

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

RECEIVED-FPS  
98 DEC -1 PM 2:06  
RECORDS AND REPORTING

IN RE: Application of )  
NORTH FORT MYERS UTILITY, INC. )  
for extension of wastewater )  
service in Lee County, Florida. )  
\_\_\_\_\_ )

Docket No. 981781-5

APPLICATION FOR AMENDMENT TO  
CERTIFICATE OF AUTHORIZATION

NORTH FORT MYERS UTILITY, INC. ("NFMU"), by and through its undersigned attorneys, and pursuant to Sections 367.045(2), Florida Statutes, and Rule 25-30.036, Florida Administrative Code, files this Application for Amendment of Certificate 247-S to extend its service area, and in support thereof states:

1. The exact name of the Company and the address of its principal business office is:

NORTH FORT MYERS UTILITY, INC.  
Post Office Box 2547  
Fort Myers, Florida 33902

2. The name and address of the person authorized to receive notices and communications in respect to this application is:

Martin S. Friedman, Esquire  
Rose, Sundstrom & Bentley, LLP  
2548 Blainstone Pines Drive  
Tallahassee, Florida 32301

3. It was originally believed that a certificate amendment was not necessary to serve Buccaneer Estates since the exclusion language on Fourth Revised Sheet No. 3.2 of the NFMU Tariff references the PSC certificated area of Buccaneer Mobile Estates,

RECEIVED & FILED  
*[Signature]*  
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

13482 DEC-18

FPSC-RECORDS/REPORTING

and Buccaneer Mobile Estates does not have a PSC certificated area for wastewater service. However, Office of Public Counsel recently brought to NFMU's attention a pleading filed in 1988 in Docket No. 871306-SU which could be interpreted to the contrary. Thus, out of an abundance of caution, this Application is being filed. The property proposed to be served was possibly excepted from the legal description of NFMU's Certificate Amendment in Docket No. 871306-SU, Order No. 19059, issued March 29, 1988, which extended NFMU's territory to include virtually all of unincorporated Lee County North of the Caloosahatchee River, West of I-75, and East of the City of Cape Coral. This property consists of the Buccaneer Estates mobile home community presently being served by the park owner with the cost of such services included as a part of the lot rents and has thus been exempt from obtaining a wastewater certificate. A copy of the Wastewater Agreement for the provision of wastewater service to Buccaneer Estates was provided to the Commission in accordance with Rule 25-30.550, Florida Administrative Code on September 4, 1998, and was subsequently approved pursuant to the referenced Rule. A copy of the Wastewater Agreement is also attached hereto as Exhibit "A". The service availability charges paid by the park owner are sufficient for NFMU to construct the off-site facilities to serve the property. NFMU has constructed the force main which is necessary to serve the property and is, in fact, currently serving the property. There

are no other utilities which could possibly serve the mobile home community.

4. The provision of wastewater service to this property by NFMU is consistent with the Lee County Comprehensive Plan.

5. A copy of the deed to the wastewater plant site is attached hereto as Exhibit "B".

6. A description of the territory proposed to be served, using township, range and section references is as follows:

Township 43 South, Range 24 East, Lee County.  
That part of the North  $\frac{1}{2}$  of Section 35 lying East of State Road 45-A (also known as U.S. Highway 41 Business) except the South  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of said Section 35.

7. NFMU will serve this property with its existing wastewater treatment plant.

8. NFMU uses spray irrigation as its primary method of effluent disposal with deepwell injection as a backup.

9. A detailed map showing township, range and section with the proposed territory plotted thereon are attached as Exhibit "C".

10. Service to this property required the construction of a main. The main connects to NFMU's force main along U.S. 41 Business and costs approximately of \$90,000.

11. NFMU operates its wastewater system pursuant to DER Permit No. FLA014548-268241 which expires October 3, 2000, and authorizes the operation of a 2.0 MGD extended aeration wastewater treatment facility with tertiary filtration and reclaimed water to a 1.7 MGD golf course irrigation system, with a back-up system for disposal by a Class I injection well of 2.0 MGD. The collection

system to connect Buccaneer Estates was constructed pursuant to a general permit.

12. The construction of the collection system will be financed by service availability charges collected from the Mobile Home Park. There will be no material impact in NFMU's capital structure.

13. The territory to be served consists of 971 mobile homes.

14. There will be no material impact as NFMU's monthly rates or service availability charges due to the small relative size of the project.

15. Attached as Exhibit "D" to the original Application are the original and two copies of the revised tariff sheets reflecting the additional service area. A copy of the revised tariff sheets is attached to each copy of the Application. The original Certificate is attached hereto.

16. Attached as Exhibit "E" is the Affidavit that notices were provided to the entities on the list of entities provided by the Commission.

17. Late Filed Exhibit "F" is the Affidavit that notices were given to the customers in the property to be served.

18. NFMU will file the Affidavit that the notice was published in accordance with Commission Rules as Late Filed Exhibit "G".

19. In accordance with Section 367.045(2)(c), Florida Statutes, attached hereto as Exhibit "H" is an Affidavit that NFMU has on file with the PSC a tariff and annual reports.

20. NFMU's rates were last established based upon the application of the 1997 price index on August 19, 1997, pursuant to file WS-97-0113. NFMU's last general rate case was in Docket No. 790677-S resulting in Order No. 10152. NFMU's current service availability charges were established by Order No. 16971 in Docket No. 860184-SU.

21. The extension will serve less than 2,000 ERCs, so the appropriate filing fee is \$1,000, which is attached.

Respectfully submitted on this  
19<sup>th</sup> day of December, 1998, by:

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

BY:   
MARTIN S. FRIEDMAN

nfm\buccaneer.ext

LAW OFFICES

ROSE, SUNDSTROM & BENTLEY, LLP

2548 BLAIRSTONE PINES DRIVE  
TALLAHASSEE, FLORIDA 32301

(850) 877-6555

RECEIVED-FPSC

90 SEP -4 PM 2:20

RECORDS AND  
REPORTING

MAILING ADDRESS  
POST OFFICE BOX 1567  
TALLAHASSEE, FLORIDA 32302-1567

TELECOPIER (850) 656-4029

CHRIS H. BENTLEY, P.A.  
F. MARSHALL DETERDING  
MARTIN S. FRIEDMAN, P.A.  
JOHN R. JENKINS, P.A.  
STEVEN T. MENDLIN, P.A.  
DAREN L. SHIPPY  
WILLIAM E. SUNDSTROM, P.A.  
DIANE D. TREMOR, EA.  
JOHN L. WHARTON

September 4, 1998

VIA HAND DELIVERY

ROBERT M. C. ROSE  
OF COUNSEL

Ms. Blanca S. Bayo, Director  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: North Fort Myers Utilities, Inc.  
Wastewater Agreement with SnowBirdLand Vistas, Inc. and MHC-  
DeANZA Financing Limited Partnership  
Our File No. 16319.29

Dear Ms. Bayo:

Pursuant to Commission Rule 25-30.550, Florida Administrative Code, enclosed is a copy of a Wastewater Agreement entered into between North Fort Myers Utilities, Inc. and SnowBirdLand Vistas, Inc. and MHC-DeANZA Financing Limited Partnership for wastewater service to the Buccaneer Estates. North Fort Myers Utility Inc.'s wastewater treatment plant has a permitted capacity of 2.0 mgd. The current treatment plant connected load is approximately 1.1 million gallons a day and this Wastewater Agreement is for 194,200 gallons a day. There is sufficient capacity in NFMU's existing plant to provide wastewater service pursuant to this Wastewater Agreement.

This Wastewater Agreement will have no noticeable impact on the Utility's rates due to the amount of demand being placed on the NFMU wastewater system, and resultant revenues.

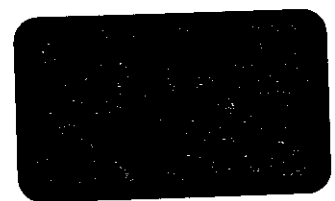
In accordance with the aforementioned Rule, we will deem this Agreement approved if we do not receive notice from the Commission of its intent to disapprove within thirty days. Should you have any questions regarding this Agreement, please do not hesitate to contact me.

Very truly yours,



MARTIN S. FRIEDMAN  
For the Firm

MSF/brm  
Enclosure



## WASTEWATER AGREEMENT

THIS AGREEMENT made and entered into this 24th day of August, 1998, by and between SNOWBIRDLAND VISTAS, INC., an Illinois corporation and MHC-DeANZA FINANCING LIMITED PARTNERSHIP, an Illinois Limited Partnership, hereinafter jointly referred to as "Owner," and NORTH FORT MYERS UTILITY, INC., a Florida corporation, hereinafter referred to as "Service Company."

WHEREAS, Owner owns or controls a wastewater collection, treatment and disposal system serving lands located in Lee County, Florida, and described in Exhibit "A," attached hereto and made a part hereof as if fully set out in this paragraph and hereinafter referred to as the "Property," and the Property has been developed as Buccaneer Estates, which is a manufactured home community consisting of 971 manufactured home lots; and

WHEREAS, Service Company desires to provide, in accordance with the provisions of this Agreement and Service Company's Service Availability Policy described in Exhibit "B," attached hereto and made a part hereof as if fully set out in this paragraph, central wastewater collection, treatment and disposal services to the Property and thereafter operate applicable facilities so that the occupants of the manufactured homes and other improvements on the Property will receive an adequate wastewater collection, treatment and disposal service from Service Company;

NOW, THEREFORE, for and in consideration of the premises, the mutual undertakings and agreements herein contained and assumed, Owner and Service Company hereby covenant and agree as follows:

- 1.0 The foregoing recitations are true and correct and incorporated herein.
- 2.0 The following definitions and references are given for the purpose of interpreting the terms as used in this Agreement and apply unless the context indicates a different meaning:
  - (a) **"Contribution-in-aid-of-Construction (CIAC)"** - The sum of money and/or (if applicable) the value of property represented by the cost of the wastewater collection systems including lift stations and treatment plants owned by Owner, which Owner transfers, or agrees to transfer, to Service Company at no cost to Service Company to provide utility service to the Property.
  - (b) **"Equivalent Residential Connection (ERC)"** - A factor used to convert a given average daily flow (ADF) to the equivalent number of residential connections. For this purpose the ADF of one equivalent residential connection (ERC) is 275 gallons per day (gpd). The number of ERC's contained in a given ADF is

determined by dividing that ADF by 275 gpd. The determination of the number of ERC's for the Property shall be subject to factoring as outlined in Service Company's Service Availability Policy.

