



Public Service Commission

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

DATE: May 23, 1995
TO: Division of Records and Reporting
 Division of Legal Services (Sager)
FROM: Division of Water and Wastewater (Xanders) *EX*
RE: Docket No. 921098-WS: Application for certificates under grandfather rights in Alachua County by Turkey Creek Utilities

Please include the attached in the above referenced docket folder. If you have any questions, please feel free to contact me.

- ACK _____
- AFA _____
- APP _____
- CAF _____
- GMU _____
- GTR _____
- EAG _____
- LEG _____
- LIN _____
- OPC _____
- ROH _____
- SEC /
- WTS _____
- OTH _____

DOCUMENT NUMBER-DATE

05023 MAY 25 95

FPSC-RECORDS/REPORTING

RECEIVED

OCT 16 1993

MEMORANDUM OF INTENT

Florida Public Service Commission
Division of Water and Wastewater

THIS MEMORANDUM OF INTENT is entered into effective as of the 23rd day of September, 1993, by FAMILY DINER, INC., a Florida corporation, d/b/a TURKEY CREEK UTILITIES (hereinafter referred to as "FDI") and the CITY OF ALACHUA, a Florida municipal corporation (hereinafter referred to as "CITY").

W I T N E S S E T H :

WHEREAS, FDI owns and operates a water and wastewater system in the Turkey Creek recreational residential community in Alachua, Florida, said system being known as TURKEY CREEK UTILITIES; and

WHEREAS, the CITY has agreed to purchase said TURKEY CREEK UTILITIES, and FDI has agreed to sell the said TURKEY CREEK UTILITIES to the CITY under a contract to be entered into between the parties which shall not be inconsistent with the following minimum terms and conditions:

NOW THEREFORE, for and in consideration of the mutual covenants herein and other good and valuable consideration, the mutual receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Water Plant. As part of the water system, FDI agrees it will transfer to the CITY title to the real estate shown on the sketch attached hereto as Exhibit "A". This transfer shall be by Warranty Deed and shall be free and clear of all encumbrances except for easements existing and/or of record. FDI also agrees to execute a Bill of Sale to the CITY on the following:
 - a. 200,000 gallon water tank;
 - b. Three (3) ten inch (10") wells;
 - c. Three (3) 75 horsepower motors and pumps;
 - d. Wallace & Tiernan chlorination equipment; and
 - e. All system piping, meters, valves, fire hydrants and allied fittings.

It is the intention of the parties that only equipment, parts, etc. which are installed and are actually in use in the system are to be included under this paragraph. All other spare equipment, spare parts, etc. are to be sold as provided in Paragraph 3.

2. **Sewer Plant.** As part of the wastewater system, FDI agrees it will transfer to the CITY title to the real estate shown on the survey attached hereto as Exhibit "B". This transfer shall be by Warranty Deed and shall be free and clear of all encumbrances, except easements existing and/or of record. FDI also agrees to execute a Bill of Sale to the CITY on the following:
- a. Existing 350,000 gpd (capacity) wastewater treatment plant including all allied equipment;
 - b. All sewer lines;
 - c. All lift stations; and
 - d. All chlorination equipment at the sewer plant.

It is the intention of the parties that only equipment, parts, etc. which are installed and are actually in use in the system are to be included under this paragraph. All other spare equipment, spare parts, etc. are to be sold as provided un Paragraph 3.

Part of the real estate around the sewer plant is used as a nursery and part for a fish farm. The CITY agrees that FDI may take up to one (1) year from the date of closing in which to vacate same, but FDI agrees not to conflict in any way with the system's operation.

3. **Inventory.** In addition to the purchase price specified below, the CITY agrees to pay for all of the utilities stock, repair parts, spare parts, spare equipment, tools, etc. that have anything to do with water or sewer utilities. Both parties will take part in the joint inventory. FDI will be paid for these items by the CITY on or before October 22, 1993. The sales price of the inventory shall be sixty-five percent (65%) of the cost of the items new, but the CITY must purchase all new and used inventory (stock, repair parts, spare parts, spare equipment, tools, etc.) which is in good condition.
4. **Customer List and Meter Books.** On September 24, 1993, FDI shall turn over to the CITY a customer list showing all of Turkey Creek Utilities customers, their addresses, and their water meter reading as of September 23, 1993. On September 24, 1993, FDI shall also transfer the meter books of the utilities showing the water meter readings.
5. **Notification to Customers** The CITY agrees to prepare a notice to the Turkey Creek customers notifying them of the transfer of the utility system. An appropriate number of copies shall be furnished by the CITY to FDI so that the notice can be sent out with the utility bills

that FDI will mail out based on the September 23, 1993 meter reading. The notice shall also contain a provision that payment of the bills for the September 23, 1993 meter readings should be made to FDI, and that failure to pay will result in the CITY enforcing its normal collection policies (including cut off) if the bills are not paid to FDI in a timely fashion.

6. Operational Control. On September 23, 1993, the CITY shall take Operational Control of the utility system. All of the revenue from the September 23, 1993 meter readings shall be the property of FDI and the CITY agrees to pay FDI a sum, if any, equal to the total revenues received by the CITY from the September 23, 1993 billing. Payment is to be in cash as payments are received. The CITY shall utilize its normal collections policies to see that FDI receives payment. On September 23, 1993, both FDI and the CITY will read the water meters. Sums collected by the CITY for services after September 23, 1993, shall be held in escrow until closing. However, the CITY may use the escrow funds to pay the cost of supplying the services. After closing, the escrow funds shall belong to the CITY. In the event the closing shall not take place the funds shall be paid to FDI.
7. Deposits and Prepaid. At the closing, FDI will turn over to the CITY all deposits and pre-paid disconnection fees. The funds shall be identified by the names and amounts of each deposit or pre-paid fees.
8. DER Permit. FDI will pay all costs of the sewer plant operating permit, but the CITY will pay any fees required to have the permit transferred to it. The closing referred to below shall be contingent on the DER permit being able to be transferred to the CITY.
9. ~~Purchase Price and Revenue Bonds.~~ ~~The purchase price shall be One Million Three Hundred Thousand Dollars (\$1,300,000.00) payable as provided herein. The CITY agrees to cause to be issued to FDI a subordinate lien utility revenue bond(s) in the sum of One Million Three Hundred Thousand Dollars (\$1,300,000.00) payable at seven percent (7%) interest as shown on the Debt Service Schedule attached hereto as Exhibit "C". The annual principal payment will commence October 1, 1994, and shall continue on each October 1st thereafter for twenty-four (24) additional years. The interest payments shall commence April 1, 1994. The second interest payment shall be on October 1, 1994. Thereafter, interest payments shall be made every six (6) months for the life~~

of the bonds. These bonds must be municipal bonds, the interest on which is income tax-free to FDI, and bond counsel for the CITY shall give an opinion to that effect for the benefit of the CITY and FDI. The bonds will contain a provision that they can not be obligated or transferred by FDI without the express written consent of the CITY. The bonds also will contain a provision that the CITY can not pre-pay any part of the bonds without the express, written consent of FDI. These bonds shall be issued by the CITY on or before October 22, 1993.

10. Additional Consideration. The CITY will provide water free of charge to FDI at the sewer plant for one (1) year after the closing, referred to below.
11. Assignment of Easement, etc. At the closing, FDI agrees to assign to the CITY all of its easements existing and/or of record in the Turkey Creek project relating to water or wastewater utilities. FDI will also assign the CITY its contract with Heritage Links for the storage of effluent in #18 mixing lake and spray irrigation of same. FDI agrees to give the CITY an easement at closing for ingress and egress to the sewer plant. This easement shall be perpetual but may be moved by FDI from time to time.
12. Fence. As soon as FDI establishes the new pond on the west side of the sewer plant, the CITY agrees to construct a chain link fence in the same manner as the existing chain like fence on the other three (3) sides of the property.
13. Costs. The CITY is to pay all costs in connection with this transaction including but not limited to:
 - a. Bonding costs or expenses;
 - b. PSC, DER, and Alachua County transfer fees;
 - c. Survey (provided FDI will furnish a survey on the sewer plant);
 - d. Titlework;
 - e. Documentary stamps and intangible taxes;
 - f. Filing and recording fees;
 - h. Legal expenses of the CITY;
 - i. Documentary preparation charges; and
 - j. Ingress and egress easement description.

14. **Warranties.** FDI will warrant to the CITY:
- a. The utility systems are sold "as is" but FDI will warrant both the water system and wastewater system are in operational condition and free of known defects. Provided, the CITY acknowledges that of the three (3) motors at the water plant, one is an operable, but unconnected, spare. And provided further, the CITY also acknowledges that one of the two (2) clarifiers at the sewer plant needs a motor and gear box to be operable;
 - b. The real property shall be conveyed by warranty deeds;
 - c. The bill of sale given to the CITY shall contain warranties of good title; and
 - d. The wastewater system will be permitted prior to closing by the Florida Department of Environmental Regulation for a capacity of .350 M.G.D.
15. **Closing.**
- a. FDI will transfer at closing to the CITY all of the real property described herein and all of the easements and tangible personal property now owned by FDI which are necessary for the CITY to continue the operation of the utility system;
 - b. Closing shall take place as expeditiously as possible but not prior to DER and the CITY agreeing to the transfer; and
 - c. At that time, the deeds, assignments, and other documents called for herein shall be exchanged for the bonds called for herein.
16. **Survival.** This Memorandum of Intent and the resulting buy and sell agreement shall survive the closing.
17. **Indemnity.** The buy and sell agreement shall have an indemnity clause indemnifying each party against losses resulting from the other party's operations of the utilities before and after September 23, 1993.
18. **Further Assurance.** FDI shall give the CITY further assurance that it will provide any documents or titles in FDI's possession necessary to operate the utility systems which may have not been delivered at closing.

- 19. Tax Proration. Real estate taxes shall be prorated as of September 23, 1993.
- 20. Approval of Attorneys. This Agreement shall not be binding on either party if its respective attorneys opine that the interest paid to FDI on the bonds are not tax free.
- 21. Compliance with Chapter 180, Florida Statute. the CITY warrants to FDI that the CITY has complied with §180.301, Fla. Stats. (1991).
- 22. Effective Date. The effective date of this sale and the transfer of responsibilities and customers shall be September 23, 1993.

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

WITNESSES:

FAMILY DINER, INC. a Florida corporation, d/b/a TURKEY CREEK UTILITIES

SIGN: _____

By: _____

PRINT: _____

PRINT: NORWOOD W. HOPE

SIGN: _____

TITLE: President

PRINT: _____

STATE OF FLORIDA:
 SS:
COUNTY OF ALACHUA:

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this _____ day of September, 1993, by NORWOOD W. HOPE, as President on behalf of FAMILY DINER, INC., a Florida corporation, d/b/a TURKEY CREEK UTILITIES. He is personally known to me or has produced a _____ as identification.

NOTARY PUBLIC

SIGN: _____

PRINT: _____
State of Florida at Large

My Commission Expires:
My Commission Number:

WITNESSES

CITY OF ALACHUA, a Florida
municipal corporation

SIGN: _____

By: _____

PRINT: _____

PRINT: _____

SIGN: _____

TITLE: _____

PRINT: _____

STATE OF FLORIDA:

SS:

COUNTY OF ALACHUA:

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this _____ day of September, 1993, by _____, as _____ on behalf of the CITY OF ALACHUA, a Florida municipal. He/She is personally known to me or has produced a _____ as identification.

NOTARY PUBLIC

SIGN: _____

PRINT: _____
State of Florida at Large

My Commission Expires:

My Commission Number:

THIS DOCUMENT PREPARED BY:

Neil A. Maphurs, Esquire
P.O. Box 969
Alachua, FL 32615
(904) 462-2736

and

A. Bice Hope, Esquire
P.O. Box 5217
Gainesville, FL 32602-5217
(904) 371-2066

TCI\INTENT.MEM



COMMISSION COMMUNICATION

TO: Honorable Mayor and Commission

FROM: Neil A. Malphurs - City Attorney

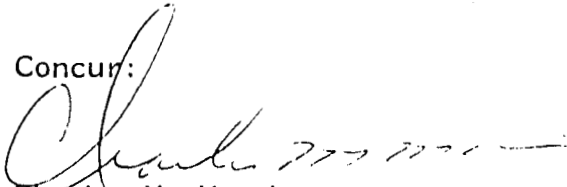
SUBJECT: Resolution No. R-94-1
City of Alachua - Family Diner, Inc. Agreement

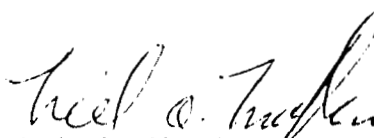
SUMMARY:

Resolution No. R-94-1 approves the purchase agreement between the City of Alachua and Family Diner, Inc. for the purchase of Turkey Creek Utilities. Further it authorizes the Mayor and City Clerk to execute the agreement on behalf of the city.

Recommendation: Staff recommends approval of Resolution No. R-94-1.

Concur:


Charles M. Morris
City Manager


Neil A. Malphurs
City Attorney

FISCAL IMPACT: Increase in total plant assets and utility system revenues.

R-94-1

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A PURCHASE AGREEMENT BETWEEN THE CITY OF ALACHUA, FLORIDA AND FAMILY DINER, INCORPORATED.

WHEREAS, the City owns and operates a water and sewer system from which it derives revenues and is authorized to acquire and operate water and sewer systems in order to provide additions and improvements thereto; and

WHEREAS, the City deems it necessary and advisable for the public health, welfare and safety of its citizens to provide additions and improvements to its water and sewer system by acquisition of the sewers collection treatment and disposal system and water supply treatment and distribution system ("system") currently owned by FAMILY DINER, INC.; and

WHEREAS, based on the foregoing and the determination at the Public Hearing held on September 20, 1993 that the purchase of the system was in the best interest of the public.

THEREFORE, BE IT RESOLVED BY THE PEOPLE OF THE CITY OF ALACHUA, FLORIDA:

SECTION 1. AUTHORIZATION

The Mayor and City Clerk are hereby authorized to execute the purchase agreement between the CITY OF ALACHUA, FLORIDA and FAMILY DINER, INC. which is attached.

SECTION 2. EFFECTIVE DATE

This resolution shall take effect immediately upon its adoption.

DATED this day of A.D., 1993.

Mayor-Commissioner

ATTEST:

City Clerk

PURCHASE AGREEMENT

Agreement entered into this _____ day of October Nineteen
Hundred and Ninety Three

BETWEEN

CITY: CITY OF ALACHUA, FLORIDA

AND

SELLER: FAMILY DINER, INC.

WITNESSETH

WHEREAS, seller represents it is the legal owner and holder of
assets hereinafter described (the "system"); and

WHEREAS, the City is authorized and empowered to make and
enter into control and do all things necessary and incidental in
carrying out its power; and

WHEREAS, the City desires to purchase the subject assets from
the seller; and

WHEREAS, the parties have previously entered into a Memorandum
of Intent (hereinafter referred to as "Memorandum"), effective
September 23, 1993. A copy of which Memorandum is attached hereto
and made a part of this Purchase Agreement;

NOW THEREFORE, for and in consideration of the premises and
the mutual agreements hereinafter set forth and for other good and
valuable consideration, the receipt and sufficiency of which is
hereby acknowledged, the City and Seller hereby agree as follows:

1. DEFINITIONS.

The following terms shall have the meaning established
hereinbelow unless the text otherwise expressly requires:

- A. PURCHASE PRICE shall mean the total amount of \$1,300,000,
payable as provided in the Memorandum.
- B. SERVICE AREA shall mean the area of the City of Alachua,
Florida described in schedule B attached hereto.
- C. SYSTEM shall mean all the assets and facilities of the
water and sewer systems owned by the Seller consisting
generally of goodwill, plants, lift stations, lines,
material, and equipment, personal and real property

including easements with buildings and improvements thereon. SYSTEM shall not include accounts receivable or choses in action. Schedule A more particularly describes part of the assets.

D. TURKEY CREEK UTILITIES is the name of the business under which FAMILY DINER, INC. is operating the SYSTEM (the purchase of which is the purpose of this agreement).

2. PURCHASE AND SALE OF SYSTEM.

The Seller will sell, transfer, assign and deliver the system to the city free and clear of liens, pledge and encumbrances of any kind, nature and description except easements existing and/or of record and the city will purchase the system for the purchase price of \$ 1,300,000 payable as provided in the Memorandum.

3. REVENUE BONDS.

A. The City agrees to cause to be issued to Seller a subordinate lien utility revenue bond (s) in the sum of One Million Three Hundred Thousand Dollars (\$1,300,000) payable at seven percent (7%) interest as shown on the Debt Service Schedule attached hereto as Exhibit "F". The annual principal payment will commence October 1, 1994, and shall continue on each October 1st thereafter for twenty-four (24) additional years. The interest payments shall commence April 1, 1994. The second interest payment shall be on October 1, 1994. Thereafter, interest payments shall be made every six (6) months for the life of the bonds. These bonds must be municipal bonds, the interest on which is income tax-free to Seller, and bond counsel for the City shall give an opinion to that effect for the benefit of the City and Seller. The bonds will contain a provision that they can not be obligated or transferred by Seller without the express written consent of the City. The bonds also will contain a provision that the City can not pre-pay any part of the bonds without the express, written consent of Seller. These bonds shall be issued by the City on or before October 22, 1993.

B. The Bonds shall not be negotiable, and ownership of the Bonds shall not be transferable except for transfers by operation

of law and transfers made with prior approval of the City. The debt of the City evidenced by the Bonds shall be subject to defenses and set-off against any liability of the Seller to the City under this Agreement, provided that any such liability has been reduced to a final non appealable judgement by a court of competent jurisdiction.

4. CLOSING.

The parties agree to use their best efforts to have the closing of the transaction provided for in paragraphs 2 above at City Hall, Alachua, Florida, on or before October 22, 1993. Time shall not be of the essence.

5. CONDITION OF SELLER AT CLOSING.

A. Seller represents and warrants that at the time of closing, the Seller will own all of the assets described on Schedule A attached hereto and made a part of this Agreement, and any additions, betterments or improvements to said System, being all real property, interests in real property and tangible personal properties utilized in the operation of and constituting a part of the System. At the time of closing, the Seller warrants that said assets will be free of all liens and encumbrances except for taxes for the year of the Closing, easements existing and/or of record, zoning and other land use regulations and other recorded matters, none of which may materially adversely affect the use or enjoyment of said real estate for the purpose contemplated by this Agreement, provided that in the event that there should be any such liens, encumbrances, or other title matters, Seller shall indemnify, defend and hold City harmless from same as provided in Paragraphs 8 and 10 hereof, including without limitation, the right of City to seek reimbursement for said costs from Seller. Seller further represents and warrants that the assets of the Seller consisting generally of plants, lift stations, lines, equipment, and generally similar assets, will be "as is" but in reasonably good working condition, normal wear and tear excepted, and will be free and clear of any encumbrance, lien or pledge, provided that in the event there should be any such mortgage, encumbrance, lien or

pledge, the Seller is responsible for same and Seller shall indemnify, defend and hold the City harmless from same as provided in paragraphs 8 and 10 hereof, including, without limitation the right of City to have reimbursement for said costs from Seller. The provisions of this Paragraph 5(A) shall survive the closing of the transaction contemplated hereby.

B. At Closing, Seller will convey the real property described on Schedule A by warranty deed, free and clear of all claims, liens, defects, encumbrances, except easements existing and/or for record and taxes for the year of the closing and with ingress and egress. The easement for ingress and egress to the sewer treatment plant shall be perpetual but may be moved by Seller from time to time. At Closing, Seller will assign its rights to all water and waste water easements in which it has an interest.

C. On or before Closing, City, at its sole cost, and at no cost to Seller, shall obtain a commitment for an owner's policy of title insurance delineating and indicating title to the real estate described in the Schedule A, to be vested in the Seller, free and clear of all liens and encumbrances except for taxes for the year of the Closing, easements existing and/or of record, zoning and other land use regulations and normal restrictions, none of which easements, zoning regulations or restrictions will materially adversely affect the use or enjoyment of said real estate for the purpose contemplated by the Agreement. The title insurance policy shall be obtained from a title insurance company which is in good standing in Florida and able to pay its claims. Seller shall have no obligation to indemnify Seller under the provisions of the second sentence of Subparagraph 5(A) if such real property is so insured. Prior to Closing, Seller shall, or City may at Seller's expense, cure any defect reflected by such insurance not waived by City. It is understood by and between the parties that the easements are not insured by title insurance. The City acknowledges Sellers easements are non-exclusive. Nothing contained in this Subparagraph 5(C) shall be construed to limit or restrict any right or remedy of City.

D. Seller owns all the real property, to be conveyed and easements to be assigned pursuant to the Memorandum and this contract, necessary to operate and maintain the System, except for parts located in public rights-of-way. The System as now constructed is located within said real property, easements, and rights-of-way. As for parts located in public rights-of-way, Seller has, to the best of its knowledge, obtained necessary approvals from appropriate governmental agencies.

6. CONDUCT OF BUSINESS PENDING CLOSING.

A. The City has been operating the system since September 23, 1993.

B. Revenues paid to the City for services after September 23, 1993 shall be held by the City in escrow. If the sale is not completed then the City shall refund all revenues collected since September 23, 1993 to the Seller less the City's costs in providing the services. Upon closing, the escrowed funds shall be the City's.

C. Seller covenants and warrants that prior to September 23, 1993, the Seller has conducted the utility business in the normal and usual manner; the Seller has preserved intact the organization and properties of the utility business comprising the System; the Seller has used its best efforts to comply in all material respects with all governing Federal, State and local laws, rules and regulations excepting the Florida Public Service Commission, including but not limited to any necessary certificates of public convenience and necessity, licenses, permits, applications and the like. Seller has not entered into any new maintenance or construction contracts nor has Seller renewed any such existing contracts without the prior written consent of City.

7. ADDITIONAL REPRESENTATIONS AND WARRANTIES OF SELLER.

Seller represents and warrants to City as follows:

A. Corporate Existence and Power- The Seller is a corporation duly organized, validly existing, and in good standing under the laws of the State of Florida, and has corporate power to own all of its properties in particular and without limitation as

described in the Memorandum, and to carry on its utility business as now being conducted. A certificate of good standing, from the Florida Secretary of State shall be furnished by Seller to City in advance of Closing.

B. Authority- This Agreement has been duly authorized, executed and delivered by Seller and is a valid and binding obligation of Seller; and the sale of the System has been authorized by all necessary corporate action, and the deeds, bills of sale, assignments and other instruments which will be delivered by Seller at Closing will have been duly authorized and executed and will be effective to vest in City good and valid title to such assets and business.

C. Financial Statements- Seller has delivered to the City copies of its gross receipts for the months October 1992 through September 1993. Along with a statement of income for the seven months ending July 31, 1993. Seller knew the City would and did rely on the statements in making its decision to purchase the system. The seller warrants the statements to be true and correct.

D. Tax Matter- The Seller covenants and warrants that the Seller has filed all federal and state income tax returns which are required to be filed and has paid all federal, state and local taxes or assessments and all assessments required by law, except for taxes and returns due after the Closing for the taxable year during which the Closing will occur, or any portion thereof (hereinafter called "current tax year"), and that the Seller will prepare and file all federal, state and local tax returns and reports required to be filed by the Seller for the current tax year, and will make payment in full, when due, of all such federal, state and local taxes for the current tax year and any assessments relating to said tax year. Further, the Seller covenants and warrants that at the time of Closing there will be no taxes or assessments or any costs and expenses related thereto which will not be fully paid and discharged by the Seller, except for the payment of ad valorem taxes and tangible personal property taxes, for the current tax year, such taxes shall be prorated as of

September 23, 1993 and shall be paid when due by the City. The Seller covenants and warrants to pay and to be fully responsible for the payment of any and all taxes, costs, expenses, and other liabilities under this Subparagraph 7(D) not previously paid by the Seller, whether for the current tax year or any past tax year, and shall fully defend, indemnify and hold the City harmless against any and all taxes, costs, expenses and other liabilities as provided in an in accordance with the obligations of the Seller under Paragraphs 8 and 10 hereof.

E. Service Commitments- Seller represents that it has made no commitment to serve any person since September 23, 1993. In reliance upon the foregoing representation, City assumes all of Seller's obligations under all service commitments, except for Seller's rate schedules, which City does not assume.

F. Environmental Matters.

(1) The System described in the Schedule A is, to the best of Seller's knowledge, in full compliance with all applicable local, state, and federal environmental statutes and regulations. Except for any substances which are normal and customary for a water and waste water utility (such as chlorine and the solid waste currently stored on the property), no hazardous substance has been improperly stored upon, disposed of, spilled or otherwise released to the environment on or in the said property by the Seller or, to the best of Seller's knowledge, by any other party. For purposes of this Agreement, the definition of the term "hazardous substance" shall be that set out in Section 101(4) of the Federal Comprehensive Environmental Response, Compensation and Liability Act, except that for purposes of this Agreement, the term shall also include (a) petroleum (crude oil) and natural gas (whether existing as a gas or a liquid); and (b) any substance defined as hazardous or toxic by any state or local regulatory agency having jurisdiction over the operations of the Seller.

(2) There are no petroleum tanks (whether above or below ground) in, on or at any of the said property, to the best of Seller's knowledge. The Seller has neither installed any tanks

that remain, nor has it maintained any such tanks.

(3) None of the said property has, to the best of Seller's knowledge, been used by the Seller or by any other party, for the processing, storing, or other utilization of asbestos, polychlorinatedbyphenyls ("PCB's"), or radioactive substances provided however, that the Seller is aware that the City may have used electrical transformers or related facilities, in or about the System, which utilize PCB's. The Seller has received no notice that any of the foregoing materials are present on or at any of the said property or easements.

(4) All hazardous waste resulting from the operations of the Seller on or at any of the said property has been disposed of in a manner which complies with laws and regulations governing the disposal of hazardous substances. To the best of Seller's knowledge, those wastes have been disposed of in any site where there has been, is, or, due to the manner of disposition by the Seller, will be released into the environment requiring corrective action, Seller has not received notice from any state or federal environmental agency of its possible involvement with any disposal site under investigation by such agency.

(5) Seller shall indemnify, defend and hold the City harmless for damages suffered or reasonable costs incurred by the City, whether on-site or off-site, as a result of Seller's discharge or release of hazardous substances, from the System prior to September 23, 1993, or for other ground, air or water pollution caused by Seller prior to September 23, 1993, in violation of Federal, State, or local environmental statutes, laws, ordinances, rules or regulations provide however, that the Seller shall have no obligation to pay or reimburse any loss or damage until a final judicial or administrative determination has been made that the Seller has discharged or released hazardous substances on or from any part of the System. Those statutes, laws, ordinances, rules or regulations include, but are not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Toxic Substances

Control Act, the Resource conservation Recovery Act, the Clear Water Act, the Clean Air Act, the Florida Air and Water Pollution Control Act, and Rules and Regulations of the United States Environmental Protection Agency. Those damages or costs include, but are not limited to, the requirements of Federal, State, or local laws, ordinances, rules or regulations, to investigate, monitor, assess and evaluate the discharge or release of pollutants, contaminants, hazardous wastes, hazardous substances, or other substances and to take such action as necessary to prevent, minimize, or mitigate the threat to the public or to the environment, including removal of the discharged or released material, and action necessary for a permanent remedy. for purposes of this provision, the terms "remove" or "removal" and "remedy" shall have the same meaning given to those terms in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601. Provided, however, nothing contained in this Section 7(G)(5) shall be construed to limit or restrict any right or remedy of City.

(6) City to indemnify, defend and hold the Seller harmless for damages suffered or reasonable costs incurred by the Seller, whether on-site or off-site, as a result of City's discharge or release of hazardous substances, from the System after September 23, 1993, or for other ground, air or water pollution caused by City after September 23, 1993, in violation of Federal, State, or local environmental statutes, laws, ordinances, rules or regulations provided however, that the City shall have no obligation to pay or reimburse any loss or damage until a final judicial or administrative determination has been made that the City has discharged or released hazardous substances on or from any part of the System. Those statutes, laws, ordinances, rules or regulations include, but are not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Toxic Substances Control Act, the Resource Conservation Recovery Act, the Clean Water Act, the Clean Air Act, the Florida Air and Water Pollution

Control Act, and Rules and Regulations of the United States Environmental Protection Agency. Those damages or costs include, but are not limited to, the requirements of Federal, State, or local laws, ordinances, rules or regulations, to investigate, monitor, assess and evaluate the discharge or release of pollutants, contaminants, hazardous wastes, hazardous substances, or other substances and to take such action as necessary to prevent, minimize, or mitigate the threat to the public or to the environment, including removal of the discharged or released material, and action necessary for a permanent remedy. For purposes of this provision, the terms "remove" or "removal" and "remedy" shall have the same meaning given to those terms in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601. Provided, however, nothing contained in this Section 7(G)(6) shall be construed to limit or restrict any right or remedy of Seller.

H. Compliance with Laws; Governmental Authorizations- The Seller is, to the best of its knowledge, not materially in violation or default under any statute, law, ordinance, rule, regulation, permit, concession, grant, franchise, license or other governmental authorization (except the Florida Public Service Commission), approval or requirement applicable to it, its water or wastewater operations, or any of its properties. The Seller has all permits, concessions, grants, qualifications, franchises, licenses, approvals, or other governmental authorizations and approvals necessary for the conduct of its business and all of the foregoing have been duly obtained and are in full force and effect and there are no proceedings pending or, to the best of the knowledge of the Seller after due inquiry, threatened which may result in the revocation, cancellation, suspension or adverse modification of any thereof. The Seller is unaware of any reason why all licenses, concessions, grants, franchises, permits, or other governmental authorizations and approval issued to the Seller by any local, state, or federal agency or instrumentality will not or cannot be transferred to the City upon compliance with the

applicable regulatory procedures to transfer same. Seller will furnish copies of current or active permits, applications or other documents, together with effective dates and expiration dates (if any) demonstrating approval of the facilities of the System by all applicable governmental authorities, including, but not limited to the Florida Department of Environmental Regulation (D.E.R.). The waste water system will be permitted prior to Closing by the D.E.R. for a capacity of .350 M.G.D.

8. ASSUMPTIONS OF LIABILITIES BY SELLER.

Seller will, assume and agree to defend, indemnify and hold the City harmless with respect to any and all contracts, obligations, claims, suits, judgments, damages, settlements, taxes, costs, expenses and other liabilities of the Seller and for the breach of any covenant of the Seller under this Agreement.

9. ASSUMPTION OF LIABILITIES BY CITY.

The City assumes and agrees to defend, indemnify and hold the Seller harmless with respect to any and all contracts, obligations, claims, suits, judgement, damages, settlements, taxes, costs, expenses and other liabilities of the City and for the breach of any covenant of the City under this agreement or otherwise including without limitation any contracts or agreements of the City for or relating to utility cut-ons, connections or the provision of utility services, however or whenever arising, whether authorized or unauthorized and whether or not existing at the time the seller resumes control and operation of the system. Seller shall have the right to reimbursement from City of such amount or amounts of liabilities, expenses, costs, charges, fees or the like incurred by Seller arising from or in connection with any breach of the foregoing obligation, provided that nothing contained in this Section 9 shall be construed to limit or restrict any right or remedy of Seller other than as set forth in this Agreement.

10. NOTICE AND RIGHT TO DEFEND.

In the event any assessment, claim, demand, proceeding, or suit is brought against the City for which Seller is liable or obligated to pay under any agreement, warranty or indemnity

contained in this Agreement (including but not limited to Paragraphs 5, 7 and 8 hereof), City shall give Seller prompt notice thereof in writing and Seller shall have the right and obligation of paying or otherwise causing to be discharged and satisfied such assessments, claim, demand, proceeding, or suit or of defending and contesting the same at the cost of Seller, and at no cost to City (except to the extend of City's liability), in order to contest any said liability. Except as otherwise expressly provided in this paragraph, City shall have no responsibility for, and shall not be required to take any action or to make any payment or advance in connection with, any such assessment, claim, demand proceeding or suit, including without limitation any such matters arising under or relating to contracts or agreements for utility cut-ons, connections or the provision of utility services.

11. CUSTOMER LISTS AND DEPOSITS

A. Seller previously furnished to the City an accurate list of its water and sewer customers, in a form agreed upon by and between City and Seller. Seller shall have the right to all accounts for services provided by Seller prior to September 23, 1993. Seller shall collect its charges for water and sewer service up to September 23, 1993. The Seller shall settle in full with all its customers based upon the meter reading on September 23, 1993 and its final billing.

B. Deposits and Pre-Paid. At the closing, Seller will turn over to the City all deposits and pre-paid disconnection fees. The funds shall be identified by the names and amounts of each deposit or pre-paid fees.

12. CONDITIONS PRECEDENT TO PURCHASER'S OBLIGATION HEREUNDER.

All of the obligations of City under this Agreement are subject to the fulfillment by Seller of each of the following conditions:

A. There is and shall be no material error, misstatement, or omission in the representations and warranties made by Seller in this Agreement or pursuant to this Agreement, and in the event any error, misstatement or omission, whether or not material, shall

come to the attention of Seller, Seller will promptly cause the same to be remedied at no cost to City. In the event that City incurs any fees, charges or other costs arising from or in connection with a breach of this Paragraph 12(a), City shall have the right to seek reimbursement from Seller, provided that nothing contained herein shall be construed to limit or restrict any right or remedy of City.

B. Seller's representations and warranties contained in this Agreement are made at and as of September 23, 1993 and shall survive the Closing; and Seller will have performed or complied with all agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing.

C. The City warrants that all instruments and documents required to carry out this Agreement or incidental thereto and all other related matters will have been approved as to form by counsel for City.

13. DISCONTINUANCE OF SERVICE FOR.

Delinquent bills- Upon failure of any user to pay for services rendered by said System, City shall proceed in the manner permitted by law or ordinance to terminate and discontinue both the water and sewer connection of such user.

14. ADDITIONAL CONSIDERATION.

In addition to the purchase price the City agrees to:

- (a) Provide water free of charge to Seller at the sewer plant for one year after the closing.
- (b) As soon as Seller establishes the new pond on the west side of the sewer plant, the City agrees to construct a chain link fence in the same manner as the existing chain like fence on the other three (3) sides of the property.
- (c) City agrees to pay for all of the utilities stock, repair parts, spare parts, spare equipment, tools, etc. that have anything to do with water or sewer utilities. Both parties have taken part in a joint inventory. The Seller is to price the inventory within 90 days of Closing and provide the City with a list of what is due. Seller will

be paid for these items in cash by the City on or before January 22, 1994. The sales price of the inventory shall be sixty-five percent (65%) of the cost of the items new, but the City must purchase all new and used inventory (stock, repair parts, spare parts, spare equipment, tools, etc.) which is in good condition.

15. COSTS.

The City is to pay all costs in connection with this transaction including but not limited to:

- a. Bonding costs or expenses;
- b. PSC, DER, and Alachua County transfer fees;
- c. Survey (provided Seller will furnish a survey on the sewer plant);
- d. Titlework;
- e. Documentary stamps and intangible taxes;
- f. Filing and recording fees;
- g. Legal expenses of the City;
- h. Documentary preparation charges; and
- i. Ingress and egress easement description.

16. HERITAGE LINKS GOLF COMPANY, INC.

The City acknowledges receipt of copies of the following documents:

1. "Agreement" dated November 4, 1991 between Family Diner, Inc. d/b/a Turkey Creek Utilities and Turkey Creek, Inc. d/b/a Turkey Creek Golf & Racquet Club, as same was recorded at O.R. Book 1838, Page 2810 in the Public Records of Alachua County, Florida.
2. "Indemnification Agreement" dated February 13, 1992 between Family Diner, Inc. and Heritage Links Golf Company, Inc., regarding confirmation of the first mentioned Agreement by Turkey Creek, Inc.'s successor-in-interest to Turkey Creek Golf & Racquet Club.

Seller hereby assigns to the City all of its rights under the said Agreements. The City hereby accepts such assignment and agrees to be bound by and to perform all of Family Diner, Inc.'s obligations thereunder.

The City shall indemnify, defend and hold the Seller harmless hereunder for any damages suffered or reasonable costs incurred (including attorneys fees) as a result of the City's failure to

comply with its obligations under this paragraph.

This paragraph and the respective parties' rights and obligations hereunder shall survive the closing.

17. EFFECTIVE DATE.

The effective date of this sale and the transfer of responsibilities and customers shall be September 23, 1993.

18. NOTICES.

All notices, requests, demands or other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered or mailed by Certified or Registered Mail, return receipt requested, postage prepaid.

A. If to Seller, to Family Diner, Inc., 158 Turkey Creek, Alachua, Florida 32615-9513.

B. If to the City, to the Director of Finance and City Manager at, Post Office Box 9, Alachua, Florida 32615-0009, with a copy to the Office of City Attorney.

The person and address to whom notices are to be delivered or sent may be changed by delivering written notice thereof to the other party within not less than ten (10) days prior to the effective date of said change.

19. FLORIDA LAW TO GOVERN.

This Agreement is being delivered and is intended to be performed in the State of Florida and shall be construed and enforced in accordance with the laws of such state.

20. ENTIRE AGREEMENT.

This Agreement contains the entire agreement between the parties hereto with respect to the purchase and sale herein described and the other transactions herein contemplated and supersedes all prior agreements between the parties hereto. Notwithstanding the foregoing, the Memorandum of Intent between the parties effective September 23, 1993 is expressly made a part of this Agreement as fully as if set forth verbatim herein.

21. GENDER AND DEFINITIONS.

Where the context requires, the terms "Seller" and "City" shall include the singular and the plural and shall include the

masculine, feminine, and neuter gender. Plural shall include the singular and singular shall include the plural in all applicable instances.

22. SEVERABILITY OF INVALID PROVISIONS.

If any one or more of the covenants, agreements or provisions of this Agreement shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void, and shall be deemed separable from the remaining covenants, agreements or provisions, and shall in no way affect the validity of any of the other provisions of this Agreement.

IN WITNESS WHEREOF, the undersigned parties have duly executed this agreement.

SELLER

WITNESSES:

FAMILY DINER, INC.

By _____
President

ATTEST: _____
Corp. Secretary

Corporate Seal

CITY

CITY OF ALACHUA

By _____
James A. Lewis-Mayor

ATTEST: _____
Charles M. Morris
City Clerk

EXHIBIT A

1. Real Property

Parcel I. A parcel of land lying in the Fernandez Grant in Section 28, Township 8 South, Range 19 East, Alachua County, Florida, being more particularly described as follows:

Commence at the northwest corner of said Section 28 and run South 00°42'41" East, along the west line of said Section 3957.18 feet; thence North 67°40'13" West, 1592.95 feet; thence South 23°27'51" West, 344.99 feet to a concrete monument; thence South 62°33'35" East 2058.37 feet to the Point of Beginning of the herein described parcel; thence North 27°34'25" East, 334.02 feet; thence South 75°07'55" East, 138.90 feet; thence South 29°51'51" West, 364.58 feet, 334.02 feet; thence South 75°07'55" East, 138.90 feet; thence South 29°51'51" West, 364.58 feet to a concrete monument; thence North 62°33'35" West, 120.93 feet to the POINT OF BEGINNING.

Containing 1.025 acres , more or less.

Parcel II. Commence at the Southwest corner of said Section 27; thence run North along the Westerly line of said Section, a distance of 228 feet; thence run North 88° East, a distance of 25 feet to the point of beginning; thence run North 300 feet; thence run North 88° East, a distance of 200 feet; thence run South 300 feet; thence run South 88° West, a distance of 200 feet to the point of beginning; containing 1.38+/- acres more or less.

Parcel III. Commence at the Southwest corner of said Section 27; thence run East 470 feet to the point of beginning; thence run East 190 feet; thence run North 528 feet; thence run West 435 feet; thence run South 69 feet; thence run East 245 feet; thence run South 459 feet to the point of beginning; containing 3.17+/- acres more or less.

Parcel IV. Seller rights to an easement as expressed in a document between TURKEY CREEK UTILITIES INC. and COLE SAXON JR. TRUSTEE dated June 26, 1986 and recorded in Official Records book 1628 page 2515 of the Public Records of Alachua County, Florida.

Exhibit A
Page Two

2. Personal Property

A. Water Plant Assets

1. 200,000 gallon water tank;
2. Three (3) ten inch (10") wells;
3. Three (3) 75 horsepower motors and pumps;
4. Wallace & Tiernan chlorination equipment; and
5. All system piping, meters, valves, fire hydrants and allied fittings.

B. Sewer Plant Assets

6. Existing 350,000 gpd (capacity) wastewater treatment plant including all allied equipment;
7. All sewer lines;
8. All lift stations; and
9. All chlorination equipment at the sewer plant.

Schedule B
Territory Served

The property described in the Turkey Creek Development of regional impact.





DATE October 15, 1993

COMMISSION COMMUNICATION

TO: Honorable Mayor and Commission

FROM: Neil A. Malphurs - City Attorney

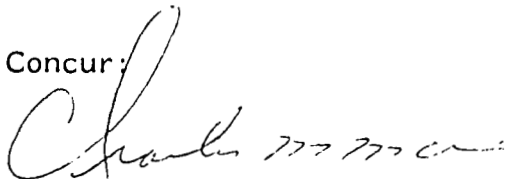
SUBJECT: Resolution No. R-94-2
Issuance of \$1,300,000 Utility Revenue Bonds

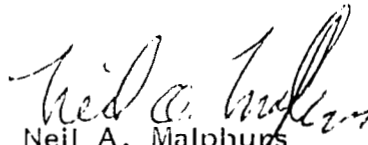
SUMMARY:

Resolution No. R-94-2 authorizes the issuance of \$1,300,000 Turkey Creek Utilities Revenue Bonds for payment of the purchase price of the assets known as Turkey Creek Utilities from Family Diner, Inc. It also authorizes payment of the bonds from the net revenues of the city's combined utility system and makes certain other covenants in connection therewith.

Recommendation: Staff recommends approval of Resolution No. R-94-2.

Concur:


Charles M. Morris
City Manager


Neil A. Malphurs
City Attorney

RECEIVED

OCT 25 1993

Florida Public Service Commission
Division of Water and Wastewater

NOV 15 1993
10 15 1993

FISCAL IMPACT: Additional de service expense of revenue bonds to be funded by rev ue received from Turkey Creek utility sales.

94-2

RESOLUTION NO. R-93-24

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$1,300,000 ~~TURKEY CREEK SUBORDINATED UTILITIES REVENUE BONDS (TURKEY CREEK UTILITIES PROJECT) OF THE CITY OF ALACHUA, FLORIDA FOR PAYMENT OF THE PURCHASE PRICE OF THE ASSETS KNOWN AS TURKEY CREEK UTILITIES FROM FAMILY DINER, INC.; AUTHORIZING PAYMENT OF THE BONDS FROM THE NET REVENUES OF THE CITY'S COMBINED UTILITY SYSTEM, AND CERTAIN EXCISE TAXES REVENUES AND MAKING CERTAIN OTHER COVENANTS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.~~

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ALACHUA, FLORIDA:

Section 1. AUTHORITY FOR THIS RESOLUTION. This Resolution is adopted pursuant to the provisions of Chapter 180, Florida Statutes (1991), as amended, Section 215.84 and 218.385, Florida Statutes (1991), as amended, Chapter 166, Florida Statutes (1991), as amended, and other applicable provisions of law.

Section 2. FINDINGS. It is hereby found and determined as follows:

A. On September 15, 1993, the City by motion made adopted a resolution (the "Resolution") making a preliminary determination that the purchase of the water and sewer system owned and operated by Family Diner, Inc. known as Turkey Creek Utilities, the financing of the cost of acquisition by the issuance of ~~revenue bonds of the City~~, and the extension of the City's water and sewer system within which the City will provide water and sewer services through the system purchased, was in the public interest, and scheduled a public hearing with respect thereto.

B. The public hearing was held at the time and place set forth in the Resolution, and, after consideration of all matters presented to the City at such public hearing, the City has determined by resolution that the acquisition of Turkey Creek Utilities, the financing thereof, and the extension of the City's water and sewer system is in the public interest. In making such determination, the City has considered all of the factors required by statute, and a statement showing that the purchase is in the public interest, has been adopted as a final statement with respect thereto.

C. The City deems it necessary and advisable for the public health, safety and welfare of its citizens (1) provide extensions and improvements to its water and sewer system by the acquisition of Turkey Creek Utilities (the "Utility System") owned by Family Diner, Inc., a Florida corporation (the "Utility") by purchase of assets (the "Purchased Assets"), pursuant to the "~~Purchase Agreement of Purchase and Sale~~" between the City and the Utility dated ~~September 15, 1993~~, in the form approved by separate resolution, (2) to extend the City's water and sewer service area within which the City shall provide water and sewer services through its Utility System, as the same may be extended or improved hereafter.

D. The cost of acquiring the Purchased Assets is as set forth in the Agreement.

E. The City has not issued any other obligations which are payable from the Net Revenues or Excise Taxes except certain outstanding Utilities Revenue Bond, Series 1979, Utility Refunding Revenue Bonds, Series 1986, and Utility Refunding Revenue Bonds, Series 1993 (referred to as "Prior Lien Bonds").

F. The estimated annual Net Revenues to be hereafter derived by the City from the operation of its Utility System and Excise Taxes will be sufficient to pay the principal of and interest on the Turkey Creek Bonds pursuant to the terms and conditions of the Agreement and this Resolution, to pay the principal of and interest on the Prior Lien Bonds, and to make all other payments required hereunder and under the Agreement and under the resolutions authorizing the Prior Lien Bonds.

G. The principal of and interest on the Turkey Creek Bonds will be payable solely from the Net Revenues derived by the City from the operation of the Utility System and from the Excise Taxes. It will never be necessary or authorized for the ad valorem taxing power of the City, the State of Florida or any political subdivision thereof, to be exercised to pay the principal of or interest on the Turkey Creek Bonds or to make any required payments under this Resolution or under the Agreement, and the Turkey Creek Bonds shall not constitute a lien upon any property of or in the City, except the Net Revenues of the Utility System and the Excise Taxes.

Section 3. NEGOTIATED SALE OF BONDS. The City hereby finds, determines and declares that it is in its best interest to issue the Turkey Creek Bonds contemplated hereby upon the conditions set forth herein and in the Agreement. The negotiated sale of \$1,300,000 principal amount of Turkey Creek Bonds as stated in the Agreement is hereby authorized pursuant to Section 218.385, Florida Statutes (1991). The City acknowledges receipt of the information required by Section 218.385, Florida Statutes (1991), in connection with negotiated sale of bonds. A copy of the Utility's letter containing the required information is attached to this Resolution as Exhibit "B".

Section 4. EXTENSION OF WATER AND SEWER SYSTEM. Upon the acquisition of the Purchased Assets of the Utility by the City, the area served by the Purchased Assets shall be deemed a part of the service area of the Utility System. The City shall provide water and sewer services within the extended service area through the Utility System acquired, as the same may be extended or improved hereafter.

Section 5. DEFINITIONS. All defined terms in the Agreement and in the 1993 Resolution (as hereinafter defined) shall have the same meaning herein. In addition, the following terms shall have the following meanings herein, unless the text otherwise expressly requires. Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

"Act" shall mean the laws referred to in Section 1 hereof.

"Additional Parity Bonds" shall mean Additional Parity Bonds as defined in Section 2 of Resolution R-93-3 of the City, as amended (the "1993 Resolution"), to be issued on a parity with the Prior Lien Bonds.

"Authorized Denomination" shall mean a single Bond in the denomination of \$1,300,000, or as otherwise specified by subsequent resolution of the City at the request of the Owner of any Turkey Creek Bonds.

"Authorized Investments" shall mean such investments as defined in the 1993 Resolution.

"Bondholder" shall mean a Registered Owner of a Turkey Creek Bond as shown on the registration books of the Registrar.

"Payment Date" shall mean, with respect to payment to the Bondholders of principal or interest on the Turkey Creek Bonds, the date upon which payment of such principal or interest is required to be made to the Registrar.

"Registrar" shall mean the paying agent for the Turkey Creek Bonds, as Paying Agent and Bond Registrar, or such other person, firm or corporation as may thereafter be from time to time designated by the City as the Registrar for the Turkey Creek Bonds. The City Clerk shall be the Registrar, unless a successor Registrar shall be hereafter appointed.

"Turkey Creek Bonds" shall mean the ~~Turkey Creek Subordinated Utilities Revenue Bonds (Turkey Creek Utilities Project)~~ herein authorized to be issued by the City.

Section 6. RESOLUTION TO CONSTITUTE CONTRACT. In consideration of the acceptance of the Turkey Creek Bonds by the Bondholders from time to time, this Resolution shall be deemed to be and shall constitute a contract between the City and such Bondholders. The covenants and agreements herein set forth to be performed by the City shall be for the equal benefit, protection and security of the Bondholders of any and all such Turkey Creek Bonds, all of which shall be of equal rank and without preference, priority or distinction of any of the Turkey Creek Bonds over any other thereof, except as expressly provided therein and herein.

