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engineers, hydrogeologists, surveyors & management consultants

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April 25, 2002

HAI#95-539.94

Ms. Patti Daniel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

**Subject: Palm Cay Utilities, Inc.  
Application for Transfer to Governmental Authority**

Dear Ms. Daniel:

020376-WU

On behalf of Palm Cay Utilities, Hartman & Associates, Inc. is enclosing six (6) original Application for Transfer to Governmental Authority forms. Since the applicable regulatory assessment fees for January 1, 2002 through March 25, 2002 are the responsibility of Palm Cay Utilities, Inc., they are not included with the attached applications.

If you should require any additional information or have any questions with regard to the attached, please do not hesitate to contact us at (407) 839-3955. Thank you for your time and consideration.

Very truly yours,

**Hartman & Associates, Inc.**

Kim E. Virga, E.I.  
Project Engineer

KEV/slm/95-539.94/corresp/Daniel.kev.doc

C: Vince Riccobono, Marion County w/enclosure  
Andrew T. Woodcock, HAI

DISTRIBUTION CENTER  
02 APR 26 AM 9:28

**APPLICATION FOR TRANSFER TO GOVERNMENTAL AUTHORITY**

(Pursuant to Section 367.071(4)(a), Florida Statutes)

TO: Director, Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

020376-WU

The undersigned hereby makes application for the approval of the transfer of  
(all or part) of the facilities operated under Water Certificate No. WU803 and/or  
Wastewater Certificate No. N/A located in Marion County, Florida,  
and submits the following:

**PART I APPLICANT INFORMATION**

A) The full name (as it appears on the certificate), address and telephone number of  
the seller (utility):

Palm Cay Utilities, Inc.

Name of utility

( 352 ) 368-6482

Phone No.

Fax No.

1720 SW 55th Lane

Office street address

Ocala

Florida

34474

City

State

Zip Code

N/A

Mailing address if different from street address

N/A

Internet address if applicable

B) The name, address and telephone number of a representative of the utility to contact concerning this application:

John Kurtz ( 352 ) 368-6482  
Name Phone No.  
1720 SW 55th Lane  
Street address  
Ocala Florida 34474  
City State Zip Code

C) The full name, address and telephone number of the governmental authority:

Marion County (Vince Riccobono, Utilities Director)  
Name of utility  
( 352 ) 687-8900 ( )  
Phone No. Fax No.  
601 SE 25th Avenue  
Office street address  
Ocala Florida 34471-2690  
City State Zip Code  
N/A  
Mailing address if different from street address  
N/A  
Internet address if applicable

D) The name, address and telephone number of a representative of the governmental authority to contact concerning this application:

Andrew T. Woodcock ( 407 ) 839-3955  
Name Phone No.  
201 East Pine Street, Suite 1000  
Street address  
Orlando Florida 32801  
City State Zip Code

**PART II      FINANCIAL INFORMATION**

- A) Exhibit   A   - A copy of the contract pursuant to Rules 25-30.037(4)(c) and (d), Florida Administrative Code.
- B) Exhibit   B   - A statement regarding the disposition of customer deposits and the accumulated interest thereon.
- C) Exhibit   C   - A statement regarding the disposition of any outstanding regulatory assessment fees, fines or refunds owed.
- D) Exhibit   D   - A statement that the buyer (governmental authority) obtained from the utility or the Commission the utility's most recent available income and expense statement, balance sheet and statement of rate base for regulatory purposes and contributions-in-aid-of-construction.
- E) Indicate the date on which the buyer proposes to take official action to acquire the utility:

March 26, 2002

If only a portion of the utility's facilities is being transferred, a revised territory description and map of the utility's remaining territory must be provided, as discussed in PART III, below.

**IF THE UTILITY'S ENTIRE FACILITIES ARE BEING TRANSFERRED, PLEASE DISREGARD PART III OF THIS APPLICATION FORM.**

**PART III      CERTIFICATION**

A) **TERRITORY DESCRIPTION**

Exhibit   N/A   - An accurate description of the utility's revised territory. If the water and wastewater territory is different, provide separate descriptions.

Note: Use the Survey of Public Lands method (township, range, section, and quarter section), if possible, or a metes and bounds description. Give the subdivision or project name. The description should **NOT** refer to land grants or plat books, but may use geographic boundaries (i.e., road right-of-ways, railroads, rivers, creeks, etc). The object is to make the description as brief, but as accurate as possible.

B) **TERRITORY MAPS**


Exhibit     N/A     - One copy of an official county tax assessment map or other map showing township, range and section with a scale such as 1"=200' or 1"=400' on which the remaining territory is plotted by use of metes and bounds or quarter sections and with a defined reference point of beginning. If the water and wastewater territory is different, provide separate maps.

C) **TARIFF SHEETS**

Exhibit     N/A     - The original and two copies of tariff sheet(s) revised to show correct service territory. Please refer to Rules 25-9.009 and 25-9.010, Florida Administrative Code, regarding page numbering of tariff sheets before preparing the tariff revisions. (Pages 11-12.) Sample tariff sheets are attached. (Pages 13-16.)

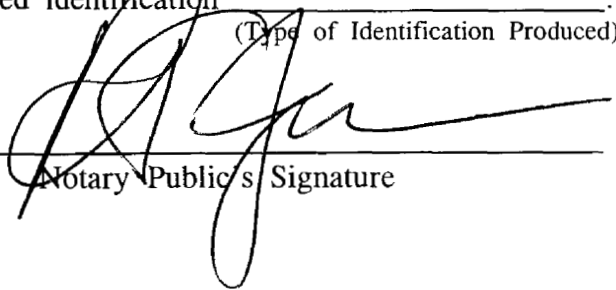
**PART IV     AFFIDAVIT**

I John Kurtz (applicant) do solemnly swear or affirm that the facts stated in the forgoing application and all exhibits attached thereto are true and correct and that said statements of fact thereto constitutes a complete statement of the matter to which it relates.

BY:   
Applicant's Signature  
John Kurtz  
Applicant's Name (Typed)  
President  
Applicant's Title \*

Subscribed and sworn to before me this April day of 2002 by John Kurtz who is personally known to me X or produced identification Notary Public.  
(Type of Identification Produced)



  
Notary Public's Signature  
Richard T. Jones  
Print, Type or Stamp Commissioned Name of Notary Public

\* If applicant is a corporation, the affidavit must be made by the president or other officer authorized by the by-laws of the corporation to act for it. If applicant is a partnership or association, a member of the organization authorized to make such affidavit shall execute same.

**EXHIBIT A**

MARION COUNTY/PALM CAY UTILITIES, INC.  
WATER SYSTEM  
ASSET PURCHASE & SALE AGREEMENT  
FOR PROPERTY, BUILDINGS AND STRUCTURES

**March 19, 2002**

**Gray, Harris & Robinson, P.A.**



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# SCHEDULE OF EXHIBITS

**EXHIBIT NO.**

**TITLE**

<b>1</b>	<b>The Real Property</b>
<b>2</b>	<b>Easements and Other Rights</b>
<b>3</b>	<b>Intentionally Left Blank</b>
<b>4</b>	<b>Intentionally Left Blank</b>
<b>5</b>	<b>Intentionally Left Blank</b>
<b>6</b>	<b>Intentionally Left Blank</b>
<b>7</b>	<b>List of Assignments, Consents and Approvals</b>

# MARION COUNTY/PALM CAY UTILITIES, INC. WATER SYSTEM ASSET PURCHASE & SALE AGREEMENT FOR PROPERTY, BUILDINGS AND STRUCTURES

THIS AGREEMENT, made and entered into this 19th day of **March**, 2002, by and between **MARION COUNTY**, a political subdivision of the State of Florida (hereafter "COUNTY"), and **PALM CAY UTILITIES, INC.**, a Florida corporation, (hereafter "SELLER").

## RECITALS

1. SELLER owns and operates a potable water production, treatment, storage, transmission, and distribution system in Marion County, Florida, known as the Palm Cay Water System. This water system shall hereinafter be sometimes referred to as "the Water System."

2. The Water System (hereafter also referred to as the "Utility System") operates under Certificate of Authorization (the "Certificate") issued by the Florida Public Service Commission (the "Commission"), which authorizes SELLER to provide water service to certain territories in Marion County, Florida.

3. Pursuant to its governmental powers under Chapter 125, Florida Statutes, and other applicable laws, the COUNTY is authorized to preserve and enhance present advantages, encourage the most appropriate use of land, water and resources, consistent with public interest, facilitate adequate and efficient provision of water and sewerage facilities, and conserve, develop, utilize, and protect natural resources within its jurisdiction.

4. The SELLER is willing to sell the Utility System to the COUNTY, and the COUNTY is willing to purchase the Utility System from the SELLER.

5. The COUNTY has the power and authority to acquire the Utility System and to operate the Utility System in order to provide potable water infrastructure and service within Marion County, and the SELLER has the power and authority to sell the Utility System.

6. For business purposes of sale and purchase of the Utility System, the Utility System shall be considered to be comprised of two components: (i) land, buildings and structures, and (ii) equipment, going concern and good will. Each component will be conveyed pursuant to a separate agreement; this Agreement for the land, buildings and structures and the companion agreement ("Companion Agreement") for the equipment,

going concern and good will. However, it is the intent of the parties that both components of the Utility System through this Agreement and the Companion Agreement are to be conveyed simultaneously together from SELLER to the COUNTY.

7. Pursuant to Section 125.3401, Florida Statutes, the COUNTY has examined the SELLER's Water System Assets, has examined its existing financial structure, has examined the long-range needs and goals of the COUNTY relative to the provision of water service to its present and future citizens, and has determined that the acquisition of the Utility System is in the public interest. The COUNTY has also examined those documents specified in Section 367.071(4)(a), Florida Statutes.

8. The parties have negotiated in good faith and are empowered to be bound by the terms and conditions set forth in this Agreement.

**ACCORDINGLY**, in consideration of the above Recitals and benefits to be derived from the mutual observation of the covenants contained herein, and other good and valuable consideration the receipt and sufficiency of which are 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 Agreement.

**SECTION 2. PURCHASE AND SALE OF WATER SYSTEM ASSETS.** The SELLER, pursuant to the circumstances noted in the Recitals above, agrees to sell and the COUNTY agrees to buy through this Agreement those components of the Utility System, with the entire Utility System consisting of all real, personal and mixed property used or held for use in connection with the Utility System, hereinafter referred to as the "Purchased Assets" or the "Water System Assets", as more particularly set forth below in Sections 3 and 4 of this Agreement.

**SECTION 3. PURCHASED ASSETS.** On the Closing Date, as defined below, SELLER shall sell, assign, transfer, convey and deliver to COUNTY, and COUNTY shall purchase, accept and pay for all of the right, title and interest, in and to the following property and assets:

**3.1 Real Property.** All real property and interests in real property (the "Property"), owned by the SELLER, as described in Exhibit "1" hereof, whereupon water production, storage, treatment, transmission, and distribution facilities and other water service facilities are located.

**3.2 Easements and Other Rights.** All rights, privileges, easements, licenses, prescriptive rights, rights-of-ways, and rights to use public and private roads, highways, streets, and other areas owned and/or used by the SELLER in connection with the construction, reconstruction, installation, maintenance and operation of the Utility System and the Purchased Assets (collectively referred to as the "Easements"). The Easements are more particularly described in Exhibit "2" hereof, provided that, such

easements located or shown in recorded plats and rights to locate lines in dedicated public rights-of-way are not included in this Exhibit but which are nevertheless being conveyed to the COUNTY.

**3.3 Buildings, Structures and Fixtures.** All buildings, structures and fixtures located on either the Property or the Easements which are used to house the plant, equipment and other facilities used or held for use in connection with the Utility System. Fixtures shall include, but are not limited to wells, yard improvements (by way of example and not limitation such items as fences, sod, landscaping, site grading and stormwater improvements) and yard piping (by way of example and not limitation such items as underground piping on the Property).

**3.4 Excluded Assets.** The following assets of SELLER regarding the Utility System shall not be included in the assets conveyed to COUNTY as part of the Purchased Assets:

- (1) SELLER's cash and SELLER's bank account;
- (2) Federal, State or Local Tax or other deposits maintained by SELLER with any governmental authority for SELLER's use and benefit;
- (3) Vehicles or other equipment which are not utilized by SELLER exclusively in the operation and maintenance of the Utility System; and
- (4) All furniture, fixtures, office equipment, general business records and other assets of SELLER not located on the site of the Utility System or which are not held for the exclusive use or benefit of the Utility System.

**SECTION 4. PURCHASE PRICE AND PAYMENT.** The parties hereto have agreed upon a purchase price through a substantial and complicated negotiating process. The Purchase Price agreed upon is neither the highest, nor the lowest, amount that could be justified as a fair value of the Utility System according to the terms and conditions of this Agreement. Such Agreement has been reached in order to make the acquisition of the Purchased Assets attainable by the COUNTY with a view that the COUNTY will carry through the written commitments of the SELLER to its consumers, and that the COUNTY will attempt to operate the system in as efficient manner as possible, subsequent to the closing.

**4.1 Amount of Payment.** The COUNTY hereby agrees to pay to the SELLER under this Agreement for the items listed below in subsection 4.2, subject to the adjustments and prorations referred to elsewhere herein, a Purchase Price in the amount of FOUR HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$475,000.00).

**4.2 Method of Payment.** FOUR HUNDRED SEVENTY FIVE THOUSAND DOLLARS (\$475,000.00) of the Purchase Price shall be paid at closing in federal or other



immediately available funds by wire transfer for the Utility System real property, buildings and structures.

**4.3 No Assumption of Liabilities or Obligations.** Although stated elsewhere in this Agreement, it is specifically agreed by and among the parties hereto, that the COUNTY shall not and at closing will not purchase or assume any of the liabilities or outstanding obligations of the Utility Systems and the SELLER shall remain responsible for same, including payment or satisfaction of its outstanding debts, obligations, and responsibilities, except as otherwise herein provided.

**4.4 Internal Revenue Code Section 1031 Exchange.** SELLER shall have the right to assign its rights and obligations under this Contract to a qualified intermediary or trustee without the consent of COUNTY. The parties acknowledge that SELLER intends to sell the Property and effect an Internal Revenue Code Section 1031 like-kind exchange. SELLER has the right to assign this Contract to a trustee or other entity in order to facilitate a Section 1031 like-kind exchange. COUNTY agrees to cooperate with SELLER in effecting an exchange pursuant to Section 1031 of the Internal Revenue Code. Any additional expense incurred by reason of the exchange shall be the responsibility of SELLER. COUNTY shall not be obligated to take title to the replacement property in its name or incur any indebtedness in connection with the exchange, nor shall COUNTY be required to furnish any funds in connection with the exchange.

**SECTION 5. TITLE EVIDENCE.** The COUNTY's attorneys, Gray, Harris & Robinson, P.A., shall cause to be issued, at the expense of the COUNTY, a title commitment for an owners ALTA Form B Marketability Policy in favor of the COUNTY in the amount of the Purchase Price from a title insurance company licensed in Florida as determined by the COUNTY in its sole discretion. The SELLER shall convey a marketable title subject only to the title exceptions set forth below.

**5.1 Exceptions to Title.** The Commitment shall show the SELLER to be (i) vested with marketable fee simple title to the Property shown on Exhibit "1" and (ii) vested with valid marketable easement interests for the easements described on Exhibit "2," subject only to following (the "Permitted Exceptions"):

(1) Ad valorem real estate taxes and assessments for the year 2002 and subsequent years not yet due and payable;

(2) Restrictions set out in the recorded plats of subdivisions covered by the Utility System;

(3) Easements for utilities and drainage set out in such recorded plats of subdivisions; provided, however, that none of the easements set out in such recorded plats of subdivisions shall prevent, hinder or restrict the present use of the Property or Easements;

(4) Restrictions of record (except liens, encumbrances, or mortgages) that do not impair, restrict, or inhibit the present use of or improvement to the Property or the Easements as permitted by applicable zoning and land use regulations presently in effect and that are not coupled with a forfeiture or reversionary provision; and

(5) All laws, ordinances, and governmental regulations, including, but not limited to, all applicable building, zoning, land use and environmental ordinances, regulations, restrictions, prohibitions and other requirements, none of which will prevent or hinder or restrict the present use of the Property or the Easements.

**5.2 Status of Title.** The COUNTY shall have until March 22, 2002 to examine the Title Commitment. If the COUNTY finds title, as shown on the Commitment, to be defective (i.e., matters which render title unmarketable in accordance with the title standards adopted by the Florida Bar and are not Permitted Exceptions), the COUNTY shall, on or before March 22, 2002, notify the SELLER specifying the defect(s), provided that if the COUNTY fails to give the SELLER notice of defect(s) on or before March 22, 2002, the defects shown in the Commitment shall, anything in this Agreement notwithstanding, be deemed to be waived as title objections to closing this transaction. If the COUNTY has given the SELLER timely notice of defect(s) and the defect(s) render the title other than as required by this Agreement, the SELLER shall use its reasonable efforts to cause such defects to be cured by the Closing Date. In the event that defects are timely raised and the SELLER, after exercising all reasonable efforts, cannot cure same prior to the Closing Date, then, in that event, the COUNTY shall have the right to purchase the Property and Easements in their then existing condition of title, or to rescind and terminate this Agreement without liability by either party to the other. Notice of such election shall be given by the COUNTY to the SELLER, prior to the Closing Date.

**5.3 Deletion of Standard Exceptions.** SELLER will execute at or prior to closing, in favor of the title insurance agent and company, a Seller's affidavit for mechanics' and materialmen's liens, parties in possession and the "gap" sufficient to allow the Title Company to delete all standard exceptions addressed by such affidavits. Prior to closing, the surveys shall be updated as reasonably requested by the Title Company or COUNTY so that the survey exception may be deleted.

**SECTION 6. REPRESENTATIONS AND WARRANTIES OF SELLER.** The SELLER represents and warrants to COUNTY that:

**6.1 Organization, Standing And Power.** The SELLER is a corporation, duly organized, validly existing, and in good standing under the laws of the State of Florida. The SELLER has all requisite power and authority to own and lease its properties being conveyed hereunder and the Utility System, and to conduct its businesses related thereto as it is currently being conducted.

**6.2 Authority for Agreement.** The SELLER has the power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. This Agreement has been duly authorized by all action required to be taken by the SELLER, has

been duly executed and delivered by the SELLER, and constitutes a valid and binding obligation of the SELLER, enforceable in accordance with its terms.

**6.3 Good and Marketable Title.** Subject only to the Permitted Exceptions, the SELLER has good and marketable title to the Purchased Assets.

**6.4 No Liens or Encumbrances.** Except as otherwise specifically set forth in this Agreement or as may be released at or prior to the Closing Date, there are no mortgages, liens, claims or encumbrances of any type or nature upon or against the Purchased Assets including, but not limited to, mortgages, financing statements, or security instruments filed under the Uniform Commercial Code either in the County where the Property is located or with the Secretary of State. SELLER is in exclusive ownership, possession, and control of the Purchased Assets except for non-exclusive easements and SELLER at closing shall deliver exclusive possession and control of the Purchased Assets to the COUNTY.

**6.5 Litigation.** There are no actions, suits, or proceedings at law or in equity, pending against the SELLER before any federal, state, municipal or other court, administrative or governmental agency or instrumentality, domestic or foreign, which affect the Utility System or any of the Purchased Assets or the SELLER's right and ability to make and perform this Agreement; nor is the SELLER aware of any facts which to its knowledge are likely to result in any such action, suit or proceeding. The SELLER is not aware and has not been notified that it is in default with respect to any permit, approval order or decree of any court or of any administrative or governmental agency or instrumentality affecting the Utility System or any of the Purchased Assets. The SELLER agrees and warrants that it shall have a continuing duty to disclose up to and including the Closing Date the existence and nature of all pending judicial or administrative suits, actions, proceedings, and orders which in any way relate to the operation of the Utility System.

