

KATZ, KUTTER, HAIGLER, ALDERMAN, BRYANT & YON

PROFESSIONAL ASSOCIATION

ATTORNEYS AND COUNSELORS AT LAW

www.katzlaw.com

ORIGINAL

Orlando Office

Suite 900
111 North Orange Avenue
ORLANDO, FL 32801
(407) 841-7100
fax (407) 648-0660

Tallahassee Office

12th Floor
106 East College Avenue
TALLAHASSEE, FL 32301
(850) 224-9634
fax (850) 222-0103

Miami Office

Suite 409
2999 NE 191st Street
AVENTURA, FL 33180
(305) 932-0996
fax (305) 932-0972

Washington, DC Office

Suite 750
801 Pennsylvania Avenue, NW
WASHINGTON, D.C. 20004
(202) 393-1132
fax (202) 624-0659

REPLY TO: TALLAHASSEE OFFICE

August 3, 2001

RECEIVED-FPSC
01 AUG -3 PM 3:28
COMMISSION
CLERK

Blanca Bayo, Director
Division of Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

010941-WIS

Re: Kings Point Utility, Inc. ("Kings Point")
Application for Certificates to Provide Water and Wastewater Service

Dear Ms. Bayo:

This firm represents the City of Kissimmee ("City"). The City is writing to object to issuance of an initial certificate of authorization for water and wastewater certificates for Kings Point as follows:

1. At one time, Kings Point held certificates for a service area described in the enclosed Attachment A. The City is not making an objection to the application to the extent that it covers the proposed service area listed in Attachment A.
2. In addition to the proposed service area listed in Attachment A, Kings Point proposes an expanded service area as shown on attached Attachment B.
3. The City objects to issuance of certificates for that portion of the proposed service area that extends beyond the original service area of Kings Point. The basis for the objection is that this area is within the City's existing service area, as provided in the City's comprehensive plan. The contested area is already covered under the City's Interlocal Agreement with Osceola County (Attachment C attached). In

APP _____
 CAF _____
 CMP _____
 COM _____
 CTR _____
 ECR _____
 LEG _____
 OPC _____
 PAI _____
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RWN 8/18/01

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AXM
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
09481 AUG-30

COMMISSION CLERK

Blanco Bayo
August 3, 2001
Page 2

addition, the City has water and sewer facilities in the area and availability of service.

Enclosed is an original and seven copies of a petition for hearing, along with a diskette, as provided in Section 377.045, Florida Statutes.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Silvia Morell Alderman', with a long horizontal flourish extending to the right.

Silvia Morell Alderman

SMA:tms
Enclosures

cc: Martin S. Friedman, Esq. (w/ enclosures)
Katherine E. Giddings (w/o enclosures)
Don Smallwood (w/o enclosures)
Brian Wheeler (w/o enclosures)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application of Kings Point Utility, Inc.

Docket No. 010941-WS

**REQUEST FOR FORMAL PROCEEDING PURSUANT
TO SECTIONS 120.569 AND 120.57, FLORIDA STATUTES**

The City requests a proceeding pursuant to Sections 120.569 and 120.57, F.S., as provided in Section 367.045, F.S.

(a) Name and address of each agency affected and the agency's file number:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
File Number: Docket No. 010941-WS

(b) Name, address and telephone number of Petitioner:

City of Kissimmee
Brian Wheeler, Director
Department of Water Resources
101 North Church Street
Kissimmee, Florida 34741-5054
407-518-2160

Petitioner is represented by:

Silvia Morell Alderman
Katherine E. Giddings
Katz, Kutter, Haigler, Alderman, Bryant & Yon, P.A.
106 East College Avenue, Suite 1200
Tallahassee, Florida 32301
850-224-9634

(c) An explanation of how the Petitioner's substantial interests will be affected:

Petitioner is a governmental authority as provided in Section 367.045 (4), F.S. The issuance of these certificates to Kings Point Utility, Inc. ("Kings Point") would be inconsistent with the City of Kissimmee's comprehensive plan adopted pursuant to Chapter 163, F.S., unless modified to exclude the area outside the area described in Attachment A. Further, Petitioner's substantial interests are affected by the proposed application in that the Applicant is requesting a service area that includes an area currently within the Petitioner's service area.

DOCUMENT NUMBER-DATE

09481 AUG-30

FPSC-COMMISSION CLERK

(d) A statement of how Petitioner received notice:

Petitioner received a copy of notice of filing of the application from the Applicant.

(e) A statement of all disputed issues of material fact:

1. Whether a certificate issued to Kings Point including that portion of the proposed service area outside the area described in Attachment A would be in competition with and a duplication of the City's system?

2. Whether the City's system is inadequate to meet the reasonable needs of the public in that portion of the proposed service area outside the area described in Attachment A?

3. Whether the City is unable, refuses, or neglects to provide reasonably adequate service to that portion of the proposed service area outside the area described in Attachment A?

4. Whether a certificate issued to Kings Point including that portion of the proposed service area outside the area described in Attachment A violates a comprehensive plan established pursuant to Chapter 163, F.S.?

(f) A concise statement of the ultimate facts alleged, including the specific facts the Petitioner contends warrant reversal or modification of the agency's proposed action:

The Applicant proposes a service area as depicted in Attachment B. The City of Kissimmee operates water and wastewater services in Osceola County. The portion of the proposed service area outside the area described in Attachment A is within the City's service area and is a duplication of the City's system. See Attachment C, an Interlocal Agreement between Osceola County and the City.

The City's system is adequate to meet the reasonable needs of the public. The City is able to provide reasonably adequate service within its service area. City water and wastewater lines currently abut the contested service area to the west. City water lines exist along Neptune Road to the North. City water and wastewater lines serve properties located in sections numbered 2 and 35 depicted on Attachment B.

The comprehensive plan of the City of Kissimmee includes the disputed area within the City's service area. Therefore, the application is not consistent with the City's comprehensive plan.