Section 7. DESCRIPTION OF BONDS. There are hereby authorized to be issued an aggregate principal amount of \$1,300,000 Subordinated Utilities Revenue Bonds (Turkey Creek Utilities Project) of the City. The Turkey Creek Bonds shall be dated as of their date of delivery, shall be designated "R-____" and numbered consecutively from one upward in order of authentication; shall be in Authorized Denominations, and _____

_____ and each October 1, 1994. The Bond shall mature serially in installments on October 1, 1994. _____

If the date for payment of the principal of, premium, if any, or interest on the Turkey Creek Bonds shall be a Saturday, Sunday, legal holiday or a day on which the banking institutions in the City where the Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday or legal holiday or a day on which such banking institutions are authorized to close, and payment on such dates and in such date shall have the same force and effect as if made on the nominal date of payment.

Section 8. EXECUTION OF BONDS. The Turkey Creek Bonds shall be executed in the name of the City by the Mayor and attested by the City Clerk, either manually or with his facsimile signature, and the official seal of the City or a facsimile thereof shall be affixed thereto or reproduced thereon. The facsimile signature of such officers may be imprinted or reproduced on the Turkey Creek Bonds. The Certificate of Authentication of the Bond Registrar shall appear on the Turkey Creek Bonds, and

no Turkey Creek Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Resolution unless such certificate shall have been duly executed on such Turkey Creek Bond. The authorized signature for the Bond Registrar shall be either manual or facsimile; provided, however, at least one of the signatures appearing on the Turkey Creek Bond shall at all times be a manual signature.

In case any officer whose signature shall appear on any Turkey Creek Bond shall cease to be such officer before the delivery of such Turkey Creek Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Any Turkey Creek Bonds may be signed and sealed on behalf of the City by such person who at the actual time of the execution of such Turkey Creek Bond shall hold the proper office with the City although at the date of adoption of this Resolution such person may not have held such office or may not have been so authorized.

Section 9. NEGOTIABILITY. The Turkey Creek Bonds shall not be negotiable, and ownership of the Turkey Creek Bonds shall not be transferable except for transfers by operation of law and transfers made with prior approval of the City. The debt of the City evidenced by the Turkey Creek Bonds shall be subject to defenses and set-off against any liability of the Utility to the City under the Agreement, provided that any such liability has been reduced to judgment by a court of competent jurisdiction.

Section 10. REGISTRATION, EXCHANGE AND TRANSFER. There shall be a Bond Registrar for the Turkey Creek Bonds which shall initially be the City Clerk. The Bond Registrar shall maintain the registration books of the City and be responsible for the transfer and exchange of the Turkey Creek Bonds. The City may by resolution designate another Bond Registrar and Paying Agent. The Bond Registrar shall maintain the books for the registration of the transfer and exchange of the Turkey Creek Bonds in compliance with the Florida Registered Public Obligations Act and the system of registration as established by the City pursuant thereto.

Subject to the limitation in Section 9 of this Resolution, Turkey Creek Bonds may be transferred upon the registration books, upon delivery to the Registrar, together with written instructions as to the details of the transfer of such Turkey Creek Bonds, along with the social security number or federal employer identification number of such transferee and, if such transferee is a trust, the name and social security or federal employer identification numbers of the settlor and beneficiaries of the trust, the date of the trust and the name of the Trustee. No transfer of any Turkey Creek Bond shall be effective until entered on the registration books maintained by the Bond Registrar.

Upon surrender for transfer or exchange of any Turkey Creek Bond, the City shall execute and the Bond Registrar shall authenticate and deliver in the name of the Registered Owner or the transferee or transferees, as the case may be, a new fully registered Turkey Creek Bond or Turkey Creek Bonds of Authorized Denominations of the same maturity and interest rate for the aggregate principal amount which the Registered Owner is entitled to receive at the earliest practicable time in accordance with the provisions of this Resolution. The City or the Bond Registrar may charge the Owner of such Bond for every such transfer or exchange an amount sufficient to reimburse them for their reasonable fees and for any tax, fee, or other governmental charge required to be paid with respect to such transfer, and may require that such charge be paid before any such new Turkey Creek Bonds shall be delivered.

All Turkey Creek Bonds presented for transfer, exchange, redemption or payment (if so required by the Bond Registrar), shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form and with guaranty of signature satisfactory to the Bond Registrar, duly executed by the Registered Owner or by his duly authorized attorney in fact or legal representative.

All Turkey Creek Bonds delivered upon transfer or exchange shall bear interest from the preceding interest payment date so that neither gain nor loss in interest shall result from the transfer or exchange. New Turkey Creek Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bond surrendered, shall be secured by this Resolution and shall be entitled to all or the security and the benefits hereof to the same extent as the Turkey Creek Bonds surrendered.

The City and the Bond Registrar may treat the Registered Owner of any Turkey Creek Bond as the absolute owner thereof for all purposes, whether or not such Turkey Creek Bonds shall be overdue, and shall not be bound by any notice to the contrary.

Section 11. BONDS MUTILATED, DESTROYED, STOLEN OR LOST. In case any Bond shall become mutilated, or be destroyed, stolen or lost, the City may in its discretion issue and deliver a new Turkey Creek Bond of like tenor as the Turkey Creek Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Turkey Creek Bond upon surrender and cancellation or such mutilated Turkey Creek Bond or in lieu or and substitution for the Bond destroyed, stolen or lost, and upon the Registered Owner furnishing the City proof of his ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the City may prescribe and paying such expenses as the City may incur. All Turkey Creek Bonds so surrendered shall be cancelled by the Registrar for the Turkey Creek Bonds. If any of the Turkey Creek Bonds shall have matured or be about to mature, instead of issuing a substitute Turkey Creek Bond, the City may pay the same, upon being indemnified as aforesaid, and if such Turkey Creek Bonds be lost, stolen or destroyed, without surrender thereof.

Any such duplicate Turkey Creek Bonds issued pursuant to this section shall constitute original, additional contractual obligations on the part of the City whether or not the lost, stolen or destroyed Turkey Creek Bonds be at any time found by anyone, and such duplicate Turkey Creek Bonds shall be entitled to equal and proportionate benefits and rights as to lien on the source and security for payment from the funds, as hereinafter pledged, to the same extent as all other Turkey Creek Bonds issued hereunder.

Section 12. PRIOR REDEMPTION. The Turkey Creek Bonds shall not be redeemable or repayable prior to their stated maturity dates.

Section 13. FORM OF BONDS. The text of the Turkey Creek Bonds, the Certificate of Authentication and the Assignment shall be in the form attached hereto as Exhibit B.

Section 14. BONDS NOT DEBT OF CITY. The Turkey Creek Bonds shall not be or constitute general indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from and

secured by a lien upon and pledge of the Net Revenues as herein provided, which lien and pledge shall be junior, inferior and subordinate in all respects to the Prior Lien Bonds and any Additional Bonds hereafter issued, as to lien on and source and security for payment from the revenues of the Utility System and in all other respects. No Bondholder shall ever have the right to compel the exercise of the ad valorem taxing power of the City or taxation in any form of any real property therein to pay the Turkey Creek Bonds or the interest thereon or be entitled to payment of such principal and interest from any other funds of the City except ~~from~~ from the Net Revenues and the Excise Taxes in the manner provided herein.

Section 15. ~~NET-PLEGGED REVENUES.~~ Until payment has been made or provided for as herein permitted, the payment of the principal of and interest on the Turkey Creek Bonds shall be secured forthwith equally and ratably by an irrevocable lien on the Net Revenues and the Excise Taxes, and the City does hereby irrevocably pledge such Net Revenues and Excise Taxes to the payment of the principal of and interest on the Turkey Creek Bonds, ~~the reserves therefor,~~ and for all other required payments under this Resolution. Such lien and pledge shall be junior, inferior and subordinate in all respects to the Prior Lien Bonds and any Additional Parity Bonds hereafter issued, as to lien on and source and security for payment from the Net Revenues of the Water and Sewer Utility System and the Excise Taxes and in all other respects.

Section 16. COVENANTS OF THE CITY. Until all principal of and interest on the Turkey Creek Bonds shall have been paid or provided for as herein permitted, the City covenants with the Bondholders as follows:

A. **REVENUE FUND.** The entire Gross Revenues derived from the operation of the Utility System shall upon receipt thereof be deposited in the Revenue Fund (hereinafter called "Revenue Fund"), created and established to secure the Prior Lien Bonds. Such Revenue Fund shall constitute a trust fund for the purposes herein provided and shall be kept separate and distinct from all other funds of the City and used only for the purposes and in the manner herein provided.

B. **FLOW OF FUNDS.** All revenues at any time remaining on deposit in the Revenue Fund shall be disposed of only in the following manner and in the following order:

(1) Revenues shall first be used for the payment of all current Operating Expenses of the Utility System, in accordance with the 1993 Resolution and prior resolutions which authorized the issuance of the Prior Lien Bonds.

(2) Revenues shall next be used for making all deposits required to be made under the 1993 Resolution and prior resolutions authorizing the Prior Lien Bonds, together with any deficiencies for prior required payments for such purposes.

(3) (a) From the moneys remaining in the Revenue Fund the City shall next apportion, set apart and deposit in a fund to be known as the "Turkey Creek Bonds Sinking Fund," which is hereby created and established, on the fifteenth day of each month, beginning with the first 15th day of the month which is more than thirty days after the delivery of the Turkey Creek Bonds, an amount equal to one-sixth (1/6) of all interest which shall mature and become due on the next interest payment date, and, commencing with the first month which is twelve months prior to the first maturity date of the Turkey Creek Bonds, an amount equal to one-twelfth (1/12) of

the principal amount of the Turkey Creek Bonds which shall mature and become due on the next principal maturity date. In the event that the period to elapse between the date of delivery of the Turkey Creek Bonds and the next semiannual interest payment date or principal maturity date will be less than six months or twelve months, respectively, then such monthly payments shall be increased sufficiently to provide the required amounts maturing on said next interest or principal payment date.

(b) No Reserve Account shall be established for the Turkey Creek Bonds.

(4) To the extent junior lien bonds are issued and outstanding (which subordinated bonds payable from the Net Revenues and Excise Taxes, junior and subordinate to the lien and pledge thereof securing the Turkey Creek Bonds, the City reserves the right to issue), the City shall next apply moneys in the Revenue Fund to the payment of principal of, redemption premium, if any, and interest on such subordinated debt of the City.

(5) The balance of any moneys remaining in the Revenue Fund after the above required payments have been made may be used by the City for any lawful purpose of the City.

(6) To the extent of any insufficiency of Net Revenues to make any of the foregoing required payments, such payment shall be made from moneys on deposit in the Excise Taxes Fund created and continued for the benefit of the Prior Lien Bonds. The City covenants to deposit the proceeds of the Excise Taxes into the Excise Taxes Fund and to continue such fund until all principal of and interest on the Turkey Creek Bonds have been paid or provided for.

C. INVESTMENT OF FUNDS. All of the funds and accounts herein established and created shall constitute trust funds for purposes provided herein for such funds. All such funds shall be continuously secured in the same manner as state and municipal deposits are required to be secured by the laws of the State of Florida. Moneys on deposit in any of such funds and accounts may be invested and reinvested in Authorized Investments.

Investments made with moneys in the Sinking Fund must mature not later than the date that such moneys will be needed. Any and all income received by the City from all such investments shall be deposited into the Revenue Fund.

All moneys in the Funds and accounts established under the resolutions authorizing the Prior Lien Bonds shall be invested in the manner therein provided, except that after all of the Prior Lien Bonds have been paid or payment has been duly provided for, moneys in the Revenue Fund may be invested as provided herein for the Sinking Fund.

The cash required to be accounted for in each of the foregoing funds and accounts established herein may be deposited in a single bank account, and funds allocated to the various accounts established herein may be invested in a common investment pool, provided that adequate accounting records are maintained to reflect and control the restricted allocation of the cash on deposit therein and such investments for the various purposes of such funds and accounts as herein provided.

The designation and establishment of the various funds in and by this Resolution shall not be construed to require the establishment of any completely

independent, self-balancing funds as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of certain revenues and assets of the Utility System for certain purposes and to establish certain priorities for application of such revenues and assets as herein provided.

D. **OPERATION AND MAINTENANCE.** The City will maintain the Utility System and all parts thereof in good condition and will operate the same in an efficient and economical manner, making such expenditures for equipment and for renewals, repairs and replacements as may be proper for the economical operation and maintenance thereof.

E. **RATE ORDINANCE.** The City has enacted or will enact a rate ordinance and thereby will fix, establish and maintain such rates and will collect such fees, rentals and other charges for the services and facilities of the Utility System and revise the same from time to time whenever necessary, as with always provide Gross Revenues in each Fiscal year sufficient to pay the Operating Expenses of the Utility System in such Fiscal Year, and, together with the Excise Taxes, one hundred twenty-five per centum (125%) of the amount of principal of and interest on the Prior Lien Bonds, and any Additional Parity Bonds hereafter issued in the manner provided by the resolutions authorizing the Prior Lien Bonds, becoming due in such Fiscal Year; and, together with the Excise Taxes, and one hundred per centum (100%) of the principal of and interest on the Turkey Creek Bonds, and, together with the Excise Taxes, one hundred per centum (100%) of the principal of and interest on the Prior Lien Bonds, and all other obligations and any indebtedness payable out of such revenues of the Utility System junior and subordinate to the Turkey Creek Bonds becoming due in such Fiscal year; and the City further covenants that such rates, fees, rentals other charges shall not be reduced so as to be insufficient to provide adequate revenues for such purposes.

F. **OTHER COVENANTS.** The City will comply, for the benefit of the Bondholders of the Turkey Creek Bonds, with the covenants made in Section 3.04(A), (D), (E), (H), (J), (K), (L), (M), (N), (O), (P), (Q), (R), (S), and (T) and (U) of Resolution R-79-20 of the City, and with Section 15A and 15B of the 1993 Resolution, all previously made for the benefit of the Registered Owners of the Prior Lien Bonds.

G. **ISSUANCE OF OTHER OBLIGATIONS.** The City will not issue any other obligations, except under the conditions and in the manner provided herein, payable from the Net Revenues derived from the operation of the Utility System or from the Excise Taxes, nor voluntarily create or cause to be created any debt, lien, pledge, assignment, encumbrance or other charge having priority to or being on a parity with the lien of the Turkey Creek Bonds and the interest thereon upon the Net Revenues derived from the operation of the Utility System or from the Excise Taxes. Any other obligations issued by the City in addition to the Turkey Creek Bonds or Additional Parity Bonds provided for in the resolutions authorizing the Prior Lien Bonds, payable from the Net Revenues derived from the operation of the Utility System or from the Excise Taxes, shall contain an express statement that such obligations are junior and subordinate in all respects to the Turkey Creek Bonds as to lien on and source and security for payment from the Net Revenues derived from the operation of the Utility System or from the Excise Taxes.

Section 17. ARBITRAGE. The City at all times while the Turkey Creek Bonds are outstanding will comply with the requirements of the Internal Revenue Code of 1986, as amended, and any valid and applicable rules and regulations promulgated

thereunder in order that interest on the Turkey Creek Bonds shall be excluded from gross income for federal income tax purposes.

Section 18. MODIFICATION OR AMENDMENT. No material modification or amendment of this Resolution or of any Resolution or resolution amendatory hereof or supplemental hereto may be made without consent in writing of the Registered Owners of two-thirds or more in the principal amount of the Turkey Creek Bonds then outstanding; providing, however, that no modification or amendment shall permit a change in the maturity of the Turkey Creek Bonds or reduction in the rate of interest thereon or in the amount of the principal obligation thereof or affecting the promise of the City to pay the principal of and interest on the Turkey Creek Bonds as the same shall become due from the Net Revenues and from the Excise Taxes or reduce the percentage of Registered Owners required to consent to any material modification or amendment hereof without the consent in writing of all Registered Owners.

Section 19. DEFEASANCE AND SUBROGATION. If, at any time, the City shall have paid, or shall have made provision for payment of, the principal, interest and redemption premiums, if any, with respect to the Turkey Creek Bonds, then, and in that event, the pledge of and lien on the Net Revenues and the Excise Taxes and all covenants herein in favor of the Bondholders shall be no longer in effect. For purposes of the preceding sentence, deposit of Federal Securities or bank certificates of deposit fully secured as to principal and interest by Federal Securities (or deposit of any other securities or investments which may be authorized by law from time to time and sufficient under such law to effect such a defeasance) in irrevocable trust with a banking institution or trust company, for the sole benefit of the Bondholders, in respect to which such Federal Securities or certificates of deposit, the principal and interest received will be ~~sufficient to make timely payment of the principal and interest received~~ will be sufficient to make timely payment of the principal of, interest on, redemption premiums, if any, expenses and any other obligations of the City incurred with respect to the outstanding Turkey Creek Bonds, shall be considered "provision for payment."

Section 20. SEVERABILITY OF INVALID PROVISIONS. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof or of the Turkey Creek Bonds issued hereunder.

Section 21. EFFECTIVE DATE. This Resolution shall become effective in the manner required by law.

CITY OF ALACHUA, FLORIDA

Mayor

(SEAL)

Attested and Countersigned:

City Manager and Clerk

EXHIBIT A
TO
BOND RESOLUTION

CITY OF ALACRU UTILITY ACQUISITION BONDS, SERIES 1995 25 YEAR SCENARIO				
DEBT SERVICE SCHEDULE				
DATE	PRINCIPAL	COUPON	INTEREST	TOTAL DEBT SERVICE
10/01/1995				
4/01/1996			45,300.00	45,300.00
10/01/1996	20,000.00	7.00000%	45,300.00	65,300.00
4/01/1997			44,800.00	44,800.00
10/01/1997	25,000.00	7.00000%	44,800.00	69,800.00
4/01/1998			44,300.00	44,300.00
10/01/1998	25,000.00	7.00000%	44,300.00	69,300.00
4/01/1999			43,825.00	43,825.00
10/01/1999	30,000.00	7.00000%	43,825.00	73,825.00
4/01/2000			43,325.00	43,325.00
10/01/2000	30,000.00	7.00000%	43,325.00	73,325.00
4/01/2001			42,800.00	42,800.00
10/01/2001	35,000.00	7.00000%	42,800.00	77,800.00
4/01/2002			42,250.00	42,250.00
10/01/2002	35,000.00	7.00000%	42,250.00	77,250.00
4/01/2003			41,675.00	41,675.00
10/01/2003	40,000.00	7.00000%	41,675.00	81,675.00
4/01/2004			41,075.00	41,075.00
10/01/2004	40,000.00	7.00000%	41,075.00	81,075.00
4/01/2005			40,425.00	40,425.00
10/01/2005	40,000.00	7.00000%	40,425.00	80,425.00
4/01/2006			39,725.00	39,725.00
10/01/2006	45,000.00	7.00000%	39,725.00	84,725.00
4/01/2007			38,975.00	38,975.00
10/01/2007	50,000.00	7.00000%	38,975.00	88,975.00
4/01/2008			38,175.00	38,175.00
10/01/2008	55,000.00	7.00000%	38,175.00	93,175.00
4/01/2009			37,325.00	37,325.00
10/01/2009	55,000.00	7.00000%	37,325.00	92,325.00
4/01/2010			36,425.00	36,425.00
10/01/2010	60,000.00	7.00000%	36,425.00	96,425.00
4/01/2011			35,475.00	35,475.00
10/01/2011	65,000.00	7.00000%	35,475.00	100,475.00
4/01/2012			34,475.00	34,475.00
10/01/2012	70,000.00	7.00000%	34,475.00	104,475.00
4/01/2013			33,425.00	33,425.00
10/01/2013	75,000.00	7.00000%	33,425.00	108,425.00
4/01/2014			32,325.00	32,325.00
10/01/2014	80,000.00	7.00000%	32,325.00	112,325.00
4/01/2015			31,175.00	31,175.00
10/01/2015			31,175.00	31,175.00