**6.6 Leases.** None of the Purchased Assets are subject to any interest of any lessor or lessee.

**6.7 No Governmental Violations.** SELLER is not aware and has not been notified of the existence of any violations of any governmental rules, regulations, permitting conditions or other governmental requirements applicable to the ownership, maintenance or operation of the Utility System.

**6.8 No Record Violations.** The SELLER is not aware and has not been notified of any restrictions or conditions of record which would adversely affect the use of the Utility Systems on the Property or Easements as described in Exhibits "1" and "2."

**6.9 Absence of Changes.** After the date of the execution of this Agreement, the SELLER shall not permit any change in its condition of properties, assets, liabilities, business or operations other than changes in the ordinary course of business which are not, either in any case or in the aggregate, materially adverse to the operation of the Utility System.

**6.10 Disclosure.** No representation or warranty made by the SELLER in this Agreement contains any untrue statement of material facts or omits to state any material fact required to make the statements herein contained not misleading. Should the SELLER become aware that any of the representations or warranties to COUNTY provided for herein are, or may reasonably be, materially untrue or incorrect, SELLER will promptly advise the COUNTY of same, in writing, specifying in reasonable detail the reasons why the SELLER believes such representations or warranties of COUNTY are, or may reasonably be, untrue or incorrect.

**6.11 Survival of Covenants.** SELLER agrees that its representation and warranties set forth herein are true and correct as of the date of the execution hereof shall be true and correct at the time of the Closing Date, and shall survive the Closing Date for one hundred eighty (180) days thereafter, except that SELLER's covenants related to title to the Purchased Assets shall not expire.

**6.12 FIRPTA.** The SELLER is not a "foreign person" within the meaning of the United States tax laws and to which reference is made in Section 1445 (b) (2) of the Internal Revenue Code. On the Closing Date, the SELLER shall deliver to the COUNTY a certificate to such effect.

**6.13 All Necessary Governmental Permits and Approvals.** As of the Closing Date, the SELLER warrants that it shall transfer to the COUNTY all necessary governmental permits currently held by SELLER and approvals such that the COUNTY can operate the Utility System.

**6.14 No Violation by Virtue of Election.** The execution, delivery and performance of this Agreement will not violate any provision of law, order of any court or agency of government, the Articles of Incorporation or any by-laws of the SELLER. or any indenture, agreement, or other instrument to which the SELLER is a party, or by which it is bound.

**6.15 No CERCLA Violations.** The SELLER has not violated, except as disclosed by the environmental audits, in connection with the ownership, use, maintenance, or operation of the Property or the Purchased Assets, applicable environmental, federal, state, county, or local laws relating to pollution or protection of the environment, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, the Resource Conservation and Recovery Act, or the Toxic Substance Control Act ("Environmental Laws"). SELLER has not authorized the placing or depositing of hazardous substances on the real property portion of the Purchased Assets except, if at all, in accordance with the applicable Environmental Laws, and SELLER has no actual knowledge of any hazardous substance having been, or currently being, placed or deposited on the premises except in accordance with such Laws.

**6.16 Location of Plants.** The water plant and wells used in the operation of the Utility System are located on the Property as identified in Exhibit "1" and the use of

such water plant and wells on the Property does not violate any zoning certifications, special exceptions or variances in a manner which would prohibit or materially interfere with the operation and maintenance of such water plants.

**6.17 Assignment of Certain Agreements.** To the extent such is required, the SELLER agrees that it shall obtain all necessary assignments, consents, and approvals in order to assign the agreements set forth in Exhibit "7" as referenced in Section 19 hereof.

**6.18 No Construction.** There is no construction work in progress on the Property.

**6.19 All Documents.** SELLER has provided all documents and information requested in furtherance of this Agreement by COUNTY in relation to the Utility System and Purchased Assets which are available or can be reasonably available to SELLER.

**SECTION 7. CONDUCT PENDING CLOSING.** The SELLER covenants that pending the closing:

**7.1 Business Conduct.** Except as otherwise consented to in writing by COUNTY, whose consent shall not be unreasonably withheld, delayed or conditioned, for the period beginning on the date of execution of this Agreement and ending on the Closing Date, SELLER shall:

(1) operate the Utility System in, and only in, the usual, regular and ordinary course and nevertheless comply with all applicable governmental requirements and law;

(2) maintain all of the Utility System's material structures, equipment, permits and other tangible personal property in good repair, order and condition, except for depletion, depreciation, ordinary wear and tear and damage by unavoidable casualty;

(3) keep in full force and effect insurance comparable in amount and scope of coverage to insurance now carried by it for the Utility System;

(4) perform in all material respects all of its obligations under agreements, contracts and instruments relating to or affecting the Utility System's properties, assets and operation;

(5) subject to available administrative remedies pursuant to Chapter 120, Florida Statutes, or any administrative judicial procedures or proceedings applicable to particular permits, comply in all material respect with all statutes, laws, ordinances, rules and regulations applicable to it and to the operation of the Utility System;

(6) promptly advise the COUNTY, in writing, of any material change which adversely affects the operation of the Utility System;

(7) not enter into any transaction, including without limitation, the purchase, sale or exchange of property the value of which exceeds \$5,000.00, which relates to the Utility System, except in furtherance of this Agreement with the SELLER, or the rendering of any service to SELLER except in the ordinary course of and pursuant to the reasonable requirements of the business of SELLER; \_\_\_\_\_

(8) subject to available administrative remedies pursuant to Chapter 120, Florida Statutes, or any administrative or judicial procedures or proceedings applicable to particular permits, comply with all Utility System permit requirements and obtain all necessary permit extensions or renewals with no additional operational or capital obligations such that said permits are valid as of the Closing Date; and

(9) seek and obtain any necessary permit extension or renewal so that said permits are valid, extended, or seeking extension as of the Closing Date.

**7.2 Risk of Loss.** The SELLER shall bear the risk of loss, damage or destruction of the Purchased Assets by fire or other casualty prior to and including the Closing Date. If any portion of the Purchased Assets is damaged by fire, act of God or other casualty before the Closing Date, the COUNTY shall have the option of (1) taking the Purchase Assets as is, without reduction in price, together with the SELLER's assignment to the COUNTY of all rights under its insurance policies and all of the insurance proceeds, if any; or (2) taking the Purchased Assets, as is, with a reduction in price, mutually agreed to by SELLER and COUNTY, based upon a percentage allocation of the Purchase Price derived by comparing the net book value of the Purchased Assets destroyed to the net book value of the Utility System and the SELLER shall maintain all rights under its insurance policies and to all of the insurance proceeds; or (3) canceling this Agreement in which event the Parties hereto shall be released from all further obligations to each other.

**7.3 Access to Records.** The SELLER will at all times cooperate by providing reasonable access, upon prior written notice (not less than forty-eight (48) hours in advance), to their records and facilities applicable to the Utility System for inspection to assist in acquainting the COUNTY'S operating and administrative personnel in the operation of the Utility System; provided, however, that no such inspection shall materially interfere with the operation of the Utility System or the day to day activities of the SELLER's personnel.

**7.4 Performance of Closing Conditions.** The SELLER shall perform all of the conditions to closing which should be performed by the SELLER prior to the Closing Date as provided herein.

**7.5 Examination and Inspection.** The SELLER will permit reasonable examination by the COUNTY'S authorized representatives of all existing contractual obligations, physical systems, assets, real estate, rights-of-way, easements and inventories which are utilized by the SELLER in connection with the Utility System. No such examination by the COUNTY's authorized representatives shall interfere with the SELLER's operations of the Utility System or the day to day operations of the SELLER's personnel. The SELLER shall make these assets and records available for examination by the COUNTY's authorized representatives at reasonable times and upon prior written notice (not less than forty-eight (48) hours in advance) from the COUNTY. Such facilities will be properly maintained by the SELLER within the custom and usage of the water industry in Florida until the Closing Date.

**SECTION 8. REPRESENTATIONS AND WARRANTIES OF COUNTY.** The COUNTY represents and warrants to the SELLER, as follows:

**8.1 Organization, Standing and Power of COUNTY.** The COUNTY is a political subdivision of the State of Florida and has all requisite power and authority to enter into this Agreement, to own and lease real and personal property, and to carry out and perform the terms and provisions of this Agreement.

**8.2 Authority for Agreement.** The COUNTY has the authority and power to execute and deliver this Agreement and to carry out its obligations hereunder. The COUNTY has held all of the necessary public hearings to authorize the COUNTY's purchase of the Utility System and obtained the documents required by Section 367.071(4)(a), Florida Statutes. This Agreement has been duly authorized by all action required to be taken by the COUNTY, has been duly executed and delivered by the COUNTY, and constitutes a valid and legally binding obligation of the COUNTY, enforceable in accordance with its terms.

**8.3 Disclosure.** No representation or warranty made by the COUNTY in this Agreement contains or will contain any untrue statement of material facts or omits or will omit to state any material fact required to make the statements herein contained not misleading. Should the COUNTY become aware that any of the representations or warranties of SELLER provided for herein are, or may reasonably be, materially untrue or incorrect, COUNTY will promptly advise the SELLER of same, in writing, specifying in reasonable detail the reasons why the COUNTY believes such representations or warranties of SELLER are, or may reasonably be, untrue or incorrect.

**8.4 Litigation.** There are no actions, suits, or proceedings at law or in equity, pending against the COUNTY before any federal, state, municipal or other court, administrative or governmental agency or instrumentality, domestic or foreign, which affect the COUNTY's ability to enter into and perform this Agreement. The COUNTY shall have the continuing duty to disclose up to and including the Closing Date the existence and

nature of all pending judicial or administrative suits, actions, proceedings, and orders which in any way relate to its ability to perform its obligations under the Agreement.

**8.5 Performance of Closing Conditions.** The COUNTY shall perform all of the conditions to closing which should be performed by the COUNTY prior to the Closing Date as provided herein.

**8.6 Survival of Covenants.** COUNTY agrees that its representation and warranties set forth herein are true and correct as of the date of the execution hereof, shall be true and correct at the time of the Closing Date, and shall survive the Closing Date.

**8.7 Delivery of Resolution.** If it has not already done so, COUNTY will deliver to SELLER a certified copy of a resolution of the Board approving the COUNTY's execution and performance of this Agreement with five (5) business days of COUNTY's execution hereof.

**8.8 No Conflicts.** The execution, delivery and performance of this Agreement will not violate any provision of law, order of any court or agency of government, the charter of the COUNTY, or any administrative regulation or decree, or any provision of the Constitution or the laws of the State of Florida relating to the COUNTY or its affairs or any ordinance, resolution, agreement, indenture, lease, or other instrument to which the COUNTY is a party, subject or by which it is bound.

**8.9 Police Power.** Subject to the police power of the COUNTY and its ability to charge its prevailing capital charges, COUNTY shall after closing fulfill the SELLER's obligations to furnish water service as of the Closing Date as set forth in Section 19 of this Agreement.

**8.10 COUNTY Actions.** The COUNTY shall take no action inconsistent with its express obligations under the terms and conditions of this Agreement.

**8.11 Inspections.** All inspections of the Utility System by COUNTY or its representatives performed pursuant to this Agreement shall not materially interfere with the operation of the Utility System or the day-to-day activities of the SELLER's personnel, and COUNTY agrees to indemnify and hold SELLER harmless from any third party claims, actions, expenses, or damages, including costs and attorney's fees at trial and appeal, which the SELLER incurs (for personal injury or property damage) as a direct result of the inspection of the Utility System by the COUNTY, its agents, contractors, representatives and/or employees.

**SECTION 9. ADDITIONAL CONDUCT PENDING CLOSING.** The COUNTY and the SELLER covenant with each other that pending the closing on this transaction, neither shall obstruct, hinder or interfere in the operation of the Utility System by the SELLER or with the processing and consideration by governmental agencies of any applications or petitions



filed by the SELLER or COUNTY that are related to the Utility System. SELLER shall execute all necessary documents to assist in securing necessary governmental approval(s) for the renewal, expanded use, and transfer of said permit, and shall use its best efforts to assist the COUNTY in obtaining all such necessary governmental approvals. Prior to closing, neither the COUNTY, nor any of COUNTY's representatives, consultants, employees or agents shall file any application or petition with any governmental agency having jurisdiction over the Utility System.

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**SECTION 10. ADJUSTMENTS AND PRORATIONS; CLOSING COSTS.** At the time of closing, the parties covenant and agree that the following adjustments shall be made:

**10.1** Real and personal property taxes for 2002 on all real and personal property which is being conveyed by the SELLER to the COUNTY, shall be prorated as of 11:59 p.m. of the Closing Date and shall be paid by the SELLER in accordance with Section 196.295, Florida Statutes. The COUNTY shall not be charged with proration of any ad valorem taxes. SELLER shall remain obligated to pay real and personal property taxes for 2001.

**10.2 (1)** All rates, fees, and charges for water service through the Closing Date shall be the property of the SELLER. The SELLER shall include a written notice to each customer that the Utility Systems are being transferred to the COUNTY.

**(2)** Except as otherwise provided in Sections 10.2 (3) and (4) below, all prospective rates, fees, and charges for water service after the Closing Date shall be the property of the COUNTY.

**(3)** Immediately prior to the Closing Date SELLER and COUNTY shall cause a final meter reading by SELLER and an initial meter reading by COUNTY to occur simultaneously. SELLER shall cause a final billing to be sent to the customers based on the final meter reading. SELLER shall receive all revenue through its final billing as described in this subsection. COUNTY shall be entitled to receive all revenue based on billings commencing with the initial meter reading.

**(4)** Subject to state law, COUNTY agrees to disconnect service from any customer who fails to pay SELLER amounts owed SELLER through the Closing Date upon notification to COUNTY by SELLER that such amounts are sixty (60) days past due.

**10.3** The SELLER shall request all of its suppliers and vendors to submit final invoices for services, materials, and supplies, including electricity for the period up to and including the Closing Date. The SELLER shall be responsible for, and shall provide to the COUNTY, upon request, evidence of the payment of all such invoices.

**10.4** SELLER shall retain all Connection Charges, as hereinafter defined, heretofore paid to SELLER prior to the Closing Date. The value of outstanding prepaid connection charges made to SELLER prior to the Closing Date, if any, shall be deducted from the purchase price as set forth in Section 4.3 above. SELLER has entered into no agreements or commitments with developers or customers providing for the extension of services or facilities with regard to the Utility System. COUNTY shall be entitled to receive all Connection Charges paid after the Closing Date. The term Connection Charges shall mean connection, plant capacity, main extension, allowance for funds prudently invested ("AFPI") charges and/or capital charges ("Connection Charges").

**10.5** All adjustments and prorations shall be calculated as of 11:59 p.m. of the Closing Date.

**10.6** All costs of recording any releases, satisfactions or corrective instruments, if any, shall be paid by COUNTY.

**10.7** Certified, confirmed or ratified special assessments or municipal liens prorated as of the Closing Date, will be paid by SELLER.

**10.8** Any taxes on gross receipts or regulatory assessment fees incurred as of the Closing Date shall be paid by SELLER.

**10.9** If applicable, rents under any lease agreement assumed by the COUNTY hereunder shall be prorated as of the Closing Date.

**10.10** All bills for other services, materials and supplies rendered in connection with the operation of the Utility System prior to the Closing Date shall be paid by SELLER.

**10.11** The cost of transfer of the FPSC certificate from SELLER to COUNTY pursuant to Section 16 shall be paid by SELLER.

**10.12** The cost of transferring permits from SELLER to COUNTY, unless otherwise specifically designated in this Agreement, shall be paid by COUNTY.

**10.13** COUNTY shall pay for the survey, title search and title policy.

**10.14** Unless otherwise specifically designated in this Agreement, COUNTY shall pay for the real property assets and other investigation necessary to bring this transaction to closing.

**10.15** The COUNTY acknowledges that the SELLER has agreed to sell its assets under threat of condemnation. As such, SELLER shall not be responsible for or

required to pay the documentary stamp tax on the deeds of conveyance of Property included in the Purchased Assets. However, in the event an unforeseen changes in law mandate that documentary stamp tax be paid in regards to this transaction, then the COUNTY shall pay the documentary stamp tax.

**SECTION 11. INDEMNITIES.** Except as otherwise provided for in this Agreement, the SELLER shall indemnify and hold the COUNTY, its representative agents and employees harmless from and against any and all claims, liability, demands, damages, surcharges, refunds, expenses, fees, fines, penalties, suits, proceedings, actions and fees, including damage to property or property rights that may arise from or are related to third party claims arising from or related to acts, errors, or omissions of the SELLER, its agents, employees, servants, licensees, invitees, or contractors or by any person under the control or direction of the SELLER arising out of (1) its operation, maintenance, or management of the Utility System up to and including the Closing Date, (2) any local, state, or federal enforcement case that may be later filed after the Closing Date related to alleged or actual violations of local, state or federal laws, rules, ordinances, policies, or requirements that occurred prior to or on the Closing Date, or (3) any FPSC rate case proceeding related to the Utility System. The COUNTY shall indemnify and hold the SELLER, its representative agents and employees harmless from and against any and all third party claims, liability, demands, damages, surcharges, refunds, expenses, fees, fines, penalties, suits, proceedings, actions and fees, including damage to property or property rights that may arise from or which are related to the acts, errors, or omissions of the COUNTY, its agents, employees, servants, licensees, invitees, or contractors or by any person under the control or direction of the COUNTY arising out of (1) its operation, maintenance, or management of the Utility System subsequent to the Closing Date, (2) any other local, state, or federal enforcement case that may be later filed after the Closing Date related to alleged or actual violations of local, state or federal laws, rules, ordinances, policies, or requirements that occurred subsequent to the Closing Date, related to the Utility System. Except for issues related to SELLER's obligations to deliver title to the Purchased Assets, the indemnities provided hereunder shall expire two (2) years after the Closing Date.

**SECTION 12. ENVIRONMENTAL MATTERS.** The COUNTY shall have the right to perform both a Level I and Level II Environmental Audit, as such terms are generally understood by the environmental consulting industry in the State of Florida, of all real property associated with the operation of the System, including the Property. These audits shall be performed at COUNTY's expense. These environmental audits may include, but not be limited to, appropriate borings, samplings, "sniffer" tests, as well as an appropriate title search in order to determine that the sites are in full compliance with applicable local, state, and federal environmental and occupational health and safety statutes and regulations. If after reviewing the environmental audits, COUNTY reasonably determines that any portion of the Utility System hereunder is not in full compliance with applicable local, state, and federal environmental and occupational health and safety statutes and regulations, COUNTY may elect not to acquire the Utility System by giving SELLER written notice of its election not to acquire said Utility System five (5) days before the Closing Date. In the

event COUNTY elects not to acquire the Utility System, neither party shall have any liability to the other. The COUNTY, however, shall provide SELLER prior written notice (not less than forty-eight (48) hours in advance) of any proposed inspection of the Utility Systems, which shall take place at reasonable times and without interfering with the operation of the System by SELLER. The COUNTY shall indemnify, defend and hold SELLER harmless for any claims, actions, expenses or damages, including cost and attorney's fees, at trial and appeal, which SELLER incurs for personal injury or property damage that occurs as a direct result of the inspection of the Utility System by COUNTY, its agents, contractors, representatives and/or employees. This Section 12 indemnification obligation shall survive the closing by two (2) years.

### **SECTION 13. CLOSING.**

**13.1** The place of closing shall be in Ocala, Marion County, Florida at the COUNTY's administration building, 601 S.E. 25th Avenue, and such closing shall occur on or before March 26, 2002 (the "Closing Date"). Notwithstanding anything to the contrary, the closing of this transaction shall take place upon the delivery of the Purchase Price to the SELLER in the manner and on the date provided for in this Agreement. The parties agree that the closing of this transaction on or before March 26, 2002, was a material part of the negotiations and absent such agreement this transaction would not have taken place. Accordingly, the closing of this transaction shall not be extended beyond the Closing Date.

