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September 19, 2003

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

HAND DELIVERY
COMMISSION
CLERK

RECEIVED FPSC
03 SEP 19 PM 12:03

Re: In re: Application by Florida Water Services Corporation for Acknowledgment of Sale of Land and Facilities in Volusia County to the City of Deltona and Reissuance of Certificate Nos. 238-W and 182-S

Dear Ms. Bayo:

Enclosed for filing on behalf of Florida Water Services Corporation ("Florida Water") is an original and five copies of Florida Water's Application for Acknowledgment of Sale of Land and Facilities in Volusia County to the City of Deltona and Reissuance of Certificate Nos. 238-W and 182-S.

The original certificates are also enclosed for the Commission's use in this docket.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the copy to me.

Thank you for your assistance with this filing.

RECEIVED & FILED

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FPSC-BUREAU OF RECORDS

Sincerely,

J. Stephen Menton
J. Stephen Menton

JSMrl
Enclosures
Flawater\Bayo.volusia

Original certificates forwarded to ECR.

DOCUMENT NUMBER-DATE

08980 SEP 19 8

FPSC-COMMISSION CLERK

FLORIDA PUBLIC SERVICE COMMISSION

Certificate Number
238 - W

Upon consideration of the record it is hereby ORDERED
that authority be and is hereby granted to:

FLORIDA WATER SERVICES CORPORATION

Whose principal address is:

1000 Color Place
Apopka, Florida 32703 (Volusia County)

to provide water service in accordance with the provision
of Chapter 367, Florida Statutes, the Rules, Regulations
and Orders of this Commission in the territory described
by the Orders of this Commission.

This Certificate shall remain in force and effect until
suspended, cancelled or revoked by Orders of this
Commission.

ORDER	19841	DOCKET	870936-WS
ORDER	20869	DOCKET	880605-WS
ORDER	25575	DOCKET	910662-WS
ORDER	PSC-93-1449-FOF-WS	DOCKET	930153-WS
ORDER	PSC-97-0427-FOF-WS	DOCKET	970028-WS
ORDER	PSC-98-1560-FOF-WS	DOCKET	980750-WS
ORDER	PSC-00-1659-PAA-WU	DOCKET	000334-WU
ORDER	PSC-02-0802-FOF-WS	DOCKET	020354-WS
ORDER		DOCKET	
ORDER		DOCKET	
ORDER		DOCKET	
ORDER		DOCKET	
ORDER		DOCKET	

BY ORDER OF THE
FLORIDA PUBLIC SERVICE COMMISSION



James L. Bayo
Director
Division of Records and Reporting

FLORIDA PUBLIC SERVICE COMMISSION

Certificate Number
182 - S

Upon consideration of the record it is hereby ORDERED
that authority be and is hereby granted to:

FLORIDA WATER SERVICES CORPORATION

Whose principal address is:

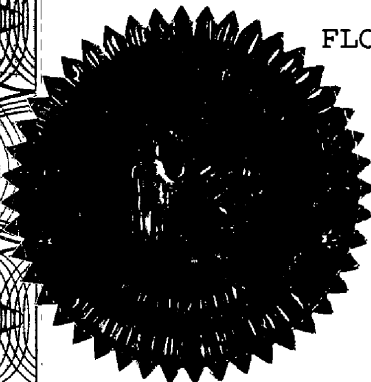
1000 Color Place
Apopka, Florida 32703 (Volusia County)

to provide wastewater service in accordance with the
provision of Chapter 367, Florida Statutes, the Rules,
Regulations and Orders of this Commission in the
territory described by the Orders of this Commission.

This Certificate shall remain in force and effect until
suspended, cancelled or revoked by Orders of this
Commission.

ORDER	19841	DOCKET	870936-WS
ORDER	20869	DOCKET	880605-WS
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BY ORDER OF THE
FLORIDA PUBLIC SERVICE COMMISSION



Blanca S. Bayo

Director
Division of Records and Reporting

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application by Florida Water Services)
Corporation for Acknowledgment of Sale of)
Volusia County Land and Facilities to)
the City of Deltona and Re-issuance of Certificate)
Nos. 238-W and 182-S.)
_____.)

Docket No. D30920
Filed: September 19, 2003

**JOINT APPLICATION FOR ACKNOWLEDGMENT OF
SALE OF LAND AND FACILITIES IN VOLUSIA COUNTY
TO THE CITY OF DELTONA AND RE-ISSUANCE OF CERTIFICATE
NOS. 238 AND 182**

Florida Water Services Corporation (“Florida Water”), and the City of Deltona (the “City”), by and through their undersigned counsel, and pursuant to Section 367.071(4)(a), Florida Statutes, and Rule 25-30.038(4), Florida Administrative Code, hereby file this Joint Application for Acknowledgment of the sale of a portion of Florida Water’s Volusia County land and facilities to the City. In support of this Application, Florida Water states as follows:

1. The name and address of the regulated utility is:

Florida Water Services Corporation
1000 Color Place
Apopka, Florida 32703
(407) 598-4165 (Telephone)
(407) 598-4241 (Facsimile)

DOCUMENT NUMBER DATE

08980 SEP 19 8

FPSC-COMMISSION CLERK

2. The name and address of Florida Water's authorized representatives are:

Kenneth A. Hoffman, Esq.
J. Stephen Menton, Esq.
Rutledge, Ecenia, Purnell & Hoffman, P.A.
P. O. Box 551
Tallahassee, Florida 32302
(850) 681-6788 (Telephone)
(850) 681-6515 (Facsimile)

3. The name and address of the purchaser for purposes of this Application is:

The City of Deltona
2345 Providence Blvd.
Deltona, FL 32725

4. The City's representative for purposes of this Application is:

John R. Jenkins
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, FL 32301

5. Florida Water has been issued Certificate Nos. 238-W and 182-S by the Commission related to Florida Water's water and wastewater operations in Volusia County. The service territory granted by those certificates includes the utility system which provides service to the City of Deltona and surrounding areas (the "Deltona System"). In addition, to the Deltona System, Florida Water operates additional systems located in Volusia County. Florida Water also owns water and wastewater utility assets located in other counties that operate pursuant to certificates issued by the Commission and other regulatory authorities.

6. On July 24, 2003, Florida Water signed and delivered a Utility System Asset Acquisition Agreement which contemplates the sale of several of Florida Water utility systems to various local governments including the Cities of Palm Coast and Marco Island, Hernando County

and to the Florida Governmental Utility Authority. The Agreement was amended and restated to include the City of Deltona as an additional buyer of certain of Florida Water's utility assets in Volusia County. A copy of the Agreement, as amended and restated, is attached hereto and incorporated herein as Exhibit A.

7. Pursuant to the Agreement, the City will acquire title to Florida Water's Deltona System and is scheduled to commence operation of such facilities on or before December 8, 2003.

8. The City is exempt from regulation by the Commission pursuant to Section 367.022(2), Florida Statutes.¹

9. At a public hearing conducted pursuant to Section 180.301, Florida Statutes, on September 8, 2003, the City found the proposed acquisition of the Deltona System to be in the public interest. A copy of Resolution No. 2003-21 adopted by the City Council confirming its determination that the acquisition of the Deltona System is in the public interest is attached hereto as Exhibit B.

10. The City has obtained the most recently available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction applicable to the land and facilities to be transferred by Florida Water to the City, as required by Section 367.071(4)(a), Florida Statutes.

11. Pursuant to the Purchase Agreement, Florida Water has provided the City with access to the books and records of the Deltona System and these books and records for the System will be transferred to the City upon closing.

¹A city is a "governmental authority" subject to the "approval as a matter of right" provisions of Section 367.071(4)(a), Florida Statutes. See §§367.021(7) and 1.01 (8), Fla. Stat. (2002).

12. Florida Water will assign the customer deposits for the Deltona System and all accumulated interest to the City at closing in accordance with Section 9.04(A) of the Agreement and the City will thereupon assume liability for same.

13. All regulatory assessment fees for Florida Water through 2002 have been paid in full. Regulatory assessment fees for 2003 will be paid by Florida Water when due.

14. There are no regulatory fines or refunds owed by Florida Water with respect to the Deltona System.

15. The legal description of the Deltona System water territory in Volusia County is attached hereto as Exhibit "C." The legal description of Deltona System's wastewater territory in Volusia County is attached hereto as Exhibit "D."

16. All additional and supplemental information required under Rule 25-30.038(4), Florida Administrative Code, is included in the Application attached hereto as Exhibit "E."

17. Florida Water's original Certificate Nos. 238-W and 182-S are filed herewith.

18. Undersigned counsel for Florida Water has conferred with counsel for the City and is authorized to represent that the City concurs with and joins in this Application.

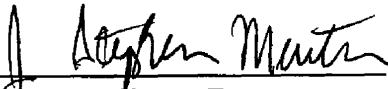
WHEREFORE, Florida Water requests that this Commission:

A. Grant Florida Water's Application;

B. Acknowledge the sale of the land and facilities associated with Florida Water's Deltona System situated in Volusia County to the City of Deltona, as a matter of right pursuant to Section 367.071(4)(a), Florida Statutes;

C. Reissue Certificate No. 238-W and 182-S as necessary to conform with the Commission's acknowledgment of the above-referenced sale.

Respectfully submitted this 19 day of September, 2003.



Kenneth A. Hoffman, Esq.
J. Stephen Menton, Esq.
Rutledge, Ecenia, Purnell & Hoffman, P.A.
P. O. Box 551
Tallahassee, Florida 32302
(850) 681-6788 (Telephone)
(850) 681-6515 (Facsimile)

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FIRST AMENDED AND RESTATED
UTILITY SYSTEM
ASSET ACQUISITION AGREEMENT

By and Among

HERNANDO COUNTY,
THE CITY OF MARCO ISLAND,
THE CITY OF PALM COAST,
OSCEOLA COUNTY,
FLORIDA GOVERNMENTAL UTILITY AUTHORITY,
THE CITY OF DELTONA

and

FLORIDA WATER SERVICES CORPORATION

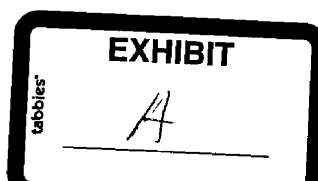


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**FIRST AMENDED AND RESTATED
UTILITY SYSTEM**

THIS FIRST AMENDED AND RESTATED UTILITY SYSTEM ASSET ACQUISITION AGREEMENT (the "Agreement") is made and entered into as of the 25th day of August, 2003, by and among, Hernando County, a political subdivision of the State of Florida ("Hernando"); the City of Marco Island, Florida, a municipal corporation organized under the laws of the State of Florida ("Marco Island"); the City of Palm Coast, a municipal corporation organized under the laws of the State of Florida ("Palm Coast"); Osceola County ("Osceola"); and the Florida Governmental Utility Authority (the "GUA"), a legal entity and public body created by Interlocal Agreement pursuant to section 163.01(7)(g), Florida Statutes; the City of Deltona, Florida, a municipal corporation organized under the laws of the State of Florida ("Deltona") (Hernando, Marco Island, Palm Coast, Osceola, GUA, and Deltona collectively referred to as the "Buyers") and Florida Water Services Corporation ("Florida Water"), a Florida corporation.

WITNESSETH:

WHEREAS, Florida Water owns utility assets which consist generally of potable water supply, treatment, storage, and distribution systems and wastewater collection, transmission, treatment, disposal and reuse systems which provide services to the service areas identified on **Appendix A** to this Agreement; and

WHEREAS, Florida Water had no intention of selling its utility assets, but received the threat of condemnation or was served with lawsuits initiating condemnation actions against certain of its utility assets by various local governments throughout Florida with eminent domain

power, which threats and lawsuits Florida Water determined were inadvisable to resist and would result in unreasonable and extensive time and expense to defend: and

~~Buyers under the terms of this Agreement in lieu of the Buyers and members of CWA filing~~

WHEREAS, in lieu of condemnation, Florida Water has agreed to negotiate an amicable resolution of the condemnation threats and lawsuits with respect to certain of its utility systems by entering into this Agreement; and

WHEREAS, Buyers each agree that the Purchase Price set forth in this Agreement is intended to fulfill the requirement under Article X, Section 6, Eminent Domain, of the Florida Constitution to pay full compensation to Florida Water for the Facilities being acquired by the ~~Buyers under the terms of this Agreement in lieu of the Buyers and members of CWA filing~~ formal eminent domain proceedings, and accordingly each Buyer agrees (1) that Florida Water is entitled to retain all of the Purchase Price and all of the gain to Florida Water arising out of or resulting from the sale of the Purchased Assets, customers and customer revenue streams without sharing, allocation or refund of such gain to any third party , including but not limited to, the past, present or future customers of the Florida Water Facilities being transferred to Buyers under this Agreement and the past, present or future customers of the Florida Water Facilities retained by Florida Water (collectively “Florida Water Customers”), (2) with the principle that the Florida Water Customers have no claims to the Purchase Price and that no party, other than Florida Water, has any rights with respect to the Purchase Price and (3) that the Buyers would have to pay a higher Purchase Price if provisions related to Gain On Sale (defined herein) were not included in this Agreement; and

WHEREAS, Florida Water is entering into this Agreement expressly and solely in ~~reliance upon the Buyers’ agreement and representations set forth in the preceding~~ **WHEREAS**

clause, absent which, Florida Water would not have agreed to the amount of the Purchase Price set forth in this Agreement; and

identified on **Appendix A-1** (the “Hernando System”); Marco Island desires to acquire the Facilities located in the service area identified on **Appendix A-2** (the “Marco Island System”); Palm Coast desires to acquire the Facilities located in the service area identified on **Appendix A-3** (the “Palm Coast System”); Osceola desires to acquire the Facilities located in the service area identified on **Appendix A-4** (the “Osceola System”); the GUA desires to acquire the Facilities located in the service areas identified on **Appendix A-5** (the “GUA Systems”); and Deltona desires to acquire the Facilities located in the service areas identified on **Appendix A-6** (the “Deltona System”); and Florida Water has consented to sell those Facilities to the Buyers in lieu of condemnation of such assets.

NOW, THEREFORE, in consideration of the foregoing recitals and the benefits to be derived from mutual promises, covenants, representations and agreements contained herein, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties to this Agreement do undertake, promise and agree for themselves, their permitted successors and assigns as follows:

ARTICLE I

DEFINITIONS AND CONSTRUCTION

SECTION 1.01. DEFINITIONS. As used in this Agreement, the following terms shall have the meanings as defined herein unless the context requires otherwise:

“**Affiliate**” means (a) any Person that directly or indirectly controls, is directly or indirectly controlled by or is directly or indirectly under common control with Florida Water; or

(b) any Person that holds a material interest in, or serves as a director, officer, partner, executor or trustee of Florida Water.

Agreement, including the County System Asset Acquisition Agreement, including any amendments, supplements and appendices hereto executed and delivered in accordance with the terms hereof.

“Appurtenances” means all privileges, rights, easements, hereditaments, and appurtenances owned by Florida Water for the benefit of the Fee Parcels, including all easements appurtenant to and for the benefit of any Fee Parcel (a “Dominant Parcel”) for, and as the primary means of access between the Dominant Parcel and a public way or for any other use upon which lawful use of the Dominant Parcel for the purposes for which it is presently being used is dependent, and all rights existing in and to any streets, alleys, passages and other rights-of-way included thereon or adjacent thereto (before or after vacation thereof) and vaults beneath any such streets.

“Assumed Liabilities” means those obligations assumed by Buyers or Buyers’ Contractors at Closing and upon taking ownership of the Purchased Assets as set forth in Section 2.06 of this Agreement.

“Best Efforts” means the efforts that a prudent Person desirous of achieving a result would use in similar circumstances to achieve that result as expeditiously as possible, provided, however, that a Person required to use Best Efforts under this Agreement will not be thereby required to take actions that would result in a material adverse change in the benefits to such Person of this Agreement and the Contemplated Transactions or to dispose of or make any change to its business, expend any material funds or incur any other material burden.

“Bonds” has the meaning set forth in Section 4.01 of this Agreement.

“Business Day” means any day other than a Saturday, Sunday, or a day on which banking institutions in the State of Florida are authorized or obligated by law to close.

“Closing” or **“Closing Date”** has the meaning set forth in Section 9.01 of this Agreement. Where the context requires, Closing and Closing Date shall include Early Closing Date(s).

“Connection Charges” means the funds collected from new customers of the Utility System at or prior to initial connection as authorized by the Florida Water Tariffs to defray the cost of making utility services available. Connection Charges include capacity, main extension, ~~allowance for funds prudently invested, guaranteed revenues or other charges paid for the~~ availability of utility services.

“Contemplated Transactions” means all of the transactions contemplated by this Agreement.

“Easements” means the easements listed on **Appendix B-1** for the Hernando System; **Appendix B-2** for the Marco Island System; **Appendix B-3** for the Palm Coast System; **Appendix B-4** for the Osceola System; **Appendix B-5** for the GUA Systems; and **Appendix B-6** for the Deltona System.

“Effective Time” means 12:01 am. on the Closing Date.

“Encumbrance” means any charge, claim, condition, equitable interest, lien, option, pledge, security interest, mortgage, right of way, easement, encroachment, servitude, right of first option, right of first refusal or similar restriction, including any restriction on use, voting (in the case of any security or equity interest), transfer, receipt of income or exercise of any other ~~attribute of ownership.~~

“Excluded Assets” means those Florida Water assets, properties and rights, both tangible and intangible, real and personal, which are not sold, conveyed or transferred to Buyers pursuant to this Agreement, including, but not limited to the Florida Water headquarters in Apopka, Florida and all billing systems, customer service systems, engineering systems, operations and maintenance systems, computer and other information systems located at the Apopka headquarters. The Excluded Assets shall also include the proceeds from any condemnation action filed against Florida Water prior to Closing. The Excluded Assets are listed on **Appendix C**.

“Facilities” means (1) the Fee Parcels (2) the Easements and Appurtenances, and (3) the Personal Property, but excluding the Excluded Assets.

“Fiscal Year” means a fiscal year which begins on October 1 and ends on September 30.

“Fee Parcels” means those parcels of real property more particularly described in **Appendix D-1** for the Hernando System; **Appendix D-2** for the Marco Island System; **Appendix D-3** for the Palm Coast System; **Appendix D-4** for the Osceola System; **Appendix D-5** for the GUA Systems; and **Appendix D-6** for the Deltona System.

“Florida Water Contract” means any contract, promise, or undertaking with respect to the Utility System that is capable of being segregated to each or any of the Buyers: (a) under which Florida Water has or may acquire any rights or benefits; (b) under which Florida Water has or may become subject to any obligation or liability; or (c) by which Florida Water or any of the assets owned or used by Florida Water is or may become bound or are encumbered.

“Florida Water Tariffs” means all water and wastewater tariffs filed by Florida Water and approved by the Florida Public Service Commission or by a county regulatory authority and in effect on the Closing Date.

“Gain on Sale” means the sharing, allocation or refund of Florida Water’s economic gain on any utility system transfer

(a) federal, state, local, municipal, or other government;

“Governing Documents” means the articles or certificate of incorporation and the bylaws of Florida Water.

“Governmental Authorization” means any consent, license, certificate of authorization, registration or permit issued, granted, given or otherwise made available by or under the authority of any Governmental Body or pursuant to any Legal Requirement.

“Governmental Body” means any:

(a) federal, state, local, municipal, or other government,

(b) governmental authority of any nature (including any agency, branch, department, board, commission, court, tribunal or other entity exercising governmental powers); or

(c) body exercising any administrative, executive, judicial, quasi-judicial, legislative, police, regulatory or taxing authority or power.

“GUA System” means the systems included in the Utility Systems as shown on **Appendix A-5** to include the Lee County System, Citrus County System and Charlotte County System. This term may be used to refer to these systems individually or collectively in this Agreement.

“Knowledge” means (1) as to Florida Water, the actual knowledge of Florida Water’s directors and officers, without the requirement of diligent inquiry and subsequent investigation, or (2) as to Buyers, the actual knowledge of Buyers’ individual governing board members, administrative heads and contractors, engineers and advisors, without the requirement of diligent inquiry and subsequent investigation.

“Legal Requirement” means any federal, state, local, municipal, or other constitution, law, ordinance, principle of common law, code, regulation, or statute.

“Permitted Real Estate Encumbrances” has its meaning defined in Section 3.06 in this

“Order” means any order, injunction, judgment, decree, ruling, assessment or arbitration award of any Governmental Body or arbitrator.

“Ordinary Course of Business” means an action taken by a Person will be deemed to have been taken in the Ordinary Course of Business only if that action is consistent in nature, scope and magnitude with the past practices of such Person and is taken in the ordinary course of the normal, day-to-day operations of such Person.

PERMITTED REAL ESTATE ENCUMBRANCES has its meaning defined in Section 3.06 in this Agreement.

“Person” means an individual, a statutorily authorized customer(s) representative, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association, joint venture or other entity or a Governmental Body.

“Personal Property” means the personal property assets that are both (1) owned and used by Florida Water in the operation of the Utility System, and (2) located within the service areas identified in **Appendix A**.

“Proceeding” means any action, arbitration, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, whether public or private) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Body or arbitrator.

“PSC” means the Florida Public Service Commission.

“Purchased Assets” means the asset being acquired by Buyers as defined in Section 2.02 below.

“Fee Parcels in the aggregate amount not to exceed the Purchase Price, as provided herein, issued by Florida Water” means the payment to be made at Closing by Buyers to Florida Water for the Purchased Assets.

“Real Property” means the Fee Parcels.

“Signature Date” means July 24, 2003.

“Third Party” means a Person that is not a party to this Agreement.

“Title Commitment” means one or more title insurance commitments with respect to the Fee Parcels in the aggregate amount not to exceed the Purchase Price, as provided herein, issued by Florida Water’s attorney committing the Title Company to issue and deliver the Title Policies to Buyers upon compliance with the requirements stated in Schedule B, Section 1 thereof, subject to the terms and conditions contained therein.

“Title Company” means Commonwealth Land Title Insurance Company, a Pennsylvania corporation.

“Title Policy” or “Title Policies” means one or more ALTA owner’s policies of title insurance (10/17/92) (with Florida modifications) as provided in this Agreement, issued by the Title Company in accordance with the Title Commitment and which meets the requirements of Section 3.06 of this Agreement.

“Transaction Costs” means the costs, fees and expenses incurred by the Buyers in connection with this transaction.

“Transfer Documents” has the meaning set forth in Section 9.08 of this Agreement.

“Utility System” means the Facilities located in the service areas identified on **Appendix A**, other than Excluded Assets.

SECTION 1.02. CONSTRUCTION AND INTERPRETATION.

(A) Words that indicate a singular number shall include the plural in each case and authorship. No part of this Agreement shall be construed as the product of any one of the parties ~~vice versa~~, and words that import a person shall include legal entities, firms and corporations.

(B) The terms “herein,” “hereunder,” “hereby,” “hereof,” and any similar terms, shall refer to this Agreement; the term “heretofore” shall mean before the Signature Date; and the term “hereafter” shall mean on or after the Signature Date.

(C) Words that reference only one gender shall include all genders.

(D) This Agreement shall be construed as resulting from joint negotiation and authorship. No part of this Agreement shall be construed as the product of any one of the parties hereto.

SECTION 1.03. INCORPORATION. Each party represents that the recitals set forth in this Agreement are true and correct as they pertain to each party and are incorporated herein and made a part of this Agreement. The Appendices hereto and each of the documents referred to therein are incorporated and made a part hereof in their entirety.

SECTION 1.04. SECTION HEADINGS. Any headings preceding the texts of the several Articles, Sections or Appendices in this Agreement and any table of contents or marginal notes appended to copies hereof, shall be solely for the convenience of reference and shall neither constitute a part of this Agreement nor affect its meaning, construction or effect.

SECTION 1.05 APPENDICES. Florida Water shall provide copies of Appendices to Buyers within twenty (20) days after the Signature Date. Within fifteen (15) days of Buyers’ receipt of the Exhibits, Buyers shall each provide Florida Water with written notice of objection to an Exhibit, or part thereof. In the event of a timely objection by a Buyer, the parties shall have five (5) days to resolve the objection of that Buyer or, the Buyer giving

timely notice may elect to terminate its participation in the Agreement, and the Agreement shall terminate as to that Buyer, or at the option of Florida Water, Florida Water may terminate the Agreement as to that Buyer. Upon termination of the Agreement by Florida Water, Florida Water shall have no liability and no further obligation to each other under this Agreement. In the event that no timely objection is received, the Appendices delivered to Buyers shall be deemed to have been accepted by the parties as the Appendices to this Agreement.

ARTICLE II

PURCHASE AND SALE OF ASSETS

SECTION 2.01. PURCHASE AND SALE COVENANT. At Closing, each of the Buyers shall purchase from Florida Water and Florida Water shall sell and convey to each of the Buyers the part of the Utility System being acquired by such Buyer upon the terms and subject to the conditions set forth in this Agreement.

SECTION 2.02. PURCHASED ASSETS.

The Purchased Assets consist of any ownership interest which Florida Water has on the Signature Date or hereafter acquires until the Closing Date in the Utility Systems subject to the Closing, but do not include the Excluded Assets. Purchased Assets include, but are not limited to, any of the following that are part of the Utility System subject to the Closing:

(1) All water and wastewater treatment plants, including reuse and reclaimed water wells, water supplies, wells, collection, transmission, and distribution system piping, pumping, and effluent and disposal facilities of every kind and description whatsoever including without limitation, all trade fixtures, leasehold improvements, licenses, lift stations, pumps, generators, controls, tanks, distribution, collection or transmission pipes or facilities, valves, meters, service connections, and all other physical facilities, appurtenances and property

installations used in the operation of the Utility System, together with an assignment of all existing and assignable options to purchase real property and third party warranties that relate to hardware and associated SCADA software located at the Fee Parcels (to the extent transferable completed or in progress construction, all as described in the Appendices hereto.

(2) The Fee Parcels.

(3) The Easements, together with any other easement rights possessed by Florida Water at Closing, whether identified prior to or after Closing.

(4) The Governmental Authorizations.

(5) The equipment, parts, tools, chemicals, office buildings, computer hardware and associated SCADA software located at the Fee Parcels (to the extent transferable without cost), office fixtures and other personal property owned by Florida Water and used exclusively in connection with the operation of the Utility System.

(6) Customer deposits and interest earned thereon received by Florida Water up to and including the Closing Date.

(7) Utility service fees due and payable on and subsequent to the Closing Date pursuant to lot installment sales contracts payable by third parties for the benefit of Florida Water.

Florida Water will provide Buyers copies of current customer records, as-built surveys and water and wastewater plans, plats, engineering and other drawings, designs, blueprints, plans and specifications, maintenance and operating manuals, engineering reports, calculations, studies, non-corporate accounting, and non-corporate business records, in each case, controlled by or in the possession of Florida Water that relate exclusively to the description and operation of the Utility System.

SECTION 2.03. EXCLUDED ASSETS. Notwithstanding any other provision of this

Agreement, Purchased Assets do not include the Excluded Assets.

4 Hernando System \$35,574,075

SECTION 2.04. PURCHASE PRICE.

The Purchase Price for the Purchased Assets comprises the aggregate of the following individual purchase prices for each identified utility system:

1.	Palm Coast System	\$82,772,934
2.	Marco Island System	\$85,313,143
3.	Osceola System	\$38,070,835
4.	Hernando System	\$35,574,075
5.	GUA Systems	
	a. Citrus System	\$16,058,337
	b. Lee System	\$34,503,538
	c. Charlotte System	\$3,753,122
6.	Deltona System	<u>\$59,478,752</u>

The Purchase Price shall be due and payable by the respective Buyers to Florida Water in immediately available funds at Closing by wire transfer pursuant to wire instructions to be provided by Florida Water at or prior to Closing.

SECTION 2.05. This Section intentionally left blank.

SECTION 2.06. ASSUMED LIABILITIES.

(A) On the Closing Date, but effective as of the Effective Time, each of the Buyers shall assume and agree to discharge only the following liabilities of Florida Water related to such ~~part of the Utility System being acquired by such Buyer (the "Assumed Liabilities"):~~

(1) any liability to Florida Water's customers (other than (a) accounts payable and (b) any liability arising out of or relating to a breach of contract that occurred prior to the approval shall not be unreasonably withheld, or in accordance with the provisions of the Effective Time) incurred by Florida Water in the Ordinary Course of Business,

(2) any liability arising after the Effective Time under the Florida Water Contracts (other than any liability arising out of or relating to a breach that occurred prior to the Effective Time); any liability of Florida Water arising after the Effective Time under any Florida Water Contract that is entered into by Florida Water after the Signature Date in the Ordinary Course of Business (or, as to any Florida Water Affiliate, subject to Buyer approval, which approval shall not be unreasonably withheld) or in accordance with the provisions of this Agreement (other than any liability (excluding the liabilities referenced in Section 8.04 hereof) arising out of or relating to a breach that occurred prior to the Effective Time). Florida Water represents that, to the best of its Knowledge, **Appendix "E"** is an accurate and complete listing of material Florida Water Contracts with its Affiliates;

(3) any liability of Buyers under this Agreement or any other document executed in connection with the Contemplated Transactions;

(4) any liability of Buyers based upon Buyers' acts or omissions occurring after the Effective Time; and

(5) any liability arising from or related to the operation of the Utility System after the Closing (other than any liability arising out of or relating to a breach of this Agreement that occurred prior to the Effective Time), whether entered into prior to the Closing Date by Florida Water or after the Closing Date by Buyers.

Notwithstanding the foregoing, even if included in the foregoing, the following

shall not constitute Liabilities assumed by Buyers and, therefore, not be included in the term

“Assumed Liabilities”: (1) any liability arising out of or relating to any employee grievance whether or not the affected employees are hired by Buyers based on actual or alleged acts or omissions hereunder, (2) any liability of Florida Water based upon Florida Water’s acts or omissions of Florida Water prior to the Effective Time, (3) any liability of Florida Water arising out of or resulting from any Proceeding pending as of the Effective Time that is not required to be dismissed under Section 4.04, (4) any liability of Florida Water arising out of any Proceeding commenced after the Effective Time and arising out of or relating to any occurrence or event happening prior to the Effective Time to the extent that the such Proceeding relates to Florida Water’s actions or inactions prior thereto, (5) any liability for Florida Water’s performance of its obligations hereunder (6) any liability of Florida Water based upon Florida Water’s acts or omissions occurring after the Effective Time, and (7) (i) liabilities under system-wide contracts the obligations of which cannot be allocated to the separated Utility Systems (Stranded Contracts) sold hereunder as set forth in **Appendix F**, (ii) any refundable advances between Florida Water and Florida Water Affiliates; and (iii) any refundable advances with third parties which accelerate and are due upon a sale of any Utility System.

(B) By assuming any agreement or liability hereunder, the Buyers do not waive rights of sovereign immunity, the right to exercise its police powers in the operation of each Utility System, the right to adjust rates and charges, including Connection Charges, in such amounts as may from time to time be established by the Buyers, and the Buyers’ obligations to apply ordinances, policies and practices in a non-discriminatory manner for each Utility System.

SECTION 2.07. VOLUSIA COUNTY CONTINGENCY.

In the event Volusia County breaches the so-called “stand-down” Agreement dated August 18, 2003 between Volusia County and Florida Water (“Stand-Down Agreement”), Florida Water may elect to terminate this Agreement with regard to the Deltona System only. In

that event, Deltona and Florida Water shall have no liabilities and no further obligations to each other under this Agreement.

~~CLOSING. DELTONA SHALL OBTAIN CONSENT OF THE LESSORS OF ANY LEASES, INCLUDING ROLLING STOCK, THAT ARE PART OF THE PURCHASED ASSETS.~~

SECTION 2.08. LEASED VEHICLES. The Buyers acknowledge that certain rolling stock utilized by Florida Water in the operation of the Utility System are leased from entities that will not consent to assignment of such leases to the Buyers, and that such rolling stock is therefore not included in the Purchased Assets. Accordingly, the Buyers shall have thirty (30) days after the Signature Date to identify which, if any, of such leased vehicles the Buyers requests be acquired by Florida Water from the leasing entities and transferred to the Buyers at Closing. For each such leased vehicle so identified by the Buyers, Florida Water will provide Buyers with a buy-out cost from the leasing entities for approval by the Buyers. For each leased vehicle buy-out approved by the Buyers, such leased vehicle shall be acquired by Florida Water at Closing and transferred to the Buyers. The Buyers shall reimburse Florida Water at Closing for the acquisition cost of each leased vehicle approved by the Buyers.

SECTION 2.09. AS IS PURCHASE

Except as expressly provided herein, the purchase of assets under this Agreement is “AS IS” and there are no representations, covenants, warranties or retention and assumption of liabilities other than those specifically set forth in this Agreement, including but not limited to, any representations, covenants, warranties or retention and assumption of liabilities in respect to environment matters.

ARTICLE III

DUE DILIGENCE ISSUES

(A) Florida Water has provided or will provide to the Buyers within thirty (30) days of the Signature Date (1) an inventory updated through at least March 1, 2003, of equipment, parts, computer equipment and other personal property used by Florida Water in connection with the operation of the Utility System to be conveyed to the Buyers; and (2) copies of current tariffs applicable to the Utility System setting forth the most current schedule of rates, fees and charges that Florida Water is authorized to impose by appropriate regulatory authorities.

(B) Florida Water shall cooperate with the Buyers in providing updated information and access to the Utility System to Buyers' Contractors, engineers and advisors as necessary to complete financial, engineering, environmental and legal due diligence.

(C) Florida Water shall make any existing plats, surveys, plans or specifications for the Utility System in Florida Water's possession available to the Buyers, or its representatives, for inspection during normal business hours upon reasonable notice.

(D) Florida Water shall cooperate with the Buyers' Contractors, engineers and advisors in providing information requested which is reasonably necessary to issue and sell the Bonds, including any information required by applicable securities laws.

SECTION 3.02. FINANCIAL DUE DILIGENCE. The Buyers are relying upon their own financial due diligence investigation in entering into this Agreement.

SECTION 3.03. ENGINEERING AND ENVIRONMENTAL DUE DILIGENCE. Buyers are relying upon their own engineering and environmental compliance due diligence investigation in entering into this Agreement.

SECTION 3.04. LEGAL DUE DILIGENCE. Buyers are relying upon their own legal due diligence investigation in entering into this Agreement.

(A) Based upon the results of the due diligence investigations conducted pursuant to Sections 3.02, 3.03, and 3.04 of this Agreement, the Buyers have waived any defects that were revealed or should have been revealed through the due diligence investigations.

(B) Except as otherwise specified herein, no payment shall be due from Florida Water and no reductions in the Purchase Price will be made for deficiencies of the Purchased Assets. Except as otherwise specified herein, Florida Water shall have no obligations or liabilities to the Buyers with respect to the condition of the Purchased Assets after Closing.

SECTION 3.06. CURRENT EVIDENCE OF TITLE.

(A) Florida Water will furnish to each Buyer within forty-five (45) days after the Signature Date, at Florida Water's expense, from Commonwealth Land Title Insurance Company (the "Title Insurer"):

(1) a title commitment or title commitments issued by the Title Insurer to insure title to each parcel listed therein in the aggregate amount of the Purchase Price naming Buyers as the proposed insureds and having the effective dates as set forth therein, wherein the Title Insurer will have agreed to issue an ALTA form owner's title insurance policy 1992 (10-17-92) with Florida modifications (collectively the "Title Commitment"); and

(2) copies of all recorded documents listed as special Schedule B-2 exceptions thereunder (the "Recorded Documents").

(B) The Title Commitment shall include the Title Insurer's requirements for issuing its title policy, which requirements shall be met by Florida Water as provided in Section 3.06(E)

on or before the Closing Date (including those requirements that must be met by releasing or satisfying monetary Encumbrances, but excluding Encumbrances that will remain after Closing

(C) If any of the following shall occur (collectively, a “Title Objection”):

(1) The Title Commitment or other evidence of title or search of the appropriate real estate records discloses that any party other than Florida Water has title to the insured estate covered by the Title Commitment;

(2) any title exception is disclosed in Schedule B to any Title Commitment that is not one of the Permitted Real Estate Encumbrances; or

(3) any current survey discloses any matter that Buyers reasonably believe could materially and adversely affect Buyers’ material use and enjoyment of the Fee Parcels described therein; then Buyers shall notify Florida Water in writing (“Buyers’ Notice”) of such matters within thirty (30) days prior to the Closing Date.

(D) Florida Water shall use its Best Efforts to cure each Title Objection and take all steps required by the Title Insurer to eliminate each Title Objection as an exception to the Title Commitment. Any Title Objection that the Title Company is willing to insure over on terms acceptable to Florida Water and the Buyers is herein referred to as an “Insured Exception.” The Insured Exceptions, together with any title exception or matters disclosed by any survey and not objected to by the Buyers in the manner aforesaid shall be deemed to be acceptable to Buyers.

(E) Florida Water shall use its Best Efforts to comply with the requirements of Schedule B Section 1 of the Title Commitment. At the Closing, Florida Water shall identify any Schedule B Section 1 requirements that cannot be satisfied as of the Closing. Florida Water and the Buyers shall agree on a post-Closing process to satisfy these requirements (the “Post-Closing

Schedule B Requirements”). Florida Water shall indemnify the Buyers as to all Post-Closing Schedule B requirements that are not satisfied in accordance with the agreed upon post-Closing
B requirements, including, but not limited to, exercise of eminent domain powers if requested by Florida Water (with Florida Water to bear the expense of any such eminent domain action).

(F) The Buyers shall have the right, but not the obligation, to do such surveys on the Real Property as Buyers desire. Surveys done pursuant to this Section shall be at the sole cost and expense of the Buyers.

(G) In the event that the Buyers would like to have any standard survey exceptions deleted or modified in the Title Policy, the Buyers shall deliver to Florida Water’s attorneys, not later than thirty (30) days prior to the Closing Date, properly certified and current original surveys of the specified fee parcels which comply with Section 627.7842(1)(a), Florida Statutes. As to each such survey timely delivered by Buyers, Florida Water shall include in the title policy a “blanket exception” as to the applicable fee parcel/survey (i.e, As to parcel _____, all matters which appear on the survey by _____, P.L.S. dated _____.”)

(H) “Permitted Real Estate Encumbrances” shall include, in addition to the other matters provided herein, any Notices of Commencement which pertain to ongoing construction projects of Florida Water, provided Florida Water agrees to indemnify Buyers from same at Closing.

(I) Notwithstanding anything in this Agreement to the contrary, Title Commitments or title insurance with respect to Fee Parcels for extraterritorial properties located outside the corporate limits of Palm Coast and Marco Island may require evidence from Buyers satisfactory to the Title Insurer of such Buyer’s authority to acquire said Fee Parcels, and Buyers shall accept

any exception from coverage for any claim based on a failure of such authority as determined by the Title Insurer.

contaminants, asbestos, asbestos containing materials, lead paint, insulating materials, paints and

SECTION 3.07. ENVIRONMENTAL PROVISIONS

(A) For purposes of this Section: (1) "Hazardous Materials" shall mean any substance or material regulated by any federal, state or local governmental entity under any Environmental Law as a hazardous material, hazardous substance, hazardous waste, pollutant, contaminant, toxic waste, toxic substance or words of similar import, including petroleum and petroleum products, by-products or breakdown products, but excluding mold and other biological ~~contaminants, asbestos, asbestos containing materials, lead paint, insulating materials, paints and~~ coatings applied to building surfaces and equipment, and other building and construction materials, whether or not toxic (collectively, "Building Substances"); (2) "Environmental Laws" shall mean any statute, law, regulation, ordinance, injunction, judgment, order, or other decree of any governmental authority pertaining to the protection of the environment, including the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the Federal Water Pollution Control Act, the Oil Pollution Act of 1990, Toxic Substances Control Act, and any comparable state statute, law, regulation, ordinance, injunction, judgment, order, or other decree, but excluding any statute, law, regulation, ordinance, injunction, judgment, order, or other decree of any governmental authority pertaining to Building Substances.

(B) Florida Water has no Knowledge of any material non-compliance with any Environmental Law or material liability under any Environmental Law. For purposes of this Section, ~~"material" shall mean any matter reasonably expected to result in the expenditure of~~

over one hundred thousand dollars (\$100,000) to correct the non-compliance or satisfy the liability.

(c) The Buyer shall be responsible for the costs to remediate environmental concerns identified in the Phase I Environmental Assessments pursuant to applicable ASTM standards and Phase II Environmental Assessments for recognized environmental concerns identified in the Phase I Environmental Assessments. Buyers shall be responsible for the costs to remediate environmental concerns that are or should have been identified in the Phase I and Phase II Assessments.

ARTICLE IV OTHER PRECLOSING MATTERS

SECTION 4.01. ISSUANCE OF BONDS.

Each Buyer intends to individually issue revenue Bonds (the "Bonds") to pay the Transaction Costs and the Purchase Price for such Buyer's Utility System as set forth in Section 2.04 of this Agreement. The Buyers' obligation to close the Contemplated Transactions in this Agreement shall be and is expressly conditioned upon the issuance of such Bonds. In the event any of the Buyers in good faith determine that its Bonds cannot be delivered on a date that permits the Closing to occur on or prior to December 8, 2003, such Buyer shall immediately notify Florida Water in writing of such determination, with such notice setting forth in reasonable detail the bases upon which such determination was made. Upon receipt of such notice, Florida Water shall have the option of canceling this Agreement as to: (1) any of the Utility Systems for which Bonds cannot be delivered; or (2) all Utility Systems; provided, however, that Florida Water shall have the right to elect to proceed to Closing on the sale of such Utility Systems for which Bonds can be delivered. As to any Utility System for which Florida

Water has exercised its right to terminate this Agreement, such Buyer and Florida Water shall have no liabilities and no further obligations to each other under this Agreement.

the Signature Date, the Buyers and Florida Water will enter into a contract delineating cooperation for certain services to be provided by Buyers to assist Florida Water in the operation of its systems not sold under this Agreement, and ownership transition and the transition services, if any, to be provided by Florida Water following the Closing (the "Transition Agreement"). It is understood and agreed between the parties that immediately upon the signing of this Agreement by Florida Water, Florida Water shall give the Buyers access to Florida Water's Facilities, records and computer systems and Florida Water employees shall cooperate with the Buyers to facilitate the transition to the Buyers' ownership and operation of the Purchased Assets.

SECTION 4.03. PRE-CLOSING APPROVALS

(A) Within ninety (90) days from the date of approval of this Agreement by Palm Coast, Palm Coast shall obtain the written consent of the governing regulatory body in Flagler County to Florida Water's application for transfer of the Utility System in Flagler County (the "Flagler County Consent"), which consent must remain in effect through the Closing Date. In the event that Palm Coast has not timely obtained the Flagler County Consent, Florida Water may (1) terminate this Agreement in total, (2) terminate this Agreement as to Palm Coast only; or (3) waive this requirement and proceed to Closing.

(B) Within forty-five (45) days from the Signature Date, the GUA shall obtain the written consent of each Governmental Body within which the GUA Systems are located to the GUA's acquisition of the GUA Systems (the "GUA System Consents"), which consents must

remain in effect through the Closing Date. In the event that the GUA has not timely obtained all of the GUA County Consents, Florida Water may (1) terminate this Agreement in total, (2) terminate this Agreement as to the Purchased Assets to be acquired by the GUA which the GUA has not obtained consent from the Purchased Assets to be acquired by the GUA under this Agreement; or (3) waive this requirement and proceed to Closing.

(C) In the event that any of the Governmental Bodies within which the GUA Systems are located determine not to consent to the GUA acquisition of such part of the GUA Systems, and requests to join in on this Agreement as a direct purchaser of such part of the GUA Systems from Florida Water, the Buyers shall consent to such joinder. Florida Water shall have the sole discretion to determine whether to permit such a joinder, and shall have the sole right to negotiate the purchase price for such part of the GUA Systems with the requesting government.

(D) Within ninety (90) days from the date of approval of this Agreement by Marco Island, Marco Island shall obtain the written consent of the governing body in Collier County to Florida Water's application for transfer of the Utility System in Collier County (the "Collier County Consent"), which consents must remain in effect through the Closing Date. In the event that Marco Island has not timely obtained the Collier County Consent, Florida Water may (1) terminate this Agreement in total, (2) terminate this Agreement as to Marco Island only; or (3) waive this requirement and proceed to Closing.

(E) Within one hundred twenty (120) days from the date of approval of this Agreement by Osceola, Osceola shall obtain an order from the PSC approving Osceola's acquisition of the Utility System in Osceola County (the "Osceola PSC Consent"), which consents must remain in effect through the Closing Date. In the event that Osceola has not timely obtained the Osceola PSC Consent, Florida Water may (1) terminate this Agreement in

total, (2) terminate this Agreement as to Osceola only; or (3) waive this requirement and proceed to Closing.

Agreement by GUA, GUA shall obtain an order from the PSC approving GUA's acquisition of the GUA Systems (the "GUA PSC Consents"), which consents must remain in effect through the Closing Date. In the event that GUA has not timely obtained the GUA PSC Consents, Florida Water may (1) terminate this Agreement in total, (2) terminate this Agreement as to GUA only; or (3) waive this requirement and proceed to Closing.

(G) Within ninety (90) days from the date of approval of this Agreement by Hernando, Hernando shall obtain the written consent of the Hernando County Regulatory body to Hernando's acquisition of the Utility System in Hernando County (the "Hernando County Consent"), which consent must remain in effect through the Closing Date. In the event that Hernando has not timely obtained the Hernando County Consent, Florida Water may (1) terminate this Agreement in total, (2) terminate this Agreement as to Hernando only; or (3) waive this requirement and proceed to Closing.

(H) Within ninety (90) days from the date of approval of this Agreement by GUA, GUA shall deliver to Florida Water a certified statement evidencing that Citrus County has obtained the written consent of the Citrus County Regulatory body to Citrus County's acquisition of the Utility System in Citrus County (the "Citrus County Consent"), which consents must remain in effect through the Closing Date. In the event that Citrus County has not timely obtained the Citrus County Consent, Florida Water may (1) terminate this Agreement in total, (2) terminate this Agreement as to Citrus County only; or (3) waive this requirement and proceed to Closing.

(I) Within one hundred twenty (120) days from the date of approval of this Agreement by Deltona, Deltona shall obtain an order from the PSC approving Deltona's acquisition of the County System in Volusia County (the "Deltona PSC Consent"), which consent must remain in effect through the Closing Date. In the event that Deltona has not timely obtained the Deltona PSC Consent, Florida Water may (1) terminate this Agreement in total, (2) terminate this Agreement as to Deltona only; or (3) waive this requirement and proceed to Closing.

(J) Within forty-five (45) days of the Signature Date, the Contemplated Transactions shall be formally approved by the governing body of each Buyer following a public hearing conducted pursuant to law; provided that, as to Deltona, the forty-five (45) day period shall run from the date of the Stand-Down Agreement (as defined herein). In the event the governing body of a given Buyer does not approve the transaction, this Agreement will terminate as to that Buyer and, at the option of Florida Water, may terminate in its entirety, with no future obligation on the part of the parties affected by such termination.

SECTION 4.04. DISMISSAL OF LEGAL PROCEEDINGS.

(A) Within 3 days after Closing, each Buyer participating in such Closing shall: (i) dismiss with prejudice any and all complaints, claims, lawsuits and/or regulatory proceedings pending against Florida Water and/or the Florida Water Services Authority; (ii) dismiss with prejudice any and all complaints claims, lawsuits and/or regulatory proceedings related in any way to the sale of Florida Water's Assets; and (iii) use Best Efforts to secure written confirmation from any county regulatory body with jurisdiction over the Florida Water assets purchased by the Buyer that such county regulatory body has dismissed or closed any formal or informal investigation or inquiry concerning such assets or Florida Water's operation thereof.

With respect to regulatory proceedings dismissed per the preceding sentence, dismissal with prejudice means that no future regulatory proceedings can be initiated which relate to matters addressed in the dismissed proceeding. For the GOA Closing, the GOA shall provide evidence that each Governmental Body within which the GUA Systems are located shall comply with the requirements of this Section. This includes, without limitation, dismissal by Charlotte County of its litigation against Florida Water.

(B) Within 3 days after each Buyer has secured dismissal all of the legal proceedings described in Section A related to that Buyer's acquisition, Florida Water will dismiss with prejudice any and all complaints, claims, lawsuits and/or regulatory proceedings pending against such Buyer that has secured dismissal of all legal proceedings described to in Section A. Notwithstanding the previous sentence, in response to a Person bringing a claim against Florida Water relating to low pressure issues in Hernando County, Florida Water reserves the right to maintain current and bring new claims, counter-claims, cross-claims or lawsuits against Hernando County.

(C) Following execution and delivery of this Agreement by Florida Water, each party shall agree to hold all proceedings affected by this Section 4.04 in abeyance until Closing and dismissal.

ARTICLE V

CONDITIONS PRECEDENT TO THE BUYERS' OBLIGATION TO CLOSE

The Buyers' obligation to purchase the Purchased Assets and to take the other actions required to be taken by the Buyers at the Closing is subject to the satisfaction, at or prior to the Closing, of each of the following conditions (any of which may be waived by the Buyers, in whole or in part).

SECTION 5.01. FLORIDA WATER'S PERFORMANCE. All of the covenants and obligations that Florida Water is required to perform or to comply with pursuant to this obligations (considered individually), shall have been duly performed and complied with in all material respects.

SECTION 5.02. ADDITIONAL DOCUMENTS. Florida Water shall have caused the documents and instruments required by this Agreement and the following documents to be delivered (or made available) to the Buyers:

(A) The articles of incorporation and all amendments thereto of Florida Water, duly certified as of a recent date by the Secretary of State;

(B) A legal opinion in substantially the form attached in **Appendix G**; and

(C) Such other documents as the Buyers may reasonably request for the purpose of:

(1) evidencing the performance by Florida Water of, or the compliance by Florida Water with, any covenant or obligation required to be performed or complied with by Florida Water;

(2) evidencing the satisfaction of any condition referred to in this Article; or

(3) evidence showing the release of all liens, security interests, and other encumbrances other than Permitted Encumbrances (but excluding any Permitted Encumbrances that encumber the Purchased Assets held by any entity which has provided or may provide financing to Florida Water).

SECTION 5.03. NO CONFLICT. Neither the consummation nor the performance of any of the Contemplated Transactions will, directly or indirectly, materially contravene or conflict with or result in a material violation of or cause the Buyers or any Related Person of the

Buyers to suffer any material adverse consequence under (a) any applicable Legal Requirement or Order, or (b) any valid Legal Requirement or Order that has been entered by any in whole or in part) Governmental Body.

ARTICLE VI

CONDITIONS PRECEDENT TO FLORIDA WATER'S OBLIGATION TO CLOSE

Florida Water's obligation to sell the Purchased Assets and to take the other actions required to be taken by Florida Water at the Closing is subject to the satisfaction, at or prior to the Closing, of each of the following conditions (any of which may be waived by Florida Water in whole or in part).

SECTION 6.01. THE BUYERS' PERFORMANCE. All of the covenants and obligations that the Buyers are required to perform or to comply with pursuant to this Agreement at or prior to the Closing (considered collectively), and each of these covenants and obligations (considered individually), shall have been performed and complied with in all material respects.

SECTION 6.02. ADDITIONAL DOCUMENTS. Each of the Buyers shall have caused a legal opinion in the form set forth in **Appendix G** to be supplied and the documents and instruments required by this Agreement and the following documents to be delivered or made available such other documents as Florida Water may reasonably request for the purpose of:

- (A) evidencing the performance by the Buyers of, or the compliance by the Buyers with, any covenant or obligation required to be performed or complied with by the Buyers; or
- (B) evidencing the satisfaction of any condition referred to in this Article.

SECTION 6.03. NO INJUNCTION. There shall not be in effect any Legal Requirement or any injunction or other Order that (a) prohibits the consummation of the

Contemplated Transactions, and (b) has been adopted or issued, or has otherwise become effective, since the Signature Date

“Buyer Group”) full and free access, during regular business hours to Florida Water’s

ARTICLE VII

COVENANTS OF FLORIDA WATER PRIOR TO CLOSING

SECTION 7.01. ACCESS AND INVESTIGATION. Between the Signature Date and the Closing Date, and upon reasonable advance notice received from the Buyers and subject to any applicable confidentiality obligations, Florida Water shall (a) afford the Buyers and Buyers’ representatives and prospective lenders, underwriters, and their representatives (collectively, Buyer Group) full and free access, during regular business hours, to Florida Water’s personnel, properties (including subsurface testing), contracts, Governmental Authorizations, books and Records and other documents and data, such rights of access to be exercised in a manner that does not unreasonably interfere with the operations of Florida Water; (b) furnish the Buyer Group with copies of all such contracts, Governmental Authorizations, books and Records and other existing documents and data as the Buyer Group may reasonably request; (c) furnish the Buyer Group with such additional financial, operating and other relevant data and information as the Buyer Group may reasonably request; (d) provide access for conducting environmental site assessments; and (e) otherwise cooperate and assist, to the extent reasonably requested by the Buyer Group, with the Buyer Group’s investigation of the properties, assets and financial condition related to Florida Water. In addition, Buyers shall have the right to have the Real Property and Personal Property inspected by Buyer Group, at the Buyers’ sole cost and expense, for purposes of determining the physical condition and legal characteristics of the Real Property and Personal Property. In the event subsurface or other destructive testing is recommended by

any of the Buyer Group, the Buyers shall be permitted to have the same performed with the prior consent of Florida Water, which shall not be unreasonably withheld.

~~complies with Legal Requirements and is consistent with the requirements and normal conduct~~

SECTION 7.02. OPERATION OF THE BUSINESS OF FLORIDA WATER.

Between the Signature Date and the Closing, Florida Water:

(A) shall conduct its business in the Ordinary Course of Business;

(B) shall confer with the Buyers prior to implementing operational decisions relating to the Utility System of a material nature;

(C) shall maintain the Purchased Assets in a state of repair and condition that ~~complies with Legal Requirements and is consistent with the requirements and normal conduct~~ of Florida Water's business;

(D) shall comply with all Legal Requirements and contractual obligations applicable to the operations of Florida Water's business;

(E) shall cooperate with the Buyers and shall assist the Buyers in identifying the Governmental Authorizations required by the Buyers to operate the business from and after the Closing Date and either transferring existing Governmental Authorizations of Florida Water to the Buyers, where permissible, or assisting the Buyers in obtaining new Governmental Authorizations for the Buyers;

(F) upon request from time to time, shall execute and deliver all documents, shall make all truthful oaths, testify in any Proceedings and do all other acts that may be reasonably necessary to consummate the Contemplated Transactions, all without further consideration; and

(G) shall maintain all books and Records of Florida Water relating to Florida Water's

~~business in the Ordinary Course of Business.~~

SECTION 7.03. NEGATIVE COVENANT. Except as otherwise expressly permitted herein, between the Signature Date and the Closing Date, Florida Water shall not without the required filings necessary to be made by it in order to consummate the Contemplated prior written consent of an affected Buyer which shall not be unreasonably withheld and which shall be promptly acted upon by such Buyer, (a) make any material modification to any Governmental Authorization that relate to the Purchased Assets; or (b) allow the levels of raw materials, supplies or other materials included in the Purchased Assets to vary materially from the levels customarily maintained.

SECTION 7.04. REQUIRED APPROVALS. Florida Water shall make the reasonably required filings necessary to be made by it in order to consummate the Contemplated Transactions. Florida Water also shall cooperate with the Buyers and their Representatives with respect to all filings that the Buyers elect to make or, pursuant to Legal Requirements, shall be required to make in connection with the Contemplated Transactions. Florida Water also shall cooperate with the Buyers and their Representatives in obtaining all consents.

SECTION 7.05. NOTIFICATION. Between the Signature Date and the Closing, Florida Water shall promptly notify the Buyers and Buyers shall promptly notify Florida Water in writing if any of them becomes aware of (a) any fact or condition that causes or constitutes a Breach of the Agreement or (b) the occurrence after the Signature Date of any fact or condition that would or be reasonably likely to (except as expressly contemplated by this Agreement) cause or constitute a Breach of the Agreement. During the same period, Florida Water also shall promptly notify the Buyers of the occurrence of any Breach of any covenant of Florida Water in this Article VII or of the occurrence of any event that may make the satisfaction of the conditions in Article V impossible or unlikely.

SECTION 7.06. PAYMENT OF LIABILITIES. Florida Water shall pay or otherwise satisfy in the Ordinary Course of Business all of its Liabilities and obligations as they come due.

~~Florida Water shall be required by Legal Requirements to make~~

ARTICLE VIII

COVENANTS OF THE BUYERS

SECTION 8.01. REQUIRED APPROVALS. As promptly as practicable after the Signature Date, the Buyers shall make, or cause to be made, all filings required by Legal Requirements to be made by it to consummate the Contemplated Transactions. The Buyers also shall cooperate, and cause its Related Persons to cooperate, with Florida Water with respect to all filings Florida Water shall be required by Legal Requirements to make

SECTION 8.02. CERTAIN REGULATORY PROCEEDINGS. In the event that a Person initiates a docket, investigation, complaint, claim, lawsuit, objection or other inquiry relating to or arising out of an issue of sharing, allocation or refund of Florida Water's economic gain on any or all of the Utility System transfers contemplated by this Agreement ("Gain on Sale Inquiry"), whether initiated before or after the Closing of the Contemplated Transactions, each Buyer shall promptly request to intervene in any Gain on Sale Inquiries which relate to their Utility System and actively oppose the imposition of any such sharing, allocation or refund of any such economic gains with or to Florida Water's customers, past, present and future, or the imposition of any similar liabilities or burdens upon Florida Water, its customers or its affiliates in connection therewith, based upon the recitals in the fourth "WHEREAS" clause of this Agreement, which each Buyer hereby represents to be accurate and true, and based upon such other grounds as may reasonably be advanced.

SECTION 8.03. LEGAL OPINIONS. Within 30 days of the Signature Date of this Agreement by Florida Water, Marco Island, Deltona and Palm Coast shall each cause its outside

legal counsel acceptable to Florida Water to deliver to Florida Water a legal opinion acceptable to Florida Water stating that it has extraterritorial power under the Florida Constitution and the laws of Florida to acquire Florida water utility assets outside its boundaries.

SECTION 8.04. HERNANDO OBLIGATION. Florida Water and Hernando recognize that there are concerns regarding water pressure in the Hernando System that could affect service to current customers and the ability of the Hernando System to provide service to future customers. The purchase price for the Hernando System reflects in part the retention by Hernando of capital monies to remedy these water pressure concerns that would otherwise have been paid to Florida Water as additional purchase price. Accordingly, as material consideration for Florida Water agreeing to sell the Hernando System for the Purchase Price set forth in this Agreement, Hernando County covenants that after the Closing Hernando County shall assume service obligations to all persons desiring utility service within the utility service area for the Hernando System and Hernando County agrees that post-Closing it will be responsible for resolving any low pressure concerns. Hernando County covenants to use its Best Efforts and all diligence after Closing to remedy the Hernando System water pressure problems, for which time is of the essence.

SECTION 8.05. FLORIDA WATER EMPLOYEES.

(A) No later than 5:00 p.m. on the day which is forty-five (45) days after the Signature Date or 70 days before Closing Date, whichever is earlier, each Buyer shall deliver to Florida Water a written list of all Florida Water's employees to whom the Buyers will offer employment upon Closing. Florida Water shall be responsible for payment of all wages, salaries and benefits accrued and payable to individuals employed by Florida Water through the Effective Time and the Buyers shall be responsible for payment of all wages, salaries and

benefits relating to the period commencing on and from the Effective Time. If required, Florida Water and the Buyers will comply with the notice requirements under the Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 630 et seq., and any applicable state law with respect to such employee matters. It is expressly understood and agreed that the Buyers shall not be responsible or liable, directly or indirectly, for payment of any benefits, severance liability, compensation, pay or other obligations, of whatever nature, due or alleged to be due to any employee attributable to any time period up to or as a result of Closing. It is expressly understood and agreed that Florida Water is not and shall not be responsible or liable, directly or indirectly, for payment of any benefits, severance, liability, compensation, pay or other obligations, of whatever nature, due or alleged to be due any employee attributable to any time period upon or after Closing.