Raymond James & Associates, Inc.
Public Finance Department

FILE - ANNE
10/14/1998 4:52 PM

CITY OF ALACRUA
UTILITY ACQUISITION BONDS, SERIES 1993
25 YEAR SCENARIO

DEBT SERVICE SCHEDULE

DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
4/01/2016	-	-	10,150.00	10,150.00
10/01/2016	90,000.00	7.00000%	10,150.00	100,150.00
4/01/2017	-	-	7,000.00	7,000.00
10/01/2017	95,000.00	7.00000%	7,000.00	102,000.00
4/01/2018	-	-	3,675.00	3,675.00
10/01/2018	105,000.00	7.00000%	3,675.00	108,675.00
TOTAL	1,300,000.00	-	1,488,280.00	2,788,280.00

Raymond James & Associates, Inc.
Public Finance Department

FILE = AMAZ
10/14/1993 4:52 PM

YIELD STATISTICS

Accrued Interest from 10/01/1993 to 10/01/1993...	-
Average Life.....	16.264 YEARS
Bond Years.....	21,250.00
Average Coupon.....	7.0000000%
Net Interest Cost (NIC).....	7.0000000%
Bond Yield for Arbitrage Purposes.....	7.0000000%
True Interest Cost (TIC).....	7.0000000%
Effective Interest Cost (EIC).....	7.0000000%

EXHIBIT B
TO
BOND RESOLUTION

NO. R-1

\$1,300,000

UNITED STATES OF AMERICA
STATE OF FLORIDA
CITY OF ALACHUA
TURKEY CREEK SUBORDINATED UTILITIES REVENUE BOND
(TURKEY CREEK UTILITIES PROJECT)

Registered Owner: Family Diner, Inc.

Principal Amount: One Million Three Hundred Thousand Dollars

KNOW ALL MEN BY THESE PRESENTS, that the City of Alachua, Florida, a municipal corporation of the State of Florida (hereinafter called "Issuer"), for value received, hereby promises to pay to the Registered Owner identified above, the Principal Amount shown above, in principal installments on October 1, 1994 and on October 1 in the years and amounts set forth on Schedule A attached hereto and made a part hereof, solely from the ~~net~~ revenues hereinafter mentioned, and to pay solely from such revenues, interest on said sum from the date of this Bond or from the most recent interest payment date to which interest has been paid, at the rate of seven per centum (7.00%) per annum, based on a 360 day year of twelve (12) thirty (30) day months, until the payment of such Principal Amount, such interest being payable on April 1, 1994, and semiannually thereafter on October 1 and April 1 of each year as set forth on the attached Schedule A. The final payment of principal of this Bond is payable upon presentation and surrender hereof on October 1, 2018, at the office of the City Clerk of the Issuer (the "Paying Agent") in City Hall, Alachua, Florida, or at the office designated for such payment of any successor thereof. The interest on this Bond, when due and payable, and all interim payments of principal of this Bond, shall be paid by check or draft mailed to the Registered Owner, at his address as it appears on the Bond Register, at the close of business on the interest payment date or, in the case of payment after default, a date specified in the Resolution hereinafter mentioned. All amounts due hereunder shall be payable in any coin or currency of the United States which is at the time of payment legal tender for the payment of public or private debts.

This Bond constitutes all of a duly authorized issue of Bonds of the Issuer designated "~~Turkey Creek Subordinated~~ Utilities Revenue Bond (Turkey Creek Utilities Project)", in the aggregate principal amount of \$1,300,000, issued to finance the ~~cost~~ of the purchase price of the Purchased Assets of Family Diner, Inc. for the purpose of acquiring additions, extensions and improvements to the water and sewer facilities portion of the Issuer's combined electric, water and sewer system (the "System"), of the Issuer pursuant to the authority of and in full compliance with the Constitution and laws of the State of Florida, and pursuant to Resolution No. R-93-24, duly adopted by the Issuer on October 18, 1993 (hereinafter called the "Resolution"), and is subject to all the terms and conditions of such Resolution.

This Bond ~~and the issue of Bonds of which it is a part, are~~ is a special obligations of the Issuer payable solely from and secured by an irrevocable lien upon and pledge of the Net Revenues derived by the Issuer from the operation of the System and from certain Excise Taxes as defined in the Resolution; such lien however, is

junior and subordinate to the lien on and pledge of the Net Revenues and Excise Taxes securing payment of the Issuer's outstanding Utilities Revenue Bond, Series 1979, Utility Refunding Revenue Bonds, Series 1986, and Utility Refunding Revenue Bonds, Series 1993 (the "Prior Lien Bonds"), all as more particularly described and defined in the Resolution.

The Issuer has reserved the right to issue Additional Parity Bonds ranking on a parity as to lien on and security for payment from the Net Revenues and the Excise Taxes with the Prior Lien Bonds, upon compliance with the requirements in the Resolution.

This Bond does not constitute a general indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation. The Issuer shall not be obligated (1) to exercise its ad valorem taxing power or any other taxing power in any form on any real property in the Issuer to pay the principal of the Bond or the interest thereon or (2) to pay the same from any other funds of the Issuer, except from the Net Revenues and the Excise Taxes in the manner provided herein and in the Resolution. It is further agreed between the Issuer and the Registered Owner of this Bond that this Bond and the indebtedness evidenced hereby shall not constitute a lien on the System or any other property of the Issuer, but shall constitute a lien only on the Net Revenues and the Excise Taxes, in the manner provided in the Resolution.

If the date for payment of the principal of, premium, if any, or interest on this bond shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City of Alachua are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such date shall have the same force and effect as if made on the nominal date of payment.

In and by the Resolution, the Issuer has covenanted and agreed with the Registered Owners of the Bonds that it will fix, establish and maintain such rates and will collect such fees, rentals and other charges for the services and facilities of the System and revise the same from time to time whenever necessary, as will always provide Gross Revenues in each Fiscal Year sufficient to pay the Operating Expenses of the System in such Fiscal Year, and, together with the Excise Taxes, one hundred twenty-five per centum (125%) of the amount of principal of and interest on the Prior Lien Bonds, and any Additional Parity Bonds, as defined in the Resolution, becoming due in such Fiscal Year, and, together with the Excise Taxes, one hundred per centum (100%) of the principal and interest becoming due in such Fiscal Year on the outstanding Bonds ~~(including Parity Debt)~~, and, together with the Excise Taxes, one hundred per centum (100%) of the principal and interest becoming due in such Fiscal Year ~~on the Prior Lien Bonds, obligations and on any indebtedness ranking junior and subordinate to the Bonds becoming due in such Fiscal Year, all reserve and other payments required to be made pursuant to the Resolution,~~ and that such rates, fees, rentals and other charges shall not be reduced so as to be insufficient to provide Gross Revenues for such purposes. The Issuer has entered into certain other covenants and agreements respecting the Bonds, as to which reference is made to the Resolution.

It is hereby certified and recited that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this Bond exist, have happened and have been performed in regular and due form and time as required by the laws and Constitution of the State of Florida applicable thereto, and

that the issuance of the Bonds of this issue does not violate any constitutional or statutory limitations or provisions.

This Bond shall not have any qualities or incidents of a negotiable instrument under the Uniform Commercial Code - Investment Securities of the State of Florida; and shall be non-negotiable.

This Bond is issued in the form of a single fully registered bond without coupons. This Bond is transferable by the Registered Owner hereof in person or by his attorney duly authorized in writing, at the above-mentioned office of the Registrar, but only by operation of law or if transfer is approved by the governing body of the Issuer, and then only in the manner, subject to the limitations and upon payment of the charges provided in the Resolution, and upon surrender and cancellation of this Bond. Upon such transfer a new Bond of the same maturity and rate of interest, and of authorized denomination or denominations, for the same aggregate principal amount, will be issued to the transferee in exchange therefor at the earliest practicable time in accordance with the provisions of the Resolution. Bonds may be transferred upon the registration books upon delivery to the Registrar of the Bonds, accompanied by a written instrument or instruments of transfer in form and with guaranty of signature satisfactory to the Registrar, duly executed by the Registered Owner of the Bonds to be transferred or his attorney-in-fact or legal representative, containing written instructions as to the details of the transfer of such Bonds, along with the social security number or federal employer identification number of such transferee and, if such transferee is a trust, the name and social security or federal employer identification numbers of the settlor and beneficiaries of the trust, the federal employer identification number and date of the trust and the name of the trustee. The Issuer or the Registrar may charge the Registered Owner of such Bond for every such transfer of a Bond an amount sufficient to reimburse them for their reasonable fees and any tax, fee, or other governmental charge required to be paid with respect to such transfer, and may require that such charge be paid before any such new Bond shall be delivered.

The Issuer may deem and treat the Registered Owner hereof as the absolute owner hereof (whether or not this Bond shall be overdue) for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes, and the Issuer shall not be affected by any notice to the contrary.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the certificate of authentication endorsed hereon shall have been duly signed by the Registrar.

IN WITNESS WHEREOF, the City of Alachua, Florida, has issued this Bond and has caused the same to be executed by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its City Clerk, and its official seal or a facsimile thereof to be affixed, impressed, imprinted, lithographed or reproduced hereon, this 19th day of October, 1993.

CITY OF ALACHUA, FLORIDA

(SEAL)

By: _____
Mayor

ATTEST:

City Clerk

CERTIFICATE OF AUTHENTICATION OF BOND REGISTRAR

This Bond is one of the issue of the within described Bonds. The interest rate, due dates, Registered Owner and Principal Amount shown above are correct in all respects and have been recorded, along with the applicable federal taxpayer identification number and the address of the Registered Owner, in the Bond Register maintained at the principal office of the undersigned.

Registrar

Date of Registration
and Authentication:

October 19, 1993

By: _____
City Clerk
City of Alachua, Florida