(g) A statement of the specific rules or statutes the Petitioner contends require denial or modification of the application:

Pursuant to Section 367.045, F.S., the Commission may not grant a certificate for a system that will be in competition with, or a duplication of, any other system or portion of a system unless it first determines that such other system or portion thereof is inadequate to meet

the reasonable needs of the public or that the person operating the system is unable, refuses, or neglects to provide reasonably adequate service. The Commission must also consider whether a certificate should be issued that is inconsistent with a comprehensive plan established pursuant to Chapter 163, F.S.

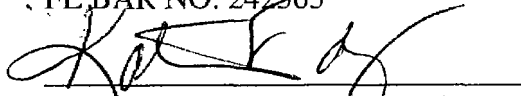
- (h) A statement of the relief sought by Petitioner, stating precisely the action Petitioner wishes the agency to take with respect to the application.
1. That Petitioner be granted a hearing pursuant to Sections 120.569 and 120.57, F.S.
 2. That the Commission disapprove that portion of the proposed service area now within the service area of the City of Kissimmee.
 3. That Petitioner be permitted to amend this petition if pertinent facts or issues come to light during the review of this application.

Respectfully Submitted,



SILVIA MORELL ALDERMAN

FL BAR NO. 242365



KATHERINE E. GIDDINGS

FL BAR NO. 0949396

Katz, Kutter, Haigler, Alderman,

Bryant & Yon, P.A.

Highpoint Center, Suite 1200

106 East College Avenue

Tallahassee, Florida 32301

(904) 224-9634

ATTORNEYS FOR CITY OF KISSIMMEE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by facsimile and U. S. Mail to Martin S. Friedman, Esquire at Rose, Sundstrom & Bentley, LLP, 2548 Blairstone Pines Drive, Tallahassee, Florida 32301, on this 3rd day of August, 2001.



SILVIA MORELL ALDERMAN

ATTACHMENT A

KINGS POINT UTILITY, INC.

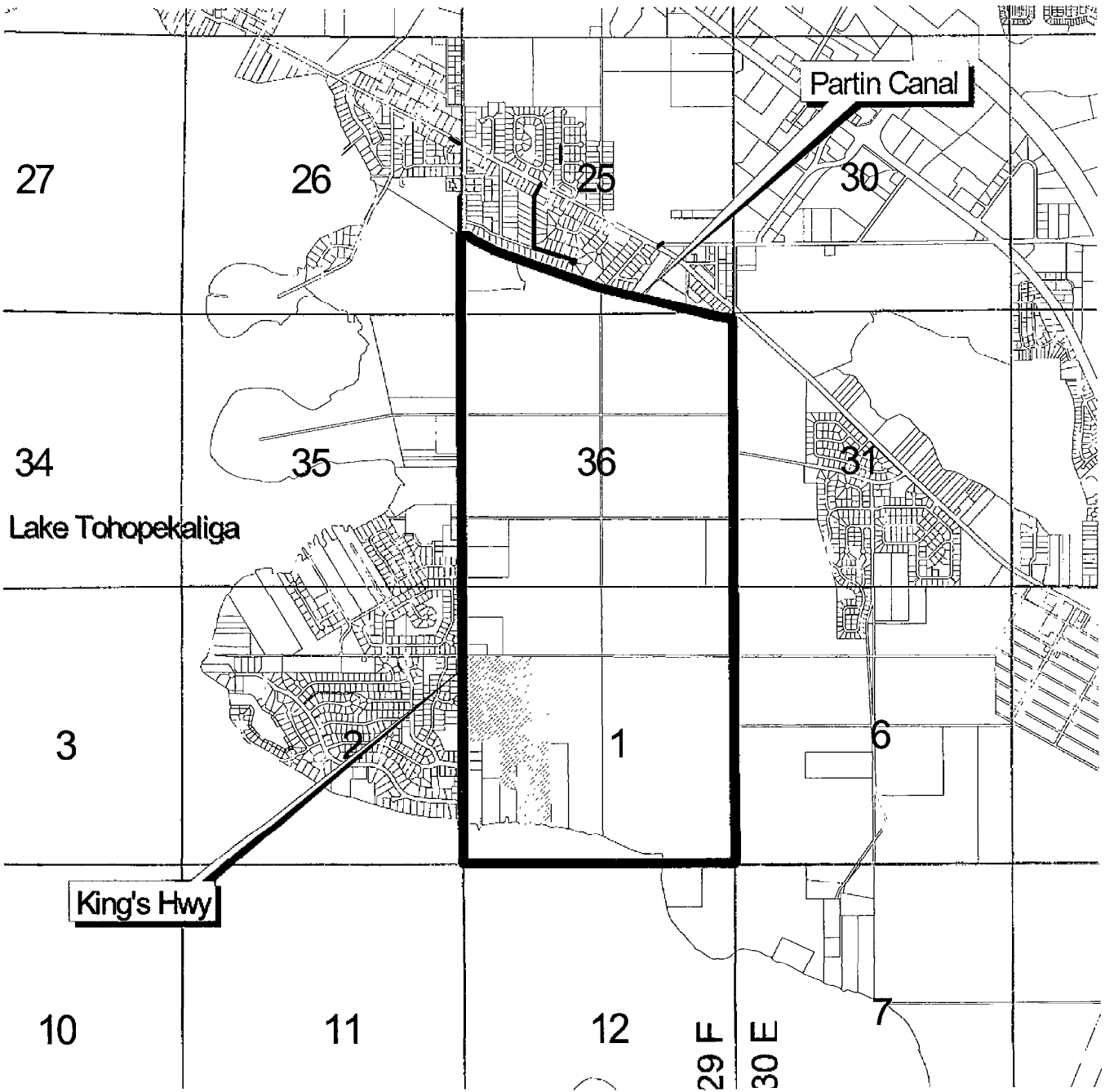
TERRITORIAL DESCRIPTION

Township 26 South, Range 29 East, Osceola County




Section 1:

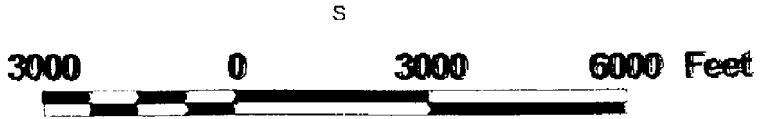
Beginning at the intersection of the Eastern R-O-W of Kings Road and the Southern R-O-W of Pine Island Road; thence South along said Eastern R-O-W of Kings Road a distance of 1,630.21 feet to a point; thence South 89 degrees, 49 minutes, 30 seconds East a distance of 629.78 feet to a point; thence South 00 degrees, 00 minutes, 40 seconds West a distance of 809.41 feet to a point; thence South 63 degrees, 21 minutes, 00 seconds East a distance of 129.17 feet to a point; thence South 72 degrees, 23 minutes, 00 seconds East a distance of 145.65 feet to a point; thence South 78 degrees, 40 minutes, 00 seconds East a distance of 66 feet to a point; thence North 16 degrees, 00 minutes, 00 seconds East a distance of 19.44 feet to a point; thence North 00 degrees, 00 minutes, 40 seconds East a distance of 452.90 feet to a point; thence South 89 degrees, 55 minutes, 00 seconds East a distance of 200 feet to a point; thence South 00 degrees, 00 minutes, 40 seconds West a distance of 649 feet to a point; thence North 89 degrees, 55 minutes, 00 seconds West a distance of 140 feet to a point; thence South 00 degrees, 00 minutes, 40 seconds West a distance of 422.66 feet to a point; thence North 88 degrees, 50 minutes, 29 seconds East a distance of 330.07 feet to a point; thence North 00 degrees, 00 minutes, 40 seconds East a distance of 1,533.14 feet to a point; thence North 89 degrees, 55 minutes, 10 seconds West a distance of 330.10 feet to a point thence North 00 degrees, 00 minutes, 40 seconds East a distance of 1,624.36 feet to a point; thence North 89 degrees, 39 minutes, 10 seconds West a distance of 1,289.87 feet to the Point of Beginning.

Sketch of Legal Descriptions



Legend

-  Area per Notice Of Application For An Initial Certificate Of Authorization For Water And Wastewater Certificate
-  Area per Attachment A - Kings Point Utility, Inc. Territorial Description
-  Section Line



Project Name: KingsPlapr
 Printed: 07/26/01

REFORMED AND AMENDED INTERLOCAL AGREEMENT

THIS AGREEMENT is made and entered into this 16th day of April, 2001, by and between the CITY OF KISSIMMEE, a municipal corporation located in Osceola County, Florida ("CITY"), and OSCEOLA COUNTY, a political subdivision of the State of Florida ("COUNTY").

RECITALS

1. The CITY is empowered by Chapters 166 and 180, Florida Statutes, to provide central water and wastewater service within the incorporated limits of the City of Kissimmee, and pursuant to such authority, presently furnishes water and wastewater service to customers within the incorporated limits of the City of Kissimmee, Florida. The parties acknowledge that the CITY is also empowered to and is, in fact, providing central water and wastewater service to residents and businesses in unincorporated Osceola County.

2. The COUNTY is authorized to regulate the construction of water and wastewater facilities and protect the overall water resources of Osceola County through its various water districts, pursuant to the powers granted by virtue of Chapter 153, Part II, Florida Statutes.

3. The parties acknowledge and agree that it is in the best interests of the citizens of the unincorporated area of Osceola County to be provided centralized potable water utility service and sewage treatment and effluent disposal (a.k.a. wastewater) service whenever economically and environmentally feasible.

4. The parties likewise acknowledge and agree that it is in the best interests of all the citizens of both incorporated and unincorporated areas within Osceola County to protect all water resources within the County from uneconomical, wasteful, fiscally imprudent and environmentally unsound uses.

5. The COUNTY and the CITY previously executed an Interlocal Agreement dated January 12, 1987, to address the concerns outlined in the above recitals (hereafter referred to as the "Original Interlocal Agreement").

6. Since the execution of the Original Interlocal Agreement, the parties acknowledge and agree that the CITY has met its obligations to extend and operate central water and wastewater facilities to provide central water and wastewater service within

LARRY WHALEY 15P
OSCEOLA COUNTY, FLORIDA
CLERK OF CIRCUIT COURT

1

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ATTACHMENT C

certain unincorporated areas of the COUNTY, now known as the Combined Suburban System Service Area. The Combined Suburban System Service Area is described and depicted on the map attached and incorporated into this Agreement as Exhibit "A."

7. Likewise, the CITY agrees that the COUNTY has fulfilled its obligations in utilizing the five (5) existing COUNTY water districts to protect and nurture the water resources of Osceola County for the use of future generations.

8. The parties hereby acknowledge and agree that it is in the best interests of all the citizens of Osceola County, Florida and the citizens of the City of Kissimmee for the CITY to continue to provide potable water utility service and wastewater service within the Combined Suburban System Service Area.

9. Because of recent litigation, the parties desire to clarify and reform the Original Interlocal Agreement so that the language better conforms to the intent of that Original Interlocal Agreement.

10. Recent water resource legislation indicates a need for the CITY and COUNTY to cooperate closely to protect the water resources of Osceola County, Florida.

11. The parties acknowledge and agree that they have all right, power and authority to enter into this Agreement.

12. The COUNTY and the CITY now wish to set forth certain agreements between themselves with respect to the provision of central water and wastewater service to certain unincorporated areas of Osceola County, Florida, the mutual protection of the water resources within Osceola County, Florida, and clarification of certain provisions of the Original Interlocal Agreement, all pursuant to the provisions of the Florida Interlocal Cooperation Act of 1969, as amended.

ACCORDINGLY, and with consideration of the above stated recitals, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties agree as follows:

SECTION 1. RECITALS. The above recitals are true and correct and form a material part of this Amended Interlocal Agreement.

SECTION 2. CONSENT TO CITY SERVICE AREAS. Subject to the terms and conditions of this Amended Interlocal Agreement, and all applicable statutes, rules and ordinances, the COUNTY hereby agrees that the CITY shall have the authority, right,

power, and duty to serve and provide potable water utility service and wastewater service to the Combined Suburban System Service Area.

SECTION 3. OBLIGATION TO EXTEND SYSTEMS AND PROVIDE SERVICE.

