



ORIGINAL
Marion County
Board of County Commissioners
Marion County Utilities
463 Emerald Road, Silver Springs Shores
P.O. Box 7160, Ocala, Florida 34472-0160
(352) 687-3033 -- Fax (352) 687-8900

030364 - wu

April 16, 2003

Director, Division of Commission Clerk & Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Transfer of Ownership of Eagle Springs Utilities to Marion County
Certificate No. 448-W

Dear Commission:

Attached are one original and five copies of the **Application for Transfer to Governmental Authority** for the above referenced acquisition. If you have any questions or require further information, please advise.

Sincerely,

Vincent Riccobono, P.E.
Utilities Director

VR/ms

N:\MYFILES\Eagle Springs transfer ownership Cert No. 448-W.doc04/16/2003

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FLORIDA PUBLIC SERVICE COMMISSION

INSTRUCTIONS FOR COMPLETING APPLICATION FOR TRANSFER TO GOVERNMENTAL AUTHORITY (Section 367.071, Florida Statutes)

General Information

The attached form has been prepared by the Florida Public Service Commission to aid utilities under its jurisdiction to file information required by Chapter 367, Florida Statutes, and Chapter 25-30, Florida Administrative Code. Any questions regarding this form should be directed to the Division of Economic Regulation, Bureau of Certification, Economics and Tariffs (850) 413-6900.

Note that, pursuant to Section 367.071(4)(a), Florida Statutes, a governmental authority, prior to taking any official action, shall request from the utility or the Commission the most recent available income and expense statement, balance sheet and statement of rate base for regulatory purposes and contributions-in-aid-of-construction.

Instructions

1. Fill out the attached application form completely and accurately.
2. Complete all the items that apply to your utility. If an item is not applicable, mark it "N.A.". Do not leave any items blank.
3. Notarize the completed application form.
4. Return applicable regulatory assessment fee and form with the application.
5. Return utility's original certificate(s) with the application for transfer.
6. The **original and five copies** of the completed application and attached exhibits; **one copy** of each territory and system map (if applicable); the **original and two copies** of the proposed tariff sheet(s) (if applicable); the appropriate regulatory assessment form(s) and fee(s); and the original certificate(s) should be mailed to:

**Director, Division of the Commission Clerk & Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850**

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APPLICATION FOR TRANSFER TO GOVERNMENTAL AUTHORITY

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

**TO: Director, Division of the Commission-Clerk & Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850**

The undersigned hereby makes application for the approval of the transfer of
(all or part) of the facilities operated under Water Certificate No. 448^w 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):

Marion County Utilities
Name of utility

(352) 687-1856 (352) 687-8900
Phone No. Fax No.

463 Emerald Rd.
Office street address

Ocala Fl. 34472
City State Zip Code

Mailing address if different from street address

Internet address if applicable

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

VINCENT RICCOBONO (352) 687-1856
Name Phone No.

463 Emerald Road
Street address

Ocala FL 34472
City State Zip Code

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

MARION Co. Utilities
Name of utility

() SAME AS ABOVE
Phone No. Fax No.

Office street address

City State Zip Code

Mailing address if different from street address

Internet address if applicable

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

SAME AS ABOVE ()
Name Phone No.

Street address

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 N/A - A statement regarding the disposition of customer deposits and the accumulated interest thereon. *NO DEPOSITS*
- C) Exhibit N/A - A statement regarding the disposition of any outstanding regulatory assessment fees, fines or refunds owed. *No fees, fines or refunds owed*
- D) Exhibit B - 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:

Acquired JAN. 27, 2003.

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 *N/A*

A) **TERRITORY DESCRIPTION**

Exhibit _____ - 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.

PART IV AFFIDAVIT

I Marion County Utilities (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: *V Riccobono*
Applicant's Signature
Vincent Riccobono
Applicant's Name (Typed)
Utilities Director
Applicant's Title *

Subscribed and sworn to before me this 16 day of April, 2003 by Vincent Riccobono who is personally known to me X or produced identification _____.
(Type of Identification Produced)

Marsha Senger

MARsha Senger 3-13-07
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.

**SECTION 367.071, FLORIDA STATUTES
SALE, ASSIGNMENT, OR TRANSFER OF CERTIFICATE OF
AUTHORIZATION, FACILITIES, OR CONTROL**

(1) No utility shall sell, assign, or transfer its certificate of authorization, facilities or any portion thereof, or majority organizational control without determination and approval of the commission that the proposed sale, assignment, or transfer is in the public interest and that the buyer, assignee, or transferee will fulfill the commitments, obligations, and representations of the utility. However, a sale, assignment, or transfer of its certificate of authorization, facilities or any portion thereof, or majority organizational control may occur prior to commission approval if the contract for sale, assignment, or transfer is made contingent upon commission approval.

(2) The commission may impose a penalty pursuant to s. 367.161 when a transfer occurs prior to approval by the commission. The transferor remains liable for any outstanding regulatory assessment fees, fines, or refunds of the utility.

(3) An application for proposed sale, assignment, or transfer shall be accompanied by a fee as provided by s. 367.145. No fee is required to be paid by a governmental authority that is the buyer, assignee, or transferee.