- (c) **"Point of Delivery"** - The point where the pipes of Service Company are connected with the lines of the Owner.
- (d) **"Service"** - The readiness and ability on the part of Service Company to furnish and maintain wastewater collection, treatment and disposal service to the Point of Delivery (pursuant to applicable rules and regulations of applicable regulatory agencies).

**3.0 Connection Charges.** Owner hereby agrees to pay to Service Company the following connection charges:

Contributions In Aid Of Construction: System Capacity Charges - The contribution of a portion of the cost of construction of treatment plants, and collection and disposal systems, described in Exhibit "C."

Said connection charges shall be payable upon the execution and delivery of this Agreement.

**3.1** Payment of the connection charges does not and will not result in Service Company waiving any of its rates or rules and regulations, and their enforcement shall not be affected in any manner whatsoever by Owner making payment of the connection charges. Service Company shall not be obligated to refund to Owner any portion of the value of the connection charges for any reason whatsoever, provided that Service Company performs its obligations under this Agreement, nor shall Service Company pay any interest or rate of interest upon the connection charges paid.

**3.2** Neither Owner nor any person or other entity holding any of the Property by, through or under Owner, or otherwise, shall have any present or future right, title, claim or interest in and to the connection charges paid, provided that Service Company performs its obligations under this Agreement, or to any of the wastewater facilities and properties of Service Company, and all prohibitions applicable to Owner with respect to no refund of connection charges, no interest payment on said connection charges and otherwise set forth in Sections 3.1 and 3.2 hereof, are applicable to all such persons or entities.

**3.3** Owner shall not be entitled to offset any bill or bills rendered by Service Company for wastewater service against the connection charges paid. Owner shall not be entitled to offset the connection charges against any claim or claims of Service Company, except for any claim alleging non-payment of the same.

**4.0 On-Site Installations.** As used herein, the term "on-site installations" shall include all wastewater collection lines, facilities and equipment at the Property, including the three lift stations (but excluding the force main being constructed by Service Company to connect to Service Company's existing force main located within the boundaries of the Property [collectively, the "force main"]), and constructed for the purpose of providing wastewater



collection, treatment and disposal service to the existing and proposed dwelling units on the Property. However, the term "on-site installations" shall not include, and Owner shall retain ownership of, the existing wastewater treatment plant at the Property (and Owner shall be responsible for decommissioning the same following the connection of the Property to the facilities of Service Company).

**4.1** Owner has constructed, at its cost, all existing on-site installations at the Property. Owner shall convey the on-site installations to Service Company by quitclaim bill of sale in the form of Exhibit "E," attached hereto and made a part hereof as if fully set out in this paragraph, without warranties, for the consideration described in Section 30.0 hereof, after which time Service Company shall maintain the on-site installations and the force main in good condition and repair and in compliance with all applicable laws at all times, at its own cost and expense. Owner shall also provide Service Company with non-exclusive easements necessary for access, repair and maintenance of the on-site installations and the force main, which easements shall be in the form of Exhibit "D," attached hereto and made a part hereof as if fully set out in this paragraph. Service Company, at its own expense, shall maintain the on-site installations so that infiltration is within limits reasonably acceptable within the wastewater industry.

**5.0 Off-Site Installations.** Service Company hereby agrees to pay for and cause to be promptly performed the construction of the off-site wastewater collection system. The term "off-site wastewater collection system" means equipment, including pumping stations, located outside the boundaries of the Property and constructed for the purpose of connecting on-site installations to Service Company's mains. Service Company shall be responsible for operation and maintenance of any off-site installations in good condition and repair and in compliance with all applicable laws at all times, at its own cost and expense.

**6.0 Agreement to Serve.** Upon the completion of construction of the off-site wastewater collection system and the other terms of this Agreement and Service Company's Service Availability Policy, Service Company covenants and agrees that it will promptly connect or oversee the connection of the on-site installations to the central facilities of Service Company in accordance with the terms and intent of this Agreement. Service Company shall use its best efforts to complete such connection by October 1, 1998. Such connection shall at all times be in accordance with rules, regulations and orders of the applicable governmental authorities. Service Company agrees that once it provides wastewater collection, treatment and disposal service to the Property and Owner or others have connected to its system, that thereafter Service Company will continuously provide, at its cost and expense, but in accordance with the other provisions of this Agreement, including rules and regulations and rate schedules, wastewater collection, treatment and disposal service to the Property in a manner to conform with all requirements of the applicable governmental authority having jurisdiction over the operations of Service Company.

**7.0 Application for Service.** Owner shall not have the right to and shall not connect to the facilities of Service Company until formal written application has been made to Service Company in accordance with the then effective reasonable written rules and regulations of Service Company, which shall be provided to Owner in advance, and approval for such connection has been granted.

7.1 If a commercial kitchen, cafeteria, restaurant or other commercial food preparation or dining facility is constructed within the Property, Service Company shall have the right to require that a grease trap be constructed, installed and connected so that all wastewaters from any grease producing equipment within such facility, including floor drains in food preparation areas, shall first enter the grease trap for pretreatment before the wastewater is delivered to the lines of Service Company. Size, materials and construction of such grease trap to be approved by Service Company.

7.2 No substance other than domestic wastewater will be placed into the wastewater system and delivered to the lines of Service Company. Should any non-domestic wastes, grease or oils, including, but not limited to, floor wax or paint, be delivered to the lines, the resident of the Property making such delivery shall be responsible for payment of the cost and expense required in correcting or repairing any resulting damage.

8.0 **Exclusive Right to Provide Service.** Owner, as a further and essential consideration of this Agreement, agrees that Owner, or the successors and assigns of Owner, shall not (the words "shall not" being used in a mandatory definition) engage in the business or businesses of providing wastewater collection, treatment and disposal services to the Property during the period of time Service Company, its successors and assigns provide wastewater collection, treatment and disposal services to the Property, it being the intention of the parties hereto that under the foregoing provision and also other provisions of this Agreement, to the extent permitted by applicable laws, Service Company shall have the sole and exclusive right and privilege to provide wastewater collection, treatment and disposal services to the Property and to the occupants of such residences, buildings or units constructed thereon, provided that Service Company performs its obligations under this Agreement. Service Company represents and warrants that it is duly licensed to provide wastewater collection, treatment and disposal service to the Property and that it will take all necessary steps in order to keep in good standing all permits necessary to carry out this Agreement.

9.0 **Rates.** Service Company agrees that the rates to be charged to Owner and to the occupants of the manufactured homes and other improvements on the Property shall be those set forth in the tariff of Service Company approved by the applicable governmental agency. However, notwithstanding any provision of this Agreement, Service Company, its successors and assigns may establish, amend or revise, from time to time in the future, and enforce rates or rate schedules so established and approved, which rates and rate schedules shall at all times be reasonable and subject to regulation by the applicable governmental agency, or as may be provided by law. Rates charged to Owner and to the occupants of the manufactured homes and other improvements on the Property shall at all times be identical to rates charged for the same classification of service, as are or may be in effect throughout the service area of Service Company.

9.1 Notwithstanding any provision in this Agreement to the contrary, Service Company may establish, amend or revise, from time to time, in the future, and enforce reasonable written rules and regulations covering wastewater collection, treatment and disposal services to the Property. However, all such rules and regulations so established by Service Company shall be provided to Owner, in advance, and shall at all times be subject to such regulations as may be provided by law.

**9.2** Any such initial or future lower or increased rates, rate schedules, and rules and regulations established, amended or revised and enforced by Service Company from time to time in the future, as provided by law, shall be binding upon Owner; upon any person or other entity holding any interest in the Property by, through or under Owner; and upon any user or consumer of the wastewater collection, treatment and disposal service provided to the Property by Service Company.

**10.0 Binding Effect of Agreement.** This Agreement shall be binding upon and shall inure to the benefit of Owner, Service Company and their respective assigns and successors by merger, consolidation, conveyance or otherwise. Any assignment or transfer of this Agreement by either party shall be approved in writing by the other party, which approval shall not be unreasonably withheld.

**11.0 Notice.** Until further written notice by either party to the other, all notices provided for herein shall be in writing and transmitted by messenger, by certified mail, return receipt requested or by overnight delivery service, and if to Owner, shall be mailed or delivered to Owner at:

MHC-DeAnza Financing Limited Partnership  
c/o Manufactured Home Communities, Inc.  
Two North Riverside Plaza, Suite 800  
Chicago, Illinois 60606  
Attn: President

with a copy to:

Manufactured Home Communities, Inc.  
Two North Riverside Plaza, Suite 800  
Chicago, Illinois 60606  
Attn: General Counsel

and if to Service Company, at:

North Fort Myers Utility, Inc.  
Post Office Box 2547  
Ft. Myers, Florida 33902

with a copy to:

Martin S. Friedman, Esquire  
Rose, Sundstrom & Bentley, LLP  
2548 Blirstone Pines Drive  
Tallahassee, Florida 32301

**12.0 Laws of Florida.** This Agreement shall be governed by the laws of the State of Florida and it shall be and become effective immediately upon execution by both parties hereto, subject to any approvals which must be obtained from governmental authorities.

**13.0 Costs and Attorney's Fees.** In the event Service Company or Owner is required to enforce this Agreement by Court proceedings or otherwise, by instituting suit or otherwise, then the prevailing party shall be entitled to recover from the other party all costs incurred, including reasonable attorney's fees for administrative proceedings, trials and appeals.