(B) The Buyers shall hire, or shall cause to be hired, as of the Closing Date, all employees designated on the list referred to in Section 8.05 for at least one year after Closing at rates of wages or salary comparable to those being paid by Florida Water on the Signature Date, including any employees on the list who are on short-term disability, and shall provide employee benefits to such employees comparable to those offered by Florida Water, provided, however, that each of the Buyers shall retain the right at all times after the first anniversary of Closing to determine its own staffing needs, personnel policies and employment practices with regard to such employees. Employees and any managerial personnel who accept employment with the Buyers as of, or within sixty (60) days following the Closing Date shall hereinafter be referred to as "Transitioned Employees." The Buyers shall provide for group health coverage for the Transitioned Employees and their dependents comparable to the health insurance currently provided by Florida Water with no waiting period for eligibility or entry into the plan and no

exclusion or limitation for preexisting conditions currently covered for such Transitioned Employee under Florida Water's health insurance plan. If within twelve (12) months after the Closing Date, any Transitioned Employee is terminated (for any reason other than for cause), the terminated Transitioned Employee shall continue to be paid such wages or salary which the Transitioned Employee would have received if the Transitioned Employee had remained employed for twelve (12) months after the Closing Date.

ARTICLE IX

CLOSING PROCEDURES AND ADJUSTMENTS

SECTION 9.01. CLOSING DATE AND PLACE. The closing shall be held at such place or offices designated by Florida Water in the Orlando area and on such date on or before December 8, 2003, as mutually agreed among the parties (the "Closing" or "Closing Date"). With respect to any Contemplated Transaction not closed as of the Closing Date, Florida Water and the remaining Buyers will continue to use all reasonable efforts to close at the earliest practicable date, subject to the rights to terminate in Sections 10.09 and 4.03. Except as set forth herein, no extension of the Closing Date shall modify any of the other deadlines set forth in this Agreement unless specifically noted in a written extension executed in accordance with the terms of this Section. Any Buyer that desires to Close prior to the Closing Date may submit a written request to Florida Water to close the transaction with respect to such Buyer at an earlier date than the Closing Date ("Early Closing Date"). Florida Water, in its sole discretion, may elect to agree to the Early Closing Date with respect to any particular Buyer, or may elect to retain the Closing Date for such Buyer. Florida Water's determination to agree to an Early Closing Date as to a particular Buyer shall not obligate Florida Water to agree to an Early Closing Date as to any other Buyer. In the event that some, but not all, of the Buyers have met all requirements under

the Agreement for Closing on the Closing Date, Florida Water, in its sole discretion, may elect to Close with any or all of such Buyers that are prepared to Close ("Partial Closing") and may elect to terminate the Agreement as to any or all of the other Buyers. Florida Water's determination to agree to a Partial Closing with a particular Buyer shall not obligate Florida Water to agree to a Partial Closing with any other Buyer.

SECTION 9.02. DOCUMENTS AFTER THE CLOSING.

From time to time after Closing, each party hereto shall, upon request of the other, execute, acknowledge and deliver, or shall cause to be executed, acknowledged and delivered, all such further acts special warranty deeds assignments bills of sale transfers or other documentation for (1) confirming or correcting title in the name of the Buyers or their successor(s) or perfecting possession by the Buyers or their successor(s) of any or all of the Purchased Assets, including the establishment of record of Easements without resort to litigation, expenditure of monies or other extraordinary means, for all Facilities which are a part of the Utility System in existence or use at the time of Closing, or (2) otherwise fulfilling the obligations of the parties hereunder. Further, from time to time after Closing should the parties discover that certain land parcels, Easements, or other rights owned or enjoyed by Florida Water at Closing and necessary to the proper operation and maintenance of the Utility System had not been included in the appropriate appendices hereto and thus not transferred to the Buyers or their successor(s) at Closing in accordance with this Agreement, then the parties agree that Florida Water shall execute or cause to be executed the documents including, but not limited to, deeds, easements and bills of sale necessary to convey such ownership or rights to the Buyers or their successor(s), at no cost to the Buyers, provided such conveyances may be accomplished without resort to litigation, expenditure of monies or other extraordinary means.

SECTION 9.03. RECORDING FEES AND DOCUMENTARY TAXES.

(A) Recording fees to record the deeds and any other instruments necessary to deliver County, 600 So. 2d 1333 (Fla. DCA 1992), and, 620 So. 2d 991 (Fla. 1993). To the extent that due to the Buyers shall be paid by the Buyers.

(B) The Purchased Assets are being purchased by the Buyers for public purposes in lieu of eminent domain and condemnation by various local governments throughout Florida which have passed resolutions or taken other actions confirming their desire to cooperate in the Buyers purchase of Florida Water's systems such that this transaction is immune from documentary stamp tax in accordance with the ruling in Department of Revenue v. Orange County, 605 So. 2d 1333 (Fla. DCA 1992), aff'd, 620 So. 2d 991 (Fla. 1993). To the extent that documentary stamp taxes are due and payable, such taxes and any related penalty shall be paid by the Buyers.

SECTION 9.04. ACCOUNTS RECEIVABLE; UNBILLED REVENUES; CUSTOMER DEPOSITS; ACCOUNTS PAYABLE.

(A) Florida Water shall furnish to the appropriate Buyer, at least ten (10) days prior to Closing, a listing of each respective Facility's accounts receivable ("Accounts Receivable"), customer deposits, by customer and individual amount and accrued interest ("Customer Deposits") and estimated unbilled revenue through the date of Closing ("Unbilled Revenues"). Florida Water shall assign to the appropriate Buyer at Closing, the Buyer's respective Facility's Accounts Receivable and Unbilled Revenues and all rights of collection therefor, together with the liabilities of Customer Deposits, in accordance with the following terms. At the Closing, each appropriate Buyer shall reimburse Florida Water for the excess of the sum of Accounts Receivable that are not more than sixty (60) days in arrears plus 98% of Unbilled Revenues over the Customer Deposits for the Buyer's respective Facility. Should the total Customer Deposits

exceed the sum of Accounts Receivable and Unbilled Revenue, then Florida Water shall reimburse the appropriate Buyer at Closing for any excess amount. Unbilled Revenue shall be based upon the actual billings for the month immediately preceding the month of the Closing and shall be prorated through the date of Closing based on the number of days that have elapsed since the last billing period. All amounts received by Florida Water through the date of closing for Accounts Receivable which were collected by Florida Water subsequent to the date Florida Water provided the Buyers with the list of Accounts Receivable, shall be credited to the appropriate Buyer at the Closing. After the Closing, Florida Water will promptly pay to Buyers any payments received by Florida Water on a Buyer's customer's account.

(B) All bills for services, materials and supplies rendered in connection with the operation of the Utility System prior to Closing, including but not limited to electricity, for a period up to and including the Closing Date ("Accounts Payable"), shall be paid by Florida Water. Prorations shall be required only for the following Accounts Payable: (1) electricity, to the extent meters are not read on the Closing Date; (2) telephone, to the extent no final bill is rendered to Florida Water on the Closing Date and the Buyers continue service with the provider; (3) rental, maintenance or lease charges under contracts assumed by the Buyers or the Buyers' Contractors; (4) charges under maintenance and service contracts assumed by the Buyers of the Buyers' Contractors; (5) purchased water and wastewater to the extent meters are not read on the Closing Date; (6) sludge hauling charges; and (7) other invoices that include pre-Closing and post-Closing obligations.

(C) Property Taxes. Florida Water shall be responsible for any past due and all ad valorem taxes, prorated through the date of Closing in accordance with Section 196.295, Florida

Statutes, and shall escrow funds with the tax collector of the counties in which the Systems are located if so required.

developer or individual customer prior to the Signature Date which provides for payment of

SECTION 9.05. CONNECTION CHARGES

(A) Connection Charges collected by Florida Water prior to Closing shall remain Florida Water's sole and separate property with no claim of the Buyers therefore.

(B) Connection Charges collected from and after Closing shall be paid to the Buyers with no claim of Florida Water therefore.

(C) Notwithstanding the foregoing, if Florida Water entered into an agreement with a developer or individual customer prior to the Signature Date which provides for payment of Connection Charges in installments payable over a period of time, Florida Water shall be entitled to retain payments from such developer or individual customer that come due after the Closing Date to the extent that such payments are attributable to connections of customers made prior to the Closing Date.

(D) Florida Water shall supply to the Buyers documents relating to deposits ("Vendee Deposit") made by land contract vendees ("Deposit Vendee") pursuant to land contracts for which deposits Florida Water has agreed to give the relevant Deposit Vendee a credit equal to such deposits made by such Deposit Vendee against Connection Charges which such Deposit Vendee would have to pay at the time it obtains water and/or sewage service from the Utility System. After Closing, some of such Deposit Vendees will continue to make such deposits and Florida Water agrees to promptly after Closing take such action to cause all such future deposits to be paid to the Buyers and shall supply the Buyers with evidence that it has done so.

(E) Notwithstanding any contract rights which Hernando County may claim against Florida Water as a result of the transfer of the Hernando Facilities to Hernando County,

Hernando County expressly waives any rights to return or credit of Connection Charges which Hernando County has paid to Florida Water.

~~THE BUYERS SHALL BE RESPONSIBLE FOR PAYMENT OF THE TRANSACTION COSTS.~~

SECTION 9.06. COSTS AND PROFESSIONAL FEES.

(A) Each party shall be responsible for securing its own counsel and advisors for representation in connection with the negotiation of this Agreement, and all other matters associated with performance, cancellation or closing hereunder, unless otherwise specified herein. Each party shall be responsible for the payment of the fees of its own attorneys, bankers, engineers, accountants, and other professional advisors or consultants in connection herewith.

~~The Buyers shall be responsible for payment of the Transaction Costs.~~

(B) In any litigation arising out of this Agreement, each party shall pay its own attorney's fees and taxable costs at all judicial levels.

SECTION 9.07. RISK OF LOSS. At all times prior to and through the time of Closing, Florida Water shall maintain adequate fire and extended insurance coverage for the cost of any repairs to the Purchased Assets that maybe required as a result of casualty damage. The risk of loss during the said period of time shall fall upon Florida Water. The risk of loss shall pass to the Buyers at Closing.

SECTION 9.08. PROCEEDS OF SALE; CLOSING PROCEDURE.

(A) On or prior to the Closing Date, Florida Water and the Buyers shall execute all documents necessary to Close the transaction. At the Closing, the appropriate parties shall execute and deliver to the closing agent appointed by Florida Water (the "Closing Agent") all of the documents related to each Utility System as delineated in subsection (D) below. The parties agree that legal counsel for Florida Water may act as Closing Agent and waive any potential conflict regarding the same.

(B) In order to secure title insurance coverage against the existence of material adverse matters recorded during the period of time between the effective date(s) of the Title Purchased Assets related to each Utility System to the appropriate Buyer (the Transfer Commitment and the date of recording of the documents creating the estate to be insured, Florida Water and the Buyers agree that the Closing Agent may also be the Title Company, or the Title Company's agent, selected by Florida Water to issue the Title Policy, and waive any conflict regarding the same.

(C) At the Closing, the appropriate party shall execute or cause to be executed and deliver to the Closing Agent the following documents effecting the separate transfer of the Purchased Assets related to each Utility System to the appropriate Buyer (the "Transfer Documents") (E.g., Florida Water shall execute a special warranty deed transferring the Fee Parcels within the Palm Coast System to Palm Coast). These Transfer Documents shall be in final form, together with any exhibits or appendices thereto and shall include, without limitation, the following:

- (1) Special warranty deeds for the conveyance of Fee parcels to be conveyed;
- (2) Conveyance instruments for Easements;
- (3) The Transfer, Assignment and Assumption Agreement covering all other interests in the Purchased Assets, together with a general assignment of all contracts, agreements, permits and approvals;
- (4) Bills of Sale or other documents of assignment and transfer, with full warranties of title, to the Purchased Assets, other than Fee Parcels and Easements;
- (5) Post closing agreements, affidavits, assignments certificates, estoppel certificates, corrective instruments, releases, satisfactions or terminations necessary or required pursuant to this Agreement;

(6) “Marked-up” Title Commitments for each Utility System consistent with

(7) Non-foreign affidavit and a Florida Department of Revenue Form DR-219 completed and executed by Florida Water for each Utility System;

(8) Any affidavits, assignments certificates, estoppel certificates, corrective instruments, releases, satisfactions or terminations necessary to close, including, but not limited to, a no lien affidavit, a “gap” affidavit along with those instruments identified by the Title Company insuring the real property;

(D) Florida Water acknowledges that the Buyers will issue the Bonds to generate proceeds to pay the Purchase Price as described in Section 4.01 hereof. Therefore, all Closing procedures shall be subject to the customary and reasonable requirements of the underwriters selected by the Buyers, the purchasers of the Bonds or the provider of any interim financing. The disbursement of proceeds shall be at the direction of the Title Company, or its agent, in order to secure coverage against material adverse matters or defects in title which are recorded during the period of time between the effective date of the Title Commitment and the date of recording of the document creating the estate or interest to be insured.

SECTION 9.09. TRANSFER OF PERMITS. The Buyers shall be responsible for obtaining the transfer to each of the Buyers of the operating permits related to the Utility System each Buyer is acquiring, as described in **Appendix H** hereof. Florida Water and the Buyers shall cooperate in the preparation of all requisite documents to notify, apply for and seek the transfer of such permits. Any permit transfer application fees shall be paid by the appropriate Buyer, and the parties will pay their respective costs to process such transfers.

SECTION 9.10. REGULATORY MATTERS. Subject to and with the exception of expressly not assumed by the Buyers. All such matters are set forth and described in **Appendix I**, the provisions set forth in Sections 4.04 and 8.02, and to the extent that Florida Water has any regulatory proceedings pending before the PSC or any other regulatory body with jurisdiction over the Utility System at the time of Closing, Florida Water shall retain responsibility for all actions and costs incurred to bring such proceedings to completion including all financial responsibility or liability for any rate relief, refund or other obligations imposed by the PSC or any county regulatory authority as a result of such proceeding, and responsibility therefore is
Notwithstanding the above, upon Closing, Hernando shall cause all regulatory proceedings before the Hernando County regulatory authority to be dismissed with prejudice.

SECTION 9.11. REGULATORY TRANSFER FILINGS. Within thirty (30) days of the later of the Signature Date or the approval of the Agreement by the Governing Bodies of each of the Buyers pursuant to Section 4.03(I) above, Florida Water shall make any filings necessary to the PSC and appropriate county regulators regarding the transfer of the Utility System and Purchased Assets from Florida Water to the Buyers. Florida Water agrees to pay its fees and costs incident to such filings. It is agreed that the Buyers shall apply every reasonable effort to cooperate with Florida Water with respect to these filings and will render all reasonable assistance necessary to Florida Water. The Buyers will pay their fees and costs associated with its cooperation and assistance. The sale and transfer of Utility System from Florida Water to the Buyers is contingent upon any required approval by the PSC or other appropriate county regulators.

SECTION 9.12. ASSUMPTION BY THE BUYERS OF RESPONSIBILITY FOR

SERVICE. The Buyers shall assume responsibility for providing service to Florida Water's customers who are receiving service at the time of Closing.

SECTION 9.13. PURCHASE PRICE ALLOCATION. Within ninety (90) days subsequent to the Closing Date, Florida Water shall provide to the Buyers an allocation of the Utility System Purchase Price to the Purchased Assets (tangible, intangible and real estate assets, etc.) for each Utility System which allocation shall comply with Section 1060 of the Internal Revenue Code of 1986, and the rules and regulations promulgated thereunder, as amended and supplemented from time to time, or any successor statute hereto. The parties affirm and agree that each of them shall adhere to such allocation for all federal and state income tax purposes, including the filing of all federal and state returns, if any, filed by them subsequent to the Closing Date.

