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November 20, 2002

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

Re: Docket No.: 020413-SU

Dear Ms. Bayo:

On behalf of Adam Smith Enterprises, Inc. I am enclosing the original and 15 copies of the following:

- ▶ Adam Smith Enterprises, Inc.'s Response to Aloha Utilities, Inc.'s Motion to Compel and Adam Smith Enterprises, Inc.'s Motion for Protective Order

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and pleading by returning the same. Thank you for your assistance in this matter.

Yours truly,



Joseph A. McGlothlin

JAM/mls
Enclosure

DOCUMENT NUMBER - DATE
12770 NOV 20 02
FPSC-COMMISSION CLERK

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings
Against Aloha Utilities, Inc. in Pasco
County for failure to charge approved
Service availability charges, in violation
Of Order No. PSC-01-0326-FOF-SU and
Section 367.091, Florida Statutes

Docket No. 020413-SU

Filed: November 20, 2002

**RESPONSE OF ADAM SMITH ENTERPRISES, INC. TO
ALOHA UTILITIES, INC.'S MOTION TO COMPEL
AND
ADAM SMITH'S MOTION FOR PROTECTIVE ORDER**

Pursuant to Rule 28-106.206, Florida Administrative Code, and Rule 1.280(c), Florida Rules of Civil Procedure, Adam Smith Enterprises, Inc. (Adam Smith) files its Response to Aloha Utilities, Inc.'s (Aloha) Motion to Compel and also submits its Motion for Protective Order. Adam Smith requests the Commission to enter an appropriate order denying Aloha's Motion to Compel and ruling that Adam Smith is not required to provide the answers and information sought by the discovery requests that are the subject of the Motion to Compel. In support, Adam Smith states:

1. On November 8, 2002, Aloha file its Motion to Compel Answers to Interrogatories and Request for Production of Documents. In the motion, Aloha asks the Commission to require Adam Smith to provide answers to certain interrogatories and a related request for documents to which Adam Smith objected. For the following reasons, Aloha's motion must be denied.

2. Aloha's Motion to Compel relates to Interrogatories nos. 4 and 5, and the related First Request to Produce. The text of the interrogatories and of Adam Smith's objections follows.

INTERROGATORY NO. 4: For each of the lots which Adam Smith alleges in its Petition for Formal Hearing were sold and the title transferred to other entities prior to connection to Aloha's wastewater system during the period May 23, 2001 through April 16, 2002, please provide the following information:

- a. The tax identification number, subdivision and lot number and street address, if available, of each lot.
- b. The entity to which each lot was sold and to whom title was transferred and its affiliation with Adam Smith, if any.
- c. The price at which each lot was sold and the net profit or loss realized on each lot.
- d. The date of each sale and the date at which title was transferred if not at the time of sale.
- e. The amount of service availability charges paid, if any, by Adam Smith to Aloha for each lot.

OBJECTION: Adam Smith objects to Interrogatory 4(c) on the following grounds:

- a. The price at which each lot sold and the net profit or loss realized on each lot is irrelevant to any issue in this case, and further is not reasonably calculated to lead to the discovery of admissible evidence. While this consideration is dispositive, Adam Smith also objects as follows:
- b. The information sought in Interrogatory 4(c) constitutes confidential proprietary business information that Aloha does not need in order to prepare its case.
- c. The information sought in interrogatory 4(c) is so irrelevant and so sensitive as to render the Interrogatory oppressive and harassing in nature.
- d. The request is unduly burdensome.

Adam Smith further objects to Interrogatory 4 on the basis that the Interrogatory requests information that Adam Smith cannot provide unless and until Adam Smith receives a new, verified list of connected lots from Aloha. Once Adam Smith sells a lot and transfers title to a builder or homeowner, it is up to the builder or homeowner to then arrange with Aloha to pull a meter and connect to the system. Therefore, the information which is necessary to answer this interrogatory accurately and completely, is in the possession of Aloha, not Adam Smith.

INTERROGATORY NO. 5: Has Adam Smith sold lots and transferred title to other entities from April 16, 2002, to date? If so, please provide the following information regarding those lots:

- a. The tax identification number, subdivision and lot number and street address, if available, of each lot.
- b. The entity to which each lot was sold and to whom title was transferred and its affiliation with Adam Smith, if any.
- c. The price at which each lot was sold and the net profit or loss realized on each lot.

d. The date of each sale and the date at which title was transferred it not at the time of sale.

e. Whether each lot was connected to Aloha's water and wastewater systems prior to sale, and if so, the amount of service availability charges paid to Aloha for each lot by Adam Smith.

OBJECTION: Adam Smith objects to Interrogatory 5(c) on the following grounds:

a. The price at which each lot sold and the net profit or loss realized on each lot is irrelevant to any issue in this case, and further is not reasonably calculated to lead to the discovery of admissible evidence.

b. The information sought in Interrogatory 5(c) constitutes confidential proprietary business information.

c. The information sought in interrogatory 5(c) is so irrelevant and so sensitive as to render the Interrogatory oppressive and harassing in nature.

d. The request is unduly burdensome.

Adam Smith further objects to Interrogatory 5 on the basis that the Interrogatory requests information that Adam Smith cannot provide unless and until Adam Smith receives a new, verified list of connected lots from Aloha. Once Adam Smith sells a lot and transfer title to a builder or homeowner, it is up to the builder or homeowner to then arrange with Aloha to pull a meter and connect to the system. Therefore, the information which is necessary to answer this interrogatory accurately and completely, is in the possession of Aloha, not Adam Smith.

Further, Adam Smith interprets Interrogatory 5 as relating to lots sold by Adam Smith within Aloha's service area. If the intent is to refer to all of Adam Smith's operations, then Adam Smith objects to Interrogatory 5 on the basis that is overbroad, and seeks information that is neither relevant to any issue in the case nor reasonably calculated to lead to the discovery of admissible evidence.

ARGUMENT

Adam Smith will address Interrogatories Nos. 4 and 5 and the related Request to Produce together.