The CITY shall expand its potable water supply system and sewage treatment and effluent disposal (a/k/a wastewater) system within the Combined Suburban System Service Area to provide for the needs of the Combined Suburban System Service Area. The need for such service in those areas requires such expansion without discrimination as to the type of development to be served or as to customers, which shall be determined by the CITY. Upon request, the CITY shall provide the COUNTY with an inventory of those properties being served and scheduled for expansion. The CITY agrees to comply with all state, local, and federal requirements and rules applicable to the provision of water and wastewater service to the public.

SECTION 4. RATES. A dispute has arisen between the CITY and a third party not in privity with the COUNTY regarding the CITY's powers under the Original Interlocal Agreement. In executing the Original Interlocal Agreement, the parties never intended to affect the CITY's reserved governmental powers to set and collect rates insofar as neither party can enter into a binding contract to abrogate such authority. The parties, therefore, acknowledge the decision reached by the lower court in that dispute upholding certain CITY rates, fees and charges. The CITY hereby covenants and agrees that it will serve its customers in the Combined Suburban System Service Area per this Amended Interlocal Agreement upon like terms, conditions, and quality of service as it does its customers within its incorporated service area. CITY has the sole right to set rates, rate structures and regulate waste and sewage services pursuant to standards found in Chapter 180,

Florida Statutes, including specifically Section 180.191, Florida Statutes, which provides for the imposition of utility rates, fees and charges.

SECTION 5. CITY COOPERATION FOR OSCEOLA COUNTY WATER RESOURCE PROTECTION. It is hereby expressly understood, acknowledged, and agreed that the CITY enters into this Amended Interlocal Agreement with the knowledge that the COUNTY has "institutionalized" the water resources within Osceola County, Florida. By this it is meant that the COUNTY has declared its intent and has, in fact, created five County water districts pursuant to appropriate authority. The powers and purposes of the five County water districts are as described in their enabling ordinances, or as they may be amended from time to time. Nothing herein or hereby contained in this Amended Interlocal Agreement shall be construed as waiving or foregoing any and all rights and privileges available to the COUNTY for such purposes.

It is likewise expressly understood and agreed that the CITY enters into this Amended Interlocal Agreement with the knowledge that the COUNTY has the right and duty to plan for sanitary sewer, potable water, and natural groundwater aquifer recharge within the unincorporated areas of Osceola County, Florida, and must indicate ways to provide future potable water for such areas, pursuant to Chapter 163, Part II, Florida Statutes. Consequently, the CITY hereby agrees to continue to closely cooperate with the COUNTY in this planning process, including providing to the COUNTY all data and information concerning the CITY's production, distribution, supply, and transmission of potable water, and the collection and transmission of sewage and the disposal of effluent. Moreover, nothing herein or hereby shall be construed as waiving or foregoing the COUNTY's rights and duties under Chapter 163, Part II, Florida Statutes. Furthermore, the

CITY hereby formally agrees to cooperate in every reasonable fashion with the COUNTY in protecting the water resources of Osceola County, Florida, in the development and implementation of the Water 2020 plans by the St. Johns River Water Management District and the South Florida Water Management District, or any other water supply planning efforts.

SECTION 6. NONEXCLUSIVE LICENSE. This Amended Interlocal Agreement shall constitute a nonexclusive license granting to the CITY the privilege of constructing, maintain, repairing, operating, removing and replacing lines for the transmission of potable water and the collection and disposal of sewage on, over, across and along any County highway, road, or right-of-way within the City's Overall Unincorporated Service Area, or any road, right-of-way, or highway acquired by the COUNTY within the City's Unincorporated Service Area, which license is subject to the following conditions:

6.1 The CITY hereby covenants and agrees that it will not, in the performance of its privileges hereunder, create any obstructions or conditions which are or may become dangerous to the traveling public, trespass upon private property, or create a nuisance condition. When, due to work being performed in the unincorporated service area by the CITY per this Amended Interlocal Agreement, traffic must be detoured, channeled, or otherwise specially managed, the CITY shall make such arrangements at its sole expense, supervision, and responsibility, provided, however, prior to such work being commenced the Department of Public Works and Osceola County Sheriff's Office shall be notified and such arrangements shall be coordinated with those offices.

6.2 The CITY shall repair forthwith any damage, alteration, or injury to any road, right-of-way or highway caused by its exercise of the privileges granted hereby and shall

forthwith repair the road, right-of-way, or highway, restoring it to a condition at least equal to that which existed immediately prior to the infliction of such damage, alteration, or injury. Failure to do so within a reasonable time and upon prior notice shall entitle the COUNTY to perform the necessary restoration or other work and bill the CITY for all costs thereof, the payment for which the CITY shall promptly remit to the COUNTY.

6.3 In the event of the widening, repair, alteration or reconstruction of any road, highway or right-of-way by the COUNTY, which necessitates the removal or relocation of a City line or other facility, such line or other facility shall be so removed or relocated by the CITY at its sole expense. For purposes of this section, the determination by the COUNTY of whether the removal or relocation of a line or other facility is necessary shall be final and conclusive.

6.4 Prior to the CITY commencing any major project, repair, construction, reconstruction, laying of line, or any other work, except in emergency situations, on, over, in, or upon a County road, highway or right-of-way at any and all times throughout the term of this Amended Interlocal Agreement, the CITY shall submit to the County Department of Public Works the plans and specifications of such work and shall not commence work until the Department of Public Works approves the work as not in conflict with the terms of this Amended Interlocal Agreement, the existing or planned County road system, and such other matters as may be in the best interests of the COUNTY, such approval to be received within 60 days of submission. Provided, however, should a dispute arise between the CITY and the Department of Public Works over any such determination, the CITY may appeal same to the Board of County Commissioners or submit the issue to arbitration. When the CITY's plans and/or specifications are changed or amended such changes or

amendments shall be furnished to the Department of Public Works. All work performed or caused to be performed by the CITY shall be in accordance with the approved plans and specifications.

6.5 In the event the CITY, pursuant to this Amended Interlocal Agreement, has lines or other facilities on, in, upon, or under a County road, right-of-way or highway which is, subsequent to the commencement of this Amended Interlocal Agreement, vacated, closed, abandoned, or otherwise declassified as a county facility or property, the CITY's interest in such line shall nonetheless survive for the remaining term of this Amended Interlocal Agreement.

6.6 Any and all improvements installed by private property owners which are intended to connect to the improvement installed by the CITY shall be in accordance with the requirements, specifications, and rules found in the Code of the City of Kissimmee. All such improvements must be inspected and approved by the CITY staff.

SECTION 7. DISCLAIMER OF THIRD PARTY BENEFICIARIES. This Amended Interlocal Agreement and the Original Interlocal Agreement were created solely for the benefit of the formal parties herein 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. Nothing in the Original Interlocal Agreement or this Amended Interlocal Agreement expressed or implied is intended or shall be construed to confer upon or give any person or corporation other than the parties hereto any right, remedy or claim under or by reason of the Original Interlocal Agreement or this Amended Interlocal Agreement, or any provisions or conditions hereof; and all of the provisions, representations, covenants and conditions herein

contained shall inure to the sole benefit of and shall be solely binding upon the parties hereto and their respective representatives, successors and assigns.

SECTION 8. DISCLAIMER OF SECURITY. Notwithstanding any other provisions of this Amended Interlocal Agreement, the CITY and the COUNTY expressly acknowledge:

(1) that they have no pledge of or lien upon any real property, any personal property, or any existing or future revenue sources of the other as security for any amounts of money payable by the other under this Amended Interlocal Agreement; and

(2) that their rights to any payments under this Amended Interlocal Agreement are subordinate to the rights of all holders of any revenue, bonds, or notes of the other, whether currently outstanding or hereafter issued.

SECTION 9. ASSIGNMENTS. In the event the COUNTY creates or causes to have created a water and/or sewer district, authority or other such entity, in whatever form and for whatever purposes, this Amended Interlocal Agreement may be freely assigned from the COUNTY to such district, authority or other entity. The COUNTY hereby recognizes the CITY's right to transfer such services to the Kissimmee Utilities Authority pursuant to Kissimmee Ordinance No. 1285. If such a transfer shall be completed, the COUNTY hereby consents to an assignment of this Amended Interlocal Agreement to the Kissimmee Utility Authority. Except as set forth above, neither party hereto may assign this Amended Interlocal Agreement without the prior written consent of the other.

SECTION 10. APPLICABLE LAW. This Amended Interlocal Agreement and the provisions contained herein shall be construed, controlled and interpreted according to the laws of the State of Florida. The venue for any action under this Amended Interlocal Agreement shall be in Osceola County.

SECTION 11. TERM OF AGREEMENT. The initial term of the Original Interlocal Agreement is until January 20, 2007 and is the initial term of this Amended Interlocal Agreement. The CITY shall have the right to renew this Amended Interlocal Agreement upon written notice for an additional ten (10)-year period.

SECTION 12. NATURE AND CONSTRUCTION OF AGREEMENT, INTENT AND INTERPRETATION. Notwithstanding anything to the contrary contained in this Amended Interlocal Agreement, this Amended Interlocal Agreement shall constitute a clarification of the Original Interlocal Agreement. In construing this Amended Interlocal Agreement, it is hereby declared by the parties to be the purpose and intent of this Amended Interlocal Agreement to prevent needless and wasteful expenditures which result from unrestrained competition. This Amended Interlocal Agreement shall not be construed as forming any basis of any understanding for the alteration of the powers of the CITY or the COUNTY as they now exist or may be modified in the future, except as are lawfully and expressly modified by the terms of this Amended Interlocal Agreement. Specifically, the parties hereby expressly acknowledge and agree that the CITY enters into this Amended Interlocal Agreement with the knowledge that the COUNTY, pursuant to ' 125.01(1)(k), Florida Statutes, and Chapter 367, Florida Statutes, has the right and option to regulate waste and sewage collection and disposal, water supply, conservation programs, and otherwise regulate utilities, and nothing herein or hereby shall be construed as waiving or foregoing such right and option. Likewise, the parties acknowledge and agree that the COUNTY enters into this Amended Interlocal Agreement with the knowledge that the CITY is exempt from utility regulation pursuant to Florida law and that the CITY has the sole authority to regulate the authority, rates, and services provided by CITY-owned water and wastewater

systems during the term of this Amended Interlocal Agreement pursuant to standards found in Chapter 180, Florida Statutes.

SECTION 13. INDEMNIFICATION. To the extent allowed by state law, including but not limited to Chapter 768, Florida Statutes, the COUNTY and the CITY agree to hold the other harmless and indemnify same from the payment of any compensation, damages, claims, orders and judgments of any court or administrative agency, causes of action, suits or other actions resulting from the exercise of the privileges granted by this Amended Interlocal Agreement. Neither the COUNTY nor CITY shall, by virtue of entering into this Amended Interlocal Agreement, waive the sovereign immunity limits established by state law.

SECTION 14. NOTICE; PROPER FORM. Any notice required or allowed to be delivered hereunder shall be in writing and be deemed to be delivered when (i) hand delivered to the official hereinafter designated, or (ii) upon receipt of such notice when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to a party at the address set forth opposite the party's name below, or such other address as the party shall express by written notice to the other party delivered in accordance herewith:

COUNTY: Osceola County Administrator
One Courthouse Square
Kissimmee, Florida 34741

CITY: City Manager
City of Kissimmee
101 North Church Street, 5th Floor
Kissimmee, Florida 34741

SECTION 15. NO EFFECT ON CERTAIN STATE AND LOCAL WATER AND SEWAGE REGULATIONS. Nothing herein or hereby shall be construed as limiting or

prohibiting a property owner or developer from installing and operating a "community or private water system" and/or sewage package plant and/or onsite sewage disposal system (septic tanks) to serve a particular parcel of land or development, within the unincorporated service area, provided (1) that such is authorized by applicable County ordinances, resolutions (including without limitation the County Comprehensive Plan) and applicable state statutes, agency rules and health regulations and provided the CITY facilities are not available to service the parcel or development, and (2) that nothing herein shall be construed as waiving or limiting applicable Florida laws and agency rules which may require connection to sanitary sewer lines when and where available.

SECTION 16. CONDITIONAL PURCHASE OPTION. Upon expiration of the term of this Amended Interlocal Agreement (and any extension(s) thereof) as set forth in Section 13 above and in the event this Amended Interlocal Agreement is not extended, re(New)ed or a (New) agreement entered into, by refusal of the COUNTY so to do, the COUNTY agrees to purchase from the CITY and the CITY agrees to sell to the COUNTY the improvements installed per this Amended Interlocal Agreement, subject to the COUNTY and the CITY making a determination that such transaction is in the public interest per Sections 125.3401 and 180.301, Florida Statutes, respectively, and as said statutes may be from time to time renumbered, except if the improvements installed hereunder have been transferred or assigned to a third party subsequent to the commencement of this Amended Interlocal Agreement and any extension(s) thereof. In the event of purchase and sale as provided above, the purchase price and terms shall be as mutually agreed between the parties. If the price cannot be mutually agreed upon, the CITY and COUNTY each shall have an appraisal made of the fair market value of the utility

system. A review appraiser selected by the two appraisers selected by the CITY and COUNTY shall review the appraisals and provide an opinion of fair market value upon which to base the purchase price. Each appraiser shall be qualified by professional experience in water and sewer utility financing and acquisition. Should a dispute arise concerning the appraisals, the issue(s) shall be determined by an arbitration board consisting of three (3) persons, one selected by the CITY, one selected by the COUNTY and one selected by the two persons selected by the CITY and COUNTY. The expense of arbitration shall be shared equally between the CITY and COUNTY except that the costs of attorney's appraisers, witnesses and case preparation shall be borne by the party expending the monies on its own behalf. Nothing herein shall be construed as a waiver of the COUNTY's right to acquire such facilities by eminent domain to the extent provided by law.

SECTION 17. DISPUTE RESOLUTION. Each of the parties hereto shall give the other party written notice of any defaults hereunder and shall allow the defaulting party thirty (30) days from the date of receipt to cure such default. If such default remains uncured, then the parties shall proceed to resolve the dispute pursuant to the provisions of the Florida Governmental Conflict Resolution Act, Chapter 164, Florida Statutes. Should the parties fail to resolve any dispute or controversy pursuant to the procedures of Chapter 164, Florida Statutes, then all such disputes and controversies of every kind and nature between the parties, if so elected as provided herein, shall be determined by a board of arbitrators consisting of three (3) members. Each party shall choose one member, the third member to be chosen by the two members chosen by the parties. All

decisions are final, and the procedures shall be governed by the Florida Arbitration Code, Chapter 682, Florida Statutes, as amended from time to time.

SECTION 18. SEVERABILITY. If any part of this Amended Interlocal Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Amended Interlocal 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 Amended Interlocal Agreement is declared severable.

SECTION 19. RECORDATION. This Amended Interlocal Agreement shall be recorded at the expense of the CITY in the Public Records of Osceola County, Florida.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have hereunder executed this Amended Interlocal Agreement on the date and year first above written.

OSCEOLA COUNTY, FLORIDA

BY: Ken Shipley
County Chairman

ATTEST: Clerk of the Board of County Commissioners

BY: Kelly A. Mueller
Deputy Clerk



STATE OF FLORIDA

COUNTY OF Osceola

SWORN to and subscribed freely and voluntarily for the purposes therein expressed before me by Ken Shipley, as Chairman of OSCEOLA COUNTY, FLORIDA, known to me to be the person described in and who executed the foregoing, this 18th day of April, 2001. He/she is personally known to me or has produced _____ (type of identification) as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 18th day of April, 2001.

Deborah F. Anderson
Notary Public
My Commission Expires _____

FOR THE USE AND RELIANCE OF OSCEOLA COUNTY ONLY. APPROVED AS TO FORM

April 16, 2001



Deborah F. Anderson
MY COMMISSION # CCT29104 EXPIRES
July 30, 2002
BONDED THRU TROY FARM INSURANCE INC.

Jo O. Thacker
Jo O. Thacker, Osceola County Attorney

CITY OF KISSIMMEE

BY: George A. Gant
George A. Gant, M.D.
Mayor - Commissioner - Kissimmee

ATTEST:

BY: Sandra L. Yeager
Sandra L. Yeager, City Clerk
City of Kissimmee

STATE OF FLORIDA

COUNTY OF Osceola

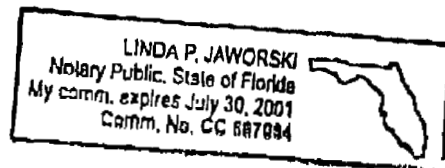
SWORN to and subscribed freely and voluntarily for the purposes therein expressed before me by George A. Gant M.D., as Mayor of CITY OF KISSIMMEE, known to me to be the person described in and who executed the foregoing, this 24th day of April, 2001. He is personally known to me or has produced PII (type of identification) as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 24th day of April, 2001.

Linda P. Jaworski
Notary Public
My Commission Expires 7/30/01

FOR THE USE AND RELIANCE
OF CITY OF KISSIMMEE ONLY.
APPROVED AS TO FORM

April 24, 2001
Donald T. Smallwood
Donald T. Smallwood, City Attorney



A:\AMENDCTY\INTERLOCAL.AGREE

INTERLOCAL AGREEMENT

THIS AGREEMENT, made and entered into this 12th day of

January, 1987, by and between Osceola County, Florida a Florida political subdivision by and through its Board of County Commissioners (herein "the County") and the City of Kissimmee, a Florida municipal corporation by and through its City Commission (herein "the City").

W I T N E S S E T H:

WHEREAS, it is in the best interest of the citizens of the unincorporated area of Osceola County to be provided centralized potable water utility service and sewage treatment and effluent disposal service whenever feasible; and,

WHEREAS, pursuant to Florida Statutes Chapters 166 and 180 the City of Kissimmee has the present capability to provide utility service to the unincorporated area of Osceola County which borders the incorporated boundary of the City of Kissimmee; and

WHEREAS, the Osceola County Board of County Commissioners and the City Commission for the City of Kissimmee have decided that it is in the best interest of Osceola County, the City of Kissimmee and their citizens for the City of Kissimmee to provide potable water utility service and sewage treatment and effluent disposal service to a certain area of unincorporated Osceola County more particularly described in Exhibit A which is attached hereto and incorporated herein by this reference.

WHEREAS, Osceola County, Florida and the City of Kissimmee, Florida, the parties to this agreement, wish to set forth certain agreements among themselves with respect to the providing of water and sewer utility service to certain unincorporated areas of Osceola County, Florida pursuant to the provisions of the Florida Interlocal Cooperation Act of 1969, as amended.

NOW, THEREFORE, it is agreed that:

SECTION 1.

The recitals and findings contained in the above preamble are hereby incorporated within this agreement in full.

SECTION 2.

Subject to the terms and conditions of this agreement, and all

applicable statute, rules and ordinances, the City is hereby authorized and shall provide potable water utility service and sewage treatment and effluent disposal service to that portion of unincorporated Osceola County, more particularly described in Exhibit "A" which is attached hereto and incorporated herein by this reference (herein "the service area"). This agreement shall constitute a nonexclusive license granting to the City the privilege of constructing, maintaining, repairing, operating and removing lines for the transmission of potable water and collection and disposal of sewage, on, over, across and along any County highway, road, or right-of-way, within the service area of this agreement, or any road, right-of-way or highway acquired by the County within the service area of this agreement, subject to the provisions of this agreement.

SECTION 3.

The City shall expand its potable water supply system and sewage treatment and effluent disposal system within the service area to provide for the needs of the service area hereof, the need for such service in those areas requires such expansion without discrimination as to the type of development to be served or as to customers, which shall be determined by the City. Upon request, the City shall provide the County with an inventory of those properties being served and scheduled for expansion.

SECTION 4.

The City hereby covenants and agrees that it will not, in the performance of its privileges hereunder, create any obstructions or conditions which are or may become dangerous to the traveling public, trespass upon private property, or create a nuisance condition.

When, due to work being performed in the unincorporated service area by the City per this agreement, traffic must be detoured, channeled, or otherwise specially managed, the City shall make such arrangements at its sole expense, supervision, and responsibility, provided, however, prior to such work being commenced the Department of Public Works and Osceola County

Sheriff's Office shall be notified and such arrangements shall be coordinated with those offices.

SECTION 5.

The City shall repair forthwith any damage, alteration, or injury to any road, right-of-way or highway caused by its exercise of the privileges granted hereby and shall forthwith repair the road, right-of-way, or highway, restoring it to a condition at least equal to that which existed immediately prior to the infliction of such damage, alteration, or injury. Failure to do so within a reasonable time and upon prior notice shall entitle the County to perform the necessary restoration or other work and bill the City for all costs thereof, the payment for which the City shall promptly remit to the County.

SECTION 6.

In the event of the widening, repair, alteration or reconstruction of any road, highway or right-of-way by the County, which necessitates the removal or relocation of a City line or other facility, such line or other facility shall be so removed or relocated by the City at its sole expense. For purposes of this section, the determination by the County of whether the removal or relocation of a line or other facility is necessary shall be final and conclusive.

SECTION 7.

Prior to the City commencing any major project, repair, construction, reconstruction, laying of line, or any other work, except in emergency situations, on, over, in, or upon a County road, highway or right-of-way at any and all times throughout the term of this agreement, the City shall submit to the County Department of Public Works the plans and specifications of such work and shall not commence work until the Department of Public Works approves the work as not in conflict with the terms of this agreement, the existing or planned County road system, and such other matters as may be in the best interests of the County. Such approval to be received within 60 days of submission. Provided, however, should a dispute arise between the City and

the Department of Public Works over any such determination, the City may appeal same to the Board of County Commissioners or submit the issue to arbitration. When the City's plans and/or specifications are changed or amended such changes or amendments shall be furnished to the Department of Public Works. All work performed or caused to be performed by the City shall be in accordance with the approved plans and specifications.

SECTION 8.

The City hereby agrees to defend, save and hold the County, its officers and employees harmless, and to indemnify same, from the payment of any compensation, damages, claims, orders and judgments of any court or administrative agency, causes of action, suits or other actions, resulting from the City's exercise of the privileges granted by this agreement.

SECTION 9

It is hereby expressly understood and agreed that the City enters into this agreement with the knowledge that the County is currently in the process of "institutionalizing" the water resources within Osceola County. By this it is meant that the County has declared its intent to create a County authority, district, or other vehicle pursuant to F.S. Chapter 125, F.S. Chapter 153, special act of the Legislature, home rule authority or otherwise. The powers and purposes may be to acquire, produce, supply, and/or distribute potable water within part or parts of Osceola County. Nothing herein or hereby this agreement shall be construed as waiving or foregoing any and all rights and privileges available to the County for such purposes.

SECTION 10.

It is hereby expressly understood and agreed that City enters into this agreement with the knowledge that the County, pursuant to F.S. 125.01(k) and F.S. Chapter 367, has the right and option to regulate waste and sewage collection and disposal, water supply, conservation programs, and to otherwise regulate utilities and nothing herein or hereby shall be construed as waiving or foregoing such right and option. Likewise, nothing herein or

hereby shall be construed as a waiver or relinquishment of the City's exemption from utility regulation to the extent such exemption is provided by Florida law. The County hereby agrees to allow the City to solely regulate water and sewer services during the term of the agreement, pursuant to standards found in F.S. 180.

SECTION 11.

In the event the County creates or causes to have created a water and/or sewer district, authority or other such entity, in whatever form and for whatever purposes this agreement may be freely assigned from the County to such district, authority or other entity. The County hereby recognizes the City's right to transfer such services to the Kissimmee Utilities Authority pursuant to Kissimmee Ordinance #1285. If such a transfer shall be completed, the County hereby consents to an assignment of this agreement to the Kissimmee Utility Authority. Except as set forth above, neither party hereto may assign this agreement without the prior written consent of the other.

SECTION 12.

The law governing this agreement shall be the law of Florida. Venue shall be in Osceola County.

SECTION 13.

The term of this agreement shall be twenty (20) years from the date of execution of this agreement. The City has the right to renew this agreement upon written notice for an additional ten (10) year period.

