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**GATLIN, WOODS & CARLSON**  
Attorneys at Law  
a partnership including a professional association

The Mahan Station  
1709-D Mahan Drive  
Tallahassee, Florida 32308

**ORIGINAL  
FILE COPY**

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B. KENNETH GATLIN, P.A.  
THOMAS F. WOODS  
JOHN D. CARLSON  
WAYNE L. SCHIEFELBEIN

April 3, 1996

**HAND DELIVERY**

Ms. Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

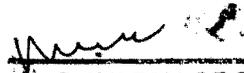
RE: Docket No. 950387-SU  
Application of Florida Cities Water Company, North Ft. Myers Division,  
for an Increase in Wastewater Rates in Lee County, Florida

Dear Ms. Bayo:

Enclosed for filing are an original and fifteen copies of our Certificate of Service and Rebuttal Testimony with Exhibits of the following persons:

- 1) Michael Acosta; 03833-96
- 2) Julie L. Karleskint with the following exhibit: 03834-96  
Exhibit \_\_\_ (JLK-4) Letter to Jim Bishop, Lochmoor Country Club, with signed Reuse Agreement;
- 3) Robert Dick; 03835-96
- 4) Douglas R. Young; 03836-96
- 5) Larry N. Coel, with the following exhibits: 03837-96  
Exhibit \_\_\_ (LC-3) Affiliate Transactions Audit Report  
Exhibit \_\_\_ (LC-4) Letter from Charles Hill dated May 23, 1995 establishing the MFRs filing date  
Exhibit \_\_\_ (LC-5) Rate Case Expenses (Through HEARING); and
- 6) Joseph Schifano; 03838-96
- 7) Thomas A. Cummings, with the following exhibit: 03839-96  
Exhibit \_\_\_ (TAC-1) Notification of completion of construction

ACK ✓  
 AFA 2  
 APP \_\_\_\_\_  
 CAF \_\_\_\_\_  
 CMU \_\_\_\_\_  
 CTR \_\_\_\_\_  
 EAG \_\_\_\_\_  
 LEG 1  
 LIN 3  
 OPC \_\_\_\_\_  
 RCH \_\_\_\_\_  
 SEC \_\_\_\_\_  
 WAS Willis  
 OTH \_\_\_\_\_

RECEIVED & FILED  
  
 FPSC-BUREAU OF RECORDS

Letter to Blanca S. Bayo, Director  
April 3, 1996  
Page 2 of 2

Please acknowledge receipt of foregoing by stamping the enclosed extra copy of this letter and returning same to my attention.

Very truly yours,

A handwritten signature in cursive script that reads "B. Kenneth Gatlin". The signature is written in dark ink and is positioned above the printed name.

B. Kenneth Gatlin

BKG/met  
Enclosures

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Re: Application of Florida Cities Water )  
Company, North Ft. Myers Division, )  
for an increase in wastewater rates in )  
Lee County, Florida )

Docket No. 950387-SU

Filed: April 3, 1996

**CERTIFICATE OF SERVICE**

I HERBY CERTIFY that a true and correct copy of the following Rebuttal Testimony and Exhibit:

- 1) Michael Acosta;
- 2) Julie L. Karleskint with the following exhibit:  
Exhibit \_\_\_ (JLK-4) Letter to Jim Bishop, Lochmoor Country Club, with signed Reuse Agreement;
- 3) Robert Dick;
- 4) Douglas R. Young;
- 5) Larry N. Coel, with the following exhibits:  
Exhibit \_\_\_ (LC-3) Affiliate Transactions Audit Report  
Exhibit \_\_\_ (LC-4) Letter from Charles Hill dated May 23, 1995 establishing the MFRs filing date  
Exhibit \_\_\_ (LC-5) Rate Case Expenses (Through HEARING)
- 6) Joseph Schifano;
- 7) Thomas A. Cummings, with the following exhibit:  
Exhibit \_\_\_ (TAC-1) Notification of completion of construction

has been furnished by hand delivery to Mr. Ralph Jaeger, Esquire, Division of Legal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and to Harold McLean, Esquire, Office of Public Counsel, 111 W. Madison Street, Room 812, Claude Pepper Building, Tallahassee, Florida 32399-1400, and by regular U.S. Mail on this 3rd day of April, 1996 to:

Harry Bowne  
4274 Harbour Lane  
N. Ft. Myers, FL 33903

Nancy L. McCullough  
683 Camellia Drive  
N. Ft. Myers, FL 33903

Eugene W. Brown  
2069 W. Lakeview Boulevard  
N. Ft. Myers, FL 33903

Fay A. Schweim  
4640 Vinsetta Avenue  
N. Ft. Myers, FL 33903

Eugene F. Pettenelli  
4300 Glasgow Court  
N. Ft. Myers, FL 33903

Jerilyn L. Victor  
1740 Dockway Drive  
N. Ft. Myers, FL 33903

Beverly and Robert Hemenway  
4325 S. Atlantic Circle  
N. Ft. Myers, FL 33903

C. Belle Morrow  
691 Camellia Drive  
N. Ft. Myers, FL 33903

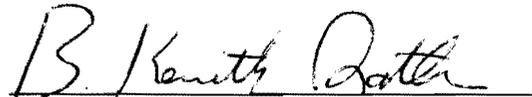
Dawn E. Coward  
951 Tropical Palm Avenue  
N. Ft. Myers, FL 33903

Kevin A. Morrow  
905 Poinsettia Drive  
N. Ft. Myers, FL 33903

Doris T. Hadley  
1740 Dockway Drive  
N. Ft. Myers, FL 33903

Cheryl Walla  
1750 Dockway Drive  
N. Ft. Myers, FL 33903

Respectfully submitted



B. Kenneth Gatlin  
Fla. Bar #0027966  
Gatlin, Woods, Carlson & Cowdery  
1709-D Mahan Drive  
Tallahassee, Florida 32308  
(904) 877-7191

Attorneys for  
FLORIDA CITIES WATER COMPANY

1 FLORIDA CITIES WATER COMPANY  
2 NORTH FORT MYERS DIVISION  
3 WASTEWATER OPERATIONS

ORIGINAL  
FILE COPY

4 REBUTTAL TESTIMONY OF JULIE L. KARLESKINT  
5 TO DIRECT TESTIMONIES OF  
6 KIMBERLY H. DISMUKES  
7 AND  
8 CHERYL WALLA  
9 Docket No. 950387-SU

10 Q. Please state your name?

11 A. Julie L. Karleskint.

12 Q. Have you prefiled direct testimony in this docket?

13 A. Yes.

14 Q. What is the purpose of this rebuttal testimony?

15 A. It is the purpose of FCWC in this testimony to refute  
16 the positions of OPC Witness Dismukes and intervenor  
17 Walla regarding our rate application, the reuse rate  
18 and odor.

19 Q. Witness Dismukes on Page 6 of her testimony indicates  
20 that the Commission should increase the rate charged  
21 to the Lochmoor Golf Course for reuse from the  
22 proposed rate of \$.13 to \$.21 per 1000 gallons. Does  
23 FCWC have any comments concerning this rate?

24 A. Yes. It must be understood by all Parties to rate  
25 making that pricing of reclaimed water is market

1 driven. If the price is higher than the market,  
2 little or none will be sold, thus forcing wastewater  
3 utilities to pursue other, and often more costly  
4 disposal options. The reclaimed water must be priced  
5 to induce reuse customers to accept reclaimed water.  
6 FCWC is required by the FDEP to dispose of all  
7 effluent flows over one million gallons per day as  
8 reclaimed water. As long as the purchaser has options,  
9 as is the case with Lochmoor Country Club, then the  
10 purchaser has the dominate hand in pricing. The  
11 Country Club is not required to accept reclaimed water  
12 if it can demonstrate that it is not economically  
13 feasible. If the price of reclaimed water is  
14 increased to the point of being uneconomical, the  
15 Lochmoor Country Club would have the right to  
16 terminate the use of reclaimed water with notice in  
17 accordance with the termination clause in the  
18 agreement, see Exhibit \_\_\_ (JLK-4). Lochmoor Country  
19 Club is the nearest reuse site to the treatment plant  
20 and is presently the only reclaimed water customer  
21 that can be served with the reclaimed water main, and  
22 it would be at an additional cost to the rate payers  
23 to extend reclaimed water service to serve other  
24 customers should Lochmoor decide not to take reclaimed  
25 water.

1 Q. Witness Walla states on Pages 5 and 6 of her testimony  
2 that if the utility were permitted only the plant and  
3 expenses needed to serve the wastewater generated by  
4 their customers with no more than a 10% infiltration,  
5 it would have several direct consequences. First, the  
6 new increase in capacity of 0.25 gpd would not have  
7 been needed. Second, the existing means of effluent  
8 disposal was adequate: the reuse facilities would  
9 never have been needed. Do you agree with this  
10 statement?

11 A. No, the increase in capacity of 0.25 MGD was required  
12 due to regulatory requirements and increasing flows  
13 from customers including allowable I/I. If FCWC were  
14 to rehabilitate the collection system in order to meet  
15 the specifications stated by Witness Walla, the cost  
16 would have been significantly more than present  
17 improvements and therefore would not be economically  
18 feasible. It should also be noted that in addition to  
19 reuse being required by the FDEP for the plant  
20 upgrade/expansion, the SFWMD Water Use Permit for the  
21 Waterway Estates Water Treatment Plant requires that  
22 a reclaimed water source be made available, prior to  
23 the permit expiration date in 1995.

24 Q. Witness Walla on Page 7 of her testimony indicates  
25 that 54 customers presented a petition to the

1 Commission which stated that there is odor emanating  
2 from the treatment plant. Do you have any comments  
3 concerning this matter?

4 A. The majority of those customers that signed the  
5 petition do not live near the treatment plant and  
6 therefore would not have the opportunity to notice any  
7 odors from the plant. The facility in question is a  
8 wastewater treatment plant and there may be an  
9 occasion, due to the nature of the process, that those  
10 living in close proximity to the plant may notice some  
11 odors. The FDEP has inspected the treatment plant  
12 site eight times in the past year and has not found  
13 any obnoxious odors emanating from this facility.

14 Q. Can the odors that are occasionally produced by the  
15 treatment process be eliminated?

16 A. It is technologically feasible to reduce odors to  
17 minimal levels. However this technology is extremely  
18 expensive and is not warranted in this case.

19 Q. Does this conclude your testimony?

20 A. Yes it does.

**FLORIDA CITIES  
WATER COMPANY**

Exhibit \_\_\_\_\_ (JLK-4)

May 2, 1995

Jim Bishop  
Lochmoor Country Club  
3911 Orange Grove Boulevard  
North Fort Myers, FL 33903

Re: Reuse Agreement

Dear Mr. Bishop:

Enclosed is the signed agreement between Lochmoor Country Club and Florida Cities Water Company (FCWC). The easement has been recorded and the reclaimed water line is complete. The plant is currently being upgraded to meet high level disinfection requirements with construction completion scheduled for October 1, 1995. Upon completion of these improvements, FCWC will be able to supply Lochmoor with reclaimed water.

I have discussed your concerns with metering the reclaimed water at the point of delivery to the irrigation system with our Ft. Myers staff and they are concerned that you will be paying for stormwater as well as reclaimed water into the system. Therefore, since there will be no charge for the reclaimed water until a rate is established and approved by the Public Service Commission, you may wish to wait until reclaimed water is delivered to the golf course before making changes to the contract. At that time, you would be able to determine which method would be most beneficial to the Country Club.

We appreciate your assistance in working with us and should you have any questions or concerns, please contact me.

Sincerely,



Julie L. Karleskint, P.E.  
Operations Manager

CC: R. Ytterberg w\enclosure  
FDEP - Ft. Myers w\enclosure  
SFWMD

**FLORIDA CITIES WATER COMPANY**  
4837 Swift Road, Suite 100  
Sarasota, Florida 34231  
P.O. Box 21119 (34276-4119)  
Telephone 813/925-3088



## RECLAIMED WATER USE AGREEMENT

This Agreement is made and entered into on this 3<sup>rd</sup> day of March, 1995, between Lachmoor Country Club, Resort Enterprises, Inc. and its assigns and successors in interest, hereinafter referred to as "USER", and Florida Cities Water Company, hereinafter referred to as "UTILITY".

WHEREAS, UTILITY owns and operates the Waterway Estates Advanced Wastewater Treatment Plant, and said plant is to be permitted to provide treated wastewater effluent for public access irrigation by the Florida Department of Environmental Protection; and

WHEREAS, USER is owner of golf course described in Exhibit "A" (hereinafter referred to as "USER'S PROPERTY") and is desirous of obtaining reclaimed water for irrigation of same.

NOW, THEREFORE, in consideration of the premises of undertakings and covenants set out hereinafter, USER and UTILITY hereby agree as follows:

### 1. DEFINITIONS

1.1 Reclaimed Water - Refers to wastewater treatment plant effluent which conforms to the requirements of all federal, state and local regulations.

1.2 Regulatory Agencies - Refers to all agencies having jurisdiction over wastewater treatment, disposal, use of reclaimed water for public access irrigation, rates or general utility matters. Agencies include, but are not necessarily limited to, Environmental Protection Agency (EPA); Florida Department of Environmental Protection (FDEP); Florida Public Service Commission (FPSC); and Lee County Board of County Commissioners.

### 2. CONSTRUCTION

2.1 USER agrees to complete all engineering studies, testing, permit application preparation, design and construction at its own expense for the complete irrigation system. The system is anticipated to include, but not be limited to, a pond of a size appropriate for the temporary storage of reclaimed water and any and all equipment necessary to transfer and utilize the reclaimed water stored in the pond on USER'S PROPERTY.

2.2 UTILITY agrees to execute, as the applicant, all permit applications required by the FDEP or other regulatory agencies relative to this Agreement, subject to UTILITY's prior review and discretionary approval of the permit application, plans, specifications or other information as may be submitted in support of the permit application. UTILITY shall also provide groundwater monitoring facilities as required by regulatory agencies.

2.3 The point(s) of delivery of reclaimed water from the UTILITY to the USER is the outlet end of the reclaimed water main into the USERs pond. This point will be used to separate the UTILITY-owned system from the USER-owned system, at its expense, the UTILITY shall own, operate and maintain the reclaimed water distribution system upstream of the point(s) of delivery. At its expense, the USER shall own, operate and maintain all works downstream of the point(s) of delivery.

### 3. VOLUME OF WATER AND DELIVERY SCHEDULE

3.1 The UTILITY will deliver reclaimed water and the USER shall accept an annual average daily flow of approximately 300,000 GPD in approximately equal weekly quantities (referred to as a weekly allocation"). This quantity may be reduced should wet weather conditions prevail and USER can not accept said amount. The UTILITY shall install appropriate meter(s) at the point(s) of delivery so that the volume of reclaimed water delivered can be measured.

3.2 The UTILITY shall supply the USER 300,000 Gallons on an annual average daily basis pursuant to the terms of this agreement.

### 4. OPERATIONAL RESPONSIBILITIES

4.1 It shall be the responsibility of the UTILITY to take periodic samples from the groundwater monitoring wells located on USER'S PROPERTY and any other monitoring as may be required by a regulatory agency.

4.2 UTILITY has the right to terminate delivery of reclaimed water to USER at any time that the reclaimed water is of unacceptable quality or continuation of delivery would interfere with UTILITY's treatment process, UTILITY is requested by a regulatory agency to cease delivery, USER is in noncompliance with permits or if contaminants are detected in groundwater monitoring wells. UTILITY shall maintain continuous monitoring of reclaimed water at its wastewater treatment plant in accordance with FDEP regulations. An automatic control valve shall be installed and maintained by the UTILITY at the treatment plant to insure that only water of acceptable quality is sent to the USER. All reclaimed water delivered under this Agreement shall conform to the applicable water quality standards specified in Florida Administrative Code (FAC) Chapter 62-610, Part III: Reuse; Slow-Rate Land Application Systems, Public Access Areas, Residential Irrigation and Edible Crops and the permit issued by the FDEP pursuant thereto reclaimed water. It shall also be the UTILITY's responsibility to discontinue delivery to USER as soon as practical upon becoming aware of any circumstances which results in the delivery of reclaimed water not meeting said standards.

4.3 It is the responsibility of USER to utilize the reclaimed water for the intended purpose of irrigation of said property and to maintain irrigation equipment and appurtenances and pond(s).

4.4 UTILITY shall in no way be responsible for any of USER's equipment located either on UTILITY's property or USER'S PROPERTY.

4.5 If relocation of USER's equipment located on UTILITY's property becomes necessary, USER shall be responsible for the cost of design, replacement and/or relocation of USER's equipment as may be reasonably requested by UTILITY. UTILITY shall only make such request if circumstances necessitate the relocation of the equipment. UTILITY shall use all reasonable efforts to accommodate USER's equipment.

4.6 The USER shall be responsible for erecting and maintaining signs upon and around the USER'S PROPERTY in conformance with all applicable regulations. The sign shall designate that non-potable reclaimed water is being utilized in the area.

4.7 The USER shall also be responsible for maintaining the appropriate buffer zones in conformance with applicable regulations.

5. CHARGES

For furnishing of the reclaimed water, the USER shall pay the UTILITY at the rates and charges specified in its tariff as approved by the FPSC. The UTILITY's rate per 1000 gallons may not be changed without prior notice. The UTILITY shall bill the USER monthly. Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days.

6. TERMS OF THE AGREEMENT

6.1 The UTILITY shall deliver and the USER shall accept and use reclaimed water produced at the UTILITY's wastewater treatment facility. Agreement shall be effective on the date of the execution and for a term of twenty (20) years. The term of this Agreement shall be renewed automatically from year to year beyond the initial twenty year term, unless terminated by either party by written notice not less than one hundred eighty (180) days in advance of the anniversary of the commencement of each renewal.

6.2 If UTILITY or USER fails in their attempt to obtain or renew the necessary authorization or permits from regulatory agencies, this Agreement will be null and void. If, for any reason, the necessary authorization or permits from any regulatory agency are withdrawn, this Agreement becomes null and void.

6.3 The UTILITY and USER agree to negotiate, in good faith, the business terms of this Agreement if either party would sustain a material adverse financial repercussion from same.

7. EASEMENTS

7.1 USER shall grant to the UTILITY all easements for the construction, operating and maintenance of the UTILITY's reclaimed water system upon USER'S PROPERTY that are necessary for the

delivery of reclaimed water to the delivery point(s). All such easements shall be used exclusively for this purpose. The form of Easement Agreement and the legal description of the property to be served by the easement are incorporated by reference, attached hereto as Exhibit "B", and made a part of this Agreement.

7.2 Upon execution by USER, the Easement Agreement shall be recorded in the appropriate record book in the official records of Lee County, Florida.

#### 8. ACCESS

8.1 The UTILITY shall have the right, at any reasonable time and upon notice to USER in advance, to enter upon these portions of the USER'S PROPERTY necessary to review and inspect the practices of the USER with respect to conditions agreed to herein. Where reasonable, the UTILITY shall give USER advance notice of at least twenty four (24) hours.

8.2 Such entry shall be solely for the purpose of review of the operation of reclaimed water irrigation system, for inspection of UTILITY-owned mains and appurtenances and/or for sampling at any monitoring wells located on the property of the USER. The USER may have a representative accompany the UTILITY's personnel.

#### 9. TERMINATION OR ASSIGNMENT

9.1 Either party has the right to terminate its obligations under this Agreement upon one (1) year advance written notice to the other party, unless said termination complies with the terms of paragraph 6.1.

9.2 Either party shall have the right to terminate this Agreement if performance is prevented by third-party litigation, lack of required permits, inability to fund the project or any other event beyond the control of the party seeking to terminate.

9.3 Either party shall have the right to transfer all or any part of the treatment or distribution facilities owned by it to others and to assign all or any part of its rights and obligations under this Agreement to others who shall be bound by, accept and be responsible for all applicable terms and conditions of this Agreement.

#### 10. EXCUSE FROM PERFORMANCE BY GOVERNMENTAL ACTS

If for any reason during the term of this Agreement, local, state or federal governments or agencies shall fail to issue necessary permits, grant necessary approvals, or shall require any change in the operation of the treatment, transmission and distribution systems or the application and use of reclaimed water, then to the extent that such requirements shall affect the ability of any party to perform any of the terms of this Agreement, the affected party shall be excused from the performance thereof. In such an event, a new Agreement may be negotiated by the parties

hereto in conformity with such permits, approvals, or requirements, provided.