First of all, the interrogatories relate to the fact that Adam Smith has sold and transferred title to many lots to which Aloha seeks to apply the increased service availability charge of \$1650 per ERC. At page 4 of its motion Aloha states, "It is Adam Smith's contention that for lots sold whose title was transferred to other entities from May 23, 201 until April 16, 2002 prior to connection, the new owner of the lot, not Adam Smith is responsible for any increased service

availability charges.” Interestingly, in its motion Aloha refers to the statement as Adam Smith’s “contention,” without indicating whether it agrees or disagrees with the proposition; however, it is incontrovertible that a property owner’s liability for service availability charges—regardless of other circumstances, such as the illegality of efforts to collect additional service availability charges -- ceases with the ownership of the property. ¹

In Interrogatory No. 4, Aloha asked Adam Smith for information related to lots that Adam Smith transferred *prior to connection to Aloha’s wastewater system* between May 23, 2001 and April 16, 2002. The interrogatory states:

For the (sic) each of the lots which Adam Smith alleges in its Petition for Formal Hearing were sold and the title transferred to other entities *prior to connection to Aloha’s wastewater system* during the period May 23, 2001 through April 16, 2002. . . (emphasis supplied)

Adam Smith sells lots to homebuilders and individuals. *After* closing on their transactions with Adam Smith and after Adam Smith is out of the picture, the new owners *arrange with Aloha for the connection to Aloha’s system*. Adam Smith does not arrange for those connections. Adam Smith does not control whether or when the entity that purchases the lot from Adam Smith contacts Aloha to arrange for the connection. Adam Smith *does not know* whether or when the owner of the lot purchased from Adam Smith makes those arrangements with Aloha. However, obviously *Aloha knows* which lots are connected to its system and when they were connected. For obvious reasons, then, Adam Smith informed Aloha that Adam Smith would require from Aloha a list of connected lots before Adam Smith could identify those lots -- connected to Aloha’s system and therefore the subject of the interrogatories -- which Adam Smith transferred,

¹ To be precise, Adam Smith asserts that no increase in service availability charges may be collected with respect to the period May 23, 2001-April 16, 2002 because Aloha failed to submit a conforming tariff as required and failed to provide notice to developers as required, but that *in any event* Aloha’s flawed proposition is not even applicable to lots that were transferred by Adam Smith to another entity.

and therefore no longer owned, during the period May 23, 2001 through April 16, 2002. As stated in its objections, Aloha provided a list to Adam Smith; based on that list, Adam Smith indicated certain lots which Adam Smith transferred during the period identified in the interrogatory (and provided available, related information). The answers are attached as Attachment A. (As stated in Adam Smith's objections, Adam Smith identified errors in the list that Aloha furnished.)

At page 4 of the motion, Aloha states: "Aloha's request is . . . limited to only those lots located within its service territory sold by Adam Smith during an 11 month period." This statement mischaracterizes the interrogatory. Interrogatory 4 does not request "lots . . . sold . . . during an 11 month period." More precisely, the interrogatory seeks information regarding lots that were *connected* to Aloha's system during that period. Again, Aloha, not Adam Smith, possesses the information regarding which lots were *connected*. Inasmuch as Aloha responded by providing a list (albeit one with errors), apparently Aloha understood this at some point prior to having served its interrogatories.

In its motion, Aloha states that in Interrogatory 5 Aloha is ". . . requesting the same information as requested in Interrogatory 4 for lots sold from April 16, 2002 to date." Accordingly, Adam Smith requires from Aloha a list of lots that were connected to Aloha's system before Adam Smith can identify which of those lots were sold by Adam Smith during the period in question. Again, Adam Smith has provided a list based on the information that it received from Aloha. (See Attachment A) In its answer to 4 and 5, Adam Smith has provided the information that is relevant and within Adam Smith's ability to provide. Any additional requirements would be unduly burdensome and/or beyond the scope of permissible discovery.

In subsection (c) of Interrogatories 4 and 5, Aloha absurdly and incredibly asks for “the price at which each lot was sold and the net profit or loss realized on each lot.” In the related Request to Produce, Aloha demands the “workpapers supporting the answers” to subparts dealing with prices, profits and losses. The spectacle of a regulated utility seeking information regarding the selling prices, “profits” and/or “losses” of a private business that it serves should be sufficient, in and of itself, to cause the Prehearing Officer to ask, “What is wrong with this picture?” And, indeed, something is very wrong.

In its motion, Aloha first attempts to justify the request for Adam Smith’s “prices,” “profits” and “losses” per lot by mischaracterizing Adam Smith’s position in the case. Aloha says, “Adam Smith has indicated that backbilling for the time period of May 23, 2001 to April 16, 2002 is inappropriate since Adam Smith is unable to recover the increased service availability charges from the purchasers of lots sold during that time period.” More accurately, Adam Smith asserts that Aloha cannot apply to Adam Smith the higher service availability charge retroactively because (1) the requirement in Order No. PSC-01-0326-FOF-SU that Aloha first place a conforming tariff into effect was a legal condition precedent which Aloha failed to accomplish (for which violation Aloha is now the subject of an order to show cause); (2) the requirement in the order that Aloha first provide notice in writing to developers before implementing the increased service availability charge was a separate legal condition precedent that Aloha failed to accomplish; and (3) the term “backbilling” implicitly and by definition assumes the existence of an approved and valid tariff that has met the requirements of filing, approval, and notice, but which was not applied correctly after having been properly filed and noticed. Because there was no conforming and approved tariff in place authorizing the higher service availability charge in question during the period May 23, 2001-April 16, 2002, the

“backbilling” rule is inapplicable to the situation. The fact that Adam Smith would not be able to collect the differential in service availability charges explains the *impact* on Adam Smith of the illegal attempt to apply the new service availability charge retroactively on Adam Smith, and illustrates the fallacy of any rationale that purports to dismiss the significance of the legal requirements, but the primary basis for Adam Smith’s contention is the failure of Aloha to either file a conforming tariff or provide written notice to affected developers as required by Order No. PSC-01-0326-FOF-SU.²

At page 6 of its motion, Aloha states,

“Information regarding profit or loss is also relevant to the financial impact of the service availability backbilling on Adam Smith -- an adverse affect (sic) which Adam Smith has raised in this proceeding. Once economic impact is put at issue by Adam Smith, Aloha is entitled to discover the information necessary to quantify that impact, if any actually exists.”

That Adam Smith would have no ability to recover the difference in the amounts of service availability fees following the closing of transactions with purchasers is incontrovertible. Therefore, to “quantify” the economic impact of collecting additional service availability charges on Adam Smith, it is necessary only to calculate the difference between the service availability charge in effect during the period May 2001-April 2002 and multiply by the number of lots to which Aloha (improperly) attempts to apply the differential.

Equally as important, Aloha’s entire premise is fatally flawed. At page 6, Aloha states:

“To the extent that Adam Smith sold lots after April 16, 2002 at the same price as those sold from May 23, 2001 until April 16, 2002, it would be reasonable to conclude that the sales price was set by the market and that Adam Smith would not have been able to “pass along” the increased service availability charges, notice of the increased service availability charges would have had no practical impact.”

² Adam Smith protested the order of the Commission that purported to authorize Aloha to collect additional service availability charges for the period May 23, 2001 through April 16, 2002; as a result, that portion of the order became a nullity, and the issue is before the Commission in a *de novo* proceeding.

