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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

RECEIVED FPSC
03 SEP 19 PM 4:03
COMMISSION CLERK
HAND DELIVERED

Re: In re: Joint Application for Acknowledgment of Sale of Osceola County Land and Facilities to Osceola County and Cancellation of Certificate Nos. 66-W and 289-S

Dear Ms. Bayo:

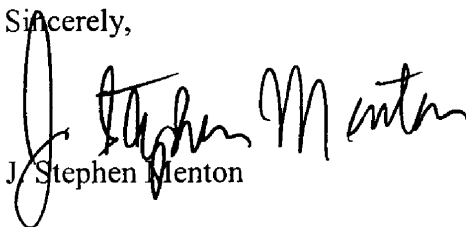
Enclosed for filing on behalf of Florida Water Services Corporation ("Florida Water") is an original and five copies of Florida Water's Joint Application for Acknowledgment of Sale of Osceola County Land and Facilities to Osceola County and Cancellation of Certificate Nos. 66-W and 289-S.

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.

Sincerely,


J. Stephen Menton

RECEIVED & FILED

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FPSC-BUREAU OF RECORDS

JSM/knb
Enclosures
Flawater\Bayo volusia

DOCUMENT NUMBER-DATE

09009 SEP 19 8

FPSC-COMMISSION CLERK

FLORIDA PUBLIC SERVICE COMMISSION

Certificate Number
66 - 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 (Osceola County)

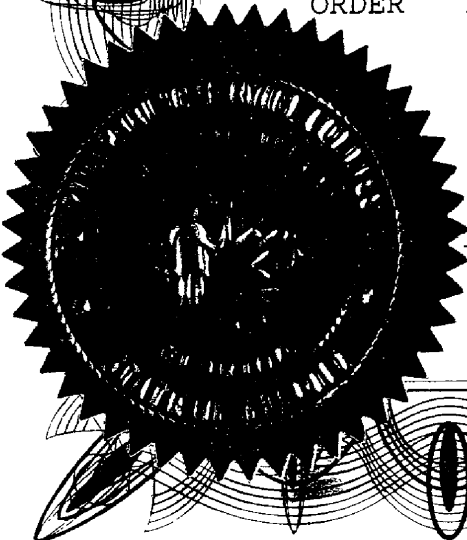
to provide water service in accordance with the provision
of Chapter 367, Florida Statutes, the Rules, Regulations
and Orders of this Commission in the territory described
by the Orders of this Commission.

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

ORDER	5348	DOCKET	C-71465-W
ORDER	7512	DOCKET	760628-W
ORDER	9883	DOCKET	790097-W(TC)
ORDER	17031	DOCKET	860043-WU
ORDER	19192	DOCKET	871139-WU
ORDER	21200	DOCKET	881200-WU
ORDER	PSC-92-0004-FOF-WU	DOCKET	910831-WU
ORDER	PSC-92-0458-FOF-WU	DOCKET	911212-WU
ORDER	PSC-94-1427-FOF-WU	DOCKET	930437-WU
ORDER	PSC-95-1325-FOF-WS	DOCKET	941151-WS
ORDER	PSC-97-0427-FOF-WS	DOCKET	970028-WS
ORDER	PSC-98-0485-FOF-WS	DOCKET	971589-WS

BY ORDER OF THE
FLORIDA PUBLIC SERVICE COMMISSION

Glenn S. Davis
Director
Division of Records and Reporting



FLORIDA PUBLIC SERVICE COMMISSION

Certificate Number
289 - 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:

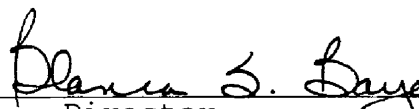
1000 Color Place
Apopka, Florida 32703 (Osceola County)

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.

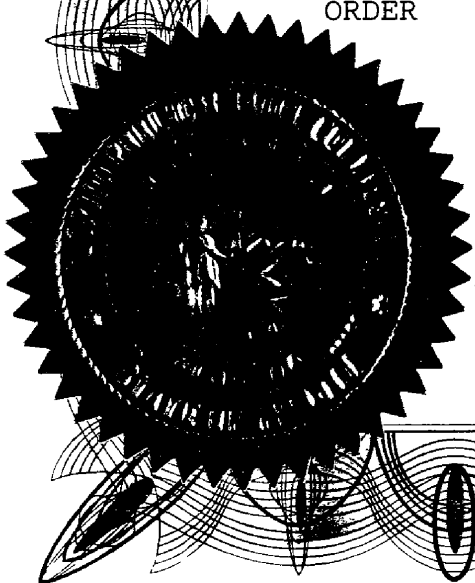
This Certificate shall remain in force and effect until
suspended, cancelled or revoked by Orders of this
Commission.

ORDER	9702	DOCKET	770714-WS (AP)
ORDER	21418	DOCKET	890726-WS
ORDER	21782	DOCKET	890976-WS
ORDER	24586	DOCKET	910246-WS
ORDER	PSC-93-1109-FOF-WS	DOCKET	930210-WS
ORDER	PSC-95-1325-FOF-WS	DOCKET	941151-WS
ORDER	PSC-97-0427-FOF-WS	DOCKET	970028-WS
ORDER	PSC-98-0485-FOF-WS	DOCKET	971589-WS
ORDER		DOCKET	
ORDER		DOCKET	
ORDER		DOCKET	

BY ORDER OF THE
FLORIDA PUBLIC SERVICE COMMISSION



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)
Osceola County Land and Facilities to)
Osceola County and Cancellation of Certificate)
Nos. 66-W and 289-S)
_____)

Docket No. 030921-WS
Filed: September 19, 2003

JOINT APPLICATION FOR ACKNOWLEDGEMENT OF
SALE OF OSCEOLA COUNTY LAND AND FACILITIES
TO OSCEOLA COUNTY AND CANCELLATION OF CERTIFICATE
NOS. 66-W AND 289-S

Florida Water Services Corporation ("Florida Water"), by and through its undersigned counsel, and pursuant to Section 367.071(4), Florida Statutes, and Rule 25-30.038(4), Florida Administrative Code, hereby files this Application for Acknowledgment of the Sale of Florida Water's Osceola County land and facilities to Osceola County (the "County") or its duly authorized assignee, the Tohopekaliga Water Authority (the "Authority"), and Cancellation of Certificate Nos. 66-W and 289-S. 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

09009 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 County for purposes of this Application is:

Osceola County
1 Courthouse Square, Suite 4200
Kissimmee, Florida 34741

4. Osceola County's Representative for this Application is:

Brian Armstrong
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, Florida 32308
(850) 224-4070 (Telephone)

5. The name and address of the Authority for the purpose of this Application is:

Tohopekaliga Water Authority
101 North Church Street, 2nd Floor
Kissimmee, Florida 34741

6. The Authority's Representative for the purpose of this Application is:

Brian L. Wheeler, Executive Director
101 North Church Street, 2nd Floor
Kissimmee, Florida 34741
(407) 518-2251 (Telephone)

7. Florida Water has been issued Certificate Nos. 66-W and 289-S by the Public Service Commission (the "Commission") related to Florida Water's water and wastewater operations in Osceola County (the "Osceola System"). In addition to the Osceola System, Florida Water owns numerous other water and wastewater utility assets throughout the state that operate pursuant to certificates issued by the Commission and other regulatory authorities.

8. On July 24, 2003, Florida Water signed and delivered a Utility System Asset Acquisition Agreement (the "Agreement") which contemplates the sale of the Osceola System to Osceola County.

9. The anticipated sale of Florida Water's assets to Osceola County includes all of Florida Water's utility assets within Osceola County. The Agreement also contemplates that the Cities of Palm Coast and Marco Island, Hernando County and the Florida Governmental Utility Authority will purchase certain other Florida Water utility assets.

10. The Agreement has been amended and restated to include the City of Deltona as an additional buyer of certain of Florida Water's utility assets. A copy of the Agreement, as amended and restated, is attached hereto and incorporated herein as Exhibit "A".

11. Pursuant to the Agreement, either the County or its assignee, the Authority, will acquire title to Florida Water's land and facilities in Osceola County and is scheduled to commence operations of such facilities on or about December 8, 2003. Pursuant to Section 10.06(B) of the Agreement, the County is expressly authorized to assign its right to purchase the Osceola System to the Authority.

12. Both the County and the Authority are exempt from regulation by the Commission pursuant to Section 367.022(2), Florida Statutes.¹

13. At a public hearing conducted pursuant to Section 125.3401, Florida Statutes, on August 25, 2003, Osceola County found the proposed acquisition of the Osceola System to be in the public interest. A copy of Resolution No. 03-074R adopted by the County Commission confirming its determination that the acquisition of the Osceola County utility assets of Florida Water is in the public interest is attached hereto as Exhibit "B-1".

14. At a public hearing conducted pursuant to Section 189.423, Florida Statutes, on August 27, 2003, the Authority found the proposed acquisition of the Osceola System to be in the public interest. A copy of Resolution No. 09-003 adopted by the Board of Supervisors of the Authority confirming its determination that the acquisition of the Osceola County utility assets of Florida Water is in the public interest is attached hereto as Exhibit "B-2".

15. The County and the Authority have 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 as required by Section 367.071(4)(a), Florida Statutes.

16. Pursuant to the Agreement, Florida Water has provided the County and the Authority with access to the books and records for the Osceola System,

¹ A "governmental authority" is entitled to the "approval as a matter of right" provisions of Section 367.071(4)(a), Florida Statutes. Both the County and the Authority are defined as a "governmental authority". See §§ 367.021(7) and 1.01(8), Florida Statutes (2002). The Authority is an independent special district established and created pursuant to Chapter 189, Florida Statutes, by special act of the Florida Legislature as a special purpose local governmental body, corporate and politic. Pursuant to Chapter 2003-368, Laws of Florida, the Authority shall not be subject to the supervision or regulation by any other commission, board, bureau, agency or other political subdivision of the State.

and these books and records for the Osceola System will be transferred to the County, or its assignee, the Authority, upon closing.

17. Florida Water will assign the customer deposits for the Osceola System and all accumulated interest to the County, or its assignee, the Authority, at closing in accordance with Section 9.04(A) of the Agreement and the County, or its assignee, the Authority, will thereupon assume liability for same.

18. 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.

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

20. The significant benefits bestowed on the County, the City of Kissimmee (the "City") and the public which they both serve as well as the numerous reasons which support the coordinated provision of water and wastewater services by the Authority within Osceola County are detailed in the Tohopekaliga Transition Interlocal Agreement, a copy of which is attached as Exhibit "C". Under the Tohopekaliga Transition Interlocal Agreement the County and the City are obligated to transfer the water and wastewater assets, rights and obligations which they each possess to the Authority.

21. On September 10, 2003, the Circuit Court of the Ninth Judicial Circuit entered its Final Judgment (the "Final Judgment") which validated the power of the Authority to provide potable and non-potable water and wastewater services and facilities within the unincorporated area of Osceola County (including the area served by the Osceola System), and the respective obligations of the parties to the Tohopekaliga Transition Interlocal Agreement, together with the public purpose supporting the issuance of bonds by the Authority to acquire the water and wastewater assets, rights and obligations of

the City. A copy of the Final Judgment is attached hereto as Exhibit "D". The Authority, the City and the County intend to complete all of the contemplated acquisitions as soon as possible to secure, among other things, advantageously low interest rates currently available.

22. The Final Judgment finds and confirms that the Authority is an independent special district established and created pursuant to Chapter 189, Florida Statutes, by special act of the Florida Legislature as a special purpose local governmental body, corporate and politic. The Authority is a "governmental authority" pursuant to Section 367.071(4)(a), Florida Statutes. Had the Authority been acquiring the Osceola System directly from Florida Water in lieu of such prospective acquisition by assignment of the County's rights under the Agreement, the Authority would be entitled 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), Florida Statutes (2002).

23. The Authority, the City and the County desire to expedite transition of the Osceola System to the Authority. For this reason, the County has requested that Florida Water advise and disclose to the Commission that the County has the contractual right to assign its rights and obligations pursuant to the Agreement to the Authority at any time subsequent to the filing of this Application.

24. Since the County may assign its right to purchase the Osceola System to the Authority and, ultimately, the County or the Authority may close on the purchase prior to completion of the Commission's deliberations in this docket, Florida Water, the County and the Authority request that the Commission approve the County's acquisition of the Osceola System, the potential assignment of the County's right to acquire the Osceola System to the Authority and, in such event, the Authority's acquisition of the Osceola System.

25. Undersigned counsel for Florida Water has conferred with counsel for Osceola County and the Authority and is authorized to represent that the County and the Authority concur with and join in this Application.

26. The legal description of Florida Water's water territory in Osceola County is attached hereto as Exhibit "E-1". The legal description of Florida Water's wastewater territory in Osceola County is attached hereto as Exhibit "E-2".

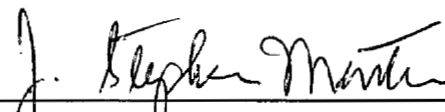
27. All additional and supplemental information required under Rule 25-30.038(4), Florida Administrative Code, is included in the Application and attached hereto as Exhibit "F".

28. Florida Water's original Certificate Nos. 66-W and 289-S are filed herewith.

WHEREFORE, Florida Water requests that this Commission:

- A. Grant Florida Water's Application;
- B. Acknowledge the sale of Florida Water's land and facilities situated in Osceola County to Osceola County or its assignee, the Tohopekaliga Water Authority, as a matter of right, pursuant to Section 367.071(4)(a), Florida Statutes; and
- C. Cancel Certificate Nos. 66-W and 289-S.

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)

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

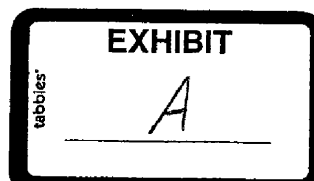


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**FIRST AMENDED AND RESTATED
UTILITY SYSTEM
ASSET ACQUISITION AGREEMENT**

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

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 GUA 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

WHEREAS, Hernando desires to acquire the Facilities located in the service area 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” means this Utility 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.

“**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.

“**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.

“**Purchase Price**” 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 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 in its entirety. Upon a termination per the above, Florida Water and the affected Buyer(s) 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 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.

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	\$35,574,025
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 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 of Florida Water prior to the Effective Time, (2) 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, (3) 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, (4) any liability for Florida Water’s performance of its obligations hereunder, (5) any liability of Florida Water based upon Florida Water’s acts or omissions occurring after the Effective Time, and (6) (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.

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

SECTION 3.01. PROVISION OF INFORMATION BY FLORIDA WATER.

(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.

SECTION 3.05. DUE DILIGENCE DETERMINATIONS.

(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 as agreed to by the Buyers and those requirements that are to be met solely by the Buyers).

(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 process. The Buyers shall cooperate with Florida Water in satisfying the Post-Closing Schedule 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.

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) Buyers have performed assessments as they have deemed appropriate, including 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.

SECTION 4.02. TRANSITION SERVICES. On or before forty-five (45) days after 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 GUA only; (3) delete any or all of the GUA Systems for 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.

(F) Within one hundred twenty (120) days from the date of approval of this 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 Utility 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 GUA Closing, the GUA 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 Agreement at or prior to the Closing (considered collectively), and each of these covenants and 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 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.

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.

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 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.

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's 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 Retraining and Notification Act (“WARN Act”), or any similar federal, state or local legislation 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 title 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), *affd*, 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 Revenues 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.

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.

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 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 Section 3.06 of this Agreement;

(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 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 expressly not assumed by the Buyers. All such matters are set forth and described in **Appendix I**. 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 thereto. 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. 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. Collier, 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
Marco Island, Florida 34145

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
 Post Office Box 609520
 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.

(B) 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 prior and contemporaneous agreements, understandings, 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;

(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 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 therein.

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 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:

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 the provisions of Section 4.03(I).

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 4.03(I).

HERNANDO COUNTY

By: _____
Its: _____

Attest:

THE CITY OF MARCO ISLAND

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

Attest: *La m Af*

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 4.03(I).

HERNANDO COUNTY

By: _____
Its: _____

Attest:

THE CITY OF MARCO ISLAND

By: _____
Its: _____

Attest:

THE CITY OF PALM COAST

By: Richard M. Keltan
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:

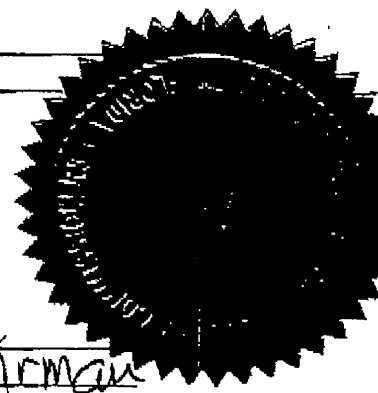
THE CITY OF PALM COAST

By: _____
Its: _____

Attest:

OSCEOLA COUNTY

By: K. R. Ryley
Its: City Chairman



[Handwritten signature]

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:

OSCEOLA COUNTY

By: _____
Its: _____

Attest:

THE CITY OF DELTONA

By: *[Signature]*
Its: CITY MANAGER

Attest:

FLORIDA GOVERNMENTAL
UTILITY AUTHORITY

By: Richard Thomas
Its: Board Chair

Attest:

Maith Doyle

FLORIDA WATER SERVICES
CORPORATION

By: _____
Its: _____

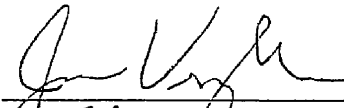
Attest:

FLORIDA GOVERNMENTAL
UTILITY AUTHORITY

By: _____
Its: _____

Attest:

FLORIDA WATER SERVICES
CORPORATION

By: 
Its: Chairman

Attest: 

RESOLUTION NO. 03-074R

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF OSCEOLA COUNTY, FLORIDA, DIRECTING AND AUTHORIZING THE ACQUISITION OF SUBSTANTIALLY ALL OF THE REAL AND PERSONAL PROPERTY COMPRISING THE WATER AND WASTEWATER UTILITY FACILITIES OWNED BY FLORIDA WATER SERVICES CORPORATION LOCATED IN OSCEOLA COUNTY; FINDING THAT THE ACQUISITION IS IN THE PUBLIC INTEREST AND SERVES A PARAMOUNT PUBLIC PURPOSE; APPROVING THE OPERATIONS, BILLING AND CUSTOMER SERVICE AGREEMENTS; AND THE TRANSACTIONS CONTEMPLATED BY THE TOHOPEKALIGA TRANSITION INTERLOCAL AGREEMENT RELATIVE TO SUCH FACILITIES ARE IN THE PUBLIC INTEREST IN CONFORMANCE WITH SECTION 125.3401, FLORIDA STATUTES; PROVIDING DIRECTION AND AUTHORITY TO ACQUIRE THE FACILITIES IN ANY MANNER CONSISTENT WITH THE TOHOPEKALIGA TRANSITION INTERLOCAL AGREEMENT; PROVIDING FOR APPLICABILITY AND AN EFFECTIVE DATE.

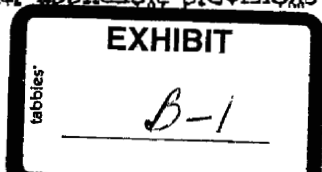
BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OSCEOLA COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORITY. Pursuant to Section 125.01 and other applicable provisions of the Florida Statutes, the Board of County Commissioners ("Board") of Osceola County ("County") has the power to acquire, own, improve, operate, maintain, contract for management and operational services, dispose of water and wastewater utility facilities and to enter into agreements with other governmental agencies.

SECTION 2. INCORPORATION BY REFERENCE. The public briefing document, including a description of Florida Water Services Corporation's ("Florida Water") water and wastewater utility facilities within the County, the most recent income and expense statement, the most recent available balance sheet, a description of the system's physical condition, a statement on the reasonableness of the price, a statement on customer impacts, a statement on additional investments required by the County, if any, and the County's ability and willingness to make these investments, a description of any alternatives to acquisition by the County and a statement on the ability of the County to operate acquired systems, presented at this public hearing and filed with the Clerk are hereby incorporated herein by reference and made a part hereof (hereafter referred to as the "Report"). The Report is attached hereto as Appendix A. The Report is intended to be a statement demonstrating that the acquisition of the water and wastewater utility systems owned by Florida Water and located in the County is in the public interest.

SECTION 3. FINDINGS. It is hereby ascertained, determined and declared:

A. Section 125.01 and other applicable provisions of the Florida Statutes grant the



County the power to acquire, own, operate, maintain, improve, contract for management and operational services, and dispose of water and wastewater utility systems.

B. Florida Water owns and operates water production and treatment systems and wastewater collection, treatment and disposal systems within the County, more commonly known as:

- (1) Buenaventura Lakes
- (2) Tropical Park
- (3) Pine Ridge Estates
- (4) Intercession City
- (5) Fountains
- (6) Lake Ajay
- (7) Wind Song
- (8) Bay Lake Estates

For convenience, the foregoing systems will be referred to as the "FWSC System". The County, the Florida Governmental Utility Authority ("FGUA"), certain local governments and Florida Water have been negotiating an Asset Acquisition Agreement which, in turn, may be described as the First Amended and Restated Asset Acquisition Agreement, whereby the County will acquire all of Florida Water's FWSC System (the "Asset Acquisition Agreement").

C. To provide for the public interest and welfare, the Board is required to hold a public hearing on the acquisition of the FWSC System to ensure that such acquisition serves the public interest. This public hearing was duly advertised and held on August 25, 2003. All interested persons had an opportunity to attend and participate and to file written comments.

D. County ownership and control of the FWSC System will provide an opportunity for the County to:

1. address and balance the impact of remarkable growth within each system with the County's need to provide and plan for quality water production and treatment and wastewater collection, treatment and disposal facilities necessary to accommodate existing development and anticipated future growth in a manner concurrent with the demands for such facilities in each area, the requirements of state and federal mandates, and the demands of new development and the County's statutory responsibility to implement a financially feasible comprehensive plan;

2. further develop a regional approach within each area served by each individual utility system relative to the comprehensive supply, distribution and treatment of water and the collection, treatment and disposal of wastewater;

3. seek economies of scale relative to operations, maintenance, customer service and management;

4. provide current and future users of the FWSC System with cost efficient services and

management;

5. provide that the operation and maintenance of the FWSC System is done in a proactive and environmentally responsible manner;

6. stabilize rates over the long term, reduce inefficient expansion and extension of service capacities and avoid the proliferation of smaller treatment facilities and sites;

7. permit the County to coordinate the expansion and extension of facilities;

8. accomplish a greater public use and increased public benefit which results from the ownership, operation and control of the FWSC System by the County;

9. enable the County to more effectively and efficiently plan and fulfill its comprehensive planning requirements as provided by law, and assure that high quality, cost efficient water and wastewater utility services are available; and

10. enter into an agreement with the City of Kissimmee, Florida, for the performance of the operation, billing and customer service functions within the cost assumptions included in the Projected Statement of Cash Flows incorporated into the Report which will facilitate the eventual consolidation of the FWSC System into the Tohopekaliga Water Authority and, thus, achieve the water resource preservation and environmental protection inherent in the regional and consolidated provision of utility services.

To Support the Transaction Further:

The City's Water Resources Department has prepared a statement reflecting: (i) the transfer of the FWSC System to the County (or the City or the Authority) pursuant to the Asset Acquisition Agreement and the subsequent operation and management by the County, the City or the Authority is in the public interest, including a summary of the experience in utility operation which will be employed by the City or the Authority on behalf of the County; and (ii) that the County, the City and the Authority all have the financial ability to provide, now and in the future, high quality and cost effective utility services.

Further, the County has entered into the Tohopekaliga Transitional Interlocal Agreement recorded in Official Records Book 2296, at Page 2121, Public Records of Osceola County, by and among the County, the City and the Tohopekaliga Water Authority (the "Authority").

The County, the City and the Authority have joined together through the Tohopekaliga Transition Interlocal Agreement to provide for the transfer of the Utility Assets, the Utility System and the Utility Service (as such terms are defined in the Tohopekaliga Transition Interlocal Agreement) to the Authority. Such terms specifically include and reference, among other things, the "FWSC System".

The County has the power and authority to enter into agreements with other governmental

agencies, including the City and Authority, within or outside of the boundaries of Osceola County for joint performance by one governmental entity on behalf of the other, of any of either government's authorized functions.

The County has determined that entering into the Tohopekaliga Transition Interlocal Agreement and the acquisition of the FWSC System serves the public interest, and will facilitate the contemplated subsequent transfer of the Utility Assets, the Utility System and Utility Service to the Authority in a manner which will provide high quality water and wastewater infrastructure and services concurrent with demand therefore.

SECTION 4. DETERMINATION OF PUBLIC USE AND BENEFIT. Based upon its legislative findings incorporated in Section 3, it is the opinion of the consultants, attorneys and County and City management staff that the acquisition of the FWSC System assets by the County is in the public interest in a manner consistent with the mission of the Tohopekaliga Water Authority and the County, City and Tohopekaliga Water Authority; that the entities have the experience and the financial ability to manage the systems and provide quality customer service; the Board expressly determines that the acquisition of the FWSC System by the County, pursuant to the terms of the Asset Acquisition Agreement, as may be amended and attached hereto as Appendix B, and the provision of water and wastewater services through facilities owned by the County constitutes a paramount public purpose and is in the best interest of the health, safety and welfare of the County.

SECTION 5. PUBLIC INTEREST DETERMINATION OF PURCHASE. In making the public interest determination concerning the transactions contemplated by the County relating to the acquisition of the FWSC System, the Board has considered numerous factors, including but not limited to the following matters:

- (A) The most recently available income and expense statement(s) of the Utility Facilities;
- (B) The most recently available balance sheet(s) for the FWSC System;
- (C) A statement of the existing rate base of the FWSC System for regulatory purposes;
- (D) The general physical condition of the FWSC System;
- (E) The reasonableness of the purchase price;
- (F) The impacts of the contemplated transition on utility customers served by the FWSC System, both positive and negative;
- (G) Any additional investment required and the ability and willingness of the County to make that investment;
- (H) The alternatives to the contemplated transition and the potential impact on

utility customers if the FWSC System are not acquired by the County; and

- (I) The ability of the County to provide and maintain high-quality and cost-effective utility service.

SECTION 6. APPROVAL OF FIRST AMENDED AND RESTATED ASSET ACQUISITION AGREEMENT BY AND BETWEEN FLORIDA WATER SERVICES CORPORATION AND THE COUNTY.

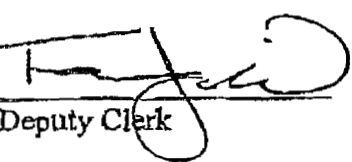
The form, terms and provisions of the Asset Acquisition Agreement, as may be amended, by and between the County and Florida Water Services Corporation, submitted to this duly called public meeting and attached hereto as Appendix B, be and the same hereby are approved and ratified. Execution of this Resolution by the Chairman shall be deemed to be conclusive evidence of approval by the Board. This Resolution expressly contemplates that the County, the City or the Authority may acquire, finance, operate and/or maintain the FWSC System in a manner consistent with the Tohopekaliga Transition Interlocal Agreement; and, to the maximum extent provided by law and the Tohopekaliga Transition Interlocal Agreement, shall evidence the authorization to provide services and facilities within the areas served by the FWSC System. The Board authorizes the Chairman, members of the Board, officers, attorneys, and other agents or employees of the County to do all acts and things required of them by this Resolution and the Tohopekaliga Transition Interlocal Agreement, for the full punctual and complete performance of all the terms, covenants and agreements contained in this Resolution and the Asset Acquisition Agreement, as may be amended, and each member of the Board, officers, attorneys, and other agents or employees of the county is hereby authorized and directed to execute and deliver any and all papers and instruments and to do and cause to be done all acts and things necessary or proper for carrying out the transactions contemplated by this Resolution, the Asset Acquisition Agreement, as may be amended, and the Tohopekaliga Transition Interlocal Agreement in conjunction with the acquisition of the FWSC System.

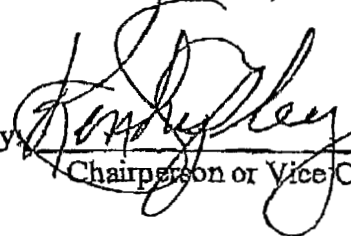
SECTION 7. APPLICABILITY AND EFFECTIVE DATE. This Resolution shall be liberally construed to effect the purposes hereof and shall take effect immediately upon its adoption.

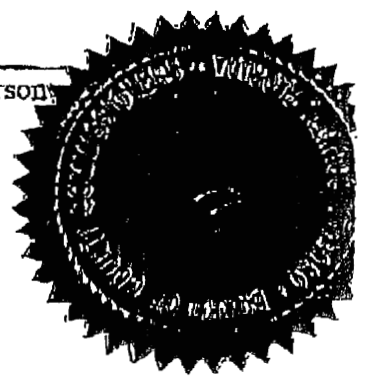
PASSED AND DULY ADOPTED at the meeting of the Board of County Commissioners of Osceola County, Florida on the 25 day of August, 2003.

ATTEST:
CLERK OF COURTS
The Board

BOARD OF COUNTY COMMISSIONERS
OSCEOLA COUNTY, FLORIDA

By: 
Deputy Clerk

By: 
Chairperson or Vice Chairperson



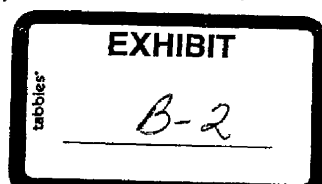
ORIGINAL

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE TOHOPEKALIGA WATER AUTHORITY, DIRECTING AND AUTHORIZING THE ACQUISITION OF SUBSTANTIALLY ALL OF THE REAL AND PERSONAL PROPERTY COMPRISING THE WATER AND WASTEWATER UTILITY FACILITIES OWNED BY FLORIDA WATER SERVICES CORPORATION LOCATED IN OSCEOLA COUNTY; FINDING THAT THE ACQUISITION IS IN THE PUBLIC INTEREST AND SERVES A PARAMOUNT PUBLIC PURPOSE; APPROVING THE OPERATIONS, BILLING AND CUSTOMER SERVICE AGREEMENTS; AND THE TRANSACTIONS CONTEMPLATED BY THE TOHOPEKALIGA TRANSITION INTERLOCAL AGREEMENT RELATIVE TO SUCH FACILITIES ARE IN THE PUBLIC INTEREST IN CONFORMANCE WITH SECTION 189.423, FLORIDA STATUTES; PROVIDING DIRECTION AND AUTHORITY TO ACQUIRE THE FACILITIES IN ANY MANNER CONSISTENT WITH THE TOHOPEKALIGA TRANSITION INTERLOCAL AGREEMENT; PROVIDING FOR APPLICABILITY AND AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE TOHOPEKALIGA WATER AUTHORITY, AS FOLLOWS:

SECTION 1. AUTHORITY. Pursuant to the Chapter 2003-368, Laws of Florida, and Chapter 189, Florida Statutes, the Board of Supervisors (the "Board") of the Tohopekaliga Water Authority (the "Authority") when authorized has the power to provide water and wastewater utility services and facilities within the boundaries of an affected general purpose local government, to acquire water and wastewater utility systems, and to enter into agreements with other governmental agencies.

SECTION 2. INCORPORATION BY REFERENCE. The public briefing document, including a description of Florida Water Services Corporation's ("Florida Water") water and wastewater utility facilities within the County, the most recent income and expense statement, the most recent available balance sheet, a description of the system's physical condition, a statement on the reasonableness of the price, a statement on customer impacts, a statement on additional investments required by the County, if any, and the County's ability and willingness to make these investments, a description of any alternatives to acquisition by the County and a statement on the ability of the County to operate acquired systems, presented at this public hearing and filed with the Clerk are hereby incorporated herein by reference and made a part hereof



(hereafter referred to as the "Report"). The Report is attached hereto as Appendix A. The Report is intended to be a statement demonstrating that the acquisition of the water and wastewater utility systems owned by Florida Water and located in the County is in the public interest.

SECTION 3. FINDINGS. It is hereby ascertained, determined, and declared:

- A. Section 125.01 and other applicable provisions of the Florida Statutes grant the County the power to acquire, own, operate, maintain, improve, contract for management and operational services, and dispose of water and wastewater utility facilities.
- B. Florida Water owns and operates water production and treatment systems and wastewater collection, treatment and disposal systems within the County, more commonly known as:
 - (1) Buenaventura Lakes
 - (2) Tropical Park
 - (3) Pine Ridge Estates
 - (4) Intercession City
 - (5) Fountains
 - (6) Lake Ajay
 - (7) Wind Song
 - (8) Bay Lake Estates

For convenience, the foregoing systems will be referred to as the "FWSC System". The County, the Florida Governmental Utility Authority ("FGUA"), certain local governments and Florida Water have been negotiating an Asset Acquisition Agreement whereby the County will acquire all of Florida Water's Utility Facilities (the "Asset Acquisition Agreement").

C. To provide for the public interest and welfare, the Board is required to hold a public hearing on the acquisition of the Utility Facilities to ensure that such acquisition serves the public interest. This public hearing was duly advertised and held on August 25, 2003. All interested persons had an opportunity to attend and participate and to file written comments.

D. County ownership and control of the Utility Facilities will provide an opportunity for the County to:

- 1. address and balance the impact of remarkable growth within each system with the County's need to provide and plan for quality water production and treatment and wastewater collection, treatment and disposal facilities necessary to accommodate existing development and anticipated future growth in a manner concurrent with the demands for such facilities in each area, the requirements of state

and federal mandates, and the demands of new development and the County's statutory responsibility to implement a financially feasible comprehensive plan;

2. further develop a regional approach within each area served by each individual utility system relative to the comprehensive supply, distribution, and treatment of water and the collection, treatment and disposal of wastewater;
3. seek economies of scale relative to operations, maintenance, customer service and management;
4. provide current and future users of the Utility Facilities with cost efficient services and management;
5. provide that the operation and maintenance of Utility Facilities is done in a proactive and environmentally responsible manner;
6. stabilize rates over the long term, reduce inefficient expansion and extension of service capacities and avoid the proliferation of smaller treatment facilities and sites;
7. permit the County to coordinate the expansion and extension of facilities;
8. accomplish a greater public use and increased public benefit which results from the ownership, operation and control of the Utility Facilities by the County;
9. enable the County to more effectively and efficiently plan and fulfill its comprehensive planning requirements as provided by law and assure that high quality, cost efficient water and wastewater utility services are available;
10. a statement prepared by the City's Water Resources Department reflecting: (i) the transfer of the FWSC System to the County (or the City or the Authority) pursuant to the Asset Acquisition Agreement and the subsequent operation and management by the County, the City or the Authority is in the public interest, including a summary of the experience in utility operation which will be employed by the City or the Authority on behalf of the County; and (ii) that the County, the City and the Authority all have the financial ability to provide, now and in the future, high quality and cost effective utility services;

11. enter into an agreement with the City of Kissimmee, Florida for the performance of the operation, billing and customer service functions within the cost assumptions included in the Projected Statement of Cash Flows incorporated into the Report which will facilitate the eventual consolidation of the Utility Facilities into the Tohopekaliga Water Authority and thus achieve the water resource preservation and environmental protection inherent in the regional and consolidated provision of utility services;
12. the County has entered into the Tohopekaliga Transition Interlocal Agreement recorded in Official Records Book 2296, at Page 2121, Public Records of Osceola County, Florida, by and among the County, the City and the Tohopekaliga Water Authority (the "Authority");
13. the County, the City and the Authority have joined together through the Tohopekaliga Transition Interlocal Agreement to provide for the transfer of the Utility Assets, the Utility System and the Utility Service (as such terms are defined in the Tohopekaliga Transition Interlocal Agreement) to the Authority. Such terms specifically include and reference, among other things, the "FWSC System";
14. the County has the power and authority to enter into agreements with other governmental agencies, including the City and Authority, within or outside of the boundaries of Osceola County for joint performance, or performance by one governmental entity in behalf of the other, of any of either government's authorized functions; and
15. the County has determined that entering into the Tohopekaliga Transition Interlocal Agreement and the acquisition of the FWSC System serves the public interest, and will facilitate the contemplated subsequent transfer of the Utility Assets, the Utility System and Utility Service to the Authority in a manner which will provide high quality water and wastewater infrastructure and services concurrent with demand therefore.

SECTION 4. DETERMINATION OF PUBLIC USE AND BENEFIT.

Based upon its legislative findings incorporated in Section 3, and it is the opinion of the consultants, attorneys, and County and City management staff that the acquisition of the FWSC System assets by the County is in the public interest in a manner consistent with the mission of the Tohopekaliga Water Authority and the County, City and Tohopekaliga Water Authority have the experience and the financial ability to manage the systems and provide quality customer service; the Board expressly determines that the acquisition of the Utility Facilities by the County, pursuant to the terms of the Asset

Acquisition Agreement, attached hereto as Appendix B, and the provision of water and wastewater services through facilities owned by the County constitutes a paramount public purpose and is in the best interests of the health, safety, and welfare of the County.

SECTION 5. PUBLIC INTEREST DETERMINATION OF PURCHASE.

In making the public interest determination concerning the transactions contemplated by the County relating to the acquisition of the Utility Facilities, the Board has considered numerous factors, including but not limited to the following matters:

- (A) The most recently available income and expense statement(s) of the Utility Facilities;
- (B) The most recently available balance sheet(s) for the Utility Facilities;
- (C) A statement of the existing rate base of the Utility Facilities for regulatory purposes;
- (D) The general physical condition of the Utility Facilities;
- (E) The reasonableness of the purchase price;
- (F) The impacts of the contemplated transition on utility customers served by the Utility Facilities, both positive and negative;
- (G) Any additional investment required and the ability and willingness of the County to make that investment;
- (H) The alternatives to the contemplated transition and the potential impact on utility customers if the Utility Facilities are not acquired by the County; and
- (I) The ability of the County to provide and maintain high-quality and cost-effective utility service.

SECTION 6. APPROVAL OF ASSET ACQUISITION AGREEMENT BY AND BETWEEN FLORIDA WATER SERVICES CORPORATION AND THE COUNTY.

The form, terms and provisions of the Asset Acquisition Agreement By and Between the County and Florida Water Services Corporation, submitted to this duly called public meeting and attached hereto as Appendix B, be and the same hereby are approved and ratified. Execution of this Resolution by the Chairman shall be deemed to be conclusive evidence of approval by the Board. This Resolution expressly contemplates that the County, the City or the Authority may acquire, finance, operate and/or maintain the FWSC System in a manner consistent with the Tohopekaliga Transition Interlocal Agreement; and, to the maximum extent provided by law and the Tohopekaliga

Transition Interlocal Agreement, shall evidence the authorization to provide services and facilities within the areas served by the FWSC System. The Board authorizes the Chairman, members of the Board, officers, attorneys, and other agents or employees of the County to do all acts and things required of them by this Resolution and the Tohopekaliga Transition Interlocal Agreement, for the full punctual and complete performance of all of the terms, covenants and agreements contained in this Resolution and the Asset Acquisition Agreement, and each member of the Board, officers, attorneys, and other agents or employees of the County is hereby authorized and directed to execute and deliver any and all papers and instruments and to do and cause to be done all acts and things necessary or proper for carrying out the transactions contemplated by this Resolution, the Asset Acquisition Agreement and the Tohopekaliga Transition Interlocal Agreement in conjunction with the acquisition of the FWSC System.

SECTION 7. APPLICABILITY AND EFFECTIVE DATE.

This Resolution shall be liberally construed to effect the purposes hereof and shall take effect immediately upon its adoption.

PASSED AND DULY ADOPTED at the meeting of the BOARD OF SUPERVISORS OF THE TOHOPEKALIGA WATER AUTHORITY on the 27th day of August, 2003.

ATTEST:
SECRETARY

BOARD OF SUPERVISORS,
TOHOPEKALIGA WATER AUTHORITY

By: John E. Moody
Secretary
John E. Moody

By: Bruce R. Van Meter
Chairperson
Bruce R. Van Meter

INTERLOCAL AGREEMENT

By and among

OSCEOLA COUNTY, FLORIDA,

THE CITY OF KISSIMMEE, FLORIDA

and

TOHOPEKALIGA WATER AUTHORITY

Adopted as of

July 1, 2003

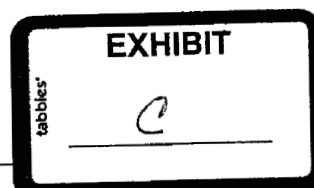


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INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT is made and entered into as of the 1st day of July 2003, by and among Osceola County, Florida (the "County"), the City of Kissimmee, Florida (the "City of Kissimmee"), and Tohopekaliga Water Authority (the "Authority").

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration each to the other, receipt of which is hereby acknowledged by each party, the County, the City of Kissimmee and the Authority hereby agree, stipulate and covenant 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 unless the context requires otherwise:

"Acquisition Cost" means the sum of (1) the City of Kissimmee Debt Defeasance Amount and (2) the Transaction Cost.

"Acquisition Debt Obligations" means any series of bonds, notes or other evidence of indebtedness issued or incurred by the Authority to provide funding for the Acquisition Cost.

“Adjusted Annual FWSC Transfer” means the sum to be determined each year, during the Authority’s annual budgetary process for the next Fiscal Year, by initially increasing the Base Annual FWSC Transfer by the annual percentage difference between the Index issued on or before June 1 immediately after the FWSC Transfer Date and the Index issued immediately prior to the next June 1, and for each subsequent Fiscal Year such sum shall be increased based upon and equal to the annual percentage increase in the Index.

“Adjusted Annual Harmony Transfer” means the sum to be determined each year, during the Authority’s annual budgetary process for the next Fiscal Year, by initially increasing the Base Annual Harmony Transfer by the annual percentage difference between the Index issued on or before June 1 immediately after the Harmony Transfer Date and the Index issued immediately prior to the next June 1, and for each subsequent Fiscal Year such sum shall be increased based upon and equal to the annual percentage increase in the Index.

“Adjusted Annual Kissimmee Transfer” means the sum to be determined each year, during the Authority’s annual budgetary process for the next Fiscal Year, by initially increasing the Base Annual Kissimmee Transfer by the annual percentage difference between the Index as most recently issued prior to June 1, 2003 and the Index issued prior to June 1, 2004, and for each subsequent Fiscal Year such sum shall be increased based upon and equal to the annual percentage increase in the Index.

“Adjusted Annual Poinciana Transfer” means the sum to be determined each year, during the Authority’s annual budgetary process for the next Fiscal Year, by

initially increasing the Base Annual Poinciana Transfer by the annual percentage difference between the Index issued on or before June 1 immediately after the Poinciana Transfer Date and the Index issued immediately prior to the next June 1, and for each subsequent Fiscal Year such sum shall be increased based upon and equal to the annual percentage increase in the Index.

“Agreement” means this Interlocal Agreement between Osceola County, the City of Kissimmee and the Authority, including any amendments and supplements hereto executed and delivered in accordance with the terms hereof.

“Annual Authority Gross Revenues” shall mean for any Fiscal Year all income and moneys received by the Authority from the rates and rentals and other periodic income to be made and collected by the Authority for the use of the products, services and facilities to be provided by the Utility System to be transferred to the Authority hereunder, or otherwise received by the Authority or accruing to the Authority in the ownership, management and operation of such Utility System, calculated in accordance with generally accepted accounting principles applicable to public utility systems similar to the Utility System. Annual Authority Gross Revenues shall not include (1) Government Grants, (2) proceeds of Debt Obligations or other Authority debt, (3) charges, fees and other impositions or exactions from new users for capital improvements necessitated by new growth which are collected separately from the periodic rates imposed by the Authority for the use of the products, sources or facilities provided by the Authority, or other fees and charges for direct reimbursement for connection costs and (4) moneys deposited to any rate stabilization account from any reserve fund. Annual

Authority Gross Revenues shall not include any revenues or moneys derived by the Authority from property or facilities it owns, operates or manages outside of Osceola County.

“Annual Transfer Amount” means the amount (difference) remaining, if any, after first subtracting the Kissimmee System Transfer Amount and then subtracting the County Transfer Amount from the Maximum Annual Transfer.

“Authority” means Tohopekaliga Water Authority, an independent special district, established and created pursuant to Chapter 189, Florida Statutes, by special act, of the Florida Legislature.

“Base Annual FWSC Transfer” means an initial annual amount determined as of the FWSC Transfer Date and composed of the sum of (A) the assessed value of the real and personal property encompassed by the FWSC System as shown on the most recent assessment roll used in conjunction with the taxation of property prior to the FWSC Transfer Date, multiplied by the millage rate upon which the County levied taxes on such assessment roll, and (B) all non-ad valorem assessments imposed by the County upon the real property encompassed by the FWSC System as shown on the most recent assessment roll, or, in the case of governmentally owned property, the equivalent of the amount actually charged by the County in lieu of such non-ad valorem assessments.

“Base Annual Harmony Transfer” means an initial annual amount determined as of the Harmony Transfer Date and composed of the sum of (A) the assessed value of the real and personal property encompassed by the Harmony System as shown on the most recent assessment roll used in conjunction with the taxation of property prior to the

Harmony Transfer Date, multiplied by the millage rate upon which the County levied taxes on such assessment roll, and (B) all non-ad valorem assessments imposed by the County upon the real property encompassed by the Harmony System as shown on the most recent assessment roll, or, in the case of governmentally owned property, the equivalent of the amount actually charged by the County in lieu of such non-ad valorem assessments.