ARTICLE X

GENERAL PROVISIONS

SECTION 10.01. RADON. 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 any county public health unit.

SECTION 10.02. TIME IS OF THE ESSENCE. Time is of the essence in this Agreement. Time periods specified in this Agreement shall expire at midnight on the date stated unless the parties agree in writing to a different date or time. Any time period provided for herein

which ends on Saturday, Sunday or a legal holiday shall extend to 5:00 p.m. on the next Business Day.

SECTION 10.03. NOTICE.

SECTION 10.03. ENFORCEMENT OF AGREEMENT. In the event that a dispute arises from the Agreement, each party shall bear its own costs and expenses, including attorneys' fees. Venue for any dispute shall be in the Circuit Court of Orange County, Florida.

SECTION 10.04. APPLICABLE LAW; JURISDICTION AND VENUE.

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

SECTION 10.05. NOTICE.

(A) All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, or by courier service, charges prepaid, to the parties at the following addresses:

To Hernando County: Garth C. Coller, Esquire
County Attorney
Hernando County Attorneys Office
20 North Main Street
Suite 462
Brooksville, Florida 34601

with a copy to: John R. Jenkins, Esquire
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301

To Osceola: Jo Thacker, Esquire
1 Courthouse Square
Kissimmee, Florida 34742

With a copy to: Brian Wheeler
101 North Church Street
Kissimmee, Florida 34742

To Marco Island: Mr. A. William Moss
City Manager
City of Marco Island City Hall
50 Bald Eagle Drive

with a copy to: Lonnie N. Groot, Esquire

with a copy to: John R. Jenkins, Esquire
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301

To Palm Coast: Mr. Richard M. Kelton
City Manager
City of Palm Coast
264 Palm Coast Parkway NE
Palm Coast, Florida 32135

with a copy to: LONNIE N. GROOT, ESQUIRE
Stenstrom, McIntosh, Colbert,
Whigham & Simmons, P.A.
200 West 1st Street
Sanford, Florida 32771

To the GUA: Florida Governmental Utility Authority
c/o Government Services Group, Inc.
1500 Mahan Drive, Suite 250
Tallahassee, Florida 32308
Attention: Robert E. Sheets

with a copy to: George H. Nickerson, Jr., Esquire
Nabors, Giblin & Nickerson, P.A.
2502 North Rocky Point Drive
Suite 1060
Tampa, Florida 33607

To Deltona: Fritz A. Behring
City Manager
City of Deltona
2345 Providence Boulevard
Deltona, Florida 32725

With a copy to: Richard Blossom, Esq.
City Attorney

City of Deltona
2345 Providence Boulevard
Deltona, Florida 32725

To Florida Water: Forrest Ludsen, COO and
 Carlyn Kowalsky, Esq., General Counsel
 Florida Water Services Corporation

(B) Any written notice given to one person in subsection (A) of this Section shall also
 Orlando, Florida 32860-9520

With a copy to: Philip R. Halverson, Esq.
 30 West Superior Street
 Duluth, MN 55802

And additional copy to: Greenberg Traurig, P.A.
 777 South Flagler Drive
 Suite 300 East
 West Palm Beach, FL 33401
 Attention: Phillip C. Gildan, Esq.

(C) Any written notice given to one person in subsection (A) of this Section shall also
be copied and provided to all other persons identified in subsection (A).

(C) The parties may, by notice in writing given to the others, designate any future or
different addresses to which the subsequent notices, certificates or other communications shall be
sent. Any notice shall be deemed given on the date such notice is delivered by hand or by
facsimile transmission or five (5) days after the date mailed.

SECTION 10.06. ASSIGNMENT AND JOINDER.

(A) Except as provided in under Section 10.06(B) below, Neither Florida Water nor
the Buyers shall have the power or authority to assign this Agreement or any of their rights,
duties or obligations hereunder to a third party without the express written consent of the other
party and this Agreement shall be construed as solely for the benefit of the Buyers and Florida
Water, and their successors by law, and no claim or cause of action shall accrue to or for the
benefit of any other third party by reason hereof.

~~(B) Consistent with the Tohopekaliga Transition Interlocal Agreement entered into
between the City of Kissimmee, Osceola County and Tohopekaliga Water Authority, (an~~

independent Special District, established and created pursuant to Chapter 189, Florida Statutes, by Special Act of the Legislature) on July 17, 2003 (the "Tohopekaliga Transition Interlocal Agreement") and this Agreement, Osceola may hereby assign, transfer, convey, grant, bargain and sell unto the Tohopekaliga Water Authority all of Osceola's rights, remedies, powers, title, interests, duties, obligations and responsibilities arising under this Agreement which relate to the Osceola System and the Facilities associated therewith; and the parties hereto, including specifically Florida Water, hereby consent and agree to such assignment and assumption. The Tohopekaliga Water Authority shall accept and agree to, and Florida Water hereby consents to, such assignment and assumption of all of Osceola's rights, remedies, powers, title, interests, duties, obligations and responsibilities arising under the Agreement which relate to the Osceola System and the Facilities associated therewith. Such assignment and assumption shall be deemed subject to and be in all respects in conformance with all provisions of this Agreement. The parties agree and acknowledge that in facilitating closing pursuant to such assignment and assumption all instruments required to close relating to the Osceola System will be separately executed and directly conveyed from Florida Water to the Tohopekaliga Water Authority as the assignee of Osceola. If the Tohopekaliga Water Authority does not perform its obligations under the Agreement, Osceola shall remain liable to Florida Water for such performance.

SECTION 10.07. AMENDMENTS AND WAIVERS. Except as otherwise provided in this Agreement, no amendment, supplement, modification or waiver of this Agreement shall be binding upon any party hereto unless executed in writing by such party. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision of this Agreement, whether or not similar, unless otherwise expressly provided.

SECTION 10.08. ENTIRE AGREEMENT. This Agreement is the entire agreement between the parties and supersedes all previous negotiations and discussions of the agreements, understandings, negotiations and discussions of the parties, whether oral or written, pertaining to the subject matter hereof, and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof, except as specifically set forth herein.

SECTION 10.09. TERMINATION EVENTS. By notice given prior to or at the Closing, subject to Section 10.10, this Agreement may be terminated as follows:

(A) by written notice from all of the Buyers that have not closed if a material breach of any provision of this Agreement has been committed by Florida Water and such breach has not been waived by such Buyers; provided in the event of a breach which does not result in termination, Buyers retain all other remedies available at law or in equity for such breach.

(B) by Florida Water if a material Breach of any provision of this Agreement has been committed by the Buyers and such Breach has not been waived by Florida Water;

(C) by written notice from all of the Buyers that have not closed if any condition in Article V has not been satisfied as of the date specified for Closing, or if satisfaction of such a condition by such date is or becomes impossible (other than through the failure of the Buyers to comply with their obligations under this Agreement), and the Buyers have not waived such condition on or before such date;

(D) by Florida Water if any condition in Article VI has not been satisfied as of December 8, 2003 (the date specified for Closing), or if satisfaction of such a condition by such date is or becomes impossible (other than through the failure of Florida Water to comply with its

obligations under this Agreement), and Florida Water has not waived such condition on or before such date;

Agreement,

(E) by mutual consent of all of the Buyers that have not closed and Florida Water;

(F) by all of the Buyers that have not closed if the Closing has not occurred on or before July 31, 2004, or such later date as the parties may agree upon, unless the Buyers are in material Breach of this Agreement;

(G) by Florida Water if the Closing has not occurred on or before the Closing Date or such later date as the parties may agree upon, unless Florida Water is in material Breach of this Agreement;

(H) by Florida Water in the event that any Person initiates any Gain on Sale Inquiry.

Upon the occurrence of a Gain on Sale Inquiry, Florida Water may (1) terminate this Agreement in total, (2) terminate this Agreement as to any particular Buyer; or (3) waive this requirement and proceed to Closing; or

(I) by Florida Water in the event it is, in its discretion, dissatisfied with any condition, requirement or burden imposed by any entity in any regulatory approval process related to the Contemplated Transactions under this Agreement.

SECTION 10.10. EFFECT OF TERMINATION

(A) Each party's right of termination under Section 10.09 is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of such right of termination will not be an election of remedies. If this Agreement is terminated pursuant to Section 10.09, all obligations of the parties under this Agreement will terminate unless otherwise stated in this Agreement, provided, however, that, if this Agreement is terminated because of a Breach of this Agreement by the non-terminating party or because one or more of the conditions

to the terminating party's obligations under this Agreement is not satisfied as a result of the party's failure to comply with its obligations under this Agreement, the terminating party's right

SECTION 10.11. BUYERS REPRESENTATIVE.
to pursue all legal remedies will survive such termination unimpaired.

(B) Neither the Buyers nor Florida Water shall be liable to the other in the event that after the execution of this Agreement there occurs (1) a change of law that prevents the Closing, (2) any action by a third party that prevents the Closing or (3) any order by a Governmental Body or court that prevents the Closing. Both parties agree to diligently defend against a third party attempt to prevent a Closing.

SECTION 10.11. BUYERS REPRESENTATIVE

Within thirty (30) days after the Signature Date, Buyers shall designate in writing a single Buyer's representative who shall be authorized to act on behalf of Buyers with respect to Buyers communications with Florida Water under the terms of the Agreement (the "Buyers' Representative"). Buyers have the right to replace the Buyers Representative at any time without cause by delivering written notice of such replacement to Florida Water. Florida Water shall have the right to rely upon all written notices and written communications from Buyers' Representative as the authorized representative of the Buyers under the Agreement.

SECTION 10.12. SURVIVAL.

The provisions set forth in Sections 2.06, 2.09, 3.07, 4.02, 4.04, 6.04, 7.03, 8.01, 8.02, 8.04, 8.05, 9.02, 9.04, 9.05, 9.06, 9.09, 9.10, 9.12, 9.13, 10.03, 10.10 and this Section 10.12 shall survive Closing and not merge therein.

SECTION 10.13. JOINT AND SEVERABLE LIABILITY

In the event of a breach of this Agreement by a Buyer, liability for such breach shall remain with such Buyer, and such liability shall not be joint and several as to other Buyers.

Remedy for a breach of Section 4.03 of this Agreement by a Buyer shall be limited to cancellation of the Agreement, at Florida Water's option, as provided

SECTION 10.14. COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be considered an original.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the Buyers and Florida Water have caused this

subject to the provisions of Section 4.03(I).

HERNANDO COUNTY

By: _____
Its: _____

Attest:

THE CITY OF MARCO ISLAND

By: _____
Its: _____

Attest:

THE CITY OF PALM COAST

By: _____
Its: _____

Attest:

OSCEOLA COUNTY

By: _____
Its: _____

Attest:

THE CITY OF DELTONA

By: _____
Its: _____

Attest:

FLORIDA GOVERNMENTAL UTILITY
AUTHORITY

By: _____
Its: _____

Attest:

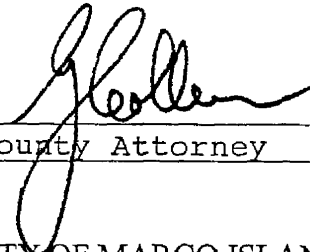
FLORIDA WATER SERVICES
CORPORATION

By: _____
Its: _____

Attest:

IN WITNESS WHEREOF, the Buyers and Florida Water have caused this Agreement to be duly executed and entered into on the date first above written, subject to

HERNANDO COUNTY

By: 
Its: County Attorney

Attest:

THE CITY OF MARCO ISLAND

By: _____
Its: _____

Attest:

THE CITY OF PALM COAST

By: _____
Its: _____

Attest:

OSCEOLA COUNTY

By: _____
Its: _____

Attest:

THE CITY OF DELTONA

By: _____
Its: _____

Attest:

IN WITNESS WHEREOF, the Buyers and Florida Water have caused this Agreement to be duly executed and entered into on the date first above written, subject to the provisions of Section 4.05(1).

HERNANDO COUNTY

By: _____
Its: _____

Attest:

THE CITY OF MARCO ISLAND

By: *A. Wilton Moss*
Its: *City Manager*

Attest: *L. M. [Signature]*

THE CITY OF PALM COAST

By: _____
Its: _____

Attest:

OSCEOLA COUNTY

By: _____
Its: _____

Attest:

THE CITY OF DELTONA

By: _____
Its: _____

Attest:

IN WITNESS WHEREOF, the Buyers and Florida Water have caused this Agreement to be duly executed and entered into on the date first above written, subject to the provisions of SECTION 4.05(1).

HERNANDO COUNTY

By: _____
Its: _____

Attest:

THE CITY OF MARCO ISLAND

By: _____
Its: _____

Attest:

THE CITY OF PALM COAST

By: Richard M. Kelter
Its: City Manager

Attest:

Clare M. Hoeni
Clare M. Hoeni
Deputy City Clerk

OSCEOLA COUNTY

By: _____
Its: _____

Attest:

THE CITY OF DELTONA

By: _____
Its: _____

Attest:

IN WITNESS WHEREOF, the Buyers and Florida Water have caused this Agreement to be duly executed and entered into on the date first above written subject to the provisions of Section 4.03(I).

HERNANDO COUNTY

By: _____
Its: _____

Attest:

THE CITY OF MARCO ISLAND

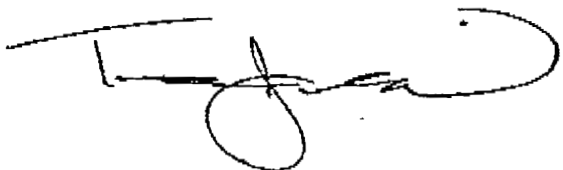
By: _____
Its: _____

Attest:

THE CITY OF PALM COAST

By: _____
Its: _____

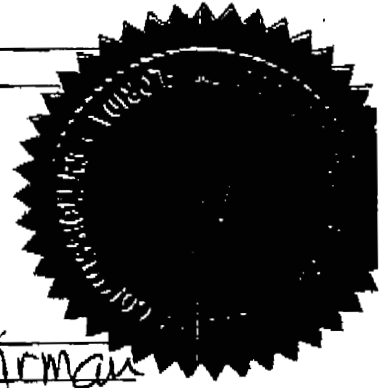
Attest:



Attest:

OSCEOLA COUNTY

By: K. Spley
Its: Vice Chairman



THE CITY OF DELTONA

By: _____
Its: _____

Attest:

IN WITNESS WHEREOF, the Buyers and Florida Water have caused this Agreement to be duly executed and entered into on the date first above written, subject to the provisions of SECTION 4.05(1).

HERNANDO COUNTY

By: _____
Its: _____

Attest:

THE CITY OF MARCO ISLAND

By: _____
Its: _____

Attest:

THE CITY OF PALM COAST

By: _____
Its: _____

Attest:

OSCEOLA COUNTY

By: _____
Its: _____

Attest:

THE CITY OF DELTONA

By: *XLT Fale*
Its: *CITY MANAGER*

Attest:

FLORIDA GOVERNMENTAL
UTILITY AUTHORITY

ATTEST.