To provide some context before addressing Aloha's strained logic, the notice requirement that Aloha seeks to belittle as insignificant is the same notice requirement that the Commission imposed in Rule 25-30.4345, Rule 25-30.565, and in Order No. PSC-01-0326-FOF-SU. Next, Aloha's argument depends, improperly, on rank speculation. More importantly, disregarding for a moment the speculation inherent in Aloha's rationale, the sales prices of the lots *do not include the service availability charges*. Instead, as Adam Smith has delineated earlier, the service availability charge is one of several impact fees that are identified and collected as line item closing costs on the closing statement separate and apart from the sales price. Attached hereto as Attachment B are examples of closing statements that illustrate this point. The fact that the service availability fees are treated with other impact fees on a pass-through basis effectively renders Aloha's entire "construct" without foundation.

Adam Smith has demonstrated that the information sought is irrelevant and not calculated to lead to the discovery of admissible evidence. While this consideration is dispositive, Adam Smith also asserts that the interrogatory and the related request to produce workpapers are unduly burdensome. In an effort to demonstrate otherwise, Aloha makes mistakes and misstatements that reveal a fundamental lack of understanding of a developer's business. First, Aloha asserts, mistakenly, that Adam Smith and other developers are required to track the items sought by Aloha in order to calculate capital gains for federal income tax purposes. Aloha is wrong. As Mr. David S. Ford, Secretary/Treasurer of Adam Smith, states in his affidavit (Attachment C), developers are not allowed to claim capital gains; Adam Smith's lots are treated as "inventory."


Aloha misses the more significant target by even a wider margin. Aloha argues that the availability of computerized data would render its request less than burdensome. In his affidavit,

Mr. Ford demonstrates otherwise. Mr. Ford states that Adam Smith is developing a Development of Regional Impact (“DRI”) that consists of several different subdivisions and over 5,000 individual units. In the course of developing the DRI, Adam Smith expends large amounts of funds on required off-site improvements (such as roads), the cost of which would have to be allocated to the lots to arrive at a profit or loss on a per lot basis, and the full cost of which cannot be known (because of the ongoing nature of DRI development activities) until the DRI has been fully completed. Mr. Ford states that Adam Smith has no business need to attempt to estimate “per lot” calculations of “profits” and “losses” on an ongoing basis and does not do so. He also explains that, contrary to the erroneous premise underlying Aloha’s argument, any attempt to make such estimates would not be based merely on “computerized” data, but would necessitate numerous and complicated subjective allocations requiring many man-days to produce. Mr. Ford also states that Adam Smith regards the type of information sought by Aloha in 4(c) and 5(c) as confidential and proprietary and treats it as such. Given the fact that the exercise sought by Aloha would be (a) totally irrelevant; (b) impossible to accomplish in a meaningful way due to the fact that costs are neither fully known or final; (c) burdensome in the extreme; and (d) would intrude, without reason, on sensitive commercial data, the request is harassing and oppressive in its effect. Adam Smith asks for a protective order ruling that Adam Smith is not required to undertake this onerous and valueless exercise.

CONCLUSION

A review of Adam Smith’s answers to Aloha’s discovery requests will demonstrate that Adam Smith has responded responsibly and cooperatively to Aloha’s legitimate discovery requests. (Attached A). The requests that are the subject of the Motion to Compel, exceed the bounds of proper discovery, would intrude needlessly on sensitive commercial data, and would

be unduly burdensome and oppressive. The Commission should enter an order denying Aloha's Motion to Compel ruling that Adam Smith is not required to respond further to Interrogatories 4, 5 and the First Request to Produce.


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Attorneys for Adam Smith Enterprises, Inc.

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings
Against Aloha Utilities, Inc. in Pasco
County for failure to charge approved
Service availability charges, in violation
Of Order No. PSC-01-0326-FOF-SU and
Section 367.091, Florida Statutes

Docket No. 020413-SU

**ADAM SMITH ENTERPRISES, INC.'S RESPONSE TO
ALOHA UTILITIES, INC.'S FIRST SET OF INTERROGATORIES (NOS. 1-7)**

Adam Smith Enterprises, Inc. (Adam Smith), pursuant to Rule 28-106.206, Florida Administrative Code and Rules 1.340 and 1.280(b), Florida Rules of Civil Procedure, hereby provides the following Responses to Aloha Utilities, Inc.'s First Set of Interrogatories (Nos. 1-7).

INTERROGATORIES

INTERROGATORY NO. 1: For the period from May 23, 2001, until April 16, 2002, please provide the total amount of all water and wastewater service availability fees paid to Aloha Utilities, Inc. by date and location (subdivision and lot number, tax identification number, or street address) by Adam Smith or one of its affiliated companies. If the service availability fees were paid by an affiliated company, please identify that company.

ANSWER: None.

INTERROGATORY NO. 2: For the period from May 23, 2001 until April 16, 2002, please provide the total number of lots, identified by subdivision and lot number, tax identification number or street address, owned by Adam Smith and its affiliated companies that were connected to Aloha's water and wastewater system.

ANSWER: None.

INTERROGATORY NO. 3: For the time period from April 16, 2001 to date, please provide the total number of lots, identified by subdivision and lot number, tax identification

number or street address, owned by Adam Smith and its affiliated companies that were connected to Aloha's water and wastewater systems.

RESPONSE: None.

INTERROGATORY NO. 4: For the each of the lots which Adam Smith alleges in its Petition for Formal Hearing were sold and the title transferred to other entities prior to connection to Aloha's wastewater system during the period May 23, 2001 through April 16, 2002, please provide the following information:

- a. The tax identification number, subdivision and lot number and street address, if available, of each lot.
- b. The entity to which each lot was sold and to whom title was transferred and its affiliation with Adam Smith, if any.
- c. The price at which each lot was sold and the net profit or loss realized on each lot.
- d. The date of each sale and the date at which title was transferred if not at the time of sale.
- e. The amount of service availability charges paid, if any, by Adam Smith to Aloha for each lot.

RESPONSE: Adam Smith has objected to Interrogatory 4(b), (c) and (d). Adam Smith has further objected to Interrogatory 4 on the basis Adam Smith requires a correct list of lots from Aloha before it can accurately identify, from the list of lots to which Aloha proposes to apply the inappropriate surcharge of \$1650 per ERC, those lots that Adam Smith sold and transferred ownership to others prior to connection. Notwithstanding its objections, and without waiving its objections, Adam Smith has identified from the information supplied by Aloha thus far numerous lots which fall into this category, and for which Adam Smith is no longer liable for

service availability charges. The lots are identified in Attachment A to this answer. Adam Smith reserves the right to identify more lots for which it is not liable, by virtue of having transferred ownership, when more complete and accurate information has been provided by Aloha. (Adam Smith notes that the County does not assign a street address until a building permit has been issued. Accordingly, in many instances street addresses are unavailable.)

