



OWNER'S TITLE INSURANCE POLICY

Attorneys' Title Insurance Fund, Inc.

ORLANDO, FLORIDA

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, ATTORNEYS' TITLE INSURANCE FUND, INC., a Florida corporation, herein called The Fund, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

- 1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
- 2. Any defect in or lien or encumbrance on the title;
- 3. Unmarketability of the title;
- 4. Lack of a right of access to and from the land.

The Fund will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.

In Witness Whereof, ATTORNEYS' TITLE INSURANCE FUND, INC. has caused this policy to be signed and sealed as of Date of Policy shown in Schedule A, the policy to become valid when countersigned by an authorized signatory.



Attorneys' Title Insurance Fund, Inc.

By

*Charles J. Kovaleski*

Charles J. Kovaleski  
President

SERIAL

OPM -

2554742 - 14620

FUND OWNER'S FORM

Schedule A

Policy No.: OPM-2554742 Effective Date: August 26, 2004 Agent's File Reference: 14620 at 12:13 P.M. 04-33

Amount of Insurance: \$ 20,000.00

1. Name of Insured:

HOLIDAY WATERWORKS CORP., a Florida corporation

2. The estate or interest in the land described herein and which is covered by this policy is a fee simple (if other, specify same) and is at the effective date hereof vested in the named insured as shown by instrument recorded in Official Records Book 6001, Page 1189, of the Public Records of Pasco County, Florida.

3. The land referred to in this policy is described as follows:

A portion of the Tampa-Tarpon Springs Land Company Subdivision in the Northeast 1/4 of Section 34, and a portion of the Northwest 1/4 of Section 35, Township 26 South, Range 15 East, Pasco County, Florida, being further described as follows: BEGIN at the West 1/4 corner of said Section 35; thence run along the South boundary line of the Northeast 1/4 of said Section 34, North 87°42'53" West, 15.00 feet; thence along the West right-of-way line of the original 15 foot Tampa-Tarpon Springs Land Company Subdivision right-of-way in Section 34, North 01°27'28" East, 49.21 feet; thence North 89°07'33" East, 283.01 feet; thence North 00°52'27" West, 372.19 feet; thence North 89°07'33" East 517.35 feet; thence South 00°52'27" East, 422.19 feet; thence along the South boundary line of the Northwest 1/4 of said Section 35, also being the North boundary line of Gulf View Heights and the Easterly extension thereof as shown on plat recorded in Plat Book 3, page 63 of the Public Records of Pasco County, Florida, South 89°07'33" West, 787.38 feet to the POINT OF BEGINNING. Containing 5.340 acres more or less.

ALLGOOD & MISEMER, P.A. ISSUING AGENT - ATTORNEY OR FIRM OF ATTORNEYS

385 AGENT NO.

AGENT'S SIGNATURE (Handwritten signature)

Kenneth R. Misemer

5645 Nebraska Avenue MAILING ADDRESS

New Port Richey, Florida 34652 CITY ZIP

**FUND OWNER'S FORM****Schedule B**

Policy No.: OPM-2554742-14520

This policy does not insure against loss or damage by reason of the following exceptions:

1. Taxes for the year of the effective date of this policy and taxes or special assessments which are not shown as existing liens by the public records. Parcel 34-26-15-0010-00100-0000
2. Rights or claims of parties in possession not shown by the public records.
3. Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the premises.
4. Easements or claims of easements not shown by the public records.
5. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
6. Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the lands insured hereunder, including submerged, filled and artificially exposed lands, and lands accreted to such lands.
7. The West 60 feet of subject property subject to an easement for ingress and egress.

**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and The Fund will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to The Fund, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to The Fund by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (a) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - (b) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (i) to timely record the instrument of transfer; or
    - (ii) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

**CONDITIONS AND STIPULATIONS****1. Definition of Terms**

The following terms when used in this policy mean:

- (a) "insured": the insured named in Schedule A, and, subject to any rights or defenses The Fund would have had against the named insured, those who succeed to the interest of the named insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors
- (b) "insured claimant": an insured claiming loss or damage.
- (c) "knowledge" or "known": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of the public records as defined in this policy or any other records which impart constructive notice of matters affecting the land.
- (d) "land": the land described or referred to in Schedule A, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule A, or any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.
- (e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument
- (f) "public records": records established under state statutes at date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge. With respect to Section 1(a)(iv) of the Exclusions from Coverage, "public records" shall also include environmental protection liens filed in the records of the clerk of the United States district court for the district in which the land is located.
- (g) "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

**2. Continuation of Insurance After Conveyance of Title**

The coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or

from the insured of either (i) all estate or interest in the land, or (ii) all indebtedness secured by a purchase money mortgage given to the insured.

**3. Notice of Claim To Be Given by Insured Claimant**

The insured shall notify The Fund promptly in writing (i) in case of any litigation as set forth in Section 4(a) below, (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as insured, and which might cause loss or damage for which The Fund may be liable by virtue of this policy, or (iii) if title to the estate or interest, as insured, is rejected as unmarketable. If prompt notice shall not be given to The Fund, then as to the insured all liability of The Fund shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify The Fund shall in no case prejudice the rights of any insured under this policy unless The Fund shall be prejudiced by the failure and then only to the extent of the prejudice.