#### 11. EMERGENCY SITUATIONS

11.1 The UTILITY shall not be held liable by the USER for failure to deliver reclaimed water if an emergency situation beyond the control of the UTILITY occurs which prevents delivery of reclaimed water. Emergencies may include but not be limited to:

- a. A lack of reclaimed water due to loss of flow to the treatment plant or due to process failure.
- b. Contamination in the reclaimed water making it unsuitable for irrigation.
- c. Equipment or material failure in the reclaimed water distribution system, including storage and pumping.
- d. An act of God.

11.2 If an emergency situation occurs, the UTILITY shall notify the USER by telephone as soon as reasonably practical. A confirmation letter describing the nature of the emergency and the anticipated duration shall be forwarded by the UTILITY to the USER with five (5) business days.

#### 12. USE OF RECLAIMED WATER: IRRIGATION SYSTEM

12.1 The USER may use reclaimed water delivered by the UTILITY for agricultural, urban irrigation or other purposes in any manner determined by the USER except that use of the reclaimed water shall be consistent with all local, state, and federal regulations.

12.2 The USER shall provide, in a manner approved by the appropriate regulatory agencies, an approved backflow prevention device between the reclaimed water irrigation system and any other irrigation water source(s). The cost of such backflow prevention device(s) and installation shall be borne by the USER, and the complete operation of the device shall be the responsibility of the USER. The USER agrees to identify to the UTILITY all well(s) connected to the irrigation system. The USER may continue to use well(s) and/or lake or pond water source(s) for its irrigation system in accordance with their South Florida Water Management District permit, provided that the two are not operated simultaneously.

#### 13. INDEMNIFICATION

13.1 USER shall save and hold harmless, defend and indemnify UTILITY, its agents, representatives, servants and employees, insofar as it legally may, from all claims costs, penalties, damages and expenses (including attorney's fees) arising out of the following:

- a. Claims related to USER'S construction, erection, location, operation, maintenance, repair, installation, replacement or removal of that part of the system controlled by USER for effluent disposal and reuse;
- b. Claims arising out of USER'S negligence or omissions.
- c. Claims or fines for non-compliance with permit conditions solely controlled by USER.
- d. Claims arising out of USER'S groundwater or use of reclaimed water, except where such claim is related solely to failure of the reclaimed water provided at the point of delivery to meet water quality standards as provided in Paragraph 4.2, herein.

13.2. UTILITY shall save and hold harmless, defend and indemnify USER, its agents, representatives, servants and employees, from all claims, costs, penalties, damages and expenses (including attorney's fees) arising out of the following:

- a. Claims related to the UTILITY'S construction, erection, location, operation, maintenance, repair, installation, replacement or -removal of that part of the system controlled by UTILITY for effluent disposal and reuse;
- b. Claims arising out of UTILITY'S negligence or omissions.
- c. Claims arising out of UTILITY'S providing reclaimed water to the point of delivery which does not meet applicable water quality standards as provided in Paragraph 4.6, herein.

#### 14. DISCLAIMER OF THIRD PARTY BENEFICIARIES

This Agreement is solely for the benefit of the formal parties hereto and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto.

#### 15. SEVERABILITY

If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be effected. To that end, this Agreement is declared to be severable.

#### 16. APPLICABLE LAW

This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

17. NOTICES

Unless designated otherwise from time to time by the applicable party, all notices required or authorized under this Agreement shall be given in writing and shall be served by mail on the parties at the addresses listed below:

UTILITY: Florida Cities Water Company  
7401 College Parkway  
Ft. Myers, Florida 33907

USER: Loughmoor Country Club  
3911 Orange Grove Blvd  
N Ft Myers FL 33903

18. EXHIBITS

This Agreement incorporates the following Exhibits which are specifically made a part of this Agreement:

- Exhibit "A" - Property legal description and legal survey
- Exhibit "B" - Reclaimed Water Pipeline Easement Form
- Exhibit "C" - Plans for Point(s) of Delivery
- Exhibit "D" - Certified Title Opinion

19. THIS WRITTEN AGREEMENT with its attached Exhibits constitute the entire Agreement between the parties and has been entered into voluntarily and with independent advice and legal counsel, and has been executed by the authorized representative of each party on the date written above. Modifications to and waivers of the provisions herein shall be made in writing by the parties hereto.

IN WITNESS THEREOF, the parties hereto have caused their respective signature and seals to be affixed hereto, the date and year first above written.

Signed, sealed and delivered in the presence of:

Julie L Karfaskant

By: James E. Bishop "USER"  
Name: James E Bishop  
Title: U. President  
Company: Resort Enterprises, Inc  
Address: N. Ft Myers FL 33903

Julie L Karfaskant

By: Michael Acosta "UTILITY"  
Name: Michael Acosta  
Title: Sr. Vice President  
Company: FLORIDA CITIES WATER COMPANY

Address: 4837 Swift Road, Suite 100  
Sarasota, Florida 34231

FOR USER

STATE OF FLORIDA )  
COUNTY OF LEE )

I HEREBY CERTIFY that on this day before me, an officer duly authorized in the State and County named above, to take acknowledgements, personally appeared James E. Bishop, well known to me to be the vice President, and he/she acknowledges executing this Agreement freely and voluntarily under authority duly vested in him by said corporation and that the seal affixed hereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State named above this 3rd day of March, 1995.