“Base Annual Kissimmee Transfer” means the initial annual amount of \$3,078,000.

“Base Annual Poinciana Transfer” means an initial annual amount determined as of the Poinciana Transfer Date and composed of the sum of (A) the assessed value of the real and personal property encompassed by the Poinciana System as shown on the most recent assessment roll used in conjunction with the taxation of property prior to the Poinciana Transfer Date, multiplied by the millage rate upon which the County levied taxes on such assessment roll, and (B) all non-ad valorem assessments imposed by the County upon the real property encompassed by the Poinciana System as shown on the most recent assessment roll, or, in the case of governmentally owned property, the equivalent of the amount actually charged by the County in lieu of such non-ad valorem assessments.

“City of Kissimmee” means the City of Kissimmee, Florida, a municipal corporation duly organized and validly existing under the laws of the State of Florida.

“City of Kissimmee Debt Defeasance Amount” means the amount required to redeem, defease or otherwise pay in full any Debt Obligations of the City of Kissimmee

issued to finance, or which are secured by the pledge of any revenues from, the Utility System owned by the City of Kissimmee. Such amount shall include the reasonable and necessary costs, fees and expenses incurred by the City of Kissimmee in connection with the redemption, defeasance or payment of any such Debt Obligations, including, but not limited to (1) fees and disbursements of the City of Kissimmee's bond counsel, (2) fees and disbursements of the City of Kissimmee's financial advisor, and (3) any other costs of a similar nature reasonably incurred.

"City of St. Cloud" means the City of St. Cloud, Florida, a municipal corporation duly organized and validly existing under the laws of the State of Florida.

"County" or **"Osceola County"** means Osceola County, Florida, a charter county and political subdivision of the State of Florida.

"County Transfer Amount" means the sum of the Harmony Transfer Amount, the FWSC Transfer Amount and the Poinciana Transfer Amount, which, to the extent such amounts or portions thereof become available as provided in Section 3.05 hereof, shall be transferred by the Authority to the County.

"Debt Obligations" means any series of bonds, notes or other evidence of indebtedness issued or incurred by any party hereto.

"Easements" means all existing rights, privileges, easements, licenses, prescriptive rights, right-of-ways, and rights to use public and private roads, highways, streets, railroads and other areas owned or used by either the County or the City of Kissimmee in connection with the construction, re-construction, installation, expansion,

maintenance and operation of any Utility Assets, any Utility System or the provision of Utility Service.

“Financing Documents” shall mean the resolution or resolutions duly adopted by the Authority, as well as any indenture of trust, loan agreement, trust agreement, interlocal agreement or instrument relating to the issuance or security of any Debt Obligations or other obligations of the Authority.

“Fiscal Year” means the period commencing on October 1 each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the Authority.

“FWSC System” means all or any portion of the potable and non-potable water supply, treatment, storage and distribution systems and wastewater collection, transmission, treatment, disposal, reuse and reclaimed systems located in Osceola County and owned by the Florida Water Services Corporation on January 1, 2003 and to which the County has, or subsequently acquires, an acquisition right.

“FWSC Transfer Amount” means a contingent amount to be transferred annually by the Authority to the County determined and computed as provided in Section 3.05 hereof. In no event shall the FWSC Transfer Amount ever exceed the Maximum Annual FWSC Transfer.

“FWSC Transfer Date” means the date on which the Authority anticipates issuing Debt Obligations and actually closes on the conveyance and transfer of all or a portion of the FWSC System to the Authority.

“Government Grants” when used with respect to the Utility System, shall mean any sum of money heretofore or hereafter received by the Authority from the United States of America or any agency thereof or from the State of Florida or any agency or political Authority, for or with respect to (1) the construction, acquisition or other development of an addition, extension or improvement to any part of the utility system owned, acquired or operated by the Authority, or any costs of any such construction, acquisition or development, or (2) the financing of any such construction, acquisition, development or costs.

“Harmony System” means the potable and non-potable water supply, treatment, storage and distribution systems and wastewater collection, transmission, treatment, disposal, reuse and reclaimed systems owned by the Harmony Community Development District and to which the County has, or subsequently acquires, an acquisition right.

“Harmony Transfer Amount” means a contingent amount to be transferred annually by the Authority to the County determined and computed as provided in Section 3.05 hereof. In no event shall the Harmony Transfer Amount ever exceed the Maximum Annual Harmony Transfer.

“Harmony Transfer Date” means the date on which the Authority anticipates issuing Debt Obligations and actually closes on the conveyance and transfer of the Harmony System to the Authority.

“Index” means the Gross Domestic Product Implicit Price Deflator Index prepared by the United States Department of Commerce, it’s successor in function, or, in the event the Gross Domestic Product Implicit Price Deflator Index is discontinued,

another index fairly representative of water and wastewater price level adjustments. Unless agreed to otherwise by all parties hereto, a price increase or decrease index for major categories of operating costs incurred by water or wastewater utilities adopted as required by law by the Florida Public Service Commission shall be deemed fairly representative of water and wastewater price level adjustments.

“Kissimmee System Transfer Amount” means the amount to be transferred annually by the Authority to the City of Kissimmee computed as follows: (1) for each full calendar month following the Transfer Date through September 30, one twelfth (1/12) of the Base Annual Kissimmee Transfer; (2) for the first full Fiscal Year following the Transfer Date, the Base Annual Kissimmee Transfer; and (3) for the second full Fiscal Year following the Transfer Date and the following twenty-three (23) Fiscal Years thereafter, the Adjusted Annual Kissimmee Transfer.

“Maximum Annual Transfer” means twelve percent (12%) of the Annual Authority Gross Revenues or the Kissimmee System Transfer Amount, whichever is greater.

“Maximum Annual FWSC Transfer” means an annual amount not to exceed the greater of either the Base Annual FWSC Transfer or the Adjusted Annual FWSC Transfer.

“Maximum Annual Harmony Transfer” means an annual amount not to exceed the greater of either the Base Annual Harmony Transfer or the Adjusted Annual Harmony Transfer.

“Maximum Annual Poinciana Transfer” means an annual amount not to exceed the greater of either the Base Annual Poinciana Transfer or the Adjusted Annual Poinciana Transfer.

“Poinciana System” means the potable and non-potable water supply, treatment, storage and distribution systems and wastewater collection, transmission, treatment, disposal, reuse and reclaimed systems owned by the Florida Governmental Utility Authority and to which the County has, or subsequently acquires, an acquisition right.

“Poinciana Transfer Amount” means a contingent amount to be transferred annually by the Authority to the County determined and computed as provided in Section 3.05 hereof. In no event shall the Poinciana Transfer Amount ever exceed the Maximum Annual Poinciana Transfer.

“Poinciana Transfer Date” means the date on which the Authority anticipates issuing Debt Obligations and actually closes on the conveyance and transfer of the Poinciana System to the Authority.

“Transaction Cost” means for any series of Acquisition Debt Obligations, the reasonable and necessary costs, fees and expenses incurred by the Authority in connection with the issuance and sale of the Acquisition Debt Obligations, including but not limited to (1) underwriters’ discounts; (2) original issue discount; (3) rating agency and other financing fees; (4) the fees and disbursements of the Authority’s consulting engineers; (5) the fees and disbursements of the Authority’s bond counsel, water and wastewater utility counsel and consultants; (6) the fees and disbursements of the Authority’s financial advisor; (7) the amounts paid or payable to the County and the City

of Kissimmee pursuant to Section 6.03 hereof; (8) the costs of preparing or printing the Acquisition Debt Obligations and the documentation supporting the issuance of such Debt Obligations; (9) the fees payable in respect of any municipal bond insurance policy or other credit enhancements; and (10) any other costs of a similar nature reasonably incurred.

“Transfer Date” means the date on which the Acquisition Debt Obligations are anticipated to be issued and closing on the conveyance and transfer of the Utility System and Utility Assets occurs as provided in Section 5.03 hereof.

“Transition Cost” means the reasonable and necessary costs, fees and expenses incurred by the City of Kissimmee in connection with the development, preparation and implementation of a plan to transition operation and administration of the Utility System and Utility Service to the Authority as provided in Section 4.01 hereof.

“Utility Assets” means those assets, business properties, and rights both tangible and intangible, that either of the County or the City of Kissimmee owns or uses in conjunction with the operation of any Utility System, or which during the term of this Agreement may become available to any of them, or any ownership interest which any of them has or hereafter acquires during the term of this Agreement, relating thereto, including the following:

(1) All real property and interests, whether recorded in the public records or not, in real property owned, used or controlled in conjunction with the operation of any Utility System by the County or the City of Kissimmee.

(2) All water and wastewater, including non-potable, reuse and reclaimed water, treatment plants, wells, collection, transmission, distribution, pumping, effluent and disposal facilities of every kind and description whatsoever including without limitation, all trade fixtures, leasehold improvements, lift stations, pumps, generators, controls, tanks, distribution, collection or transmission pipes or facilities, valves, meters, service connections, and all other physical facilities and property installations used in the operation of any Utility System, together with an assignment of all existing and assignable third party warranties that relate to completed or in progress construction.

(3) All equipment, vehicles, tools, parts, laboratory equipment, and other personal property owned or used by either of the County or the City of Kissimmee in connection with the operation of any Utility System.

(4) All Easements in favor of the County or the City of Kissimmee or their predecessors in interest to any Utility System.

(5) All current customer records and supplier lists, 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, computer models and studies, accounting, budget and business records and all other information controlled by or in the possession of the County or the City of Kissimmee that relates to the description and operation of any Utility System, inclusive of all pertinent computer records and the lawful use of all computer software which is or was used in the operation of any Utility System for billing or customer record keeping

purposes, including but not limited to the lawful use of any licensed software or proprietary software developed for the County or the City of Kissimmee.

(6) All necessary regulatory authority or approvals subject to all conditions, limitations or restrictions contained therein; all existing permits and other governmental authorizations and approvals of any kind necessary to operate or provide Utility Service or construct, operate, expand, and maintain any Utility System according to all governmental requirements.

(7) All rights and obligations of the County and the City of Kissimmee as of the Transfer Date relating to the Utility Assets or any Utility System under any existing or proposed agreements and contracts which specifically relate to any Utility System; and, after the Transfer Date, any such rights and obligations specifically relating to any Utility Assets, Utility System or Utility Service (including without limitation any right to acquire Harmony System, the FWSC System or the Poinciana System) which the Authority, in its sole discretion, determines to assume or acquire from either of the County or the City of Kissimmee.

(8) All moneys, funds, accounts and intangibles, or an amount equivalent thereto as of the Transfer Date, held under or pursuant to any Debt Obligations, indenture of trust, resolution, ordinance, or other instrument by the County and the City of Kissimmee, or any third party for the benefit of any ratepayers of the Utility System, or in connection with the financing or operation of the Utility System, the Utility Assets or providing Utility Services.

“**Utility Service**” means the duty, obligation, power and authority to acquire, obtain, construct, provide, collect, distribute, dispose of, regulate, finance and charge for the supply of potable and non-potable water, treatment, storage or distribution systems, facilities and associated services and wastewater collection, transmission, treatment disposal and reuse or non-potable water systems, facilities and associated services.

“**Utility System**” means the potable and non-potable water supply, treatment, storage, and distribution systems and wastewater collection, transmission, treatment, disposal and reuse systems owned by either the City of Kissimmee or the County, including any Utility Assets which may be owned or controlled by the County or the City of Kissimmee. After the Transfer Date, the term shall be construed, when the context reasonably requires, to include any other potable and non-potable water supply, treatment, storage, or distribution systems or facilities, or wastewater collection, transmission, treatment, disposal and reuse or non-potable systems or facilities acquired by the Authority.

SECTION 1.02. CONSTRUCTION.

(A) Words importing the singular number shall include the plural in each case and vice versa, and words importing persons shall include firms and corporations. The terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof,” and any similar terms, shall refer to this Agreement; the term “heretofore” shall mean before the date this Agreement is executed; and the term “hereafter” shall mean after the date this Agreement is executed.

(B) Each recital, covenant, agreement, representation and warranty made by a party herein shall be deemed to have been material and to have been relied on by the other parties to this Agreement. All parties have participated in the drafting and preparation of this Agreement or are a successor to the authors and a beneficiary hereof, and the provisions hereof shall not be construed for or against any party by reason of authorship.

(C) Nothing herein is intended to, or shall be construed to, limit the power of local self-government of a charter county, or conflict with the Constitution of the State of Florida, or the Osceola County Home Rule Charter approved by vote of the electors on March 3, 1992 and which became effective October 1, 1992.

SECTION 1.03. SECTION HEADINGS. Any headings preceding the texts of the several Articles and Sections of this Agreement and any table of contents or marginal notes appended to copies hereof shall be solely for convenience of reference and shall neither constitute a part of this Agreement nor affect its meaning, construction or effect.

SECTION 1.04. FINDINGS. It is hereby ascertained, determined and declared that:

(A) The County, the City of Kissimmee and the Authority have the power to enter into agreements with each other and to join with each other in the exercise of common powers. The parties hereto independently and collectively have determined that entering into this Agreement serves the public interest and economic advantage of all of the parties hereto.

(B) The City of Kissimmee presently owns and operates extensive water and wastewater treatment, reuse, distribution and collection systems and treatment facilities within both incorporated and unincorporated areas of Osceola County, Florida.

(C) Although the City of Kissimmee provides water and wastewater facilities and services in the incorporated areas of the City of Kissimmee, a substantial portion of the unincorporated areas of Osceola County are not served by central water and wastewater facilities normally and generally provided and maintained by governmental agencies, and, instead, are served by an uncoordinated mix of private wells, septic tanks, small individually owned on-site disposal systems or package sewage treatment plants, or investor-owned facilities.

(D) To provide for the public interest and welfare, the County and the City of Kissimmee are required to address and balance (1) the impacts of remarkable growth in Osceola County over the last several decades; (2) the need to provide and plan for adequate and timely delivery of potable and non-potable water needs and to plan for quality wastewater collection, treatment, disposal and re-use and non-potable water facilities which are necessary to accommodate existing development and anticipated future growth in a manner concurrent with the demand for such facilities; (3) the requirements of state and federal mandates; and (4) the demands of new development and each local government's statutory responsibility to implement financially feasible comprehensive plans.

(E) The provision of water and wastewater services and facilities in an uncoordinated fashion and the provision of wastewater services and facilities through

septic tanks, small privately-owned on-site disposal systems or package sewage treatment plants constitute impediments to the implementation of financially feasible local comprehensive plans. A regional, publicly-owned utility system responsive to the public demand for better utility service and for consistent protection of the environment can provide a high level of treatment and operation beneficial to the public now and in the future.

(F) The County and the City of Kissimmee desire to cooperatively advance the development of a more uniform and regional approach to the delivery of potable and non-potable water and wastewater services and facilities throughout portions of Osceola County and have requested and urged the Legislature to create the Authority as a special purpose local government to effect and serve such a purpose.

(G) It is the intent and desire of the County, the City of Kissimmee and the Authority to utilize the existing resources and staff of the County and the City of Kissimmee, to avoid duplication of effort, and focus the efforts of the County, the City of Kissimmee and the Authority to develop an efficient and cooperative regional approach to providing water and wastewater services and facilities.

(H) A regional approach to the delivery of potable and non-potable water and wastewater services and facilities within Osceola County will provide the opportunity for the County and the City of Kissimmee to (1) develop an efficient and environmentally sensitive approach to the comprehensive supply, distribution and treatment of water and the collection, treatment and disposal of wastewater; (2) seek economies of scale resulting from the unified and coordinated provision of regional utility services by local

government; (3) ensure that current and future users of water and wastewater facilities and services within Osceola County are provided with cost efficient services at reasonable rates by local government; (4) ensure that the operation and maintenance of potable and non-potable water and wastewater facilities is done in a pro-active, accountable and environmentally responsible manner; (5) stabilize potable and non-potable water and wastewater utility rates over the long term, reduce inefficient expansion and extension of service capabilities and avoid the proliferation of smaller and inefficient treatment facilities and sites; (6) assure the appropriate expansion and interconnection of existing facilities and the construction of future facilities in a coordinated, uniform and non-discriminatory manner which avoids special or disproportionate benefit to individual utility operations or special interests at the expense of either current or future users; (7) promote the protection and environmentally sensitive utilization of water supplies, surface water and ground water resources in Osceola County and surrounding areas; and (8) accomplish a greater public use and increased public benefit which result from the ownership, operation and control of water and wastewater systems and facilities by local government.

ARTICLE II
REPRESENTATIONS

SECTION 2.01. REPRESENTATIONS OF OSCEOLA COUNTY.

Osceola County makes the following representations as the basis for the undertaking on the part of the City of Kissimmee and the Authority herein contained:

(A) The County is duly organized and validly existing as a political subdivision of the State of Florida.

(B) The County has full power and authority to enter into the transaction contemplated by this Agreement and to carry out its obligations hereunder.

(C) The County is not in default under any provisions of the laws of the State which are material to the performance of its obligations under this Agreement.

(D) The County has duly authorized the execution and delivery of this Agreement and assuming the due authorization, execution and delivery by the City of Kissimmee and the Authority, this Agreement constitutes a valid and legally binding obligation of the County, enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion in accordance with general principles of equity.

(E) The authorization, execution and delivery of this Agreement and the compliance by the County with the provisions hereof will not conflict with or constitute a material breach of, or default under, any existing law, court or administrative regulation,

decree, order or any provision of the Constitution or laws of the State relating to the County or its affairs, or any ordinance, resolution, agreement, lease or other instrument to which the County is subject or by which it is bound.

(F) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best knowledge of the County, threatened against or affecting the County, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated, or which, in any way, would materially adversely affect the validity of this Agreement or any agreement or instrument to which the County is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby.

SECTION 2.02. REPRESENTATIONS OF THE CITY OF KISSIMMEE.

The City of Kissimmee makes the following representations as the basis for the undertaking on the part of the County and the Authority herein contained:

(A) The City of Kissimmee is duly organized and validly existing as a municipal corporation of the State.

(B) The City of Kissimmee has full power and authority to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder.

(C) The City of Kissimmee is not in default under any provisions of the laws of the State which are material to the performance of its obligations under this Agreement.

(D) The City of Kissimmee has duly authorized the execution and delivery of this Agreement and assuming the due authorization, execution and delivery by the County and the Authority, this Agreement constitutes a valid and legally binding

obligation of the City of Kissimmee, enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion in accordance with general principles of equity.

(E) The authorization, execution and delivery of this Agreement and the compliance by the City of Kissimmee with the provisions hereof will not conflict with or constitute a material breach of, or default under, any existing law, court or administrative regulation, decree, order or any provision of the Constitution or laws of the State relating to the City of Kissimmee or its affairs, or any ordinance, resolution, agreement, lease or other instrument to which the City of Kissimmee is subject or by which it is bound.

(F) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best knowledge of the City of Kissimmee, threatened against or affecting the City of Kissimmee, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated hereby or which, in any way, would materially adversely affect the validity of this Agreement or any agreement or instrument to which the City of Kissimmee is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby.

SECTION 2.03. REPRESENTATIONS OF THE AUTHORITY. The Authority makes the following representations as the basis for the undertaking on the part of the County and the City of Kissimmee herein contained:

(A) The Authority is duly organized and validly existing as an independent special district.

(B) The Authority has full power and authority to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder.

(C) The Authority is not in default under any provisions of the laws of the State which are material to the performance of its obligations under this Agreement.

(D) The Authority has duly authorized the execution and delivery of this Agreement and assuming the due authorization, execution and delivery by the County and the City of Kissimmee this Agreement constitutes a valid and legally binding obligation of the Authority, enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion in accordance with general principles of equity.

(E) The authorization, execution and delivery of this Agreement and the compliance by the Authority with the provisions hereof will not conflict with or constitute a material breach of, or default under, any existing law, court or administrative regulation, decree, order or any provision of the Constitution or laws of the State relating to the Authority or its affairs, or any ordinance, resolution, agreement, lease or other instrument to which the Authority is subject or by which it is bound.

(F) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best knowledge of the Authority, threatened against or affecting the Authority, wherein an unfavorable decision,

ruling or finding would materially adversely affect the transactions contemplated hereby or issuance of the Acquisition Debt Obligations, or which, in any way, would materially adversely affect the validity of the Acquisition Debt Obligations, this Agreement or any agreement or instrument to which the Authority is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby.

ARTICLE III

TRANSITION TO REGIONAL UTILITY AUTHORITY

SECTION 3.01. TRANSFER.

(A) Subject to the terms and provisions of this Agreement and for the consideration herein provided, the County and the City of Kissimmee agree to and hereby grant, bargain, sell, convey, assign, transfer and vest unto the Authority the Utility Assets and, to the maximum extent permitted by law, the duty, obligation, authority, power and jurisdiction to operate and provide Utility Service within the incorporated and unincorporated areas of Osceola County, Florida. On the Transfer Date and thereafter for the term of this Agreement, the City of Kissimmee and the County hereby respectively obligate themselves and covenant not to compete with the Authority to provide, undertake, or exercise any right to provide Utility Services.

(B) On the Transfer Date, the County and the City of Kissimmee shall respectively transfer to the Authority and the Authority shall accept the Utility Assets and be duly empowered to operate and provide Utility Service within and throughout the incorporated and unincorporated areas of Osceola County, Florida as provided herein.

(C) Provided, however, this Agreement shall not be construed to transfer any permitting or regulatory responsibility or duty to the Authority in conjunction with any municipal service benefit unit or dependent special district in existence on the effective date hereof.

SECTION 3.02. COVENANTS AND CONDITIONS PRECEDENT TO TRANSFER.

(A) At or prior to execution hereof, the County, the City of Kissimmee and the Authority shall act to consider the public interest provisions of Section 125.3401, 180.301 and 189.423, Florida Statutes.

(B) As soon as reasonably practicable after the execution hereof, the Authority, together with the County and the City of Kissimmee shall institute a joint proceeding pursuant to Chapter 75, Florida Statutes, for validation of the Acquisition Debt Obligations and the obligations provided for in this Agreement. In the event of any disagreement between the Authority and any other party hereto concerning the strategy or prosecution of the validation proceeding, the judgment of the Authority shall prevail. The Authority shall not issue any Acquisition Debt Obligations prior to validation of the Acquisition Debt Obligations and the obligations provided for in this Agreement by the applicable Circuit Court and either (1) the appeal period has expired without an appeal having been taken, or (2) any appeal has been resolved in favor of the Authority, the County and the City of Kissimmee.

SECTION 3.03. CONSIDERATION FOR TRANSFER.