INTERROGATORY NO. 5: Has Adam Smith sold lots and transferred title to other entities from April 16, 2002, to date? If so, please provide the following information regarding those lots:

- a. The tax identification number, subdivision and lot number and street address, if available, of each lot.
- b. The entity to which each lot was sold and to whom title was transferred and its affiliation with Adam Smith, if any.
- c. The price at which each lot was sold and the net profit or loss realized on each lot.
- d. The date of each sale and the date at which title was transferred if not at the time of sale.
- e. Whether each lot was connected to Aloha's water and wastewater systems prior to sale, and if so, the amount of service availability charges paid to Aloha for each lot by Adam Smith.

RESPONSE: Adam Smith has objected to Interrogatory 5(b), (c) and (d). Adam Smith has further objected to Interrogatory 5 on the basis that Adam Smith requires a correct list of lots from Aloha before it can accurately identify, from the list of lots to which Aloha proposes to apply the inappropriate surcharge of \$1650 per ERC, those lots that Aloha sold and transferred ownership to others prior to connection. Notwithstanding its stated objections, and without

waiving its objections, Adam Smith has identified from the information supplied by Aloha thus far numerous lots which fall into this category, and for which Adam Smith is no longer liable for service availability charges. The lots are identified in Attachment B to this answer. Adam Smith reserves the right to identify more lots for which it is not liable, by virtue of having transferred ownership, when more complete and accurate information has been provided by Aloha. (Adam Smith notes that the County does not assign a street address until a building permit has been issued. Accordingly, in many instances street addresses are unavailable.)

INTERROGATORY NO. 6: For the time period from May 23, 2001 through April 16, 2002, did Adam Smith sell developed lots, i.e., lots with homes, apartments, townhouses, etc.? If so, please provide the following information for each sale:

- a. The tax identification number, subdivision and lot number and street address, if available, of each developed lot.
- b. The entity to which each developed lot was sold and to whom title was transferred and its affiliation with Adam Smith, if any.
- c. The price at which each developed lot was sold and the net profit or loss realized on each lot.
- d. The date of each sale and the date at which title was transferred if not at the time of sale.
- e. The date each developed lot was connected to Aloha's water and wastewater systems and the amount of service availability charges paid to Aloha for each lot by Adam Smith.

ANSWER: No

INTERROGATORY NO. 7: For the time period from April 16, 2002 to date has Adam Smith sold developed lots, i.e., lots with homes, apartments, townhouses, etc.? If so, please provide the following information for each sale:

a. The tax identification number, subdivision and lot number and street address, if available, for each developed lot.

b. The entity to which each developed lot was sold and to whom title was transferred and its affiliation with Adam Smith, if any.

c. The price at which each developed lot was sold and the net profit or loss realized on each lot.

d. The date of each sale and the date at which title was transferred if not at the time of sale.

e. The date each developed lot was connected to Aloha's water and wastewater systems and the amount of service availability charges paid to Aloha for each lot by Adam Smith.

ANSWER: No.

**ADAM SMITH ENTERPRISES, INC.
P. O. BOX 1608
TARPON SPRINGS, FL 34688-1608**

**INTERROGATORY NUMBERS 4a AND 4e
CLOSINGS
PERIOD: MAY 23, 2001 THRU APRIL 16, 2002**

TRINITY COMMUNITIES

VILLAGE/PHASE	LOT NO.	DATE CLOSED	STREET ADDRESS	SERVICE AVAILABILITY CHARGE PAID
FOXWOOD PH5	559	5/25/2001	10551 Pendergrass	206.75
FOXWOOD PH5	597	5/25/2001	10348 Tecoma	206.75
FOXWOOD PH5	792	5/25/2001	10607 Firebrick	206.75
FOXWOOD PH3	288	6/8/2001	10100 Green Ivy	206.75
FOXWOOD PH5	556	6/8/2001	10546 Peppergrass	206.75
FOXWOOD PH5	614	6/8/2001	10508 Tecoma	206.75
FOXWOOD PH5	631	6/8/2001	10728 Eveningwood	206.75
FOXWOOD PH5	755	6/8/2001	Firebrick corner	206.75
FOXWOOD PH5	794	6/8/2001	10827 Northridge	206.75
FOXWOOD PH1	51	6/22/2001	1634 Daylily	206.75
FOXWOOD PH5	557	6/27/2001	10548 Peppergrass	206.75
FOXWOOD PH5	572	6/27/2001	10447 Peppergrass	206.75
FOXWOOD PH5	593	6/27/2001	10319 Tecoma	206.75
FOXWOOD PH5	610	6/27/2001	10440 Tecoma	206.75
FOXWOOD PH5	611	6/27/2001	10446 Tecoma	206.75
FOXWOOD PH5	621	6/27/2001	10550 Eveningwood	206.75
FOXWOOD PH1	48	7/8/2001	1633 Bayfield	206.75
FOXWOOD PH3	365	7/13/2001	2130 Larchwood	206.75
FOXWOOD PH5	709	7/13/2001	Loch Haven corner	206.75
FOXWOOD PH5	739	7/13/2001	10755 Northridge	206.75
FOXWOOD PH5	776	7/13/2001	10723 Firebrick	206.75
FOXWOOD PH5	790	7/13/2001	10615 Firebird	206.75
FOXWOOD PH3	291	7/18/2001	9940 Green Ivy	206.75
FOXWOOD PH3	334	7/31/2001	Edelweiss	206.75

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ADAM SMITH ENTERPRISES, INC.

P. O. BOX 1608

TARPON SPRINGS, FL 34688-1608

**INTERROGATORY NUMBERS 4a AND 4e
CLOSINGS**

PERIOD: MAY 23, 2001 THRU APRIL 16, 2002

TRINITY COMMUNITIES

UNIT	VILLAGE/ PHASE	LOT NO.	DATE CLOSED	STREET ADDRESS	SERVICE AVAILABILITY CHARGE PAID
FOXWOOD	PH5	600	7/31/2001	10312 Tecoma	206.75
FOXWOOD	PH5	629	7/31/2001	10644 Eveningwood	206.75
FOXWOOD	PH5	630	7/31/2001	10650 Eveningwood	206.75
FOXWOOD	PH5	740	7/31/2001	10751 Northridge	206.75
FOXWOOD	PH5	764	7/31/2001	10714 Firebrick	206.75
FOXWOOD	PH5	765	7/31/2001	10718 Firebrick	206.75
FOXWOOD	PH5	787	7/31/2001	Firebrick	206.75
VILLAGES AT FOXHOLLOW	PH4	365	8/3/2001	Sorenstam	206.75
FOXWOOD	PH5	598	8/6/2001	10304 Tecoma	206.75
FOXWOOD	PH5	651	8/6/2001	10639 Eveningwood	206.75
FOXWOOD	PH5	698	8/6/2001	1731 Lady Palm	206.75
FOXWOOD	PH5	708	8/6/2001	1818 Lady Palm	206.75
FOXWOOD	PH5	761	8/6/2001	10702 Firebrick	206.75
VILLAGES AT FOXHOLLOW	PH4	370	8/10/2001	10320 Sorenstam	206.75
VILLAGES AT FOXHOLLOW	SPYGLASS	146	8/10/2001	1241 Hagen	206.75
VILLAGES AT FOXHOLLOW	SPYGLASS	187	8/20/2001	1220 Hagen	206.75
FOXWOOD	PH5	595	8/21/2001	10307 Tecoma	206.75
FOXWOOD	PH5	660	8/21/2001	10452 Peppergrass	206.75
FOXWOOD	PH5	762	8/21/2001	10706 Firebrick	206.75
FOXWOOD	PH5	658	8/30/2001	10550 Peppergrass	206.75
FOXWOOD	PH5	606	8/30/2001	10344 Tecoma	206.75
FOXWOOD	PH5	640	8/30/2001	10739 Eveningwood	206.75
FOXWOOD	PH5	686	8/30/2001	1742 Roseroot	206.75
FOXWOOD	PH5	699	8/30/2001	1730 Lady Palm	206.75

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ADAM SMITH ENTERPRISES, INC.
P. O. BOX 1608
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INTERROGATORY NUMBERS 4a AND 4e
CLOSINGS
PERIOD: MAY 23, 2001 THRU APRIL 16, 2002

TRINITY COMMUNITIES

UNIT	VILLAGE/ PHASE	LOT NO.	DATE CLOSED	STREET ADDRESS	SERVICE AVAILABILITY CHARGE PAID
FOXWOOD	PH5	757	8/30/2001	10636 Firebrick	206.75
FOXWOOD	PH5	771	8/30/2001	10746 Firebrick	206.75
FOXWOOD	PH5	592	9/17/2001	10321 Tecoma	206.75
FOXWOOD	PH5	672	9/17/2001	1753 Roseroot	206.75
FOXWOOD	PH5	791	9/17/2001	10611 Firebrick	206.75
FOXWOOD	PH5	674	9/25/2001	1743 Roseroot	206.75
FOXWOOD	PH5	775	9/25/2001	10737 Firebrick	206.75
FOXWOOD	PH5	784	9/25/2001	10641 Firebrick	206.75
FOXWOOD	PH3	325	9/26/2001	2117 Edelweiss	206.75
FOXWOOD	PH5	281	9/27/2001	10126 Maplelawn	206.75
VILLAGES AT FOXHOLLOW	PH4	369	9/27/2001	10316 Sorenstam	206.75
VILLAGES AT FOXHOLLOW	SPYGLASS	182	9/28/2001	1128 Hagen	206.75
VILLAGES AT FOXHOLLOW	INVERRARY	191	10/5/2001	9643 Venturi	206.75
VILLAGES AT FOXHOLLOW	PH4	352	10/9/2001	10138 Sorenstam	206.75
FOXWOOD	PH4	639	10/9/2001	Eveningwood	206.75
FOXWOOD	PH4	667	10/9/2001		206.75
FOXWOOD	PH4	673	10/9/2001	1747 Roseroot	206.75
FOXWOOD	PH4	687	10/9/2001	1815 Roseroot	206.75
VILLAGES AT FOXHOLLOW	PH4	367	10/11/2001	10308 Sorenstam	206.75
VILLAGES AT FOXHOLLOW	PH4	372	10/12/2001	10328 Sorenstam	206.75
FOXWOOD	PH5	669	10/16/2001	1815 Roseroot	206.75
FOXWOOD	PH5	671	10/16/2001	1803 Roseroot	206.75
FOXWOOD	PH5	760	10/16/2001	10650 Firebrick	206.75
VILLAGES AT FOXHOLLOW	PH4	344	10/17/2001	1453 Goalby	206.75

ALPHA UTILITIES.xls.4a,4e

ADAM SMITH ENTERPRISES, INC.
P. O. BOX 1608
TARPON SPRINGS, FL 34688-1608

INTERROGATORY NUMBERS 4a AND 4e
CLOSINGS
PERIOD: MAY 23, 2001 THRU APRIL 16, 2002

TRINITY COMMUNITIES

UNIT	VILLAGE/ PHASE	LOT NO.	DATE CLOSED	STREET ADDRESS	SERVICE AVAILABILITY CHARGE PAID
VILLAGES AT FOXHOLLOW	PH4	373	10/18/2001	10335 Sorenstam	206.75
FOXWOOD	PH5	562	10/23/2001	10539 Peppergrass	206.75
FOXWOOD	PH5	758	10/23/2001	10642 Firebrick	206.75
FOXWOOD	PH5	786	10/23/2001	10631 Firebrick	206.75
VILLAGES AT FOXHOLLOW	PH4	364	10/25/2001	10250 Sorenstam	206.75
FOXWOOD	PH5	591	11/7/2001	10327 Tecoma	206.75
FOXWOOD	PH5	777	11/7/2001	10729 Firebrick	206.75
FOXWOOD	PH5	788	11/7/2001	10623 Firebrick	206.75
VILLAGES AT FOXHOLLOW	PH4	371	11/13/2001	10324 Sorenstam	206.75
FOXWOOD	PH1	47	11/21/2001	1827 Bayfield	206.75
FOXWOOD	PH3	309	11/26/2001	2228 Edelweiss	206.75
FOXWOOD	PH5	686	11/26/2001	1746 Roseroot	206.75
FOXWOOD	PH5	727	11/26/2001	1826 Loch Haven	206.75
FOXWOOD	PH5	756	11/26/2001	10632 Firebrick	206.75
FOXWOOD	PH5	773	11/26/2001	10745 Firebrick	206.75
FOXWOOD	PH5	331	11/30/2001	2222 Edelweiss	206.75
FOXWOOD	PH5	668	12/18/2001	10741 Firebrick	206.75
FOXWOOD	PH5	670	12/18/2001		206.75
FOXWOOD	PH5	726	12/18/2001	Loch Haven	206.75
FOXWOOD	PH5	728	12/18/2001		206.75
FOXWOOD	PH5	736	12/18/2001	10742 Northridge	206.75
FOXWOOD	PH5	780	12/18/2001	10705 Firebrick	206.75
FOXWOOD	PH5	676	1/9/2002	1735 Roseroot	206.75
FOXWOOD	PH5	774	1/9/2002	10741 Firebrick	206.75