**14.0 Force Majeure.** In the event that the performance of this Agreement by either party to this Agreement is prevented or interrupted in consequence of any cause beyond the control of such party, including but not limited to Act of God or of the public enemy, war, national emergency, allocation or other governmental restrictions upon the use or availability of labor or materials, rationing, civil insurrection, riot, racial or civil rights disorder or demonstration, strike, embargo, flood, tidal wave, fire, explosion, bomb detonation, nuclear fallout, windstorm, hurricane, earthquake, sinkhole or other casualty or disaster or catastrophe, unforeseeable failure or breakdown of pumping transmission or other facilities, governmental rules or acts or orders or restrictions or regulations or requirements, acts or action of any government or public or governmental authority or commission or board or agency or agent or official or officer, the enactment of any statute or ordinance or resolution or regulation or rule or ruling or order, order or decree or judgment or restraining order or injunction of any court, said party shall not be liable for such non-performance, so long as said party uses its best efforts to perform in the event of said disaster.

**15.0 Indemnification.** Each party agrees to indemnify and hold the other party harmless from and against any and all liabilities, claims, damages, costs and expenses (including reasonable attorney's fees) to which the other party may become subject by reason of or arising out of the indemnifying party's performance of this Agreement. This indemnification provision shall survive the actual connection of the on-site wastewater collection system at the Property to Service Company's wastewater system.

#### **MISCELLANEOUS PROVISIONS**

**16.0** This Agreement supersedes all previous agreements or representations, either verbal or written, heretofore in effect between Owner and Service Company, made with respect to the matters herein contained, and when duly executed, constitutes the entire agreement between Owner and Service Company with respect to the matters herein contained. No additions, alterations or variations of the terms of this Agreement shall be valid, nor can provisions of this Agreement be waived by either party, unless such additions, alterations, variations or waivers are expressed in writing and duly signed.

**17.0** Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural, and the masculine, feminine and neuter genders shall each include the others.

**18.0** Whenever approvals or consents of any nature are required by either party to this Agreement, it is agreed that same shall not be unreasonably withheld, conditioned or delayed.

**19.0** The submission of this Agreement for examination by Owner does not constitute an offer, but this Agreement becomes effective only upon execution thereof by Service Company and Owner.

**20.0** Failure to insist upon strict compliance with any of the terms, covenants or conditions herein shall not be deemed a waiver of such terms, covenants or conditions nor shall any waiver or relinquishment of any right or power hereunder at any one time or times be deemed a waiver or relinquishment of such right or power at any other time or times.

**21.0** Because of inducements offered by Owner to Service Company (i.e., the CIAC), Service Company has agreed to provide wastewater collection, treatment and disposal services to the Property. Owner understands and agrees that capacity reserved hereunder cannot and shall not be assigned by Owner to third parties without the written consent of Service Company, except in the case of a bona-fide sale, transfer or other conveyance of the Property. Such consent shall not be unreasonably withheld. Moreover, Owner agrees that this Agreement is a superior instrument to any other documents, representations, and promises made by and between Owner and third parties, both public and private, as regards the provision of wastewater collection, treatment and disposal service to the Property.

**22.0** It is agreed by and between the parties hereto that all words, terms and conditions contained herein are to be read in concert, each with the other, and that a provision contained under one heading may be considered to be equally applicable under another in the interpretation of this Agreement.

**23.0** This Agreement is binding on the successors and assigns of the parties hereto, including any municipal or governmental purchaser of Service Company. This Agreement shall survive the actual connection of the on-site wastewater collection system at the Property to Service Company's wastewater system, and the sale of Service Company or Owner to any party.

**24.0** Service Company, its affiliates and subsidiaries, and their respective principals, employees, agents and contractors (collectively, the "Service Company Related Parties") shall comply with all applicable laws, codes, ordinances, rules and regulations in the performance of any work on or about the Property pursuant to this Agreement. All such work shall be completed by the Service Company Related Parties in a workmanlike and timely manner in accordance with sound and generally accepted engineering and construction practices and procedures. All such work shall be conducted by the Service Company Related Parties only during regular business hours (except in an emergency), and in accordance with such reasonable guidelines as Owner may set forth regarding use of streets, storage of materials, parking of vehicles and the like, so as to cause minimal interference with the rights and convenience of Owner and the occupants of the manufactured homes and other improvements located on the Property. Following completion of any such work, Service Company shall restore the surrounding portion of the Property affected by the work to substantially its condition prior to commencement of the work.

**25.0** Service Company shall (i) promptly pay for all labor employed, materials purchased and equipment hired by the Service Company Related Parties in connection with any work on or about the Property pursuant to this Agreement; (ii) keep the Property free from any laborer's, materialmen's or mechanic's liens and claims or notices in respect thereto arising by reason of any such work; and (iii) discharge any such lien, claim or notice within thirty (30) days after any such lien, claim or notice is filed.

**26.0** Service Company shall secure and maintain in effect during the initial connection of the on-site wastewater collection system at the Property to the central facilities of Service

Company, at Service Company's expense, the following insurance, with the entities comprising Owner and MHC-DAG Management Limited Partnership, an Illinois limited partnership (as the manager of the Property) named as additional insureds: (i) Workers' Compensation and Employer's Liability insurance as required by applicable law; (ii) Commercial General Liability insurance (occurrence form), including personal injury, with limits of not less than One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000) general aggregate; and (iii) Business Automobile Liability insurance, including bodily injury and property damage coverage, with a combined single limit of not less than One Million Dollars (\$1,000,000) per accident. All such policies of insurance shall require the insurer to give Owner at least thirty (30) days prior written notice of modification or cancellation. Upon execution of this Agreement, Service Company shall provide Owner with certificates evidencing such insurance. At all other times during the term of this Agreement, Service Company shall secure and maintain in effect, at Service Company's expense, insurance of such types and in such amounts as Service Company shall deem appropriate in its prudent business judgment.

**27.0** Service Company, for itself and the other Service Company Related Parties, hereby waives any and all claims against Owner, its affiliates and subsidiaries, and their respective principals, employees, agents and contractors (collectively, the "Owner Related Parties") and the Property for liabilities, losses, actions, damages, judgments, costs or expenses of whatever nature, including without limitation attorneys' fees and legal expenses incurred in connection therewith, incurred by reason of or arising out of any injury to or death of any person(s), damage to property, or otherwise in connection with (i) the condition of the Property or any facilities thereon, (ii) any event or occurrence on or about the Property, or (iii) the acts, omissions or negligence of any person, except with respect to the negligence or willful misconduct of the Owner Related Parties. All personal property belonging to the Service Company Related Parties shall be brought onto the Property at the risk of the Service Company Related Parties, and the Owner Related Parties shall not be liable for damage or destruction to or theft of any such personal property, except with respect to the negligence or willful misconduct of the Owner Related Parties.

**28.0** Owner has made no representations or warranties to Service Company regarding the physical or operating condition of the Property or the on-site installations or any components thereof or the suitability thereof for Service Company's intended purposes. Service Company has physically inspected the Property and the on-site installations and accepts the on-site installations "as is, where is", with full knowledge of the condition thereof.

### SPECIAL PROVISIONS

**29.0** Concurrently with the payment of the connection charges to be paid by Owner pursuant to Section 3.0 hereof, (i) Owner shall deliver to the occupants of the manufactured homes on the Property (hereinafter referred to as "residents") written notice of the pass-through of the connection charges to the residents pursuant to Chapter 723, Florida Statutes, in the form of Exhibit "F," attached hereto and made a part hereof as if fully set out in this paragraph (the "Pass-Through Notice"), and (ii) Owner shall assign to Service Company Owner's right to collect said pass-through charges from the residents, pursuant to an assignment and assumption agreement in the form of Exhibit "G," attached hereto and made a part hereof as if fully set out in this paragraph.

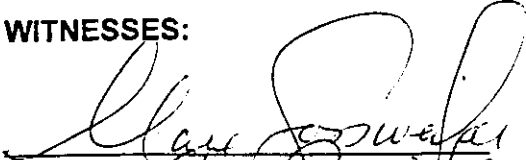
**30.0** In consideration of the agreement by Owner (i) to convey to Service Company the on-site installations, and (ii) to assign to Service Company Owner's right to collect the pass-


through charges from the residents as described in Section 29.0 hereof, Service Company hereby agrees to pay to Owner the sum of Five Hundred Eighty-Five Thousand Five Hundred Eighty-Nine Dollars (\$585,589). Said sum shall be payable in two (2) installments. The first such installment, in the amount of Four Hundred Forty-Eight Thousand Six Hundred Two Dollars (\$448,602) shall be payable upon the execution and delivery of this Agreement. The second such installment, in the amount of One Hundred Thirty-Nine Thousand Nine Hundred Eighty-Seven Dollars (\$139,987), shall be payable upon the date ninety (90) days after the delivery to the residents of the Pass-Through Notice.

**31.0** From and after the connection of the Property to the facilities of Service Company, Service Company shall bill each resident individually for the wastewater service provided by Service Company to such resident. Service Company shall be solely responsible for collecting the charges set forth on such billings, and Owner shall have no responsibility for payment or collection of any such charges. To facilitate Service Company's billing of the residents as aforesaid, Owner shall make available to Service Company copies of the readings of the residents' water meters performed by or on behalf of Owner.

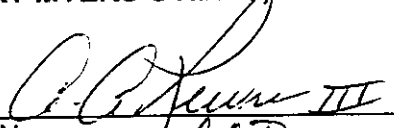
IN WITNESS WHEREOF, Owner and Service Company have executed or have caused this Agreement, with the named Exhibits attached, to be duly executed in several counterparts, each of which counterparts shall be considered an original executed copy of this Agreement.