**4. Defense and Prosecution of Actions; Duty of Insured Claimant To Cooperate**

(a) Upon written request by the insured and subject to the options contained in Section 6 of these Conditions and Stipulations, The Fund, at its own cost and without unreasonable delay, shall provide for the defense of an insured in litigation in which any third party asserts a claim adverse to the title or interest as insured, but only as to those stated causes of action alleging a defect, lien or encumbrance or other matter insured against by this policy. The Fund shall have the right to select counsel of its choice (subject to the right of the insured to object for reasonable cause) to represent the insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Fund will not pay any fees, costs or expenses incurred by the insured in the defense of those causes of action which allege matters not insured against by this policy.

(b) The Fund shall have the right, at its own cost, to institute and prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest, as insured, or to prevent or reduce loss or damage to the insured. The Fund may take any appropriate action under the terms of this policy, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this policy. If The Fund shall exercise its rights under this paragraph, it shall do so diligently.

(c) Whenever The Fund shall have brought an action or intervened

Fund may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

(d) In all cases where this policy permits or requires The Fund to prosecute or provide for the defense of any action or proceeding, the insured shall secure to The Fund the right to so prosecute or provide defense in the action or proceeding, and all appeals therein, and permit The Fund to use, at its option, the name of the insured for this purpose. Whenever requested by The Fund, the insured, at The Fund's expense, shall give The Fund all reasonable aid (i) in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act which in the opinion of The Fund may be necessary or desirable to establish the title to the estate or interest as insured. If The Fund is prejudiced by the failure of the insured to furnish the required cooperation, The Fund's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

#### 5. Proof of Loss or Damage

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided The Fund, a proof of loss or damage signed and sworn to by the insured claimant shall be furnished to The Fund within 90 days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title, or other matter insured against by this policy which constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If The Fund is prejudiced by the failure of the insured claimant to provide the required proof of loss or damage, The Fund's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of loss or damage.

In addition, the insured claimant may reasonably be required to submit to examination under oath by any authorized representative of The Fund and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of The Fund, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of The Fund, the insured claimant shall grant its permission, in writing, for any authorized representative of The Fund to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the insured claimant provided to The Fund pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of The Fund, it is necessary in the administration of the claim. Failure of the insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph shall terminate any liability of The Fund under this policy as to that claim.

#### 6. Options To Pay or Otherwise Settle Claims; Termination of Liability

In case of a claim under this policy, The Fund shall have the following additional options:

##### (a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant, which were authorized by The Fund, up to the time of payment or tender of payment and which The Fund is obligated to pay.

Upon the exercise by The Fund of this option, all liability and obligations to the insured under this policy, other than to make the payment required, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, and the policy shall be surrendered to The Fund for cancellation.

##### (b) To Pay or Otherwise Settle With Parties Other than the Insured or With the Insured Claimant.

(i) to pay or otherwise settle with other parties for or in the name of an insured claimant any claim insured against under this policy, together with any costs, attorneys' fees and expenses incurred

by the insured claimant which were authorized by The Fund up to the time of payment and which The Fund is obligated to pay; or

(ii) to pay or otherwise settle with the insured claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by The Fund up to the time of payment and which The Fund is obligated to pay.

Upon the exercise by The Fund of either of the options provided for in paragraphs (b) (i) or (ii), The Fund's obligations to the insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

#### 7. Determination; Extent of Liability and Coinsurance

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the insured claimant who has suffered loss or damage by reason of matters insured against by this policy and only to the extent herein described.

(a) The liability of The Fund under this policy shall not exceed the least of:

(i) the Amount of Insurance stated in Schedule A; or,

(ii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

(b) *(This paragraph dealing with Coinsurance was removed from Florida policies.)*

(c) The Fund will pay only those costs, attorneys' fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations

#### 8. Apportionment

If the land described in Schedule A consists of two or more parcels which are not used as a single site, and a loss is established affecting one or more of the parcels but not all, the loss shall be computed and settled on a pro rata basis as if the amount of insurance under this policy was divided pro rata as to the value on Date of Policy of each separate parcel to the whole, exclusive of any improvements made subsequent to Date of Policy, unless a liability or value has otherwise been agreed upon as to each parcel by The Fund and the insured at the time of the issuance of this policy and shown by an express statement or by an endorsement attached to this policy.

#### 9. Limitation of Liability

(a) If The Fund establishes the title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the land, or cures the claim of unmarketability of title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation, including litigation by The Fund or with The Fund's consent, The Fund shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title as insured.

(c) The Fund shall not be liable for loss or damage to any insured for liability voluntarily assumed by the insured in settling any claim or suit without the prior written consent of The Fund.

#### 10. Reduction of Insurance; Reduction or Termination of Liability

All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto.

#### 11. Liability Noncumulative

It is expressly understood that the amount of insurance under this policy shall be reduced by any amount The Fund may pay under any policy insuring a mortgage to which exception is taken in Schedule B or to which the insured has agreed, assumed, or taken subject, or which is hereafter executed by an insured and which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy to the insured owner.

#### 12. Payment of Loss

(a) No payment shall be made without producing this policy for endorsement of the payment unless the policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of The Fund.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations,