (SR776) PORT CHARLOTTE, FL 33953-5699	ROBERT RAMSDEN (941) 624-4511
TOWN AND COUNTRY UTILITIES COMPANY (WU811) 2220 PALMER STREET PITTSBURGH, PA 15218-2603	RICHARD S. CUDAS (941) 639-3958
UTILITIES, INC. OF SANDALHAVEN (SJB09) 200 WEATHERSFIELD AVENUE ALTAMONTE SPRINGS, FL 32714-4099	DONALD RASMUSSEN (407) 869-1919

LIST OF WATER AND WASTEWATER UTILITIES IN CHARLOTTE COUNTY

(VALID FOR 60 DAYS)  
12/18/2002-02/15/2003

UTILITY NAME

MANAGER

GOVERNMENTAL AGENCIES

BOARD OF COUNTY COMMISSIONERS, CHARLOTTE COUNTY  
CHARLOTTE COUNTY ADMINISTRATION CENTER  
18500 MURDOCK CIRCLE, ROOM 536  
PORT CHARLOTTE, FL 33948-1094

CLERK OF THE CIRCUIT COURT \*CHARLOTTE COUNTY  
CHARLOTTE COUNTY ADMINISTRATION CENTER  
18500 MURDOCK CIRCLE, ROOM 423  
PORT CHARLOTTE, FL 33948-1094

DEP SOUTH DISTRICT  
2295 VICTORIA AVE., SUITE 364  
FORT MYERS, FL 33901

MAYOR, CITY OF PUNTA GORDA  
326 WEST MARION AVENUE  
PUNTA GORDA, FL 33950-4492

S.W. FLORIDA REGIONAL PLANNING COUNCIL  
P. O. BOX 3455  
NORTH FT. MYERS, FL 33916-3455

S.W. FLORIDA WATER MANAGEMENT DISTRICT  
2379 BROAD STREET  
BROOKSVILLE, FL 34609-6899

SOUTH FLORIDA WTR MANAGEMENT DISTRICT  
P.O. BOX 24680  
WEST PALM BEACH, FL 33416-4680

LIST OF WATER AND WASTEWATER UTILITIES IN CHARLOTTE COUNTY

(VALID FOR 60 DAYS)  
12/18/2002-02/15/2003

UTILITY NAME

MANAGER

STATE OFFICIALS

STATE OF FLORIDA PUBLIC COUNSEL  
C/O THE HOUSE OF REPRESENTATIVES  
THE CAPITOL  
TALLAHASSEE, FL 32399-1300

DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES  
FLORIDA PUBLIC SERVICE COMMISSION  
2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application of ISLAND )  
ENVIRONMENTAL UTILITY, INC. )  
for an original Wastewater Certificate )  
in Charlotte County, Florida. ) DOCKET NO. 020745-SU  
\_\_\_\_\_ )

**AMENDMENT TO APPLICATION FOR ORIGINAL CERTIFICATE**

Island Environmental Utility, Inc. ("Utility"), by and through its undersigned attorneys, files this Amendment to its Application for an Original Certificate as follows:

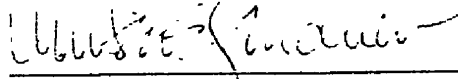
1. The Utility no longer intends to purchase the wastewater plant and facilities from Knight Island Utility, Inc., nor provide service within the area currently being served by Knight Island Utility, Inc.. Thus, attached is Second Amended Exhibit "E" reflecting the deletion of the Knight Island Utility, Inc., area from this Application. Also attached is a corrected Original Sheet No. 3.1 of Exhibit "D" to reflect the revised service area.
2. Part I, D. should be amended to reflect that John R. Boyer will be the resident, Secretary and Treasurer and the sole Director. Mr. Boyer will also be the sole shareholder.
3. No permits have yet been issued. The Utility intends to enter into an agreement with the Englewood Water District to provide bulk wastewater treatment and disposal.
4. Since obtaining service from Englewood Water District will involve cost and expenses different from that of the Utility's original proposal to purchase an existing wastewater treatment plant, the Utility requests that this case be bifurcated

and the certificate portion of the case be considered first and the rates and charges established as was done with regard to North Sumter Utility Company, LLC, in Order No. PSC-02-0179-FOF-WS

WHEREFORE, Island Environmental Utility, Inc., requests this Court accept these amendments and bifurcate.

Respectfully submitted on this  
11<sup>th</sup> day of December, 2002, by:

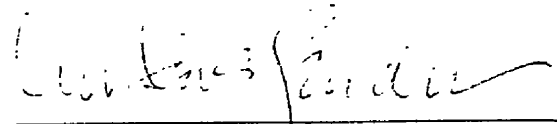
ROSE, SUNDSTROM & BENTLEY, LLP  
600 S. North Lake Boulevard, Suite 160  
Altamonte Springs, FL 32701  
(407) 830-6331

  
\_\_\_\_\_  
MARTIN S. FRIEDMAN  
For the Firm

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail this 11<sup>th</sup> day of December, 2002, to:

M. Christopher Bryant, Esquire  
Oertel, Hoffman, Fernandez & Cole, P.A.  
Post Office Box 1110  
Tallahassee, FL 32302-1110

  
\_\_\_\_\_  
MARTIN S. FRIEDMAN  
For the Firm

LEGAL DESCRIPTION

That portion of Sections 28, 32 and 33, and the South ½ of Section 29, Township 41 South, Range 20 East, and Sections 3 and 4, Township 42 South, Range 20 East, bounded on the West by the Gulf of Mexico, on the East by the Intercoastal Waterway, on the South by Gasparilla Pass, and on the North by Stump Pass, consisting of Thornton Key, Knight Island, Don Pedro Island and Little Gasparilla Island all in Charlotte County, Florida.

SECOND AMENDED  
EXHIBIT "E"

NAME OF COMPANY: ISLAND ENVIRONMENTAL UTILITY, INC.

WASTEWATER TARIFF

(Continued from Sheet No. 3.0)

DESCRIPTION OF TERRITORY SERVED

That portion of Sections 28, 32 and 33, and the South ½ of Section 29, Township 41 South, Range 20 East, and Sections 3, 4, 15, 16, 21, 22 and 27 Township 42 South, Range 20 East, bounded on the West by the Gulf of Mexico, on the East by the Intercoastal Waterway, on the South by Gasparilla Pass, and on the North by Stump Pass, consisting of Thornton Key, Knight Island, Don Pedro Island and Little Gasparilla Island in Charlotte County, Florida.

(Continued of Sheet No. 3.2)

JACK BOYER  
ISSUING OFFICER

PRESIDENT  
TITLE

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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AUG 29 PM 12:01  
COMMISSION  
CLERK

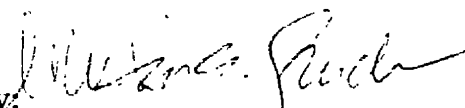
IN RE: Application of ISLAND )  
ENVIRONMENTAL UTILITY, INC., for )  
original Water Certificate in Charlotte )  
County, Florida. ) DOCKET NO. 020745-SU  
\_\_\_\_\_ )


**NOTICE OF FILING**

Applicant, ISLAND ENVIRONMENTAL UTILITY, INC., hereby notices the filing of Late Filed Exhibit "I", which is the Affidavit of Notice to Property Owners in the above-referenced docket.

Respectfully submitted on this  
29th day of August, 2002, by:

ROSE, SUNDSTROM & BENTLEY, LLP  
650 S. North Lake Boulevard  
Suite 420  
Altamonte Springs, Florida 32701  
(407) 830-6331  
(407) 830-8522 Fax

By:   
\_\_\_\_\_  
MARTIN S. FRIEDMAN

RECEIVED & FILED  
  
\_\_\_\_\_  
FPSC-BUREAU OF RECORDS



AFFIDAVIT OF MAILING

STATE OF FLORIDA

COUNTY OF CHARLOTTE

Before me, the undersigned authority, authorized to administer oaths and take acknowledgments, personally appeared Jack Boyer, who, after being duly sworn on oath, did depose on oath and say that he is the President of Island Environmental Utility, Inc. and that on ~~July~~ <sup>August</sup> 16, 2002, he/she did send by first class U.S. Mail a copy of the notice attached hereto to the property owners of the proposed territory.

FURTHER AFFIANT SAYETH NAUGHT.

By: \_\_\_\_\_  


Sworn to and subscribed before me this 16<sup>th</sup> day of ~~July~~ <sup>August</sup>, 2002, by Jack Boyer as President of Island Environmental Utility, Inc. He/she is personally known to me or has provided \_\_\_\_\_ as identification.


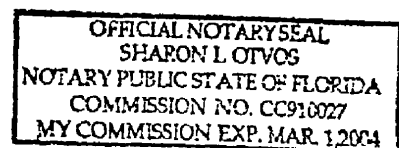
  
Print Name: Sharon L. Otvos  
NOTARY PUBLIC  
My Commission Expires:

EXHIBIT "I"



NOTICE OF APPLICATION FOR AN INITIAL  
CERTIFICATE OF AUTHORIZATION  
FOR WASTEWATER CERTIFICATE

August 16, 2002.

Island Environmental Utility, Inc., P. O. Box 5145, Grove City, Florida 34224, pursuant to Sections 367.031 and 367.045, Florida Statutes, hereby notices its intent to apply to the Florida Public Service Commission for a certificate to provide wastewater service to the following described property in Charlotte County, Florida:

That portion of Sections 19, 20, 28, 29, 32 and 33, Township 41 South, Range 20 East, and Sections 3 and 4, Township 42 South, Range 20 East, bounded on the West by the Gulf of Mexico, on the East by the Intercoastal Waterway, on the South by Gasparilla Pass, and on the North by Stump Pass, consisting of Thornton Key, Knight Island, Don Pedro Island and Little Gasparilla Island.

Any objections to the Application must be filed with the Director, Division of Records & Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, with a copy to Martin S. Friedman, Esquire, Rose, Sundstrom & Bentley, LLP, 2548 Blairstone Pines Drive, Tallahassee, Florida 32301, no later than 30 days after the last date that the Notice was mailed or published, whichever is later.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

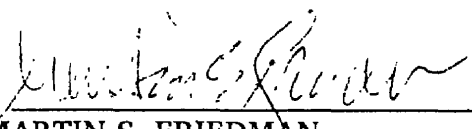
IN RE: Application of ISLAND )  
ENVIRONMENTAL UTILITY, INC., for )  
original Water Certificate in Charlotte )  
County, Florida. ) DOCKET NO. 020745-SU  
\_\_\_\_\_ )

**NOTICE OF FILING**

Applicant, ISLAND ENVIRONMENTAL UTILITY, INC., hereby notices the filing of Late Filed Exhibit "J", which is the Affidavit of Publication in the above-referenced docket.

Respectfully submitted on this  
20th day of August, 2002, by:

ROSE, SUNDSTROM & BENTLEY, LLP  
650 S. North Lake Boulevard  
Suite 420  
Altamonte Springs, Florida 32701  
(407) 830-6331  
(407) 830-8522 Fax

By:   
\_\_\_\_\_  
MARTIN S. FRIEDMAN



**A SUN COAST MEDIA GROUP, INC PUBLICATION**

**Printers and Publishers of the  
Charlotte Sun  
Englewood Sun  
North Port Sun  
DeSoto Sun  
Venice Gondolier**

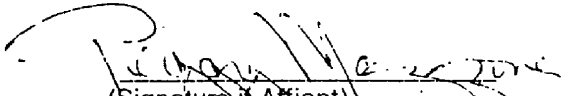
**PUBLISHER'S AFFIDAVIT OF PUBLICATION**

STATE OF FLORIDA  
COUNTY OF CHARLOTTE:

Before the undersigned authority personally appeared Peggy Mazzone, who on oath says that she is legal clerk of the (Charlotte Sun, Englewood Sun, DeSoto Sun, North Port Sun, Venice Gondolier Sun), a newspaper published at Charlotte Harbor in Charlotte County, Florida; that the attached copy of advertisement, being a Notice of Application, was published in said newspaper in the issues of:

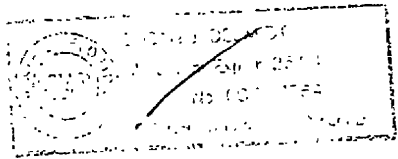
July 25, 2002

Affiant further says that the said newspaper is a newspaper published at Charlotte Harbor, in said Charlotte County, Florida, and that the said newspaper has heretofore been continuously published in said Charlotte County, Florida, Sarasota County, Florida and DeSoto County, Florida, each day and has been entered as periodicals matter at the post office in Punta Gorda, in said Charlotte County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

  
(Signature of Affiant)

Sworn and subscribed before me this 26th day of July, 2002.

  
(Signature of Notary Public)



NOTICE OF APPLICATION  
FOR AN INITIAL CERTIFICATE  
OF AUTHORIZATION FOR  
WATER CERTIFICATE July 25,  
2002

Knight Water Utility, Inc.,  
7092 Placida Road, Cape  
Haze, Florida 33946  
pursuant to Sections  
367.031 and 367.045,  
Florida Statutes, hereby  
notices its intent to apply to  
the Florida Public Service  
Commission for a certificate  
to provide water service to  
the following described  
property in Charlotte County,  
Florida:

That portion of Sections 19,  
20, and 29 in Township 41  
South, Range 20 East  
bounded on the West by the  
Gulf of Mexico, on the East  
by the Intercoastal  
Waterway, on the North by  
Stump Pass and on the  
South approximately by the  
South line of the North One-  
Half of the aforementioned  
Section 29, consisting of  
Thornton Key, Knight Island  
and Don Pedro Island.

Any objections to the  
Application must be filed  
with the Director, Division of  
Records & Reporting, 2540  
Shumard Oak Boulevard,  
Tallahassee, Florida 32399-  
0850, with a copy to Martin  
S. Friedman, Esquire, Rose,  
Sundstrom & Bentley, LLP,  
2548 Blairstone Pines Drive,  
Tallahassee, Florida 32301,  
no later than 30 days after  
the last date that the Notice  
was mailed or published,  
whichever is later.

Publish: July 25, 2002  
p501970 p115480

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application of ISLAND )  
ENVIRONMENTAL UTILITY, INC. )  
for an original Wastewater Certificate )  
in Charlotte County, Florida. ) DOCKET NO.  
\_\_\_\_\_ )

RECEIVED FPSC  
JUL 17 PM 12:22  
COMMISSION  
CLERK

APPLICATION FOR ORIGINAL CERTIFICATE

Island Environmental Utility, Inc., by and through its undersigned attorneys and pursuant to Section 367.045, Florida Statutes and Rule 25-30.034, Florida Administrative Code, hereby applies for an original certificate to operate a wastewater utility in Charlotte County, Florida, and submits the following information:

PART I APPLICANT INFORMATION

A. The full name, address and telephone number of the Applicant:

Island Environmental Utility, Inc.  
7092 Placida Road  
Cape Haze, FL 33946

B. The name, address and phone number of the person to contact concerning this application:

Martin S. Friedman, Esquire  
Rose, Sundstrom & Bentley, LLP  
2548 Blairstone Pines Drive  
Tallahassee, Florida 32301  
(850) 877-6555  
(850) 656-4029 fax  
e-mail: [mfriedman@rsbattorneys.com](mailto:mfriedman@rsbattorneys.com)

C. The Applicant is a Florida for profit corporation created on April 29, 2002, and has made an election under Subchapter S to be treated as a small business

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*RZM*  
FPSC-BUREAU OF RECORDS

corporation for tax purposes. Applicant will commence providing wastewater service upon the Commission's approval.

- D. (1) The names and addresses of the officers and directors are as follows:

Garfield R. Beckstead - Director  
7092 Placida Road  
Cape Haze, FL 33946

John R. Boyer - President/Director  
Post Office Box 5145  
Grove City, FL

Dean L. Beckstead, Secretary/Treasurer/Director  
7092 Placida Road  
Cape Haze, FL 33946

- (2) The names of the shareholders, each owning an equal number of shares, are as follows:

Garfield R. Beckstead  
John R. Boyer  
Dean L. Beckstead

## PART II. NEED FOR SERVICE

- A. The territory proposed to be served by Applicant was previously served by a not-for-profit corporation, Knight Island Utility, Inc., which has decided it does not want to continue to provide wastewater service to its members. This Commission determined Knight Island Utility, Inc. to be exempt in Order No. PSC-96-0039-FOF-WS issued January 10, 1996. The portion of proposed territory which is not currently being served consists of developed and undeveloped lots, generally too small to allow each to have a potable water well and septic tank due to the separation requirements.
- B. To the best of Applicant's knowledge, the provision of service will be consistent with the wastewater section of local comprehensive plan, as approved by the Department of Community Affairs.

### PART III. SYSTEM INFORMATION

#### A. WASTEWATER

B. (1) The Applicant proposes to provide wastewater service within the entire service area.

(2) The customers consist of single family detached, single family attached, condominiums and limited general service (restaurant).

(3) Attached as Exhibit "A" is a copy of the current permit from the Department of Environmental Protection for the operation of the wastewater treatment plant. This permit will be transferred to Applicant.

(4) Attached as Exhibit "B" is a copy of a Lease upon which the wastewater treatment plant is located. This Lease will be assigned to and assumed by Applicant upon approval of the Commission.

### PART IV - FINANCIAL AND TECHNICAL INFORMATION

A. (1) Financial Ability. Attached as Exhibit "C" is a Statement of Operations for the wastewater system under its current operations. As can be seen from the Statement of Operations, the operation shows net income. In addition, the personal financial statements of the shareholders are available for inspection by the Staff.