**13.2** The parties agree that it is their mutual intent that the entire Utility System, consisting of the real property, easements and other rights, plant and other facilities, equipment, customer records and supplier lists, plans and specifications, certificates, permits and approvals, and good will is to be conveyed to the COUNTY by the SELLER at closing. The parties acknowledge and agree that two agreements, this Agreement and a Companion Agreement, when taken together cause the entire Utility System to be transferred. Accordingly, both this Agreement and the Companion Agreement shall be fully honored and be implemented to cause the closing on the Closing Date. If for any reason the Companion Agreement is not caused to close as of the Closing Date then this Agreement may be cancelled by either party.

### **SECTION 14. CLOSING DOCUMENTS AND PROCEDURES.**

**14.1 Deliveries from SELLER.** The following documents shall be delivered by the SELLER to the COUNTY at closing unless other specific dates for delivery are indicated below, with the originals of such documents being executed and provided to the COUNTY on or before March 22, 2002:

(1) Warranty deeds to all of the Property owned by the SELLER as described in Exhibit "1" conveying to the COUNTY all of the SELLER'S right, title and interest in all such property and warranting that such Property is free and clear of all liens,

claims and encumbrances other than Permitted Exceptions, as that term is defined in Subsection 5.1 hereof.

(2) Instruments of conveyance, in appropriate recordable form, of all the Easements as described in Exhibit "2" conveying to the COUNTY all of SELLER'S right, title and interest in all such property, together with all utility improvements thereto, and warranting that such easement rights and rights to use dedicated rights-of-way are or shall be made pursuant to Subsection 6.3 hereof, free and clear of all liens, security interests, encumbrances, leasehold interests, charges or options, covenants or restrictions other than Permitted Exceptions, as that term is defined herein;

(3) General assignment to the COUNTY of all other interests in the Property, together with a general assignment of all Contracts, Agreements, permits and approvals as provided for and in the manner specified in this Agreement;

(4) Bills of sale or other documents of assignment and transfer, with full warranties of title as specified in this Agreement, to all Water System Assets other than those assets covered by Subsections 14.1(2) and 14.1(3) hereof;

(5) Copies of all business records sold to the COUNTY hereby (originals thereof to be delivered at closing);

(6) Copies of all permits, governmental authorizations and approvals, together with applications for or transfer approvals from any and all agencies that have issued said permits, authorizations, and approvals (originals thereof to be delivered at closing);

(7) Standard no-lien SELLER's affidavit in a form reasonably required by the Title Company as to realty and personalty insuring against any liens, claims or encumbrances upon the Purchased Assets;

(8) A "non-foreign" affidavit or certificate pursuant to Section 1445 of the Internal Revenue Code;

(9) Such other affidavits, corporate resolutions and acknowledgments as the title company shall reasonably request in order to cause the title company to issue the policy evidencing marketable title as contemplated herein;

(10) A corporate officer's certificate confirming that the SELLER's warranties hereunder are true and correct as of the Closing Date;

(11) Evidence of insurance to the COUNTY providing coverage of the Utility System;

(12) The following listed instruments and documents:

- (A) All contracts, customer service agreements, development agreements, and other agreements for service;
- (B) One hundred twenty (120) days prior to the Closing Date, documentation of all customer deposits, a complete billing register and billing information of the customers of the Water System;
- (C) Documentation of accounts receivable;
- (D) Inventory of that rolling stock, movable equipment, laboratory equipment, tools, accessories and appurtenances that is being transferred to and being paid for by COUNTY;
- (E) Forty-five (45) days prior to closing a listing of all vendors, vendor accounts and other related vendor information;

(13) Such other instruments and documents, in form approved by the COUNTY's counsel as may be reasonably required in order to transfer ownership and possession of the Purchased Assets to the COUNTY; provided that none of such documents shall result in any additional liability on the part of SELLER not otherwise provided for in this Agreement.

(14) All assignments of agreements listed in Section 19 that assign the agreements to COUNTY.

**14.2 Deliveries from the COUNTY.** On the Closing Date, the COUNTY shall pay the Purchase Price to the SELLER by wire transfer in the amount due SELLER as provided in Section 4 of this Agreement, subject to the prorations and adjustments. The COUNTY shall also deliver at the closing, the executed form of an assumption of the agreements (if any) set forth in Section 19 of this Agreement, an assumption of the leases, permits, agreements, approvals and other interests in the Purchased Assets being assigned by the SELLER, as provided by the SELLER pursuant to Subsection 14.1 hereof, and a certified copy of a resolution of the COUNTY approving this transaction, if not previously delivered to SELLER. Said documents shall be executed on the Closing Date. The assignments and assumptions being prepared by the parties may be incorporated into one document at the convenience of the parties. COUNTY shall also deliver at closing: (a) such affidavits and acknowledgments as the title Company shall reasonably request in order

to cause said title Company to issue a title insurance policy evidencing a marketable title in COUNTY; (b) a County Officer's Certificate confirming that the warranties of COUNTY set forth in this Agreement applicable to the closing are true and correct as of the closing; and (c) such other instruments and documents as SELLER's Counsel may reasonably require, in form approved by COUNTY's Counsel, in order to transfer possession and control of the Purchased Assets to COUNTY, provided that none of such documents shall result in any additional liability on the part of COUNTY not otherwise provided for in this Agreement.

**14.3 Inadvertent Omissions.** If at any time within six (6) months after the Closing Date either party discovers any item associated with the Utility System which it reasonably believes was intended to be or should have been included as one of the Assets, or Excluded Assets, it shall detail such belief in a written notice to the other party. The parties shall as soon thereafter as reasonably possible meet to discuss the status of the omitted item and use good faith efforts to agree on the proper disposition of that item. Upon agreement, the parties will determine if any adjustment need be made to the Purchase Price as a result of such disposition and the affected party shall provide payment within thirty (30) days thereafter to the other based upon the agreed adjustment value of the omitted item. The party in possession of the omitted item shall promptly deliver same to the other party and cause such reasonable documentation of conveyance of such items to be executed and delivered to the other party as shall be requested by that party.

**SECTION 15. RESPONSIBILITY FOR PROFESSIONAL FEES AND COSTS.** Each party hereto shall be responsible for its own attorneys' fees, engineering fees, accounting fees and other costs in connection with the preparation and execution of this Agreement, the closing of the transaction contemplated herein and in connection with all judicial and administrative proceedings related to the acquisition of the Utility System.

**SECTION 16. PUBLIC SERVICE COMMISSION APPROVAL.** SELLER shall apply for approval by the Florida Public Service Commission for transfer of the Purchased Assets from SELLER to COUNTY. SELLER agrees to pay all fees and costs incurred by SELLER incident to such dealings with the Florida Public Service Commission. It is agreed that COUNTY shall apply every reasonable effort to cooperate with SELLER to obtain approval from the Florida Public Service Commission and will render all reasonable assistance to SELLER necessary to obtain such approval. Copies of the Order(s) of the Commission acknowledging sale of the Utility Systems to the COUNTY shall be promptly provided to the COUNTY, upon SELLER's receipt thereof.

**SECTION 17. COMMISSIONS.** The SELLER and the COUNTY warrant to the other that the transaction contemplated by this Agreement is a direct, private transaction between the SELLER and the COUNTY without the use of a broker or commissioned agent.

**SECTION 18. FURTHER ASSURANCES.** Each of the parties hereto agrees that, from time to time, upon the reasonable request of the other party and at the expense of the

requesting party, without further consideration, it shall execute and deliver to the requesting party any and all further instruments, affidavits, conveyances and transfers as may be reasonably required to carry out the provisions of this Agreement.

## **SECTION 19. CERTAIN AGREEMENTS.**

**19.1 Contracts and Agreements.** The COUNTY shall take title to the Purchased Assets encumbered by no contracts or agreements subject to the declaration of covenants and restrictions of the Palm Cay Subdivision. Notwithstanding anything to the contrary stated in this Agreement, the COUNTY is not assuming and has no obligation to honor the amount of any prepaid or discounted connections for customers or properties, dwelling units, or commercial or industrial structures not connected to the Utility System prior to the Closing Date, but rather reserves the right to charge and collect its own capital charges as precondition to providing service, giving due credit for connection fee amounts previously paid.

**19.2 Other Agreements.** Except as expressly set forth in this Agreement, the COUNTY is not assuming any other agreements to which SELLER is a party.

**SECTION 20. NOTICES; PROPER FORM.** Any notices required or allowed to be delivered hereunder shall be in writing and may either be (1) hand delivered, (2) sent by recognized overnight courier (such as Federal Express) or (3) mailed by certified or registered mail, return receipt requested, in a postage prepaid envelope, and addressed to a party at the address set forth opposite the party's name below, or at such other address as the party shall have specified by written notice to the other party delivered in accordance herewith:



**COUNTY:** Marion County  
601 S.E. 25<sup>th</sup> Avenue  
Ocala, FL 34471-2690  
Attention: County Administrator

With a copy to: Thomas A. Cloud, Esq.  
Gray, Harris & Robinson, P.A.  
301 East Pine St., Suite 1400  
Orlando, FL 32801

**SELLER:** Palm Cay Utilities, Inc.  
1720 Southwest 55<sup>th</sup> Lane  
Ocala, Florida 34474  
Attention: Jon M. Kurtz,  
Title: \_\_\_\_\_

With a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notices personally delivered by hand or sent by overnight courier shall be deemed given on the date of delivery and notices mailed in accordance with the foregoing shall be deemed given three (30) days after deposit in the U.S. mail.

**SECTION 21. ENTIRE AGREEMENT.**

**21.1** This instrument constitutes the entire Agreement between the parties and supersedes all previous discussions, understandings, and agreements between the parties relating to the subject matter of this Agreement. This Agreement may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change would be sought.

**21.2** The COUNTY and the SELLER acknowledge and agree that this Agreement is a companion to the other agreement between COUNTY and SELLER and when the two agreements are taken together will fully and completely transfer the entire Utility System from the SELLER to the COUNTY. It is the intent of the parties that both agreements will close simultaneously. Both this Agreement and the Companion Agreement may be read together and considered for purposes of determining, interpreting and consummating the sale and transfer of the entire Utility System from SELLER to the COUNTY.

**SECTION 22. AMENDMENT.** Amendments to and waivers to the provisions of this Agreement shall be made by the parties only in writing by formal amendment.

**SECTION 23. DISCLAIMER OF THIRD PARTY BENEFICIARIES.** This Agreement is 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.

**SECTION 24. BINDING EFFECT.** All of the provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the legal representatives, successors and nominees of the COUNTY and the SELLER.

**SECTION 25. TIME OF THE ESSENCE.** Time is hereby declared of the essence in the performance of each and every provision of this Agreement.

**SECTION 26. APPLICABLE LAW.** This Agreement shall be construed, controlled, and interpreted according to the laws of the State of Florida.

**SECTION 27. CORROBORATION OF PAYMENTS AFTER CLOSING.** In each instance in which either the SELLER or the COUNTY is to receive money from another party after the Closing Date pursuant to the provisions of this Agreement, the party who is entitled to receive the money under the terms of this Agreement shall have the right to inspect, at its own expense, those books and records of the other party as may be necessary to corroborate the accuracy of the amount of money received by the party, within thirty (30) days of receipt of payment. In the event the party making the inspection discovers an error in payment, the party making the payment shall promptly transfer the difference in payment to the party who is entitled to payment; provided, however, that to the extent that the error in payment is ten percent (10%) or more, then the party making payment shall, in addition to paying the shortfall, reimburse to the party making the inspection the reasonable costs of the inspection.

**SECTION 28. RADON GAS.** RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY PUBLIC HEALTH UNIT.

## **SECTION 29. DEFENSE OF ACTIONS OR CLAIMS**

**29.1** Each party who is or may be entitled to indemnity under the provisions of this Agreement (the "Indemnitee") shall promptly notify the other party who is or may be required to provide indemnity under the provisions of this Agreement, as applicable (the "Indemnitor"), of any lawsuit or claim against such Indemnitee which it has reasonable cause to believe would entitle it to indemnification under such Section of this Agreement. Failure of such Indemnitee to promptly notify the Indemnitor of any such action or claim

shall constitute a defense by Indemnitor against its obligation to indemnify the Indemnitee under this Agreement with regard to such claim or action, if such failure to provide such prompt notification reasonably prejudices the defense or other successful resolution of such action or claim by Indemnitor.

**29.2** Upon receipt of such prompt notification of such claim or action, the Indemnitor shall be entitled, in its absolute discretion, to select legal counsel; to assume at its expense the defense of any such action or claim, including the prosecution of any applicable cross-claims or counter claims; to direct the manner in which such defense shall be conducted; and to determine the terms of settlement of, any such suit or claim against Indemnitee, provided that no such resolution awarding relief other than money damages against the Indemnitee may be agreed to without the consent of the Indemnitee, which consent shall not be unreasonably withheld, delayed or conditioned by Indemnitee. Indemnitee shall provide its full cooperation and assistance to Indemnitor with regard to the defense of such claim or action against Indemnitee, as afore-described, as reasonably requested by Indemnitor.

**29.3** If the defendants in or to any such action or claim include both the Indemnitee and the Indemnitor and the Indemnitee reasonably concludes that there are valid legal defenses available to the Indemnitee which are different from or additional to the legal defenses being raised by the Indemnitor, and which, after written notice thereof being given to the Indemnitor by the Indemnitee, are not being asserted by the Indemnitor on behalf of the Indemnitee regarding such action or claim, the Indemnitee shall have the right to select separate counsel to assert such additional legal defenses in such action on behalf of such Indemnitee; provided such legal defenses which Indemnitee desires to assert are not reasonably inconsistent with, contrary to or would otherwise prejudice the defenses which the Indemnitor is asserting on behalf of the Indemnitee. The Indemnitee shall take no action with regard to such claim or action which is inconsistent with or may reasonably prejudice the defenses, cross-claims or counter claims being asserted by Indemnitor on behalf of Indemnitee.

**29.4** If an Indemnitor elects to assume and does assume, the defense of any such suit or claim, it shall not be liable for any legal expenses incurred by the Indemnitee with respect to such matter and if the Indemnitee, after due notice to the Indemnitor of the existence of valid defenses not being employed by the Indemnitor as afore-described, employs separate counsel in connection with the assertion of such legal defenses not being raised by the Indemnitor on behalf of the Indemnitee and the Indemnitee is, in fact, ultimately successful in the assertion of those legal defenses that the Indemnitor refused to assert after due notification by the Indemnitee.

**29.5** If the Indemnitor, after receipt of such prompt notification of such claim or action, does not assume the defense of any such suit or claim, it shall thereafter be barred from disputing the nature and amount of the damages ultimately incurred or

determined to have been incurred by the Indemnitee in settling or litigating the action or claim.

### **SECTION 30. MISCELLANEOUS.**

**30.1** All of the parties to this Agreement have participated fully in the negotiation and preparation hereof, and, accordingly, this Agreement shall not be more strictly construed against any one of the parties hereto.

**30.2** Except for the provisions of Section 4 and 14.1(1) hereof, in the event any term or provision of this Agreement be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.

**30.3** In the event of any litigation between the parties under this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs at all trial and appellate levels.

**30.4** In construing this Agreement, the singular shall be held to include the plural, the plural shall be held to include the singular, the use of any gender shall be held to include every other and all genders, and captions and paragraph headings shall be disregarded.

### **SECTION 31. ADDITIONAL SELLER RESPONSIBILITIES.**

**31.1** While it is anticipated that as of the Closing Date, COUNTY billing will be handled by COUNTY, if necessary, SELLER at its expense shall provide COUNTY with up to sixty (60) days of billing services which include rendering the bills, mailing the bills, collecting the money and turning the money collected over to and paying the COUNTY, (COUNTY, however, shall be responsible for reading the meters and turning over data and for collection of nonpayment of bills), during the sixty (60) days following the Closing Date.

**31.2** The COUNTY agrees to replace at its expense any operations employees of SELLER that quit or resign after the Closing Date. All SELLER employees shall have the right to apply to work for the COUNTY subject to normal employment requirements, rules, and policies.

**31.3 (1)** SELLER shall make available at its expense key utility staff for transition activities for up to sixty (60) days, as necessary, following the Closing Date.

**(2)** SELLER and the COUNTY agree that SELLER shall provide to the COUNTY the Palm Cay Utilities general manager as a temporary employee of the

COUNTY to assist in the transfer operations from SELLER to the COUNTY for one month following the closing. The COUNTY shall pay this temporary employee at a rate of \$10.04 per hour.

31.4 SELLER, at its expense, shall provide for a minimum of one month materials, supplies, and consumables to be transferred to COUNTY on the Closing Date.

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

SIGNED, SEALED, AND DELIVERED  
IN THE PRESENCE OF:

PALM CAY UTILITIES, INC.

x [Signature]  
Name: Demetra Rucker

BY: [Signature]  
Print Name: Jon M. Kurtz  
As Its: President

x [Signature]  
Name: Collette Liberty

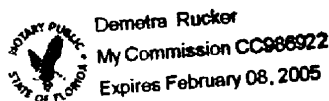
DATE: 2/21/02

[CORPORATE SEAL]

STATE OF FLORIDA  
COUNTY OF MARION

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of February, 2002, by Jon M Kurtz, as President, of PALM CAY UTILITIES, INC., a Florida corporation, on behalf of the corporation.

AFFIX NOTARY STAMP



Signature of Notary Public


(Print Notary Name)  
My Commission Expires: \_\_\_\_\_  
Commission No.: \_\_\_\_\_

Personally known, or  
 Produced Identification  
Type of Identification Produced

ATTEST:

  
David R. Ellspermann, Clerk

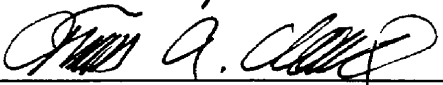
BOARD OF COUNTY COMMISSIONERS  
OF MARION COUNTY, FLORIDA

BY:   
Randy Harris, Chairman

Date: March 19, 2002

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

February 22, 2002

  
Thomas A. Cloud, Esquire  
Special Utility Counsel

STATE OF FLORIDA  
COUNTY OF MARION

The foregoing instrument was acknowledged before me this 19th day of March, 2002, by Randy Harris Chairman of the Board of County Commissioners, known to me to be the person described in and who executed the foregoing.