(A) As consideration for the transfer of the Utility Assets from the County and the City of Kissimmee, the authorization to operate and provide Utility Service as provided herein, and each general purpose local governments' respective covenants and obligations hereunder, the Authority shall, subject to the provisions hereof, (1) issue its

Acquisition Debt Obligations in an amount sufficient to fund the Acquisition Cost on the Transfer Date, (2) for the initial term of this Agreement, and only for such initial term, pay and deliver the Kissimmee System Transfer Amount to the City of Kissimmee, (3) for the initial term of this Agreement and only for such initial term, pay and deliver the County Transfer Amount as provided for herein, and (4) for the term of this Agreement, and any renewals or extensions hereof, pay and deliver to the County and the City of Kissimmee, respectively, the Annual Transfer Amount . Additionally, the parties hereto expressly acknowledge and agree that, as consideration for the transfer of the Utility Assets from the City of Kissimmee and as an inducement for the City of Kissimmee's execution hereof, the Authority shall continue the imposition of any surcharge authorized by Section 180.191, Florida Statutes, prior to the Transition Date, incrementally reducing and ultimately eliminating such surcharge within fifteen (15) years of the Transition Date.

(B) Any Annual Transfer Amount, the Kissimmee System Transfer Amount, or the County Transfer Amount, distributed to the County or the City of Kissimmee hereunder shall be transferred on a junior, inferior and subordinate basis to all payments or deposits required by any Debt Obligations of the Authority.

(C) As an inducement to the City of Kissimmee and the County to enter into this Agreement and as consideration throughout the term of this Agreement, the Authority shall adopt and implement a resolution which adds two liaison members to the Board of Supervisors; one to be a sitting City of Kissimmee City Commissioner appointed by the

City Commission, and one to be a sitting member of the Osceola County Board of County Commissioners appointed by the County Commission. Such liaison members shall serve as ex-officio non-voting members of the Board of Supervisors of the Authority without additional compensation, but in all other respects participate fully as members of the Board of Supervisors.

SECTION 3.04. RECOGNITION OF DISPROPORTIONATE CONTRIBUTIONS.

(A) Unlike the County, the City of Kissimmee, at the time of initial execution of this Agreement, owns and operates extensive water and wastewater treatment, distribution and collection systems and treatment facilities within both incorporated and unincorporated areas of Osceola County. The parties hereto expressly acknowledge and affirm that, as a part of and in addition to any allocation of the Annual Transfer Amount, the City of Kissimmee is entitled to the Kissimmee System Transfer Amount, as consideration for its disproportionate and substantial contribution and transfer of their water and wastewater utility systems to the Authority hereunder. The parties acknowledge, understand and affirm that the obligation to pay, and the right to receive, the Kissimmee System Transfer Amount shall cease and terminate at the end of the initial twenty-five (25) year term of this Agreement.

(B) Unlike the City of Kissimmee, the County, at the time of initial execution of this Agreement, does not own or operate any significant water or wastewater systems or facilities. However, the parties recognize that the County does have significant and

positive rights or opportunities to acquire, or greatly assist the Authority in acquiring the Harmony System, the FWSC System and the Poinciana System. The parties hereto expressly acknowledge and confirm that, in the event the Authority acquires the Harmony System, the FWSC System or the Poinciana System during the initial term of this Agreement, the County shall be entitled to the County Transfer Amount as consideration for its assistance and assignment of its rights and opportunities to acquire any or all of the Harmony System, the FWSC System or the Poinciana System, subject to the following provisions and conditions.

(1) The parties acknowledge, understand and affirm that the obligation to pay, and the right to receive, the County Transfer Amount:

(a) is absolutely contingent upon the Authority respectively acquiring the Harmony System, the FWSC System and or the Poinciana System during the initial twenty-five (25) year term of this Agreement;

(b) except as respectively provided in Section 3.05(C), (E) and (G) hereof, shall be payable in any Fiscal Year only to the extent that revenues are available to pay the County Transfer Amount solely from revenue derived respectively from the Harmony System, the FWSC System and or Poinciana System; and

(c) shall cease and terminate at the end of the initial twenty-five (25) year term of this Agreement.

(2) The County Transfer Amount shall be transferred by the Authority to the County beginning with the first full Fiscal Year following the first to occur of the

Harmony Transfer Date, the FWSC Transfer Date or the Poinciana Transfer Date and for each full Fiscal Year thereafter for the remaining initial twenty-five (25) year term of this Agreement.

SECTION 3.05. DETERMINING THE COUNTY TRANSFER AMOUNT.

(A) In any Fiscal Year the County Transfer Amount shall be the sum of the available Harmony Transfer Amount, the FWSC Transfer Amount and the Poinciana Transfer Amount.

(B) Prior to the Harmony Transfer Date and for each Fiscal Year thereafter for the remaining initial twenty-five (25) year term of this Agreement, the Authority shall determine, or cause its rate consultant to determine, the Harmony Transfer Amount based upon and using the following criteria and provisions.

(1) The Harmony Transfer Amount shall not exceed the Maximum Annual Harmony Transfer Amount and shall only be available each Fiscal Year to the extent that:

(a) revenues are available from the Harmony System after the Authority has budgeted to pay debt service and all required reserves for all Debt Obligations, and otherwise complied with any Financing Documents or any obligations of the Authority hereunder;

(b) revenues are reasonably anticipated to be available from the Harmony System after the Authority has budgeted to maintain the Harmony System and

all portions thereof in good condition so that the Authority can operate or cause to be operated the same in an efficient and economical manner, making or causing to be made such expenditures for equipment and for renewals, repairs and replacements as may be proper for the economical operation thereof; and

(c) it is reasonably determined by the Authority, or its rate consultant, that the payment of the Harmony Transfer Amount alone would not initially cause or require an increase in rates, fees and charges for the Harmony System approved by the Florida Public Service Commission or any governmental seller thereof as of the Harmony Transfer Date, or thereafter alone cause or require an increase in rates, fees and charges for the Harmony System for any subsequent Fiscal Year to the next in excess of the greater of two percent (2%) or any increase resulting from the application of a periodic automatic indexing factor applicable to the initial or any revised schedule of rates, fees and charges for the Harmony System.

(C) At any time prior to an ensuing Fiscal Year, the Authority may opt to consolidate the Harmony System with all or any portion of the Utility System and no longer account separately and determine and compute the Harmony Transfer Amount as provided herein; provided, however, that the Authority first adopts a resolution irrevocably opting to pay the County the Harmony Transfer Amount in an amount equal to the Maximum Annual Harmony Transfer for each succeeding full Fiscal Year thereafter remaining during the initial twenty-five (25) year term of this Agreement.

(D) Prior to the Poinciana Transfer Date and for each Fiscal Year thereafter for the remaining initial twenty-five (25) year term of this Agreement, the Authority shall determine, or cause its rate consultant to determine, the Poinciana Transfer Amount based upon and using the following criteria and provisions.

(1) The Poinciana Transfer Amount shall not exceed the Maximum Poinciana Transfer and shall only be available each Fiscal Year to the extent that:

(a) revenues are available from the Poinciana System after the Authority has budgeted to pay debt service and all required reserves for all Debt Obligations, and otherwise complied with any Financing Documents or any obligations of the Authority hereunder;

(b) revenues are reasonably anticipated to be available from the Poinciana System after the Authority has budgeted to maintain the Poinciana System and all portions thereof in good condition so that the Authority can operate or cause to be operated the same in an efficient and economical manner, making or causing to be made such expenditures for equipment and for renewals, repairs and replacements as may be proper for the economical operation thereof; and

(c) it is reasonably determined by the Authority, or its rate consultant, that the payment of the Poinciana Transfer Amount alone would not initially cause or require an increase in rates, fees and charges for the Poinciana System approved by the Florida Public Service Commission or any governmental seller thereof as of the Poinciana Transfer Date, or thereafter alone cause or require an increase in rates, fees and

charges for the Poinciana System for any subsequent Fiscal Year to the next in excess of the greater of two percent (2%) or any increase resulting from the application of a periodic automatic indexing factor applicable to the initial or any revised schedule of rates, fees and charges for the Poinciana System.

(E) At any time prior to an ensuing Fiscal Year, the Authority may opt to consolidate the Poinciana System with all or any portion of the Utility System and no longer account separately and determine and compute the Poinciana Transfer Amount as provided herein; provided, however, that the Authority first adopts a resolution irrevocably opting to pay the County the Poinciana Transfer Amount in an amount equal to the Maximum Annual Poinciana Transfer for each succeeding full Fiscal Year thereafter remaining during the initial twenty-five (25) year term of this Agreement.

(F) Prior to the FWSC Transfer Date and for each Fiscal Year thereafter for the remaining initial twenty-five (25) year term of this Agreement, the Authority shall determine, or cause its rate consultant to determine, the FWSC Transfer Amount based upon and using the following criteria and provisions.

(1) The FWSC Transfer Amount shall not exceed the Maximum FWSC Transfer and shall only be available each Fiscal Year to the extent that:

(a) revenues are available from the FWSC System after the Authority has budgeted to pay debt service and all required reserves for all Debt Obligations, and otherwise complied with any Financing Documents or any obligations of the Authority hereunder;

(b) revenues are reasonably anticipated to be available from the FWSC System after the Authority has budgeted to maintain the FWSC System and all portions thereof in good condition so that the Authority can operate or cause to be operated the same in an efficient and economical manner, making or causing to be made such expenditures for equipment and for renewals, repairs and replacements as may be proper for the economical operation thereof; and

(c) it is reasonably determined by the Authority, or its rate consultant, that the payment of the FWSC Transfer Amount alone would not initially cause or require an increase in rates, fees and charges for the FWSC System approved by the Florida Public Service Commission or any governmental seller thereof as of the FWSC Transfer Date, or thereafter alone cause or require an increase in rates, fees and charges for the FWSC System for any subsequent Fiscal Year to the next in excess of the greater of two percent (2%) or any increase resulting from the application of a periodic automatic indexing factor applicable to the initial or any revised schedule of rates, fees and charges for the FWSC System.

(G) At any time prior to an ensuing Fiscal Year, the Authority may opt to consolidate the FWSC System with all or any portion of the Utility System and no longer account separately and determine and compute the FWSC Transfer Amount as provided herein; provided, however, that the Authority first adopts a resolution irrevocably opting to pay the County the FWSC Transfer Amount in an amount equal to

the Maximum Annual FWSC Transfer for each succeeding full Fiscal Year thereafter remaining during the initial twenty-five (25) year term of this Agreement.

SECTION 3.06. ALLOCATION AND DISTRIBUTION OF ANNUAL TRANSFER AMOUNT. The Annual Transfer Amount shall be distributed by the Authority equally to the County and the City of Kissimmee; provided, however, that at the end of the initial twenty-five (25) year term of this Agreement, the City of Kissimmee shall be guaranteed that its respective allocation and distribution of the Annual Transfer Amount thereafter would not in any event be less than the Kissimmee System Transfer Amount last distributed to the City of Kissimmee during the twenty-fifth (25th) full Fiscal Year of this Agreement.

SECTION 3.07. RATE COVENANT.

(A) The Authority shall fix, establish and maintain such rates, fees, and charges, and collect such rates, fees and other charges for the product, services and facilities of the Utility System, or any other utility system hereafter acquired by the Authority, and revise the same from time to time, whenever necessary, so that such rates, fees and charges will always provide revenues adequate at all times to pay in each Fiscal Year debt service or other obligations associated with any Debt Obligations or Financing Documents, including all reasonable operational, renewal, repair, replacement and maintenance costs, and its obligations to fund and distribute the Kissimmee System Transfer Amount and the Annual Transfer Amount respectively to the County and the City of Kissimmee as provided herein. Such rates, fees or other charges shall not be so

reduced so as to be insufficient to provide, subject to the terms and conditions hereof, full and timely payment of the foregoing obligations in any Fiscal Year.

(B) If, in any Fiscal Year, the Authority shall fail to comply with the requirements contained in this section, it shall immediately retain and cause a rate consultant to review its rates, fees, charges, income, gross revenues, operating expenses and methods of operation and to make written recommendations as to the methods by which the Authority may promptly seek to comply with the requirements set forth in this section. The Authority shall forthwith commence to implement such recommendations to the extent required so as to cause it thereafter to comply with the foregoing rate covenant.

SECTION 3.08. DISTRIBUTION OF TRANSFER AMOUNTS.

(A) As provided for herein, the Authority shall distribute the Kissimmee System Transfer Amount, the County Transfer Amount and the Annual Transfer Amount, on a monthly basis respectively to the County and the City of Kissimmee, for each immediately preceding calendar month, using pro rata monthly estimates and adjusting subsequent distributions to reflect actual revenues received during the prior Fiscal Year on or before April 1 following the end of each Fiscal Year. Provided, however, the obligation to pay and the distribution of the Harmony Transfer Amount, the FWSC Transfer Amount and the Poinciana Transfer Amount, which comprise the County Transfer Amount, shall respectively commence with the first full Fiscal Year following the Harmony Transfer Date, the FWSC Transfer Date and the Poinciana Transfer Date. Unless agreed otherwise by the receiving general purpose local government, the

estimated monthly distribution of transfer amounts described herein shall be delivered by the Authority within forty-five (45) days of the end of each calendar month.

(B) By resolution any general purpose local government entitled to receive the Kissimmee System Transfer Amount, the County Transfer Amount and the Annual Transfer Amount, may agree to waive all or any portion of such transfers due and owing to such general purpose local government. Such resolution shall without qualification describe with specificity the portion or amount of any transfer waived, the period during which the transfer will be waived, and irrevocably release the Authority from any claim for the portion or amount of any transfer so waived. The Authority shall be entitled to rely upon a certified copy of any such resolution.

SECTION 3.09. CONSOLIDATION AND EQUALIZATION OF RATES.

(A) Unless otherwise provided by law, upon the acquisition of any utility system by the Authority, no public hearing shall be required for adoption by the Authority by resolution of the rates, fees and charges contained in the rate tariff relating thereto previously approved by the Florida Public Service Commission, or any governmental seller thereof.

(B) The parties recognize and acknowledge that as of the Transfer Date, the Utility System will be comprised of two or more physically separate subsystems or sub-districts with differing rates, fees and charges. The parties recognize and acknowledge that the Authority shall be obligated to set rates, fees and charges for its services and products in a manner reasonably related to its costs, its obligations hereunder and any requirements of the Financing Documents. The Authority shall not consolidate rates, fees

and charges for subsystems or sub-districts that are not physically and substantially interconnected or do not share treatment or production facilities, unless and until the monthly rates, fees and charges for the prior Fiscal Year for each system or sub-district to be consolidated have been set by the Authority to be within ten percent (10%) of each other.

(C) Whenever reasonably practicable, the Authority shall endeavor to consolidate and interconnect subsystems and sub-districts and consolidate, equalize and make uniform its rates, fees and charges.

SECTION 3.10. PROVISION FOR INCLUSION OF CITY OF ST. CLOUD. The City of St. Cloud initially participated in the development of this Agreement and was offered the opportunity to enter into and participate in this Agreement and the establishment of the Authority, but respectfully declined. Accordingly, the Authority shall not provide any service or facilities within the current zone or service area authorized by Section 180.02(3), Florida Statutes, and described in the City of St. Cloud Ordinance No. 2002-31 without first obtaining the written consent of the City of St. Cloud City Council by resolution. In the event the City of St. Cloud determines to provide such consent this Agreement may be modified to include the City of St. Cloud or the Authority may enter into a separate interlocal agreement with the City of St. Cloud similar to this Agreement on such terms and conditions as are mutually agreeable to the respective parties thereto. Provided, however, that the City of St. Cloud

shall not be offered any terms or conditions which are generally or substantially more favorable than those provided for herein.

ARTICLE IV
TRANSITION PLAN

SECTION 4.01. DEVELOPMENT OF TRANSITION PLAN.

(A) The parties acknowledge and recognize that the City of Kissimmee is particularly well positioned and has the capacity to most efficiently and effectively develop and prepare a transition plan to effect the administrative and operational aspects of the transfer contemplated in Section 3.01 hereof. Within ninety (90) days of entering into this Agreement, the City agrees to and shall use its abilities and resources to develop, prepare and deliver a transition plan relating to the administrative and operational aspects of the transfer contemplated in Section 3.01 hereof.

(B) Subject to the approval of the City of Kissimmee, the City Manager of the City of Kissimmee, or his designee, shall be authorized to act as the Executive Director of the Authority through the Transfer Date. Provided, however, the Authority may at any time prior to the Transfer Date, engage or designate another person as its Executive Director.

(C) It is the express intention of the parties to use the existing capabilities, resources and personnel of the County and the City of Kissimmee to transition the Utility Assets, Utility System and Utility Service to the Authority and any transition plan developed and prepared by the City of Kissimmee shall be reasonably reflective of such policy direction.

SECTION 4.02. COSTS AND FEES ASSOCIATED WITH DEVELOPING TRANSITION PLAN. The Authority shall pay, or respectively reimburse the City of Kissimmee if already paid, from proceeds of the Acquisition Debt Obligations: (1) the actual and verifiable costs advanced or expended by the City of Kissimmee to develop, prepare and implement any transition plan required herein through the Transfer Date, and (2) any actual and verifiable costs advanced or expended by the City of Kissimmee for a period up to two (2) years after the Transfer Date to assist the Authority in the administration and operation of the Utility System or in otherwise providing Utility Service. Accordingly, in providing such assistance, the City acknowledges and agrees to provide all necessary services, supplies, maintenance, office space, and other assistance at its cost without mark-up or the application of any multiplier to such cost. From and after the Transfer Date, the Authority shall reimburse and pay the City of Kissimmee periodically, but not more often than monthly, upon presentation of appropriate invoices and back-up material provided in accordance with generally accepted accounting practices.

SECTION 4.03. EMPLOYMENT PREFERENCE.

(A) To the extent that the Authority may lawfully do so and to the extent that the Authority has any position available, the Authority shall grant a preference in hiring to any employee of the County and the City of Kissimmee currently employed in the operation of the Utility System, the Utility Assets or the provision of Utility Service. However, any such applicants must meet reasonable and non-discriminatory employment

qualifications and pre-employment screening criteria. All employment shall be subject to reasonable rules and regulations established by the Authority on an at will basis.

(B) The retention and continued employment of all employees currently employed in the operation of the Utility System, the Utility Assets and the provision of Utility Services is a valuable asset and necessary for a smooth and efficient transfer. As a part of the transition process contemplated herein, the County and the City of Kissimmee covenant and agree to transition and make available to the Authority all employees currently employed in the operation of the Utility System, the Utility Assets and the provision of Utility Service. It is the express intention and direction of the parties hereto that a uniform and inclusionary pre-transition approach be developed which keeps all affected employees informed of the personnel, staffing, and employment preference aspects of the transition process.

ARTICLE V

CONVEYANCE OF THE UTILITY ASSETS

SECTION 5.01. DEVELOPING INVENTORY.

(A) As soon as reasonably practicable after execution hereof, the County and the City of Kissimmee shall timely cooperate with the Authority in more fully identifying the Utility Assets.

(B) Within sixty (60) days of entering into this Agreement, the County and the City of Kissimmee have the ability and the resources, and so covenant, to prepare, complete and deliver to the Authority the following schedules without undue qualification:

(1) A schedule providing a complete legal description or recording references of all real property owned and used in the operation of the Utility System, the Utility Assets or in providing Utility Service.

(2) A schedule identifying all unplatted Easements known and available to either the County or the City of Kissimmee which are used or available for use in connection with the Utility System, the Utility Assets or in providing Utility Service. Such schedule will include legal descriptions or recording references which will allow for subsequent location and title searches.

(3) A schedule of all plans and specifications in possession of the County and the City of Kissimmee which substantially describe the Utility System's

water and wastewater plants, lift or pump stations, wastewater collection system, and major transmission and reuse and non-potable water facilities.

(4) A schedule of all existing third party warranties that relate to completed or in progress construction.

(5) A schedule of all current or active permits, applications or other documents, together with effective dates and any expiration dates which authorize the operation of the Utility System's water and wastewater treatment facilities by all applicable governmental authorities.

(6) A schedule of any available Utility System maps.

(7) An inventory of the equipment, vehicles, tools, parts, laboratory equipment, computer equipment, and other personal property used by the County and the City of Kissimmee in connection with the operation of the Utility System, the Utility Assets or in providing Utility Service.

(8) A schedule of all operating and vendor contracts affecting the Utility System, the Utility Assets or the provision of Utility Service.

(9) A schedule of all executory reuse or effluent disposal agreements entered into by either the County or the City of Kissimmee, or their predecessors, for the sale or reuse of effluent delivered through the Utility System, Utility Assets or provided in conjunction with the Utility Service.

(10) A schedule of all existing executory agreements including any developer agreements entered into by either the County or the City of Kissimmee, or their

predecessors and owners or developers of real property for the provision of water or wastewater disposal services through the Utility System, Utility Assets or in conjunction with providing Utility Service.

(11) A schedule, with respect to all executory agreements under which either the County or the City of Kissimmee as the owner of the Utility System, the Utility Assets or in providing Utility Service has any continuing or outstanding water or wastewater service obligations (as of a common date as close to the Transfer Date as reasonably possible and which shall be updated as of the Transfer Date), which shows the total number of (a) contractual connections; (b) contractual connections paid for and not yet connected; (c) contractual connections not yet paid for and not yet connected; and (d) any contractual connections for which any party hereto has or expects to begin collecting a periodic minimum or base charge prior to the Transfer Date.

(12) A schedule of all other agreements entered into between the County or the City of Kissimmee, their predecessors, or third parties which would be reasonably considered to materially affect or be an encumbrance upon the Utility System, the Utility Assets or otherwise materially affect the provision of Utility Service, including without limitation, any leasehold agreements or oral agreements, if any. If any oral agreements exist, they shall be so identified together with a narrative of the terms thereof.

(13) A schedule of all current tariffs which represent the most current schedule of rates, fees and charges being imposed in conjunction with the Utility System, the Utility Assets or the provision of Utility Service.

(14) A schedule, description and estimate of all moneys, funds, accounts, or any other intangibles held under or pursuant to any Debt Obligations, indenture of trust, resolution, ordinance or other instrument by the County and the City of Kissimmee, or any other third party, for the benefit of any ratepayers of the Utility System, or in connection with the financing or operation of the Utility System, the Utility Assets or providing Utility Service.

(B) From and after the date of execution of this Agreement, neither the County nor the City of Kissimmee shall without the prior written consent of the Authority, dispose of or encumber the Utility System or any of the Utility Assets with the exception of non-material transactions occurring in the ordinary course of business. Provided, however, such written consent and approval shall not be unreasonably withheld.

(C) From and after the date of execution of this Agreement, there shall be no material depletion of the Utility System, or the Utility Assets, nor any material adverse change in the condition of the Utility System or the Utility Assets; and, the Utility System and all of the Utility Assets shall be properly maintained within the custom and usage of the industry through the Transfer Date.