**WITNESSES:**

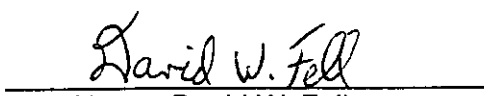
  
Print Name CARY GOSWAMI

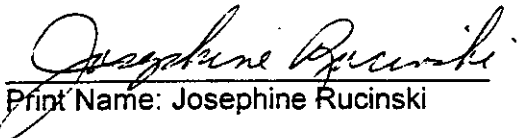
  
Print Name STANDRA J. SANTIN

**NORTH FORT MYERS UTILITY, INC.**

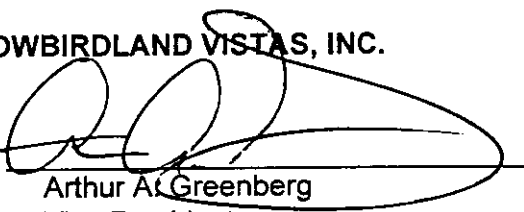
By:   
Print Name A.A. REEVES III  
Its V.P.

**WITNESSES:**

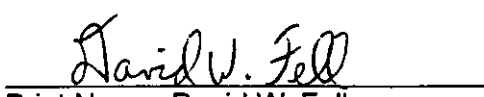
  
Print Name: David W. Fell


  
Print Name: Josephine Rucinski

**SNOWBIRDLAND VISTAS, INC.**

By:   
Arthur A. Greenberg  
Vice President


**WITNESSES:**

  
Print Name: David W. Fell

  
Print Name: Josephine Rucinski

**MHC-DeANZA FINANCING LIMITED PARTNERSHIP**

By: MHC-QRS DeAnza, Inc., its General Partner

By:   
Ellen Kelleher  
Exec. Vice President/General Counsel

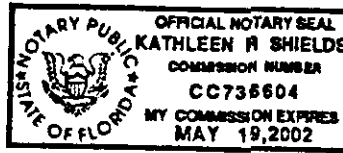


STATE OF FLORIDA )  
 ) SS.  
COUNTY OF Lee )

The foregoing instrument was acknowledged before me this 25th day of August, 1998, by AA Kean III, as Vice President of North Fort Myers Utility, Inc., a Florida corporation, on behalf of the corporation. He/She is personally known to me or has produced Personally Known as identification.

Kathleen L. Shields  
Notary Public  
State of Florida at Large  
My Commission Expires:

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )



The foregoing instrument was acknowledged before me this 21st day of August, 1998, by Arthur A. Greenberg, as Vice President of Snowbirdland Vistas, Inc., an Illinois corporation, on behalf of the corporation. He is personally known to me or has produced a State of Illinois driver's license as identification.

Cheryl DePaula  
Notary Public  
State of Illinois  
My Commission Expires: February 6, 2000

An official notary seal for Cheryl DePaula, a Notary Public in the State of Illinois. The seal is rectangular with a decorative border and contains the text: OFFICIAL SEAL, CHERYL DEPAULA, NOTARY PUBLIC, STATE OF ILLINOIS, MY COMMISSION EXPIRES: 02/06/00.

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

The foregoing instrument was acknowledged before me this 21st day of August, 1998, by Ellen Kelleher, as Executive Vice President/General Counsel of MHC-QRS DeAnza, Inc., a Delaware corporation, as General Partner of MHC-DeAnza Financing Limited Partnership, an Illinois limited partnership, on behalf of the partnership. She is personally known to me or has produced a State of Illinois driver's license as identification.

Cheryl DePaula  
Notary Public  
State of Illinois  
My Commission Expires: February 6, 2000

An official notary seal for Cheryl DePaula, a Notary Public in the State of Illinois. The seal is rectangular with a decorative border and contains the text: OFFICIAL SEAL, CHERYL DEPAULA, NOTARY PUBLIC, STATE OF ILLINOIS, MY COMMISSION EXPIRES: 02/06/00.

This Instrument Prepared By: Martin S. Friedman, Esquire, 2548 Blairstone Pines Drive, Tallahassee, Florida 32301.

## EXHIBIT "A"

### Legal Description of Property

All that part of the Northwest quarter (NW 1/4) and that part of the Northeast quarter (NE 1/4) of the Southwest quarter (SW 1/4) of Section 35, Township 43 South, Range 24 East, lying Easterly of the Tamiami Trail (State Road No. 45) and lying Northerly of a line being the Northerly line of Dormier Heights according to plat recorded in Plat Book 22 at Page 28 of the Public Records of Lee County, Florida, and a Westerly prolongation of said Northerly line to the Easterly line of said Tamiami Trail.

Subject to the maintained right-of-way of Queens Road.

The Northeast quarter (NE 1/4) of said Section 35, EXCEPTING THEREFROM the Southwest quarter (SW 1/4) of the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4), the South half (S 1/2) of the Southeast quarter (SE 1/4) of the Southeast quarter (SE 1/4) of the Northeast quarter (NE 1/4) and the following described parcel:

A tract or parcel of land lying in the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4) of Section 35, Township 43 South, Range 24 East, Lee County, Florida, which tract or parcel is described as follows:

From the northwest corner of the Southwest quarter (SW 1/4) of the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4) of said section run South 89 Degrees 48 Minutes 43 Seconds East along the North line of said fraction of a section along the southerly line of a roadway easement 25 feet wide for 395 feet to the Point of Beginning of the herein described parcel.

From said point of beginning run North 00 Degrees 09 Minutes 33 Seconds West parallel with the west line of said fraction of a section for 495 feet; thence run South 89 Degrees 48 Minutes 43 Seconds East parallel with the north line of said Southwest quarter (SW 1/4) of the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4) for 610 feet; thence run South 00 Degrees 09 Minutes 33 Seconds East parallel with the West line of said fraction of a section for 700 feet; thence run North 89 Degrees 48 Minutes 43 Seconds West for 340.87 feet to an intersection with the east line of said Southwest quarter (SW 1/4) of the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4); thence run North 00 Degrees 11 Minutes 58 Seconds West along said east line for 205 feet to the Northeast corner of said fraction of a section; thence run North 89 Degrees 48 Minutes 43 Seconds West along the North line thereof for 268.98 feet to the Point of Beginning.

TOGETHER WITH the hereinabove described roadway easement 25 feet wide. Bearings hereinabove mentioned are from the centerline survey of State Road No. 45.

Save and except that portion of the foregoing land described in that certain Order of Taking recorded in O.R. Book 1848, Page 1858, Public Records of Lee County, Florida.

The above includes all of Buccaneer Mobile Home Estates, Unit 1, a Subdivision, according to the plat thereof recorded in Plat Book 29, Pages 117 through 119, inclusive, in the Public Records of Lee County, Florida.

EXHIBIT "B"

**SERVICE AVAILABILITY POLICY**

EXHIBIT "C"

CONTRIBUTIONS IN AID OF CONSTRUCTION

SYSTEM CAPACITY CHARGES

In accordance with the terms of the foregoing Agreement, Owner shall pay Service Company the following System Capacity Charges to induce Service Company to reserve the following system capacities for Owner's connections. Owner understands that system capacity is only reserved upon payment of charges by Owner to Service Company. Said System Capacity Charges to be paid by Owner are those which are set forth in Service Company's Service Availability Policy approved by the Florida Public Service Commission and, accordingly, these charges may be changed from time to time with the approval of the Commission.

<u>Customer Category</u>	<u>Payment Schedule</u>		
	<u>Number of Units</u>	<u>Charge Per Unit</u>	<u>Total Charge</u>
Manufactured Homes	971	\$462.00	\$448,602.00

This instrument prepared by:  
David W. Fell, Esquire  
c/o Manufactured Home Communities, Inc.  
Two North Riverside Plaza, Suite 800  
Chicago, Illinois 60606

This Space for Recording Information

### GRANT OF NON-EXCLUSIVE EASEMENT

**THIS GRANT OF NON-EXCLUSIVE EASEMENT** ("Agreement") made and entered into this 24th day of August, 1998, by and between **SNOWBIRDLAND VISTAS, INC.**, an Illinois corporation and **MHC-DeANZA FINANCING LIMITED PARTNERSHIP**, an Illinois Limited Partnership, hereinafter jointly referred to as "Grantor", and **NORTH FORT MYERS UTILITY, INC.**, a Florida corporation, hereinafter referred to as "Grantee".

#### WITNESSETH:

1. Grantor and Grantee have entered into that certain Wastewater Agreement of even date herewith (the "Wastewater Agreement"), pursuant to which Grantee has agreed to provide wastewater collection, treatment and disposal services to the Easement Parcel (as hereinafter defined), as more fully provided in the Wastewater Agreement. Grantor and Grantee desire to enter into this Agreement pursuant to the terms and provisions of the Wastewater Agreement, which is incorporated herein and made a part of this Agreement by reference.

2. Therefore, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, Grantor hereby grants to Grantee, solely during the term of the Wastewater Agreement and subject to the terms and conditions of this Agreement, a non-exclusive easement with respect to that certain parcel of land situated in Lee County, Florida and legally described on Schedule 1 attached hereto and made a part hereof (the "Easement Parcel") together with the right of ingress thereto and egress therefrom over designated roadways within the Easement Parcel, solely for the purpose of constructing, repairing and maintaining (as applicable) the "on-site installations" and the "force main" (as each such term is defined in the Wastewater Agreement) located or to be located within the Easement Parcel (collectively, the "Improvements"), all at Grantee's sole cost and expense.

3. Any activities conducted by Grantee pursuant to the provisions of this Agreement are hereinafter collectively referred to as "Activities". Any such Activities shall be conducted only in accordance with the terms and conditions of this Agreement. Grantee shall provide reasonable prior notice to Grantor (except in an emergency) with respect to any Activities that may be disruptive to traffic within the Easement Parcel.

4. Grantee shall be solely responsible, at Grantee's sole cost and expense, for the repair and maintenance of the Improvements, and Grantee shall keep the same in good condition and repair and in compliance with all applicable laws at all times.

5. Title to the Easement Parcel shall remain with Grantor. Grantor reserves the right to use the Easement Parcel and to grant rights to others therein for such purposes as Grantor may deem appropriate; provided, however, that any such use or rights will be consistent with the purposes of this Agreement and shall not unreasonably interfere with Grantee's rights under this Agreement.