  
\_\_\_\_\_  
Signature of Notary Public

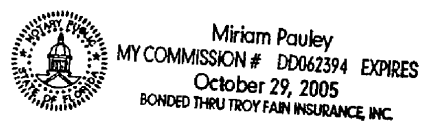
Miriam Pauley  
\_\_\_\_\_  
(Print Notary Name)

My Commission Expires: 10/29/05

Commission No.: DD062394

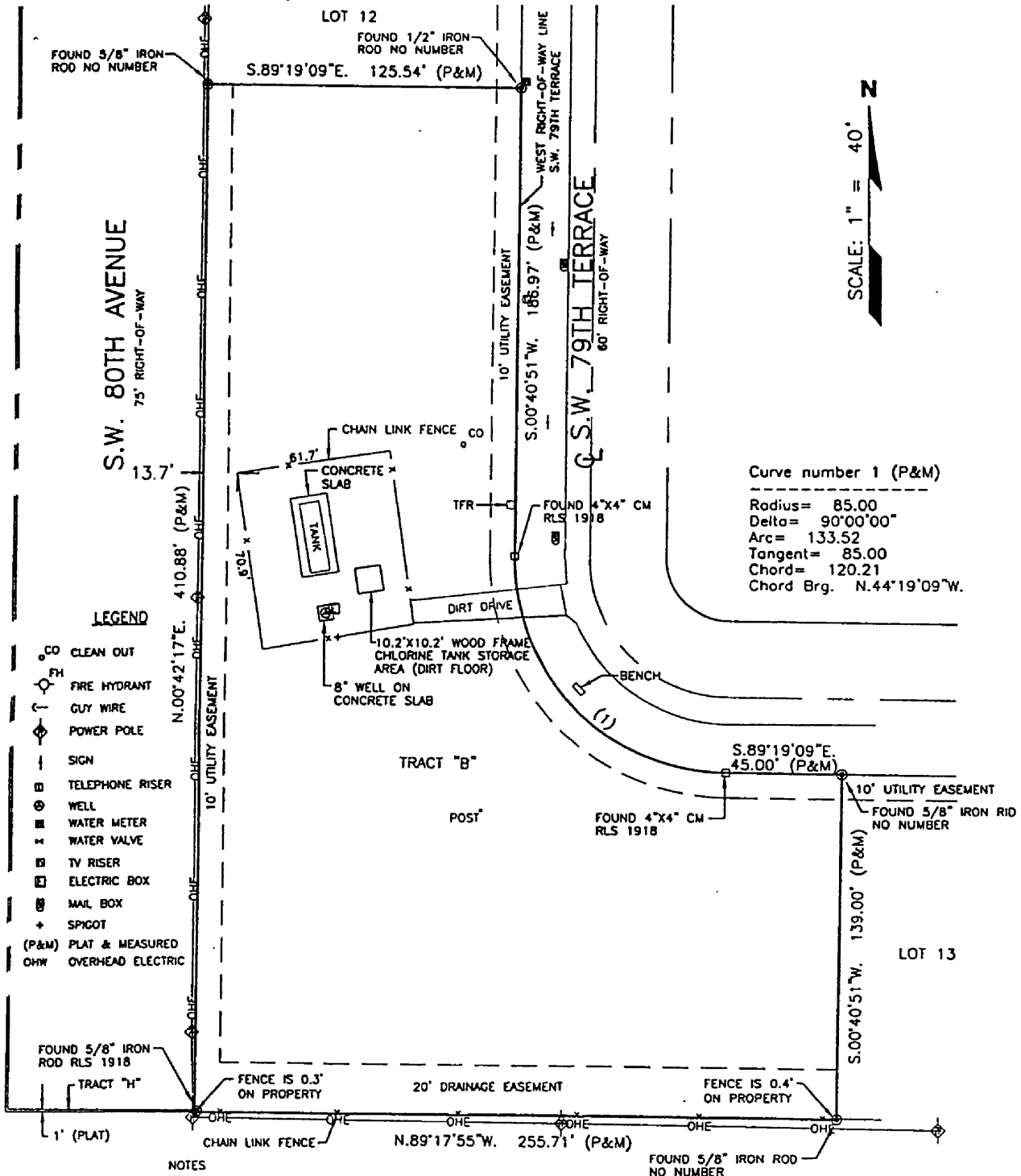
- Personally known, or
  - Produced Identification
- Type of Identification Produced

AFFIX NOTARY STAMP



DESCRIPTION:

TRACT B, PALM CAY UNIT II AND A REPLAT OF TRACTS E AND F OF PALM CAY, PLAT BOOK Y, PAGE 49-52, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGES 9, 10 AND 11. PUBLIC RECORDS OF MARION COUNTY, FLORIDA.



Curve number 1 (P&M)  
 Radius = 85.00  
 Delta = 90°00'00"  
 Arc = 133.52  
 Tangent = 85.00  
 Chord = 120.21  
 Chord Brg. N.44°19'09"W.

LEGEND

- CLEAN OUT
- FIRE HYDRANT
- GUY WIRE
- POWER POLE
- SIGN
- TELEPHONE RISER
- WELL
- WATER METER
- × WATER VALVE
- TV RISER
- ELECTRIC BOX
- MAIL BOX
- + SPIGOT
- (P&M) PLAT & MEASURED
- OHW OVERHEAD ELECTRIC

NOTES

- 1.) BEARINGS SHOWN HEREON ARE BASED ON THE WEST RIGHT-OF-WAY LINE OF SW. 79TH TERRACE HAVING A PLAT BEARING OF S.00°40'51"W.
- 2.) THERE MAY BE EASEMENTS AND RESTRICTIONS OF RECORDS AND/OR PRIVATE AGREEMENTS NOT FURNISHED TO THIS SURVEYOR THAT MAY AFFECT PROPERTY RIGHTS AND/OR LAND USE RIGHTS OF THE LANDS SHOWN HEREON.
- 3.) NO UNDERGROUND INSTALLATIONS, FOUNDATION FOOTINGS OR IMPROVEMENTS HAVE BEEN LOCATED EXCEPT AS NOTED.
- 4.) BASED ON THE NATIONAL FLOOD INSURANCE PROGRAM "FIRM" MAP COMMUNITY - PANEL NUMBER 120160 0650 B DATED JANUARY 19, 1983 THE ABOVE DESCRIBED PROPERTY IS LOCATED IN ZONE C.

BOUNDARY SURVEY  
 OF  
 TRACT "B"  
 FOR  
 PALM CAY UTILITIES

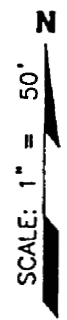
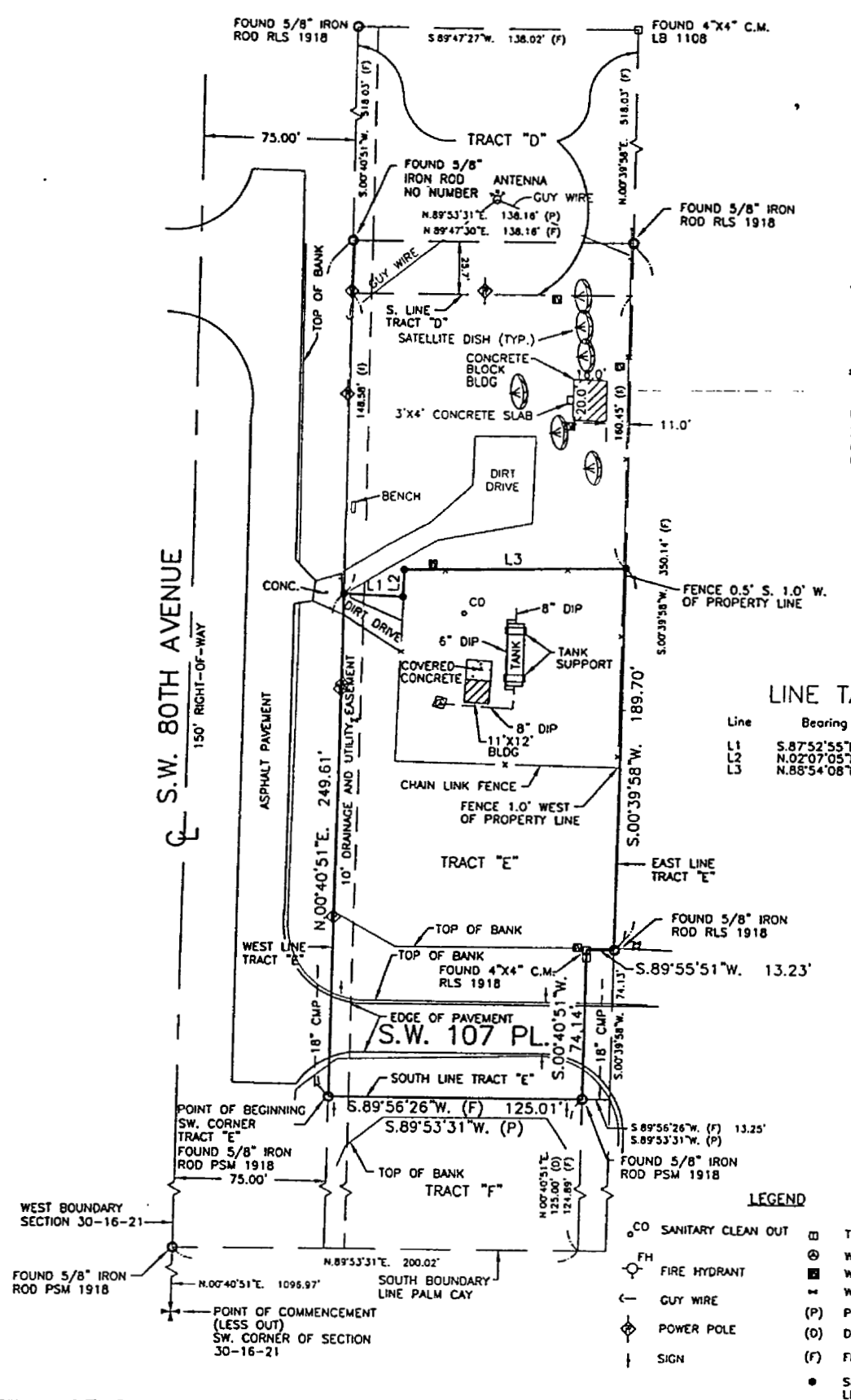
Revision: \_\_\_\_\_ Date: \_\_\_\_\_  
 Revision: \_\_\_\_\_ Date: \_\_\_\_\_  
 Revision: \_\_\_\_\_ Date: \_\_\_\_\_

**HARTMAN & ASSOCIATES, INC.**  
 engineers, hydrogeologists, surveyors & management consultants  
 201 EAST PINE STREET - SUITE 1000 - ORLANDO, FL 32801  
 TELEPHONE (407) 838-3933 - FAX (407) 838-3790  
 LICENSED BUSINESS NO. 25814

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

Job No: 93-0528-094  
 Cadd File: TRACT-B  
 Field Date: 2-13-02  
 Drawn By: SUR  
 Field By: TDW/AB  
 Field Bk/Pg: 187/43

*Lawrence E. Jenkins*  
 Lawrence E. Jenkins  
 Professional Surveyor  
 & Mapper  
 Florida Registration #5364



LINE TABLE

Line	Bearing	Distance
L1	S.87°52'55"E.	29.49'
L2	N.02°07'05"E.	13.37'
L3	N.88°54'08"E.	108.42'

LEGEND

- CO SANITARY CLEAN OUT
- FH FIRE HYDRANT
- GUY WIRE
- POWER POLE
- SIGN
- TELEPHONE RISER
- WELL
- WATER METER
- WATER VALVE
- (P) PLAT DIMENSION
- (D) DESCRIPTION DIMENSION
- (F) FIELD MEASUREMENT
- SET 1/2" IRON ROD LB-5814

SHEET 1 OF 2

BOUNDARY SURVEY  
OF  
A PORTION OF TRACT "E"  
FOR  
PALM CAY UTILITIES

Revision: \_\_\_\_\_ Date: \_\_\_\_\_  
 Revision: \_\_\_\_\_ Date: \_\_\_\_\_  
 Revision: \_\_\_\_\_ Date: \_\_\_\_\_

**HARTMAN & ASSOCIATES, INC.**  
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 201 EAST PINE STREET - SUITE 1000 - ORLANDO, FL 32801  
 TELEPHONE (407) 839-3133 - FAX (407) 839-3790  
 LICENSED BUSINESS NO. 73814

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL  
 RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

Job No: 93-0539-092  
 Cadd File: TRACT-E  
 Field Date: 2-13-92  
 Drawn By: SMF  
 Field By: TDH/AB  
 Field Bk/Pg: 187/43

*Lawrence E. Jenkins*  
 Lawrence E. Jenkins  
 Professional Surveyor  
 & Mapper  
 Florida Registration #5364



**DESCRIPTION:**

A PORTION OF TRACT "E", PALM CAY, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK "Y", PAGES 49 THROUGH 52, OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE SOUTHWEST CORNER OF TRACT "E", PALM CAY ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK Y, PAGES 49 THROUGH 52; THENCE RUN N.00°40'51"E., ALONG THE WEST LINE OF SAID TRACT "E" FOR A DISTANCE OF 249.61 FEET; THENCE RUN S.87°52'55"E., FOR A DISTANCE OF 29.49 FEET; THENCE RUN N.02°07'05"E., FOR A DISTANCE OF 13.37 FEET; THENCE RUN N.88°54'08"E., FOR A DISTANCE OF 108.42 FEET TO A POINT ON THE EAST LINE OF AFORESAID TRACT "E"; THENCE RUN S.00°39'58"W., ALONG SAID EAST LINE FOR A DISTANCE OF 189.70 FEET; THENCE RUN S.89°55'51"W., FOR A DISTANCE OF 13.23 FEET; THENCE RUN S.00°40'51"W., FOR A DISTANCE OF 74.14 FEET TO A POINT ON THE SOUTH LINE OF AFORESAID TRACT "E"; THENCE RUN S.89°53'31"W., ALONG SAID SOUTH LINE FOR A DISTANCE OF 125.01 FEET TO THE POINT OF BEGINNING.

CONTAINING 34,937.82 SQUARE FEET OR 0.8021 ACRES, MORE OR LESS.

**NOTES**

- 1.) BEARINGS SHOWN HEREON ARE BASED ON THE EAST RIGHT-OF-WAY LINE OF SW. 80TH AVENUE HAVING A PLAT BEARING OF N.00°40'51"E.
- 2.) THERE MAY BE EASEMENTS AND RESTRICTIONS OF RECORDS AND/OR PRIVATE AGREEMENTS NOT FURNISHED TO THIS SURVEYOR THAT MAY AFFECT PROPERTY RIGHTS AND/OR LAND USE RIGHTS OF THE LANDS SHOWN HEREON.
- 3.) NO UNDERGROUND INSTALLATIONS, FOUNDATION FOOTINGS OR IMPROVEMENTS HAVE BEEN LOCATED EXCEPT AS NOTED.
- 4.) THIS SURVEY WAS PERFORMED IN ACCORDANCE WITH THE MINIMUM TECHNICAL STANDARDS FOR SURVEYS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS, CHAPTER 61-17, FLORIDA ADMINISTRATIVE CODE.
- 4.) BASED ON THE NATIONAL FLOOD INSURANCE PROGRAM "FIRM" MAP COMMUNITY - PANEL NUMBER 120160 0650 B DATED JANUARY 19, 1983 THE ABOVE DESCRIBED PROPERTY IS LOCATED IN ZONE C.

SHEET 2 OF 2

**BOUNDARY SURVEY  
OF  
A PORTION OF TRACT "E"  
FOR  
PALM CAY UTILITIES**


Revision: \_\_\_\_\_ Date: \_\_\_\_\_  
Revision: \_\_\_\_\_ Date: \_\_\_\_\_  
Revision: \_\_\_\_\_ Date: \_\_\_\_\_



**HARTMAN & ASSOCIATES, INC.**  
engineers, hydrogeologists, surveyors & management consultants  
201 EAST PINE STREET - SUITE 1009 - ORLANDO, FL 32801  
TELEPHONE (407) 839-3553 - FAX (407) 839-3790  
LICENSED BUSINESS NO. 35814

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL  
RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

Job No: 95-0339-024  
Cadd File: TRACT-E  
Field Date: 2-13-02  
Drawn By: SMF  
Field By: TDH/AB  
Field Bk/Pg: 187/13

  
Lawrence E. Jenkins  
Professional Surveyor  
& Mapper  
Florida Registration #5364

**EXHIBIT 2**

**Easements and Other Rights as shown on:**

1. Plat for Palm Cay
2. Plat for Palm Cay Unit II

**EXHIBIT 3**

Intentionally left blank.

**EXHIBIT 4**

Intentionally left blank.

**EXHIBIT 5**

Intentionally left blank.

**EXHIBIT 6**

Intentionally left blank.

**EXHIBIT 7**

**List of Assignments, Consents and Approvals**

None.

Date

Mr. Tim Kehoe, Project Manager  
Speegle Construction II, Inc.  
PO Box 2089  
Cocoa, Florida

Subject: City of Winter Garden  
Palmetto Street/Fullers Cross WTP Improvements  
FPL Delay at Fullers Cross WTP

Dear Mr. Kehoe:

We have reviewed your letter of April 3, 2002, made various site inspections, and discussed the work required to incorporate the FPL requirements and to complete the installation of the new pumps at Fullers Cross WTP.

It is our understanding that the in-line disconnect was delivered to the site on April 11, 2002 and was installed by April 15, 2002. Discussions with you and your project superintendent, Phillip, indicates that it will take 3-days per pump to install the new pumps. Therefore the existing substantial completion date of March 25, 2002 is extended to April 24, 2002 (April 15, 2002 plus 9 days). The final completion date will be 30 days from delivery of the in-line disconnect or May 11, 2002.

HAI,

Chuck Shultz, PE

C: Charlie Tinch, Utilities Director  
Keshia Blake, HAI



MARION COUNTY/PALM CAY UTILITIES, INC.  
WATER SYSTEM  
ASSET PURCHASE & SALE AGREEMENT  
FOR WATER PLANT EQUIPMENT, OTHER  
EQUIPMENT, RECORDS, CERTIFICATES,  
PERMITS, APPROVALS, GOING CONCERN  
AND GOOD WILL

**March 19, 2002**

**Gray, Harris & Robinson, P.A.**

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<b>31.4</b> .....	<b>22</b>

# SCHEDULE OF EXHIBITS

<b>EXHIBIT NO.</b>	<b>TITLE</b>
1	Intentionally Left Blank
2	Intentionally Left Blank
3	Plant and Other Facilities Assets
4	Engineering Plans
5	All Permits, Certifications, Authorizations and Approvals
6	FPSC Service Area Maps
7	List of Assignments, Consents and Approvals

**MARION COUNTY/PALM CAY UTILITIES, INC.  
WATER SYSTEM  
ASSET PURCHASE & SALE AGREEMENT  
FOR EQUIPMENT, RECORDS, CERTIFICATES,  
PERMITS, APPROVALS AND GOOD WILL**

THIS AGREEMENT, made and entered into this 19<sup>th</sup> day of March, 2002, by and between **MARION COUNTY**, a political subdivision of the State of Florida (hereafter "COUNTY"), and **PALM CAY UTILITIES, INC.**, a Florida corporation, (hereafter "SELLER").

**RECITALS**

1. SELLER owns and operates a potable water production, treatment, storage, transmission, and distribution system in Marion County, Florida, known as the Palm Cay Water System. This water system shall hereinafter be sometimes referred to as "the Water System."

2. The Water System (hereafter also referred to as the "Utility System") operates under Certificate of Authorization (the "Certificate") issued by the Florida Public Service Commission (the "Commission"), which authorizes SELLER to provide water service to certain territories in Marion County, Florida.

3. Pursuant to its governmental powers under Chapter 125, Florida Statutes, and other applicable laws, the COUNTY is authorized to preserve and enhance present advantages, encourage the most appropriate use of land, water and resources, consistent with public interest, facilitate adequate and efficient provision of water and sewerage facilities, and conserve, develop, utilize, and protect natural resources within its jurisdiction.

4. The SELLER is willing to sell the Utility System to the COUNTY, and the COUNTY is willing to purchase the Utility System from the SELLER.

5. The COUNTY has the power and authority to acquire the Utility System and to operate the Utility System in order to provide potable water infrastructure and service within Marion County, and the SELLER has the power and authority to sell the Utility System.

6. For business purposes of sale and purchase of the Utility System, the Utility System shall be considered to be comprised of two components: (i) land, buildings and

structures, and (ii) equipment, going concern, and good will. Each component will be conveyed pursuant to a separate agreement; this Agreement for equipment and goodwill and the companion agreement ("Companion Agreement") for the land, buildings and structures. The land is composed of the "Property" which is fully described in the Companion Agreement at Exhibit "1" and the "Easements" which are fully described in the Companion Agreement at Exhibit "2". However, it is the intent of the parties that both components of the Utility System through this Agreement and the Companion Agreement are to be conveyed simultaneously together from SELLER to the COUNTY.

7. Pursuant to Section 125.3401, Florida Statutes, the COUNTY has examined the SELLER's Water System Assets, has examined its existing financial structure, has examined the long-range needs and goals of the COUNTY relative to the provision of water service to its present and future citizens, and has determined that the acquisition of the Utility System is in the public interest. The COUNTY has also examined those documents specified in Section 367.071(4)(a), Florida Statutes.

8. The parties have negotiated in good faith and are empowered to be bound by the terms and conditions set forth in this Agreement.

**ACCORDINGLY**, in consideration of the above Recitals and benefits to be derived from the mutual observation of the covenants contained herein, and other good and valuable consideration the receipt and sufficiency of which are 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 Agreement.