(SEAL)



**DONNA J. BROWN**  
COMMISSION # CC 356326  
EXPIRES MAR 16, 1998  
BONDED THRU  
ATLANTIC BONDING CO., INC.

Donna J. Brown  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

FOR UTILITY

STATE OF FLORIDA )  
COUNTY OF LEE )

I HEREBY CERTIFY that on this day before me, an officer duly authorized in the State and County named above, to take acknowledgements, personally appeared Michael Wasata, well known to me to be the vice President of FLORIDA CITIES WATER COMPANY, and he/she acknowledges executing this Agreement freely and voluntarily under authority duly vested in him by said corporation and that the seal affixed hereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State named above this 3rd day of March, 1995.

(SEAL)



**DONNA J. BROWN**  
COMMISSION # CC 356326  
EXPIRES MAR 16, 1998  
BONDED THRU  
ATLANTIC BONDING CO., INC.

Donna J. Brown  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

3300/R  
-70D

EXHIBIT "B"

EXCLUSIVE AND PERPETUAL  
RECLAIMED WATER PIPELINE  
EASEMENT GRANT

3760410

UK2592 PG1770

THIS INDENTURE, made and entered into this 3 day of  
March, 1995 between James E. Bishop  
Lochmoor Country Club, Resort Enterprises Inc (Name)  
N Ft Myers FL 33903 (Company) (Address), individually or as Trustee,  
hereinafter referred to as Grantors; and FLORIDA CITIES WATER  
COMPANY, 4837 Swift Road, Suite 100, Sarasota, Florida 34231, a  
FLORIDA corporation, hereinafter referred to as Grantee:

WITNESSETH

1. For and in consideration of the sum of One Dollar and other good and valuable consideration, receipt of which is hereby acknowledged, Grantor does hereby grant to the Grantee, its successors and assigns an exclusive and perpetual 20 foot wide permanent easement situated in Lee County, Florida and located and described as shown on the attached plat or legal survey marked Exhibit "A" and as follows:

COMPLETE LEGAL DESCRIPTION HERE OR  
ATTACHED AS EXHIBIT "A"  
(Please so state here accordingly)

ALSO SEE ATTACHED LEGAL SURVEY OF THE SAME  
ABOVE DESCRIBED EASEMENT AS EXHIBIT "A" ATTACHED

Documentary Tax Pd. \$ 70  
\$ \_\_\_\_\_ Intangible Tax Pd.  
Charlie Green, Clerk, Lee County  
G. Sherwood Deputy Clerk

RECORD VERIFIED - CHARLIE GREEN, CLERK  
BY: G. SHERWOOD, D.C.

2. Grantee, its successors, appointees and assigns, are granted the right, privilege, and authority to construct, replace, renew and maintain a **RECLAIMED WATER LINE, MAIN or FACILITY** together with necessary connections, valves, and other appurtenances, to be located on, under, across and through the above described property with the additional right, privilege and authority to remove, replace, repair and enlarge said line, and to trim and remove roots, shrubs, bushes and plants which affect the operation of this said main, line or facility.
3. This 20 foot wide permanent easement will not be limited to any one (1) diameter size, type and/or number of connections to the reclaimed water main for providing reclaimed water service to this and adjacent properties. The area of this 20 foot wide permanent, exclusive and perpetual easement is restricted and reserved for the reclaimed water line, main, or facility, except it may be used for farming, roadways, streets, walkways, fences, or similar uses; however, houses, barns, buildings, patios, carports, garages, warehouses, and other similar type structures may not be ever built on this easement.
4. Title to the Utilities constructed hereunder shall remain in the name of the Grantee, Grantee's successors, appointees and assigns.
5. Grantors covenant to and with Grantee that subject to existing easements, if any, for public highways or roads, railroads, laterals, ditches, pipelines and electrical transmission or distribution lines and telephone and telegraph lines covering the land herein described, Grantors are lawfully seized and possessed of said lands, having good and lawful right and power to sell and convey them, and that they are free and clear of all liens and encumbrances, except as herein stated; and Grantors herewith furnish and attach as Exhibit "D" a Certified Title Opinion from Pavese, Garner, Haverfield, Dalton, Harrison Jensen, and accordingly, Grantors will forever warrant and defend the title and terms to this said easement and the quiet possession thereof against the lawful claims and demands of all persons whomever.
6. This Agreement shall be binding upon the parties hereto, their successors and assigns.

WITNESSES:

Julie L. Karleskint  
[Signature]

GRANTOR OR GRANTORS:

James E. Bishop  
Type Name of Owner or Trustee  
James E. Bishop  
Owner or Trustee sign here  
Type Name of Owner or Trustee  
Owner or Trustee sign here

UN7092 P61112

STATE OF FLORIDA  
COUNTY OF

Before me personally appeared James E. Bishop,  
known to me to be the person described in and who executed the  
foregoing instrument, and acknowledged to and before that \_\_\_\_\_  
James E. Bishop executed this said instrument for  
purposes therein expressed.

WITNESS my hand and official seal, this 3rd day of March  
1995.