6. Grantee shall conduct all Activities as expeditiously as reasonably possible, and in such a manner that will not unreasonably interfere with ingress or egress of persons or vehicles to, from or within the Easement Parcel, or with the ordinary flow of pedestrian and vehicular traffic, or with the normal conduct of business on the Easement Parcel.

7. Grantee hereby acknowledges that the easement herein granted may cross, at one or more points, other utility facilities or systems or easement rights now or hereafter in existence. Grantee hereby agrees to exercise the highest degree of care in order to avoid any damage to or interference with any such other utility facilities or systems or easement rights and agrees that in the event of any damage to or interference with any such other utility facilities or systems or easement rights attributable to any Activities, Grantee shall promptly remedy such damage or interference at Grantee's sole cost and expense. Grantee further agrees to cooperate with all other grantees having or acquiring similar rights within or serving the Easement Parcel.

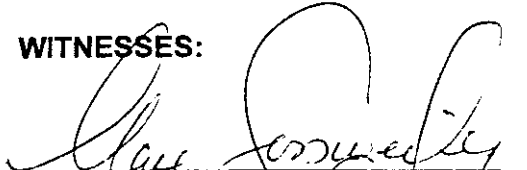
8. Grantor reserves the further right to require Grantee to move or relocate any or all of the Improvements, provided, however, that Grantor will reimburse Grantee for any actual expense incurred in such relocation, and provided further that Grantor will provide a suitable alternate location for any such Improvements and will grant or cause to be granted necessary easement rights for such Improvements at the new location upon substantially the same terms and conditions as herein provided, and in such event this Agreement shall automatically terminate.

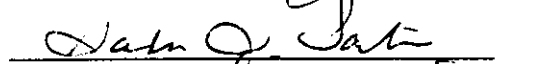
9. In the event that Grantee abandons or ceases to use the Easement Parcel for the purposes herein set forth for a period of six (6) months, or upon the termination of the Wastewater Agreement, this Agreement shall automatically terminate and be of no further force or effect; provided, however, that upon termination of this Agreement Grantee shall have thirty (30) days after the date of termination to remove any or all of the Improvements, at Grantee's sole cost and expense, in which event Grantee shall restore the condition of the Easement Parcel to substantially that which existed immediately prior to such removal. After said thirty (30) days, at Grantor's option, either (i) the Improvements remaining on the Easement Parcel shall become the property of Grantor, or (ii) Grantor shall remove such Improvements and so restore the Easement Parcel, all at the sole cost and expense of Grantee, in which event Grantee shall reimburse Grantor for the cost thereof upon demand.

10. This Agreement shall run with the land during the term hereof, and shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns.

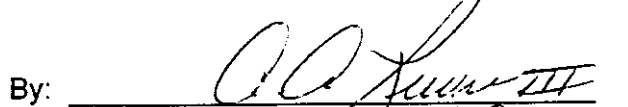
IN WITNESS WHEREOF, Grantor and Grantee have executed or have caused this Agreement, with the named Exhibits attached, to be duly executed in several counterparts, each of which counterparts shall be considered an original executed copy of this Agreement.

WITNESSES:

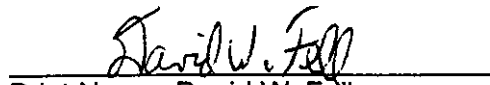
  
Print Name: David W. Fell

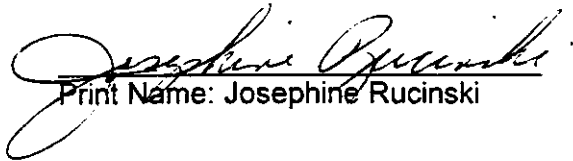
  
Print Name: Josephine Rucinski

NORTH FORT MYERS UTILITY, INC.

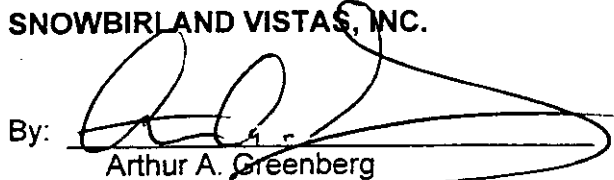
By:   
Print Name: Arthur A. Reeves III  
Its: V.P.

WITNESSES:

  
Print Name: David W. Fell

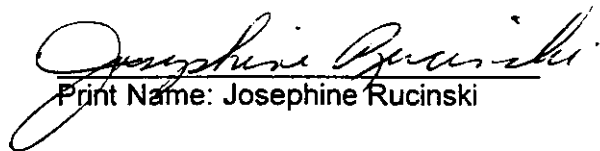
  
Print Name: Josephine Rucinski

SNOWBIRLAND VISTAS, INC.

By:   
Arthur A. Greenberg  
Vice President

WITNESSES:

  
Print Name: David W. Fell

  
Print Name: Josephine Rucinski

MHC-DeANZA FINANCING LIMITED PARTNERSHIP

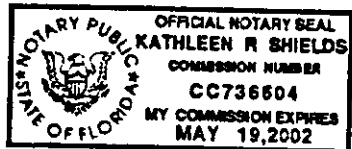
By: MHC-QRS DeAnza, Inc., its General Partner

By:   
Ellen Kelleher  
Exec. Vice President/General Counsel

STATE OF FLORIDA )  
 )  
COUNTY OF Lee ) SS.

The foregoing instrument was acknowledged before me this 21st day of August, 1998, by AA Korman III, as Vice President of North Fort Myers Utility, Inc., a Florida corporation, on behalf of the corporation. He/She is personally known to me or has produced Personally as identification.

Kathleen R Shields  
Notary Public  
State of Florida at Large  
My Commission Expires:



STATE OF ILLINOIS )  
 )  
COUNTY OF COOK ) SS.

The foregoing instrument was acknowledged before me this 21st day of August, 1998, by Arthur A. Greenberg as Vice President of Snowbirdland Vistas, Inc., an Illinois corporation, on behalf of the corporation. He is personally known to me or has produced a State of Illinois driver's license as identification.

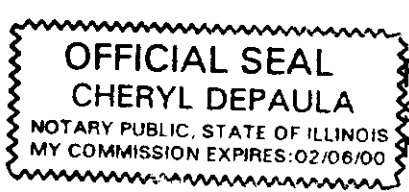
Cheryl DePaula  
Notary Public  
State of Illinois  
My Commission Expires: February 6, 2000



STATE OF ILLINOIS )  
 )  
COUNTY OF COOK ) SS.

The foregoing instrument was acknowledged before me this 21st day of August, 1998, by Ellen Kelleher, as Executive Vice President/General Counsel of MHC-QRS DeAnza, Inc., a Delaware corporation, as General Partner of MHC-DeAnza Financing Limited Partnership, an Illinois limited partnership, on behalf of the partnership. She is personally known to me or has produced a State of Illinois driver's license as identification.

Cheryl DePaula  
Notary Public  
State of Illinois  
My Commission Expires: February 6, 2000



This Instrument Prepared By: David W. Fell, Esquire, c/o Manufactured Home Communities, Inc., Two North Riverside Plaza, Suite 800, Chicago, Illinois 60606.



Schedule 1

**Legal Description of Easement Parcel**

All that part of the Northwest quarter (NW 1/4) and that part of the Northeast quarter (NE 1/4) of the Southwest quarter (SW 1/4) of Section 35, Township 43 South, Range 24 East, lying Easterly of the Tamiami Trail (State Road No. 45) and lying Northerly of a line being the Northerly line of Dormier Heights according to plat recorded in Plat Book 22 at Page 28 of the Public Records of Lee County, Florida, and a Westerly prolongation of said Northerly line to the Easterly line of said Tamiami Trail.

Subject to the maintained right-of-way of Queens Road.

The Northeast quarter (NE 1/4) of said Section 35, EXCEPTING THEREFROM the Southwest quarter (SW 1/4) of the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4), the South half (S 1/2) of the Southeast quarter (SE 1/4) of the Southeast quarter (SE 1/4) of the Northeast quarter (NE 1/4) and the following described parcel:

A tract or parcel of land lying in the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4) of Section 35, Township 43 South, Range 24 East, Lee County, Florida, which tract or parcel is described as follows:

From the northwest corner of the Southwest quarter (SW 1/4) of the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4) of said section run South 89 Degrees 48 Minutes 43 Seconds East along the North line of said fraction of a section along the southerly line of a roadway easement 25 feet wide for 395 feet to the Point of Beginning of the herein described parcel.

From said point of beginning run North 00 Degrees 09 Minutes 33 Seconds West parallel with the west line of said fraction of a section for 495 feet; thence run South 89 Degrees 48 Minutes 43 Seconds East parallel with the north line of said Southwest quarter (SW 1/4) of the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4) for 610 feet; thence run South 00 Degrees 09 Minutes 33 Seconds East parallel with the West line of said fraction of a section for 700 feet; thence run North 89 Degrees 48 Minutes 43 Seconds West for 340.87 feet to an intersection with the east line of said Southwest quarter (SW 1/4) of the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4); thence run North 00 Degrees 11 Minutes 58 Seconds West along said east line for 205 feet to the Northeast corner of said fraction of a section; thence run North 89 Degrees 48 Minutes 43 Seconds West along the North line thereof for 268.98 feet to the Point of Beginning.

TOGETHER WITH the hereinabove described roadway easement 25 feet wide. Bearings hereinabove mentioned are from the centerline survey of State Road No. 45.

Save and except that portion of the foregoing land described in that certain Order of Taking recorded in O.R. Book 1848, Page 1858, Public Records of Lee County, Florida.

The above includes all of Buccaneer Mobile Home Estates, Unit 1, a Subdivision, according to the plat thereof recorded in Plat Book 29, Pages 117 through 119, inclusive, in the Public Records of Lee County, Florida.