**SECTION 2. PURCHASE AND SALE OF WATER SYSTEM ASSETS.** The SELLER, pursuant to the circumstances noted in the Recitals above, agrees to sell and the COUNTY agrees to buy through this Agreement those components of the Utility System, with the entire Utility System consisting of all real, personal and mixed property used or held for use in connection with the Utility System, hereinafter referred to as the "Purchased Assets" or the "Water System Assets", as more particularly set forth below in Sections 3 and 4 of this Agreement.

**SECTION 3. PURCHASED ASSETS.** On the Closing Date, as defined below, SELLER shall sell, assign, transfer, convey and deliver to COUNTY, and COUNTY shall purchase, accept and pay for all of the right, title and interest, in and to the following property and assets:

**3.1 Water Plant Equipment and Other Facilities.** The following assets owned by the SELLER and used or held for use in connection with the Utility System, as more specifically described in Exhibit "3" hereof, including all water production, treatment plant, storage, treatment, transmission, distribution, pumping, and other water facilities of



every kind and description whatsoever including without limitation, all trade fixtures, leasehold improvements, pump stations, pumps, generators, controls, collection and transmission pipes or facilities, valves, meters, service connections, and all other water service connections, and all other water physical facilities and property installations in use in connection with the operation of the Utility System by the SELLER. Except for the interests in real property to be conveyed under the Companion Agreement, the parties hereto agree that the COUNTY is buying the physical assets of the SELLER in an "as is" and "where is" condition without relying upon any warranty or representation from the SELLER regarding the physical condition of the Purchased Assets or condition of any of the improvements constructed thereon. Except for the interests in real property to be conveyed hereunder, the COUNTY has made its own investigations of the Purchased Assets and is relying solely upon these investigations in making the purchase described in this Agreement.

**3.2 Other Equipment.** All equipment, tools, parts, laboratory equipment and other personal property owned by the SELLER and located on the Property and/or utilized by the SELLER exclusively in connection with the operation of the Utility System.

**3.3 Customer Records and Supplier Lists; Plans and Specifications.** All current customer records and supplier lists, as-built surveys and water plans, plats, engineering and other drawings, designs, blueprints, plans and specifications, any and all reproducible documents, mylars, sepias, and other original documents used or held for use with the Utility System, accounting and customer records and all other information and business records in the possession of the SELLER that relate to the operation of the Utility System. The SELLER may make copies of its books, plans and records, at its expense, before transferring the original or copies of the books, plans and records to the COUNTY. These documents shall include any such documents related to work-in-progress, if any. A listing of the as-built engineering plans is attached to and incorporated in this Agreement as Exhibit "4."

**3.4 Certificates, Permits, and Approvals.** Subject to all necessary regulatory approvals and to all conditions, limitations or restrictions contained therein, all existing original certificates, permits, and other governmental authorizations and approvals of any kind in the possession of SELLER necessary to operate and maintain the Utility System in accordance with all governmental requirements, more specifically described in Exhibit "5," attached to and incorporated in this Agreement. Certificated Service Area maps and legal descriptions accurately reflecting those service areas currently certificated by the FPSC related to the Utility System are attached to and incorporated in this Agreement as Exhibit "6." The COUNTY agrees to execute necessary forms required by governmental agencies to transfer and to assume SELLER's future obligations under said permits and approvals. These certificates, permits, and approvals shall include any such certificates, permits, and approvals related to work-in-progress, if any.

**3.5 Excluded Assets.** The following assets of SELLER regarding the Utility System shall not be included in the assets conveyed to COUNTY as part of the Purchased Assets:

- (1) SELLER's cash and SELLER's bank account;
- (2) Federal, State or Local Tax or other deposits maintained by SELLER with any governmental authority for SELLER's use and benefit;
- (3) Vehicles or other equipment which are not utilized by SELLER exclusively in the operation and maintenance of the Utility System; and
- (4) All furniture, fixtures, office equipment, general business records and other assets of SELLER not located on the site of the Utility System or which are not held for the exclusive use or benefit of the Utility System.

**SECTION 4. PURCHASE PRICE AND PAYMENT.** The parties hereto have agreed upon a purchase price through a substantial and complicated negotiating process. The Purchase Price agreed upon is neither the highest, nor the lowest, amount that could be justified as a fair value of the Utility System according to the terms and conditions of this Agreement. Such Agreement has been reached in order to make the acquisition of the Purchased Assets attainable by the COUNTY with a view that the COUNTY will carry through the written commitments of the SELLER to its consumers, and that the COUNTY will attempt to operate the system in as efficient manner as possible, subsequent to the closing.

**4.1 Amount of Payment.** The COUNTY hereby agrees to pay to the SELLER under this Agreement for the items listed below, subject to the adjustments and prorations referred to elsewhere herein, a Purchase Price in the amount of FOUR HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$475,000.00). Of the Purchase Price THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000.00) shall be for the equipment and records being conveyed pursuant to Section 3.1 through 3.4 above and ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$125,000.00) shall be for SELLER's going concern and good will established in the Utility System.

**4.2 Method of Payment.** SELLER shall hold a ten (10) year note with a face value of FOUR HUNDRED SEVENTY FIVE THOUSAND DOLLARS (\$475,000.00) to be paid in one hundred twenty (120) equal monthly payments with simple interest at six percent (6%) for the utility system equipment, customer records, suppliers lists, plans and specifications, certificates, permits and approvals, going concern and goodwill. Nothing in this section shall prevent the COUNTY from paying off such note earlier, without penalty.

**4.3 No Assumption of Liabilities or Obligations.** Although stated elsewhere in this Agreement, it is specifically agreed by and among the parties hereto, that

the COUNTY shall not and at closing will not purchase or assume any of the liabilities or outstanding obligations of the Utility Systems and the SELLER shall remain responsible for same, including payment or satisfaction of its outstanding debts, obligations, and responsibilities, except as otherwise herein provided.

**SECTION 5. INTENTIONALLY OMITTED.**

**SECTION 6. REPRESENTATIONS AND WARRANTIES OF SELLER.** The SELLER represents and warrants to COUNTY that:

**6.1 Organization, Standing And Power.** The SELLER is a corporation, duly organized, validly existing, and in good standing under the laws of the State of Florida. The SELLER has all requisite power and authority to own and lease its properties being conveyed hereunder and the Utility System, and to conduct its businesses related thereto as it is currently being conducted.

**6.2 Authority for Agreement.** The SELLER has the power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. This Agreement has been duly authorized by all action required to be taken by the SELLER, has been duly executed and delivered by the SELLER, and constitutes a valid and binding obligation of the SELLER, enforceable in accordance with its terms.

**6.3 Good and Marketable Title.** Subject only to the Permitted Exceptions, the SELLER has good and marketable title to the Purchased Assets.

**6.4 No Liens or Encumbrances.** Except as otherwise specifically set forth in this Agreement or as may be released at or prior to the Closing Date, there are no mortgages, liens, claims or encumbrances of any type or nature upon or against the Purchased Assets including, but not limited to, mortgages, financing statements, or security instruments filed under the Uniform Commercial Code either in the County where the Property is located or with the Secretary of State. SELLER is in exclusive ownership, possession, and control of the Purchased Assets except for non-exclusive easements and SELLER at closing shall deliver exclusive possession and control of the Purchased Assets to the COUNTY.

**6.5 Litigation.** There are no actions, suits, or proceedings at law or in equity, pending against the SELLER before any federal, state, municipal or other court, administrative or governmental agency or instrumentality, domestic or foreign, which affect the Utility System or any of the Purchased Assets or the SELLER's right and ability to make and perform this Agreement; nor is the SELLER aware of any facts which to its knowledge are likely to result in any such action, suit or proceeding. The SELLER is not aware and has not been notified that it is in default with respect to any permit, approval order or decree of any court or of any administrative or governmental agency or instrumentality affecting the Utility System or any of the Purchased Assets. The SELLER agrees and warrants that it

shall have a continuing duty to disclose up to and including the Closing Date the existence and nature of all pending judicial or administrative suits, actions, proceedings, and orders which in any way relate to the operation of the Utility System.

**6.6 Leases.** None of the Purchased Assets are subject to any interest of any lessor or lessee.

**6.7 No Governmental Violations.** SELLER is not aware and has not been notified of the existence of any violations of any governmental rules, regulations, permitting conditions or other governmental requirements applicable to the ownership, maintenance or operation of the Utility System.

**6.8 No Record Violations.** The SELLER is not aware and has not been notified of any restrictions or conditions of record which would adversely affect the use of the Utility Systems on the Property or Easements as described in Exhibits "1" and "2" of the Companion Agreement.

**6.9 Absence of Changes.** After the date of the execution of this Agreement, the SELLER shall not permit any change in its condition of properties, assets, liabilities, business or operations other than changes in the ordinary course of business which are not, either in any case or in the aggregate, materially adverse to the operation of the Utility System.

**6.10 Disclosure.** No representation or warranty made by the SELLER in this Agreement contains any untrue statement of material facts or omits to state any material fact required to make the statements herein contained not misleading. Should the SELLER become aware that any of the representations or warranties to COUNTY provided for herein are, or may reasonably be, materially untrue or incorrect, SELLER will promptly advise the COUNTY of same, in writing, specifying in reasonable detail the reasons why the SELLER believes such representations or warranties of COUNTY are, or may reasonably be, untrue or incorrect.

**6.11 Survival of Covenants.** SELLER agrees that its representation and warranties set forth herein are true and correct as of the date of the execution hereof shall be true and correct at the time of the Closing Date, and shall survive the Closing Date for one hundred eighty (180) days thereafter, except that SELLER's covenants related to title to the Purchased Assets shall not expire.

**6.12 FIRPTA.** The SELLER is not a "foreign person" within the meaning of the United States tax laws and to which reference is made in Section 1445 (b) (2) of the Internal Revenue Code. On the Closing Date, the SELLER shall deliver to the COUNTY a certificate to such effect.

**6.13 All Necessary Governmental Permits and Approvals.** As of the Closing Date, the SELLER warrants that it shall transfer to the COUNTY all necessary governmental permits and approvals such that the COUNTY can operate the Utility System.

**6.14 No Violation by Virtue of Election.** The execution, delivery and performance of this Agreement will not violate any provision of law, order of any court or agency of government, the Articles of Incorporation or any by-laws of the SELLER. or any indenture, agreement, or other instrument to which the SELLER is a party, or by which it is bound.

**6.15 No CERCLA Violations.** The SELLER has not violated, except as disclosed by the environmental audits, in connection with the ownership, use, maintenance, or operation of the Purchased Assets, applicable environmental, federal, state, county, or local laws relating to pollution or protection of the environment, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, the Resource Conservation and Recovery Act, or the Toxic Substance Control Act ("Environmental Laws"). SELLER has not authorized the placing or depositing of hazardous substances on the real property portion of the Purchased Assets except, if at all, in accordance with the applicable Environmental Laws, and SELLER has no actual knowledge of any hazardous substance having been, or currently being, placed or deposited on the premises except in accordance with such Laws.

**6.16 Location of Plants.** The water plant and wells used in the operation of the Utility System are located on the Property as identified in Exhibit "1" to the Companion Agreement and the use of such water plant and wells on the Property does not violate any zoning certifications, special exceptions or variances in a manner which would prohibit or materially interfere with the operation and maintenance of such water plants.

**6.17 Assignment of Certain Agreements.** To the extent such is required, the SELLER agrees that it shall obtain all necessary assignments, consents, and approvals in order to assign the agreements set forth in Exhibit "7" as referenced in Section 19 hereof.

**6.18 No Construction.** There is no construction work in progress on the Property.

**6.19 All Documents.** SELLER has provided all documents and information requested in furtherance of this Agreement by COUNTY in relation to the Utility System and Purchased Assets which are available or can be reasonably available to SELLER.

**SECTION 7. CONDUCT PENDING CLOSING.** The SELLER covenants that pending the closing:

**7.1 Business Conduct.** Except as otherwise consented to in writing by COUNTY, whose consent shall not be unreasonably withheld, delayed or conditioned, for the period beginning on the date of execution of this Agreement and ending on the Closing Date, SELLER shall:

(1) operate the Utility System in, and only in, the usual, regular and ordinary course and nevertheless comply with all applicable governmental requirements and law;

(2) maintain all of the Utility System's material structures, equipment, permits and other tangible personal property in good repair, order and condition, except for depletion, depreciation, ordinary wear and tear and damage by unavoidable casualty;

(3) keep in full force and effect insurance comparable in amount and scope of coverage to insurance now carried by it for the Utility System;

(4) perform in all material respects all of its obligations under agreements, contracts and instruments relating to or affecting the Utility System's properties, assets and operation;

(5) subject to available administrative remedies pursuant to Chapter 120, Florida Statutes, or any administrative judicial procedures or proceedings applicable to particular permits, comply in all material respect with all statutes, laws, ordinances, rules and regulations applicable to it and to the operation of the Utility System;

(6) promptly advise the COUNTY, in writing, of any material change which adversely affects the operation of the Utility System;

(7) not enter into any transaction, including without limitation, the purchase, sale or exchange of property the value of which exceeds \$5,000.00, which relates to the Utility System, except in furtherance of this Agreement with the SELLER, or the rendering of any service to SELLER except in the ordinary course of and pursuant to the reasonable requirements of the business of SELLER;

(8) subject to available administrative remedies pursuant to Chapter 120, Florida Statutes, or any administrative or judicial procedures or proceedings applicable to particular permits, comply with all Utility System permit requirements and obtain all necessary permit extensions or renewals with no additional operational or capital obligations such that said permits are valid as of the Closing Date; and

(9) seek and obtain any necessary permit extension or renewal so that said permits are valid, extended, or seeking extension as of the Closing Date.

**7.2 Risk of Loss.** The SELLER shall bear the risk of loss, damage or destruction of the Purchased Assets by fire or other casualty prior to and including the Closing Date. If any portion of the Purchased Assets is damaged by fire, act of God or other casualty before the Closing Date, the COUNTY shall have the option of (1) taking the Purchase Assets as is, without reduction in price, together with the SELLER's assignment to the COUNTY of all rights under its insurance policies and all of the insurance proceeds, if any; or (2) taking the Purchased Assets, as is, with a reduction in price, mutually agreed to by SELLER and COUNTY, based upon a percentage allocation of the Purchase Price derived by comparing the net book value of the Purchased Assets destroyed to the net book value of the Utility System and the SELLER shall maintain all rights under its insurance policies and to all of the insurance proceeds; or (3) canceling this Agreement in which event the Parties hereto shall be released from all further obligations to each other.

**7.3 Access to Records.** The SELLER will at all times cooperate by providing reasonable access in advance), to their records and facilities applicable to the Utility System for inspection to assist in acquainting the COUNTY'S operating and administrative personnel in the operation of the Utility System or the day to day activities of SELLER's personnel.

**7.4 Performance**  
of the conditions to closing which should be performed by the SELLER prior to the Closing Date as provided herein.

**7.5 Examination and Inspection.** The SELLER will permit reasonable examination by the COUNTY'S authorized representatives of all existing contractual obligations, physical systems, assets, real estate, rights-of-way, easements and inventories which are utilized by the SELLER in connection with the Utility System. No such examination by the COUNTY's authorized representatives shall interfere with the SELLER's operations of the Utility System or the day to day operations of the SELLER's personnel. The SELLER shall make these assets and records available for examination by the COUNTY's authorized representatives at reasonable times and upon prior written notice (not less than forty-eight (48) hours in advance) from the COUNTY. Such facilities will be properly maintained by the SELLER within the custom and usage of the water industry in Florida until the Closing Date.

**SECTION 8. REPRESENTATIONS AND WARRANTIES OF COUNTY.** The COUNTY represents and warrants to the SELLER, as follows:

**8.1 Organization, Standing and Power of COUNTY.** The COUNTY is a political subdivision of the State of Florida and has all requisite power and authority to

enter into this Agreement, to own and lease real and personal property, and to carry out and perform the terms and provisions of this Agreement.

**8.2 Authority**

to execute and deliver this Agreement and to carry out its obligations hereunder. The COUNTY has held all of the necessary public hearings to authorize the COUNTY's purchase of the Utility System and obtained the documents required by § 367.071(4)(a), Florida Statutes. This Agreement has been duly authorized by all action required to be taken by the COUNTY, has been duly executed and delivered by the COUNTY, and constitutes a valid and legally binding obligation of the COUNTY enforceable in accordance with its terms.

**8.3 Disclosure.** No representation or warranty made by the COUNTY in

this Agreement contains or will contain any untrue statement of material facts or omits or will omit to state any material fact required to make the statements herein contained not misleading. Should the COUNTY become aware that any of the representations or warranties of SELLER provided for herein are, or may reasonably be, materially untrue or incorrect, COUNTY will promptly advise the SELLER of same, in writing, specifying in reasonable detail the reasons why the COUNTY believes such representations or warranties of SELLER are, or may reasonably be, untrue or incorrect.

**8.4 Litigation.** There are no actions, suits, or proceedings at law or in

equity, pending against the COUNTY before any federal, state, municipal or other court, administrative or judicial. The COUNTY shall have the continuing duty to disclose up to and including the Closing Date the existence and nature of all pending judicial or administrative suits, actions, proceedings, and orders which in any way relate to its ability to perform its obligations under the Agreement.

**8.5 Performance of Closing Conditions.** The COUNTY shall perform

all of the conditions to closing which should be performed by the COUNTY prior to the Closing Date as provided herein.

**8.6 Survival of Covenants.**

warranties set forth herein are true and correct as they were at the time of the Closing Date, and shall survive the Closing Date.

**8.7 Delivery of Resolution.** If it has not already done so, COUNTY will

deliver to SELLER a certified copy of a resolution of the Board approving the COUNTY's execution and performance of this Agreement with five (5) business days of COUNTY's execution hereof.

**8.8 No Conflicts.** The execution, delivery and performance of this



Agreement will not violate any provision of law, order of any court or agency of government, the charter of the COUNTY, or any administrative regulation or decree, or any provision of the Constitution or the laws of the State of Florida relating to the COUNTY or its affairs or any ordinance, resolution, agreement, indenture, lease, or other instrument to which the COUNTY is a party, subject or by which it is bound.

**8.9 Police Power.** Subject to the police power of the COUNTY and its ability to charge its prevailing capital charges, COUNTY shall after closing fulfill the SELLER's obligations to furnish water service as of the Closing Date as set forth in Section 19 of this Agreement.

**8.10 COUNTY Actions.** The COUNTY shall take no action inconsistent with its express obligations under the terms and conditions of this Agreement.

**8.11 Inspections.** All inspections of the Utility System by COUNTY or its representatives performed pursuant to this Agreement shall not materially interfere with the operation of the Utility System or the day-to-day activities of the SELLER's personnel, and COUNTY agrees to indemnify and hold SELLER harmless from any third party claims, actions, expenses, or damages, including costs and attorney's fees at trial and appeal, which the SELLER incurs (for personal injury or property damage) as a direct result of the inspection of the Utility System by the COUNTY, its agents, contractors, representatives and/or employees.

**SECTION 9. ADDITIONAL CONDUCT PENDING CLOSING.** The COUNTY and the SELLER covenant with each other that pending the closing on this transaction, neither shall obstruct, hinder or interfere in the operation of the Utility System by the SELLER or with the processing and consideration by governmental agencies of any applications or petitions filed by the SELLER or COUNTY that are related to the Utility System. SELLER shall execute all necessary documents to assist in securing necessary governmental approval(s) for the renewal, expanded use, and transfer of said permit, and shall use its best efforts to assist the COUNTY in obtaining all such necessary governmental approvals. Prior to closing, neither the COUNTY, nor any of COUNTY's representatives, consultants, employees or agents shall file any application or petition with any governmental agency having jurisdiction over the Utility System.

**SECTION 10. ADJUSTMENTS AND PRORATIONS; CLOSING COSTS.** At the time of closing, the parties covenant and agree that the following adjustments shall be made:

**10.1** Personal property taxes for 2002 on all personal property which is being conveyed by the SELLER to the COUNTY, shall be prorated as of 11:59 p.m. of the Closing Date and shall be paid by the SELLER in accordance with Section 196.295, Florida Statutes. The COUNTY shall not be charged with proration of any ad valorem taxes. SELLER shall remain obligated to pay personal property taxes for 2001.