ALOHA UTILITIES.xls.4a,4e

ADAM SMITH ENTERPRISES, INC.
P. O. BOX 1608
TARPON SPRINGS, FL 34888-1608

INTERROGATORY NUMBERS 4a AND 4e
CLOSINGS
PERIOD: MAY 23, 2001 THRU APRIL 16, 2002

TRINITY COMMUNITIES

U/I/I/I	VILLAGE/ PHASE	LOT NO.	DATE CLOSED	STREET ADDRESS	SERVICE AVAILABILITY CHARGE PAID
	FOXWOOD	PH5	781	1/9/2002 10653 Firebrick	206.75
	FOXWOOD	PH5	782	1/9/2002 10849 Firebrick	206.75
	FOXWOOD	PH5	675	2/1/2002 1739 Roseroot	206.75
	FOXWOOD	PH5	677	2/1/2002 1731 Roseroot	206.75
	FOXWOOD	PH5	689	2/1/2002 Lady Palm corner	206.75
	FOXWOOD	PH5	702	2/1/2002 1744 Lady Palm	206.75
	FOXWOOD	PH5	714	2/1/2002 1801 Loch Haven	206.75
	FOXWOOD	PH5	725	2/1/2002 1816 Loch Haven	206.75
	FOXWOOD	PH5	738	2/1/2002 10742 Northridge	206.75
	FOXWOOD	PH5	772	2/1/2002 10746 Firebrick	206.75
	FOXWOOD	PH5	798	2/1/2002 1607 Northridge	206.75
	FOXWOOD	PH3	372	2/8/2002 Mapletawn	206.75
	FOXWOOD	PH5	695	2/15/2002 1743 Lady Palm	206.75
	FOXWOOD	PH5	711	2/15/2002 1823 Loch Haven	206.75
	FOXWOOD	PH5	735	2/15/2002 10738 Northridge	206.75
	FOXWOOD	PH5	783	2/15/2002 10645 Firebrick	206.75
	FOXWOOD	PH3	293	2/22/2002 9924 Edelweiss	206.75
	FOXWOOD	PH3	292	2/28/2002 9932 Edelweiss	206.75
	FOXWOOD	PH5	681	3/1/2002 1724 Roseroot	206.75
	FOXWOOD	PH5	682	3/1/2002 1730 Roseroot	206.75
	FOXWOOD	PH5	684	3/1/2002 1738 Roseroot	206.75
	FOXWOOD	PH5	700	3/1/2002 1734 Lady Palm	206.75
	FOXWOOD	PH5	759	3/1/2002 10846 Firebrick	206.75
	FOXWOOD	PH2	250	3/15/2002	206.75

ALOHA UTILITIES.xls.4a,4e

ADAM SMITH ENTERPRISES, INC.
P. O. BOX 1608
TARPON SPRINGS, FL 34688-1608

INTERROGATORY NUMBERS 4a AND 4e
CLOSINGS
PERIOD: MAY 23, 2001 THRU APRIL 16, 2002

TRINITY COMMUNITIES

UNIT	VILLAGE/ PHASE	LOT NO.	DATE CLOSED	STREET ADDRESS	SERVICE AVAILABILITY CHARGE PAID
FOXWOOD	PH5	712	3/15/2002	1817 Loch Haven	206.75
FOXWOOD	PH5	724	3/15/2002		206.75
FOXWOOD	PH5	737	3/15/2002	10746 Northridge	206.75
FOXWOOD	PH5	748	3/15/2002		206.75
FOXWOOD	PH4	332	3/18/2002		206.75
FOXWOOD	PH2	278	3/19/2002		206.75
FOXWOOD	PH2	279	3/26/2002		206.75
FOXWOOD	PH1	46	3/28/2002		206.75
FOXWOOD	PH5	741	4/1/2002	10749 Northridge	206.75
FOXWOOD	PH5	768	4/1/2002	10732 Firebrick	206.75
FOXWOOD	PH5	730	4/15/2002	10714 Northridge	206.75
FOXWOOD	PH5	769	4/15/2002	10736 Firebrick	206.75
FOXWOOD	PH1	126	4/16/2002		206.75

ADAM SMITH ENTERPRISES, INC.
P. O. BOX 1608
TARPON SPRINGS, FL 34688-1608

INTERROGATORY NUMBERS 5a AND 5e
CLOSINGS
PERIOD: APRIL 17, 2002 THRU OCTOBER 31, 2002

TRINITY COMMUNITIES

UNIT	VILLAGE/ PHASE	LOT NO.	DATE CLOSED	STREET ADDRESS	WATER & WASTEWATER CONNECTED TO ALOHA PRIOR TO SALE
VILLAGES AT FOXHOLLOW	SPYGLASS	181	4/17/2002		NO
FOXWOOD	PH5	641	5/1/2002	10735 Eveningwood	NO
FOXWOOD	PH5	691	5/1/2002	Lady Palm	NO
FOXWOOD	PH5	744	5/1/2002	10735 Northridge	NO
FOXWOOD	PH3	335	5/28/2002	2152 Edelweiss	NO
FOXWOOD	PH3	324	5/30/2002	2109 Edelweiss	NO
FOXWOOD	PH3	349	5/30/2002	2111 Hammock Park	NO
FOXWOOD	PH5	693	6/3/2002	1753 Lady Palm	NO
FOXWOOD	PH5	706	6/3/2002	1828 Lady Palm	NO
FOXWOOD	PH5	747	6/3/2002	10719 Northridge	NO
FOXWOOD	PH5	766	6/3/2002	10722 Firebrick	NO
FOXWOOD	PH5	767	6/3/2002	10728 Firebrick	NO
FOXWOOD	PH5	770	6/3/2002	10740 Firebrick	NO
FOXWOOD	PH5	697	6/14/2002	1735 Lady Palm	NO
FOXWOOD	PH5	785	6/14/2002	10636 Firebrick	NO
VILLAGES AT FOXHOLLOW	PH4	368	8/21/2002	2115 Larchwood	NO
FOXWOOD	PH3	315	6/28/2002	10335 Sorenstam	NO
FOXWOOD	PH5	690	6/28/2002	1813 Lady Palm	NO
FOXWOOD	PH5	707	6/28/2002	1812 Lady Palm	NO
FOXWOOD	PH5	722	6/28/2002	1800 Lochhaven	NO
FOXWOOD	PH5	743	6/28/2002	10741 Northridge	NO
FOXWOOD	PH5	745	6/28/2002	10729 Northridge	NO

ADAM SMITH ENTERPRISES, INC.