(2) Technical Ability. The Applicant has retained the following professionals with regard to the construction, operation, and regulation of its wastewater system:

WilsonMiller, Inc. - engineers  
Gueltzow Utilities, Inc. - operations  
Rose, Sundstrom & Bentley, LLP - legal

(3) Jack Boyer, one of the owners of Applicant, is also the owner of Little Gasparilla Water Utility, Inc. which is certified by the Commission to provide water service in Charlotte County, Florida, including a portion of the proposed wastewater service area.

B. The Applicant intends to continue to charge the same rates as are currently being charged by the exempt entity.

PART V RATES AND TARIFFS

- A. The original and two copies of wastewater tariff containing all rates, classifications, charges, rules and regulations is attached hereto as Exhibit "D".

PART VI TERRITORY DESCRIPTION AND MAPS

A. TERRITORY DESCRIPTION

An accurate description, using township, range and section references as specified in Rule 25-30.030(2), Florida Administrative Code, of the territory the utility is currently serving is attached hereto as Exhibit "E".

B. TERRITORY MAPS

One copy of an official county GIS map or other map showing township, range and section with a scale such as 1" = 200' or 1" = 400' on which the proposed territory is plotted by use of metes and bounds or quarter sections and with a defined reference point of beginning is attached hereto as Exhibit "F".

C. SYSTEM MAPS

One copy of a detailed map showing existing lines, facilities and the territory to be served is attached hereto as Exhibit "G". A full size copy of the map will be provided directly to Staff when assigned.

PART VII NOTICE OF ACTUAL APPLICATION

- A. Attached as Exhibit "H" is an affidavit that the notice of actual application was given in accordance with Section 367.045(1)(a), Florida Statutes, and Rule 25-30.030, Florida Administrative Code, by regular mail to the following:

1. the governing body of the municipality, county or counties in which the system or territory proposed to be served is located;
2. the privately owned water utility that holds a certificate granted by the Public Service Commission and that is located within the county in which the utility or the territory proposed to be served is located;



3. if any portion of the proposed territory is within one mile of a county boundary, the utility shall notice the privately owned utilities located in the bordering counties and holding a certificate granted by the Commission;
  4. the regional planning council;
  5. the Office of Public Counsel;
  6. the Public Service Commission's Director of Records and Reporting;
  7. the appropriate regional office of the Department of Environmental Protection; and
  8. the appropriate water management district;
- B. An affidavit (including a copy of the Notice), which will be filed as Late Filed Exhibit "I" is the notice of actual application was given in accordance with Rule 25-30.030, Florida Administrative Code, by regular mail or personal delivery to each customer of the system.
- C. Immediately upon completion of publication, Applicant will file an affidavit that the notice of actual application was published once a week in a newspaper of general circulation in the territory in accordance with Rule 25-30.030, Florida Administrative Code. A copy of the proof of publication shall accompany the affidavit and will be filed as Late Filed Exhibit "J".

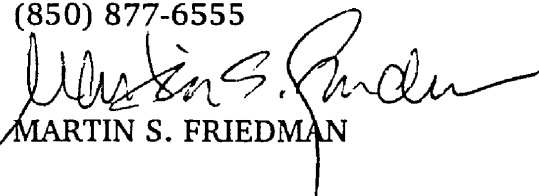
**PART VIII FILING FEE**

Indicate the filing fee enclosed with the application:

The wastewater system can serve up to 500 ERCs so the filing fee is \$750.00.

Respectfully submitted on this  
17th day of July, 2002, by:

ROSE, SUNDSTROM & BENTLEY, LLP  
2548 Blairstone Pines Drive  
Tallahassee, Florida 32301  
(850) 877-6555

  
MARTIN S. FRIEDMAN

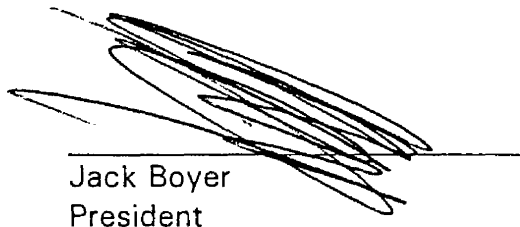
AFFIDAVIT

STATE OF FLORIDA


COUNTY OF CHARLOTTE

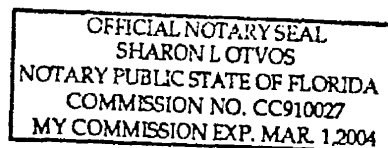
I, Jack Boyer, do solemnly swear or affirm that the facts stated in the foregoing application and all exhibits attached thereto are true and correct and that said statements of fact thereto constitute a complete statement of the matter to which it relates.

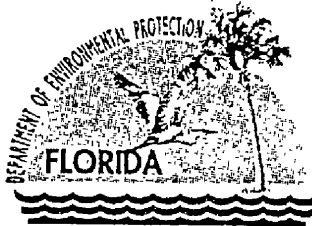
FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Jack Boyer  
President

Sworn to and subscribed before me this 10<sup>th</sup> day of July, 2002, by Jack Boyer, who is personally known to me or provided \_\_\_\_\_ as identification.

  
\_\_\_\_\_  
Print Name: Sharon L. Otvos  
NOTARY PUBLIC  
My Commission Expires:





# Department of Environmental Protection

Jeb Bush  
Governor

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

David B. Struhs  
Secretary

## STATE OF FLORIDA NOTICE OF PERMIT ISSUANCE

CERTIFIED MAIL NO.: 7000 0520 0012 2992 1099  
RETURN RECEIPT REQUESTED

In the Matter of an Application  
for Permit by:

Knight Island Utilities  
c/o Mr. Dean Bechstead, President  
7092 Placida Road  
Cape Haze, Florida 33946

Charlotte County - DW  
Knight Island Utilities WWTP  
Facility I.D. No. FLA014095  
Charlotte Harbor EMA

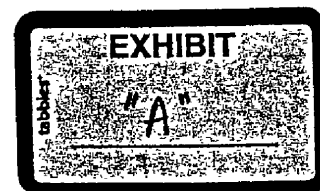
Enclosed is a **Permit Number FLA014095** to operate the subject domestic wastewater treatment facility with two absorption fields, issued pursuant to Section(s) 403.087, Florida Statutes.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative hearing in accordance with sections 120.569 and 120.57 of the Florida Statutes, or all parties may reach a written agreement on mediation as an alternative remedy under section 120.573 before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for petitioning for a hearing are set forth below, followed by the procedures for pursuing mediation.

The petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000. Petitions filed by the permit applicant or any of the parties listed below must be filed within fourteen days of receipt of this permit. Petitions filed by any other person must be filed within fourteen days of receipt of this notice of permit. A petitioner must mail a copy of the petition to the applicant at the address indicated above, at the time of filing. The failure of any person to file a petition (or a request for mediation, as discussed below) within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under sections 120.569 and 120.57 of the Florida Statutes, or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-5.207 of the Florida Administrative Code.

A petition must contain the following information:

- (a) The name, address, and telephone number of each petitioner; the Department's permit identification number and the county in which the subject matter or activity is located;
- (b) a statement of how and when each petitioner received notice of the Department's action;
- (c) a statement of how each petitioner's substantial interests are affected by the department's action;



- (d) a statement of the material facts disputed by the petitioner, if any;
- (e) a statement of facts that the petitioner contends warrant reversal or modification of the Department's action;
- (f) a statement of which rules or statutes the petitioner contends require reversal or modification of the Department's action; and
- (g) and a statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this permit. Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Any person may elect to pursue mediation by reaching a mediation agreement with all parties to the proceeding (which includes the Department and any person who has filed a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by the Department's action or proposed action. The agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, by the same deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following:

- (a) the names, addresses, and telephone numbers of any persons who may attend the mediation;
- (b) the name, address, and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time;
- (c) the agreed allocation of the costs and fees associated with the mediation;
- (d) the agreement of the parties on the confidentiality of discussions and documents introduced during mediation;
- (e) the date, time, and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;
- (f) the name of each party's representative who shall have authority to settle or recommend settlement;
- (g) either an explanation of how the substantial interests of each mediating party will be affected by the action or proposed action addressed in this action or a statement clearly identifying the petition for hearing that each party has already filed, and incorporating it by reference; and
- (h) the signatures of all parties or their authorized representatives.

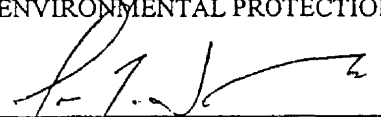
As provided in section 120.573 of the Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by section 120.569 and 120.57 for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above, and must therefore file their petitions within fourteen days of receipt of the final order. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under section 120.569 and 120.57 remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

This action is final and effective on the date filed with the Clerk of the Department unless a petition (or request for mediation) is filed in accordance with the above. Upon the timely filing of a petition (or request for mediation) this order will not be effective until further order of the Department.

Any party to the order has the right to seek judicial review of the order under section 120.68 of the Florida Statutes, by the filing of a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the final order is filed with the Clerk of the Department.

Executed in Fort Myers, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

  
Richard W. Cantrell  
Director of  
District Management

**CERTIFICATE OF SERVICE**

The undersigned duly designated deputy agency clerk hereby certifies that this NOTICE OF PERMIT ISSUANCE and all copies were mailed by certified mail before the close of business on MARCH 1, 2001 to the listed persons.

Clerk Stamp

**FILING AND ACKNOWLEDGMENT**

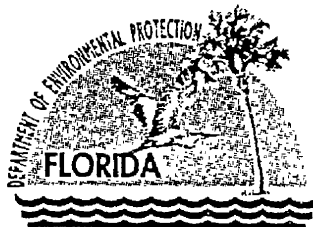
FILED, on this date, pursuant to s. 120.52(11), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

  
Clerk 3-1-01  
Date

RWC/SK/cap/klm

Copies furnished to:

Robert J. Halback, P.E.  
Andrew Barienbrock - FDEP



Jeb Bush  
Governor

# Department of Environmental Protection

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

David B. Struhs  
Secretary

## STATE OF FLORIDA DOMESTIC WASTEWATER FACILITY PERMIT

**PERMITTEE:**

Knight Island Utilities  
c/o Mr. Dean Beckstead, President  
7092 Placida Road  
Cape Haze, Florida 33946

**PERMIT NUMBER:** FLA014095  
**ISSUANCE DATE:** March 1, 2001  
**EXPIRATION DATE:** February 28, 2006  
**PA FILE NUMBER:** FLA014095-001-DW3P

**FACILITY:**

Knight Island Utilities WWTP  
Palm Island Village  
Cape Haze, Florida 33946  
Charlotte County  
Latitude: 26° 53' 02" N Longitude: 82° 19' 34" W

This permit is issued under the provisions of Chapter 403, Florida Statutes, and applicable rules of the Florida Administrative Code. The above named permittee is hereby authorized to operate the facilities shown on the application and other documents attached hereto or on file with the Department and made a part hereof and specifically described as follows:

**TREATMENT FACILITIES:**

An existing 0.055 MGD, Annual Average Daily Flow (TMADF), extended aeration process domestic wastewater treatment facility consisting of a bar screen, two aeration tanks with a total volume of 54,700 gallons, one 30,600 gallon final settling tank, one 15,000 gallon aerobic sludge digester, two multi media tertiary filters with a total filter area of 52 square feet, one 5,000 gallon backwash holding tank, one 5,000 gallon mud well and two chlorine contact chambers with a total volume of 9,000 gallons.

**Reuse:**

**Land Application:** An existing 0.055 MGD, AADF, permitted capacity rapid-rate land application system (R-001) consisting of two absorption fields with a total application area of 40,000 square feet, located on site.

**IN ACCORDANCE WITH:** The limitations, monitoring requirements and other conditions as set forth in this permit.

**I. RECLAIMED WATER LIMITATIONS AND MONITORING REQUIREMENTS**

**A. Land Application System**

1. During the period beginning on the issuance date and lasting through the expiration date of this permit, the permittee is authorized to land apply reclaimed water from the Disposal System, WAFR System I.D. No. R-001. Such disposal shall be limited and monitored by the permittee as specified below:

Parameter	Units	Max/Min	Reclaimed Water Limitations				Monitoring Requirements			Notes
			Annual Average	Three Month Average	Weekly Average	Single Sample	Monitoring Frequency	Sample Type	Monitoring Location Site Number	
Carbonaceous Biochemical Oxygen Demand (5 day)	mg/L	Maximum	20	30	45	60	Monthly	Grab	EFA - 1	
Total Suspended Solids	mg/L	Maximum	-	-	-	10	Monthly	Grab	EFA - 1	
Fecal Coliform Bacteria	See Permit Condition I.A.3						Monthly	Grab	EFA - 1	
pH	std. units	Range	-	-	-	6.0 to 8.5	5 Days/Week	Grab	EFA - 1	
Total Residual Chlorine (For Disinfection)	mg/L	Minimum	-	-	-	0.5	5 Days/Week	Grab	EFA - 1	See Cond.I.A.4
Nitrate (as N)	mg/L	Maximum	-	-	-	12	Monthly	Grab	EFA - 1	

PERMITTEE: Knight Island Utilities  
c/o Mr. Dean Beckstead, President

PERMIT NO.: FLA014095  
PA FILE NUMBER: FLA014095-001-DW3P

2. Reclaimed water samples shall be taken at the monitoring site locations listed in Permit Condition I. A. 1. and as described below:

Monitoring Location Site Number	Description of Monitoring Location
EFA-1	After chlorination and before discharge to the absorption fields

3. The arithmetic mean of the monthly fecal coliform values collected during an annual period shall not exceed 200 per 100 mL of reclaimed water sample. The geometric mean of the fecal coliform values for a minimum of 10 samples of reclaimed water, each collected on a separate day during a period of 30 consecutive days (monthly), shall not exceed 200 per 100 mL of sample. No more than 10 percent of the samples collected (the 90th percentile value) during a period of 30 consecutive days shall exceed 400 fecal coliform values per 100 mL of sample. Any one sample shall not exceed 800 fecal coliform values per 100 mL of sample. Note: To report the 90th percentile value, list the fecal coliform values obtained during the month in ascending order. Report the value of the sample that corresponds to the 90th percentile (multiply the number of samples by 0.9). For example, for 30 samples, report the corresponding fecal coliform number for the 27th value of ascending order. [62-600.440(4)(c), 6-8-93]
4. A minimum of 0.5 mg/L total residual chlorine must be maintained for a minimum contact time of 15 minutes based on peak hourly flow. [62-600.440(4)(b), 6-8-93]



PERMITTEE: Knight Island Utilities  
 c/o Mr. Dean Beckstead, President

PERMIT NO.: FLA014095  
 PA FILE NUMBER: FLA014095-001-DW3P

**B. Other Limitations and Monitoring and Reporting Requirements**

1. During the period beginning on the issuance date and lasting through the expiration date of this permit, the treatment facility shall be limited and monitored by the permittee as specified below:

Parameter	Units	Max/Min	Influent Limitations				Monitoring Requirements			Notes
			Annual Average	Three Month Average	Weekly Average	Single Sample	Monitoring Frequency	Sample Type	Monitoring Location Site Number	
Flow	mgd	Maximum	0.055	-	-	-	5 Days/Week	Elapsed time meter measurements	CSP - 1	See Cond.I.A.5
Carbonaceous Biochemical Oxygen Demand (5 day)	mg/L	Report	-	-	-	-	Monthly	Grab	INF - 1	See Cond.I.B.3
Total Suspended Solids	mg/L	Report	-	-	-	-	Monthly	Grab	INF - 1	See Cond.I.B.3

PERMITTEE: Knight Island Utilities  
c/o Mr. Dean Beckstead, President

PERMIT NO.: FLA014095  
PA FILE NUMBER: FLA014095-001-DW3P

2. Samples shall be taken at the monitoring site locations listed in Permit Condition I. B. 1 and as described below:

Monitoring Location Site Number	Description of Monitoring Location
INF - 1	From the first surge tank with out any plant process recycled waters
CSP-1	Elapsed time meter measurements from the master lift station

3. Influent samples shall be collected so that they do not contain digester supernatant or return activated sludge, or any other plant process recycled waters. *[62-601.500(4), 5-31-93]*
4. Parameters which must be monitored as a result of a ground water discharge (i.e., land application system) shall be analyzed in accordance with Chapter 62-601, F.A.C. *[62-620.610(18), 11-29-94]*
5. Elapsed time meters shall be calibrated at least annually. *[62-601.200(17) and .500(6), 5-31-93]*
6. The permittee shall provide safe access points for obtaining representative influent and effluent samples, which are required by this permit. *[62-601.500(5), 5-31-93]*
7. During the period of operation authorized by this permit, the permittee shall complete and submit to the Department on a monthly basis Discharge Monitoring Report(s) (DMR), Form 62-620.910(10), as attached to this permit. The permittee shall make copies of the attached DMR form(s) and shall submit the completed DMR form(s) to the South District Office at the address specified in this Permit by the twenty-eighth (28th) of the month following the month of operation. , *[11-29-94][62-601.300(1), (2), and (3), 5-31-93]*
8. Unless specified otherwise in this permit, all reports and notifications required by this permit, including 24-hour notifications, shall be submitted to or reported to, as appropriate, the Department's South District Office at the address specified below:

Florida Department of Environmental Protection  
South District Office  
P.O. Box 2549  
Ft. Myers, Florida 33902-2549

Phone Number - (941) 332-6975  
FAX Number - (941) 332-6969  
All FAX copies shall be followed by original copies.