DONNA J. BROWN  
COMMISSION # CC 358328  
EXPIRES MAR 16, 1998  
BONDED THRU  
ATLANTIC BONDING CO., INC.

Donna J. Brown  
Notary Public  
State of Florida at Large

My Commission expires: \_\_\_\_\_.

THIS EASEMENT DOCUMENT WAS PREPARED BY THE GRANTOR AND LEGAL  
DESCRIPTION AND SURVEY PREPARED BY THE GRANTOR AS DESCRIBED AND  
ATTESTED TO.

**PAVESE, GARNER, HAVERFIELD, DALTON, HARRISON & JENSEN**  
ATTORNEYS AND COUNSELORS AT LAW

1833 HENDRY STREET  
POST OFFICE DRAWER 1507  
FORT MYERS, FLORIDA 33902-1507  
(813) 334-2195  
FAX (813) 332-2243

4635 SOUTH DEL PRADO BOULEVARD  
POST OFFICE BOX 88  
CAPE CORAL, FLORIDA 33910-0088  
(813) 542-3148  
FAX (813) 542-8953

APR 13 1995  
RECEIVED

**PETER J. GRAVINA**  
BOARD CERTIFIED REAL ESTATE LAWYER  
(813) 336-6236

April 10, 1995

PLEASE REPLY TO:  
FORT MYERS OFFICE

Mr. Gary King  
Florida Cities Water Company  
7401 College Parkway  
P. O. Box 6459, MM  
Fort Myers, FL 33911

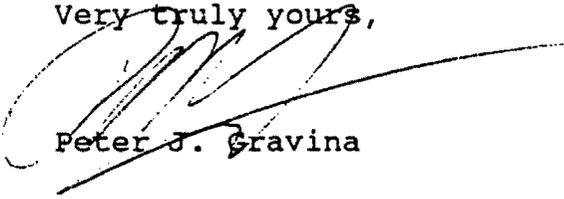
Re: Title Opinion

Dear Gary:

We have checked title on the referenced property from 1972 forward, as the cost of additional title information pre 1927 would have been expensive. The information obtained was sufficient to determine that the property was deeded in 1972 to Resort Enterprises, Inc., a Florida corporation, its current owner.

With the exception of the remote possibility that there is a title matter that predates the Lochmoor plat and the referenced conveyance, the title is vested in accordance with the attached title opinion.

Very truly yours,

  
Peter J. Gravina

PJG:dw  
Enclosure

UK2592 PG1773

LAW OFFICES  
Pavese, Garner, Haverfield, Dalton, Harrison & Jensen  
Fort Myers, Florida

DR2592 PG1774

OPINION OF TITLE TO REAL ESTATE RENDERED MARCH 21, 1995

TO FLORIDA CITIES WATER COMPANY

based on ATIDS Search from 1/2/74 through 3/21/95 and Brief Chain from 8/8/72 through 1/2/74 prepared by Attorneys' Title Insurance Fund, Inc., describing the following real estate situate in Lee County, Florida, to-wit:

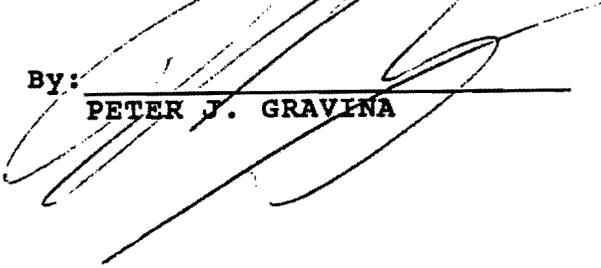
See Exhibit "A" attached hereto

An examination of said search shows the fee simple title to said real estate to be vested in RESORT ENTERPRISES, INC., a Florida corporation, free and clear of all encumbrances and material defects, excepting, however, the following:

1. Taxes for the year of the effective date of this policy and taxes or special assessments which are not shown as existing liens by the public records.
2. Rights or claims of parties in possession not shown by the public records.
3. Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the premises.
4. Easements or claims of easements not shown by the public records.
5. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
6. Subject to that certain Mortgage between The Lee County Bank and Resort Enterprises, Inc. bearing the date of July 31, 1972 and recorded in Official Records Book 845 at Page 757, Public Records of Lee County, Florida.
7. Subject to that certain Mortgage between The Lee County Bank and Resort Enterprises, Inc. bearing the date of February 12, 1973 and recorded in Official Records Book 904 at Page 179, Public Records of Lee County, Florida.

8. Subject to those matters shown on the plat for Lochmoor Unit 1, a subdivision, as recorded in Plat Book 28, at page 33, Public Records of Lee County, Florida.
9. Subject to that certain Easement Deed recorded in Official Record Book 953, page 694, Public Records of Lee County, Florida.
10. Subject to those certain Deed Restrictions recorded in Official Record Book 852, page 789, Public Records of Lee County, Florida.
11. Subject to those certain Deed Restrictions recorded in Official Record Book 888, page 48, Public Records of Lee County, Florida.