(4) An application shall be disposed of as provided in s. 367.045, except that:

(a) The sale of facilities, in whole or part, to a governmental authority shall be approved as a matter of right; however, the governmental authority shall, prior to taking any official action, obtain from the utility or commission with respect to the facilities to be sold the most recent available income and expense statement, balance sheet, and statement of rate base for regulatory purposes and contributions-in-aid-of-construction. Any request for rate relief pending before the commission at the time of sale is deemed to have been withdrawn. Interim rates, if previously approved by the commission, must be discontinued, and any money collected pursuant to interim rate relief must be refunded to the customers of the utility with interest.

(b) When paragraph (a) does not apply, the commission shall amend the certificate of authorization as necessary to reflect the change resulting from the sale, assignment, or transfer.

(5) The commission by order may establish the rate base for a utility or its facilities or property when the commission approves a sale, assignment, or transfer thereof, except for any sale, assignment, or transfer to a governmental authority.

(6) Any person, company, or organization that obtains ownership or control over any system, or part thereof, through foreclosure of a mortgage or other encumbrance, shall continue service without interruption and may not remove or dismantle any portion of the system previously dedicated to public use which would impair the ability to provide service,

without the express approval of the commission. This provision may be enforced by an injunction issued by a court of competent jurisdiction.

History.— s. 1, ch. 71-278; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 9, 25, 26, ch. 80-99; ss. 2, 3, ch. 81-318; ss. 7, 15, ch. 82-25; ss. 6, 26, 27, ch. 89-353; s. 2, ch. 90-166; s. 4, ch. 91-429; s. 5, ch. 99-319.

CHAPTER 25-30.037, F.A.C.
APPLICATION FOR AUTHORITY TO TRANSFER

(4) Each application for transfer of certificate of authorization, facilities, or any portion thereof, or majority organizational control to a governmental authority shall contain the following information:

- (a) the name and address of the utility and its authorized representative;
- (b) the name of the governmental authority and the name and address of its authorized representative;
- (c) a copy of the contract or other document transferring the utility system to the governmental authority;
- (d) a list of any utility assets not transferred to the governmental authority if such remaining assets constitute a system providing or proposing to provide water or wastewater service to the public for compensation;
- (e) a statement that the governmental authority obtained, from the utility or Commission, the most recent available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction;
- (f) the date on which the governmental authority proposes to take official action to acquire the utility;
- (g) a statement describing the disposition of customer deposits and interest thereon; and
- (h) a statement regarding the disposition of any outstanding regulatory assessment fees, fines or refunds owed.

(5) If a utility is transferring a portion of its facilities to a governmental agency, it must provide the following additional information:

- (a) a description of the remaining territory using township, range, and section references;
- (b) one copy of the official county tax assessment map, or other map, showing township, range, and section with a scale such as 1"=200' or 1"=400', with the remaining territory plotted thereon by use of metes and bounds or quarter sections, and with a defined reference point of beginning.
- (c) the original and two copies of sample tariff sheets reflecting the remaining territory.

(6) Upon its receipt of items required in (4)(a), (b), (c), (d), (e) and (f), the Commission will issue an order acknowledging that the facilities or any portion thereof have been acquired by the governmental authority.

(7) Upon receipt of the items required in (4)(g) and (h) and, if applicable, (5)(a), (b), and (c), and upon the completion of all pending proceedings before the Commission, the utility's certificate will be amended or cancelled. Amendment or cancellation of the certificate shall not affect the utility's obligation pursuant to Rule 25-30.120, F.A.C., Regulatory Assessment Fees.

Specific Authority: 367.121, F.S.

Law Implemented: 367.071 F.S.

History: New 1/27/91, Amended 11/30/93.

CLOSING STATEMENT

TRANSFEROR: **EAGLE SPRINGS UTILITIES, INC.**, a Florida corporation

TRANSFeree: **MARION COUNTY**, a political subdivision of the State of Florida

SUBJECT PROPERTY: A portion of a tract of land in Section 24, Township 15 South, Range 24 East, Marion County, Florida

GOVERNING AGREEMENT: Purchase Option contained in Agreement between MARION COUNTY and EAGLE SPRINGS UTILITIES, INC. dated February 3, 1987

DATE OF CLOSING: January 27, 2003

PLACE OF CLOSING: Gray, Harris & Robinson, P.A.
301 East Pine Street, Suite 1400
Orlando, Florida 32801

CLOSING AGENT: Gray, Harris & Robinson, P.A.
301 East Pine Street, Suite 1400
Orlando, Florida 32801

TITLE INSURER: Chicago Title Insurance Company

A.	<u>CREDITS</u>	<u>CREDIT BUYER</u>	<u>CREDIT SELLER</u>
1.	Purchase Price		\$192,500.00
2.	Proration of 2003 property taxes (27 days at \$1.31 per day, based on 2002 ad valorem taxes November amount \$479.48)	\$35.37	
	Less Buyer credits		(\$35.37)
	TOTAL:		192,464.63