**10.2 (1)** All rates, fees, and charges for water service through the Closing Date shall be the property of the SELLER. The SELLER shall include a written notice to each customer that the Utility Systems are being transferred to the COUNTY.

**(2)** Except as otherwise provided in Sections 10.2 (3) and (4) below, all prospective rates, fees, and charges for water service after the Closing Date shall be the property of the COUNTY.

**(3)** Immediately prior to the Closing Date SELLER and COUNTY shall cause a final meter reading by SELLER and an initial meter reading by COUNTY to occur simultaneously. SELLER shall cause a final billing to be sent to the customers based on the final meter reading. SELLER shall receive all revenue through its final billing as described in this subsection. COUNTY shall be entitled to receive all revenue based on billings commencing with the initial meter reading.

**(4)** Subject to state law, COUNTY agrees to disconnect service from any customer who fails to pay SELLER amounts owed SELLER through the Closing Date upon notification to COUNTY by SELLER that such amounts are sixty (60) days past due.

**10.3** The SELLER shall request all of its suppliers and vendors to submit final invoices for services, materials, and supplies, including electricity for the period up to and including the Closing Date. The SELLER shall be responsible for, and shall provide to the COUNTY, upon request, evidence of the payment of all such invoices.

**10.4** SELLER shall retain all Connection Charges, as hereinafter defined, heretofore paid to SELLER prior to the Closing Date. The value of outstanding prepaid connection charges made to SELLER prior to the Closing Date, if any, shall be deducted from the purchase price as set forth in Section 4.3 above. SELLER has entered into no agreements or commitments with developers or customers providing for the extension of services or facilities with regard to the Utility System. COUNTY shall be entitled to receive all Connection Charges paid after the Closing Date. The term Connection Charges shall mean connection, plant capacity, main extension, allowance for funds prudently invested ("AFPI") charges and/or capital charges ("Connection Charges").

**10.5** All adjustments and prorations shall be calculated as of 11:59 p.m. of the Closing Date.

**10.6** All costs of recording any releases, satisfactions or corrective instruments, if any, shall be paid by COUNTY.

**10.7** Certified, confirmed or ratified special assessments or municipal liens prorated as of the Closing Date, will be paid by SELLER.

**SECTION 14. CLOSING DOCUMENTS AND PROCEDURES.**

**14.1 Deliveries from SELLER.** The following documents shall be delivered by the SELLER to the COUNTY at closing unless other specific dates for delivery are indicated below, with the originals of such documents being executed and provided to the COUNTY on or before March 22, 2002:

- (1) General assignment to the COUNTY of all equipment interests in the Property and Easements, together with a general assignment of all Contracts, Agreements, permits and approvals as provided for and in the manner specified in this Agreement;
- (2) Bills of sale or other documents of assignment and transfer, with full warranties of title as specified in this Agreement, to all Water System Assets;
- (3) Copies of all business records sold to the COUNTY hereby (originals thereof to be delivered at closing);
- (4) Copies of all permits, governmental authorizations and approvals, together with applications for or transfer approvals from any and all agencies that have issued said permits, authorizations, and approvals (originals thereof to be delivered at closing);
- (5) Standard no-lien SELLER's affidavit in a form reasonably required by the Title Company as to realty and personalty insuring against any liens, claims or encumbrances upon the Purchased Assets;
- (6) A "non-foreign" affidavit or certificate pursuant to Section 1445 of the Internal Revenue Code;
- (7) Such other affidavits, corporate resolutions and acknowledgments as the title company shall reasonably request in order to cause the title company to issue the policy evidencing marketable title as contemplated herein;
- (8) A corporate officer's certificate confirming that the SELLER's warranties hereunder are true and correct as of the Closing Date;
- (9) Evidence of insurance to the COUNTY providing coverage of the Utility System;
- (10) The following listed instruments and documents:

- (A) All contracts, customer service agreements, development agreements, and other agreements for service;
- (B) One hundred twenty (120) days prior to the Closing Date, documentation of all customer deposits, a complete billing register and billing information of the customers of the Water System;
- (C) Documentation of accounts receivable;
- (D) Inventory of that rolling stock, movable equipment, laboratory equipment, tools, accessories and appurtenances that is being transferred to and being paid for by COUNTY;
- (E) Forty-five (45) days prior to closing a listing of all vendors, vendor accounts and other related vendor information;

(11) Such other instruments and documents, in form approved by the COUNTY's counsel as may be reasonably required in order to transfer ownership and possession of the Purchased Assets to the COUNTY; provided that none of such documents shall result in any additional liability on the part of SELLER not otherwise provided for in this Agreement.

(12) All assignments of agreements listed in Section 19 that assign the agreements to COUNTY.

**14.2 Deliveries from the COUNTY.** On the Closing Date, the COUNTY shall pay the Purchase Price to the SELLER by wire transfer in the amount due SELLER as provided in Section 4 of this Agreement, subject to the prorations and adjustments. The COUNTY shall also deliver at the closing, the executed form of an assumption of the agreements (if any) set forth in Section 19 of this Agreement, an assumption of the leases, permits, agreements, approvals and other interests in the Purchased Assets being assigned by the SELLER, as provided by the SELLER pursuant to Subsection 14.1 hereof, and a certified copy of a resolution of the COUNTY approving this transaction, if not previously delivered to SELLER. Said documents shall be executed on the Closing Date. The assignments and assumptions being prepared by the parties may be incorporated into one document at the convenience of the parties. COUNTY shall also deliver at closing: (a) a County Officer's Certificate confirming that the warranties of COUNTY set forth in this Agreement applicable to the closing are true and correct as of the closing; (b) a promissory note of \$475,000.00 in favor of SELLER; and (c) such other instruments and documents as

SELLER's Counsel may reasonably require, in form approved by COUNTY's Counsel, in order to transfer possession and control of the Purchased Assets to COUNTY, provided that none of such documents shall result in any additional liability on the part of COUNTY not otherwise provided for in this Agreement.

**14.3 Inadvertent Omissions.** If at any time within six (6) months after the Closing Date either party discovers any item associated with the Utility System which it reasonably believes was intended to be or should have been included as one of the Assets, or Excluded Assets, it shall detail such belief in a written notice to the other party. The parties shall as soon thereafter as reasonably possible meet to discuss the status of the omitted item and use good faith efforts to agree on the proper disposition of that item. Upon agreement, the parties will determine if any adjustment need be made to the Purchase Price as a result of such disposition and the affected party shall provide payment within thirty (30) days thereafter to the other based upon the agreed adjustment value of the omitted item. The party in possession of the omitted item shall promptly deliver same to the other party and cause such reasonable documentation of conveyance of such items to be executed and delivered to the other party as shall be requested by that party.

**SECTION 15. RESPONSIBILITY FOR PROFESSIONAL FEES AND COSTS.** Each party hereto shall be responsible for its own attorneys' fees, engineering fees, accounting fees and other costs in connection with the preparation and execution of this Agreement, the closing of the transaction contemplated herein and in connection with all judicial and administrative proceedings related to the acquisition of the Utility System.

**SECTION 16. PUBLIC SERVICE COMMISSION APPROVAL.** SELLER shall apply for approval by the Florida Public Service Commission for transfer of the Purchased Assets from SELLER to COUNTY. SELLER agrees to pay all fees and costs incurred by SELLER incident to such dealings with the Florida Public Service Commission. It is agreed that COUNTY shall apply every reasonable effort to cooperate with SELLER to obtain approval from the Florida Public Service Commission and will render all reasonable assistance to SELLER necessary to obtain such approval. Copies of the Order(s) of the Commission acknowledging sale of the Utility Systems to the COUNTY shall be promptly provided to the COUNTY, upon SELLER's receipt thereof.

**SECTION 17. COMMISSIONS.** The SELLER and the COUNTY warrant to the other that the transaction contemplated by this Agreement is a direct, private transaction between the SELLER and the COUNTY without the use of a broker or commissioned agent.

**SECTION 18. FURTHER ASSURANCES.** Each of the parties hereto agrees that, from time to time, upon the reasonable request of the other party and at the expense of the requesting party, without further consideration, it shall execute and deliver to the requesting party any and all further instruments, affidavits, conveyances and transfers as may be reasonably required to carry out the provisions of this Agreement.

**SECTION 19. CERTAIN AGREEMENTS.**

**19.1 Contracts and Agreements.** The COUNTY shall take title to the Purchased Assets encumbered by no contracts or agreements subject to the declaration of covenants and restrictions of the Palm Cay Subdivision. Notwithstanding anything to the contrary stated in this Agreement, the COUNTY is not assuming and has no obligation to honor the amount of any prepaid or discounted connections for customers or properties, dwelling units, or commercial or industrial structures not connected to the Utility System prior to the Closing Date, but rather reserves the right to charge and collect its own capital charges as precondition to providing service, giving due credit for connection fee amounts previously paid.

**19.2 Other Agreements.** Except as expressly set forth in this Agreement, the COUNTY is not assuming any other agreements to which SELLER is a party.

**SECTION 20. NOTICES; PROPER FORM.** Any notices required or allowed to be delivered hereunder shall be in writing and may either be (1) hand delivered, (2) sent by recognized overnight courier (such as Federal Express) or (3) mailed by certified or registered mail, return receipt requested, in a postage prepaid envelope, and addressed to a party at the address set forth opposite the party's name below, or at such other address as the party shall have specified by written notice to the other party delivered in accordance herewith:

**COUNTY:** Marion County  
601 S.E. 25<sup>th</sup> Avenue  
Ocala, FL 34471-2690  
Attention: County Administrator

With a copy to: Thomas A. Cloud, Esq.  
Gray, Harris & Robinson, P.A.  
301 East Pine St., Suite 1400  
Orlando, FL 32801

**SELLER:** Palm Cay Utilities, Inc.  
1720 Southwest 55<sup>th</sup> Lane  
Ocala, Florida 34474  
Attention: Jon M. Kurtz,  
Title: \_\_\_\_\_

With a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notices personally delivered by hand or sent by overnight courier shall be deemed given on the date of delivery and notices mailed in accordance with the foregoing shall be deemed given three (30 days after deposit in the U.S. mail.

**SECTION 21. ENTIRE AGREEMENT.**

**21.1** This instrument constitutes the entire Agreement between the parties and supersedes all previous discussions, understandings, and agreements between the parties relating to the subject matter of this Agreement. This Agreement may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change would be sought.

**21.2** The COUNTY and the SELLER acknowledge and agree that this Agreement is a companion to the other agreement between COUNTY and SELLER and when the two agreements are taken together will fully and completely transfer the entire Utility System from the SELLER to the COUNTY. It is the intent of the parties that both agreements will close simultaneously. Both this Agreement and the Companion Agreement may be read together and considered for purposes of determining, interpreting and consummating the sale and transfer of the entire Utility System from SELLER to the COUNTY.

**SECTION 22. AMENDMENT.** Amendments to and waivers to the provisions of this Agreement shall be made by the parties only in writing by formal amendment.

**SECTION 23. DISCLAIMER OF THIRD PARTY BENEFICIARIES.** This Agreement is 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.

**SECTION 24. BINDING EFFECT.** All of the provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the legal representatives, successors and nominees of the COUNTY and the SELLER.

**SECTION 25. TIME OF THE ESSENCE.** Time is hereby declared of the essence in the performance of each and every provision of this Agreement.

**SECTION 26. APPLICABLE LAW.** This Agreement shall be construed, controlled, and interpreted according to the laws of the State of Florida.

**SECTION 27. CORROBORATION OF PAYMENTS AFTER CLOSING.** In each instance in which either the SELLER or the COUNTY is to receive money from another party after the Closing Date pursuant to the provisions of this Agreement, the party who is entitled to receive the money under the terms of this Agreement shall have the right to inspect, at its own expense, those books and records of the other party as may be

necessary to corroborate the accuracy of the amount of money received by the party, within thirty (30) days of receipt of payment. In the event the party making the inspection discovers an error in payment, the party making the payment shall promptly transfer the difference in payment to the party who is entitled to payment; provided, however, that to the extent that the error in payment is ten percent (10%) or more, then the party making payment shall, in addition to paying the shortfall, reimburse to the party making the inspection the reasonable costs of the inspection.

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**SECTION 28. INTENTIONALLY OMITTED.**

**SECTION 29. DEFENSE OF ACTIONS OR CLAIMS**

**29.1** Each party who is or may be entitled to indemnity under the provisions of this Agreement (the "Indemnitee") shall promptly notify the other party who is or may be required to provide indemnity under the provisions of this Agreement, as applicable (the "Indemnitor"), of any lawsuit or claim against such Indemnitee which it has reasonable cause to believe would entitle it to indemnification under such Section of this Agreement. Failure of such Indemnitee to promptly notify the Indemnitor of any such action or claim shall constitute a defense by Indemnitor against its obligation to indemnify the Indemnitee under this Agreement with regard to such claim or action, if such failure to provide such prompt notification reasonably prejudices the defense or other successful resolution of such action or claim by Indemnitor.

**29.2** Upon receipt of such prompt notification of such claim or action, the Indemnitor shall be entitled, in its absolute discretion, to select legal counsel; to assume at its expense the defense of any such action or claim, including the prosecution of any applicable cross-claims or counter claims; to direct the manner in which such defense shall be conducted; and to determine the terms of settlement of, any such suit or claim against Indemnitee, provided that no such resolution awarding relief other than money damages against the Indemnitee may be agreed to without the consent of the Indemnitee, which consent shall not be unreasonably withheld, delayed or conditioned by Indemnitee. Indemnitee shall provide its full cooperation and assistance to Indemnitor with regard to the defense of such claim or action against Indemnitee, as afore-described, as reasonably requested by Indemnitor.

**29.3** If the defendants in or to any such action or claim include both the Indemnitee and the Indemnitor and the Indemnitee reasonably concludes that there are valid legal defenses available to the Indemnitee which are different from or additional to the legal defenses being raised by the Indemnitor, and which, after written notice thereof being given to the Indemnitor by the Indemnitee, are not being asserted by the Indemnitor on behalf of the Indemnitee regarding such action or claim, the Indemnitee shall have the right to select separate counsel to assert such additional legal defenses in such action on behalf of such Indemnitee; provided such legal defenses which Indemnitee desires to assert are not reasonably inconsistent with, contrary to or would otherwise prejudice the defenses



which the Indemnitor is asserting on behalf of the Indemnitee. The Indemnitee shall take no action with regard to such claim or action which is inconsistent with or may reasonably prejudice the defenses, cross-claims or counter claims being asserted by Indemnitor on behalf of Indemnitee.

**29.4** If an Indemnitor elects to assume and does assume, the defense of any such suit or claim, it shall not be liable for any legal expenses incurred by the Indemnitee with respect to such matter and if the Indemnitee, after due notice to the Indemnitor of the existence of valid defenses not being employed by the Indemnitor as afore-described, employs separate counsel in connection with the assertion of such legal defenses not being raised by the Indemnitor on behalf of the Indemnitee and the Indemnitee is, in fact, ultimately successful in the assertion of those legal defenses that the Indemnitor refused to assert after due notification by the Indemnitee.

**29.5** If the Indemnitor, after receipt of such prompt notification of such claim or action, does not assume the defense of any such suit or claim, it shall thereafter be barred from disputing the nature and amount of the damages ultimately incurred or determined to have been incurred by the Indemnitee in settling or litigating the action or claim.

### **SECTION 30. MISCELLANEOUS.**

**30.1** All of the parties to this Agreement have participated fully in the negotiation and preparation hereof, and, accordingly, this Agreement shall not be more strictly construed against any one of the parties hereto.

**30.2** Except for the provisions of Section 4 and 14.1(1) hereof, in the event any term or provision of this Agreement be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.

**30.3** In the event of any litigation between the parties under this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs at all trial and appellate levels.

**30.4** In construing this Agreement, the singular shall be held to include the plural, the plural shall be held to include the singular, the use of any gender shall be held to include every other and all genders, and captions and paragraph headings shall be disregarded.

**SECTION 31. ADDITIONAL SELLER RESPONSIBILITIES.**

**31.1** While it is anticipated that as of the Closing Date, COUNTY billing will be handled by COUNTY, if necessary, SELLER at its expense shall provide COUNTY with up to sixty (60) days of billing services which include rendering the bills, mailing the bills, collecting the money and turning the money collected over to and paying the COUNTY, (COUNTY, however, shall be responsible for reading the meters and turning over data and ~~for collection of nonpayment of bills~~), during the sixty (60) days following the Closing Date.

**31.2** The COUNTY agrees to replace at its expense any operations employees of SELLER that quit or resign after the Closing Date. All SELLER employees shall have the right to apply to work for the COUNTY subject to normal employment requirements, rules, and policies.

**31.3 (1)** SELLER shall make available at its expense key utility staff for transition activities for up to sixty (60) days, as necessary, following the Closing Date.

**(2)** SELLER and the COUNTY agree that SELLER shall provide to the COUNTY the Palm Cay Utilities general manager as a temporary employee of the COUNTY to assist in the transfer operations from SELLER to the COUNTY for one month following the closing. The COUNTY shall pay this temporary employee at a rate of \$10.04 per hour.

**31.4** SELLER, at its expense, shall provide for a minimum of one month materials, supplies, and consumables to be transferred to COUNTY on the Closing Date.

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

SIGNED, SEALED, AND DELIVERED  
IN THE PRESENCE OF:

PALM CAY UTILITIES, INC.

x [Signature]  
Name: Demetra Rucker

BY: [Signature]  
Print Name: Jon M. Kurtz  
As/Its: President

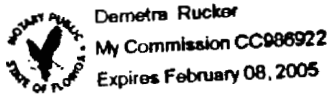
x [Signature]  
Name: Corcoran Sweeney

DATE: 2/21/02

[CORPORATE SEAL]

STATE OF FLORIDA  
COUNTY OF MARION

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of February, 2002, by Jon M. Kurtz, as President, of PALM CAY UTILITIES, INC., a Florida corporation, on behalf of the corporation.



[Signature]  
Signature of Notary Public

AFFIX NOTARY STAMP

(Print Notary Name  
My Commission Expires: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
 Personally known, or  
 Produced Identification  
Type of Identification Produced \_\_\_\_\_

BOARD OF COUNTY COMMISSIONERS  
OF MARION COUNTY, FLORIDA

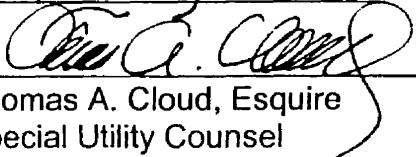
ATTEST:

  
David R. Ellspermann, Clerk

BY:   
Randy Harris, Chairman

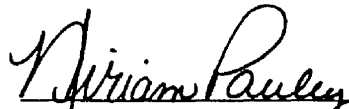
Date: March 19, 2002

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

February 21, 2002  
  
Thomas A. Cloud, Esquire  
Special Utility Counsel

STATE OF FLORIDA  
COUNTY OF MARION

The foregoing instrument was acknowledged before me this 19th day of March, 2002, by Randy Harris Chairman of the Board of County Commissioners, known to me to be the person described in and who executed the foregoing.

  
Signature of Notary Public  
Miriam Pauley

(Print Notary Name  
My Commission Expires: 10/29/05  
Commission No.: DD062394

Personally known, or  
 Produced Identification  
Type of Identification Produced

AFFIX NOTARY STAMP



Miriam Pauley  
MY COMMISSION # DD062394 EXPIRES  
October 29, 2005  
BONDED THRU TROY FAIN INSURANCE INC

**EXHIBIT 1**

Intentionally left blank.

**EXHIBIT 2**

Intentionally left blank.