P. O. BOX 1608

TARPON SPRINGS, FL 34688-1608

**INTERROGATORY NUMBERS 5a AND 5e
CLOSINGS**

PERIOD: APRIL 17, 2002 THRU OCTOBER 31, 2002

TRINITY COMMUNITIES

UNIT	VILLAGE/ PHASE	LOT NO.	DATE CLOSED	STREET ADDRESS	WATER & WASTEWATER CONNECTED TO ALOHA PRIOR TO SALE
FOXWOOD	PH5	749	6/28/2002	10711 Northridge	NO
FOXWOOD	PH5	751	6/28/2002	10703 Northridge	NO
FOXWOOD	PH5	778	6/28/2002	10723 Firebrick	NO
VILLAGES AT FOXHOLLOW	PH4	360	7/15/2002		NO
FOXWOOD	PH5	742	7/15/2002	10749 Northridge	NO
VILLAGES AT FOXHOLLOW	PH4	317	7/17/2002		NO
VILLAGES AT FOXHOLLOW	PH4	324	7/17/2002		NO
VILLAGES AT FOXHOLLOW	PH4	353	7/17/2002		NO
VILLAGES AT FOXHOLLOW	PH4	355	7/17/2002		NO
VILLAGES AT FOXHOLLOW	PH4	356	7/17/2002		NO
VILLAGES AT FOXHOLLOW	PH4	323	7/19/2002		NO
VILLAGES AT FOXHOLLOW	PH4	329	7/22/2002	2123 Edelweiss	NO
FOXWOOD	PH2	252	7/23/2002		NO
VILLAGES AT FOXHOLLOW	LAUREL GREEN	1	8/20/2002		NO
VILLAGES AT FOXHOLLOW	PH4	359	9/3/2002	Peppergrass	NO
FOXWOOD	PH5	692	9/4/2002	1803 Lady Palm	NO
FOXWOOD	PH5	704	9/4/2002	1754 Lady Palm	NO
FOXWOOD	PH5	705	9/4/2002	1804 Lady Palm	NO
FOXWOOD	PH5	746	9/4/2002	10725 Northridge	NO
FOXWOOD	PH3	344	9/12/2002	2039 Hammock Park	NO
FOXWOOD	PH2	242	9/13/2002		NO
FOXWOOD	PH3	332	9/20/2002	2216 Edelweiss	NO

ADAM SMITH ENTERPRISES, INC.

**P. O. BOX 1608
TARPON SPRINGS, FL 34688-1608**

**INTERROGATORY NUMBERS 5a AND 5e
CLOSINGS**

PERIOD: APRIL 17, 2002 THRU OCTOBER 31, 2002

TRINITY COMMUNITIES

UNIT	VILLAGE/ PHASE	LOT NO.	DATE CLOSED	STREET ADDRESS	WATER & WASTEWATER CONNECTED TO ALOHA PRIOR TO SALE
	PH4	350	9/25/2002		NO
VILLAGES AT FOXHOLLOW	PH3	323	9/25/2002	2103 Edelweiss	NO
FOXWOOD	PH5	701	10/2/2002	1740 Lady Palm	NO
FOXWOOD	PH5	723	10/2/2002	1808 Loch Haven	NO
FOXWOOD	PH5	733	10/2/2002	10728 Northridge	NO
FOXWOOD	PH5	752	10/2/2002	10891 Northridge	NO
FOXWOOD	PH5	753	10/2/2002	10647 Northridge	NO
FOXWOOD	PH5	763	10/2/2002	10710 Firebrick	NO
FOXWOOD	PH5	779	10/2/2002	10709 Firebrick	NO
FOXWOOD	PH1	45	10/11/2002		NO

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Response of Adam Smith Enterprises, Inc. to Aloha Utilities, Inc.'s First Set of Interrogatories (Nos. 1-7) was sent via (*)Hand Delivery or U.S. Mail on this 14th day of November 2002 to the following:

(*)Rosanne Gervasi
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Blvd
Tallahassee, FL 32399-0850

Stephen G. Watford
6915 Perrine Ranch Road
New Port Richey, FL 34655-3904

Office of Public Counsel
Stephen Burgess
111 W. Madison Street, #812
Tallahassee, FL 32399-1400

Marshall Deterding
Rose Law Firm
2548 Blairstone Pines Drive
Tallahassee, FL 32301

(*)Suzanne Brownless, P.A.
1975 Buford Blvd
Tallahassee, FL 32308-4466

Joseph A. McGlothlin

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Response of Adam Smith Enterprises, Inc. to Aloha Utilities, Inc.'s First Set of Interrogatories (Nos. 1-7) was sent via (*)Hand Delivery or U.S. Mail on this 14th day of November 2002 to the following:

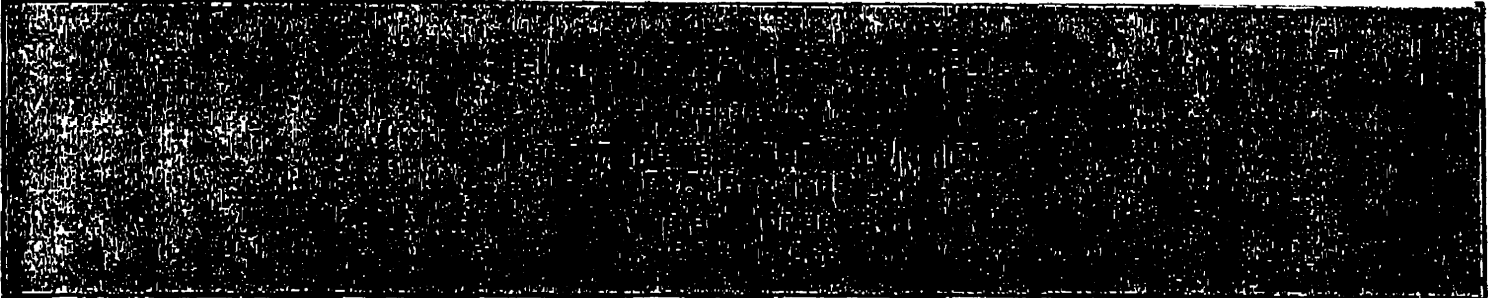
(*)Rosanne Gervasi
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Blvd
Tallahassee, FL 32399-0850

Office of Public Counsel
Stephen Burgess
111 W. Madison Street, #812
Tallahassee, FL 32399-1400

(*)Suzanne Brownless, P.A.
1975 Buford Blvd
Tallahassee, FL 32308-4466

J. Ben Harrill
Figurski & Harrill Law Firm
2435 US Highway 19, Suite 350
Holiday, Florida 34691


Joseph A. McGlothlin



File Number: _____

Settlement Date: _____

Proration Date: _____

SELLER(S):

Adam Smith Enterprises

PURCHASER(S):

LENDER:

PROPERTY:



Sales Price

Impact Fee

Marketing Fee

County taxes:

2002 Street Light Assessment

2003 Street Light Assessment pd by ASE

Marylegh, Inc.