PERMITTEE: Knight Island Utilities.  
c/o Mr. Dean Beckstead, President

PERMIT NO.: FLA014095  
PA FILE NUMBER: FLA014095-001-DW3P

## II. Residuals Management Requirements

### Basic Management Requirements

1. The method of residuals use or disposal by this facility is *land application or disposal in a Class I or II solid waste landfill*.
2. The permittee shall be responsible for proper treatment, management, use, and land application or disposal of its residuals. [62-640.300(5), 3-30-98]
3. The permittee will not be held responsible for violations resulting from land application of residuals if the permittee can demonstrate that it has delivered residuals that meet the parameter concentrations and appropriate treatment requirements of this rule and the applier (e.g. hauler, contractor, site manager, or site owner) has legally agreed in writing to accept responsibility for proper land application of the residuals. Such an agreement shall state that the applier agrees, upon delivery of residuals that have been treated as required by Chapter 62-640, F.A.C., that he will accept responsibility for proper land application of the residuals as required by Chapter 62-640, F.A.C., and that the applier agrees that he is aware of and will comply with requirements for proper land application as described in the facility's permit. [62-640.300(5), 3-30-98]
4. The permittee shall not be held responsible for treatment, management, use, or land application violations that occur after its residuals have been accepted by a permitted residuals management facility with which the source facility has an agreement in accordance with Rule 62-640.880(1)(c), F.A.C., for further treatment, management, use or land application. [62-640.300(5), 3-30-98]
5. Disposal of residuals, septage, and other solids in a solid waste landfill, or disposal by placement on land for purposes other than soil conditioning or fertilization, such as at a monofill, surface impoundment, waste pile, or dedicated site, shall be in accordance with Chapter 62-701, F.A.C. [62-640.100(6)(k)3&4, 3-30-98]
6. If this facility wishes to land apply residuals in the future the permittee shall make application to the Department for a minor revision to permit conditions in accordance with F.A.C. Rule 62-620.330(3)(b)3, prior to any land application.
7. Land application of residuals shall be in accordance with the conditions of this permit, the approved Agricultural Use Plan(s), and the requirements of Chapter 62-640, F.A.C. [62-640, 3-30-98]
8. The domestic wastewater residuals for this facility are classified as Class B.
9. The permittee shall achieve Class B pathogen reduction by meeting the pathogen reduction requirements in section 503.32(b)(3) ("*Alternative 2*" - *Use of PSRP-lime stabilization*) of Title 40 CFR Part 503, revised as of October 25, 1995. [62-640.600(1)(b), 3-30-98]
10. The permittee shall achieve vector attraction reduction by meeting the vector attraction reduction requirements in section 503.33(b)(4) ("*Option 6*" - *Add alkaline materials to raise the pH under specified conditions*) of Title 40 CFR Part 503, revised as of October 25, 1995.
11. Treatment of liquid residuals or septage for the purpose of meeting the pathogen reduction or vector attraction reduction requirements set forth in Rule 62-640.600, F.A.C., shall not be conducted in the tank of a hauling vehicle. Treatment of residuals or septage for the purpose of meeting pathogen reduction or vector attraction reduction requirements shall take place at the permitted facility [62-640.400(8), 3-30-98]
12. The permittee shall sample and analyze the Class A or Class B residuals to monitor for pathogen and vector attraction reduction requirements of Rule 62-640.600, F.A.C., and the parameters listed in the table below at least once every 12 months (for facilities generating greater than zero but less than 320 dtpyl.) The following parameters shall be sampled and analyzed:

Parameter	Ceiling Concentrations (Single Sample)	Cumulative Application Limits
Total Nitrogen	(Report only) % dry weight	Not applicable
Total Phosphorus	(Report only) % dry weight	Not applicable
Total Potassium	(Report only) % dry weight	Not applicable
Arsenic	75 mg/kg dry weight	36.6 pounds/acre
Cadmium	85 mg/kg dry weight	34.8pounds /acre
Copper	4300 mg/kg dry weight	1340 pounds/acre
Lead	840 mg/kg dry weight	268 pounds/acre
Mercury	57 mg/kg dry weight	15.2 pounds/acre
Molybdenum	75 mg/kg dry weight	Not applicable
Nickel	420 mg/kg dry weight	375 pounds/acre
Selenium	100 mg/kg dry weight	89.3 pounds/acre
Zinc	7500 mg/kg dry weight	2500 pounds/acre
pH	(Report only) standard units	Not applicable
Total Solids	(Report only) %	Not applicable

*(62-640.650(1), 62-640.700(1), 62-640.700(3)(b), and 62-640.850(3), 3-30-98)*

13. Sampling and analysis shall be conducted in accordance with Title 40 CFR Part 503, section 503.8 and the U.S. Environmental Protection Agency publication - POTW Sludge Sampling and Analysis Guidance Document, 1989. In cases where disagreements exist between Title 40 CFR Part 503, section 503.8 and the POTW Sludge Sampling and Analysis Guidance Document, the requirements in Title 40 CFR Part 503, section 503.8 will apply. *(62-640.650(1), 62-640.700(1), 62-640.700(3)(b), and 62-640.850(3), 3-30-98)*
14. Grab samples shall be used for pathogens and determinations of percent volatile solids. Composite samples shall be used for metals. *[62-640.650(1)(e), 3-30-98]*
15. Residuals shall not be land applied if a single sample result for any parameter exceeds the ceiling concentrations given in this permit. Residuals shall not be distributed and marketed if the monthly average of sample results for any parameter exceeds the Class AA parameter concentrations given in this permit. Monthly averages of parameter concentrations shall be determined by taking the arithmetic mean of all sample results for the month. *[62-640.650(1)(f), 3-30-98]*
16. The permittee shall submit the results of all residuals monitoring with the permittee's Discharge Monitoring Report under Chapter 62-601, F.A.C. The analytical results from each sampling event shall be submitted

PERMITTEE: Knight Island Utilities.  
c/o Mr. Dean Beckstead, President

PERMIT NO.: FLA014095  
PA FILE NUMBER: FLA014095-001-DW3P

with the report for the month in which the sampling event occurs. Copies of all applicable analytical reports shall be submitted with the monitoring results. [62-640.650(3)(a)&(e), 3-30-98]

17. Land application of "other solids" as defined in Chapter 62-640, F.A.C., is only allowed if specifically addressed in the Agricultural Use Plan(s) approved for this facility. Land application of "other solids" is subject to Chapter 62-640, F.A.C., and the permit conditions that apply to land applied residuals. [62-640.860, 3-30-98]

***Land Application (Agricultural Sites or Reclamation Sites)***

18. Class B residuals shall not be used on unrestricted public access areas. Use of Class B residuals is limited to restricted public access areas such as agricultural sites, forests, and roadway shoulders and medians [62-640.600(3)(b), 3-30-98]
19. Plant nursery use of Class B residuals is limited to plants which will not be sold to the public for 12 months after the last application of residuals. [62-640.600(3)(b)1., 3-30-98]
20. Use of Class B residuals on roadway shoulders and medians is limited to restricted public access roads. [62-640.600(3)(b)2., 3-30-98]
21. Food crops with harvested parts that touch the residuals/soil mixture and are totally above the land surface shall not be harvested for 14 months after the last application of Class B residuals. [62-640.600(3)(b)3., 3-30-98]
22. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of Class B residuals when the residuals remain on the land surface for four months or longer before incorporation into the soil. [62-640.600(3)(b)4., 3-30-98]
23. Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of Class B residuals when the residuals remain on the land surface for less than four months before incorporation into the soil. [62-640.600(3)(b)5., 3-30-98]
24. Food crops, feed crops, and fiber crops shall not be harvested for 30 days following the last application of Class B residuals. [62-640.600(3)(b)6., 3-30-98]
25. Animals shall not be grazed on the land for 30 days after the last application of Class B residuals. [62-640.600(3)(b)7., 3-30-98]
26. Sod which will be distributed or sold to the public or used on unrestricted public access areas shall not be harvested for 12 months after the last application of Class B residuals. [62-640.600(3)(b)8., 3-30-98]
27. The public shall be restricted from application zones for 12 months after the last application of Class B residuals. [62-640.600(3)(b), 3-30-98]
28. Residuals that do not meet the requirements of Chapter 62-640, F.A.C., for Class AA designation shall not be used for the cultivation of tobacco or leafy vegetables. [62-640.400(7), 3-30-98]
29. The wastewater treatment facility permittee shall apply for a minor permit revision on DEP Form 62-620.910(9) for new, modified, or expanded residuals land application sites. The facility's permit shall be revised to include the new or revised Agricultural Use Plan(s) prior to application of residuals to the new, modified, or expanded sites, unless all of the following conditions are met:
30. The permittee notifies the Department within 24 hours that the site is being used;

PERMITTEE: Knight Island Utilities.  
c/o Mr. Dean Beckstead, President

PERMIT NO.: FLA014095  
PA FILE NUMBER: FLA014095-001-DW3P

31. The site meets the site use restrictions of Rule 62-640.600(3), F.A.C, and the criteria for land application of residuals in Rule 62-640.700, F.A.C.;
32. The permittee submits a new or revised Agricultural Use Plan for the site with a permit application in accordance with Rule 62-640.300(2), F.A.C., within 30 days of beginning use of the site;
33. The permittee does not have another approved land application site, another approved disposal method (e.g. landfilling or incineration), or approved storage facilities available for use; and,
34. The permittee demonstrates during permit application that application of additional residuals to an existing approved application site would have resulted in violation of Department rules, or was not possible due to circumstances beyond the permittee's control.
35. Current Agricultural Use Plan(s) identify residuals landspreading on the following sites:

Site Name	Residual Hauler Company	Application Area (acres)*	Site Location						
			County	Latitude			Longitude		
				DD	MM	SS	DD	MM	SS
Schroeder-Manatee Ranch	Almar Septic	1628/2560	Sarasota	27	23	10	82	21	03

\* Acreage to be applied/Total acreage of site

36. Residuals application rates are limited to agronomic rates based on the site vegetation as identified in the Agricultural Use Plan. [62-640.750(2), 3-30-98]
37. Residuals shall be applied with appropriate techniques and equipment to assure uniform application over the application zone. [62-640.700(2)(c), 3-30-98]
38. The spraying of liquid domestic wastewater residuals shall be conducted so that the formation of aerosols is minimized. [62-640.700(2)(d), 3-30-98]
39. Residuals storage facilities at land application sites shall be subject to applicable setback requirements for residuals application sites. Residuals stored at land application sites shall be stored in a manner that will not cause runoff or seepage from the residuals, objectionable odors, or vector attraction. Storage areas must be fenced or otherwise provided with appropriate features to discourage the entry of animals and unauthorized persons. At the time of application, the stored residuals must meet the parameter concentrations, pathogen and vector attraction reduction requirements, and cumulative application limits of this permit. Residuals storage facilities at land application sites may be used only for temporary storage of stabilized residuals for no more than 30 days during periods of inclement weather or to accommodate agricultural operations, or up to the period (not to exceed two years) specified in the Agricultural Use Plan. [62-640.700(2)(e), 3-30-98]
40. Residuals application sites shall be posted with appropriate advisory signs identifying the nature of the project area. [62-640.700(2)(f), 3-30-98]
41. The pH of the residuals soil mixture shall be 5.0 or greater at the time residuals are applied. At a minimum, soil pH testing shall be done annually. [62-640.700(5)(d), 3-30-98]
42. The permittee shall maintain records of application zones and application rates and shall make these records available for inspection within seven days of request by the Department, or delegated Local Program. The permittee shall maintain record items a. through e. below in perpetuity, and maintain record items f. through k. for five years::

PERMITTEE: Knight Island Utilities.  
c/o Mr. Dean Beckstead, President

PERMIT NO.: FLA014095  
PA FILE NUMBER: FLA014095-001-DW3P

- a. Date of application of the residuals;
  - b. Location of the residuals application site as specified in the Agricultural Use Plan;
  - c. Identification of each application zone used by the permittee at the application site and the acreage of each zone;
  - d. Amount of residuals applied or delivered to each application zone. Cumulative loading of each application zone;
  - e. The names of all other wastewater facilities using each of the application zones identified in item c;
  - f. Method of incorporation (if any);
  - g. Measured pH of the residuals soil mixture at the time the residuals are applied (tested at least annually);
  - h. Unsaturated depth of soil above the water table level at the time of application;
  - i. Concentration of parameters in the residuals as required by this permit, and the date of last analysis; and
  - j. The results of any soil testing that is done under Rule 62-640.500(4)(a), F.A.C.
43. The permittee shall submit an annual summary of residuals application activity to the District Office on Department Form 62-640.210(2)(b) for all residuals applied during the period of January 1 through December 31. The summary for each year shall be submitted by February 19 of the following year. If more than one facility applies residuals to the same application zones, the summary must include a subtotal of each facility's contribution of residuals to the application zones.
44. If residuals that are subject to the cumulative loading limitations of Rule 62-640.700(3), F.A.C., have been applied to an application zone, and the cumulative loading amount of one or more of the pollutants is not known, no further applications of residuals may be made to that application zone. [62-640.700(3)(f), 3-30-98]
45. A minimum unsaturated soil depth of two feet above the water table level is required at the time the residuals are applied to the soil. [62-640.700(6)(a), 3-30-98]
46. Residuals shall not be applied during rains that cause runoff from the site or when surface soils are saturated. [62-640.700(7)(a), 3-30-98]
47. If the permittee intends to accept residuals from other facilities, a permit revision is required pursuant to Rule 62-640.880(2)(d), F.A.C. [62-640.880(2)(d), 3-30-98]
48. Storage of residuals or other solids at the permitted facility shall require prior written notification to the Department if the storage lasts longer than 30 days. [62-640.300(4), 3-30-98]

### III. GROUND WATER MONITORING REQUIREMENTS

This section is not applicable to this facility

### IV. ADDITIONAL REUSE AND LAND APPLICATION REQUIREMENTS

#### Part V Absorption Field System(s)

1. All ground water quality criteria specified in Chapter 62-520, F.A.C., shall be met at the edge of the zone of discharge. The zone of discharge for this project shall extend horizontally 100 feet from the site or to the site property line, whichever is less, and vertically to the base of the surficial aquifer. [62-520.200(23), 4/14/94] [ 62-522.410, 4/14/94]

PERMITTEE: Knight Island Utilities.  
c/o Mr. Dean Beckstead, President

PERMIT NO.: FLA014095  
PA FILE NUMBER: FLA014095-001-DW3P

2. Warning signs shall be posted around the site boundaries to designate the nature of the project area. *[62-610.568, 4/2/90]*
3. The permittee may allow public access to the absorption field sites. *[62-610.568, 4/2/90]*
4. The subsurface application system shall be operated to preclude saturated conditions from developing at the ground surface. *[62-610.550(3), 4/2/90]*
5. The annual average hydraulic loading rate shall be limited to a maximum of 3 inches per day (as applied to the entire bottom area of the absorption field trenches or spreading areas). *[62-610.573(1) and 62-610.523(3), 4/2/90]*
6. Absorption fields normally shall be loaded for 1-7 days and shall be rested for 5-14 days. Absorption fields shall be allowed to dry during the resting portion of the cycle. *[62-610.573(1) and 62-610.523(4), 4/2/90]*
7. Overflows from absorption fields or from emergency discharge facilities on storage ponds shall be reported as an abnormal event to the Department's South District Office within 24 hours of an occurrence as an abnormal event. The provisions of Rule 62-610.880, F.A.C., shall be met. *[62-610.880, 62-610.415(5), and 62-610.565, 4/2/90]*

## V. OPERATION AND MAINTENANCE REQUIREMENTS

### Staffing Requirements

1. During the period of operation authorized by this permit, the wastewater facilities shall be operated under the supervision of a(n) operator(s) certified in accordance with Chapter 62-602, F.A.C. In accordance with Chapter 62-699, F.A.C., this facility is a Category III, Class D facility and, at a minimum, operators with appropriate certification must be on the site as follows:
  - A Class C or higher operator 1/2 hour per day for 5 days/week and one weekend visit. The lead operator must be a Class C operator, or higher.  
*[62-699, 5-20-94] [62-620.630(3), 11-29-94] [62-699.310, 5-20-92] [62-610.462(2), 4-2-90]*
2. A certified operator shall be on call during periods the plant is unattended. *[62-699.311(1), 5-20-92]*

### Capacity Analysis Report and Operation and Maintenance Performance Report Requirements

3. An updated capacity analysis report shall be submitted to the Department annually. The updated capacity analysis report shall be prepared in accordance with Rule 62-600.405, F.A.C. *[62-600.405(5), 6-8-93]*
4. The application to renew this permit shall include a detailed operation and maintenance performance report prepared in accordance with Rule 62-600.735, F.A.C. *[62-600.735(1), 6-8-93]*

### Recordkeeping Requirements

5. The permittee shall maintain the following records and make them available for inspection on the site of the permitted facility:



PERMITTEE: Knight Island Utilities.  
c/o Mr. Dean Beckstead, President

PERMIT NO.: FLA014095  
PA FILE NUMBER: FLA014095-001-DW3P

- a. Records of all compliance monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation and a copy of the laboratory certification showing the certification number of the laboratory, for at least three years from the date the sample or measurement was taken;
- b. Copies of all reports required by the permit for at least three years from the date the report was prepared;
- c. Records of all data, including reports and documents, used to complete the application for the permit for at least three years from the date the application was filed;
- d. Monitoring information, including a copy of the laboratory certification showing the laboratory certification number, related to the residuals use and disposal activities for the time period set forth in Chapter 62-640, F.A.C., for at least three years from the date of sampling or measurement;
- e. A copy of the current permit;
- f. A copy of the current operation and maintenance manual as required by Chapter 62-600, F.A.C.;
- g. A copy of the facility record drawings;
- h. Copies of the licenses of the current certified operators; and
- i. Copies of the logs and schedules showing plant operations and equipment maintenance for three years from the date of the logs or schedules. The logs shall, at a minimum, include identification of the plant; the signature and certification number of the operator(s) and the signature of the person(s) making any entries; date and time in and out; specific operation and maintenance activities; tests performed and samples taken; and major repairs made. The logs shall be maintained on-site in a location accessible to 24-hour inspection, protected from weather damage, and current to the last operation and maintenance performed.