By: Richard Thomas
Its: Board Chair

Attest:

Keith Doyle

FLORIDA WATER SERVICES
CORPORATION

By: _____
Its: _____

Attest:

FLORIDA GOVERNMENTAL
UTILITY AUTHORITY

Attest: *Thomas H. ...*

By: _____
Its: _____

Attest:

FLORIDA WATER SERVICES
CORPORATION

By: *Jim ...*
Its: *Chairman*

Attest: *A. A. ...*

RESOLUTION NO. 2003-21

A RESOLUTION OF THE CITY OF DELTONA, FINDING THE ACQUISITION OF THE UTILITY ASSETS OF FLORIDA WATER SERVICES CORPORATION TO BE IN THE PUBLIC INTEREST;

APPROVING AN ASSET PURCHASE AGREEMENT, PROVIDING FOR OPERATIONS, BILLING AND CUSTOMER SERVICE; PROVIDING FOR THE RATIFICATION OF THE BOND RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Deltona (the "City") has the power to acquire, own, improve, operate and maintain water, wastewater and reclaimed water utility facilities and any and all associated facilities and appurtenances pursuant to Article VIII, Section 2(b) of the Constitution of the state of Florida, which provides in pertinent part, that "[m]unicipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law"; and

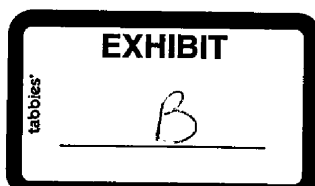
WHEREAS, Section 166.021(1), Florida Statutes, provides in pertinent part, that "[a]s provided in S. 2(b), Art. VII of the State Constitution, municipalities shall have the governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law"; and

WHEREAS, Section 166.021(3), Florida Statutes, provides in pertinent part, that "[t]he Legislature recognizes that pursuant to the grant of power set forth in S. 2(b), Art. VII of the State Constitution, the legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the state legislature may act" except for certain very limited matters; and

WHEREAS, Chapter 180, Florida Statutes, entitled "Municipal Public Works" authorizes, among other things, municipalities to provide water and alternative water supplies, reclaimed

water, water from aquifer storage and recovery, desalination systems, for domestic systems or

CERTIFIED



domestic, municipal or industrial uses; and to provide for the collection and disposal of sewage and to engage in public works and utility actions, activities, operations and related appurtenant water, wastewater and reuse facilities, and other associated utility facilities ("Utility Facilities")

WHEREAS, Section 4 of the *City Charter* of the City of Deltona provides in pertinent part, that the City "shall have all the powers of a municipality under the Constitution and laws of the State of Florida, as fully and completely as though such powers were specifically enumerated in this Charter"; and

WHEREAS, the City has determined that it is in its best interests and the best interests of the public and serves a valid public purpose to acquire, own, improve, operate and maintain owned and/or controlled by Florida Water Services Corporation ("FWSC") for the following reasons:

1. FWSC is an investor-owned private, for profit, corporation which owns and operates in the City, and within 5 miles outside of the City, Utility Facilities. FWSC has entered Utility System Asset Acquisition Agreements with six governmental entities in the State of Florida, including the City, to sell its utility assets separately to each of the entities.
2. With respect to the acquisition of an investor-owned private utility system by a governmental body, the greater public use and increased public benefit which result from governmental operation justify such acquisition.
3. From the public perspective, in order to promote the public health, safety and welfare of the City and the citizens of the City and its environs who are customers of FWSC, the highest public interest is to transition the Utility Facilities from private, investor-owned ownership and operation to public ownership and operation; and the most operationally efficient and cost effective manner of

CERTIFIED

acquiring Utility Facilities of the Deltona Lakes System ("System") is through purchase by the City.

rates, fees and charges paid by the customers of FWSC will not be increased as and for a consideration which will require no ad valorem tax revenue funding from the City; will require no pledge of the City's full faith and credit; will require no direct or indirect undertaking by the City to pay the obligations from the City's public funds; will place no public property in jeopardy by any means or by any default of a third party; and will currently enable the City to retain the existing rates, fees and charges paid by the customers of FWSC, in order that those

a direct result of the acquisition by the City of such System. In addition, the level and standard of services provided by the City to such customers will be maintained or improved.

5. The City cannot require FWSC or other investor-owned utilities to adequately plan for the impact of growth upon the City, nor provide for water and wastewater utility systems to accommodate existing development and anticipated future growth in a manner concurrent with the demand for such services or to otherwise require actions that result in sound growth management and economic development. Owning the System more readily allows the City to meet its statutory mandate with respect to the utilities element and other elements of its Comprehensive Plan.

6. Faced with the need to balance the allocation of vital water supply resources with local government comprehensive planning requirements of Part II, Chapter 163, *Florida Statutes*, the Florida Legislature has in the past, and is expected in the

future to consider legislation to add water supply availability to the concurrency requirements of existing local governments' comprehensive planning

CERTIFIED

requirements. The fact that other states have considered similar legislation is illustrated by the statutory requirement implemented in the State of California that

8. The acquisition of the System will provide the former FWSC utility customers with before major sub-division permits may be issued.
7. The acquisition of the System will ensure that the customers of the water, wastewater and reuse facilities currently owned by FWSC are provided the best, most cost effective service in the future and assure that proper future expansion of the water, wastewater and reuse facilities will occur to meet the demands of development and encourage economic development.

a local public governing body and increased opportunities for providing public input into decisions as to the coordination of utility infrastructure improvements and expansion and to the levels of utility services and rates.

9. Funds reserved by the City from the acquisition financing of the System and the anticipated annual revenue reserves will help diffuse and mitigate impacts due to significant system repair, replacement or upgrade costs for regulatory compliance.
10. The City's ability to operate the System as an integral operation with consolidated and local management, planning, engineering, customer service, billing and operation functions, or to contractually provide said services, will save on expenses to the benefit of the customers of the System and the acquisition will allow for the provision of a more reliable long-term water supply with the potential for development and implementation of multiple wellfields and regional water treatment plants.

The City's public ownership and control of the Deltona Lakes System will provide an opportunity for the City to : (a) provide that the operation and maintenance of water and

CERTIFIED

wastewater facilities is accomplished in a proactive and environmentally responsible manner;

(b) stabilize rates over the long term, reduce inefficient expansion and extension of service contractual arrangement with American Water Services, Inc., or an operations plan prepared by the appropriate expansion and interconnection of existing facilities and the construction of future facilities in a coordinated and uniform manner which avoids special or disproportionate benefits to investor-own utilities operators or special interests at the expense of present or future customers; and

WHEREAS, the City has determined that it is in its best interests and the best interests of the public and serves a valid public purpose to operate the System, either through a the City Manager and City Attorney ; and

WHEREAS, the City has reviewed and considered testimony, materials and information regarding the System and heard public input at a public hearing in conjunction with its determination of whether the proposed acquisition of the System is in the public interest.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, AS FOLLOWS:

SECTION 1. FINDINGS. The City Commission of the City of Deltona hereby adopts as findings the recitals (Whereas clauses) of this Resolution.

SECTION 2. AUTHORITY FOR THE RESOLUTION. This Resolution is adopted pursuant to Chapter 180, *Florida Statutes*, and other applicable provisions of law. The giving and publishing of notice of the meeting of the City Commission of the City of Deltona at which this Resolution is adopted is hereby ratified and found to be in compliance with the provisions of State law.

SECTION 3. CONCLUSION REACHED AT PUBLIC HEARING. The City Commission of the City, having heard comment from the public and testimony of experts including, but not limited to, rate consultants, engineers, legal counsel and financial advisors at its public hearing,

CERTIFIED

makes the following statement regarding the purchase of the System by the City. The City Commission hereby finds that the purchase of the System is in the public interest. The City will secure necessary financing; and the cash reserves to be funded by the bond financing to be in the operation of utility systems, or prepare a plan for operations that will include staffing with personnel who are experienced as employees and managers in the present operation of the system, to provide the City with the experience and knowledge to continue providing quality utility service to the customers of the System. The City has the financial ability to provide the service based upon a pro-forma analysis of the following: the anticipated revenues and expenses of the System; the ability of the City to establish sufficient rates, fees, charges and to provided by the City.

SECTION 4. APPROVAL OF THE UTILITY SYSTEM ASSET ACQUISITION AGREEMENT. The Utility System Asset Acquisition Agreement ("FWSC Agreement") among various governmental entities, including the City and FWSC, a copy of which agreement is attached to this Resolution as Exhibit "A" and incorporated in this Resolution, is hereby approved. The City Manager and his designees and the City Attorney are authorized to execute and deliver all documents and to take all further actions necessary to effectuate the provisions of the FWSC Agreement.

SECTION 5. APPROVAL OF THE OPERATIONS, BILLING AND CUSTOMER SERVICE PLAN. Utility operations will be provided, either through an Assignment and Assumption Agreement regarding a Utility Services, Billing and Customer Service Agreement between Florida Governmental Utility Authority and American Water Services, Inc., which agreements the City Manager and City Attorney have final authority to approve, or through a plan prepared by the City Manager and City Attorney for the City to operate the System.

CERTIFIED

SECTION 6. AUTHORIZATION OF BONDS.

(a) Resolution No.2003-22 of the City of Deltona, as it may be amended from

(b) The appropriate officials of the City are each designated agents of the City in generally as "Utility System Revenue Bonds Series 2003" and may be issued in one or more series, in an aggregate principal amount less than the authorized amount. The proceeds of the Bonds shall be used to fund the financing of the acquisition of the System including, but not limited to, transaction costs relating thereto during all stages of the acquisition process, funds for the operation thereof, costs for anticipated capital improvements and the costs of the issuance of the bonds including, but not limited to reserves therefore.

connection with the issuance and delivery of the Bonds, and are authorized and empowered, collectively or individually, to negotiate the terms of the Bonds, to engage such professionals and consultants and to take all action and steps to execute and deliver any and all instruments, documents, certificates, agreements, approvals, waivers or contracts on behalf of the City which are not inconsistent with the terms and provisions of this Resolution or the FWSC Agreement.

(c) The authorization contained in this Resolution for execution and delivery of the Bonds and the Bond Documents shall be subject to final approval of the terms of the Bonds by the City Commission, meeting in public session, prior to the issuance and delivery of the Bonds.

SECTION 7. REQUIREMENTS UNDER SECTION 180.301, FLORIDA STATUTES. In

accordance with Section 180.301, *Florida Statutes*, attached to and incorporated in this Resolution is Exhibit "D", which Exhibit is hereby approved and adopted. Exhibit "D" provides to the City, among other things, the following information in compliance with Florida law: (a) The most recent available income and expense statement for the utility; (b) The most recent available balance sheet for the utility, listing assets and liabilities and clearly showing the

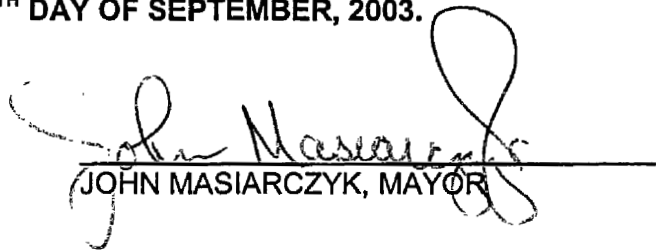
CERTIFIED

amount of contributions-in-aid-of-construction and the accumulated depreciation thereon;
(c) the existing rate base; (d) the physical condition of the utility facilities; (e) the
service.

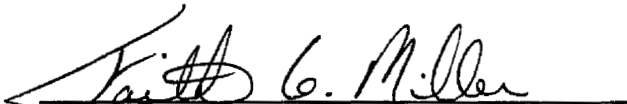
customers, both positive and negative; (g) additional investment required and the willingness of
the City to make such investments; (h) alternatives to the purchase and the potential impact on
utility customers if the purchase is not made; (i) the ability of the City to provide and maintain
high-quality and cost-effective utility service; (j) a statement showing that the purchase of the
utility by the City is in the public interest, including a summary of the City's experience and
resources available to the City in utility operation and showing of financial ability to provide

SECTION 8. EFFECTIVE DATE. This Resolution shall become effective immediately
upon its adoption.

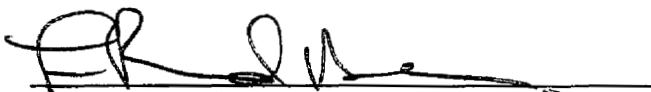
**PASSED AND ADOPTED AT A PUBLIC HEARING BY THE CITY COMMISSION OF
THE CITY OF DELTONA, FLORIDA, THIS 9TH DAY OF SEPTEMBER, 2003.**


JOHN MASIARCZYK, MAYOR

ATTEST:


FAITH G. MILLER, MMC, CITY CLERK

Approved as to form and legality for use
and reliance by the City of Deltona, Florida


ROLAND BLOSSOM, CITY ATTORNEY

NAME	YES	NO
HARVEY	✓	
HORN	✓	
MASIARCZYK	✓	
McFALL	✓	
OBREMSKI	✓	
RUNGE	✓	
WHEATLEY	✓	

CERTIFIED

VOLUSIA COUNTY

The Southeast ¼ of said Section 8 and the Southeast ¼ of the Southwest ¼ of said Section 8.

DELTONA

Township 18 South, Range 30 East, Volusia County, Florida.

Sections 13, 24, 25, 35 and 36

That portion of said Sections 13, 24, 25, 35 and 36 which is lying Easterly of the right-of-way of Interstate 4.

Township 18 South, Range 31 East, Volusia County, Florida.

All of Sections 1, 2 and 3.

Section 8

Section 10

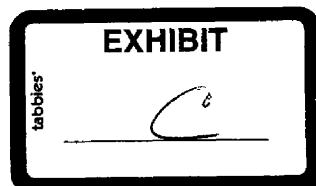
The East ½ of the Northeast ¼ and the Northwest ¼ of the Northeast ¼ of said Section 10 and that portion of the Northwest ¼ of said Section 10 which is more particularly described as follows: Begin at the Northeast corner of the Northwest ¼ of said Section 10; thence run North 88°49'22" West along the North boundary of the Northwest ¼ of said Section 10 to the Northwest corner of said Section 10; thence run South 00°24'01" East along the West boundary of said Section 10, 2350.93 feet; thence run North 89°56'04" East, 658.92 feet; thence run South 00°20'21" East, 333.80 feet; thence run North 89°43'08" East, 500.05 feet to a point which is also the Southeastern boundary of the Florida Power & Light Company 110 foot right-of-way; thence run North 47°52'27" East, along said Florida Power & Light boundary, 2022± to a point on the East boundary of the Northwest ¼ of said Section 10; thence run northerly along the East boundary of the Northwest ¼ of said Section 10 to the Northeast corner of the Northwest ¼ of said Section 10 which is also the Point of Beginning.

All of Sections 11, 12 and 13.

Section 14

All of Section 14 less and except the following described territory: Begin at the Northwest corner of the South ½ of said Section 14; thence run South 89°51'38" East a distance of 1008.91 feet; thence run North 00°09'11" West for a distance of 2461.10 feet; thence run North 51°11'13" West for a distance of 286.17 feet; thence run North 89°59'28" West for a distance of 767.61 feet to the Northwest corner of said Section 14; thence run Southerly along the West boundary of said Section 14 to the Northwest corner of the South ½ which is also the Point of Beginning.

Effective Date:



By: Forrest L. Ludsen
Forrest L. Ludsen, Vice President
Finance and Administration

VOLUSIA COUNTY

Section 17

All of said Section 17 less and except the Northwest ¼ of the Northwest ¼ of said Section 17.