**EXHIBIT "F"**  
**NOTICE OF PASS-THROUGH CHARGES**

**TO:** Homeowners of *Buccaneer Estates Manufactured Home Community*

**FROM:** Snowbirdland Vistas, Inc.  
MHC-DeAnza Financing Limited Partnership  
Manufactured Home Communities, Inc.

**DATE:** August 24, 1998

**RE:** Pass-Through of System Capacity Charges  
for Connection to North Fort Myers Utility, Inc. Central Wastewater System

---

This serves as notice pursuant to Sections 723.037 and 723.046, Florida Statutes, of a charge to be assessed by North Fort Myers Utility, Inc. (the "Utility") for "System Capacity Charges" in the total amount of \$448,602 (the "Total Connection Cost"), which is the total cost for connection of *Buccaneer Estates Manufactured Home Community* (the "Community") to the Utility's central wastewater collection, treatment and disposal system. The Total Connection Cost was computed at the Utility's standard rate of \$462 (the "Per Site Connection Cost") for each of the 971 manufactured home sites within the Community. Snowbirdland Vistas, Inc., MHC-DeAnza Financing Limited Partnership and Manufactured Home Communities, Inc., as the owners and managers of the Community (collectively, the "Community Owner"), have agreed to pay the Total Connection Cost to the Utility in advance on behalf of the residents of the Community (the "Residents"), subject to the obligation of the Residents to repay such amount as set forth herein.

Each Resident will have the option to pay the Per Site Connection Cost for such Resident's site either (i) in a single lump sum payment of \$462 on or before December 1, 1998, or (ii) in monthly installments of \$7.01 each (which amount includes interest on the unpaid balance of the Per Site Connection Cost from time to time at the rate of 10% per annum) on the first day of each calendar month over the eight-year period commencing December 1, 1998 and continuing through November 30, 2006 (the "Payment Period"). The payment schedule set forth herein is in accordance with Section 723.046, Florida Statutes.

Effective December 1, 1998, the Utility will begin billing the Residents directly on a monthly basis for the wastewater collection, treatment and disposal service provided by the Utility. Concurrently with the delivery of this notice, the Community Owner is assigning to the Utility the Community Owner's right to collect the Per Site Connection Cost for each site as described above. For the Residents electing to pay the Per Site Connection Cost in monthly installments as provided for above, the Utility will invoice these installments on separate monthly bills to be delivered to the Residents.

Effective December 1, 1998, the monthly base rent payable under each Resident's lot rental agreement will be reduced by \$6.07. This is the average monthly cost to the Community Owner of providing wastewater service to each site in the Community, the cost of which service has previously been included in the base rent. This average monthly cost was determined by averaging, on a per month basis, the cost to the Community Owner of providing wastewater

service to the Community over the past twelve (12) months. This change in lot rental amount is consistent with the disclosures made in the Community prospectus regarding "service charges".

## ASSIGNMENT AND ASSUMPTION AGREEMENT

**THIS ASSIGNMENT AND ASSUMPTION AGREEMENT** ("Agreement") made and entered into this 24th day of August, 1998, by and between **SNOWBIRDLAND VISTAS, INC.**, an Illinois corporation and **MHC-DeANZA FINANCING LIMITED PARTNERSHIP**, an Illinois Limited Partnership, hereinafter jointly referred to as "Owner", and **NORTH FORT MYERS UTILITY, INC.**, a Florida corporation, hereinafter referred to as "Service Company".

**WHEREAS**, Owner owns or controls a wastewater collection, treatment and disposal system serving lands located in Lee County, Florida, and described in Schedule 1, attached hereto and made a part hereof as if fully set out in this paragraph and hereinafter referred to as the "Property", and the Property has been developed as Buccaneer Estates, which is a manufactured home community consisting of 971 manufactured home lots; and

**WHEREAS**, pursuant to that certain Wastewater Agreement of even date herewith by and between Owner and Service Company, which is by this reference incorporated herein and made a part hereof as if fully set out in this paragraph and hereinafter referred to as the "Wastewater Agreement", Service Company has agreed to provide, in accordance with the provisions of the Wastewater Agreement and Service Company's Service Availability Policy, central wastewater collection, treatment and disposal services to the Property and thereafter operate applicable facilities so that the occupants of the manufactured homes and other improvements on the Property will receive an adequate wastewater collection, treatment and disposal service from Service Company; and

**WHEREAS**, among other provisions, the Wastewater Agreement provides for the assignment by Owner to Service Company of Owner's right to collect from the "residents" (as such term is defined in the Wastewater Agreement) of the Property the "pass-through charges" relating to Owner's payment of the "connection charges" provided for in the Wastewater Agreement, and for the execution and delivery of this Agreement in connection with such assignment;

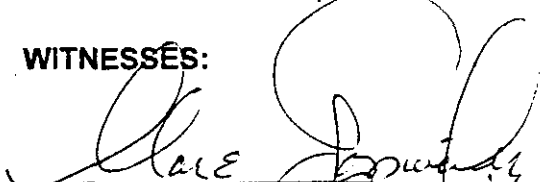
**NOW THEREFORE**, for and in consideration of the premises, the mutual undertakings and agreements herein contained and assumed, Owner and Service Company hereby covenant and agree as follows:

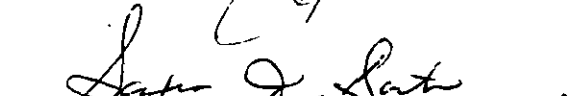
**1.0** The foregoing recitations are true and correct and incorporated herein.

**2.0** For the consideration set forth in the Wastewater Agreement, Owner hereby quitclaims, sells, assigns and conveys to Service Company (without recourse), and Service Company hereby accepts, purchases, assumes and acquires from Owner, all of Owner's right, title and interest in and to the pass-through charges. Without limiting the generality of the foregoing, the parties agree that Service Company shall have the sole right to collect the pass-through charges, and that Owner shall no responsibility for payment or collection of the same. Notwithstanding the foregoing, however, in the event that the residents file a lawsuit challenging Owner's right to assess the pass-through charges, Owner shall be responsible, at its expense, for defending such lawsuit.

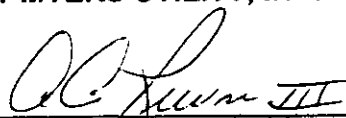
IN WITNESS WHEREOF, Owner and Service Company have executed or have caused this Agreement, with the named Exhibits attached, to be duly executed in several counterparts, each of which counterparts shall be considered an original executed copy of this Agreement.

WITNESSES:

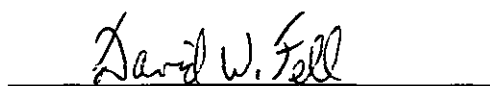
  
Print Name DALE GOSSEWILER

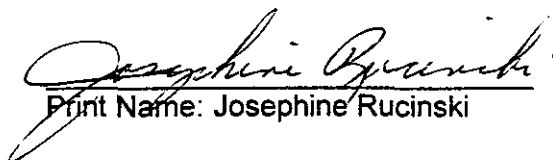
  
Print Name SANDRA J. SANTIN

NORTH FORT MYERS UTILITY, INC.

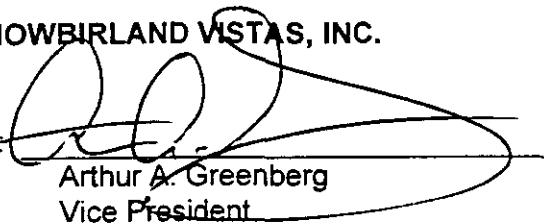
By:   
Print Name ARTHUR A. REEVES III  
Its V.P.

WITNESSES:

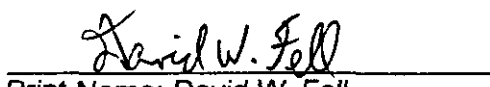
  
Print Name: David W. Fell

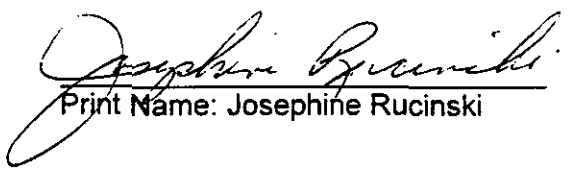
  
Print Name: Josephine Rucinski

SNOWBIRLAND VISTAS, INC.

By:   
Arthur A. Greenberg  
Vice President


WITNESSES:

  
Print Name: David W. Fell

  
Print Name: Josephine Rucinski

MHC-DeANZA FINANCING LIMITED PARTNERSHIP

By: MHC-QRS DeAnza, Inc., its General Partner

By:   
Ellen Kelleher  
Exec. Vice President/General Counsel

STATE OF FLORIDA )  
 )  
COUNTY OF Lee ) SS.

The foregoing instrument was acknowledged before me this 25th day of August, 1998, by A.A. Leveson III, as Vice President of North Fort Myers Utility, Inc., a Florida corporation, on behalf of the corporation. He/She is personally known to me or has produced Passport Photo as identification.

Kathleen R. Shields  
Notary Public  
State of Florida at Large  
My Commission Expires:

STATE OF ILLINOIS )  
 )  
COUNTY OF COOK ) SS.



The foregoing instrument was acknowledged before me this 21st day of August, 1998, by Arthur A. Greenberg as Vice President of Snowbirdland Vistas, Inc., an Illinois corporation, on behalf of the corporation. He is personally known to me or has produced a State of Illinois driver's license as identification.

Cheryl DePaula  
OFFICIAL SEAL Notary Public  
CHERYL DEPAULA State of Illinois  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES: 02/06/00  
Commission Expires: February 6, 2000

STATE OF ILLINOIS )  
 )  
COUNTY OF COOK ) SS.

The foregoing instrument was acknowledged before me this 21st day of August, 1998, by Ellen Kelleher, as Executive Vice President/General Counsel of MHC-QRS DeAnza, Inc., a Delaware corporation, as General Partner of MHC-DeAnza Financing Limited Partnership, an Illinois limited partnership, on behalf of the partnership. She is personally known to me or has produced a State of Illinois driver's license as identification.

Cheryl DePaula  
OFFICIAL SEAL Notary Public  
CHERYL DEPAULA State of Illinois  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES: 02/06/00  
My Commission Expires: February 6, 2000

This Instrument Prepared By: David W. Fell, Esquire, c/o Manufactured Home Communities, Inc., Two North Riverside Plaza, Suite 800, Chicago, Illinois 60606.