*[62-620.350, 11-29-94][61E12-41.010(1)(e), 11-02-93]*

## VI. COMPLIANCE SCHEDULES AND SELF-IMPOSED IMPROVEMENT SCHEDULES

The following schedule shall be followed as provided in chapter 7 of the Operation and maintenance performance report submitted by Robert J. Halback, P.E. of WilsonMiller, Inc., dated December 2000, unless a schedule revision is approved by the Department:

Implementation Step	Scheduled Completion Date
1. Submit a residual generator-hauler agreement and a residual hauler-site owner agreement	March 30, 2001
2. Secure walkway in the treatment plant	March 30, 2001
3. Add pipe identifiers and color coding in the treatment plant	March 30, 2001
4. Add reduced pressure backflow prevention devices to lift stations	March 30, 2001
5. Repair the corroded pipes and the wet well	June 30, 2001
6. Repair or replace the noisy blower	June 30, 2001
7. Repair the rusty grates and valve actuators at the chlorine contact chamber and filters	June 30, 2001

## VII. INDUSTRIAL PRETREATMENT PROGRAM REQUIREMENTS

This facility is not required to have a pretreatment program. *[62-625.500, 11-29-94]*

PERMITTEE: Knight Island Utilities.  
c/o Mr. Dean Beckstead, President

PERMIT NO.: FLA014095  
PA FILE NUMBER: FLA014095-001-DW3P

#### VIII. OTHER SPECIFIC CONDITIONS

1. **Within 15 days of completion of the corrective actions listed in section VI of this permit, a written notification shall be submitted to the Department.**
2. If the permittee wishes to continue operation of this wastewater facility after the expiration date of this permit, the permittee shall submit an application for renewal, using Department Forms 62-620.910(1) and (2), no later than one-hundred and eighty days (180) prior to the expiration date of this permit. *[62-620.410(5), 11-26-94]*
3. The facilities shall comply with any conditions that the Secretary of the Army (United States Army Corps of Engineers) considers necessary to ensure that navigation and anchorage will not be substantially impaired. *[62-620.620(1)(q), 11-29-94]*
4. In the event that the treatment facilities or equipment no longer function as intended, are no longer safe in terms of public health and safety, or odor, noise, aerosol drift, or lighting adversely affects neighboring developed areas at the levels prohibited by Rule 62-600.400(2)(a), F.A.C., corrective action (which may include additional maintenance or modifications of the permitted facilities) shall be taken by the permittee. Other corrective action may be required to ensure compliance with rules of the Department. *[62-600.410(8), 6-8-93]*
5. The deliberate introduction of stormwater in any amount into collection/transmission systems designed solely for the introduction (and conveyance) of domestic/industrial wastewater; or the deliberate introduction of stormwater into collection/transmission systems designed for the introduction or conveyance of combinations of storm and domestic/industrial wastewater in amounts which may reduce the efficiency of pollutant removal by the treatment plant is prohibited. *[62-604.130(3), 5-31-93]*
6. Collection/transmission system overflows shall be reported to the Department in accordance with Permit Condition IX. 20. *[62-604.550, 5-31-93] [62-620.610(20), 11-29-94]*
7. The operating authority of a collection/transmission system and the permittee of a treatment plant are prohibited from accepting connections of wastewater discharges which have not received necessary pretreatment or which contain materials or pollutants (other than normal domestic wastewater constituents):
  - a. Which may cause fire or explosion hazards; or
  - b. Which may cause excessive corrosion or other deterioration of wastewater facilities due to chemical action or pH levels; or
  - c. Which are solid or viscous and obstruct flow or otherwise interfere with wastewater facility operations or treatment; or
  - d. Which result in treatment plant discharges having temperatures above 40°C*[62-604.130(4), 5-31-93]*
8. The treatment facility shall be enclosed with a fence or otherwise provided with features to discourage the entry of animals and unauthorized persons. *[62-600.400(2)(b), 6-8-93]*
9. Screenings and grit removed from the wastewater facilities shall be collected in suitable containers and hauled to a Department approved Class I landfill or to a landfill approved by the Department for receipt/disposal of screenings and grit. *[62-7.540, 12-10-85]*

PERMITTEE: Knight Island Utilities.  
c/o Mr. Dean Beckstead, President

PERMIT NO.: FLA014095  
PA FILE NUMBER: FLA014095-001-DW3P

10. The permittee shall provide adequate notice to the Department of the following:
- (a) Any new introduction of pollutants into the facility from an industrial discharger which would be subject to Chapter 403, F.S., and the requirements of Chapter 62-620, F.A.C. if it were directly discharging those pollutants; and
  - (b) Any substantial change in the volume or character of pollutants being introduced into that facility by a source which was identified in the permit application and known to be discharging at the time the permit was issued.
  - (c) Adequate notice shall include information on the quality and quantity of effluent introduced into the facility and any anticipated impact of the change on the quantity or quality of effluent or reclaimed water to be discharged from the facility.

*[62-620.625(2), 11-29-94]*

#### IX. GENERAL CONDITIONS

1. The terms, conditions, requirements, limitations and restrictions set forth in this permit are binding and enforceable pursuant to Chapter 403, Florida Statutes. Any permit noncompliance constitutes a violation of Chapter 403, Florida Statutes, and is grounds for enforcement action, permit termination, permit revocation and reissuance, or permit revision. *[62-620.610(1), 11-29-94]*
2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviations from the approved drawings, exhibits, specifications or conditions of this permit constitutes grounds for revocation and enforcement action by the Department. *[62-620.610(2), 11-29-94]*
3. As provided in Subsection 403.087(6), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor authorize any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit or authorization that may be required for other aspects of the total project which are not addressed in this permit. *[62-620.610(3), 11-29-94]*
4. This permit conveys no title to land or water, does not constitute state recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title. *[62-620.610(4), 11-29-94]*
5. This permit does not relieve the permittee from liability and penalties for harm or injury to human health or welfare, animal or plant life, or property caused by the construction or operation of this permitted source; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department. The permittee shall take all reasonable steps to minimize or prevent any discharge, reuse of reclaimed water, or residuals use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. *[62-620.610(5), 11-29-94]*
6. If the permittee wishes to continue an activity regulated by this permit after its expiration date, the permittee shall apply for and obtain a new permit. *[62-620.610(6), 11-29-94]*

PERMITTEE: Knight Island Utilities.  
c/o Mr. Dean Beckstead, President

PERMIT NO.: FLA014095  
PA FILE NUMBER: FLA014095-001-DW3P

7. The permittee shall at all times properly operate and maintain the facility and systems of treatment and control, and related appurtenances, that are installed and used by the permittee to achieve compliance with the conditions of this permit. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to maintain or achieve compliance with the conditions of the permit. *[62-620.610(7), 11-29-94]*
8. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. *[62-620.610(8), 11-29-94]*
9. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, including an authorized representative of the Department and authorized EPA personnel, when applicable, upon presentation of credentials or other documents as may be required by law, and at reasonable times, depending upon the nature of the concern being investigated, to:
  - a. Enter upon the permittee's premises where a regulated facility, system, or activity is located or conducted, or where records shall be kept under the conditions of this permit;
  - b. Have access to and copy any records that shall be kept under the conditions of this permit;
  - c. Inspect the facilities, equipment, practices, or operations regulated or required under this permit; and
  - d. Sample or monitor any substances or parameters at any location necessary to assure compliance with this permit or Department rules.*[62-620.610(9), 11-29-94]*
10. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data, and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except as such use is proscribed by Section 403.111, Florida Statutes, or Rule 62-620.302, Florida Administrative Code. Such evidence shall only be used to the extent that it is consistent with the Florida Rules of Civil Procedure and applicable evidentiary rules. *[62-620.610(10), 11-29-94]*
11. When requested by the Department, the permittee shall within a reasonable time provide any information required by law which is needed to determine whether there is cause for revising, revoking and reissuing, or terminating this permit, or to determine compliance with the permit. The permittee shall also provide to the Department upon request copies of records required by this permit to be kept. If the permittee becomes aware of relevant facts that were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be promptly submitted or corrections promptly reported to the Department. *[62-620.610(11), 11-29-94]*
12. Unless specifically stated otherwise in Department rules, the permittee, in accepting this permit, agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules. A reasonable time for compliance with a new or amended surface water quality standard, other than those standards addressed in Rule 62-302.500, F.A.C., shall include a reasonable time to obtain or be denied a mixing zone for the new or amended standard. *[62-620.610(12), 11-29-94]*

PERMITTEE: Knight Island Utilities.  
c/o Mr. Dean Beckstead, President

PERMIT NO.: FLA014095  
PA FILE NUMBER: FLA014095-001-DW3P

13. The permittee, in accepting this permit, agrees to pay the applicable regulatory program and surveillance fee in accordance with Rule 62-4.052, F.A.C. [62-620.610(13), 11-29-94]
14. This permit is transferable only upon Department approval in accordance with Rule 62-620.340, F.A.C. The permittee shall be liable for any noncompliance of the permitted activity until the transfer is approved by the Department. [62-620.610(14), 11-29-94]
15. The permittee shall give the Department written notice at least 60 days before inactivation or abandonment of a wastewater facility and shall specify what steps will be taken to safeguard public health and safety during and following inactivation or abandonment. [62-620.610(15), 11-29-94]
16. The permittee shall apply for a revision to the Department permit in accordance with Rules 62-620.300, 62-620.420 or 62-620.450, F.A.C., as applicable, at least 90 days before construction of any planned substantial modifications to the permitted facility is to commence or with Rule 62-620.300 for minor modifications to the permitted facility. A revised permit shall be obtained before construction begins except as provided in Rule 62-620.300, F.A.C. [62-620.610(16), 11-29-94]
17. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. The permittee shall be responsible for any and all damages which may result from the changes and may be subject to enforcement action by the Department for penalties or revocation of this permit. The notice shall include the following information:
  - a. A description of the anticipated noncompliance;
  - b. The period of the anticipated noncompliance, including dates and times; and
  - c. Steps being taken to prevent future occurrence of the noncompliance.[62-620.610(17), 11-29-94]
18. Sampling and monitoring data shall be collected and analyzed in accordance with Rule 62-4.246, Chapters 62-160 and 62-601, F.A.C., and 40 CFR 136, as appropriate.
  - a. Monitoring results shall be reported at the intervals specified elsewhere in this permit and shall be reported on a Discharge Monitoring Report (DMR), DEP Form 62-620.910(10).
  - b. If the permittee monitors any contaminant more frequently than required by the permit, using Department approved test procedures, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
  - c. Calculations for all limitations which require averaging of measurements shall use an arithmetic mean unless otherwise specified in this permit.
  - d. Any laboratory test required by this permit for domestic wastewater facilities shall be performed by a laboratory that has been certified by the Department of Health and Rehabilitative Services (DHRS) under Chapter 10D41, F.A.C., to perform the test. On-site tests for dissolved oxygen, pH, and total chlorine residual shall be performed by a laboratory certified to test for those parameters or under the direction of an operator certified under Chapter 61E12-41, F.A.C.
  - e. Under Chapter 62-160, F.A.C., sample collection shall be performed by following the protocols outlined in "DER Standard Operating Procedures for Laboratory Operations and Sample Collection Activities" (DER-QA-001/92). Alternatively, sample collection may be performed by an organization who has an approved Comprehensive Quality Assurance Plan (CompQAP) on file

PERMITTEE: Knight Island Utilities.  
c/o Mr. Dean Beckstead, President

PERMIT NO.: FLA014095  
PA FILE NUMBER: FLA014095-001-DW3P

with the Department. The CompQAP shall be approved for collection of samples from the required matrices and for the required tests.

*[62-620.610(18), 11-29-94]*

19. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule detailed elsewhere in this permit shall be submitted no later than 14 days following each schedule date. *[62-620.610(19), 11-29-94]*
20. The permittee shall report to the Department any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain: a description of the noncompliance and its cause; the period of noncompliance including exact dates and time, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
  - a. The following shall be included as information which must be reported within 24 hours under this condition:
    1. Any unanticipated bypass which causes any reclaimed water or effluent to exceed any permit limitation or results in an unpermitted discharge,
    2. Any upset which causes any reclaimed water or the effluent to exceed any limitation in the permit,
    3. Violation of a maximum daily discharge limitation for any of the pollutants specifically listed in the permit for such notice, and
    4. Any unauthorized discharge to surface or ground waters, not otherwise reported in accordance with b. below.
  - b. The permittee shall report all unauthorized releases or spills of untreated or treated wastewater in excess of 1,000 gallons per incident, or where public health or the environment may be endangered, to the State Warning Point toll free number (800) 320-0519, as soon as practical, but no later than 24 hours from the time the permittee becomes aware of the discharge. The permittee, to the extent known, shall provide the following information to the State Warning Point:
    1. Name, address, and telephone number of person reporting.
    2. Name, address, and telephone number of permittee or responsible person for the discharge.
    3. Date and time of the discharge and status of discharge (ongoing or ceased).
    4. Characteristics of the wastewater spilled or released (untreated or treated, industrial or domestic wastewater).
    5. Estimated amount of the discharge.
    6. Location or address of the discharge.
    7. Source and cause of the discharge.

PERMITTEE: Knight Island Utilities.  
c/o Mr. Dean Beckstead, President

PERMIT NO.: FLA014095  
PA FILE NUMBER: FLA014095-001-DW3P

8. Whether the discharge was contained on-site, and cleanup actions taken to date.
  9. Description of area affected by the discharge, including name of water body affected, if any.
  10. Other persons or agencies contacted.
- c. If the oral report has been received within 24 hours, the noncompliance has been corrected, and the noncompliance did not endanger health or the environment, the Department shall waive the written report.

*[62-620.610(20), 3-2-00]*

21. The permittee shall report all instances of noncompliance not reported under Permit Conditions IX. 18. and 19. of this permit at the time monitoring reports are submitted. This report shall contain the same information required by Permit Condition IX. 20 of this permit. *[62-620.610(21), 11-29-94]*

22. Bypass Provisions.

- a. Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless the permittee affirmatively demonstrates that:
  1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and
  2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  3. The permittee submitted notices as required under Permit Condition IX. 22. b. of this permit.
- b. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least 10 days before the date of the bypass. The permittee shall submit notice of an unanticipated bypass within 24 hours of learning about the bypass as required in Permit Condition IX. 20. of this permit. A notice shall include a description of the bypass and its cause; the period of the bypass, including exact dates and times; if the bypass has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.
- c. The Department shall approve an anticipated bypass, after considering its adverse effect, if the permittee demonstrates that it will meet the three conditions listed in Permit Condition IX. 22. a. 1. through 3. of this permit.
- d. A permittee may allow any bypass to occur which does not cause reclaimed water or effluent limitations to be exceeded if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Permit Condition IX. 22. a. through c. of this permit. *[62-620.610(22), 11-29-94]*

23. Upset Provisions

- a. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed contemporaneous operating logs, or other relevant evidence that:

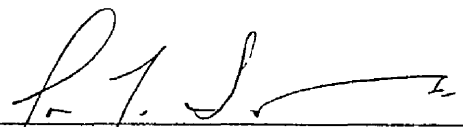
PERMITTEE: Knight Island Utilities.  
c/o Mr. Dean Beckstead, President

PERMIT NO.: FLA014095  
PA FILE NUMBER: FLA014095-001-DW3P

1. An upset occurred and that the permittee can identify the cause(s) of the upset;
  2. The permitted facility was at the time being properly operated;
  3. The permittee submitted notice of the upset as required in Permit Condition IX. 20. of this permit; and
  4. The permittee complied with any remedial measures required under Permit Condition IX. 5. of this permit.
- b. In any enforcement proceeding, the burden of proof for establishing the occurrence of an upset rests with the permittee.
- c. Before an enforcement proceeding is instituted, no representation made during the Department review of a claim that noncompliance was caused by an upset is final agency action subject to judicial review. [62-620.610(23), 11-29-94]

Executed in Fort Myers, Florida.

STATE OF FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION



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Richard W. Cantrell  
Director of  
District Management

RWC/SK/cap



LEASE

DATED September 1, 1995

KNIGHT ISLAND UTILITIES INC.  
a Florida not-for-profit corporation

("LESSEE")

and

ISLAND HARBOR BEACH CLUB, LTD.  
a Florida partnership

CHARLOTTE HARBOR LAND COMPANY, INC.  
a Florida corporation  
(Jointly as "LESSOR")



## TABLE OF CONTENTS

This Table of Contents is not a part of this Lease and is for convenience of reference only.

<u>Article</u>	<u>Title</u>	<u>Page</u>
1	Certain Definitions	4
2	Rent	5
3	Payment of Taxes, Assessments, etc.	6
4	Insurance	7
5	LESSOR's Right to Perform LESSEE's Covenants, Additional Rent	9
6	Covenants Against Waste and to Repair and Maintain the Utility System	10
7	Compliance with Orders, Ordinances, etc	11
8	Damage to or Destruction of the Utility System	12
9	Condemnation	12
10	Disbursement of Deposited Monies	14
11	Mechanics' Liens	14
12	Use; Surrender of the Utility System; Inspection of the Utility System	15
13	Assignment and Subletting	15
14	Default Provisions .	16
15	Indemnification	17
16	Litigation and Attorneys' Fees	18
17	Arbitration	18
18	Remedies, Limitation of Liability	19
19	Certificates of LESSOR and LESSEE	20
20	Notices	20
21	Covenants of LESSOR	20
22	No Broker	21
23	Memorandum of Lease	21
24	Title to Improvements	21
25	Invalidity of Particular Provisions	21
26	Covenants to Bind and Benefit the Respective Parties	21
27	Miscellaneous	22
28	Utility System	22
Exhibit A	Legal Description	
Exhibit B	Exceptions to title which Utility System are subject to	

LEASE

THIS LEASE is made and entered into this 1st day of September 1995, by and between ISLAND HARBOR BEACH CLUB, LTD., a Florida partnership and CHARLOTTE HARBOR LAND COMPANY, INC., a Florida corporation, jointly as ("LESSOR"), and KNIGHT ISLAND UTILITIES INC., a Florida not-for-profit corporation ("LESSEE")

WITNESSETH:

WHEREAS, LESSOR is the owner of the water and sewer utility system on Palm Island known as the Knight Island Utility as described on Exhibit A attached hereto (the "Utility System"); and

WHEREAS, LESSEE wishes to lease Utility System for purposes of operating a utility; and

WHEREAS, LESSEE has examined Utility System and is fully informed of its condition.