SECTION 14.

Notwithstanding any provision of law to the contrary, the City hereby covenants and agrees that it will serve its customers in the unincorporated area per this agreement upon like terms, conditions, rates, and quality of service as it does its customers within the incorporated area. City has the sole right to set rates, rate structures and regulate waste and sewage services, pursuant to standards found in F.S. 180.

SECTION 15.

In the event the City, pursuant to this agreement, has lines or other facilities on, in, upon, or under a County road, right-of-way or highway which is, subsequent to the commencement of this agreement, vacated, closed, abandoned, or otherwise declassified as a county facility or property, the City's interest in such line shall nonetheless survive for the remaining term of this agreement.

SECTION 16.

It is hereby expressly understood and agreed that the City enters into this agreement with the knowledge that the County has the right and duty to plan for sanitary sewer, potable water, and natural groundwater aquifer recharge within the unincorporated areas of the County, and must indicate ways to provide future potable water for such areas, pursuant to F.S. 163, Part II. Consequently, the City hereby agrees to cooperate with the County in this planning process, including the providing to the County of all data and information concerning the City's production, distribution, supply, and transmission of potable water, and collection and transmission of sewage and disposal of effluent. Moreover, nothing herein or hereby shall be construed as waiving or foregoing the County's rights and duties under F.S. 163, Part II.

SECTION 17.

Nothing herein or hereby shall be construed as limiting or prohibiting a property owner or developer from installing and operating a "community or private water system" and/or sewage package plant and/or onsite sewage disposal system (septic tanks) to serve a particular parcel of land or development, within the unincorporated service area, provided that such is authorized by applicable County ordinances, resolutions (including without limitation the County Comprehensive Plan) and applicable state statutes, agency rules and health regulations and provided the City facilities are not available to service the parcel or development. And further provided that nothing herein shall be

construed as waiving or limiting applicable Florida laws and agency rules which may require connection to sanitary sewer lines when and where available.

SECTION 18.

Upon expiration of the term of this agreement (and any extension(s) thereof) as set forth in paragraph 13 above and in the event this agreement is not extended, renewed or a new agreement entered into, by refusal of the County so to do, the County agrees to purchase from the City and the City agrees to sell to the County the improvements installed per this agreement, subject to the County and the City making a determination that such transaction is in the public interest per Florida Statutes 125.3401 and 180.301, respectively, and as said statutes may be from time to time renumbered, except if the improvements installed hereunder have been transferred or assigned to a third party subsequent to the commencement of this agreement and any extension(s) thereof.

In the event of purchase and sale as provided above, the purchase price and terms shall be as mutually agreed between the parties.

If the price cannot be mutually agreed upon, the City and County each shall have an appraisal made of the Fair Market value of the utility system. A review appraiser selected by the two appraisers selected by the City and County shall review the appraisals and provide an opinion of fair market value upon which to base the purchase price. Each appraiser shall be qualified by professional experience in water and sewer utility financing and acquisition. Should a dispute arise concerning the appraisals, the issue(s) shall be determined by an arbitration board consisting of three (3) persons, one selected by the City, one selected by the County and one selected by the two persons selected by the City and County. The expense of arbitration shall be shared equally between the City and County except that the costs of attorney's appraisers, witnesses and case preparation shall be borne by the party

expending the monies on its own behalf. Nothing herein shall be construed as a waiver of the County's right to acquire such facilities by eminent domain to the extent provided by law.

SECTION 19.

Any and all improvements installed by private property owners which are intended to connect to the improvement installed by the City shall be in accordance with the requirements, specifications, and rules found in the Code of the City of Kissimmee. All such improvements must be inspected and approved by the City staff.

SECTION 20.

All disputes and controversies of every kind and nature between the parties hereto, if so elected as provided herein, shall be determined by a Board of Arbitrators consisting of three members. Each party shall choose one member, the third member to be chosen by the two members chosen by the parties. All decisions are final. The procedures shall be pursuant to the Florida Arbitration Code.

IN WITNESS WHEREOF, the County and City hereto have executed this agreement on the day and year below written.

(1) Osceola County, Florida hereby affirms that, at a duly constituted meeting of the Board of County Commissioners on the 12th day of January, 1987, it approved the terms of the agreement and the execution thereof by Osceola County, Florida, and does hereby enter into this agreement.

BOARD OF COUNTY COMMISSIONERS
OF OSCEOLA COUNTY, FLORIDA

By: Bill Bove
Chairman

(SEAL)

ATTEST:

Neil Wells
Clerk of the Circuit Court and
Ex-Officio Clerk and Auditor for
the Board of County Commissioners
of Osceola County, State of Florida

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(2) The City of Kissimmee, Florida, hereby affirms that, at a duly constituted meeting of the Board of City Commissioners on the 20th day of January, 1987, it approved the terms of the agreement and the execution thereof by City of Kissimmee, Florida and does hereby enter into this agreement.

BOARD OF CITY COMMISSIONERS
OF THE CITY OF KISSIMMEE

BY: George A. Gordon
Mayor

ATTEST:

Richard M. Simmons
City Clerk

EXHIBIT A

City of Kissimmee

Legal Description - Water and Sewer Service Area

1. Township 25 South, Range 27 East
2. Township 25 South, Range 28 East
3. Township 25 South, Range 29 East
 - SECTION 2 West of Florida Turnpike
 - SECTIONS 3 through 10
 - SECTIONS 11 West of Florida Turnpike
 - SECTIONS 12 West of Florida Turnpike
 - SECTIONS 13 through 36
4. Township 25 South, Range 30 East
 - SECTION 8
 - SECTION 9
 - SECTIONS 16 through 21
 - SECTION 29 West and South of Florida Turnpike
 - SECTION 30 South and West of Florida Turnpike
5. Township 26 South, Range 29 East
 - SECTIONS 1 through 12
6. Township 26 South, Range 28 East
 - SECTIONS 1 through 3

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FILED, RECORDED AND
RECORD VERIFIED
MEL WILLS, JR. CLK CIR CT.
OSCEOLA COUNTY
BY *MLL* D.C.

INTERLOCAL AGREEMENT
SERVICE AREA