Schedule 1

**Legal Description of Property**

All that part of the Northwest quarter (NW 1/4) and that part of the Northeast quarter (NE 1/4) of the Southwest quarter (SW 1/4) of Section 35, Township 43 South, Range 24 East, lying Easterly of the Tamiami Trail (State Road No. 45) and lying Northerly of a line being the Northerly line of Dormier Heights according to plat recorded in Plat Book 22 at Page 28 of the Public Records of Lee County, Florida, and a Westerly prolongation of said Northerly line to the Easterly line of said Tamiami Trail.

Subject to the maintained right-of-way of Queens Road.

The Northeast quarter (NE 1/4) of said Section 35, EXCEPTING THEREFROM the Southwest quarter (SW 1/4) of the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4), the South half (S 1/2) of the Southeast quarter (SE 1/4) of the Southeast quarter (SE 1/4) of the Northeast quarter (NE 1/4) and the following described parcel:

A tract or parcel of land lying in the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4) of Section 35, Township 43 South, Range 24 East, Lee County, Florida, which tract or parcel is described as follows:

From the northwest corner of the Southwest quarter (SW 1/4) of the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4) of said section run South 89 Degrees 48 Minutes 43 Seconds East along the North line of said fraction of a section along the southerly line of a roadway easement 25 feet wide for 395 feet to the Point of Beginning of the herein described parcel.

From said point of beginning run North 00 Degrees 09 Minutes 33 Seconds West parallel with the west line of said fraction of a section for 495 feet; thence run South 89 Degrees 48 Minutes 43 Seconds East parallel with the north line of said Southwest quarter (SW 1/4) of the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4) for 610 feet; thence run South 00 Degrees 09 Minutes 33 Seconds East parallel with the West line of said fraction of a section for 700 feet; thence run North 89 Degrees 48 Minutes 43 Seconds West for 340.87 feet to an intersection with the east line of said Southwest quarter (SW 1/4) of the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4); thence run North 00 Degrees 11 Minutes 58 Seconds West along said east line for 205 feet to the Northeast corner of said fraction of a section; thence run North 89 Degrees 48 Minutes 43 Seconds West along the North line thereof for 268.98 feet to the Point of Beginning.

TOGETHER WITH the hereinabove described roadway easement 25 feet wide. Bearings hereinabove mentioned are from the centerline survey of State Road No. 45.

Save and except that portion of the foregoing land described in that certain Order of Taking recorded in O.R. Book 1848, Page 1858, Public Records of Lee County, Florida.

The above includes all of Buccaneer Mobile Home Estates, Unit 1, a Subdivision, according to the plat thereof recorded in Plat Book 29, Pages 117 through 119, inclusive, in the Public Records of Lee County, Florida.

WARRANTY DEED  
FROM CORPORATION

2032489

OFF 1820PG3899

BOOK PAGE 21

This Warranty Deed Made and executed the 27th day of December 1985 by

WILDER CORPORATION OF DELAWARE:

a corporation existing under the laws of DELAWARE and having its principal place of business at 3040 Gulf to Bay Blvd. Suite 101 Clearwater, Florida 33579 hereinafter called the grantor, to

NORTH FORT MYERS UTILITY, INC.

whose postoffice address is P.O. Box 2547 Fort Myers, Fla 33902

hereinafter called the grantee:

(Wherever used herein the terms "person" and "persons" include all the persons in this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

**Witnesseth:** That the grantor, for and in consideration of the sum of \$ 10.00 and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the grantee, all that certain land situate in Lee County, Florida, viz:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Documentary Tax \$ 800.00  
3  
CHARLE GAUL CLERK, III COUNTY  
By [Signature] Deputy Clerk

Together with all the covenants, conditions and appurtenances thereto belonging or in any way appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that it is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whatsoever; and that said land is free of all encumbrances except taxes for the year 1986 and subsequent years, easements, reservations, and restrictions of record, if any.



In Witness Whereof the grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

ATTEST: [Signature]  
Secretary

WILDER CORPORATION OF DELAWARE

Signed, sealed and delivered in the presence of:  
[Signature]  
[Signature]

[Signature]  
By MAURICE WILDER, President

STATE OF FLORIDA  
COUNTY OF

I HEREBY CERTIFY that on the day before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared MAURICE WILDER

well known to me to be the President of the corporation named in grant in the foregoing deed, and that they severally acknowledged executing the same in the presence of two substantial witnesses, freely and voluntarily under voluntary duty sworn in them in said corporation and that the said affiant therein is the true, respective and of said corporation.

WITNESS my hand and official seal in the County and State first aforesaid this 27th day of December 1985

NOTARY PUBLIC STATE OF FLORIDA  
IN COMMISSION EXP. OCT 20, 1987  
SCHEIDT & BOND GENERAL BLDG. WFO

This Instrument prepared by: N. Page Alday/Donalson Title Co., Inc.  
2815 W. Water Avenue Tampa, Florida 33614  
25-1031 RETURN TO GRANTEE

RECORDED - CHARLE GAUL CLERK, III  
BY M. WILDER D.C.

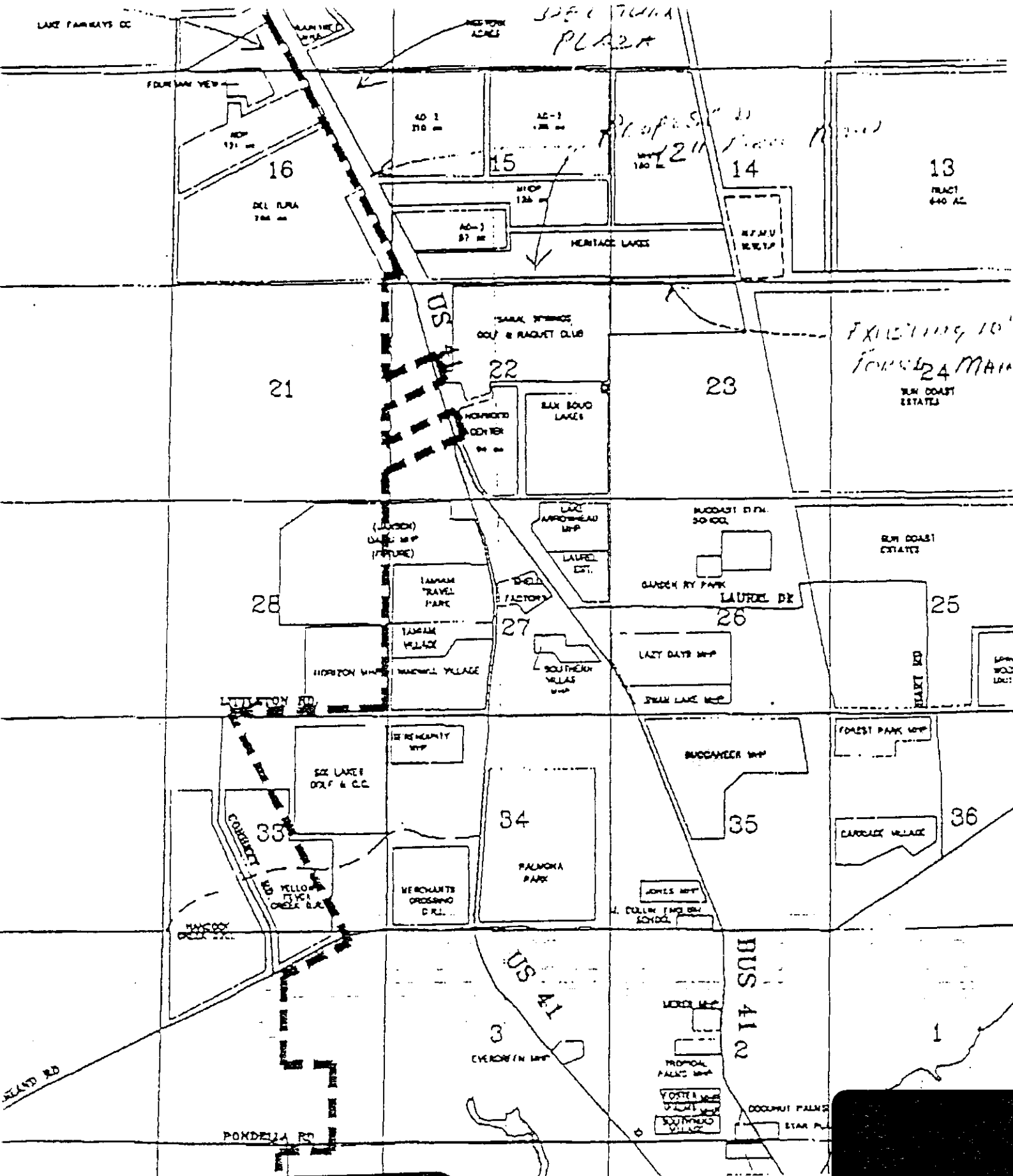


EXHIBIT "A"

A Parcel or tract of land situated in the South Half of Section 14, Township 4s, South, Range 24 East, Lee County, Florida, more particularly described as follows:

Commence at the Southwest (SW) corner of said Section 14; thence run S89°58'37" E, along the South line of said Section for 2940.15 feet to a concrete monument marking the East line of the former Seaboard Coast Line (SCL) Railroad right of way and the Point of Beginning; thence run N 11°21'24" W, along said East line of right of way for 1632.08 feet; thence run S 89°58'37" E, parallel with the South line of said Section 14 for 1247.76 feet; thence run S 00°08'53" E, along a line parallel with the West line of said Section 14 for 1600.00 feet to the South line of said Section; thence run N 09°58'37" W, along said South line for 930.51 feet to the Point of Beginning.