NOW, THEREFORE, for and in consideration of the above and the mutual covenants and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, LESSOR hereby demises and leases to the LESSEE, and LESSEE hereby leases Utility System from LESSOR,

TOGETHER, with (i) all real property, buildings, tenements, hereditaments, and appurtenances belonging or in any way appertaining to Utility System and improvements thereon; (ii) all equipment, transmission lines and other personal property used in connection with the utility system; and (iii) any easements inuring to the benefit of Utility System or LESSOR as the owner thereof,

TO HAVE AND TO HOLD the Utility System unto LESSEE, its successors and permitted assigns, for a term commencing on the Commencement Date (as hereinafter defined) and expiring on the anniversary, unless this Lease shall sooner terminate as hereinafter provided.

AND, LESSOR and LESSEE covenant and agree as follows:

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LESSOR Initial

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LESSEE Initial

ARTICLE I  
CERTAIN DEFINITIONS

Section 1.01 As used herein

A. "Anniversary Rent Date" means the day one year from the Commencement Date.

B. "Commencement Date" means the first date on which rent begins to accrue.

C. "Event of Default" has the meaning set forth in Article 14.

D. "Hazardous Materials" means, without limitation, any flammable explosives, radioactive materials hazardous materials, hazardous wastes, hazardous or toxic substances or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §§9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. §§1801, et seq.), the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. §§6901, et seq.), the regulations and any other federal, state or local environmental law, ordinance, rule or regulation,.

E. "LESSOR" means ISLAND HARBOR BEACH CLUB, LTD., a Florida partnership and CHARLOTTE HARBOR LAND COMPANY, INC., a Florida corporation, jointly, their successors and/or assigns.

F. "Lease Year" means the twelve-month period beginning on the Commencement Date and any Anniversary Date of the lease.

G. "Lease Term" means the term which commences on the Commencement Date and ends Thirty (30) years thereafter and further includes any renewals of this lease.

H. "Utility System" means the Equipment, Land and Improvements which constitute the water and sewer utility system and the improvements necessary to operation.

I. "Prime Rate" means the prime commercial lending rate from time to time announced by Sun Bank and Trust/Charlotte County, N.A. to be in effect at its office in Port Charlotte, Florida, or such other standard as shall then be recognized by the banking community as having replaced the "prime rate".

J. "Qualified Depository" means a bank or trust company with principal offices in Florida, having a capital and surplus account of at least Twenty Million Dollars (\$20,000,000.00), and otherwise acceptable to LESSOR in its reasonable discretion.

K. "LESSEE" means KNIGHT ISLAND UTILITY INC., a Florida not-for-profit corporation. "LESSEE" also means any successors and/or assigns of LESSEE permitted under Article 13.

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LESSEE initial

L. "Termination of this Lease" means the expiration of the term of this Lease or any sooner termination of the term of this Lease pursuant to any of the provisions hereof.

ARTICLE 2  
RENT

Section 2.01. Net Annual Basic Rent. LESSEE shall pay to LESSOR during the Lease Term in lawful money of the United States of America at the address of the LESSOR specified herein or at such place as LESSOR may from time to time designate, a net annual basic rental, over and above the other and additional payments to be paid by LESSEE as hereinafter provided, in monthly payments in advance of the first day of each month as follows:

Consideration of Thirty-Six Thousand Dollars (\$36,000.00) and such other consideration as may be agreed upon shall be paid upon execution of this document which shall be the net annual basic rent and shall be paid in monthly payments. All rental payments shall be accompanied by all applicable sales taxes.

The net annual basic rental shall be paid to LESSOR without notice, demand or set-off and is hereinafter sometimes called the "basic rent".

Section 2.02. The Lease Term shall automatically extend for periods of five years each unless otherwise terminated herein. Such termination shall include any default in the performance of any condition of this lease for which a notice of default has been given to the LESSEE. Either LESSEE or LESSOR may prevent extension of the lease term by providing the other party with notice thereof at least 60 days prior to the end of the Lease Year then in effect, such notice to be made in accordance with Article 20 hereof.

Section 2.04. Net Lease. This Lease shall be deemed and construed to be a "net lease" in every respect and LESSEE shall pay to LESSOR in addition to the net annual basic rent all Impositions as defined in Section 3.01, all state and other sales taxes charged from time to time on the rental, and other amounts required to be paid by LESSEE hereunder.

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ARTICLE 3  
PAYMENT OF TAXES, ASSESSMENTS, ETC.

Section 3.01. LESSEE's Payments of Impositions. LESSEE shall pay (subject as hereinafter provided), before any fine, penalty, interest or cost may be added thereto for the nonpayment thereof, all real estate taxes, assessments, impact fees, water and sewer rates and charges, license and permit fees and other governmental levies and charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind and nature which arises by, through, under or in connection with LESSOR's ownership of the Utility System subject to this Lease (collectively, the "Impositions") which are assessed, levied, confirmed, imposed or become a lien upon the Utility System and the sidewalks or streets in front of or adjoining the Land, or which become payable, during the term of this Lease; however, excluded from the definition of Impositions shall be any franchise corporate, succession, capital levy, stamp, transfer, income, excess profits, revenue or franchise tax imposed on LESSOR. If, by law, any Imposition is payable or at the option of the taxpayer may be paid in installments (whether or not interest shall accrue on the unpaid balance) in such installments as may become due during the term of this Lease and before any fine, penalty, interest or cost may be added thereto for non-payment thereof. In addition, any Imposition relating to a fiscal period of a taxing authority, a part of which period is included within the Lease Term and a part of which is included in a period of time before the Commencement Date or after the Termination of this Lease, shall (whether or not such Imposition shall be assessed, levied, confirmed, imposed or become a lien upon the Utility System, or shall become payable, during the Lease Term) be appropriately prorated between LESSOR and LESSEE.

Section 3.02. Time for Payment of Impositions. Subject to the provisions of Sections 3.01 and 3.03, LESSEE shall pay any bill, invoice or other documentation for an Imposition before the due date, and shall furnish to LESSOR within maximum discount period within thirty (30) days after the date when any Imposition is paid or payable, official receipts of the appropriate taxing authority, or other evidence reasonably satisfactory to LESSOR, evidencing the payment thereof.

Section 3.03. LESSEE's Right to Contest Impositions. LESSEE shall have the right to contest the amount or validity, in whole or in part, of any Imposition by appropriate proceedings, and, notwithstanding Section 3.01, LESSEE may defer payment of such Imposition if LESSEE complies in every respect with any statutory procedure providing for such contest (including, for example, the tender into escrow of the contested amount or the posting of a bond or other security) or if no such procedure exists then prior to the due date of such Imposition, LESSEE shall have deposited with an escrow agent acceptable to LESSOR the amount of all interest and penalties in connection therewith and all charges which may or might be assessed against or become a charge on the Utility System or any part thereof in said proceedings, unless the Utility System or any part thereof would by reason of such postponement or deferment be in imminent danger of being forfeited or lost. In lieu of the cash deposit referred to above, LESSEE may deposit such other security as shall be reasonably satisfactory to LESSOR. Upon the termination of such contest proceedings, LESSEE shall immediately pay the amount of such Imposition or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees, interest, penalties or other liabilities in connection therewith, and upon such payment any deposit made pursuant to this Section shall be returned together with interest, if any, earned thereon. If, at any time during the continuance of such proceedings, LESSOR shall reasonably deem the amount deposited to be insufficient, LESSEE shall, within 15 days after demand, deposit with the escrow agent such additional sum as LESSOR may

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reasonably request, and upon failure of LESSEE so to do, the amount theretofore deposited may be applied to the payment of such Imposition, and the interest and penalties in connection therewith and any costs, fees or other liability accruing in any such proceedings, and the balance, if any, shall be returned to LESSEE. LESSOR shall join in any such proceedings or permit the same to be brought in its name if required by law. LESSOR shall not be subjected to any liability for the payment of any costs or expenses in connection with any such proceedings and LESSEE shall indemnify and hold LESSOR harmless from any such Imposition and penalties or interest thereon which have been paid by LESSEE, or which have been paid by LESSOR and for which LESSOR has been fully reimbursed

Section 3.04. Evidence of Impositions. Any certificate, advice or bill showing non-payment of an Imposition received from the appropriate official designated by law to make or issue the same or to receive payment of any Imposition shall be evidence that such Imposition is due and unpaid at the time of the making or issuance of such certificate, advice or bill.

Section 3.05. Rendering of Bills for Impositions. If any bill, invoice or other documentation for an Imposition is rendered to LESSOR, LESSOR shall deliver it to LESSEE

#### ARTICLE 4 INSURANCE

Section 4.01. Hazard Coverage. During the Lease Term, LESSEE shall insure the Utility System for the mutual benefit of LESSOR and LESSEE as Follows:

From and after the Commencement Date and throughout the entire term of this Lease, LESSEE shall maintain:

1. All-risk property insurance, including earth movement and flooding (if the Utility System is in Flood Zone A or V) in amounts sufficient to prevent LESSOR or LESSEE from being a co-insurer within the terms of the applicable policies, and, in any event, in any amount not less than 100% of the then full insurable value (as hereinafter defined) of the Utility System;

2. Insurance covering such other hazards and in such amounts as LESSOR may reasonably require provided that such insurance is then customarily maintained in the Utility System of similar construction, use and class in the area in which the Utility System are located.

For all purposes of this Lease, "full insurable value" means the actual replacement cost of the Utility System (excluding foundation and excavation costs) without physical depreciation and said "full insurable value" shall be determined at the request of LESSOR by one of the insurers or by an architect, appraiser or appraisal company, selected and paid by LESSEE and reasonably acceptable to LESSOR, but such determination shall not be required to be made more frequently than once every twenty-four (24) months. In the event of a dispute between LESSOR and LESSEE as to the "full insurable value", the limits of the insurance to be carried pursuant to Subsections 2 and 3 of this Section, the form of or limits of insurance to be carried pursuant to Subsection 4 of this Section, or the limits of the insurance required by LESSOR pursuant to Section 4.02, such limits shall be deemed reasonable if the limits required do not exceed the limits then customarily maintained by prudent operators of Utility System of similar construction, use and class in the area in which the Utility System are located. Until the resolution of any

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dispute referred to in this Section 4.01, LESSEE shall carry insurance as required by LESSOR, subject to reimbursement from LESSOR of Excess insurance premiums if the decision in the arbitration is in favor of LESSEE.

Section 4.02. Liability Coverage. In addition, at all times during the Lease Term, LESSEE shall maintain insurance for the mutual benefit of LESSOR and LESSEE against claims for bodily injury and property damage, under a policy of commercial general public liability insurance, with such limits as may reasonably be required by LESSOR from time to time, but not less than One Million Dollars (\$1,000,000.00) per person with respect to injury or death and One Million Dollars (\$1,000,000.00) per occurrence for property damage, and shall also maintain an excess ("umbrella") liability policy or policies with total coverage of not less than Ten Million Dollars (\$10,000,000.00) initially (with such Ten Million Dollars (\$10,000,000.00) minimum amount being adjusted upward annually in proportion to the increase since the initial year of the Lease Term in the consumer price index and announced from time to time by the U.S. Department of Labor for all items and all urban consumers, or in the event such index is discontinued, then such other comparable index selected by LESSOR); however, if the amount of such excess liability coverage is not available or results in an unreasonably high cost, then LESSEE, with prior written approval of LESSOR, may maintain a lesser amount of excess liability coverage which is equal to the amount of such coverage that would be carried by a reasonable, prudent operator of a Utility System in southwest Florida that is similar in size, construction, and use to the additional insured on all liability policies maintained by LESSEE or any affiliates of LESSEE. References to "LESSEE" in the immediately preceding sentence shall include all assignees of LESSEE permitted under the terms of this Lease.

Section 4.03. Requirements for Insurers and Policies. All insurance provided for under this Lease shall be effected under valid, enforceable policies issued by insurers licensed in the state of Florida having an approved Best rating of A+ or better, and otherwise reasonably acceptable to LESSOR. Upon the execution of this Lease, the original policies procured by LESSEE pursuant to Sections 4.01 and 4.02 (or certificates thereof) shall be delivered to LESSOR. At least thirty (30) days prior to the expiration date of any policy, the original renewal policy (or certificates thereof) for such insurance shall be delivered by LESSEE to LESSOR together with satisfactory evidence of payment of the premium thereon. All policies referred to in Sections 4.01 and 4.02 shall, to the extent then generally obtainable, contain agreements by the insurers that (a) any loss shall be payable as hereinafter provided, notwithstanding any act or negligence of LESSEE which might otherwise result in forfeiture of said insurance, (b) such policies shall not be canceled except upon thirty (30) days' prior written notice to each named or additional insured and loss payee, and (c) the coverage afforded thereby shall not be affected by the performance of any work in or about the Utility System.

Section 4.04. Adjustment of Losses. All policies of insurance required under this Article 4 shall name LESSOR and LESSEE as insureds as their respective interest may appear. Losses under the policies referred to in Section 4.01 shall be adjusted with the insurance companies by LESSEE and in the case of any particular casualty resulting in damage or destruction reasonably estimated to exceed three percent (3%) of the full insurance value of the Utility System, no such adjustment shall be made without the prior approval of LESSOR. If LESSOR's approval is required it shall not be unreasonably withheld or delayed.

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Section 4.05. Payment of Losses. Losses under all policies referred to in Section 4.01 shall be payable to a Qualified Depository designated by LESSEE in a notice given to the insurance companies and to LESSOR promptly following the occurrence of the casualty. All such policies shall expressly provide that the loss thereunder shall be adjusted and paid as provided in Section 4.04 and this Section.

Section 4.06. Application to Restoration. Any loss paid to LESSEE pursuant to Section 4.05 under any insurance policy referred to in Section 4.01 shall be held by LESSEE in trust for application to the cost of restoring, repairing, replacing or rebuilding the Utility System, if such is required under Article 8. Any losses paid to the Qualified Depository pursuant to Section 4.05 under any policy referred to in Section 4.01 shall be used for the restoration and repair of the Utility System, if such is required under Article 8, in which case they shall be disbursed by it in accordance with Article 10.

Section 4.07. Blanket Policies. Nothing in this Article shall prevent LESSEE from taking out insurance of the kind and in the amounts and with companies provided for under Sections 4.01, 4.02 and 4.03 under a blanket insurance policy or policies which cover other properties as well as the Utility System, provided, however, that any such policy of insurance provided for under Section 4.01 shall specify therein, or LESSEE shall furnish LESSOR with a written statement from the insurers under such policies specifying the amount of the total insurance allocated to the Utility System, which amount shall be not less than the amount required by Section 4.01 to be carried.

Section 4.08. Deductibles. All insurance provided for under Section 4.01 may contain loss deductible clauses in such maximum amounts as LESSOR shall approve. In the event of a dispute between LESSOR and LESSEE as to the amount which may be deductible under a policy, such dispute shall be determined by arbitration in the manner provided in Article 17.

ARTICLE 5  
LESSOR'S RIGHT TO PERFORM LESSEES COVENANTS;  
ADDITIONAL RENT

Section 5.01. Performance by LESSOR. If LESSEE shall at any time fail (a) to pay any Imposition in accordance with Article 3, (b) to take out, pay for, maintain or deliver any of the insurance policies provided for in Article 4, (c) to cause any lien of the character referred to in Article 11 to be discharged as therein provided or (d) to perform any other act on its part to be performed under this Lease, after the giving of any applicable notice and expiration of any applicable grace or cure periods provided for under this Lease, LESSOR may, without being obligated to do so, without further notice or demand upon LESSEE, and without waiving or releasing LESSEE from any of its obligations under this Lease, (i) pay any Imposition payable by LESSEE pursuant to Article 3; (ii) take out, pay for and maintain any of the insurance policies provided for in Article 4; (iii) discharge any lien of the character referred to in Article 11 as therein provided; or (iv) perform any such other act on LESSEE's part to be performed under this Lease.

Section 5.02. Reimbursement/Interest. All sums paid by LESSOR pursuant to Section 5.01 and all necessary incidental costs and expenses paid to or incurred by LESSOR with respect to third parties in connection with the performance of any act by LESSOR pursuant to said Section, together with interest thereon from the date of making such expenditure by LESSOR at a rate 2% above the Prime Rate shall be payable by LESSEE to LESSOR within ten (10) days after demand therefore accompanied by evidence reasonably establishing that the expenditure has been made.