**Exhibit 3**

**Plant and Other Facilities Assets**

**Exhibit 3**  
**Palm Cay Utilities, Inc.**  
**Summary Assets**

I.	Well Pump	
	A. Number	Two (2)
	B. Type	Vertical Turbine
	C. Capacity	650 gpm
	D. Year Installed	1986, 1989
II.	Water Treatment Plant No. 1	
	A. Hydropneumatic Tank	
	1. Number	One (1)
	2. Volume	10,000 gal.
	3. Year Installed	1986
	B. Chlorination System	
	1. Number	One (1)
	2. Type	Hydrochlorite
	3. Manufacturer	Chem Tech
	4. Bulk Storage	110 gal.
	5. Year Installed	1994
	C. Auxiliary Power	
	1. Manufacturer	Onan
	2. Type	80 kW
III.	Water Treatment Plant No. 2	
	A. Hydropneumatic Tank	
	1. Number	One (1)
	2. Volume	10,000 gal.
	3. Year Installed	1989
	B. Chlorination System	
	1. Number	One (1)
	2. Type	Hydrochlorite
	3. Manufacturer	Chem Tech
	4. Bulk Storage	55 gal.
	5. Year Installed	1994



**Exhibit 3**  
**Palm Cay Utilities, Inc.**  
**Summary Assets**  
**(continued)**

IV.	Piping		
	A.	8" PVC	9,925 ft.
	B.	6" PVC	20,125 ft.
	C.	4" PVC	17,200 ft.
	D.	2" PVC	150 ft.
	E.	Hydrants	One (1)
V.	Meters and Services		
	A.	5/8" x 3/4"	799 ea.
	B.	2"	1 ea.

Notes:  
(1) Excludes wells, WTP yard piping, and WTP site work

**Exhibit 4**

**Listing of Engineering Plans**

**Exhibit 4**  
**Listing of Engineering Plans**

1. Palm Cay Water Distribution System (5 sheets); Fredrick Bell Consulting Engineers, Inc.  
– July 1986
2. Palm Cay Unit II Water Distribution System (4 sheets); Fredrick Bell Consulting  
Engineers, Inc. – February 1988

**Exhibit 5**  
**All Permits Certifications, Authorizations to Approval**

**EXHIBIT 5**  
**ALL PERMITS, CERTIFICATIONS, AUTHORIZATIONS TO APPROVAL**

**INDEX**

1. Sanitary Survey Report, issued by Florida Department of Environmental Protection, PWS ID #642-4629, dated 11-21-00, total of six pages.
2. Transmittal letter, issued by SWFWMD, re: Transfer Water Use Permit No. 208423.006, dated December 9, 1999, total of 1 page.
3. Water Use Permit, issued by SWFWMD, Permit No. 208423.06, dated December 9, 1999, expiration date September 30, 2018, total of 9 pages including exhibits.

CC: ENVIRONMENTAL MASTERS

State of Florida  
Department of Environmental Protection  
Southwest District  
**SANITARY SURVEY REPORT**

Plant Name PALM CAY County MARION PWS ID # 642-4649  
Plant Location SW 80 th Ave Phone 352 854-0408  
Owner Name Palm Cay Utilites Phone same  
Owner Address 10641 SW 80<sup>th</sup> Ave, Ocala, Fl. 34481  
Contact Person Jim Noe Title Gen Mgr Phone same  
This Survey Date 11/21/00 Last Survey Date 3/28/00 Last C.I. Date 7/29/98

**PWS TYPE & CLASS**

- Community (5D)
- Non-transient Non-community
- Non-Community

**PWS STATUS**

- Approved system with approval number & date  
WC42-1524 12/87  
WC42-1595 11/88
- Unapproved system

**SERVICE AREA CHARACTERISTICS**

ND  
Food Service:  Yes  No  N/A

**OPERATION & MAINTENANCE**

Certified Operator:  Yes  No  Not required  
Operator(s) & Certification Class-Number  
Len Tabor C 6649

O & M Log:  Yes  No  Not required  
Operator Visitation Frequency

Hrs/day: Required \_\_\_\_\_ Actual \_\_\_\_\_  
Days/wk: Required 6 Actual 6

Non-consecutive Days?  Yes  No  N/A  
MORs submitted regularly?  Yes  No  N/A  
Data missing from MORs?  No  Yes  N/A

Number of Service Connections 796  
Population Served 1500 Basis count  
Average Day (from MORs) 254,000 gpd  
Max. Day (from MORs) 487,000 gpd  
Max-day Design Capacity \_\_\_\_\_ gpd  
Comments \_\_\_\_\_

COMET: SITE ID \_\_\_\_\_ PROJECT ID \_\_\_\_\_

**RAW WATER SOURCE**

- GROUND; Number of Wells 2
- SURFACE/UDI; Source \_\_\_\_\_
- PURCHASED from PWS ID # \_\_\_\_\_
- Emergency Water Source other well  
Emergency Water Capacity \_\_\_\_\_

**AUXILIARY POWER SOURCE**

- Yes  None  Not Required  
Source diesel onan gen set  
Capacity of Standby (kW) 80 kw  
Switchover:  Automatic  Manual  
Standby Plan:  Yes  No  
Hrs Operated Under Load 4 hrs/mo.  
What equipment does it operate?  
 Well pumps \_\_\_\_\_  
 High Service Pumps \_\_\_\_\_  
 Treatment Equipment \_\_\_\_\_  
Satisfy 1/2 max-day demand?  Yes  No  Unk  
Comments gen log 10/3 is last entry

**TREATMENT PROCESSES IN USE**

Chlorination  
What additional treatment is needed?  
none  
For control of what deficiencies?

**DISTRIBUTION SYSTEM**

Flow Measuring Device Flow Meter  
Meter Size & Type 2-Badger x 10 9, 1-Badger 10 9  
Backflow Prevention Devices:  Yes  No  
Cross-connections \_\_\_\_\_  
Written Cross-connection Control Program: Yes  
Coliform Sampling Plan:  Yes  No  N/A  
Comments \_\_\_\_\_

**GROUND WATER SOURCE**

Well Number	2	1		
Year Drilled	1989	1986		
Depth Drilled	260'	330'		
Drilling Method	comb	comb		
Type of Grout	cement	cement		
Static Water Level	u	37'		
Pumping Water Level	u	u		
Design Well Yield	u	530		
Test Yield	u	530		
Actual Yield (if different than rated capacity)	u	u		
Strainer	u	open hole		
Length (outside casing)	u	76'		
Diameter (outside casing)	10"	8"		
Material (outside casing)	blk iron	blk iron		
Well Contamination History	ok	ok		
Is inundation of well possible?	No	no		
X 6' X 4" Concrete Pad	yes	yes		
SET BACKS	Septic Tank	ok	ok	
	Reuse Water	Na	na	
	WW Plumbing			
	Other Sanitary Hazard			
PUMP	Type	submers	submers	
	Manufacturer Name		sta-rite	
	Model Number		u	
	Rated Capacity (gpm)	670	530	
	Motor Horsepower	40	30	
Well casing 12" above grade?	no	no		
Well Casing Sanitary Seal	ok	ok		
Raw Water Sampling Tap	yes	yes		
Above Ground Check Valve	yes	yes		
Fence/Housing	yes	yes		
Well Vent Protection	Yes	yes		

**COMMENTS** Please provide any missing information

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**CHLORINATION (Disinfection)**

Type:  Gas  Hypo  
 Make chem tech Capacity 30 gpd  
 Chlorine Feed Rate 70%  
 Avg. Amount of Cl<sub>2</sub> gas used unk  
 Chlorine Residuals: Plant 0.8 Remote 0.4  
 Remote tap location \_\_\_\_\_  
 DPD Test Kit:  On-site  With operator  
 None  Not Used Daily  
 Injection Points 2 poe 2 plants  
 Booster Pump Info \_\_\_\_\_  
 Comments refill lid for chlorine solution tank  
missing at site 2

Chlorine Gas Use Requirements	YES	NO	Comments
Dual System	<input type="checkbox"/>	<input type="checkbox"/>	
Auto-switchover	<input type="checkbox"/>	<input type="checkbox"/>	
Alarms:			
Loss of Cl <sub>2</sub> capability	<input type="checkbox"/>	<input type="checkbox"/>	
Loss of Cl <sub>2</sub> residual	<input type="checkbox"/>	<input type="checkbox"/>	
Cl <sub>2</sub> leak detection	<input type="checkbox"/>	<input type="checkbox"/>	
scale	<input type="checkbox"/>	<input type="checkbox"/>	
Chained Cylinders	<input type="checkbox"/>	<input type="checkbox"/>	
Reserve Supply	<input type="checkbox"/>	<input type="checkbox"/>	
Adequate Air-pak	<input type="checkbox"/>	<input type="checkbox"/>	
Sign of Leaks	<input type="checkbox"/>	<input type="checkbox"/>	
Fresh Ammonia	<input type="checkbox"/>	<input type="checkbox"/>	
Ventilation	<input type="checkbox"/>	<input type="checkbox"/>	
Room Lighting	<input type="checkbox"/>	<input type="checkbox"/>	
Warning Signs	<input type="checkbox"/>	<input type="checkbox"/>	
Repair Kits	<input type="checkbox"/>	<input type="checkbox"/>	
Fitted Wrench	<input type="checkbox"/>	<input type="checkbox"/>	
Housing/Protection	<input type="checkbox"/>	<input type="checkbox"/>	

**AERATION (Gases, Fe, & Mn Removal)**

Type \_\_\_\_\_ Capacity \_\_\_\_\_  
 Aerator Condition \_\_\_\_\_  
 Bloodworm Presence \_\_\_\_\_  
 Visible Algae Growth \_\_\_\_\_  
 Protective Screen Condition \_\_\_\_\_  
 Comments \_\_\_\_\_

**STORAGE FACILITIES**

(G) Ground (H) Hydropneumatic (E) Elevated  
 (B) Bladder (C) Clearwell

Tank Type/Number	H/1	H/2	
Capacity (gal)	10,000	10,000	
Material	steel	steel	
Gravity Drain	No	Yes	
By-pass Piping	Yes	Yes	
Pressure Gauge	Yes	Yes	
Sight Glass or Level Indicator	Yes	Yes	
Fittings for Sight Glass	Yes	Yes	
Protected Openings	No	N/A	
PRV/ARV	ARV	ARV	
On/Off Pressure	35/55	40/60	
Access Padlocked	Yes	Yes	
Height to Bottom of Elevated Tank	na	na	
Height to Max. Water Level	na	na	

Comments no gravity drain on tanks when tanks are  
REPLACED/REPAIRED PROVIDE GRAVITY  
DRAIN(1), 2 has  
blowoff at end of tank

**HIGH SERVICE PUMPS**

Pump Number			
Type			
Make			
Model			
Capacity (gpm)			
Motor HP			
Date Installed			
Maintenance			

Comments \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



### COMPLIANCE MONITORING COMMUNITY PUBLIC WATER SYSTEMS

CONTAMINANT	PWS Screen	# Samples Required	Sampling Location	C > 3300			C ≤ 3300		
				Frequency	Sample Date	Due Date	Frequency	Sample Date	Due Date
Microbiological (Bacte)	024	1	Each well	monthly			monthly		
		2	Distribution						
Volatile Organics	028	<i>(Note A)</i>	<i>(Note H)</i>	<i>(Notes A, 1)</i>			<i>(Notes A, 2)</i>		
Pesticides & PCBs	029	<i>(Notes B, E)</i>	<i>(Note H)</i>	3 years <i>(Note 1)</i>			3 years <i>(Note 2)</i>		
Nitrate & Nitrite (as N)	030	1	POE	annually			annually		
Inorganics	030	1	POE	3 years <i>(Note 1)</i>			3 years <i>(Note 2)</i>		
Asbestos	030	1 <i>(Note F)</i>	Distribution	9 years <i>(Note 7)</i>			9 years <i>(Note 8)</i>		
Secondaries	031	1	POE	3 years <i>(Note 1)</i>			3 years <i>(Note 2)</i>		
Radionuclides	033	<i>(Note C)</i>	POE	3 years <i>(Note 1)</i>			3 years <i>(Note 2)</i>		
Group I UOCs	035	<i>(Notes B, E, G)</i>	POE	<i>(Note 4)</i>			<i>(Note 5)</i>		
Group II UOCs	034	1 <i>(Notes E, G)</i>	POE	3 years <i>(Note 1)</i>			3 years <i>(Note 2)</i>		
Group III UOCs	036, 037	1 <i>(Note G)</i>	POE	<i>(Note 4)</i>			<i>(Note 5)</i>		
Lead and Copper	047	<i>(Note D)</i>	---	---			---		
TTHM (≥ 10,000 persons)	027	4/plant	Distribution	Quarterly			N/A	N/A	N/A

POE = Point of Entry (Samples shall be taken at each entry point to the distribution system that is representative of each source after treatment.)

See Page 5 for description of italicized notes.

## NOTES:

### # SAMPLES REQUIRED/SAMPLING LOCATION:

**Note A** See Rule 62-550.515(1), F.A.C. Each system shall take four consecutive quarterly samples during its assigned year in the system's first compliance period. If no contaminant is detected, the system shall monitor annually during the next three-year compliance period. If still no contaminants are detected, systems shall take one sample during each subsequent three-year compliance period.

If the initial monitoring for contaminants listed in Rule 62-550.310(2)(b), F.A.C., was completed prior to December 31, 1992, then each system shall take one sample annually beginning January 1, 1993.

**Note B** 4 consecutive quarterly samples. Credit will be given for samples taken before January 1, 1993.

**Note C** See Rule 62-550.519, F.A.C. Compliance shall be based on the average of analyses of four consecutive quarterly samples. A maximum of two quarterly samples may be composited. Subsequent samples shall be collected once every three years.

**Note D** Contact the Southwest District's Drinking Water Program at (813) 744-6100 or contact the Florida Rural Water Association.

**Note E** Contact the Southwest District's Drinking Water Program at (813) 744-6100 to obtain an application for reduced monitoring.

**Note F** See Rule 62-550.511(4), F.A.C. A system without asbestos-containing components shall certify to the Department in writing, using DEP Form No. 62-555.910(10), that it is asbestos free. Certification shall satisfy subsections (1), (2), and (3) of the referenced rule, and shall be submitted each nine-year compliance cycle during the specified year the system is required to monitor.

**Note G** See Rule 62-550.521(4), F.A.C. Systems serving less than 150 service connections and serving fewer than 350 persons should notify the Department, by submitting DEP Form No. 62-555.910(11), that their system is available for testing. Normally, these small systems will not be required to monitor for UOCs. Do not send such samples to the Department unless required to do so by the Department.

**Note H** First quarter samples shall be representative of each well. Subsequent samples shall be taken at each entry point to the distribution system that is representative of each source after treatment.

### FREQUENCY:

**Note 1** First year of each three-year compliance period (calendar years 1993, 1996, 1999, etc.)

**Note 2** Second year of each three-year compliance period (calendar years 1994, 1997, 2000, etc.)

**Note 3** Third year of each three-year compliance period (calendar years 1995, 1998, 2001, etc.)

**Note 4** First year of the first three-year compliance period (i.e. calendar year 1993)

**Note 5** Second year of the first three-year compliance period (i.e. calendar year 1994)

**Note 6** Third year of the first three-year compliance period (i.e. calendar year 1995)

**Note 7** First year of each nine-year compliance cycle (calendar years 1993, 2002, etc.)

**Note 8** Second year of each nine-year compliance cycle (calendar years 1994, 2003, etc.)

**Note 9** Third year of each nine-year compliance cycle (calendar years 1995, 2004, etc.)

MONITORING VIOLATIONS	MCL VIOLATIONS

**DEFICIENCIES:**

Popoff valve at well appears to be leaking. Repair as necessary. Replace missing refill lid for chlorine solution tank to prevent entrance of debris/vermin. 62-555.350.

Note: last entry in generator log was 10/3 . Be sure log is kept up to date.

Inspector Bill Kufner  
Approved by Gerald B. [Signature]

Title Env. Specialist II Date 11/27/00  
Title Env. Supervisor II Date 11-27-00



An Equal Opportunity Employer

# Southwest Florida Water Management District

2379 Broad Street, Brooksville, Florida 34609-6899  
(352) 796-7211 or 1-800-423-1476 (FL only)  
SUNCOM 628-4150 TDD only 1-800-231-6103 (FL only)  
World Wide Web: <http://www.swfwmd.state.fl.us>

**Tampa Service Office**  
7601 Highway 301 North  
Tampa, Florida 33637-6759  
(813) 985-7481 or  
1-800-836-0797 (FL only)  
SUNCOM 578-2070

**Bartow Service Office**  
170 Century Boulevard  
Bartow, Florida 33830-7700  
(941) 534-1448 or  
1-800-492-7862 (FL only)  
SUNCOM 572-6200

**Venice Service Office**  
115 Corporation Way  
Venice, Florida 34292-3524  
(941) 486-1212 or  
1-800-320-3503 (FL only)  
SUNCOM 526-6900

**Lecanto Service Office**  
3600 West Sovereign Path  
Suite 226  
Lecanto, Florida 34461-8070  
(352) 527-8131  
SUNCOM 667-3271

December 9, 1999

- Ronald C. Johnson**  
Chair, Lake Wales
- Brenda Menendez**  
Vice Chair, Tampa
- Sally Thompson**  
Secretary, Tampa
- Ronnie E. Duncan**  
Treasurer, Safety Harbor
- Monroe "Al" Coogler**  
Lecanto
- Joe L. Davis, Jr.**  
Wauchula
- Rebecca M. Eger**  
Sarasota
- John P. Harilee, IV**  
Bradenton
- Watson L. Haynes, II**  
St. Petersburg
- John K. Renke, III**  
New Port Richey
- Pamela Stinnette-Taylor**  
Tampa
- E. D. "Sonny" Vergara**  
Executive Director
- Gene A. Heath**  
Assistant Executive Director
- Edward B. Helvenston**  
General Counsel

Palm Cay Utilities, Inc.  
10641 SW 80<sup>th</sup> Ave.  
Ocala, FL 34481

Subject: Transfer Water Use Permit No. 208423.006

Reference: Chapter 40D-2.351, Florida Administrative Code

Dear Sir or Madam:

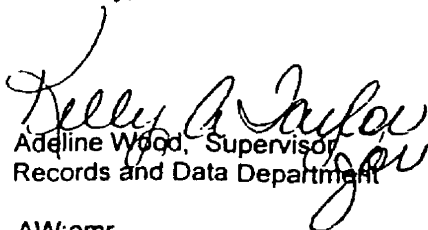
Your Water Use Permit Transfer has been approved. Final approval is based on all contingencies stated in the enclosed copy of your permit.

Please be advised that the Governing Board has formulated a water shortage plan as referenced in Condition 4 of the Standard Water Use Permit Conditions (Exhibit A), and will implement such a plan during periods of water shortage. You will be notified during a declared water shortage of any change in the conditions of your Permit(s) or any suspension of your Permit(s), or of any restriction on your use of water for the duration of any declared water shortage. Please further note that water conservation is a condition of your Permit(s) and should be practiced at all times.

The ID tag(s) for your withdrawal(s) shall be installed by a District representative. This representative will attempt to contact you within 30 days to discuss placement of your tags. If you have any questions or concerns regarding your tags, please contact Sandy Semegen at extension 4349 in the Brooksville Regulation Department. If you have any questions or concerns regarding your permit or any other information, please contact this office at extension 4340.

Should your address change you must notify the District within 30 days.

Sincerely,

  
Adeline Wood, Supervisor  
Records and Data Department

AW:amr

Enclosures: Approved Permit, Assignment Form

cc: Venture Associates

TRANSTL2.FAA  
R.07/30/99

TRANSFERRED ON: December 9, 1999  
TO: Palm Cay Utilities, Inc.  
10641 SW 80<sup>th</sup> Ave.  
Ocala, FL 34481  
NEW EXPIRATION DATE: September 30, 2018

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
WATER USE  
GENERAL  
PERMIT NO. 208423.06

EXPIRATION DATE: November 6, 2007

PERMIT ISSUE DATE: November 6, 1997

THE PERMITTEE IS RESPONSIBLE FOR APPLYING FOR A RENEWAL OF THIS PERMIT PRIOR TO THE EXPIRATION DATE WHETHER OR NOT THE PERMITTEE RECEIVES PRIOR NOTIFICATION BY MAIL. FAILURE TO DO SO AND CONTINUED USE OF WATER AFTER EXPIRATION DATE IS A VIOLATION OF DISTRICT RULES AND MAY RESULT IN A MONETARY PENALTY AND/OR LOSS OF WATER. APPLICATION FOR RENEWAL PRIOR TO THE EXPIRATION DATE IS SUBJECT TO DISTRICT EVALUATION AND APPROVAL.