Description Of Territory Served

DELTONA (Cont.)

Section 15

The South ½ of the Southeast ¼ of said Section 15 and that portion of the North ½ of the Southeast ¼ of said Section 15 that is more particularly described as follows: Begin at the Northwest corner of the North ½ of the Southeast ¼, thence run North 62°43'46" East a distance of 2971.21 feet to the Northeast corner of the Southeast ¼ of said Section 15; thence run Southerly along the East boundary of said Section 15 to the Northeast corner of the South ½ of the Southeast ¼ of said Section 15; thence run Westerly along the North boundary of the South ½ of the Southeast ¼ of said Section 15; thence run Northerly along the West boundary of said Section 15 to the Point of Beginning.

Section 17
All of said Section 17 less and except the Northwest ¼ of the Northwest ¼ of said Section 17.

Section 18

That portion of the South ¾ of said Section 18 which is lying Easterly of the right-of-way of Interstate 4.

All of Sections 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36.

Township 18 South Range 32 East, Volusia County, Florida

Section 31

That portion of said Section 31 which is more particularly described as follows: Begin at the Northwest corner of the Southwest ¼ of said Section 31; thence run South 00°26'20" East 122.22 feet; thence North 89°35'55" East 3760.4 feet; thence run South 00°26'20" East 1601.42 feet to a point intersecting with the Northern right-of-way line of S.R. 415; thence South 63°48'55" West 667.21 feet along said North right-of-way line of S.R. 415; thence leaving right-of-way run South 89°32'15" West 719.04 feet; thence South 00°26'20" East 516.56 feet, to a point intersecting with the Northern right-of-way line of S.R. 415; thence South 46°29'55" West 217.52 feet along said North right-of-way line of S.R. 415; thence leaving right-of-way run South 89°32'15" West 2281.30 feet; thence Northwesterly along a curve to the right having a radius of 427.43 feet, and a central angle of 19°26'58" a distance of 145.09 feet, then Westerly along a curve to the left having a radius of 270 feet, and a central angle of 19°12'47" a distance of 90.54 feet, to the South line of said Section 31; thence run South 89°46'26" along this line 49.11 feet to the Southwest corner of said Section 31; thence run North 00°26'20" West along the West Section line of said Section 31, a distance of 1213± to the said Point of Beginning.

Township 19 South, Range 30 East, Volusia County, Florida.

Section 1

That portion of Section 1 which is lying Northerly of the shoreline of Lake Monroe.

Effective Date:

By Forrest L. Ludsen
Forrest L. Ludsen, Vice President
Finance and Administration

VOLUSIA COUNTY

That portion of the North 800 feet of the Northwest ¼ of the Southwest ¼ of said Section 2
Description of Territory Served

DELTONA (Cont.)

Section 2

That portion of the Northeast ¼ of said Section 2 which is more particularly described as follows: Begin at the Northeast corner of said Section 2; thence run South 00°10'00" West along the East boundary of said Section 2, 1256.00 feet to a point which is also the North side of F.E.C. Railroad right-of-way; thence run South 76°01'20" West along said right-of-way line, 2176.20 feet; thence run North 13°15'20" East, 1498.65 feet ± to a point on the North boundary of said Section 2; thence run South 89°29'20" East along the North boundary of said Section 2 to the Northeast corner of said Section 2 which is also the Point of Beginning.

Plus,

Together with that portion of the North 1000 feet of the South 1320 feet of the East ¾ of the North ½ of said Section 2, along with the South 1000 feet of the Southwest ¼ of the Northwest ¼ lying South of the F.E.C. Railroad right-of-way.

Section 3

That portion of the North 720 feet and the East 720 feet of the Northeast ¼ of the Southeast ¼ of Section 3, together with that portion of the South 100± feet of the East 720 feet of the Northeast ¼ lying South of F.E.C. Railroad right-of-way.

Township 19 South, Range 31 East, Volusia County, Florida.

Section 1

The West ½ of said Section 1.

All of Sections 2, 3, 4 and 5.

Sections 6 and 7

That portion of said Section 6 & 7 which is located Northerly of Lake Monroe.

All of Sections 8, 9, 10 and 11

Section 12

The West ½ of said Section 12.

Section 16

That portion of said Section 16 which is lying Northerly of the North shoreline of Lake Monroe.

Section 17

That portion of said Section 17 which is lying Northeasterly of the shoreline of Lake Monroe.

Effective Date:

By: 
Forrest L. Ludsen, Vice President
Finance and Administration

VOLUSIA COUNTY

~~Section 4~~
The South 1/2 of said Section 5

Description Of Territory Served

DELTONA (Cont.)

Proposed Territory to be Deleted:

Less and except all of the area known as Enterprise, Volusia County, Florida, described as follows:

In Township 19 South, Range 31 East, Volusia County, Florida.

Section 4
The South 1/2 of said Section 4.

~~Section 5~~
~~The South 1/2 of said Section 5.~~

Sections 8, 9, 16 and 17
All the land area North of the shoreline of Lake Monroe lying in portions of said Sections 8, 9, 16 and 17.

Effective Date:

By: *Forrest L. Ludsen*
Forrest L. Ludsen, Vice President
Finance and Administration

VOLUSIA COUNTY

The Southeast ¼ of said Section 8 and the Southeast ¼ of the Southwest ¼ of said Section 8

DELTONA

Township 18 South, Range 30 East, Volusia County, Florida.

Sections 13, 24, 25, 35 and 36

That portion of said Sections 13, 24, 25, 35 and 36 which is lying Easterly of the right-of-way of Interstate 4.

Township 18 South, Range 31 East, Volusia County, Florida.

All of Sections 1, 2 and 3

Section 8

Section 8

Section 10

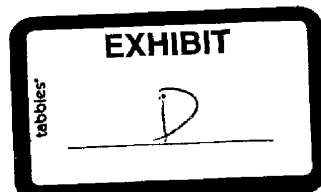
The East ½ of the Northeast ¼ and the Northwest ¼ of the Northeast ¼ of said Section 10 and that portion of the Northwest ¼ of said Section 10 which is more particularly described as follows: Begin at the Northeast corner of the Northwest ¼ of said Section 10; thence run North 88°49'22" West along the North boundary of the Northwest ¼ of said Section 10 to the Northwest corner of said Section 10; thence run South 00°24'01" East along the West boundary of said Section 10, 2350.93 feet; thence run North 89°56'04" East, 658.92 feet; thence run South 00°20'21" East, 333.80 feet; thence run North 89°43'08" East, 500.05 feet to a point which is also the Southeastern boundary of the Florida Power & Light Company 110 foot right-of-way; thence run North 47°52'27" East, along said Florida Power & Light boundary, 2022± to a point on the East boundary of the Northwest ¼ of said Section 10; thence run northerly along the East boundary of the Northwest ¼ of said Section 10 to the Northeast corner of the Northwest ¼ of said Section 10 which is also the Point of Beginning.

All of Sections 11, 12 and 13

Section 14

All of Section 14 less and except the following described territory: Begin at the Northwest corner of the South ½ of said Section 14; thence run South 89°51'38" East a distance of 1008.91 feet; thence run North 00°09'11" West for a distance of 2461.10 feet; thence run North 51°11'13" West for a distance of 286.17 feet; thence run North 89°59'28" West for a distance of 767.61 feet to the Northwest corner of said Section 14; thence run Southerly along the West boundary of said Section 14 to the Northwest corner of the South ½ which is also the Point of Beginning.

Effective Date:



By:

Forrest L. Ludsen

Forrest L. Ludsen, Vice President
Finance and Administration

VOLUSIA COUNTY

Description Of Territory Served

17.

DELTONA (Cont.)

Section 15

The South ½ of the Southeast ¼ of said Section 15 and that portion of the North ½ of the Southeast ¼ of said Section 15 that is more particularly described as follows: Begin at the Northwest corner of the North ½ of the Southeast ¼, thence run North 62°43'46" East a distance of 2971.21 feet to the Northeast corner of the Southeast ¼ of said Section 15; thence run Southerly along the East boundary of said Section 15 to the Northeast corner of the South ½ of the Southeast ¼ of said Section 15; thence run Westerly along the North boundary of the South ½ of the Southeast ¼ of said Section 15; thence run Northerly along the West boundary of said Section 15 to the Point of Beginning.

Section 17

All of said Section 17 less and except the Northwest ¼ of the Northwest ¼ of said Section

Section 18

That portion of the South ¾ of said Section 18 which is lying Easterly of the right-of-way of Interstate 4.


All of Sections 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36.

Township 18 South Range 32 East, Volusia County, Florida

Section 31

That portion of said Section 31 which is more particularly described as follows: Begin at the Northwest corner of the Southwest ¼ of said Section 31; thence run South 00°26'20" East 122.22 feet; thence North 89°35'55" East 3760.4 feet; thence run South 00°26'20" East 1601.42 feet to a point intersecting with the Northern right-of-way line of S.R. 415; thence South 63°48'55" West 667.21 feet along said North right-of-way line of S.R. 415; thence leaving right-of-way run South 89°32'15" West 719.04 feet; thence South 00°26'20" East 516.56 feet, to a point intersecting with the Northern right-of-way line of S.R. 415; thence South 46°29'55" West 217.52 feet along said North right-of-way line of S.R. 415; thence leaving right-of-way run South 89°32'15" West 2281.30 feet; thence Northwesterly along a curve to the right having a radius of 427.43 feet, and a central angle of 19°26'58" a distance of 145.09 feet, then Westerly along a curve to the left having a radius of 270 feet, and a central angle of 19°12'47" a distance of 90.54 feet, to the South line of said Section 31; thence run South 89°46'26" along this line 49.11 feet to the Southwest corner of said Section 31; thence run North 00°26'20" West along the West Section line of said Section 31, a distance of 1213± to the said Point of Beginning.

Effective Date:

By 
Forrest L. Ludsen, Vice President
Finance and Administration

VOLUSIA COUNTY

on the North boundary of said Section 2; thence run South 89°29'20" East along the

DELTONA (Cont.)

Township 19 South, Range 30 East, Volusia County, Florida.

Section 1

That portion of Section 1 which is lying Northerly of the shoreline of Lake Monroe.

Section 2

That portion of the Northeast ¼ of said Section 2 which is more particularly described as follows: Begin at the Northeast corner of said Section 2; thence run South 00°10'00" West along the East boundary of said Section 2, 1256.00 feet to a point which is also the North side of F.E.C. Railroad right-of-way; thence run South 76°01'20" West along said right-of-way line, 2176.20 feet; thence run North 13°15'20" East, 1498.65 feet ± to a point North boundary of said Section 2 to the Northeast corner of said Section 2 which is also the Point of Beginning.

Plus,

That portion of the North 800 feet of the Northwest ¼ of the Southwest ¼ of said Section 2. Together with that portion of the North 1000 feet of the South 1320 feet of the East ¾ of the North ½ of said Section 2, along with the South 1000 feet of the Southwest ¼ of the Northwest ¼ lying South of the F.E.C. Railroad right-of-way.

Section 3

That portion of the North 720 feet and the East 720 feet of the Northeast ¼ of the Southeast ¼ of Section 3, together with that portion of the South 100± feet of the East 720 feet of the Northeast ¼ lying South of F.E.C. Railroad right-of-way.

Township 19 South, Range 31 East, Volusia County, Florida.

Section 1

The West ½ of said Section 1.

All of Sections 2, 3, 4 and 5.

Sections 6 and 7


That portion of said Section 6 & 7 which is located Northerly of Lake Monroe.

All of Sections 8, 9, 10 and 11

Section 12

The West ½ of said Section 12.

Effective Date:

By: 
Forrest L. Ludsen, Vice President
Finance and Administration

VOLUSIA COUNTY

Description Of Territory Served

DELTONA (Cont.)

Section 16

That portion of said Section 16 which is lying Northerly of the North shoreline of Lake Monroe.

Section 17

That portion of said Section 17 which is lying Northeasterly of the shoreline of Lake Monroe.

Proposed Territory to be Deleted:

Less and except all of the area known as Enterprise, Volusia County, Florida, described as follows:

In Township 19 South, Range 31 East, Volusia County, Florida.

Section 4

The South ½ of said Section 4.


Section 5

The South ½ of said Section 5.

Sections 8, 9, 16 and 17

All the land area North of the shoreline of Lake Monroe lying in portions of said Sections 8, 9, 16 and 17.

Effective Date:

By: 
Forrest L. Lutsen, Vice President
Finance and Administration

APPLICATION FOR TRANSFER TO GOVERNMENTAL AUTHORITY

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

TO: DIRECTOR, DIVISION OF THE COMMISSION ON 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 part of the facilities operated under Water Certificate No. 238-W and Wastewater Certificate No. 182-S located in Volusia 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):

Florida Water Services Corporation

Name of Utility

(407) 598-4100

Phone No.

(407) 598-4241

Fax No.

1000 Color Place

Office Street Address

Apopka

City

Florida

State

32703

Zip Code

PO Box 609520, Orlando, Florida, 32860-9520

Mailing address if different from street address

www.florida-water.com

Internet address if applicable



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

Kenneth A. Hoffman, Esq. and/or J. Stephen Menton, Esq. (850) 681-6788

Name (386) 561-2100 (386) 789-7730

Rutledge, Ecenia, Purnell & Hoffman, P.A., PO Box 551

Mailing Address

Tallahassee Florida 32302-0551

City State Zip Code

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

City of Deltona

Name of Utility

Phone No. Fax No.

2345 Providence Blvd.

Office street address

Deltona Florida 32725

City State Zip Code

N/A

Mailing address if different from street address

www.ci.deltona.fl.us/

Internet address if applicable

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

John R. Jenkins of Rose, Sundstrom and Bentley (850) 877-6555

Name Phone No.

2548 Blairstone Pines Drive

Street address

Tallahassee Florida 32301

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
- E) Indicate the date on which the buyer proposes to take official action to acquire the
- 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.

utility:

The City of Deltona will take over operations on or about December 8, 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

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 stated 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, Tony Isaacs (Applicant), do hereby affirm and swear that the statements stated in the foregoing 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.

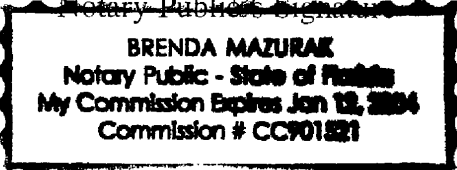
BY: Tony Isaacs
Applicant's Signature

Tony Isaacs
Applicant's Name (Typed)

Vice President, Customer Services
Applicant's Title *

Subscribed and sworn to before me this 17th day of September, 2003 by Tony Isaacs who is personally known to me or ~~produced identification~~ (Type of Identification Produced)

Brenda Mazurak
Notary Public's Signature



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

See Petition, at Paragraph 6

EXHIBIT D

The deposits of Florida Water's customers in Deltona, Volusia County currently remain with Florida Water and will be transferred with the individual customer accounts, less any unpaid balances, upon commencement of operations by the City of Deltona.

EXHIBIT C

All regulatory assessment fees for Florida Water have been paid in full. There are no fines or refunds owed.

EXHIBIT D

The City of Deltona has obtained the most recently available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction applicable to the land and facilities transferred by Florida Water to the City of Deltona.