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Section 5.03 Additional Rent. All sums which may become payable to LESSOR by LESSEE as provided for in this Article and all other charges and expenses of whatsoever nature which LESSEE is required to pay pursuant to this Lease shall be deemed additional rent hereunder and subject to the cure rights of LESSEE, as set forth in this Lease. LESSOR shall have (in addition to any other right or remedy of LESSOR) the same rights and remedies in the event of the nonpayment of any such sums by LESSEE as in the case of default by LESSEE in the payment of the basic rent

ARTICLE 6  
COVENANTS AGAINST WASTE AND TO REPAIR AND MAINTAIN THE UTILITY SYSTEM

Section 6.01 No Waste. LESSEE shall not cause or permit any waste, damage or injury to the Utility System

Section 6.02 Hazardous Materials. LESSEE shall promptly notify the LESSOR of any notice of a violation of any federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials.

A. LESSEE shall keep the Utility System, or cause the Utility System to be kept free of Hazardous Materials

B. Without limitation to the foregoing, LESSEE shall neither cause nor permit: (1) the Utility System to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in compliance with all applicable federal, state and local laws or regulations; (2) a release of Hazardous Materials into the Utility System or any other property as a result of any intentional or unintentional act or omission on the part of the LESSEE or any of its Lessees or sublessees.

C. LESSEE shall comply with, and ensure compliance by all its lessees and sublessees with, all applicable federal, state and local laws, ordinances, rules and regulations related to Hazardous Materials, whenever and by whomever enacted or made effective. LESSEE shall obtain and comply with, and ensure that all lessees and sublessees obtain and comply with, any and all approvals, registrations or permits required under such laws, ordinances, rules and regulations.

D. LESSEE shall conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions on, from or affecting the Utility System in accordance with (1) all applicable federal, state and local laws, ordinances, rules, regulations and policies, and (2) the orders and directives of all federal, state and local government authorities.

Section 6.03. Repair. LESSEE shall use all reasonable efforts to keep the Utility System and adjoining Land clean and in good condition. LESSEE shall make all repairs (including structural repairs) and replacements necessary to maintain the utility system as a first class Utility System. LESSEE shall indemnify and hold LESSOR harmless from and against all claims, loss, liability or damage made against or sustained by LESSOR in connection with any defects, damages, repairs or replacements with respect to the Utility System. LESSEE shall at all times ensure that the Utility System is maintained in a first class condition, both interior and exterior, and shall perform or cause to be performed such specific items or repair or maintenance in accordance with this Section as requested in writing by LESSOR from time to time

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Section 6.04 No Removal. After completion of the Utility System, LESSEE shall not remove or permit the removal of any of the Utility System unless other equipment at least equal in value and utility shall be promptly substituted therefore or a new Utility System is to be constructed.

ARTICLE 7  
COMPLIANCE WITH ORDERS, ORDINANCES, ETC.

Section 7.01. Compliance Requirement. Throughout the Lease Term, LESSEE shall promptly comply with (a) all laws and ordinances and the orders, rules, regulations and requirements of all federal, state and municipal governments and appropriate departments, commissions, boards and officers thereof, and the orders, rules and regulations of the Board of Fire Underwriters which has jurisdiction or any other body hereafter constituted exercising similar functions, which may be applicable to the Utility System and the sidewalks and curbs adjoining the Land or to the use or manner of use of the Utility System, and (b) the requirements of all policies of public liability, fire and all other policies of insurance at any time in force with respect to the Utility System as required under Section 4.01 and 4.02.

Section 7.02. LESSEE's Right to Contest. LESSEE shall have the right to contest by appropriate legal proceedings, in the name of the LESSEE or LESSOR or both, without cost or expense to LESSOR, the validity or application of any law, ordinance, order, rule, regulation or requirement, of the nature herein referred to, and if, by the terms of any such law, ordinance, order, rule, regulation or requirement, compliance therewith pending the prosecution of any such proceeding may legally be held in abeyance without any lien, charge or liability of any kind being incurred against the Utility System and without subjecting LESSOR to any criminal liability of any nature for failure so to comply therewith, LESSEE may postpone compliance therewith until the final determination of any proceedings, provided that all such proceedings shall be prosecuted with due diligence and dispatch, and if any lien, charge or civil liability is incurred by reason of non-compliance, LESSEE may nevertheless make the contest and delay compliance as aforesaid, provided that LESSEE furnishes to LESSOR security, reasonably satisfactory to LESSOR, against any loss or injury by reason of such noncompliance or delay and prosecutes the contest with reasonable diligence. Provided that LESSEE complies with all the provisions of the Article, LESSOR shall execute and deliver any papers which may be necessary or proper to permit LESSEE to contest the validity or application of any such law, ordinance, order, rule, regulation or requirement.

ARTICLE 8  
DAMAGE TO OR DESTRUCTION OF THE UTILITY SYSTEM

Section 8.01. Damage/Repair. In case of damage to or destruction of any of the Utility System by fire or any other cause, similar or dissimilar, insured or uninsured, LESSEE shall restore, repair, replace or rebuild the Utility System as nearly as may be practicable to the condition, quality and class in which the same was in immediately prior to such damage or destruction, or with such changes or alterations (including demolition of the Utility System) as LESSEE shall elect to make in conformity with Article 10. Such restoration, repairs, replacement or rebuilding of the Utility System shall be commenced with reasonable promptness and prosecuted with due diligence.

Section 8.02. No Abatement. In the event of any damage or destruction to the Utility System, the basic rent and other sums payable hereunder shall not be abated.

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ARTICLE 9  
CONDEMNATION

Section 9.01 Total Taking. If there shall be a total taking or constructive total taking of the Utility System in condemnation proceedings, by deed in lieu of condemnation or by any right or eminent domain, this Lease shall terminate on the date such taking and the basic rent and other rents, Impositions and other charges payable by LESSEE hereunder shall be apportioned and paid to the date of such taking. "Constructive total taking" means a taking of such scope that the untaken portion of the Utility System is insufficient to permit the restoration of the Utility System so as to constitute a complete, rentable system, capable of producing a proportionately fair and reasonable net annual income (a) after the payment of (i) all operating expenses thereof and (ii) the basic rent, as reduced to the extent provided in Section 9.05, and (b) after performance of all covenants and agreements herein provided to be performed by LESSEE. As used above, the term "operating expenses" shall be deemed to exclude depreciation or amortization of capital expenditures and income taxes and franchise taxes of LESSEE. In the event of a dispute between LESSOR and LESSEE as to whether or not there has been a constructive total taking, such dispute shall be determined by arbitration in the manner provided in Article 17; provided, however, that if LESSEE shall have concluded that there has not been a constructive total taking this Lease shall continue in full force and effect subject to the other provisions of this Article.

Section 9.02. Rights of Parties. In the event of any such total taking or constructive total taking, both LESSOR and LESSEE shall have the right to enter an appearance in such proceeding, file a claim for damages, and present evidence as to the value of their respective losses resulting from the taking. LESSOR and LESSEE shall be entitled to receive directly from the condemning authority such portion of the award as relates to their respective losses. If LESSEE chooses to appeal the decision of the body rendering the award, LESSEE acknowledges that such appeal may affect the amount of and/or the payment of LESSOR's portion of the award. LESSEE agrees, in order to avoid a delay in making any portion of the award not in dispute available to LESSOR, to cooperate with LESSOR and the condemning authority during the pendency of the appeal in making arrangements with the condemning authority to allow payment promptly to LESSOR of any portion of the award which is not in dispute and which LESSEE agrees in good faith is justly due LESSOR for such taking. LESSEE further agrees that LESSOR does not waive any right, if LESSEE's appeal has the effect of reducing LESSOR's award, to contest any appeal by LESSEE.

Section 9.03. Partial Taking. In the event of a taking less than a total taking or a constructive total taking, this Lease shall not terminate or be affected in any way, except as provided in Section 9.05, and LESSOR and LESSEE shall have the right to enter an appearance in such proceedings, file a claim for damages and present evidence as to the value of their respective losses resulting from the taking. In addition, the provisions set forth in Section 9.02 above, pertaining to appeals and disbursement of condemnation proceeds not in dispute shall apply to less than a total taking or a constructive total taking pursuant to this Section. The portion of the condemnation proceeds payable to LESSEE under this Section shall be used for the restoration and repair of the Utility System s, and in the event such portion of the condemnation proceeds is less than three percent (3%) of the full insurable value of the Utility System immediately preceding such taking, these proceeds shall be paid in trust for application to the cost of restoring, repairing, replacing or rebuilding of the Utility System, and in the event such portion of the condemnation proceeds equals or exceeds three percent (3%) of the full insurable value of the Utility System immediately preceding such taking, such proceeds shall be paid to a Qualified Depository designated by LESSEE, and the portion so paid shall be disbursed by it in accordance with Article 10.

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Section 9.04. Restoration. In the event of a taking less than a total taking or a constructive total taking, and whether or not the condemnation proceeds shall be sufficient for the purpose, LESSEE shall proceed with due diligence to restore, repair, replace or rebuild the remaining part of the Utility System to substantially its former condition to the extent reasonably practicable or with such changes or alterations (including demolition of the Utility System) as LESSEE may elect to make in conformity with Article 10.

Section 9.05. Partial Termination. In the event of a taking of the character referred to in Section 9.03, this Lease shall terminate as to the portion of the Utility System so taken and from and after the date of such taking the annual basic rent shall abate for the remainder of the term of this Lease by an amount equal to the prorated rent of the square footage of the taking of the amount of the condemnation proceeds paid to LESSOR.

Section 9.06. Temporary Taking. If the whole or any part of the Utility System, or of LESSEE's leasehold estate under this Lease, shall be taken in condemnation proceedings or by any right of eminent domain for temporary use or occupancy, the foregoing provisions of this Article shall not apply and LESSEE shall continue to pay, in the manner and at the times herein specified, the full amounts of the basic rent and all additional rents and other charges payable by LESSEE hereunder, and, except only to the extent that the LESSEE may be prevented from so doing pursuant to the terms of the order of the condemning authority, LESSEE shall perform and observe all of the other terms, covenants, conditions and obligations hereof upon the part of LESSEE to be performed and observed, as though such taking had not occurred. LESSEE shall be entitled to receive the entire amount of the condemnation proceeds made for such taking, whether paid by way of damages, rent or otherwise, unless such period of temporary use or occupancy shall extend beyond the termination of this Lease, in which case the condemnation proceeds shall be apportioned between LESSOR and LESSEE upon receipt thereof as of the date of termination of this Lease. LESSEE shall, upon the expiration of any such period of temporary use or occupancy during the term of this Lease, restore the Utility System, as nearly as may be reasonably practicable, to the condition in which the same was immediately prior to such taking, subject to LESSEE's rights to make changes or alterations pursuant to Article 10. Any portion of the condemnation proceeds received by LESSEE as compensation for the cost of restoration of the Utility System shall, if such period of temporary use or occupancy shall extend beyond the term of this Lease, be paid to LESSOR on the date of termination of this Lease to the extent not theretofore disbursed by LESSEE in connection with restoration of the Utility System.

Section 9.07. Arbitration. If the order or decree in any condemnation or similar proceeding shall fail separately to state the amount to be awarded to LESSOR and the amount to be awarded to LESSEE under Section 9.02 or 9.03 or the amount of the compensation for the restoration of the Utility System under Section 9.03 or 9.06, and if LESSOR and LESSEE cannot agree thereon within ninety (90) days after the final award or awards shall have been fixed and determined, any such dispute shall be determined by arbitration in the manner provided in Article 17.

Section 9.08. Lender's Rights. In addition to LESSOR and LESSEE, any holder of a mortgage on LESSOR's fee interest in the Land shall have the right to participate in any condemnation proceeding for the purpose of protecting their rights hereunder.

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LESSOR initial

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LESSEE initial

ARTICLE 10  
DISBURSEMENT OF DEPOSITED MONIES

Section 10.01. Deposited Sums. All sums of the character referred to in Sections 4.05 and 9.03 (collectively, the "Deposited Sums") paid to or deposited with a Qualified Depository ("Depository"), shall be disbursed in the manner hereinafter provided.

Section 10.02. Disbursement. From time to time as any restoration, repair, replacement or rebuilding of the Utility System or any portion thereof damaged or destroyed by fire or any other cause, or not taken in a proceeding of the character described in Section 9.03 progresses (collectively, the "work"), disbursement of the Deposited Sums shall be made (subject to the provisions of Section 10.04) in such manner and subject to such requirements as the Depository shall reasonably impose in order to insure that the work shall be completed in a good, workmanlike, and timely manner free of any lien against the Utility System. After the completion of the work the balance of the Deposited Sums shall be disbursed to LESSEE.

Section 10.03. Disbursement Upon Termination. If this Lease shall be terminated pursuant to the default provisions of Article 14 prior to the disbursement of the Deposited Sums or any part thereof, LESSOR may notify the Depository thereof (with a copy to LESSEE) and thereupon the Depository shall have no further right or obligation to disburse any of the Deposited Sums to LESSEE, but shall disburse the same to or for the account of LESSOR upon LESSOR's direction to do so.

Section 10.04. Depository's Deductions. The Depository shall have the right to deduct from the Deposited Sums its reasonable charges for acting as Depository hereunder.

ARTICLE 11  
MECHANIC'S LIEN

Section 11.01. LESSEE shall not suffer or permit any mechanic's liens to be filed against the Utility System by reason of work labor, services or materials supplied or claimed to have been supplied to LESSEE or anyone holding any interest in the Utility System or any part thereof through or under LESSEE. If any such mechanic's lien shall at any time be filed against the Utility System, LESSEE shall, within sixty (60) days after actual notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise as permitted by Florida law. If LESSEE shall fail to cause such lien to be discharged within the period aforesaid, then LESSOR may discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by depositor or by bonding proceedings, and in any such event LESSOR shall be entitled, if LESSOR so elects, to compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest, costs and allowance. LESSOR's interest in the Land shall not be subject to mechanic's liens resulting from any work or improvements contracted for by or through LESSEE, and nothing in this Lease shall be deemed or construed in any way as constituting the consent or request of LESSOR, express or implied by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnish of any materials for any specific improvement, alteration to or repair of the Utility System or any part thereof, nor as giving LESSEE a right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any mechanic's lien against LESSOR's interest in the Utility System. At LESSOR's request, LESSEE shall execute in recordable form a memorandum containing certain of the provisions set forth in this Article 11

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ARTICLE 12

USE, SURRENDER OF THE UTILITY SYSTEM, INSPECTION OF THE UTILITY SYSTEM

Section 12.01 Use. Utility System shall be used only for operation and maintenance of Utility System as a first class water and sewer utility system. LESSEE shall not use or allow Utility System or any part thereof to be used or occupied for any unlawful purpose or for any purpose which violates any laws, rules, regulations, deed restrictions or ordinances, or any certificate of occupancy affecting the use of the Utility System.

Section 12.02. Surrender of Utility System. Upon the termination of this Lease, LESSEE shall surrender to LESSOR the Utility System in good order and repair (except in the event of termination upon a total taking or constructive total taking in condemnation proceedings or pursuant to Section 8.01), reasonable wear excepted and also except as LESSEE may have been prevented from maintaining the Utility System in good order and repair by occupation thereof by any entity having the power of eminent domain which shall have taken the temporary use thereof and shall then be in possession thereof. Upon such termination, LESSEE shall also deliver to LESSOR files, plans, records, registers and all other papers and documents which may be necessary or appropriate for the proper operation and management of the Utility System. Upon such termination LESSEE shall have the right to remove its personal property from the Utility System provided that LESSEE is not in default under this Lease.

Section 12.03. Inspections. LESSEE shall permit LESSOR and its authorized representatives to enter the Utility System at all reasonable times during usual business hours upon reasonable advance notice for the purpose of inspecting the same and shall permit LESSOR and its authorized representatives to enter the Utility System at all reasonable times during usual business hours upon reasonable advance notice for the purpose of exhibiting the same to prospective purchasers or mortgagees of LESSOR's fee title.

Section 12.04. Limits/Indemnity. LESSOR will exercise any right to entry under this Article in a manner designed to minimize interference with normal business operations.

ARTICLE 13

ASSIGNMENT AND SUBLETTING

Section 13.01. Assignment. Except as specifically provided for in this Article 13, this Lease may not be assigned by LESSEE or encumbered without the prior written consent of LESSOR at its sole discretion. For purposes of this Article, the term "assignment" shall include any direct or indirect change in control of LESSEE.

ARTICLE 14

DEFAULT PROVISIONS

Section 14.01. Default. Each of the following shall constitute an event of default (an "Event of Default") by LESSEE under this Lease:

A. If LESSEE shall fail to pay when due the basic rent, any imposition, or any other monetary obligation imposed on LESSEE under this Lease and such default shall continue for a period of ten (10) days after written notice thereof, specifying such default, shall have been given by LESSOR to LESSEE;  
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LESSEE initial

B. If LESSEE shall fail to perform any other (non-monetary) covenant or agreement on the part of LESSEE to be performed hereunder, and such default shall continue for a period of thirty (30) days after written notice thereof, specifying such default, shall have been given by LESSOR to LESSEE; provided, however, in the case of a default which cannot with due diligence be remedied by LESSEE within a period of thirty (30) days, if LESSEE shall commence within such thirty (30) day period to remedy the default and thereafter shall prosecute the remedying of such default with all due diligence, the period of time after the giving of such notice within which to remedy the default shall be extended for such period as may be necessary to remedy the same with all due diligence.

C. If any abandonment of the Utility System by LESSEE shall continue for a period in excess of five (5) days after written notice, specifying and describing such default, shall have been given by LESSOR to LESSEE;

D. If LESSEE makes an assignment for the benefit of creditors, or makes an admission in writing of any inability to pay debts as they come due, or files a petition under bankruptcy laws; or is adjudicated as bankrupt or insolvent; or fails to have dismissed within sixty (60) days from the filing thereof any bankruptcy or similar proceeding instituted against it;

Section 14.02. Remedies. If any Event of Default occurs, and the same is not cured within the applicable grace or cure periods stated in Section 14.01, LESSOR shall have the following specific rights and remedies and such other rights and remedies as may be provided by statutory law, common law, or elsewhere in this Lease (and all of such rights and remedies shall be deemed separate and cumulative and the election of one remedy shall not exclude any other remedy):

A. LESSOR may, at LESSOR's option, elect to terminate this Lease, and if LESSOR so elects it shall notify LESSEE of the termination date and all right, title and interest of LESSEE hereunder shall expire as fully and completely as if that day were the date herein specifically fixed for the expiration of the term of this Lease, and LESSEE will then quit and surrender the Utility System to LESSOR, but LESSEE shall remain liable as hereinafter provided. Upon the termination of this Lease pursuant to any of the provisions of this Article, it shall be lawful for LESSOR, without formal demand or notice of any kind, to reenter the Utility System by summary dispossession proceedings or any other action or proceeding authorized by law and to remove LESSEE therefrom without being liable for any damages therefor.

B. LESSOR may recover possession of Utility System pursuant to any summary dispossession proceedings or other proceedings or remedy available to it by law or by statute, without terminating this Lease, and shall make reasonable efforts to relet Utility System or any part of parts thereof, and shall receive and collect the rents therefore applying the same first to the payment of such expenses as LESSOR may have incurred in recovering possession of Utility System, and for putting the same in good order or condition, and preparing or altering the same for re-rental, and reasonable expenses, commissions and charges paid by obligations of LESSEE hereunder. Any such reletting herein provided for may be the remainder of the term of this Lease or for a longer or shorter period.

C. LESSOR shall entitled to collect from LESSEE the basic rent, additional rent and all other charges required to be paid by LESSEE up to the time of termination, if any, of this Lease, or of recovery of possession of the Utility System by LESSOR without termination of this Lease, as the case may be, and thereafter LESSEE shall, if required by LESSOR, pay to LESSOR until the end of the term of this Lease

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LESSEE initial



the equivalent of the amount of all the basic rent reserved herein, additional rent and all other charges required to be paid by LESSEE, less the net proceeds of reletting if any, and the same shall be due and payable by LESSEE to LESSOR on the rent days LESSEE shall pay to LESSOR the net amount of the deficiency then existing after crediting any surplus of the net proceeds of said reletting, if any, over the amount of all the basic rent, additional rent and all other charges required to be paid by LESSEE which may have theretofore accrued

D Under any of the circumstances hereinbefore mentioned in which LESSOR shall have the right to hold LESSEE liable upon the rent days herein specified to pay LESSOR the equivalent of the amount of the basic rent, additional rent and all other charges required to be paid by LESSEE less the net proceeds of reletting, if any, LESSOR may elect instead of holding LESSEE so liable, to recover against LESSEE as damages for loss of the bargain, and not as a penalty, an aggregate sum which, is equal to (i) the net worth at the time of the award of the amount by which the basic rent, additional rent and all other charges required to be paid by LESSEE hereunder which would have been earned after termination of this Lease or the recovery of possession of the Utility System by LESSOR without termination of this Lease, as the case may be, until the time of the award exceeds the amount of rental loss which LESSEE proves could have been reasonably avoided by LESSOR; (ii) the worth at the time of the award of the amount by which the basic rent, additional rent and all other charges required to be paid by LESSEE hereunder for the balance of the Lease Term from the time of the award exceeds the amount of such rental loss that LESSEE proves can be reasonably avoided; and (iii) any other amount necessary to compensate LESSOR for all detriment proximately caused by LESSEE's failure to fulfill its obligations under this Lease. The "worth at the time of the award" referred to in the foregoing subparagraph (i) shall include interest at the statutory rate in the State of Florida, and the "worth at the time of the award" referred to in subparagraph (ii) shall be computed using the then-current Prime Rate as the discount rate.

Section 14.03. Waiver of Jury Trial. LESSOR and LESSEE waive and shall waive any and all right to a trial by a jury in the event that summary or other proceedings shall be instituted by LESSOR pursuant to this Article 14 to dispossess LESSEE of the Utility System.

ARTICLE 15  
INDEMNIFICATION

- Section 15.01. By LESSEE. LESSEE shall indemnify and hold LESSOR harmless against and from any and all claims by or on behalf of any person or entity arising from the conduct or management of or from any work or thing whatsoever done in or on or with respect to Utility System, and shall also indemnify and hold LESSOR harmless against and from any and all claims arising during the term of the Lease from any condition of Utility System of any sidewalk or other property adjoining the Land which LESSEE is obligated hereunder to maintain, or of any passageways or space therein or appurtenant to or adjoining the Land, or arising from any breach or default on the part of the LESSEE in the performance pursuant to this Lease, or arising from any act of negligence or alleged act of negligence of LESSEE, or any occupant of Utility System or any part thereof, or of its or their agents, contractors, servants, employees, invitees, licensees or of trespassers or arising from any accident, injury or damage whatsoever caused to any person or property occurring during the term of this Lease in or about Utility System, of upon or under the sidewalks or other property adjoining the Land which LESSEE is obligated hereunder to maintain, and from and against all judgments, costs, expense (including attorney's fees at the trial and all appellate levels) and liabilities incurred in or about any such claim or action or proceeding brought

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LESSEE initial

therein, and in case any action or proceeding be brought against LESSOR by reason of any such claim, LESSEE upon notice from LESSOR shall defend such action or proceeding by counsel reasonably satisfactory to LESSOR. Counsel furnished by LESSEE's insurance carrier shall be satisfactory to LESSOR. The indemnification provided herein for LESSOR shall not be deemed to immunize LESSOR from any liability it might incur by virtue of being a sublease or an adjoining land owner.

Section 15.02. By LESSOR. LESSOR shall indemnify and hold LESSEE harmless against and from any and all claims by or on behalf of any person arising from any act of negligence or alleged act of negligence of LESSOR its agents, contracts, servants, employees, invitees or licensees in or on or with respect to the Utility System, and shall also indemnify and hold LESSEE harmless against and from all judgments, costs, expenses (including attorney's fees at the trial and appellate levels) and liabilities incurred with respect to any such claim, and in case any action or proceeding be brought against LESSEE by reason of any such claim, LESSOR upon notice from LESSEE shall defend such action or proceeding by counsel reasonably satisfactory to LESSEE.

ARTICLE 16  
LITIGATION AND ATTORNEYS' FEES

In the event of any litigation arising out of or in connection with this Lease, the prevailing party shall be entitled to recover all costs, including reasonable attorneys' fees at the trial and all appellate levels. Venue for any legal action shall be in Charlotte County, Florida. The parties waive any right to a trial by jury. All provisions of this Lease shall be governed by and construed under Florida law

ARTICLE 17  
ARBITRATION

Section 17.01. Place/Means. In such cases where this Lease provides for the determination of any matter by arbitration the same shall be settled and finally determine by arbitration conducted in Charlotte County, Florida, in accordance with the Rules of the American Arbitration Association or its successor, except that the arbitrators shall be selected as provided in Section 17.02, and judgment upon the award rendered therein may be entered in any court having jurisdiction thereof, however, such award shall be final and binding notwithstanding that judgment thereon may not have been entered. The persons conducting the arbitration shall not have the right to modify the provisions of this Lease.

Section 17.02. Method. In each instance where this Lease provides for the determination of a matter by resort to arbitration, such arbitration shall be conducted as follows: the party desiring such arbitration shall give notice to that effect to the other party, specifying therein the name and address of the persons designated to act as arbitrator on its behalf. Within thirty (30) days after the service of such notice, the other party shall give notice to the first party specifying the name and address of the person designated to act as arbitrator on its behalf. If either party fails to notify the other party of the appointment of its arbitrator, as aforesaid, within or by the time above specified, then the appointment of the second arbitrator shall be made in the same manner as hereinafter provided for the appointment of a third arbitrator in a case where the two arbitrators appointed hereunder and the parties are unable to agree upon such appointment. The arbitrators so chosen shall meet within ten (10) days after the second arbitrator is appointed and if, within thirty (30) days after such first meeting the said two arbitrators shall be unable to agree upon the decision as to the question being arbitrated, they shall appoint a third arbitrator

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LESSEE initial

who shall be a competent and impartial person; and in the event of their being unable to agree upon such appointment within fifteen (15) days after the time aforesaid such third arbitrator shall be selected by the parties if they can agree thereon within a further period of fifteen (15) days. If the parties do not so agree, then either party, on behalf of both, may request such appointment by the Chief Judge of the Circuit Court on Charlotte County, Florida, of such third arbitrator, and the other party shall not raise any question as to the court's full power and jurisdiction to entertain the application and make the appointment. In the event of the failure, refusal or inability of any arbitrator to act, his successor shall be appointed within ten (10) days by the party which appointed said arbitrator and if said party shall fail so to appoint such successor, or in case of the third arbitrator, his successor shall be appointed as hereinbefore provided. Any appraiser selected or appointed as an arbitrator pursuant to this Section shall be a utility engineer, and shall have been doing business as an appraiser in Charlotte, Lee or Sarasota Counties, Florida for a period of at least fifteen (15) years before the date of his appointment as arbitrator hereunder. All arbitrators chosen or appointed pursuant to this Section shall be sworn fairly and impartially to perform their duties as such arbitrator. The decision of the arbitrators shall be given within sixty (60) days after the appointment of such third arbitrator. A decision in which any two arbitrators concur or, if two arbitrators do not concur, the decision of the third arbitrator shall in all cases be binding and conclusive upon the parties and judgment upon the decision may be entered in any court having jurisdiction. Each party shall pay the fee and expenses of its respective arbitrator and both shall share equally the fee and expense of the third arbitrator, if any.

ARTICLE 18  
REMEDIES: LIMITATION OF LIABILITY

Section 18.01 The specified remedies to which LESSOR or LESSEE may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means or redress to which the party may be lawfully entitled in case of any breach or threatened breach by the other party of any provision of this Lease. The failure of a party to insist in any one or more cases upon the strict performance of any of the covenants of this Lease or to exercise any option herein contained shall not be construed as a waiver or a relinquishment for the future of such covenant or option. A receipt by LESSOR of the basic rent or additional rent with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by either party of any provision of this Lease shall be deemed to have been made unless expressed in writing and signed by such party. Notwithstanding anything to the contrary contained in this Lease, neither party nor its partners, officers, directors or shareholders shall have any personal liability hereunder and each party agrees to look solely to the other party's interest in Utility System to satisfy any judgment or for the collection of any damages. In addition to the other remedies in this Lease provided, either party shall be entitled to the restraint by injunction of the violation, or attempted to threatened violation, of any of the covenants, conditions or provisions of this Lease.

ARTICLE 19  
CERTIFICATES OF LESSOR AND LESSEE

Section 19.01. Either party hereto shall, at any time and from time to time, upon not less than twenty (20) days prior notice from the other party, execute, acknowledge and deliver to the other party a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease is in full force and effect as modified and stating the modifications), and the dates to which the basic rent and other charges have been paid in advance, and stating whether or

LESSOR initial

LESSEE initial

not the best knowledge of the signer of such statement the other party is in default in keeping, observing or performing any covenant or agreement contained in this Lease, and such statement delivered pursuant to this Section may be relied upon by the other party or any purchaser, sublessee or mortgagee of its estate, by reliance on such statement may not extend to any default as to which the signer shall have had no actual knowledge, after due inquiry

ARTICLE 20  
NOTICES

Section 20.01 Any notice, demand, request, approval or other communication (a "notice") which, under the terms of this Lease or under any statute, must or may be given by either party hereto, must be in writing, and must be given by hand delivery with signed receipt or by mailing the same by certified mail return receipt requested or by an overnight courier service which provides a signed receipt addressed to the respective parties at their addresses set forth below. Notices shall be deemed given when hand-delivery (with a signed receipt) has been effected, when hand-delivery has been attempted and reasonable evidence is returned indicating that delivery and/or signing of a receipt was refused, or when the return card for certified mail or a receipt or courier service has been returned showing delivery has been made or has been refused by the recipient. Either party may designate by notice in writing given in the manner herein specified a new or other address to which a notice shall thereafter be so given.

ARTICLE 21  
COVENANTS OF LESSOR

Section 21.01 Exclusive Possession. LESSOR shall deliver exclusive possession of the Utility System to LESSEE on the Commencement Date.

Section 21.02. Good Title. LESSOR covenants that it will have good and marketable title to Utility System subject only to the matters set forth on Exhibit B. As long as LESSEE is not in default hereunder, LESSOR will defend LESSEE in the quiet enjoyment of the Utility System against the claims of all persons except as set forth on Exhibit B.

Section 21.03. Easements. LESSOR will cooperate with and join LESSEE in the execution of any reasonable easements involving the Utility System which are necessary for LESSEE's use of the Utility System hereunder.

Section 21.04. Toxic Wastes. LESSOR represents that it has neither dumped, stored or deposited nor authorized the dumping, storing or depositing of any hazardous substances or toxic wastes (as these terms are defined under federal, state and local law) in or on the Land. LESSOR also represents that as the Commencement Date there are, to the best of LESSOR's knowledge, no hazardous substances or toxic wastes (as these terms are defined under federal, state or local law) in or on the Land.

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LESSOR initial

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LESSEE initial

ARTICLE 22  
NO BROKER

Section 22.01. Each party represents to the other that it has dealt with no broker in connection with this Lease and will indemnify and hold the other party harmless with respect to the claims of any broker whom the indemnifying party has dealt with.

ARTICLE 23  
MEMORANDUM OF LEASE

Section 23.01. This Lease shall not be recorded in the public records of any county in the State of Florida or elsewhere unless requested by the other party to do so. Such recording shall be done by the preparation and recording a Memorandum of Lease at the expense of the requesting party.

ARTICLE 24  
TITLE TO IMPROVEMENTS

Section 24.01. All materials and equipment incorporated into the Utility System and any improvements on Utility System and all appurtenances and additions thereto shall become the property of and belong to the LESSOR.

ARTICLE 25  
INVALIDITY OF PARTICULAR PROVISIONS

Section 25.01. If any provision of this Lease or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

ARTICLE 26  
COVENANTS TO BIND AND BENEFIT THE RESPECTIVE PARTIES

Section 26.01. Except as otherwise specifically set forth herein, the covenants and agreements herein contained shall bind and inure to the benefit of LESSOR and LESSEE and their respective successors and assigns but this shall not be construed to permit any assignment by LESSEE except as otherwise authorized in this Lease.

ARTICLE 27  
MISCELLANEOUS

Section 27.01. This Lease is not intended to and shall not constitute any joint venture or other relationship between LESSOR and LESSEE other than a LESSOR/LESSEE relationship. The headings and captions used herein are for reference purposes only and are not to be considered in construing the terms of this Lease. This Lease constitutes the entire agreement between LESSOR and LESSEE on the

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LESSOR initial

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LESSEE initial

subject matter set forth herein, and any prior agreements, representations or discussions not incorporated herein are void and of no effect. This Lease may only be modified by a writing signed by both parties and duly witnessed. This Lease may be signed in multiple counterparts with each such document being considered an original.

ARTICLE 28  
UTILITY

Section 28.01 The parties hereto expressly acknowledge and agree that the value of the Utility System is founded on its continued operation as a first class water and sewer system. Accordingly, any reference herein to Utility System shall include the improvements which constitute the Utility System and the improvements necessary to maintain the operation of the Utility System. Further, any damage to the Utility System which prohibits or negatively affects the ability to maintain a first class Utility System shall be considered equivalent to damages to the Utility System.

IN WITNESS WHEREOF, LESSOR and LESSEE have duly executed and delivered this Lease as of the day and year first above written.

Attest:

LESSOR

WITNESSES:

ISLAND HARBOR BEACH CLUB, LTD.,  
a Florida partnership

Shawn L. Walker  
[Signature]

By: CHARLOTTE HARBOR LAND COMPANY, INC. GENERAL PARTNER, [Signature], PRESIDENT

LESSOR:

WITNESSES:

CHARLOTTE HARBOR LAND COMPANY, INC.,  
a Florida corporation

(Corporate Seal)

[Signature]  
Shawn L. Walker

By: [Signature] PRESIDENT

LESSEE

KNIGHT ISLAND UTILITIES INC.  
a Florida not-for-profit corporation

By [Signature]

WITNESSES:

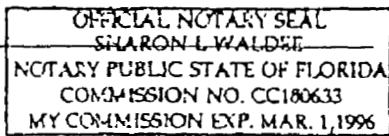
Sharon L. Waldee  
[Signature]

STATE OF FLORIDA  
COUNTY OF CHARLOTTE

THE FOREGOING INSTRUMENT was acknowledged before me this 28th day of September, 1995 by Dean L. Beckstead of ISLAND HARBOR BEACH CLUB, LTD, a Florida partnership, who is personally known to me or has produced Personally known as identification and who did (did not) take an oath and executed the foregoing Lease on behalf of said partnership.

Sharon L. Waldee  
Signature

My Commission Expires:



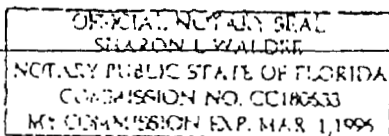
Sharon L. Waldee  
Type or Print Name,  
Notary Public, State of Florida  
  
\_\_\_\_\_  
Commission Number

STATE OF FLORIDA  
COUNTY OF Charlotte

THE FOREGOING INSTRUMENT was acknowledged before me this 28th day of September, 1995 by Dean L. Beckstead of CHARLOTTE HARBOR LAND COMPANY, INC., a Florida corporation., who is personally known to me or has produced Personally known as identification and who did (did not) take an oath and executed the foregoing Lease on behalf of said partnership.