This permit, issued under the provision of Chapter 373, Florida Statutes and Florida Administrative Code 40D-2, authorizes the Permittee to withdraw the quantities outlined herein, and may require various activities to be performed by the Permittee as outlined by the Special Conditions. This permit, subject to all terms and conditions, meets all District permitting criteria.

PROJECT NAME: Not Specified  
GRANTED TO: Venture Associates Utilities Corporation  
2661 NW 60th Avenue  
Ocala, FL 34482

TOTAL QUANTITIES AUTHORIZED UNDER THIS PERMIT (in gpd)

AVERAGE: 240,000                      PEAK MONTHLY: 370,000

<u>Use</u>	<u>Average</u>	<u>Peak Monthly</u>
Public Supply:	240,000 gpd	370,000 gpd

See Withdrawal Table for quantities permitted for each withdrawal point.

PROPERTY LOCATION: Marion County, approximately 8 miles southwest of Ocala on State Road 200.

TYPE OF APPLICATION: Renewal                      WATER USE CAUTION AREA: N/A

APPLICATION FILED: July 18, 1997                      ACRES: 2.92 Owned  
280.00 Serviced  
282.92 Total

APPLICATION AMENDED: N/A

Permit No.: 208423.06  
 Permittee: Venture Associates Utilities Corporation  
 Page 2

**WATER USE: PUBLIC SUPPLY**

**SERVICE AREA NAME**

Palm Cay

<u>USE TYPE</u>	<u>POPULATION SERVED</u>	<u>PER CAPITA RATE</u>
Residential/Single Family	2,000	120
Total Public Supply Use		Gross = 120 gpd/person

<u>I.D. NO.</u> <u>PERMITTEE/</u> <u>DISTRICT</u>	<u>DIAM.</u> <u>(IN.)</u>	<u>DEPTH</u> <u>TTL./CSD.</u>	<u>USE</u>	<u>GALLONS PER DAY</u>	
				<u>AVERAGE</u>	<u>PEAK MONTHLY</u>
1 / 1	8	330 / 76	PS	120,000	185,000
2 / 4	10	260 / 83	PS	120,000	185,000

PS = Public Supply

<u>DISTRICT</u> <u>I.D. NO.</u>	<u>SECTION/TOWNSHIP/RANGE</u>	<u>LOCATION</u> <u>LAT./LONG.</u>
1	30/16/21	290401/821507
4	31/16/21	290332/821506

**SPECIAL CONDITIONS:**

All conditions referring to approval by the Regulation Department Director, Resource Regulation, shall refer to the Director, Brooksville Regulation Department, Resource Regulation.

- All reports required by the permit shall be submitted to the District on or before the tenth day of the month following data collection and shall be addressed to:

Permit Data Section, Records and Data Department  
 Southwest Florida Water Management District  
 2379 Broad Street  
 Brooksville, Florida 34609-6899

Unless otherwise indicated, three copies of each plan or report, with the exception of pumpage, rainfall, evapotranspiration, water level or water quality data which require one copy, are required by the permit.

2. The Permittee shall continue to maintain and operate the existing non-resettable, totalizing flow meter(s), or other flow measuring device(s) as approved by the Regulation Department Director, Resource Regulation, for District ID No(s). 1 and 4, Permittee ID No(s). 1 and 2. Such device(s) shall maintain an accuracy within five percent of the actual flow as installed. Total withdrawal and meter readings from each metered withdrawal shall be recorded on a monthly basis and reported to the Permit Data Section, Records and Data Department, (using District forms) on or before the tenth day of the following month. If a metered withdrawal is not utilized during a given month, a report shall be submitted to the Permit Data Section, Records and Data Department, indicating zero gallons.
  
3. Water quality samples shall be collected and analyzed, for parameter(s), and frequency(ies) specified below. Water quality samples from production wells shall be collected whether or not the well is being used, unless infeasible. If sampling is infeasible the Permittee shall indicate the reason for not sampling on the water quality data form. Water quality samples shall be analyzed by a Department of Health and Rehabilitative Services (DHRS) certified laboratory under Environmental Laboratory Certification General Category "1". At a minimum, water quality samples shall be collected after pumping the well at its normal rate for a pumping time specified in the table below, or to a constant temperature, pH, and conductivity. In addition, the Permittee's sampling procedure shall follow the handling and chain of custody procedures designated by the certified laboratory which will undertake the analysis. Any variance in sampling and/or analytical methods shall have prior approval of the Regulation Department Director, Resource Regulation. Reports of the analyses shall be submitted to the Permit Data Section, Records and Data Department, (using District forms) on or before the tenth day of the following month, and shall include the signature of an authorized representative and certification number of the certified laboratory which undertook the analysis. The parameters and frequency of sampling and analysis may be modified by the Regulation Department Director, Resource Regulation, as necessary to ensure the protection of the resource.

<u>District ID No.</u>	<u>Permittee ID No.</u>	<u>Minimum Pumping Time (minutes)</u>	<u>Parameter</u>	<u>Sampling Frequency</u>
1	1	15	Chlorides, Sulfates, and T.D.S.	February, May, August and November

Water quality samples shall be collected based on the following timetable:

Weekly	Same day of each week
Monthly	Same week of each month
Quarterly	Same week of months specified
Semi-annually	Same week of months specified

Analyses shall be performed according to procedures outlined in the current edition of Standard Methods for the Examination of Water and Wastewater by the American Public Health Association-American Water Works Association-Water Pollution Control Federation (APHA-American Water Works Association-WPCF) or Methods for Chemical Analyses of Water and Wastes by the U.S. Environmental Protection Agency (EPA).

Permit No.: 208423.06  
Permittee: Venture Associates Utilities Corporation  
Page 4

**STANDARD CONDITIONS:**

1. The Permittee shall comply with the Standard Conditions attached hereto, incorporated herein by reference as Exhibit "A" and made a part hereof.



---

Authorized Signature  
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT



Permit No.: 208423.06  
Permittee: Venture Associates Utilities Corporation  
Page 5

40D-2  
Exhibit "A"

**WATER USE PERMIT CONDITIONS**

**STANDARD CONDITIONS**

1. If any of the statements in the application and in the supporting data are found to be untrue and inaccurate, or if the Permittee fails to comply with all of the provisions of Chapter 373, F.S., Chapter 40D, or the conditions set forth herein, the Governing Board shall revoke this permit in accordance with Rule 40D-2.341, following notice and hearing.
2. This permit is issued based on information provided by the Permittee demonstrating that the use of water is reasonable and beneficial, consistent with the public interest, and will not interfere with any existing legal use of water. If, during the term of the permit, it is determined by the District that the use is not reasonable and beneficial, in the public interest, or does impact an existing legal use of water, the Governing Board shall modify this permit or shall revoke this permit following notice and hearing.
3. The Permittee shall not deviate from any of the terms or conditions of this permit without written approval by the District.
4. In the event the District declares that a Water Shortage exists pursuant to Chapter 40D-21, the District shall alter, modify, or declare inactive all or parts of this permit as necessary to address the water shortage.
5. The District shall collect water samples from any withdrawal point listed in the permit or shall require the Permittee to submit water samples when the District determines there is a potential for adverse impacts to water quality.
6. The Permittee shall provide access to an authorized District representative to enter the property at any reasonable time to inspect the facility and make environmental or hydrologic assessments. The Permittee shall either accompany District staff onto the property or make provision for access onto the property.
7. Issuance of this permit does not exempt the Permittee from any other District permitting requirements.
8. The Permittee shall cease or reduce surface water withdrawal as directed by the District if water levels in lakes fall below applicable minimum water level established in Chapter 40D-8 or rates of flow in streams fall below the minimum levels established in Chapter 40D-8.
9. The Permittee shall cease or reduce withdrawal as directed by the District if water levels in aquifers fall below the minimum levels established by the Governing Board.
10. The Permittee shall practice water conservation to increase the efficiency of transport, application, and use, as well as to decrease waste and to minimize runoff from the property. At such time as the Governing Board adopts specific conservation requirements for the Permittee's water use classification, this permit shall be subject to those requirements upon notice and after a reasonable period for compliance.

Permit No.: 208423.06  
Permittee: Venture Associates Utilities Corporation  
Page 6

11. The District may establish special regulations for Water Use Caution Areas. At such time as the Governing Board adopts such provisions, this permit shall be subject to them upon notice and after a reasonable period for compliance.
12. The Permittee shall mitigate, to the satisfaction of the District, any adverse impact to existing legal uses caused by withdrawals. When adverse impacts occur or are imminent, the District shall require the Permittee to mitigate the impacts. Adverse impacts include:
  - a. A reduction in water levels which impairs the ability of a well to produce water;
  - b. Significant reduction in levels or flows in water bodies such as lakes, impoundments, wetlands, springs, streams or other watercourses; or
  - c. Significant inducement of natural or manmade contaminants into a water supply or into a usable portion of any aquifer or water body.
13. The Permittee shall mitigate to the satisfaction of the District any adverse impact to environmental features or offsite land uses as a result of withdrawals. When adverse impacts occur or are imminent, the District shall require the Permittee to mitigate the impacts. Adverse impacts include the following:
  - a. Significant reduction in levels or flows in water bodies such as lakes, impoundments, wetlands, springs, streams, or other watercourses;
  - b. Sinkholes or subsidence caused by reduction in water levels;
  - c. Damage to crops and other vegetation causing financial harm to the owner; and
  - d. Damage to the habitat of endangered or threatened species.
14. When necessary to analyze impacts to the water resource or existing users, the District shall require the Permittee to install flow metering or other measuring devices to record withdrawal quantities and submit the data to the District.
15. A District identification tag shall be prominently displayed at each withdrawal point by permanently affixing the tag to the withdrawal facility.
16. The Permittee shall notify the District within 30 days of the sale or conveyance of permitted water withdrawal facilities or the land on which the facilities are located.
17. All permits issued pursuant to these Rules are contingent upon continued ownership or legal control of all property on which pumps, wells, diversions or other water withdrawal facilities are located.

## SUBPART B - FORMAL PROCEEDINGS

### 40D-1.521 Initiation of Formal Proceedings

- (1) Formal proceedings shall be initiated by petition to the District. The term petition as used herein includes any application or other document which expresses a request for formal proceedings. Each petition should be printed, typewritten or otherwise duplicated in legible form on white paper of standard letter size and signed by the petitioner or his representative. Unless printed, the impression shall be on one side of the paper only and lines shall be double spaced and indented.
- (2) All petitions filed under these rules shall contain:
  - A) The name and address of the District and the District's file or identification number, if known;
  - B) The name and address of the petitioner or petitioners;
  - C) An explanation of how each petitioner's substantial interests will be affected by the District's determination;
  - D) A statement of when and how petitioner received Notice of the District's Proposed or Final Agency Action;
  - E) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
  - F) A concise statement of the ultimate facts which petitioner believes entitle him to relief sought as well as the rules and statutes which support petitioner's claim for relief;
  - G) A statement of preference of presiding officer;
  - H) A demand for the relief to which the petitioner deems himself entitled; and
  - I) Other information which the petitioner contends is material.
- (3) Upon receipt of a petition for formal proceedings the District shall review the petition and shall provide a statement of compliance of the petition which the requirements of this rule to the Board and the petitioner. The Board shall accept those petitions in substantial compliance with this rule which have been timely filed and which state a dispute which is within the jurisdiction of the District to resolve. If the petition is accepted the Board shall designate the presiding office. The District shall promptly give written notice to all parties of the action taken on the petition, and shall state with particularity its reasons therefore.
- (4) If the Board designates a Hearing Officer assigned by the Division of Administrative Hearings as the presiding officer, the Agency Clerk shall forward the petition and all materials filed with the District to the Division of Administrative Hearings, and shall notify all parties of such action.
- (5) Petitioners entitled to a hearing pursuant to Subsection 120.57(1), Florida Statutes, may waive their right to a formal hearing and request an informal hearing before the Board pursuant to Subsection 120.57(2), Florida Statutes, which may be granted at the option of the District.

Southwest Florida Water Management District  
2379 Broad Street (U.S. 41 South) Brooksville, Florida 34609-6899  
(352)796-7211 or 1-800-423-1476(Florida Only) (SUNCOM 628-4150)

PLEASE ATTACH TO THE FACE OF YOUR PERMIT  
TRANSFERRED ON: December 9, 1999

12/07/98

TO: Palm Cay Utilities, Inc.  
10641 SW 80<sup>th</sup> Ave.  
Ocala, FL 34481

VENTURE ASSOCIATES UTILITIES  
CORP  
2661 NW 60TH AVE  
OCALA, FL 34482-

NEW EXPIRATION DATE: September 30, 2018

Subject: EXTENSION - Water Use Permit No. 8423.06

Dear Permittee:

We are pleased to inform you that THE EXPIRATION DATE OF YOUR ABOVE REFERENCED WATER USE PERMIT HAS BEEN EXTENDED TO 09/30/18. Through a process of random selections by computer, the District has extended the expiration date of certain permits with annual average daily withdrawals of less than 500,000 gallons. This process will ensure that the number of renewal applications received in any one year does not exceed our capacity to evaluate and process the applications.

This extension of permit duration does not require any action on your part and is at no cost to you. However, you will need to update your records so that you will file an application for renewal during the year prior to the new expiration date.

Although the expiration date of your permit has been extended, you are still required to comply with all the terms and conditions of your permit. For example, if your permit was issued with conditions requiring data, reports, etc. to be submitted, you must continue to submit all such required information at the regular intervals specified in the conditions of your permit. For any permit condition that has the expiration date as the date by which action, report submission or other compliance is required, the previous expiration date applies, not the newly extended expiration date.

As a further reminder, your extended permit is still subject to and must comply with all applicable District rules, including those relating to:

- the conditions of issuance for water use permits, and
  - relevant established minimum flows and levels and associated prevention and recovery strategies,
- and can be modified or revoked for noncompliance with the permit, District rules, and Chapter 373, Florida Statutes.

PAGE 2

If the withdrawals on the referenced permit are no longer in use or if you have sold the property, please inform us by return letter. Also, please provide the name and mailing address of the new owner.

If you have any questions about this one-time extension of your permit duration, please contact Steve DeSmith in our Brooksville Regulation department at (352)796-7211 or 1-800-423-1476 (Florida only).

PLEASE KEEP THIS LETTER ATTACHED TO THE FACE OF YOUR PERMIT AT ALL TIMES, indicating that your permit expiration date is now 09/30/18. We appreciate your assistance in this matter and it will help us to serve you better in the future when you submit your renewal application.

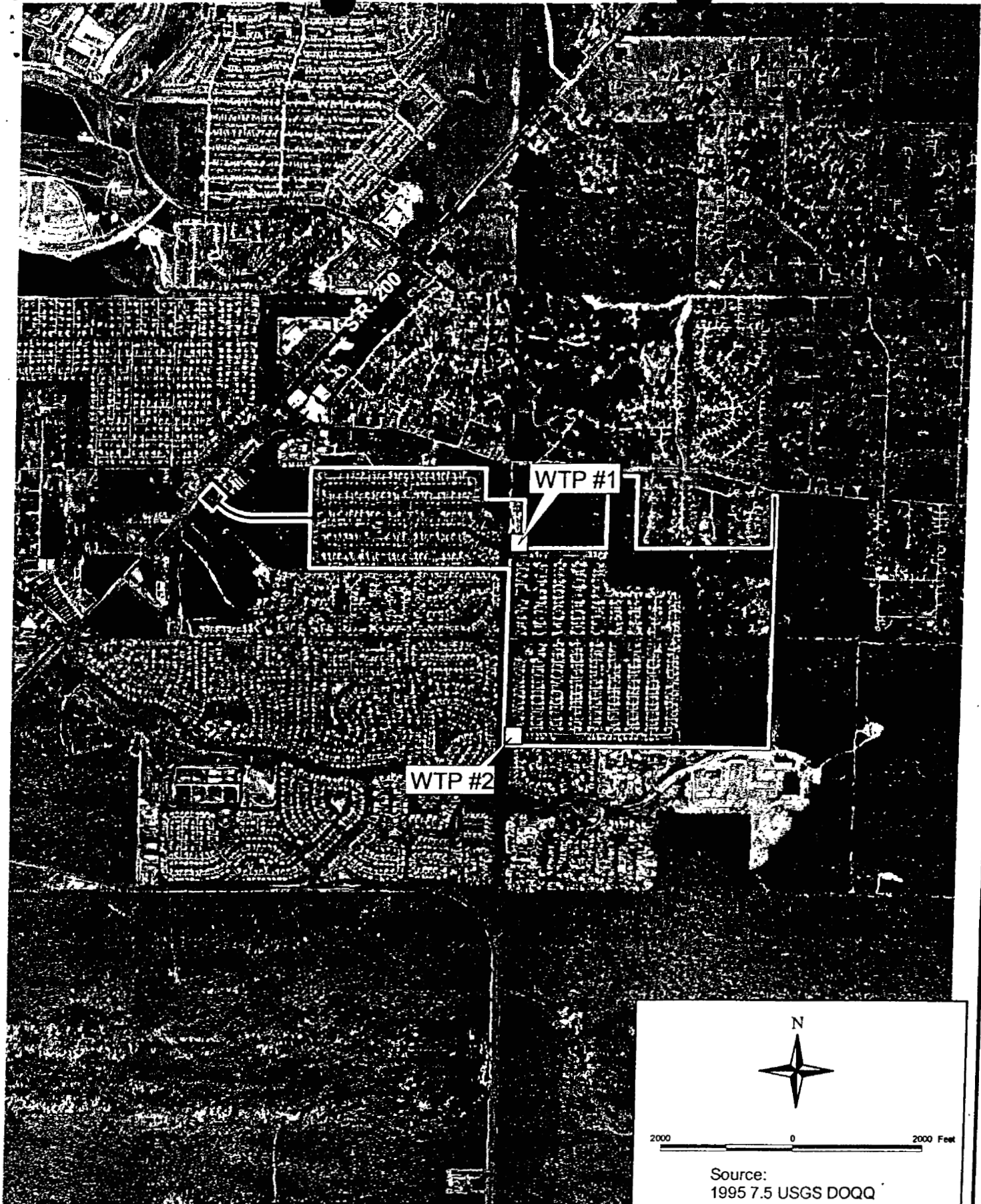
Sincerely,

(Signed)  
BJ Jarvis, Director  
Records and Data Department

BJJ/

cc: File of Record - Water Use Permit No. 8423.06

**Exhibit 6**  
**Certificated Service Area**



**EXHIBIT 7**

**List of Assignments, Consents and Approvals**

None.



## EXHIBIT B

### Customer Deposits

All customer deposits were transferred to the Buyer at the closing.

## EXHIBIT C

### Regulatory Fees, Fines or Refunds

2001 regulatory fees have been paid by mail to the Public Service Commission. There are no fines or other fees owed.

## **EXHIBIT D**

Florida Statute 125.3401 requires counties to consider 10 points to determine if the water and wastewater utility is in the public interest. On March 5, 2001 Marion County held a public hearing to consider these points with respect to Palm Cay which included the following:

- Income and Expense Statement from the Year 2000 Annual Report**
- Balance Sheet from the Year 2000 Annual Report**
- Rate Base from the Year 2000 Annual Report**
- The physical condition of the facilities**
- Reasonableness of the contract terms and purchase price**
- The impacts of the sale on the utility customers**
- Additional investment required**
- Alternatives to the sale**
- Ability of County to provide quality service**