(D) Neither the County nor the City of Kissimmee has been cited nor notified, and no party hereto is, after due enquiry, aware of any violation of any governmental rule, regulation, permitting condition or governmental requirement of any type or nature applicable to the ownership, maintenance or operation of the Utility System, the Utility Assets or the manner in which the Utility Service is being performed, nor is any party

hereto aware of any conditions which by reason of the passing of time or the giving of notice by the appropriate governmental agency would constitute such a violation. Each party agrees that it shall be under a continuing obligation to notify the other parties hereto in writing in the event of a material change in the foregoing representations.

(E) The Utility System and the Utility Assets are located on real property which has been zoned by appropriate authorities under zoning certifications, special exceptions or variances which will permit the respective use of such parcels for water and wastewater utility purposes; and, to the extent it is determined that any Utility Asset or portion of a Utility System require a zoning certification, special exception or variance, each general purpose local government party hereto will endeavor in good faith to process and provide such zoning, special exceptions or variances without delay.

(F) The County and the City of Kissimmee respectively represent to the Authority that the real property and easement or property use rights to be conveyed to the Authority hereunder are in compliance with, and each respective party has not violated in connection with its ownership, use, maintenance, or operation of the Utility System or the Utility Assets, applicable environmental, federal, state, county or local laws relating to pollution or protection of the environment, including but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, and the Resource Conservation and Recovery Act. Each general purpose local government party hereto respectively affirms it has not knowingly authorized the placing or depositing of

hazardous substances on the real estate and easements to be conveyed to the Authority except, if at all, in accordance with applicable law, and no party hereto has any actual knowledge of any hazardous substance having been, or currently being, placed or deposited on said real property and easements except in a lawful manner.

SECTION 5.02. CONVEYANCE DOCUMENTATION.

(A) On the Transfer Date the parties shall execute, deliver and accept a fee simple deed, bill of sale and a transfer, assignment and assumption agreement together with any other necessary and reasonable documents to effect the conveyance of record of the Utility System and the Utility Assets.

(B) From time to time after closing, each party hereto shall, upon the request to the other, execute, acknowledge and deliver, or shall cause to be executed, acknowledged and delivered, all such further acts, deeds, assignments, transfers or other documentation for (1) confirming or correcting title in the name of the Authority or perfecting undisputed possession by the Authority of the Utility System or any or all of the Utility Assets, including the establishment of record of Easements reasonably capable of enforcement by the Authority without resort to litigation or other extraordinary means for any water or wastewater utility facilities which are a part of the Utility System in existence or in use at the time of closing, or (2) otherwise fulfilling the obligations of the parties hereunder.

(C) The Authority hereby acknowledges that the County and the City of Kissimmee cannot provide any warranties or assurances regarding any real or personal

property interests in the Utility System or the Utility Assets; provided, however, the County and the City of Kissimmee affirmatively represent to the Authority, respectively, that neither or them have been notified of any claims or disputes with respect to the Utility System or any Utility Assets.

SECTION 5.03. TRANSFER DATE. It is anticipated that the transactions contemplated by this Agreement will be closed on a mutually agreed upon date on or before October 1, 2003. Time for closing may be extended by any party to no later than the last of the following occurrences: (A) October 1, 2004, or (B) ninety (90) days following validation of Acquisition Debt Obligations and either (1) the appeal period has expired without an appeal having been taken, or (2) any appeal has been resolved in favor of the Authority, the County and the City of Kissimmee. The closing shall be held at such place or offices convenient and mutually agreeable to the parties.

SECTION 5.04. TRANSFER OF PERMITS. It shall be the obligation and responsibility of each of the parties hereto to timely cooperate with the Authority to commence all requisite action to apply for and cause the transfer of all necessary permits and governmental approvals, including but not limited to the procedures referenced in Rule 62-4.120, Florida Administrative Code, 40 C.F.R. § 122.63(d) (1980) and 47 C.F.R. § 73 (1980) and shall use all reasonable efforts to obtain the timely transfer of such permits. Each party shall cooperate and provide all reasonably necessary assistance in this endeavor. Upon transfer the Authority shall assume all obligations under the permits and governmental approvals necessary for continued operation of the Utility System.

SECTION 5.05. RISK OF LOSS. At all times prior to and through the Transfer Date, the County and the City of Kissimmee, respectively, shall self-insure or maintain adequate fire and extended insurance coverage for the cost of any repairs to the Utility System or Utility Assets that may be required by casualty damage. The risk of loss during said period of time shall fall upon the County and the City of Kissimmee respectively. The risk of loss shall pass to the Authority on the Transfer Date.

ARTICLE VI

GENERAL PROVISIONS

SECTION 6.01. INTERLOCAL AGREEMENT PROVISIONS.

Portions of this Agreement constitutes a joint exercise of power, privilege or authority by and among the City of Kissimmee, the County and the Authority and shall be deemed to be an "interlocal agreement" within the meaning of the Florida Interlocal Cooperation Act of 1969, as amended. This Agreement shall be filed with the Clerk of the Circuit Court of Osceola County, Florida.

SECTION 6.02. CONTINUING DISCLOSURE OBLIGATIONS. The

County and the City of Kissimmee, respectively, agree to cooperate with the Authority in the preparation of disclosure information relating to the Utility System, the Utility Assets or the provision of Utility Service for inclusion in any Authority bond offering documents and will provide a certificate executed by an authorized officer of the County and the City of Kissimmee, respectively, at the closing of bonds purchased in reliance upon such offering documents that, to the knowledge of such officer, the information does not contain any material mis-statements or omissions. The Authority shall pay the reasonable costs and expenses incurred by the County and the City of Kissimmee to comply with the provisions of this section.

SECTION 6.03. PAYMENT OF GENERAL PURPOSE LOCAL GOVERNMENTS' COSTS AND FEES.

(A) The Authority shall pay, or respectively reimburse each general purpose local government party hereto if already paid, from proceeds of the Acquisition Debt Obligations (1) the reasonable fees and disbursements of attorneys and other professionals retained by the County and the City of Kissimmee or otherwise advanced by the County or the City of Kissimmee, to assist with the negotiation, preparation and implementation of this Agreement through the Transfer Date, and (2) the drafting, development and passage of the special act creating and establishing the Authority through the Transfer Date.

(B) Through the Transfer Date, the Authority shall pay or reimburse the City of Kissimmee, from the Acquisition Debt Obligations, a reasonable estimate of the Transition Cost then due and owing. After the Transfer Date, the Authority shall pay or reimburse the City of Kissimmee the Transition Cost in the manner provided in Section 4.01 hereof.

SECTION 6.04. PROFESSIONAL FEES; COSTS.

(A) Except as expressly provided otherwise in this Agreement, each party shall be responsible for securing its own counsel for representation relative to the negotiation, preparation and implementation of this Agreement, and all other matters associated with the implementation or performance hereunder, unless otherwise specified herein; and, each party shall be responsible for the payment of the fees of its own attorneys,

engineers, accountants and other professional advisors or consultants in connection therewith.

(B) In any litigation arising out of this Agreement, the prevailing party in such litigation shall, subject to the limitation imposed by Section 768.28, Florida Statutes, be entitled to recover reasonable attorneys fees and costs.

SECTION 6.05. TERM OF AGREEMENT. The term of this Agreement shall commence on the first of the month in which the last of all the parties hereto execute this Agreement, and shall continue for an initial term of the following twenty-five (25) full Fiscal Years thereafter. This Agreement shall thereafter automatically renew for successive twenty-five (25) year periods unless the County and the City of Kissimmee both opt, not less than one year prior to the end of any term, not to renew or extend this Agreement. This Agreement may be terminated by law or at any time by a written agreement amongst all parties hereto; provided, however, that no termination shall impair the rights of any holders of Debt Obligations of the Authority.

SECTION 6.06. FAILURE OF PERFORMANCE.

(A) A breach of this Agreement shall mean a material failure to comply with any of the provisions of this Agreement. If any party breaches any obligation herein, then, upon receipt of written notice by the non-breaching party, the breaching party shall proceed diligently and in good faith to take all reasonable actions to cure such breach and shall continue to take all such actions until such breach is cured.

(B) Unless otherwise provided herein, the parties to this Agreement may proceed at law or in equity to enforce their rights under this Agreement.

SECTION 6.07. DISPUTE RESOLUTION.

(A) The parties agree to resolve any dispute related to the interpretation or performance of this Agreement in the manner described in this section. Either party may initiate the dispute resolution process by providing written notice to the other party.

(B) After transmittal and receipt of a notice specifying the area or areas of disagreement, the parties agree to meet at reasonable times and places, as mutually agreed upon, to discuss the issues.

(C) If discussions among the parties fail to resolve the dispute within sixty (60) days of the notice described in subsection (A) hereof, the parties shall appoint a mutually acceptable neutral third party to act as a mediator. If the parties are unable to agree upon a mediator, any of the parties can request appointment of a mediator by the Chief Judge of the Circuit Court of the Ninth Judicial Circuit in and for Osceola County, Florida. The mediation contemplated by this subsection (C) is intended to be an informal and non-adversarial process with the objective of helping the parties reach a mutually acceptable and voluntary agreement. The decision-making shall rest solely with the parties. The mediator shall assist the parties in identifying issues, fostering joint problem-solving, and exploring settlement alternatives. It is understood that any settlement may require approval of the County Commission of Osceola County, the City Commission of the City of Kissimmee and the Board of Supervisors of the Authority.

(D) If the parties are unable to reach a mediated settlement within 120 days of the mediator's appointment, any party may terminate the settlement discussions by written notice to the other party. In such event, either party may initiate litigation within 120 days of the notice terminating the settlement discussions. Failure by the party initiating the dispute resolution procedure to commence litigation within the 120 day period shall be deemed to constitute an acceptance of the interpretation or performance of the other parties.

SECTION 6.08. AMENDMENTS AND WAIVERS. No amendment, supplement, modification or waiver of this Agreement shall be binding unless executed in writing by all parties hereto. 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. Each such amendment, supplement, modification or waiver of this Agreement shall be filed with the Clerk of the Circuit Court of Osceola County, Florida. Neither the failure nor any delay by any party hereto in exercising any right or power under this Agreement nor any course of dealing between or among the parties will operate as a waiver of such right or power, and no single or partial exercise of any such right or power will preclude any other or further exercise of such right or power or the exercise of any other right or power.

SECTION 6.09. NOTICES.

(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 sent by nationally recognized overnight courier (with delivery instructions for "next business day" service) to the parties at the following addresses:

Osceola County: 1 Courthouse Square
Suite 4700
Kissimmee, Florida 34741
Attention: County Manager
(with a separate copy sent to the County Attorney)

City of Kissimmee: 101 North Church Street
Fifth Floor
Kissimmee, Florida 34741
Attention: City Manager
(with a separate copy sent to the City Attorney)

Authority: 101 North Church Street
Second Floor
Attention: Executive Director
(with a separate copy sent to the general counsel
for the Authority)

(B) Any of the parties may, by notice in writing given to the others, designate any further or different addresses to which 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 facsimile transmission) or three days after the date mailed.

SECTION 6.10. BINDING EFFECT. To the extent provided herein, this Agreement shall be binding upon the parties, their respective successors and assigns and shall inure to the benefit of the parties, their respective successors and assigns.

SECTION 6.11. ASSIGNMENT. No assignment of this Agreement shall be made in whole or in part by any party without the express written consent of the other parties, which may be withheld in their sole discretion.

SECTION 6.12. SEVERABILITY. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 6.13. EXECUTION IN COUNTERPARTS. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 6.14. APPLICABLE LAW AND VENUE.

(A) This Agreement shall be governed by and construed in accordance with the laws of the State. Payments required hereunder shall be governed by the provisions of Chapter 218, Part VII, Florida Statutes, the Florida Prompt Payment Act, or its successor in function, or as otherwise mutually agreed to between the parties hereto.

(B) Unless otherwise required by law or otherwise agreed to by all parties hereto, venue for any action or proceeding to construe or enforce the provisions of this Agreement shall be in the Circuit Court in and for Osceola County, Florida.

SECTION 6.15. TIME IS OF THE ESSENCE. Time is of the essence in this Agreement. The time period 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 a Saturday, Sunday or legal holiday shall extend to 5 P.M. on the next business day.

SECTION 6.16. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof, and supercedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no warranties, representations or other agreements among the parties in connection with the subject matter hereof, except as specifically set forth herein.

IN WITNESS WHEREOF, the County, the City of Kissimmee and the Authority have caused this Interlocal Agreement to be duly executed and entered into as of the 1st day of July 2003.



**BOARD OF COUNTY COMMISSIONERS
OF OSCEOLA COUNTY, FLORIDA**

By: 
Chairman

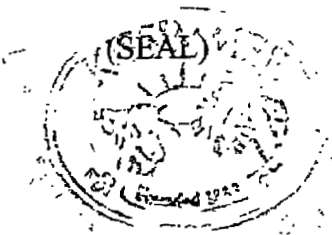
Date: July 17, 2003

ATTEST:


Clerk

IN WITNESS WHEREOF, the County, the City of Kissimmee and the Authority have caused this Agreement to be duly executed and entered into as of the 1st day of July 2003.

THE CITY OF KISSIMMEE, FLORIDA



By: George S. Gant
Mayor C.C.M. - 5/12/03

Date: July 21, 2003

ATTEST:

Debra P. Juwordan
City Clerk

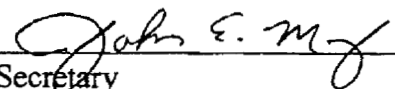
IN WITNESS WHEREOF, the County, the City of Kissimmee and the Authority have caused this Interlocal Agreement to be duly executed and entered into as of the 1st day of July 2003.

**BOARD OF SUPERVISORS OF
TOHOPEKALIGA WATER AUTHORITY**

By: 
Chairperson

Date: July 17, 2003

ATTEST:


Secretary

TOHOPEKALIGA WATER
AUTHORITY, an independent special
district, CITY OF KISSIMMEE,
FLORIDA a municipal corporation and
OSCEOLA COUNTY, FLORIDA, a
political subdivision of State of Florida.

Plaintiffs,

vs.

STATE OF FLORIDA, and the
Taxpayers, Property Owners and citizens
of Osceola County, Florida and Orange
County, Florida, including non-residents
owning property or subject to taxation
therein, and others having or claiming
any right, title or interest in property to
be affected by the issuance of the Bonds
herein described or to be affected in any
way thereby,

Defendants.

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT OF THE
STATE OF FLORIDA, IN AND FOR
OSCEOLA COUNTY, FLORIDA
GENERAL CIVIL DIVISION

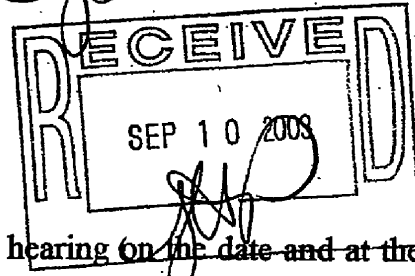
CASE NO.: CI03OC 1588

VALIDATION OF NOT TO EXCEED
\$85,000,000 TOHOPEKALIGA
WATER AUTHORITY UTILITY
SYSTEM REVENUE BONDS, SERIES
2003.

Filed in open Court this
10 day of September

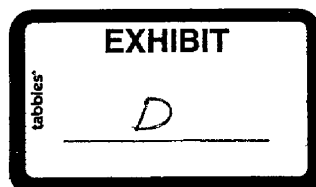
A.D. 2003
LARRY WHALEY, CLERK

By *[Signature]* D.C.



FINAL JUDGMENT

The above and foregoing cause has come for final hearing ~~on the date and at the~~
time and place set forth in the Order to Show Cause heretofore issued by this Court in the
notice addressed to the State of Florida, and the taxpayers, property owners and citizens
of Osceola County, Florida and Orange County, Florida, including nonresidents owning
property or subject to taxation therein, and others having or claiming any right, title or
interest in property to be affected by the issuance of not to exceed \$85,000,000
Tohopekaliga Water Authority Utility System Revenue Bonds, Series 2003 (the



"Bonds"), hereinafter described, or to be affected in any way thereby, and finds as follows:

FIRST. This Court has jurisdiction over this validation pursuant to Section 75.01, Florida Statutes.

SECOND. Plaintiff Authority is an independent special district established and created pursuant to Chapter 189, Florida Statutes by special act by the Florida legislature as a special purpose local governmental body, corporate and politic.

THIRD. Fla. HB 1265 (2003) (Tohopekaliga Water Authority Act) (the "Act") created the Plaintiff Authority. The Act was subsequently codified as Chapter 2003-368, Laws of Florida. A copy of the Act was attached to the Complaint and incorporated therein as Exhibit A. The Act authorizes the Authority to, amongst other things, provide potable and nonpotable water and wastewater services and facilities in areas within the boundaries of an affected general purpose local government upon the adoption of a resolution by the governing body of the affected general purpose local government authorizing the Authority to provide its services and facilities therein.

FOURTH. The Act provides that a Board of Supervisors shall sit as the governing body of the Authority. The members of the Board of Supervisors were duly designated, have assumed office, and are empowered to act as provided by the Act.

FIFTH. The Act confers the Authority, upon approval by its Board of Supervisors, with the power to enter into the Tohopekaliga Water Authority Transition Interlocal Agreement recorded in Official Record 2296, at pages 2121-2183, Public

Records Osceola County, Florida (the "Transition Interlocal Agreement") with the City and Osceola County whereby the Authority will provide potable and nonpotable water and wastewater services and facilities to existing service areas of the City, serving customers in the City, in unincorporated areas of Osceola County and in a small area of unincorporated Orange County.

SIXTH. Plaintiff City and Plaintiff Osceola County have each consented by resolution to the provision of the water and wastewater services within their boundaries subject to the Act by adopting resolutions authorizing the Authority to serve within their boundaries and approving the execution of the Transition Interlocal Agreement. A copy of City Resolution No. 18-2003, a certified copy of which was attached to the Complaint as Exhibit B (the "City Approving Resolution") and Osceola County Resolution No. 03-047-R, a certified copy of which was attached to the Complaint as Exhibit C (the "Osceola County Approving Resolution") and incorporated therein. The Board of the County Commissioners of Orange County has also adopted a resolution authorizing the Authority to serve within a small area of its boundaries, whereby the Authority assumes the prior obligations of the City to serve such area, a copy of which was submitted into evidence at the validation hearing (the "Orange County Resolution"). The City Approving Resolution, the County Approving Resolution and the Orange County Resolution, when combined with the Act, together satisfy the Florida Constitution, in particular the requirements for a transfer of functions or powers pursuant to Article VIII,

Section 4 of the Florida Constitution, for the provision of water and wastewater services by the Authority.

SEVENTH. On July 17, 2003, the Board of Supervisors of the Authority adopted Resolution No. 03-003 (a certified copy of which was attached to the Complaint and incorporated therein as Exhibit D) approving the form of the Transition Interlocal Agreement and agreeing to pay the City and Osceola County the obligations described therein.

EIGHTH. The Transition Interlocal Agreement has been executed by the City, Osceola County and Authority and recorded. A certified copy of the executed Transition Interlocal Agreement was attached to the Complaint and incorporated therein as Exhibit E.

NINTH. Pursuant to the Transition Interlocal Agreement, the Authority will acquire the water and wastewater facilities of the City and the rights to otherwise acquire and operate water and wastewater facilities available to the City and Osceola County (collectively the "Utility System and Utility Assets") in exchange for paying in full all outstanding debt obligations of the City and Osceola County relating to their water and wastewater systems and for the additional consideration of the Authority obligating itself to make and making certain ongoing transfer payments to the City and Osceola County from the Authority's revenues.

TENTH. The Authority, the City and Osceola County each agreed to the consideration and the payment structure in the Transition Interlocal Agreement, whereby

the Authority covenants to pay the City a stream of payments – the Kissimmee System Transfer Amount and the Annual Transfer Amount – and the Authority covenants to pay Osceola County a stream of payments – the County Transfer Amount and the Annual Transfer Amount – from the Authority as consideration for the transfer of the Utility System and Utility Assets to the Authority by the City and Osceola County and the transfer of the rights and responsibilities to provide Utility Service (as such term is defined in the Transition Interlocal Agreement) and to operate the Utility System and Utility Assets by the Authority. Such amounts constitute an obligation of the Authority to be paid to the City and Osceola County pursuant to the terms of the Transition Interlocal Agreement.

ELEVENTH. Authority is conferred upon the Authority by the Act to issue the Bonds for the purpose of acquisition of the Utility System and Utility Assets and the acquisition, construction, erection, renovation or reconstruction of additions, extensions and improvements to the Utility System and Utility Assets (the "Initial Project").

TWELFTH. That pursuant to the Act and by virtue of the authority thereof, the Authority did on July 17, 2003 adopt Resolution No. 03-005 (the "Master Bond Resolution", a certified copy of which was attached to the Complaint and incorporated therein as Exhibit F) entitled:

A RESOLUTION OF THE BOARD OF SUPERVISORS OF
THE TOHOPEKALIGA WATER AUTHORITY;
PROVIDING FOR THE ISSUANCE OF UTILITY
SYSTEM REFUNDING AND/OR REVENUE BONDS OF
THE AUTHORITY FROM TIME TO TIME TO FINANCE

AND/OR REFINANCE CAPITAL PROJECTS, INCLUDING THE ACQUISITION OF UTILITY ASSETS; PROVIDING FOR THE PAYMENT THEREOF; PROVIDING FOR THE RIGHTS, SECURITY, AND REMEDIES OF THE REGISTERED OWNERS OF SUCH BONDS; AND PROVIDING AN EFFECTIVE DATE.

THIRTEENTH. That pursuant to the Act and by virtue of the authority thereof, the Authority did on July 17, 2003 adopt Resolution No. 03-006 (the "Initial Series Resolution", and collectively with the Master Bond Resolution, the "Bond Resolution") a certified copy of which was attached to the Complaint and incorporated therein as Exhibit G entitled:

A RESOLUTION OF THE TOHOPEKALIGA WATER AUTHORITY, SUPPLEMENTING RESOLUTION NO. 03-005 OF THE AUTHORITY ADOPTED ON JULY 17, 2003; AUTHORIZING THE ACQUISITION OF A WATER SYSTEM, A WASTEWATER SYSTEM AND A REUSE WATER SYSTEM, AND THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, IMPROVEMENTS AND EXTENSIONS THERETO; PROVIDING FOR THE ISSUANCE OF NOT EXCEEDING \$85,000,000 UTILITY SYSTEM REVENUE BONDS, SERIES 2003, TO FINANCE THE COST THEREOF; PROVIDING FOR THE PAYMENT OF THE BONDS FROM CERTAIN PLEDGED REVENUES; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AUTHORIZING THE APPROPRIATE OFFICERS OF THE AUTHORITY TO PROCEED TO DEVELOP NECESSARY DOCUMENTS TO SELL THE BONDS AT NEGOTIATED SALE; AND PROVIDING AN EFFECTIVE DATE.