Sharon L. Waldee  
Signature

My Commission Expires:



Sharon L. Waldee  
Type or Print Name,  
Notary Public, State of Florida  
  
\_\_\_\_\_  
Commission Number





Exhibit A

LEGAL DESCRIPTION

Land, plant, , improvements used to operate the  
water and sewer utility system known as "Knight Island Utility"  
on Palm Island, Florida,  
on a parcel of property  
described as follows:

SEE EXHIBIT A-1

This lease does include the non-utility land uses or non-utility property located on the above described parcel

Exhibit B

EXCEPTIONS TO TITLE WHICH UTILITY SYSTEM ARE SUBJECT TO

(NONE)

EXHIBIT A-1

**LEGAL DESCRIPTION WATER & SEWER UTILITY**

A tract of land lying in Government Lot 5, Section 29, Township 41 South, Range 20 East, Palm Island, Charlotte County, Florida adjacent to Palm Island Village Condominium, a condominium recorded in Condominium Book 4, Pages 24A through 24E of the Public Records of Charlotte County, Florida more particularly described as follows:

Commence at the Northeast corner of said Palm Island Village Condominium: thence S-33°-22'-19"-E along the Easterly line of said Palm Island Village Condominium a distance of 263.02 feet for the POINT OF BEGINNING: thence continue S-33°-22'-19"-E along said Easterly line a distance of 85.00 feet: thence S-56°-37'-41"-W a distance of 85.00 feet: thence S-56°-37'-41"-W a distance of 65.00 feet: thence N-33°-22'-19"-W a distance of 85.00 feet: thence N-56°-37'-41"-E a distance of 65.00 feet to the POINT OF BEGINNING. Containing 0.127 acres.

AND

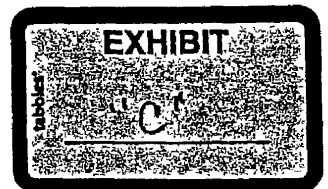
A tract of land lying in Section 29, Township 41 South, Range 20 East, Charlotte County, Florida described as follows:

Commence at the intersection of the Southerly line of the North 1/2 of said Section 29 with the Northeasterly right-of-way line of Gulf Boulevard as shown on the Plat of Palm Island Estates, Unit No. 1 recorded in Plat Book 3 on Page 59 of the Public Records of Charlotte County, Florida; thence N-89°-58'-58"-E along the Southerly line of the North 1/2 of said Section a distance of 456.44 feet to the Easterly line of U.S. Government Lot 5 of said Section 29; thence N-00°-01'-02"-E a distance of 132.74 feet to the POINT OF BEGINNING; thence return S-00°-01'-02"-E along said Easterly line a distance of 132.74 feet to the aforementioned Southerly line of the North 1/2 of said Section; thence S-89°-58'-58"-W along said Southerly line a distance of 389.27 feet to a point which lies 67.17 feet N-89°-58'-58"-E of the aforementioned intersection of said Southerly line with the Northeasterly right-of-way line of Gulf Boulevard; thence N-33°-22'-19"-W a distance of 285.00 feet; thence N-56°-37'-41"-E a distance of 440 feet, more or less, to the Mean High Water Line of Knight Pass; thence Southeasterly along said Mean High Water Line a distance of 220 feet, more or less, to its intersection with a line which bears N-17°-12'-57"-W from the point of beginning; thence S-17°-12'-57"-E along said line a distance of 176 feet, more or less, to the POINT OF BEGINNING, containing 4 acres, more or less.

KNIGHT ISLAND UTILITIES, INC.  
STATEMENT OF OPERATIONS SEWER  
for The Period Ending 06-01-01 - 06-30-01

	Actual	Budget	Variance	%	YTD Actual	YTD Budget	YTD Variance	%
<b>REVENUES</b>								
DEMAND CHARGES	3149.25	3004.00	145.25	4.8	36805.85	35952.00	853.85	2.4
USAGE	1632.26	1675.00	(42.74)	(2.6)	24516.35	24375.00	141.35	0.6
INTEREST	42.60	5.00	37.60	752.0	592.76	60.00	532.76	887.9
<b>TOTAL REVENUES</b>	<b>4824.11</b>	<b>4684.00</b>	<b>140.11</b>	<b>3.0</b>	<b>61914.96</b>	<b>60387.00</b>	<b>1527.96</b>	<b>2.5</b>
<b>DIRECT COSTS</b>								
OPERATOR LABOR	0.00	510.00	(510.00)	(100.0)	5500.00	6120.00	(620.00)	(10.1)
SAMPLING - SEWER DEP	0.00	200.00	(200.00)	(100.0)	2325.00	2400.00	(75.00)	(3.1)
CHEMICAL & SUPPLIES	0.00	110.00	(110.00)	(100.0)	662.57	1320.00	(657.43)	(49.8)
NEW CONNECTIONS	552.00	0.00	552.00	0.0	1303.05	0.00	1303.05	0.0
<b>TOTAL DIRECT COSTS</b>	<b>552.00</b>	<b>820.00</b>	<b>(268.00)</b>	<b>(32.7)</b>	<b>9790.62</b>	<b>9840.00</b>	<b>(49.38)</b>	<b>(0.5)</b>
<b>TOTAL GROSS PROFIT</b>	<b>4272.11</b>	<b>3864.00</b>	<b>408.11</b>	<b>10.6</b>	<b>52124.34</b>	<b>50547.00</b>	<b>1577.34</b>	<b>3.1</b>
<b>OPERATING EXPENSES</b>								
ACCOUNTING & LEGAL	0.00	0.00	0.00	0.0	587.50	700.00	(112.50)	(16.1)
LABOR/METER READING	50.00	50.00	0.00	0.0	600.00	600.00	0.00	0.0
ADMIN/BOOKKEEPING/MG	500.00	415.00	85.00	20.5	5490.00	4980.00	510.00	10.2
BANK CHARGES	0.00	0.00	0.00	0.0	45.53	0.00	45.53	0.0
INTEREST PREMIER	121.47	0.00	121.47	0.0	1546.40	0.00	1546.40	0.0
ELECTRICITY	508.05	450.00	58.05	12.9	6352.12	5400.00	952.12	17.6
INSURANCE	0.00	375.00	(375.00)	(100.0)	3724.07	4500.00	(775.93)	(17.2)
MISCELLANEOUS EXPENS	0.00	30.00	(30.00)	(100.0)	236.54	360.00	(123.46)	(34.3)
OFFICE SUPPLIES	0.00	15.00	(15.00)	(100.0)	164.38	180.00	(15.62)	(8.7)
POSTAGE	25.00	25.00	0.00	0.0	334.06	300.00	34.06	11.4
REPAIRS AND MAINTENA	60.00	800.00	(740.00)	(92.5)	12000.33	9600.00	2400.33	25.0
TRANSPORTATION	140.00	500.00	(360.00)	(72.0)	3640.00	6000.00	(2360.00)	(39.3)
OUTSIDE SERVICES - S	0.00	0.00	0.00	0.0	17.50	0.00	17.50	0.0
TAXES & LICENSES	146.25	100.00	46.25	46.3	3487.68	3100.00	387.68	12.5
	<b>1550.77</b>	<b>2760.00</b>	<b>(1209.23)</b>	<b>(43.8)</b>	<b>38226.11</b>	<b>35720.00</b>	<b>2506.11</b>	<b>7.0</b>
<b>\$</b>	<b>2721.34</b>	<b>\$ 1104.00</b>	<b>\$ 1617.34</b>	<b>146.5</b>	<b>\$ 13898.23</b>	<b>\$ 14827.00</b>	<b>\$ (928.77)</b>	<b>(6.3)</b>

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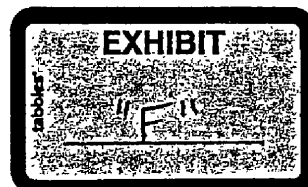
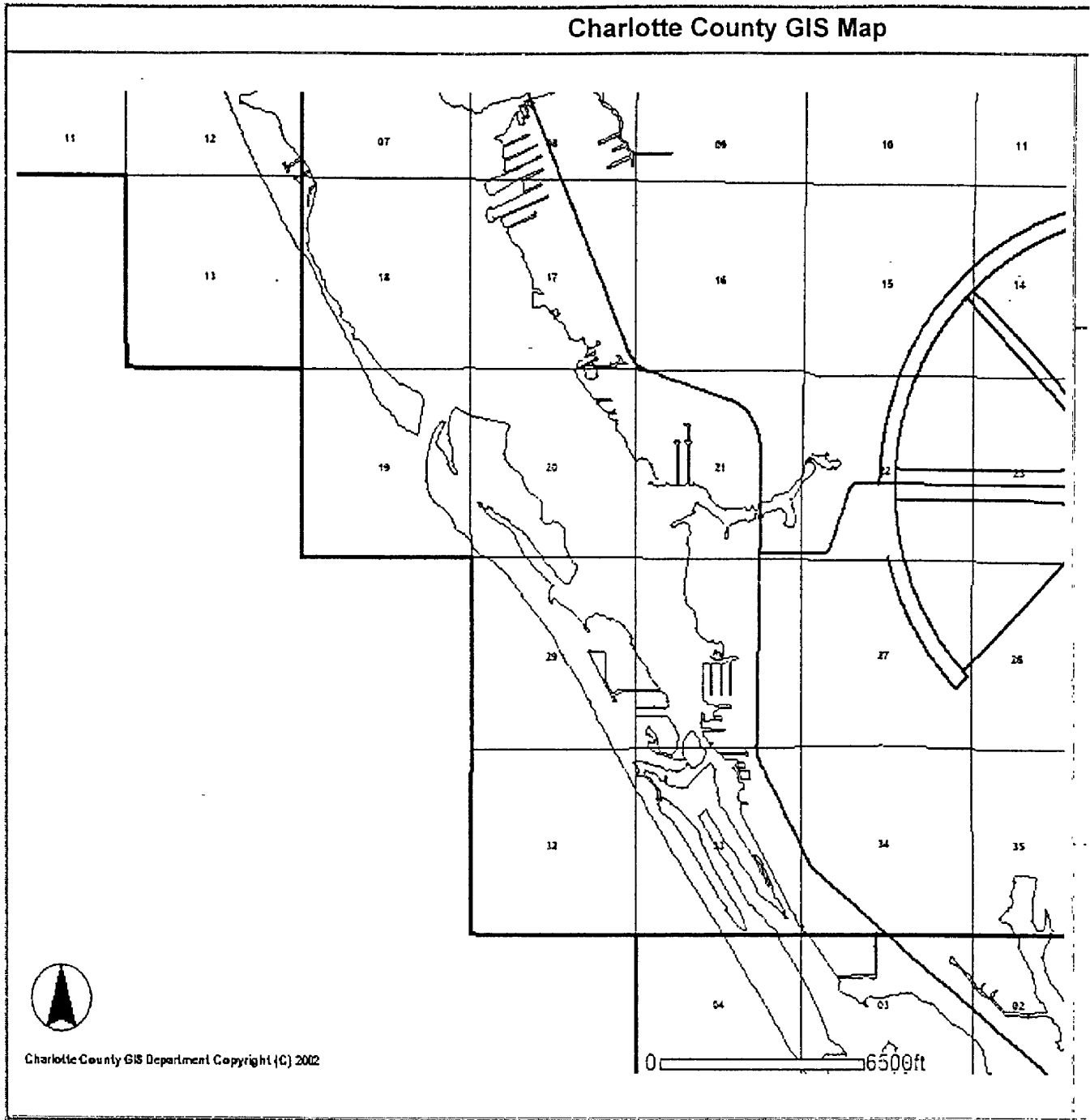
**EXHIBIT "D"**

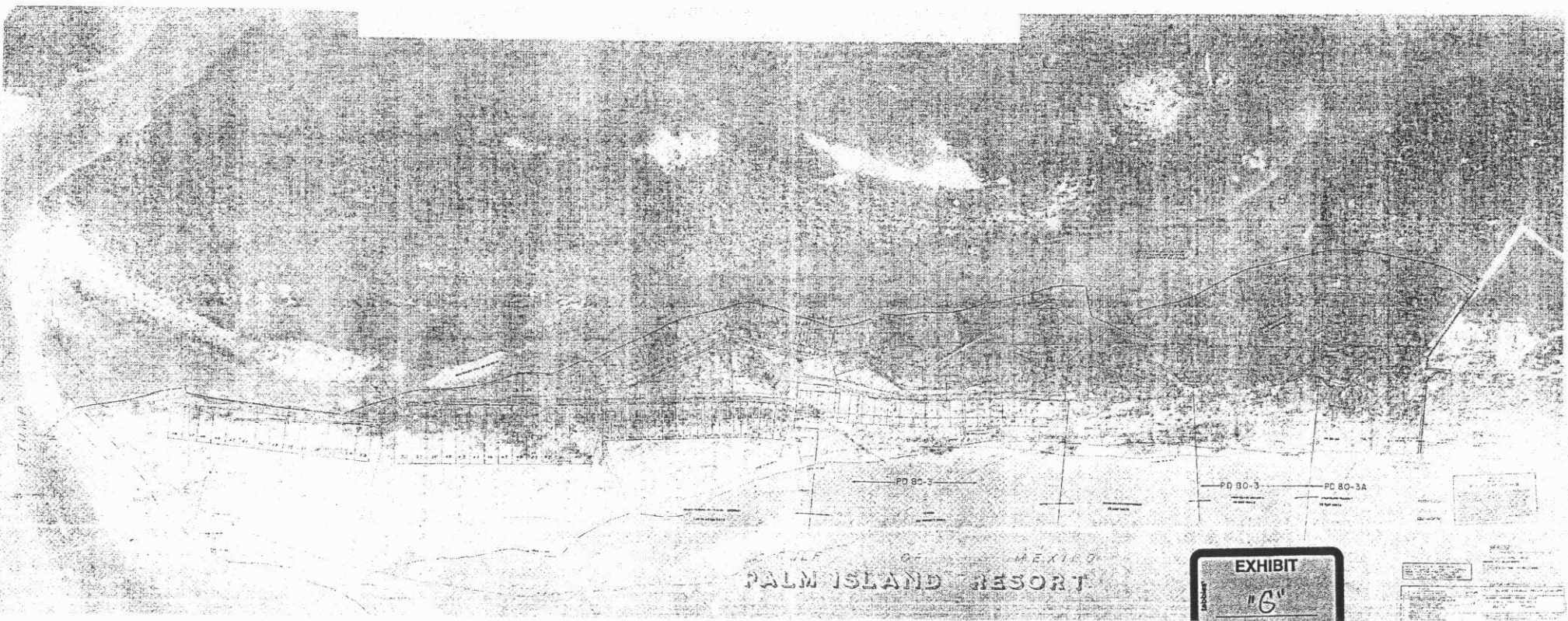
**Water and Wastewater Tariffs are located in the Original Application.**

## LEGAL DESCRIPTION

That portion of Sections 19, 20, 28, 29, 32 and 33, Township 41 South, Range 20 East, and Sections 3 and 4, Township 42 South, Range 20 East, bounded on the West by the Gulf of Mexico, on the East by the Intercoastal Waterway, on the South by Gasparilla Pass, and on the North by Stump Pass, consisting of Thornton Key, Knight Island, Don Pedro Island and Little Gasparilla Island all in Charlotte County, Florida.

EXHIBIT "E"





GULF OF MEXICO  
PALM ISLAND RESORT

EXHIBIT  
"6"

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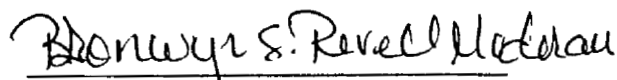
AFFIDAVIT OF MAILING

STATE OF FLORIDA

COUNTY OF LEON

Before me, the undersigned authority, authorized to administer oaths and take acknowledgments, personally appeared BRONWYN S. REVELL MODERAU, who, after being duly sworn on oath, did depose on oath and say that she is the secretary of Martin S. Friedman, attorney for Island Environmental Utility, Inc. and that on July 17, 2002, she did send by certified mail, return receipt requested, a copy of the notice attached hereto to each of the utilities, governmental bodies, agencies, or municipalities, in accordance with the list provided by the Florida Public Service Commission, which is also attached hereto.

FURTHER AFFIANT SAYETH NAUGHT.

  
Bronwyn S. Revell Moderau

Sworn to and subscribed before me this 17th day of July, 2002, by Bronwyn S. Revell Moderau, who is personally known to me.



Print Name

NOTARY PUBLIC

My Commission Expires:

EXHIBIT "H"



Deana C. Russ  
MY COMMISSION # CC877563 EXPIRES  
October 6, 2003  
BONDED THRU TROY FAIR INSURANCE, INC.

**NOTICE OF APPLICATION FOR AN INITIAL  
CERTIFICATE OF AUTHORIZATION  
FOR WASTEWATER CERTIFICATE**

July 17, 2002

Island Environmental Utility, Inc., 7092 Placida Road, Cape Haze, Florida 33946 pursuant to Sections 367.031 and 367.045, Florida Statutes, hereby notices its intent to apply to the Florida Public Service Commission for a certificate to provide wastewater service to the following described property in Charlotte County, Florida:

That portion of Sections 19, 20, 28, 29, 32 and 33, Township 41 South, Range 20 East, and Sections 3 and 4, Township 42 South, Range 20 East, bounded on the West by the Gulf of Mexico, on the East by the Intercoastal Waterway, on the South by Gasparilla Pass, and on the North by Stump Pass, consisting of Thornton Key, Knight Island, Don Pedro Island and Little Gasparilla Island.

Any objections to the Application must be filed with the Director, Division of Records & Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, with a copy to Martin S. Friedman, Esquire, Rose, Sundstrom & Bentley, LLP, 2548 Blairstone Pines Drive, Tallahassee, Florida 32301, no later than 30 days after the last date that the Notice was mailed or published, whichever is later.