DEC 21 12 30 PM '95  
RECORDED & INDEXED  
LEE COUNTY FLORIDA  
RECORDS DEPARTMENT  
*Blackman*



SHELL TOWER PLAZA

EXISTING 10' FRONT 24 MAN SUN COAST ESTATES

SUN COAST ESTATES

FOREST PARK WHP

CARRAGE VILLAGE

BUS 41 N

US 41

3 EVERETT WHP

MORSE WHP  
TROPICAL PALMS WHP  
VOSTER WHP  
SOUTHWIND VILLAGE

DOONUI PALMS STAR PL

PONDILLA RD

SEASIDE RD

FOURWAY YEB

LAKE FAIRWAYS CC

16 DEL RUA 78 AC

AD 1 78 AC

AD-1 78 AC

14

13 TRACT 640 AC

15

AD-3 87 AC

HERITAGE LAKES

REAR WHP

21

22

23

SARASOTTI GOLF & RACQUET CLUB

HORRION CENTER

BAK BOU LAKES

(LAWSON) DANCE WHP (FUTURE)

TAMM TRAIL PARK

TAMM VILLAGE

HORRION WHP

MARSH VILLAGE

LAUREL EST.

SOUTHERN VILLAS WHP

GARDEN BY PARK

LAST DAYS WHP

SWAN LAKE WHP

MCCOAST ELEM. SCHOOL

LAUREL DR

SUN COAST ESTATES

TRACT 30

28

27

26

25

LETTERMAN RD

33

EEZ LAKES GOLF & C.C.

DE RENOURTY WHP

MERCANTILE CROSSING D.R.

34

PALMOKA PARK

35

BUCCANEER WHP

JONES WHP  
H. DOLLIN ELEM. SCHOOL

36

MARCOO CREEK WHP

COMBET RD

1

1

COMPOSITE EXHIBIT "D"

TERRITORY SERVED

CERTIFICATE NUMBER - 247-S

COUNTY - Lee

COMMISSION ORDERS APPROVING TERRITORY SERVED -

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
8025	10/25/77	770709-S	Grandfather
11300	11/02/82	820278-S	Extension
12572	10/04/83	830316-S	Extension
15659	02/12/86	830362-S	Extension/Name Change
19059	03/29/88	871306-SU	Extension
PSC-92-0537-FOF-SU	06/22/92	920037-SU	Extension
PSC-92-0588-FOF-SU	06/30/92	920273-SU	Extension
PSC-93-0971-FOF-SU	06/29/93	930289-SU	Extension
PSC-93-1851-FOF-SU	12/30/93	931040-SU	Extension
PSC-93-1821-FOF-SU	12/22/93	930379-SU	Extension
PSC-94-0450-FOF-SU	04/14/94	931164-SU	Extension
PSC-94-0726-FOF-SU	06/13/94	930724-SU	Extension
			Extension

(Continued to Sheet No. 3.1)

Jack Schenkman  
ISSUING OFFICER

President  
TITLE

(Continued from Sheet No. 3.0)

DESCRIPTION OF TERRITORY SERVED

Order No. 19059 in Docket No. 871306-SU extended territory, and included a complete rewrite of the territory description. In the rewrite, this order included the territory in Orders Nos. 8025, 11300, 12572, and 15659. On June 16, 1992, the Commission approved the amendment of territory in Docket No. 910273-SU, commonly known as the Forest Park Mobile Home Park (a/k/a Vista Villages, Inc.). The Forest Park Mobile Home Park, Lake Arrowhead, Laurel Estates, Tamiami Village and Buccaneer Estates had been excluded from Order No. 19059, because the utilities had their own wastewater treatment plant, and collection system. Also, Order No. 19059 excluded the territory commonly known as the Del Tura Shopping Center. The Del Tura territory was granted to the utility in Docket No. 920037-SU. Certain property West of U.S. Highway 41, North of County Road 78A, and South of State Road 78 was included in Docket No. 931040-SU. The territory on the following pages includes that granted by Order No. 19059, the Forest Park Mobile Home Park, the Del Tura Shopping Center, and the Fountain View RV Resort, Lake Arrowhead and Laurel Estates, Carriage Village, Lazy Days Mobile Village, Tamiami Village and Buccaneer Estates.

(Continued on Sheet No. 3.2)

Jack Schenkman  
ISSUING OFFICER

President  
TITLE

(Continued from Sheet No. 3.1)

DESCRIPTION OF TERRITORY SERVED

That part of Lee County, Florida lying north of the Caloosahatchee River, west of I-75 and east and north of a line running from the Caloosahatchee River along River Road to its intersection with Pondella Road, thence west along Pondella Road to Yellow Fever Creek, then north along Yellow Fever Creek to Pine Island Road (SR 78), then west along Pine Island Road to the city limits of Cape Coral in Section 4, T44S, R24E, then following the municipal boundary of Cape Coral north until reaching the Southwest corner of Section 21, T43S, R24E, then east to the Southeast corner of the said Section 21, T43S, R24E, then north to the Northeast corner of the said Section 21, T43S, R24E, then east to U.S. 41, then north along U.S. 41 to the northern Section line of Section 16, T43E, R24E, then west along said section line to the northwest corner of Section 17, then north along the line separating Sections 7 and 8 to the northwest corner of Section 8, then east along the northern section of Sections 8 and 9 to U.S. 41, then north along U.S. 41 to the Charlotte County line, less that area west of I-75 designated as "general interchange" at Bayshore Road and I-75 in the Lee County Land Use Map, the service areas certificated by the Florida Public Service Commission to Florida Cities Water Company, and less and except the following described property:

A parcel of land in Sections 2, 3, 4, 5, & 10, Township 43 South, Range 24 East, Lee County, Florida, more particularly described as follows:

Commence at the Northeast corner of Section 3, Township 43 South, Range 24 East; thence N.89°57'30"W. along the north line of the northeast one quarter of said Section 3 for 355.01 feet to an intersection with the westerly right of way line of the former S.A.L. Railroad and the Point of Beginning of the herein described parcel of land; thence continue N.89°57'30"W. along said north line for 2313.55 feet to the northeast corner of the northwest one quarter of said Section 3; thence S.89°48'38"W. along the north line of said northwest one quarter for 2667.53 feet to the northwest corner of said Section 3; thence N.89°42'40"W. along the north line of Section 4, Township 43 South, Range 24 East for 5335.96 feet to the northwest corner of said section 4; thence S.89°33'20"W. along the north line of the northeast one quarter of Section 5, Township 43 South, Range 24 East for 1871.76 feet to an intersection with the northeasterly line of North Fort Myers Park according to the plat thereof as recorded in Plat Book 9, Page 113 of the Public Records of Lee County, Florida; thence S.26°03'40"E. along said northeasterly line for 318.64 feet to an intersection with the southeasterly line of Lot 3 of said plat of North Fort Myers Park; thence S.63°56'20"W. along said southeasterly line for 300.77 feet to an intersection with the northeasterly right of way line of Tamiami Trail (S.R. 45, U.S. 41) being a point on the arc of a

(Continued on Sheet No. 3.3)

Jack Schenkman  
ISSUING OFFICER

President  
TITLE

EXHIBIT "E"  
WILL BE LATE FILED  
(Affidavit of Mailing to Entities)

EXHIBIT "F"  
WILL BE LATE FILED  
(Affidavit of Mailing to Customers)



EXHIBIT "G"  
WILL BE LATE FILED  
(Affidavit of Newspaper Publication)

AFFIDAVIT

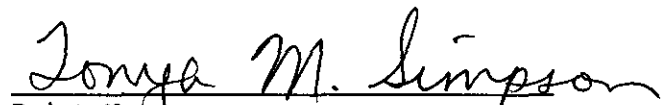
STATE OF FLORIDA  
COUNTY OF LEON

Before me, the undersigned authority, authorized to administer oaths and take acknowledgements, personally appeared BRONWYN S. REVELL MODERAU, who, after being duly sworn on oath, did depose on oath and say that she is the secretary of Martin S. Friedman, attorney for North Fort Myers Utility, Inc. and that on December 30, 1998, she did call the Public Service Commission and spoke with Jovon Snipes in the Water and Wastewater Department and Ms. Snipes confirmed to Bronwyn that North Fort Myers Utility, Inc. had a tariff on file with the Public Service Commission and a current Annual Report.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Bronwyn S. Revell Moderau

Sworn to and subscribed before me this 1st day of December, 1998, by Bronwyn S. Revell Moderau, who is personally known to me.

  
\_\_\_\_\_  
Print Name  
NOTARY PUBLIC  
My Commission Expires:



Tonya M. Simpson  
MY COMMISSION # CC733509 EXPIRES  
April 13, 2002  
BONDED THRU TROY FAIN INSURANCE, INC.

EXHIBIT "H"

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DEPOSIT

DATE

D039\*

DEC 02 1998

IN RE: Application of  
NORTH FORT MYERS UTILITY, INC.  
for extension of wastewater  
service in Lee County, Florida.

Docket No. 981781-SU

APPLICATION FOR AMENDMENT TO  
CERTIFICATE OF AUTHORIZATION

NORTH FORT MYERS UTILITY, INC. ("NFMU"), by and through its undersigned attorneys, and pursuant to Sections 367.045(2), Florida Statutes, and Rule 25-30.036, Florida Administrative Code, files this Application for Amendment of Certificate 247-S to extend its service area, and in support thereof states:

1. The exact name of the Company and the address of its principal business office is:

NORTH FORT MYERS UTILITY, INC.  
Post Office Box 2547  
Fort Myers, Florida 33902

2. The name and address of the person authorized to receive notices and communications in respect to this application is:

Martin S. Friedman, Esquire  
Rose, Sundstrom & Bentley, LLP  
2548 Blairstone Pines Drive

ROSE, SUNDBSTROM & BENTLEY, LLP  
OPERATING ACCOUNT  
PH 877-8555  
2548 BLAIRSTONE PINES DRIVE  
TALLAHASSEE, FL 32301

20827

63-88/631  
BRANCH 002

DATE December 1, 1998

PAY TO THE ORDER OF Florida Public Service Commission

\$\*1,000.00\*

One Thousand and 00/100

DOLLARS



*[Handwritten signature]*

FOR

110 208 2 208