B.	<u>COSTS</u>	<u>CHARGE BUYER</u>	<u>CHARGE SELLER</u>
1.	Recording Fees to Clerk of Court for Warranty Deed	\$15.00	
2.	Documentary Stamp Tax on Warranty Deed		\$1,347.50
3.	Title Search Expense	\$250.00	
4.	Title Insurance Premium, Owner's Policy to Chicago Title Insurance Co.	\$1,037.50	
TOTAL		\$1,302.50	\$1,347.50

C. SUMMARY

CASH BALANCE DUE TO SELLER:	\$	192,464.63	CASH BALANCE DUE TO SELLER:	\$	192,464.63
LESS: SELLER'S EXPENSES OF SALE		1,347.50	PLUS: BUYER'S EXPENSES OF PURCHASE:		1,302.50
NET CASH TO SELLER:		<u>\$191,117.13</u>	TOTAL CASH DUE FROM BUYER		<u>\$193,767.13</u>

POST CLOSING AGREEMENTS

Seller and Buyer hereby agree that possession of the Subject Property shall be delivered by Seller to Buyer on the Date of Closing, and that Buyer shall assume all management and operating responsibilities for the Date of Closing and thereafter.

The Seller represents and warrants to Buyer that all ad-valorem real property taxes and non ad-valorem assessments for periods prior to December 31, 2002 have been paid. The parties acknowledge that Gray, Harris & Robinson, P.A. (hereinafter referred to as the "Closing Agent") will have no obligation to cause such reparation or adjustment. The parties shall not be required to readjust or reparate taxes. If such proration or readjustment would result in a payment by one party to the other of an amount less than Two Hundred Dollars (\$200.00), the parties hereto agree to effect any necessary adjustment between themselves.

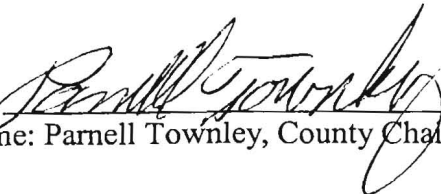
APPROVAL OF CLOSING STATEMENT

Seller and Buyer hereby acknowledge that they have read and approved the within and foregoing Closing Statement and agree that it accurately reflects the substance of the financial aspects of the transaction contemplated by the Governing Contract and hereby approve the Buyer's payment and the Closing Attorneys' disbursement of the proceeds of the subject transaction in the manner, in the amounts and to the persons hereinabove set forth.

IN WITNESS WHEREOF, Buyer and Seller have caused this Closing Statement to be executed as of the Closing Date.

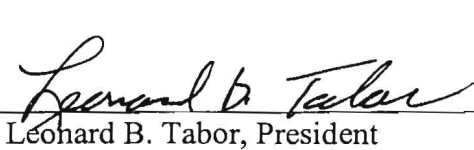
SELLER:

MARION COUNTY, FLORIDA, a political subdivision of the State of Florida

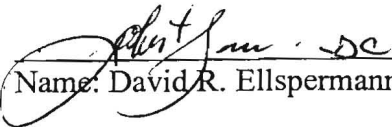
By: 
Name: Parnell Townley, County Chairman

BUYER:

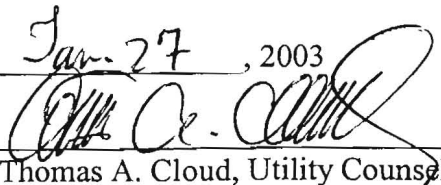
EAGLE SPRINGS UTILITIES, INC., a Florida corporation

By: 
Name: Leonard B. Tabor, President

ATTEST:


Name: David R. Ellspermann, Clerk

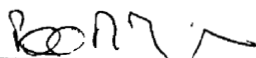
FOR THE USE AND RELIANCE OF MARION COUNTY ONLY, APPROVED AS TO FORM

Jan. 27, 2003

Thomas A. Cloud, Utility Counsel

UNDERTAKING OF CLOSING AGENT

Closing Agent hereby agrees with Buyer and Seller to undertake its duties as Closing Agent for the subject purchase and sale transaction, to abide by and comply with the within and foregoing instructions of Buyer and Seller, and to disburse the proceeds of the subject purchase and sale transaction at Closing in the manner, to the persons, in the amounts and at the times hereinabove specified in the within and foregoing Closing Statement.

GRAY, HARRIS & ROBINSON, P.A.

By: 
Phillip R. Finch

UNDERTAKING OF TITLE AGENT

Title Agent hereby agrees with Buyer and Seller to undertake its duties as Title Agent for the subject purchase and sale transaction and to fully abide by and comply with the within and foregoing instructions of Buyer and Seller in that respect.

**CHICAGO TITLE INSURANCE
COMPANY**

By: GRAY, HARRIS & ROBINSON, P.A., as
agent

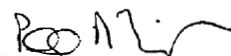

Phillip R. Finch

EXHIBIT B

Be it known that Marion County Utilities, a body of the Marion County Board of County Commissioners, has obtained and reviewed the most recent available income and expense statement, balance sheet, and statement of rate base for Eagle Springs Utilities, Inc.

V. Ruelow
Utilities Director
4-15-03