Owner's Policy Amount

MacFarlane Ferguson & McMullen

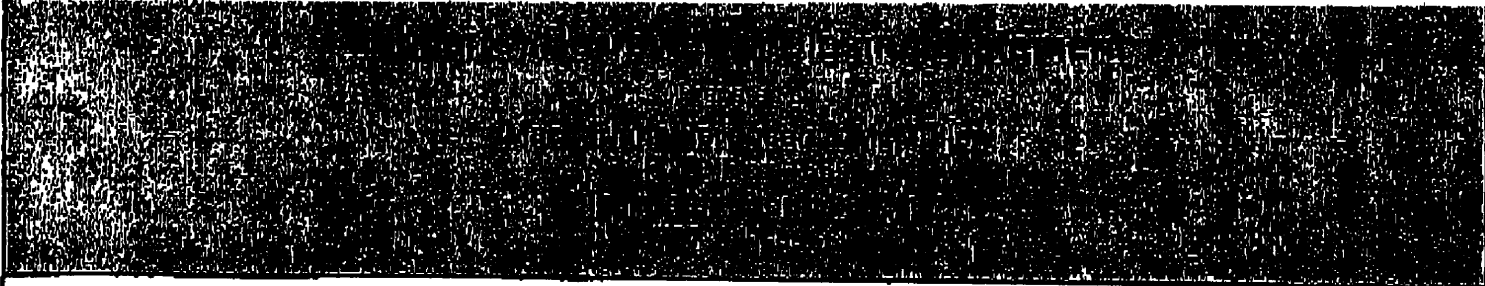
Deed Documentary Stamps

Clerk of Circuit Court

CASH DUE TO SELLER(S)
TOTAL CHARGES/CREDITS

Adam Smith Enterprises

Date



File Number: .

Settlement Date: .

Proration Date:

SELLER(S):

Adam Smith Enterprises

PURCHASER(S):

LENDER:

PROPERTY:



Sales Price

Impact Fee

Marketing Fee

County taxes:

2002 Street Light Assessment

2003 Street Light Assessment pd by ASE

CASH DUE FROM PURCHASER(S)

TOTAL CHARGES/CREDITS

Date

STATE OF FLORIDA**COUNTY OF PINELLAS****AFFIDAVIT OF DAVID S. FORD**

David S. Ford, after first being placed under oath, deposes and sayeth:

1. My name is David S. Ford. I hold the position of Secretary/Treasurer with Adam Smith Enterprises, Inc. ("Adam Smith").

2. Adam Smith is in the process of developing a Development of Regional Impact ("DRI"), a portion of which lies in the service area of Aloha Utilities, Inc. ("Aloha"). The DRI consists of more than 5,000 separate units, and comprises several different subdivisions.

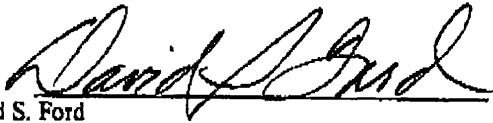
3. I have reviewed the Motion to Compel Answers to Interrogatories and Request for Production of Documents that Aloha Utilities, Inc. submitted in Docket No. 020413-EU. The Motion to Compel contains statements that are fundamentally in error

(a) In its Motion to Compel, Aloha asserts that developers such as Adam Smith track costs and expenditures "in order to calculate long term capital gains and losses for federal income tax purposes." This statement is factually wrong. Developers such as Adam Smith are not permitted to claim capital gains. Instead, lots such as those sold by Adam Smith are treated as "stock in trade," a kind of inventory, for tax purposes.

(b) In its pleading, Aloha continues by stating: "In short, this type of information (profits and losses per lot) is kept in the normal course of business by every developer." This statement is factually wrong. Adam Smith does not -- and, in fact cannot -- calculate, much less maintain records of, the "profits" or "losses" on individual lot sales over time. The reason is that the development of a DRI involves the expenditure of large sums of money for various off-site improvements, some portion of which would have to be allocated to each lot, and the total amount of which cannot be known until the DRI has been fully developed and all such expenditures have been made and are known. Adam Smith's experience is that, even though a developer may project or estimate the amounts of such off-site improvements during the planning and development phases, the actual amounts will vary significantly from original projections. Accordingly, Adam Smith cannot and does not calculate and maintain calculations of profits and losses for individual lot sales on an ongoing basis; nor does Adam Smith have a business need for such "per lot" calculations during the development of the DRI. Also, for the reasons stated, Adam Smith would be unable to make meaningful calculations at this time. Even when Adam Smith has reached a point at which such calculations can be made, those calculations are not the ready product of computer-generated information. Instead, the allocations of the many costs must be performed manually, and involve subjective analyses as well as accounting entries. Given the size and complexity of the DRI and the myriad of improvements that would have to be allocated, the task would require many man-days of time that Adam Smith cannot afford to devote to an exercise that, for the reasons stated, would be meaningless.

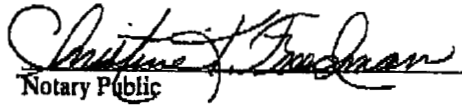
(c) Adam Smith regards and treats such business information as prices, costs, and profits as extremely confidential and proprietary.

Further Affiant sayeth naught.


David S. Ford

In Witness Whereof, I have hereunto set my hand and seal in the State and County aforesaid as of this

20th day of November 2002.


Notary Public

Commission expires: 8/19/03



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Adam Smith Enterprises, Inc.'s Response to Aloha Utilities, Inc.'s Motion to Compel and Adam Smith Enterprises, Inc.'s Motion for Protective Order was sent via (*)Hand Delivery, (**) Email or U.S. Mail on this 20th day of November 2002 to the following:

(*)Rosanne Gervasi
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Blvd
Tallahassee, FL 32399-0850

Stephen G. Watford
6915 Perrine Ranch Road
New Port Richey, FL 34655-3904

Office of Public Counsel
Stephen Burgess
111 W. Madison Street, #812
Tallahassee, FL 32399-1400

(**)Suzanne Brownless, P.A.
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J. Ben Harrill
Figurski & Harrill Law Firm
2435 UW Highway 19, Suite 350
Holiday, Florida 34691

Diane Kiesling
Landers & Parsons, P.A.
310 West College Avenue
Tallahassee, FL 32302


Joseph A. McGlothlin