FOURTEENTH. The Bond Resolution provides for the issuance of not to exceed \$85,000,000 Tohopekaliga Water Authority Utility System Revenue Bonds, Series 2003

and pursuant to the Initial Series Resolution, provides for acquisition of the water and wastewater facilities associated with the Initial Project located substantially within the City, the unincorporated area of Osceola County and a small area of unincorporated Orange County. The Bond Resolution provides that the Bonds shall be payable from and secured by a lien upon and pledge of the Pledged Revenues, as defined in the Bond Resolution, which consist of the Net Revenues, System Development Charges and certain money on deposit, all as such capitalized terms are defined in the Bond Resolution.

FIFTEENTH. The Bond Resolution provides that the Bonds shall be issued in the form attached to the Bond Resolution; shall have such other terms and provisions, including interest rates not exceeding the maximum interest rates permitted by law, principal and interest payment terms, maturity date, and prepayment provisions as stated in the Bond Resolution or as shall be determined by subsequent resolution of the Authority; and fixes the form and other details of the Bonds, provides for the manner of issuance thereof, and further provides, that the Bonds shall not be or constitute general obligations or indebtedness of the Plaintiff as "bonds" within the meaning of Article VII, Section 12 of the Constitution of Florida, but shall be payable from the Pledged Revenues in accordance with the Bond Resolution and no holder of any Bonds issued under the Bond Resolution shall ever have the right to compel the exercise of any ad valorem taxing power to pay such Bonds, or be entitled to payment of such Bonds from any funds of the Authority except from Pledged Revenues as described in the Bond Resolution.

SIXTEENTH. In the Bond Resolution, the Authority has provided for the creation of a trust indenture to be executed and delivered by and between the Authority and a bonded trustee which shall certify the proper expenditure of the proceeds of the Bonds, as required by Section 75.04(2), Florida Statutes.

SEVENTEENTH. The Authority has the ability under the Act to establish a general fund account into which moneys may be deposited from a surcharge not to exceed two percent of the rates, fees and charges for the Authority facilities or portions thereof. Pursuant to the Act, the Authority covenants in the Bond Resolution to impose rates, fees and charges sufficient to repay the Bonds and additionally impose a two percent surcharge for the operational purposes of the Authority which may be used to pay the Bonds, but which two percent surcharge may not be used to secure repayment of the Bonds.

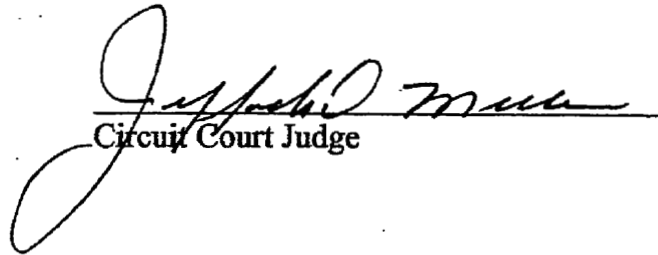
EIGHTEENTH. That pursuant to the Act and by virtue of the authority thereof, the Authority did on July 17, 2003 adopt Resolution No. 03-004 (the "Rate Resolution"), a certified copy of which was attached to the Complaint and incorporated therein as Exhibit H, whereby the Authority lawfully adopted rates, fees and charges. The Authority has the power to require and enforce the use of its services, products and facilities where accessible and collect said rates, fees and charges.

NINETEENTH. The Board of Supervisors of the Authority found and determined in the Bond Resolution that it is necessary for the continued preservation of the health, welfare, convenience and safety of the Authority and its customers to finance the Initial

Project and that issuance of the Bonds to finance the Project satisfies a paramount public purpose. Further the City, Osceola County and the Authority have each found that the Transition Interlocal Agreement and the Initial Project are in the public interest pursuant to Sections 125.3401, 180.301 and 189.423, Florida Statutes.

NOW THEREFORE IT IS ORDERED AND ADJUDGED that final judgment of the Court be entered validating and confirming said Bonds to be issued, the Act, the Transition Interlocal Agreement, the legality of all covenants and proceedings in connection therewith and the revenues pledged for the payment thereof.

DONE, ORDERED AND ADJUDGED at the Courthouse in the City of Kissimmee, Osceola County, Florida this 10th day of September, 2003.


Circuit Court Judge

CHAPTER 2003-368

House Bill No. 1265

An act relating to Osceola County; creating an independent special district known as Tohopekaliga Water Authority; providing legislative findings and intent; providing definitions; describing the district boundaries; providing for service areas subject to the approval of affected general purpose local governments; providing that the purpose of the district shall be for the planning, acquisition, development, operation, and maintenance of water and wastewater management systems within the district and its service area; limiting the provision of district services and facilities to only those areas authorized by affected general purpose local governments; providing for an appointed governing body of the district composed of five supervisors and setting forth their authority, terms of office, qualifications, compensation, and method of appointment; providing for the filling of vacancies in office; providing district powers, functions, and duties; providing for the acquisition of land; providing for the levy and collection of rates, fees, assessments, and other charges for the provision of capital facilities or use of district services or payment of operating and financing costs; providing for borrowing money and issuing bonds, certificates, obligations, or other evidence of indebtedness; prohibiting the creation of state, county, or municipal debt; providing for the collection of unpaid rates, fees, assessments, and other charges; providing for the adoption of a master plan; providing for enforcement and penalties; providing for merger and dissolution; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Popular Name. This act shall be known by the popular name the "Tohopekaliga Water Authority Act."

Section 2. Legislative Findings.

(1) It is declared as a matter of legislative determination that the extensive growth of population and attendant commerce throughout Osceola County has given rise to public health and water supply concerns in that many of the unincorporated areas of Osceola County are not served by water and sewer facilities normally and generally provided and maintained by governmental agencies and instead are served by private wells and privately owned package sewage treatment plants or septic tanks. The proliferation of such package and sewage treatment plants and the use of septic tanks pose a significant risk of contamination of water supply sources for both incorporated and unincorporated areas of Osceola County.

(2) It is declared as a matter of legislative determination that the extensive growth of population and attendant commerce throughout Osceola County has caused affected general purpose local governments within Osceola County to recognize the need to consider, advance, and develop a regional approach to the governmental delivery and provision of potable water.

wastewater, nonpotable water, and reclaimed water facilities and services, the protection of the environment, and the use of valuable water resources.

(3) Each of the affected general purpose local governments within Osceola County must meet the comprehensive planning requirements of chapter 163, Florida Statutes, which mandate that local governments coordinate their plans for future growth with available resources of funding and availability of infrastructure. The provision of potable and nonpotable water and wastewater services and facilities is a major factor in such infrastructure coordination. A focused regional approach to local governmental ownership and provision of potable and nonpotable water and wastewater utility facilities is desirable and will readily allow Osceola County and the City of Kissimmee, and certain adjacent areas upon approval of any affected general purpose local government, to more effectively meet their statutory mandate with respect to the utilities element of their respective comprehensive plans.

(4) It is the intent of the Legislature to create an independent special district in Osceola County that, with the concurrence and approval of affected general purpose local governments, can address and carry out the provision of potable and nonpotable water and wastewater services and facilities in certain areas of Osceola County and certain adjacent areas upon the approval of any affected general purpose local government, as hereinafter provided, to provide economies of scale; eliminate duplicative functions and expenditures; protect the local and regional environment; more efficiently use, preserve, address, protect, and have standing in all respects to use, preserve, address, and protect, valuable local and regional water resources; and advance regional and comprehensive planning.

Section 3. Definitions. When used in this act, unless a different meaning appears clearly from the context:

(1) "Authority" or "District" means Tohopekaliga Water Authority and, unless the context indicates otherwise, means the independent special district created by this act and identified in section 4, to be known as the Authority or District, and the territory included within the special district.

(2) "Authority facilities" means the Authority's potable and nonpotable water production, transmission, treatment, and distribution facilities, systems, and property, and the Authority's wastewater treatment, collection, and disposal facilities, systems, and property, including reuse, nonpotable, and reclaimed water facilities and systems, as they may be modified, improved, or expanded from time to time, which are owned, leased, operated, managed, or used, from time to time, by the Authority to provide water and wastewater services. Authority facilities shall include all property, real or personal, tangible or intangible, now or hereafter owned, leased, operated, or managed by the Authority in connection with the provision of water and wastewater services and shall also include any such property used or to be used jointly as specifically provided for herein.

(3) "Cost," when used in connection with a project, means:

(a) The Authority's cost of construction.

(b) Costs of transfer or acquisition by or for the Authority of such project, including, without limitation, any annual revenue transfer obligations payable to one or more predecessor general purpose local governments pursuant to interlocal agreement.

(c) Costs of land and interests thereon and the cost of the Authority incidental to such transfer or acquisition.

(d) The cost of any indemnity or surety bonds and premiums for insurance during construction.

(e) All interest due to be paid on the obligations relating to the project during the period of acquisition and construction of such project and for periods subsequent to completion of acquisition and construction as the Board of Supervisors may determine by resolution.

(f) Engineering, legal, and other consulting fees and expenses.

(g) Costs and expenses of the financing incurred for such project, including audits, fees, and expenses of any paying agent, registrar, trustee, consultant, attorney, engineer, credit enhancer, or depository.

(h) Payments, when due (whether at the maturity of principal or the due date of interest or upon redemption) on any interim or temporary indebtedness incurred for such project.

(i) Costs of machinery, equipment, supplies, and spare parts required by the Authority for the commencement of operation of such project or continuation of operation of such project.

(j) Any other costs properly attributable to such project or to the issuance of obligations which finance such project, as determined by generally accepted accounting principles applicable to such project, and shall include reimbursement to the Authority or a predecessor local government for any such items of cost advanced, incurred, or paid by the Authority or a general purpose local government prior to issuance of the obligations issued to finance or acquire such project. Additional items of cost may be provided pursuant to the financing documents.

(4) "Financing documents" means the resolution or resolutions duly adopted by the Authority, as well as any indenture of trust, trust agreement, interlocal agreement, or other instrument relating to the issuance or security of any bond or obligations of the Authority.

(5) "Obligations" means a series of bonds, obligations, or other evidence of indebtedness, including, but not limited to, notes, commercial paper, capital leases, or any other obligations of the Authority issued hereunder, or under any general law provisions, and pursuant to the financing documents. The term shall also include any lawful obligation committed to by the Authority pursuant to an interlocal agreement with another governmental body or agency.

(6) “Pledged funds” means:

(a) The revenues, fees, charges, special assessments, and other moneys received by the Authority or its designee relating to its ownership or operation of the Authority facilities, or some portion thereof.

(b) Until applied in accordance with the terms of the financing documents, all moneys in the funds, accounts, and sub-accounts established thereby, including investments therein.

(c) Such other property, assets, and moneys of the Authority as shall be pledged pursuant to the financing documents, in each case to the extent provided by the Board of Supervisors pursuant to the financing documents. The funds pledged to one series of obligations may be different than the funds pledged to other series of obligations. Pledged funds shall not include any ad valorem tax revenues or general fund account of the Authority.

(7) “Project” means any structure, property, or facility which the Authority, from time to time, may determine to construct or acquire as part of its Authority facilities, together with all improvements, equipment, structures, and other facilities necessary or appropriate in connection therewith. This term is to be broadly construed so as to include the lawful undertaking which will accrue, or is reasonably expected to accrue, to the benefit of the Authority facilities, including joint ventures and acquisitions of partial interests or contractual rights. “Project” shall include, but not be limited to, acquisition or transfer of any water or wastewater utility system, water or wastewater utility assets, or securing the right to provide any water or wastewater utility service as provided for in one or more interlocal agreements between the Osceola County Board of County Commissioners and the City Commission of the City of Kissimmee or any other governmental body. “Project” may also include working capital, as well as any costs or judgments associated with litigation.

(8) “Ratepayer” means any natural person who pays rates, fees, or charges on a recurring basis to the Authority, or who is an official, officer, member, or employee of any entity, public or private, that pays rates, fees, or charges on a recurring basis to the Authority.

(9) “Service area” means the geographic boundaries within which the Authority provides, or is otherwise authorized pursuant to the provisions of this act to provide, water or wastewater services or facilities.

Section 4. District Establishment and Creation.

(1) There is hereby created and established a special purpose local governmental body, corporate and politic, to be known as Tohopekaliga Water Authority. The Tohopekaliga Water Authority is hereby created and incorporated as an independent special district, pursuant to and in conformance with chapter 189, Florida Statutes.

(2) The District boundary shall embrace and include:

(a) The territory within Osceola County consisting of the incorporated area of the City of Kissimmee and including those areas served or provided

with water and wastewater service by the City of Kissimmee on the effective date hereof.

(b) All unincorporated areas within Osceola County, less and except any areas included within the Reedy Creek Improvement District, on the effective date hereof, and less and except the territory within Osceola County consisting of the incorporated area of the City of St. Cloud, and including those unincorporated areas authorized by law to be served or provided with water and wastewater service by the City of St. Cloud on the effective date hereof. This act shall not be construed to prohibit or inhibit the City of St. Cloud from lawfully extending, expanding, or providing authorized municipal services and facilities as provided for in section 180.02(3), Florida Statutes. The Authority shall be estopped in any future proceeding conducted pursuant to section 180.03 or section 180.04, Florida Statutes, by the City of St. Cloud, or any action arising therefrom, from asserting or claiming the willingness and ability to provide potable water or wastewater service to:

1. All lands in Osceola County, Florida, lying in Section 8, Township 25 South, Range 31 East.

2. All lands in Osceola County, Florida, lying in Section 5, Township 25 South, Range 31 East lying easterly of the eastern boundary of Fells Cove Subdivision, according to the plat recorded in the Public Records of Osceola County, Florida, (including specifically the Floridian R.V. Park).

3. All lands in Osceola County, Florida lying within Florida Turnpike right-of-way in the Northwest quarter (NW¼) Section 36, Township 27 South, Range 30 East (Canoe Creek DOT facility).

The District boundary may be expanded to include any service area within the boundaries of an affected general purpose local government upon the adoption of a resolution by the governing body of the affected general purpose local government authorizing the Authority to provide its service and facilities therein.

(3) The Authority is created for all purposes set forth in this act and chapter 189, Florida Statutes, as may be amended from time to time.

(4) The charter created by this act may be amended only by special act of the Legislature.

(5) The purpose of the District shall be to perform such acts as shall be necessary for the sound planning, acquisition, development, operation, and maintenance of governmentally owned potable and nonpotable water and wastewater management and delivery systems within the District and its service area, including all business facilities necessary and incidental thereto. As provided herein, the Authority shall have exclusive jurisdiction over the acquisition, development, operation, and management of such water and wastewater management systems capable of being provided by general purpose local governments in and for the District boundaries and the service area.

Section 5. Authority to Operate in Osceola County or Areas Adjacent to Osceola County; Subject to General Purpose Local Government Consent. By resolution of the governing bodies of each of the general purpose local governments affected, all power and authority available to the Authority under general law, including without limitation, chapters 163, 189, and 197, Florida Statutes, and this act shall be deemed to be irrevocably authorized and may be implemented by the Authority within the boundaries of each of the general purpose local governments affected. Exclusive of the provision of services, facilities, or programs provided on a wholesale or bulk service basis, the Authority shall not provide its potable or nonpotable water or wastewater management or delivery services or programs to retail customers in the District or a service area without entering into an interlocal agreement with any affected general purpose local government which addresses the representation of such retail customers of each affected service area. This act expressly authorizes by law the transfer to the Authority or the contracting by the Authority for the provision of any water or wastewater systems, facilities, or services within the District or its service area.

Section 6. Governing Body.

(1) The governing body of the Authority shall consist of five members acting as the Board of Supervisors, each of whom shall serve a term of 3 years commencing on October 1, provided the procedure for appointment of members of the Board of Supervisors and their initial terms of office shall be as follows:

(a) Board Supervisor No. 1 and Board Supervisor No. 2 shall serve for initial terms of approximately 2 years, ending on September 30, 2005. Board Supervisor No. 1 shall be appointed by the Osceola County Board of County Commissioners. Board Supervisor No. 2 shall be appointed by the City Commission of the City of Kissimmee.

(b) Board Supervisor No. 3 and Board Supervisor No. 4 shall serve initial terms of approximately 3 years, ending on September 30, 2006. Board Supervisor No. 3 shall be appointed by the Osceola Board of County Commissioners. Board Supervisor No. 4 shall be appointed by the City Commission of the City of Kissimmee.

(c) Board Supervisor No. 5 shall serve an initial term of approximately 4 years, ending September 30, 2007. Board Supervisor No. 5 shall be collectively appointed by joint resolution of the Osceola County Board of County Commissioners and the City Commission of the City of Kissimmee and shall serve as the Chairperson of the Board of Supervisors.

(2) All members of the Board of Supervisors shall be ratepayers and qualified electors of Osceola County or of the service area adjacent to Osceola County in which the District has been authorized to operate. Each of the general purpose local governments responsible for appointing members shall consider but is not required to appoint members with business, real estate development, engineering, accounting, financial, scientific, utility, governmental, or public service backgrounds.

(3) Board members shall serve no more than 3 consecutive 3-year terms, not including any initial term of less than 3 years.

(4) Upon the occasion of a vacancy for any reason in the term of office of a member of the Board of Supervisors, which vacancy occurs prior to the replacement of the member by appointment and which remains unfilled for 60 days after such vacancy due to the failure of the respective general purpose local government governing body to duly appoint a successor as provided in subsection (1), a successor shall be appointed by the Governor. Any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term and until a successor is duly appointed.

(5) The Board of Supervisors shall elect a Vice Chairperson, Secretary, and such other officers of the Authority as may be hereafter designated and authorized by the Board of Supervisors, each of whom shall serve for 1 year commencing as soon as practicable after October 1 and until his or her successor is chosen. The Chairperson, Vice Chairperson, and Secretary shall conduct the meetings of the Authority and perform such other functions as herein provided. The Chairperson and Vice Chairperson shall take such actions and have all such powers and sign all documents on behalf of the Authority in furtherance of this act or as may be approved by resolution of the Board of Supervisors adopted at a duly called meeting. The Vice Chairperson, in the Chairperson's absence, shall preside at all meetings. The Secretary, or his or her designee, shall keep minutes of all meetings, proceedings, and acts of the Board of Supervisors, but such minutes need not be verbatim. Copies of all minutes of the meetings of the Authority shall promptly be sent by the Secretary, or his or her designee, to all members of the Board of Supervisors and to each general purpose local government located within the District or the service area. The Secretary may also attest to the execution of documents. The Secretary shall have such other powers as may be approved by resolution of the Board of Supervisors adopted at a duly called meeting.

(6) The Board of Supervisors shall have those administrative duties set forth in this act and chapter 189, Florida Statutes, as may be amended from time to time. Any certificate, resolution, or instrument signed by the Chairperson, Vice Chairperson, or such other person of the Authority as may hereafter be designated and authorized by the Board of Supervisors shall be evidence of the action of the Authority, and any such certificate, resolution, or other instrument so signed shall be conclusively presumed to be authentic.

(7) The members of the Board of Supervisors shall receive as compensation for their services a fee of \$100 per meeting, not to exceed 3 meetings per month. The amount of compensation shall be adjusted annually based upon the index provided in section 287.017(2), Florida Statutes, or its successor in function. In addition, each member of the Board of Supervisors shall be reimbursed for expenses as provided in section 112.061, Florida Statutes, or otherwise approved by the Board of Supervisors for travel on Authority business outside of the boundaries of the District or service area of the District.

(8) A majority of the Board of Supervisors shall constitute a quorum for the transaction of business of the Authority. The affirmative vote of the majority of the members of the Board of Supervisors present and voting (exclusive of any member having a conflict) shall be necessary to transact business. However, any increase in rates, fees, or charges shall require the affirmative vote of a majority of the entire Board of Supervisors.

Section 7. Conflicts of Interest Prohibited. No member, officer, agent, or employee of the Authority, either for himself or herself or as agent for anyone else or as a stockholder or owner in any other legal entity, shall participate in or benefit directly or indirectly from any sale, purchase, lease, contract, or other transaction entered into by the Authority. For the purposes of this act, a direct or indirect benefit or participation shall mean a "special private gain or loss" as defined in the Code of Ethics for Public Officers and Employees, part III of chapter 112, Florida Statutes, and shall be determined in the same manner as the question of "special private gain or loss" would be determined for purposes of a violation of section 112.3143, Florida Statutes, or its successor in function. A member, officer, agent, or employee of the Authority may rely upon an advisory opinion or determination of the State Commission on Ethics or the Authority's general counsel as to the question of whether or not there would be a special private gain or loss, and such determination shall also be determinative of the ability of the member, officer, agent, or employee to vote under the provisions of this act or of the conduct of the member, officer, agent, or employee under this act. The violation of any provisions of this act is declared to be a criminal offense and misdemeanor within the meaning of section 775.08, Florida Statutes, and shall be punishable as provided by general law. The provisions of this section shall be cumulative to any general laws of the state which are from time to time applicable to members, officers, agents, or employees of the Authority and which require the disclosure of, or prohibit, conflicts of interest.

Section 8. Meetings; Notice. The Board of Supervisors shall hold meetings pursuant to sections 189.416 and 189.417, Florida Statutes.

Section 9. Reports; Budgets; Audits. The District shall prepare and submit reports, budgets, and audits as provided in sections 189.415 and 189.418, Florida Statutes.

Section 10. District Powers, Functions, and Duties.

(1) The Authority shall have all powers to carry out the purposes of this act and the functions and duties provided for herein, including the following powers which shall be in addition to and supplementing any other privileges, benefits, and powers granted by this act or general law:

(a) To acquire, construct, own, lease, operate, manage, maintain, dispose of, improve, and expand the Authority facilities and to have the exclusive control and jurisdiction thereof.

(b) To execute all contracts and other documents, adopt all proceedings, and perform all acts determined by the Board of Supervisors as necessary or advisable to carry out the purposes of this act. The Chairperson or Vice

Chairperson shall execute contracts and other documents on behalf of the Board of Supervisors.

(c) To provide for mandatory water and/or wastewater connections of potential customers, including customers served by onsite sewage treatment and disposal systems, upon availability of service by the Authority within 90 days after notice of availability of such services.

(d) To collect rates, fees, and charges from public or quasi-public corporations, municipalities, counties, the state or its agencies, the federal government, or any other public or governmental agencies or bodies for the use or provision of Authority facilities or services.

(e) To fix, levy, and collect rates, fees, and other charges (including system development charges or impact fees) from persons or property, or both, for the use of the services, facilities, and product of the Authority facilities or to pay the operating or financing costs of the Authority facilities available to potential users; to fix and collect charges for making connections with the Authority facilities; and, to the extent provided by law, to provide for reasonable penalties to be imposed on any users or property for any such rates, fees, or charges that are delinquent.

(f) To discontinue or terminate water or wastewater service to any person or customer who violates the provisions of this act or any duly adopted resolutions or regulations of the Authority, including, but not limited to, delinquency of any amounts owed the Authority or failure to connect to the Authority's facilities or water or wastewater systems and failure to provide to the Authority without cost such easements or property interests as are reasonably required to provide service. Any means of enforcement available to the Authority to require and enforce the use of its service or facilities shall be alternative and supplemental to any other means available to the Authority.

(g) To contract for the service of engineers, accountants, attorneys, and other experts or consultants and such other agents and employees as the Board of Supervisors may require or deem appropriate from time to time.

(h) To acquire such lands and rights and interests therein, including lands under water and riparian rights; to acquire such personal property as the Authority may deem necessary and appropriate in connection with the acquisition, ownership, expansion, improvement, operation, and maintenance of the Authority facilities; and to hold and dispose of all real and personal property under its control. The power of eminent domain, to the maximum extent available to any general purpose local government, may be exercised by the Authority both within and outside the District or service area for the purpose of carrying out the intent of this act.

(i) To lease or rent any of its easements, real property interests, or facilities to other utility providers which are owned by a municipality, county, or special district, or which hold a franchise from a municipality or county, with such lease or rental to be for joint use by the Authority and such other utility provider.

(j) To adopt all necessary regulations by resolution that provide design and construction specifications and procedures for the dedication of facilities to the Authority. The Authority may require as condition precedent to the approval of any connection to Authority facilities:

1. That all subdivision type infrastructure, or other contributed transmission or distribution infrastructure necessary to serve a particular project or customer, and necessary easements be approved by and dedicated to the Authority.

2. Surety bonds or other guarantees from any developer to ensure completion of construction in compliance with such uniform water and wastewater standards, rules, and regulations adopted by the Authority.

3. That the developer make available interim treatment facilities or services or contract for same on an interim basis from an authorized service provider.

4. That the developer, or the person or entity the developer has contracted with, provide interim treatment service or lease back for nominal consideration and maintain such dedicated or contributed facilities until such time as the Authority provides services, provided in each case the foregoing actions shall be consistent with the comprehensive plans of any affected general purpose local government.

(k) To exercise exclusive jurisdiction, control, and supervision over the Authority facilities and to make and enforce such rules and regulations for the maintenance, management, and operation of the Authority facilities as may be, in the judgment of the Board of Supervisors, necessary or desirable for the efficient operation of the Authority facilities in accomplishing the purposes of this act.

(l) To enter into interlocal agreements or join with any other special purpose or general purpose local governments, public agencies, or authorities in the exercise of common powers.

(m) To contract with private or public entities or persons to obtain, provide, treat, distribute, or receive potable and nonpotable water or to provide or receive wastewater disposal, collection, or treatment.

(n) To prescribe methods of pretreatment of commercial or industrial wastes before accepting such wastes for treatment and to refuse to accept such commercial or industrial wastes when not sufficiently pretreated as may be prescribed, and, to the extent permitted by law, to prescribe penalties including fines or penalties not exceeding \$2,000 per day, if the Authority is required by a state or federally mandated program to have the authority and power to fine or charge any person or entity for the refusal to so pretreat such commercial or industrial wastes.

(o) To require and enforce the use of services, products, and facilities of the Authority whenever and wherever they are accessible, and to require and enforce the installation and dedication to the Authority of water and wastewater facilities or easements as a condition precedent to the provision

of service by the Authority or by another entity authorized by the Authority to provide interim service until Authority services, products, and facilities are available.

1. Whenever water or wastewater service is required, the owner shall retain a qualified contractor to install the required facilities, extensions, and connections. All facilities shall conform to the Authority's specified minimum design and construction standards and specifications and applicable growth management, plumbing, and building regulations and codes. The installation and connection process shall provide the owner with the right to control the placement, manner, use, and disposition of the installation on private property, subject to the minimum design and construction standards of the Authority and as is reasonably necessary to protect the efficiency and integrity of the Authority's facilities. Such control is afforded to the owner to minimize the physical, aesthetic, and other effects of the installation or connection on the affected property. Upon connection, the owner shall be deemed to have granted a license to the Authority to enter upon the affected property to inspect, repair, reconstruct, or otherwise maintain the installation or connection. Unless authorized otherwise, the owner shall be deemed to own such installation located on the owner's property and may repair, demolish, or construct in the area of the improvement served by the installation or connection, subject to the Authority's minimum design and construction standards and specifications for the Authority's facilities, and applicable growth management, plumbing, and building regulations and codes.

2. In circumstances in which an owner fails or refuses to connect to the Authority facilities, the Authority shall be entitled to seek and employ any legally available remedy to cause the installation of on-site water or wastewater facilities necessary to effectuate the connection of the owner's premises to Authority facilities. Under such circumstances, any installation by the Authority shall be performed after reasonable efforts by the Authority to solicit, and in deference to, the owner's requests, if any, concerning the placement, manner, use, and disposition of the installation on the owner's premises subject to the Authority's applicable minimum design and construction standards and specifications which are reasonably necessary to protect the efficiency and integrity of the Authority's facilities. Upon connection, the owner shall be deemed to have granted a license to the Authority to enter upon the affected property to inspect, repair, reconstruct, or otherwise maintain the installation or connection. Unless authorized otherwise, the owner shall be deemed to own such installation located on the property and may repair, demolish, or construct in the area of the improvement served by the installation or connection, subject to the Authority's minimum design and construction standards and specifications for Authority facilities, and applicable growth management, plumbing, and building regulations and codes.

(p) To sell or otherwise dispose of the effluent, sludge, or other byproducts as a result of water or wastewater treatment.

(q) To provide wastewater treatment and disposal and develop, receive, recover, treat, store, and supply potable and nonpotable water withdrawn from or accumulated within the District on a retail, wholesale, or bulk service basis.

(r) To produce and sell bottled water and to undertake any activity related thereto.

(s) To accomplish construction directly or by letting construction contracts to other entities, whether public or private, for all or any part of the construction of improvements to the Authority facilities as determined by the Board of Supervisors in accordance with applicable law.

(t) To construct, maintain, and operate connecting, intercepting, or outlet wastewater and wastewater mains and pipes and water mains, conduits, or pipelines in, along, or under any streets, alleys, highways, or other public places or ways regulated by or under the jurisdiction of the state or any political subdivision or municipal corporation when necessary or convenient for the purposes of the Authority.

(u) Subject to such provisions and restrictions as may be set forth in any financing document, to enter into contracts with the government of the United States or any agency or instrumentality thereof, the state, or any municipality, county, district, authority, political subdivision, private corporation, partnership, association, or individual providing for or relating to the treatment, collection, and disposal of wastewater or the treatment, supply, and distribution of water and any other matters relevant thereto or otherwise necessary to effect the purposes of this act.

(v) To receive and accept from any federal or state agency grants or loans for or in aid of the planning, construction, reconstruction, or financing of improvements, additions, or extensions to the Authority facilities and to receive and accept aid or contributions or loans from any other source of money, labor, or other things of value, to be held, used, and applied only for the purpose for which such grants, contributions, or loans may be made.

(w) To purchase or assume the ownership, lease, operation, management, or control of any publicly or privately owned water or wastewater facilities, including the assumption, defeasance, or payment of the financial liabilities associated with such water and wastewater facilities.

(x) To divide the Authority facilities into separate units, benefit areas, subsystems, or subdistricts, or otherwise separate a utility system, for imposing special assessments, setting rates, fees, or charges, accounting or financing improvements or additions, or any other purpose.

(y) To appoint advisory boards and committees to assist the Board of Supervisors in the exercise and performance of the powers and duties provided in this act.

(z) To sue and be sued in the name of the Authority and to participate as a party in any civil, administrative, or other action.

(aa) To adopt and use a seal and authorize the use of a facsimile thereof.

(bb) To employ or contract with any public or private entity or person to manage and operate the Authority facilities, or any portion thereof, upon such terms as the Board of Supervisors deems appropriate.

(cc) Subject to such provisions and restrictions as may be set forth in any financing document, to sell or otherwise dispose of the Authority facilities, or any portion thereof, upon such terms as the Board of Supervisors deems appropriate, and to enter into acquisition or other agreements to effect such dispositions.

(dd) To acquire by purchase, gift, devise, or otherwise, and to dispose of, real or personal property or any estate therein.

(ee) To make and execute contracts or other instruments necessary or convenient to the exercise of its powers.

(ff) To provide such deferred compensation, retirement benefits, or other benefits and programs as the Board of Supervisors deems appropriate.

(gg) To maintain an office or offices at such place or places as the Board of Supervisors may designate from time to time.

(hh) To hold, control, and acquire by donation, purchase, or eminent domain or dispose of any public easements, dedications to public use, platted reservations for public purposes, or any reservations for those purposes authorized by this act and to make use of such easements, dedications, and reservations for any of the purposes authorized by this act.

(ii) To lease, as lessor or lessee, to or from any person, firm, corporation, association, or body, public or private, facilities or property of any nature to carry out any of the purposes authorized by this act.

(jj) To borrow money and issue bonds, certificates, warrants, notes, obligations, or other evidence of indebtedness.

(kk) To assess, levy, impose, collect, and enforce special assessments upon all or any portion of the lands located within the District or service area. Such special assessments may be apportioned among benefited property in a manner proportionate with the benefits received or commensurate with the burdens alleviated by the maintenance and use of property based upon such factors or combination of factors as determined by resolution of the Board of Supervisors. Such special assessments may, in the discretion of the Board of Supervisors, be imposed, collected, and enforced using any methods and procedures authorized by law, including section 197.3632, Florida Statutes, or its successor in function; or the Board of Supervisors may adopt by resolution its own method or procedures or use any other method or means for levy, imposition, collection, and enforcement not inconsistent with law.

(ll) To apply for and accept grants, loans, and subsidies from any governmental entity for the acquisition, construction, operation, and maintenance of the Authority facilities and to comply with all requirements and conditions imposed in connection therewith.

(mm) To the extent allowed by law and to the extent required to effectuate the purposes of this act, to exercise all privileges, immunities, and exemptions accorded municipalities and counties of the state under the provisions of the constitution and laws of the state.

(nn) To invest its moneys in such investments as directed by the Board of Supervisors in accordance with state law and which shall be consistent in all instances with the applicable provisions of the financing documents.

(oo) To purchase such insurance as it deems appropriate.

(pp) To do all acts and to exercise all of the powers necessary, convenient, incidental, implied, or proper, both within and outside of the District and service area, in connection with any of the powers, duties, obligations, or purposes authorized by this act, general law, or any interlocal agreement entered into by the Authority.

(2) The Board of Supervisors shall appoint a person or entity to act as Executive Director of the Authority having such official title, functions, duties, and powers as the chief administrative officer of the Authority as the Board of Supervisors may prescribe. The Board of Supervisors shall appoint a person or entity to act as the general counsel for the Authority. The executive director and general counsel shall each answer directly to the Board of Supervisors. Neither the executive director nor general counsel shall be a member of the Board of Supervisors.

(3) In exercising the powers conferred by this act, the Board of Supervisors shall act by resolution or motion made and adopted at duly noticed and publicly held meetings in conformance with applicable law.

(4) The provisions of chapter 120, Florida Statutes, shall not apply to the Authority.

(5) Nothing herein shall be construed to grant the Authority any jurisdiction to regulate the services or rates of any investor-owned utility.

(6) Nothing herein shall affect the ability of either the City Commission of the City of Kissimmee or Board of County Commissioners of Osceola County to engage in or pursue any civil or administrative action or remedies, including, but not limited to, any proceeding or remedy available under chapter 120, Florida Statutes, or its successor in function.

(7) Nothing herein is intended to, or shall be construed to, limit the power of local self-government of a charter county or conflict with the Constitution of the State of Florida or the Osceola County Home Rule Charter approved by vote of the electors on March 3, 1992, and which became effective on October 1, 1992.

Section 11. Creation of State, County, or Municipal Debts Prohibited. The Authority shall not be empowered or authorized in any manner to create a debt against the state, county, or any municipality and may not pledge the full faith and credit of the state, any county, or any municipality. All revenue bonds or debt obligations shall contain on the face thereof a statement to the effect that the state, county, or any municipality shall not be obligated to pay the same or the interest and that they are only payable from Authority revenues or the portion thereof for which they are issued and that neither the full faith and credit nor the taxing power of the state or of any political subdivision thereof is pledged to the payment of the principal or of the

interest on such bonds. The issuance of revenue or refunding bonds under the provisions of this act shall not directly or indirectly or contingently obligate the state, county, or any municipality to levy or to pledge any form of taxation whatever therefore or to make any appropriation for their payment.

Section 12. Adoption of Rates, Fees, and Charges.

(1) The Board of Supervisors shall adopt by resolution a schedule of rates, fees, or other charges for the use of the services, facilities, and products of the Authority to be paid by each customer which may be connected with or provided service by such Authority facilities. The Authority may establish separate rates, fees, and charges for different portions of the Authority facilities, including separate rates, fees, and charges for each utility system. The Board of Supervisors may establish different rates, fees, and charges for services, facilities, and products provided by a portion of a utility system provided such rates, fees, and charges are consistent with applicable law.

(2) Such rates, fees, and charges shall be adopted and revised so as to provide moneys which, with other funds available for such purposes, shall be at least sufficient at all times to pay the expenses of operating, managing, expanding, improving, and maintaining the Authority facilities, including renewal and replacement reserves for such Authority facilities; to pay costs and expenses provided for in this act, general law, and the financing documents; to pay the principal and interest on the obligations as the same shall become due and reserves therefore; to timely pay and deliver any obligations in the form of annual transfer amounts due and owing to Osceola County and the City of Kissimmee, or any other general purpose local government under any interlocal agreement; and to provide a reasonable margin of safety over and above the total amount of such payments. Notwithstanding any other provision in this act, such rates, fees, and charges shall always be sufficient to comply fully with any covenants contained in the financing documents. The Authority shall charge and collect such rates, fees, and charges so adopted and revised, and such rates, fees, and charges shall not be subject to the supervision or regulation by any other commission, board, bureau, agency, or other political subdivision of the state.

(3) Such rates, fees, and charges for each utility system or portion thereof shall be just, equitable, and uniform for the users in the same class and may be based upon or computed upon any factor (including, by way of example and not limitation, distinguishing between residential and nonresidential customers or uses) or combination of factors affecting the use of the services, products, or facilities furnished to the customers of such utility system or portion thereof, as may be determined by the Board of Supervisors from time to time. Except as described in subsections (7) and (8), no rates, fees, or charges shall be fixed, adopted, or revised under the foregoing provisions of this section until after a duly noticed public hearing at which all of the customers of the Authority facilities affected thereby, or owners, tenants, or occupants served or to be served thereby, and all other interested persons shall have an opportunity to be heard concerning the proposed rates, fees, or charges. Notice of such public hearing setting forth the proposed schedule

or schedules of rates, fees, or charges shall be given by one publication in a newspaper of general circulation in the portion of the service area or areas affected by such proposed rates, fees, or charges at least 20 days before the date fixed in such notice for the public hearing, which may be adjourned from time to time. After such hearing, the proposed schedule or schedules, either as initially adopted or as modified or amended, may be finally adopted.

(4) Except as required by any covenant to timely meet, perform, or repay any obligations under any financing documents or as described in subsections (7) and (8), no rates, fees, or charges shall be increased or adopted for 2 years after the effective date of this act, unless the Authority causes a rate consultant to review its rates, fees, charges, gross revenue, operating expenses, and methods of operation and determines that such increase is either predicated upon implementing an identified capital improvement plan or meeting state or federal conservation or water demand management requirements.

(5) The rates, fees, or charges adopted for any class of customers served shall be extended to cover any additional customers thereafter served which shall fall within the same class without the necessity of any further hearing or notice.

(6) The Board of Supervisors may appoint the Executive Director, a member of the Board of Supervisors, a committee of members of the Board of Supervisors, or a special master to conduct the public hearing or hearings on its behalf relating to rates, fees, and charges. The Executive Director, member of the Board of Supervisors, committee of members of the Board of Supervisors, or designated special master shall act as a hearing officer or hearing officers and report to the Board of Supervisors its findings relating to such public hearing. Only the Board of Supervisors may set or revise rates, fees, and charges.

(7) Notwithstanding the provisions of subsection (3) or any other provision of applicable law, upon acquisition of a utility system, no public hearing shall be required for adoption by the Authority by resolution of the rates, fees, and charges contained in the rate tariff relating thereto previously approved by the Florida Public Service Commission or any governmental seller thereof. In the event any rate tariff previously approved by a governmental seller includes such a surcharge authorized by section 180.191, Florida Statutes, the Authority may continue the imposition of any such surcharge provided that the Authority incrementally reduces each year thereafter and ultimately discontinues such surcharge within 15 years after any such acquisition by the Authority.

(8) Notwithstanding the provisions of subsection (3), no subsequent public hearings to implement a periodic automatic indexing factor shall be required after the adoption by the Board of Supervisors of a periodic automatic indexing factor applicable to the initial or any revised schedule of rates, fees, and charges of any utility system.

(9) Notwithstanding anything in this act to the contrary, the Authority may establish a general fund account into which moneys may be deposited

from a surcharge not to exceed 2 percent upon the rates, fees, and charges for the Authority facilities or portion thereof. Any moneys deposited to such general fund account from such a surcharge on the rates, fees, and charges for Authority facilities shall be considered legally available for any lawful purpose approved by the Board of Supervisors. Moneys in such general fund account may be used to pay for initial costs and expenses associated with acquiring Authority facilities and any other lawful purpose approved by the Board of Supervisors. However, whenever reasonably practicable, the Board of Supervisors shall endeavor in good faith to recover and return to such general fund account expenditures from benefited ratepayers or landowners that are not determined by the Board of Supervisors to provide a general benefit to the District or service area.

(10) The Authority may impose charges for the recovery of all costs and expenditures, including, but not limited to, planning, feasibility studies, construction and engineering document preparation, project development costs, or other costs associated with the planning and development of any project. In the event the Authority determines not to proceed with the construction or implementation of any project and reimbursement of all costs and expenditures is not made to the Authority pursuant to interlocal agreement, grant, or otherwise, the Authority may identify all unrecovered costs and expenditures associated with the planning and development of such project and impose a charge on a potential user basis, per parcel basis, or any other basis which reasonably shares and recovers all or a portion of such unrecovered planning and development costs among the parcel owners or potential users for which the projects were planned or developed.

Section 13. System Development Charges; Impact Fees.

(1) The District is hereby empowered to levy and collect system development charges for capital improvements and debt service on capital improvements within the boundaries of the District and the service areas under any of the following conditions:

(a) Whenever a property owner or his or her authorized representative connects an existing structure or improvement to any Authority facilities;

(b) Whenever a property owner or his or her authorized representative receives a permit from the Florida Department of Environmental Protection, or its successor in function, to extend or connect to Authority facilities or applies for a building permit to construct, install, or alter any structure or improvement where such extension, connection, construction, installation, or alteration increases the potential demand on the Authority facilities; or

(c) Whenever a property owner or his or her authorized representative applies for a building permit to construct, install, or alter any structure or improvement where such construction, installation, or alteration increases the potential demand on the Authority facilities, even though the subject property may receive interim utility service from a source other than the District.

(2) If the structure or improvement on the property for which a system development charge has been paid is not authorized to connect to the Au-

thority facilities within 10 years after the date of such payment, the property owner holding legal title at the end of the 10-year period shall be eligible for a refund of the system development charge without interest. In such an event, the District shall notify the property owner at the address reflected on the most recent tax roll of his or her eligibility for a refund by mailing notice to the property owner. Such notice shall fairly explain the procedure for applying for a refund and shall be sent by registered mail with return receipt requested. Any property owner eligible for a refund shall file written application with the Board of Supervisors for a refund within 90 days after the date of mailing of the notice by the District, or such property owner shall be deemed to have waived any right to a refund and the District shall be entitled to retain and apply the system development charge for capital improvements. Failure to construct the improvement for which a system development charge has been paid shall not constitute grounds for a refund, nor shall delay or failure to receive the mailed notice of eligibility for a refund toll the 90-day time limit within which an application for refund must be filed.

(3) All system development charges shall, in accordance with accepted general accounting principles, be segregated from all other funds held by the District and accounted for separately. Except as otherwise provided by any financing documents authorizing the issuance of obligations of the District, such accounts shall not be transferred or used for any purpose other than providing capital improvements in the form of Authority facilities necessitated by growth or new demand upon the Authority facilities and for payment of debt service on obligations issued to finance any such capital improvements.

(4) System development charges shall be reviewed at least every 4 years by the District to determine that the charges are equitable and proportionate to the current estimate of costs for providing the capital improvements for which the charges are imposed. The initial schedule of system development charges shall be those already in effect in the District and any subdistricts or applicable service area at the time the District acquires any utility system. The District may thereafter change or revise the schedule of system development charges upon compliance with the notice and hearing requirements set forth for the adoption of rates, fees, and other charges.

(5) The District, in its discretion, may permit the owners of existing structures which connect to the District's system to pay the system development charges on an installment basis with interest in the form of a special assessment. In the event that system development charges shall not be paid as and when due, any unpaid balance thereof together with all reasonable costs of establishing the assessment lien, collection, and statutory discounts may be collected as a non-ad valorem assessment on the same bill as property taxes.

(6) Nothing in this act shall be construed to invalidate any system development charges, impact fees, or other capital contribution charges previously levied or collected by Osceola County or the City of Kissimmee under any implied authority to levy and collect such charges; such charges being in the nature of impact fees are hereby ratified and confirmed.

(7) In addition to and as an alternative to the provisions of subsections (1) through (6), the District is empowered to levy and collect impact fees within the boundaries of the District and the service area in the same manner and to the same extent as a county or municipality.

Section 14. Unpaid Rates, Fees, and Charges to Constitute a Lien. In the event that the rates, fees, or charges for the use of the services, facilities, and products of the Authority shall not be paid as and when due, any unpaid balance thereof, and all interest accruing thereon, shall be a lien on any parcel or property affected thereby. Such liens shall be superior and paramount to the interest on such parcel or property of any owner, lessee, tenant, mortgage, or other person except the lien of state, county, municipal, and district taxes and other non-ad valorem assessments and shall be on parity with the lien of all such ad valorem property taxes and non-ad valorem assessments. In the event that any such rates, fees, or charges shall not be paid as and when due and shall be in default for 30 days or more, the unpaid balance thereof and any interest accrued thereon not exceeding the legal rate, together with attorney's fees and costs, may be recovered by the Authority in a civil action, and any such lien and accrued interest may be foreclosed or otherwise enforced by the Authority by action or suit in equity as for the foreclosure of a mortgage on real property; or, alternatively, in lieu of foreclosure, an equivalent amount to such outstanding balance charges may be collected pursuant to sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes, authorizing the collection of charges in the form of special assessments, therein characterized as non-ad valorem assessments, on parity with the lien of ad valorem taxes. However, any such alternative collection procedure shall provide notice to the landowner in the manner required by law, and any existing lien of record on the affected parcel for the delinquent rate, fee, or charge is supplanted by the lien resulting from the certification of any assessment roll to the tax collector.