PAVESE, GARNER, HAVERFIELD,  
DALTON, HARRISON & JENSEN

By: 

PETER J. GRAVINA

F:\WPDATA\PJG\KING.OPN

01/19/76 07:00

OR2592 PG1776

DESCRIPTION: (20' REUSE WATER LINE EASEMENT)

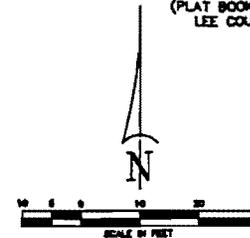
A 20 foot water line easement lying in part of Tract "B" Lochmoor, Unit 1 as recorded in Plat Book 28 at Pages 33 through 37 Office of the Recorder, Lee County, Florida and being more particularly described as follows:

Commencing at the Northeast corner of said Tract "B", said point lying on the South right-of-way line of Birkdale Avenue; thence run Westerly 57.07 feet along said right-of-way line being a curve concave Northeasterly with a radius of 455.00 feet and a delta of 7°11'13" to the point of beginning; thence run S.46°27'45"W. for 40.52 feet; thence run S.89°41'56"W. for 36.95 feet; thence run N.00°18'04"W. for 20.00 feet; thence run N.89°41'56"E. for 29.03 feet; thence run N.46°27'45"E. for 17.14 feet to said South right-of-way line; thence run Easterly 25.27 feet along said South right-of-way line being a curve concave Northeasterly with a radius of 455.00 feet and a delta of 3°10'58" to the point of beginning.

CONTAINS 1,233.37 ± SQ. FT.

A SKETCH OF  
REUSE WATER LINE  
EASEMENT  
LYING IN

SECTION 21, TOWNSHIP 44 SOUTH, RANGE 24 EAST  
(PLAT BOOK 28, PAGE 37)  
LEE COUNTY, FLORIDA

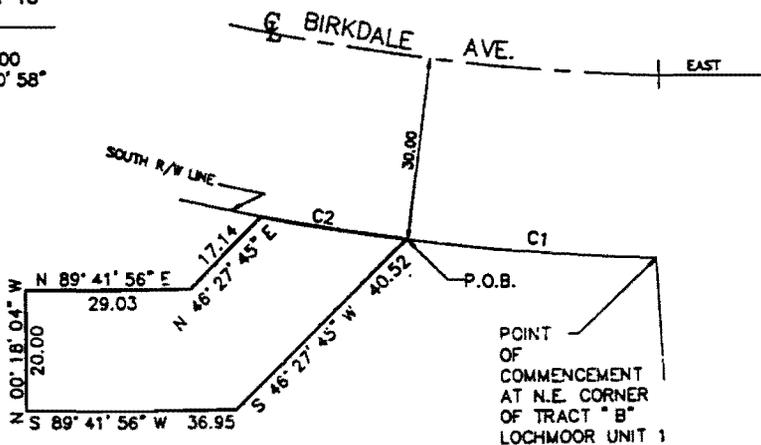


- LEGEND:
- SET 1/2" IRON ROD (CAP #4831)
  - FOUND IRON ROD (FND. I.R.)
  - CONCRETE MONUMENT (C.M.)
  - P.U.E. PUBLIC UTILITY EASEMENT
  - D.E. DRAINAGE EASEMENT
  - CONC. CONCRETE (CONC.)
  - P.R.M. PERMANENT REFERENCE MONUMENT
  - P.C.P. PERMANENT CONTROL POINT
  - (P) AS PER PLAT
  - (D) AS PER DEED
  - (S) AS PER SURVEY
  - (M) AS PER MEASURED
  - Δ DELTA
  - C.B.S. CONCRETE BLOCK STRUCTURE
  - EL. ELEVATION
  - FND. FOUND
  - B.M. BENCHMARK
  - CL CENTERLINE
  - R/W RIGHT-OF-WAY
  - N/D NAIL & DISK
  - O.R. OFFICIAL RECORDS BOOK
  - A/C AIR CONDITIONER
  - O/H OVERHEAD LINES
  - TYPICAL ELEVATION
- LEGEND: con' l.
- P.O.B. POINT OF BEGINNING
  - P.C. POINT OF CURVATURE
  - D/H DRILL HOLE
  - N/T NAIL & TINTAB
  - C# CURVE NUMBER
  - A ARC OF CURVE
  - R RADIUS OF CURVE
  - P.P. POWER POLE
  - W.M. WATER METER
  - UTS TELEPHONE BOX

- SURVEY NOTES:
- 1: BASIS OF BEARINGS SHOWN HEREON TAKEN FROM THE CENTERLINE OF BIRKDALE AVENUE, ASSUMED TO BEAR EAST
  - 2: FIELD NOTES IN LOCHMOOR UNIT 1
  - 3: SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
  - 4: THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
  - 5: THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH.
  - 6: UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
  - 7: REPRODUCTIONS OF THIS DRAWING ARE VOID UNLESS SEALED WITH SIGNERS EMBOSSED SURVEYOR'S SEAL.

THIS SKETCH FOR:  
FLORIDA CITIES WATER COMPANY

C1  
ARC=57.07  
RADIUS=455.00  
DELTA=07° 11' 13"  
C2  
ARC=25.28  
RADIUS=455.00  
DELTA=03° 10' 58"



SKETCH DATE: 3-10-95	JOB #: 95-147
	JORGENSEN-HARRIS & ASSOCIATES
	2706 SE SANTA BARBARA PLACE
	CAPE CORAL, FLORIDA
	PHONE: (813) 772-9939

91  
95 APR 17 PM 2:59