Section 15. [Reserved]

Section 16. Enforcement of Non-ad Valorem Assessments and Authorized Taxes. The collection and enforcement of all non-ad valorem assessments and taxes levied by the Authority shall be at the same time and in like manner as county taxes, and the provisions of general law relating to the sale of lands for unpaid and delinquent county taxes, the issuance, sale, and delivery of tax certificates for such unpaid and delinquent county taxes, the redemption thereof, in the issuance to individuals of tax deeds based thereon, and all other procedures in connection therewith shall be applicable to the Authority and the delinquent and unpaid assessments and authorized taxes of the Authority to the same extent as if said statutory provisions were expressly set forth in this act. Any authorized taxes shall be subject to the same discounts as county taxes.

Section 17. Bonds and Obligations.

(1) The Board of Supervisors shall have the power and is hereby authorized to provide pursuant to the financing documents, at one time or from time to time in one or more series, for the issuance of obligations of the Authority, or notes in anticipation thereof, for one or more of the following purposes:

- (a) Paying all or part of the cost of one or more projects.
- (b) Refunding any bonds or other indebtedness of the Authority.
- (c) Assuming or repaying the indebtedness relating to Authority facilities acquired or leased by the Authority from a public or private entity.
- (d) Setting aside moneys in a renewal or replacement account.
- (e) Funding a debt service reserve account.
- (f) Capitalizing interest on the obligations.
- (g) Paying costs of issuance relating to the obligation.
- (h) Any other purpose relating to this act.

(2) The principal of and the interest on each series of obligations shall be payable from the pledged funds, all as determined pursuant to the financing documents. The Authority may grant a lien upon and pledge the pledged funds in favor of the holders of each series of obligations in the manner and to the extent provided in the financing documents. Such pledged funds shall immediately be subject to such lien without any physical delivery thereof, and such lien shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority.

(3) The obligations of each series shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding 40 years from their date or dates, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as shall be determined by the Board of Supervisors pursuant to the financing documents. The Board of Supervisors shall determine the form of the obligations and the manner of executing such obligations and shall fix the denomination of such obligations and the place of payment of the principal and interest, which may be at any bank or trust company within or without the state. In case any officer whose signature or facsimile of whose signature shall appear on any obligations shall cease to be such officer before the delivery of such obligations, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained in office until delivery. The Board of Supervisors may sell obligations in such manner and for such price as it may determine to be in the best interest of the Authority in accordance with the terms of the financing documents. In addition to the pledged funds, the obligations may be secured by such credit enhancement as the Board of Supervisors determines to be appropriate pursuant to the financing documents. The obligations may be issued as capital appreciation bonds, current interest bonds, term bonds, serial bonds, variable bonds, or any combination thereof, all as shall be determined pursuant to the financing documents.

(4) Prior to the preparation of definitive obligations of any series, the Board of Supervisors may issue interim receipts, interim certificates, or temporary obligations, exchangeable for definitive obligations when such obligations have been executed and are available for delivery. The Board of

Supervisors may also provide for the replacement of any obligation which shall become mutilated or be destroyed or lost. Obligations may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this act, the financing documents, or other applicable laws.

(5) The proceeds of any series of obligations shall be used for such purposes, and shall be disbursed in such manner and under such restrictions, if any, as the Board of Supervisors may provide pursuant to the financing documents.

(6) The financing documents may also contain such limitations upon the issuance of additional obligations as the Board of Supervisors may deem appropriate, and such additional obligations shall be issued under such restrictions and limitations as may be prescribed by such financing documents. The financing documents may contain such provisions and terms in relation to the obligations and the pledged funds as the Board of Supervisors deems appropriate and which shall not be inconsistent herewith.

(7) Obligations shall not be deemed to constitute a general obligation debt of the Authority or a pledge of the faith and credit of the Authority, but such obligations shall be payable solely from the pledged funds and any moneys received from the credit enhancers of the obligations in accordance with the terms of the financing documents. The issuance of obligations shall not directly, indirectly, or contingently obligate the Authority to levy or to pledge any form of ad valorem taxation whatsoever therefor. No holder of any such obligations shall ever have the right to compel any exercise of the ad valorem taxing power on the part of the Authority to pay any such obligations or the interest thereon or the right to enforce payment of such obligations or the interest thereon against any property of the Authority, nor shall such obligations constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the Authority, except the pledged funds in accordance with the terms of the financing documents.

(8) All pledged funds shall be deemed to be trust funds, to be held and applied solely as provided in the financing documents. Such pledged funds may be invested by the Authority in such manner as provided in the financing documents.

(9) Any holder of obligations, except to the extent the rights herein given may be restricted by the financing documents, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the state or granted hereunder or under the financing documents, and may enforce and compel the performance of all agreements or covenants required by this act, or by such financing documents, to be performed by the Authority or by any officer thereof.

(10) The obligations may be validated, at the sole discretion of the Board of Supervisors, pursuant to chapter 75, Florida Statutes. Obligations may be issued pursuant to and secured by a resolution of the Board of Supervisors.

(11) In addition to the other provisions and requirements of this act, any financing documents may contain such provisions as the Board of Supervisors deems appropriate.

(12) All obligations issued hereunder shall not be invalid for any irregularity or defect in the proceedings for the issuance and sale thereof and shall be incontestable in the hands of bona fide purchasers for value. No proceedings in respect to the issuance of such obligations shall be necessary except such as are required by this act, the financing documents, and general law. The provisions of the financing documents shall constitute an irrevocable contract between the Authority and the holders of the obligations issued pursuant to the provisions thereof.

(13) Holders of obligations shall be considered third-party beneficiaries hereunder and may enforce the provisions of this act or general purpose law.

(14) The Board of Supervisors may enter into such swap, hedge, or other similar arrangements relating to any obligations as it deems appropriate.

Section 18. Planning Requirements.

(1) Within 3 years after the effective date of this act, the Board of Supervisors shall adopt a master plan which, among other things:

(a) Identifies current customers, projects, and future customers.

(b) Profiles customers (residential and non-residential, e.g. commercial, industrial).

(c) Reviews and generally inventories all existing infrastructure and treatment facilities within the boundaries of or served by the District.

(d) Identifies a capital improvement program for the Authority.

(e) Reviews all current permits and existing regulations to projected regulations.

(f) Identifies and evaluates potential acquisitions or service expansions.

(g) Evaluates Authority staffing.

(h) Provides for detailed mapping of Authority facilities.

(i) Provides for hydraulic analysis of Authority facilities, both existing and proposed.

(j) Evaluates present and future sources of raw water and treatment requirements for those sources in terms of capacity, reliability, and economy.

(k) Provides for an analysis of all available wastewater alternatives, including surface water discharge, wetlands discharge, percolation facilities, spray irrigation, and deep well injection.

(l) Identifies reclaimed water storage alternatives and wet weather backup alternatives.

(m) Identifies current and potential high volume users of reclaimed water.

Thereafter, the Board of Supervisors shall review and, if necessary, amend the master plan periodically, but no less often than every 4 years.

(2) Treatment facility construction or expansion or line extension policies adopted by the Authority shall be furtherance of land development regulations adopted by the applicable local general purpose government or the applicable local government comprehensive plan.

(3) The construction or expansion of any portion of the Authority's facilities, or major alterations which affect the quantity of the level of service of the Authority's facilities, that are undertaken or initiated by the Authority shall be consistent with the applicable local government comprehensive plan adopted pursuant to part II of chapter 163, Florida Statutes; However, no local government comprehensive plan shall require the Authority to construct, expand, or perform a major alteration of any public facility which would result in the impairment of covenants and agreements relating to obligations issued by the Authority.

(4) Except as provided by law, the Authority shall take no action which is inconsistent with applicable comprehensive plans, land development ordinances, or regulations adopted by any general purpose local government.

(5) The Authority shall comply with the provisions of sections 189.415 and 189.4155, Florida Statutes.

Section 19. Merger; Dissolution.

(1) In no event shall a merger involving the Authority be permitted unless otherwise approved by resolution of all affected general purpose local governments. Upon the effective date of this act, any governmental utility authority created by interlocal agreement between Osceola County and the City of Kissimmee as a separate legal authority pursuant to section 163.01(7)(g), Florida Statutes, may be merged into the Authority and this act shall be the surviving charter for the Authority in all respects.

(2) The charter of the Authority may be revoked or amended and the Authority dissolved by a special act of the Legislature or as otherwise provided by law.

(3) The dissolution of the Authority shall occur by law and transfer the title to all property owned by the Authority in a manner consistent with chapter 189, Florida Statutes, unless otherwise provided in a dissolution plan approved and adopted by resolution upon a $\frac{4}{5}$ vote of both the City Commission of the City of Kissimmee and the Board of County Commissioners of Osceola County.

Section 20. Effect of Incorporation or Presence of Another Special District. To the maximum extent permitted by law, the subsequent incorpora-

tion or annexation of any area included within the boundaries of the District or service area, or the presence or creation of any special district within the boundaries of the District or service area, shall not impair or alter the authority, power, obligations, or purpose of the Authority or its successor in providing water and wastewater services and facilities within any portion of the District's boundaries or authorized service area now included within Osceola County, any municipality, or special district or subsequently included within any county, municipality, or special district. Nothing herein shall be construed to limit or affect the powers of any municipal services benefit unit or dependent special district established by any charter county.

Section 21. Enforcement and Penalties. The Board of Supervisors or any aggrieved person may have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of this act, including injunctive relief to mandate compliance with or enjoin or restrain any person violating the provisions of this act and any bylaws, resolutions, regulations, rules, codes, and orders adopted under this act, and the court shall, upon proof of such failure of compliance or violation, have the duty to issue forthwith such temporary and permanent injunctions as are necessary to mandate compliance with or prevent such further violations thereof.

Section 22. Tax Exemption. As the exercise of the powers conferred by this act to effect the purposes of this act constitutes the performance of essential public functions, and as the projects of the Authority will constitute public property used for public purposes, all assets and properties of the Authority, all obligations issued hereunder and interest paid thereon, and all rates, fees, charges, and other revenues derived by the Authority from the projects provided for by this act or otherwise shall be exempt from all taxes by the state or any political subdivision, agency, or instrumentality thereof, except that this exemption shall not apply to interest earnings subject to taxation under chapter 220, Florida Statutes.

Section 23. Liberal Construction of Act. This act, being for the purpose of developing and promoting the public good and the welfare of Osceola County, the territory included in the District, and any service area authorized to be served by the Authority, and the citizens, inhabitants, and taxpayers residing therein, shall be liberally construed to effect the purposes of the act and shall be deemed cumulative, supplemental, and alternative authority for the exercise of the powers provided herein.

Section 24. Limitation of State Authority. The state does hereby pledge to and agree with the holders of any obligations issued under this act, and with those parties who may enter into contracts with the Authority pursuant to the provisions of this act, that the state will not limit or alter the rights hereby vested in the Authority until such obligations are fully met and discharged and such contracts are fully performed on the part of the Authority.

Section 25. Sufficiency of Notice. It is found and determined that the notice of intention to apply for this legislation was given in the time, form, and manner required by the Constitution and laws of the state. Said notice is found to be sufficient and is hereby validated and approved.

Section 26. Severability. The provisions of this act are severable, and it is the intention to confer the whole or any part of the powers herein provided for, and if any of the provisions of this act or any of the powers granted by this act shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions of this act or any of the remaining powers granted by this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provision or power not been included therein.

Section 27. This act shall take effect upon becoming a law.

Approved by the Governor June 26, 2003.

Filed in Office Secretary of State June 26, 2003.

ORIGINAL

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE TOHOPEKALIGA WATER AUTHORITY, DIRECTING AND AUTHORIZING THE ACQUISITION OF SUBSTANTIALLY ALL OF THE REAL AND PERSONAL PROPERTY COMPRISING THE WATER AND WASTEWATER UTILITY FACILITIES OWNED BY FLORIDA WATER SERVICES CORPORATION LOCATED IN OSCEOLA COUNTY; FINDING THAT THE ACQUISITION IS IN THE PUBLIC INTEREST AND SERVES A PARAMOUNT PUBLIC PURPOSE; APPROVING THE OPERATIONS, BILLING AND CUSTOMER SERVICE AGREEMENTS; AND THE TRANSACTIONS CONTEMPLATED BY THE TOHOPEKALIGA TRANSITION INTERLOCAL AGREEMENT RELATIVE TO SUCH FACILITIES ARE IN THE PUBLIC INTEREST IN CONFORMANCE WITH SECTION 189.423, FLORIDA STATUTES; PROVIDING DIRECTION AND AUTHORITY TO ACQUIRE THE FACILITIES IN ANY MANNER CONSISTENT WITH THE TOHOPEKALIGA TRANSITION INTERLOCAL AGREEMENT; PROVIDING FOR APPLICABILITY AND AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE TOHOPEKALIGA WATER AUTHORITY, AS FOLLOWS:

SECTION 1. AUTHORITY. Pursuant to the Chapter 2003-368, Laws of Florida, and Chapter 189, Florida Statutes, the Board of Supervisors (the "Board") of the Tohopekaliga Water Authority (the "Authority") when authorized has the power to provide water and wastewater utility services and facilities within the boundaries of an affected general purpose local government, to acquire water and wastewater utility systems, and to enter into agreements with other governmental agencies.

SECTION 2. INCORPORATION BY REFERENCE. The public briefing document, including a description of Florida Water Services Corporation's ("Florida Water") water and wastewater utility facilities within the County, the most recent income and expense statement, the most recent available balance sheet, a description of the system's physical condition, a statement on the reasonableness of the price, a statement on customer impacts, a statement on additional investments required by the County, if any, and the County's ability and willingness to make these investments, a description of any alternatives to acquisition by the County and a statement on the ability of the County to operate acquired systems, presented at this public hearing and filed with the Clerk are hereby incorporated herein by reference and made a part hereof

(hereafter referred to as the "Report"). The Report is attached hereto as Appendix A. The Report is intended to be a statement demonstrating that the acquisition of the water and wastewater utility systems owned by Florida Water and located in the County is in the public interest.

SECTION 3. FINDINGS. It is hereby ascertained, determined, and declared:

- A. Section 125.01 and other applicable provisions of the Florida Statutes grant the County the power to acquire, own, operate, maintain, improve, contract for management and operational services, and dispose of water and wastewater utility facilities.
- B. Florida Water owns and operates water production and treatment systems and wastewater collection, treatment and disposal systems within the County, more commonly known as:
 - (1) Buenaventura Lakes
 - (2) Tropical Park
 - (3) Pine Ridge Estates
 - (4) Intercession City
 - (5) Fountains
 - (6) Lake Ajay
 - (7) Wind Song
 - (8) Bay Lake Estates

For convenience, the foregoing systems will be referred to as the "FWSC System". The County, the Florida Governmental Utility Authority ("FGUA"), certain local governments and Florida Water have been negotiating an Asset Acquisition Agreement whereby the County will acquire all of Florida Water's Utility Facilities (the "Asset Acquisition Agreement").

C. To provide for the public interest and welfare, the Board is required to hold a public hearing on the acquisition of the Utility Facilities to ensure that such acquisition serves the public interest. This public hearing was duly advertised and held on August 25, 2003. All interested persons had an opportunity to attend and participate and to file written comments.

D. County ownership and control of the Utility Facilities will provide an opportunity for the County to:

- 1. address and balance the impact of remarkable growth within each system with the County's need to provide and plan for quality water production and treatment and wastewater collection, treatment and disposal facilities necessary to accommodate existing development and anticipated future growth in a manner concurrent with the demands for such facilities in each area, the requirements of state

and federal mandates, and the demands of new development and the County's statutory responsibility to implement a financially feasible comprehensive plan;

2. further develop a regional approach within each area served by each individual utility system relative to the comprehensive supply, distribution, and treatment of water and the collection, treatment and disposal of wastewater;
3. seek economies of scale relative to operations, maintenance, customer service and management;
4. provide current and future users of the Utility Facilities with cost efficient services and management;
5. provide that the operation and maintenance of Utility Facilities is done in a proactive and environmentally responsible manner;
6. stabilize rates over the long term, reduce inefficient expansion and extension of service capacities and avoid the proliferation of smaller treatment facilities and sites;
7. permit the County to coordinate the expansion and extension of facilities;
8. accomplish a greater public use and increased public benefit which results from the ownership, operation and control of the Utility Facilities by the County;
9. enable the County to more effectively and efficiently plan and fulfill its comprehensive planning requirements as provided by law and assure that high quality, cost efficient water and wastewater utility services are available;
10. a statement prepared by the City's Water Resources Department reflecting: (i) the transfer of the FWSC System to the County (or the City or the Authority) pursuant to the Asset Acquisition Agreement and the subsequent operation and management by the County, the City or the Authority is in the public interest, including a summary of the experience in utility operation which will be employed by the City or the Authority on behalf of the County; and (ii) that the County, the City and the Authority all have the financial ability to provide, now and in the future, high quality and cost effective utility services;

11. enter into an agreement with the City of Kissimmee, Florida for the performance of the operation, billing and customer service functions within the cost assumptions included in the Projected Statement of Cash Flows incorporated into the Report which will facilitate the eventual consolidation of the Utility Facilities into the Tohopekaliga Water Authority and thus achieve the water resource preservation and environmental protection inherent in the regional and consolidated provision of utility services;
12. the County has entered into the Tohopekaliga Transition Interlocal Agreement recorded in Official Records Book 2296, at Page 2121, Public Records of Osceola County, Florida, by and among the County, the City and the Tohopekaliga Water Authority (the "Authority");
13. the County, the City and the Authority have joined together through the Tohopekaliga Transition Interlocal Agreement to provide for the transfer of the Utility Assets, the Utility System and the Utility Service (as such terms are defined in the Tohopekaliga Transition Interlocal Agreement) to the Authority. Such terms specifically include and reference, among other things, the "FWSC System";
14. the County has the power and authority to enter into agreements with other governmental agencies, including the City and Authority, within or outside of the boundaries of Osceola County for joint performance, or performance by one governmental entity in behalf of the other, of any of either government's authorized functions; and
15. the County has determined that entering into the Tohopekaliga Transition Interlocal Agreement and the acquisition of the FWSC System serves the public interest, and will facilitate the contemplated subsequent transfer of the Utility Assets, the Utility System and Utility Service to the Authority in a manner which will provide high quality water and wastewater infrastructure and services concurrent with demand therefore.

SECTION 4. DETERMINATION OF PUBLIC USE AND BENEFIT.

Based upon its legislative findings incorporated in Section 3, and it is the opinion of the consultants, attorneys, and County and City management staff that the acquisition of the FWSC System assets by the County is in the public interest in a manner consistent with the mission of the Tohopekaliga Water Authority and the County, City and Tohopekaliga Water Authority have the experience and the financial ability to manage the systems and provide quality customer service; the Board expressly determines that the acquisition of the Utility Facilities by the County, pursuant to the terms of the Asset

Acquisition Agreement, attached hereto as Appendix B, and the provision of water and wastewater services through facilities owned by the County constitutes a paramount public purpose and is in the best interests of the health, safety, and welfare of the County.

SECTION 5. PUBLIC INTEREST DETERMINATION OF PURCHASE.

In making the public interest determination concerning the transactions contemplated by the County relating to the acquisition of the Utility Facilities, the Board has considered numerous factors, including but not limited to the following matters:

- (A) The most recently available income and expense statement(s) of the Utility Facilities;
- (B) The most recently available balance sheet(s) for the Utility Facilities;
- (C) A statement of the existing rate base of the Utility Facilities for regulatory purposes;
- (D) The general physical condition of the Utility Facilities;
- (E) The reasonableness of the purchase price;
- (F) The impacts of the contemplated transition on utility customers served by the Utility Facilities, both positive and negative;
- (G) Any additional investment required and the ability and willingness of the County to make that investment;
- (H) The alternatives to the contemplated transition and the potential impact on utility customers if the Utility Facilities are not acquired by the County; and
- (I) The ability of the County to provide and maintain high-quality and cost-effective utility service.

SECTION 6. APPROVAL OF ASSET ACQUISITION AGREEMENT BY AND BETWEEN FLORIDA WATER SERVICES CORPORATION AND THE COUNTY.

The form, terms and provisions of the Asset Acquisition Agreement By and Between the County and Florida Water Services Corporation, submitted to this duly called public meeting and attached hereto as Appendix B, be and the same hereby are approved and ratified. Execution of this Resolution by the Chairman shall be deemed to be conclusive evidence of approval by the Board. This Resolution expressly contemplates that the County, the City or the Authority may acquire, finance, operate and/or maintain the FWSC System in a manner consistent with the Tohopekaliga Transition Interlocal Agreement; and, to the maximum extent provided by law and the Tohopekaliga

Transition Interlocal Agreement, shall evidence the authorization to provide services and facilities within the areas served by the FWSC System. The Board authorizes the Chairman, members of the Board, officers, attorneys, and other agents or employees of the County to do all acts and things required of them by this Resolution and the Tohopekaliga Transition Interlocal Agreement, for the full punctual and complete performance of all of the terms, covenants and agreements contained in this Resolution and the Asset Acquisition Agreement, and each member of the Board, officers, attorneys, and other agents or employees of the County is hereby authorized and directed to execute and deliver any and all papers and instruments and to do and cause to be done all acts and things necessary or proper for carrying out the transactions contemplated by this Resolution, the Asset Acquisition Agreement and the Tohopekaliga Transition Interlocal Agreement in conjunction with the acquisition of the FWSC System.

SECTION 7. APPLICABILITY AND EFFECTIVE DATE.

This Resolution shall be liberally construed to effect the purposes hereof and shall take effect immediately upon its adoption.

PASSED AND DULY ADOPTED at the meeting of the BOARD OF SUPERVISORS OF THE TOHOPEKALIGA WATER AUTHORITY on the 27th day of August, 2003.

ATTEST:
SECRETARY

BOARD OF SUPERVISORS,
TOHOPEKALIGA WATER AUTHORITY

By: John E. Moody

Secretary

John E. Moody

By: Bruce R. Van Meter

Chairperson

Bruce R. Van Meter

OSCEOLA COUNTY

Description of Territory Served

BAY LAKE ESTATES

Township 26 South, Range 31 East, Osceola County, Florida.

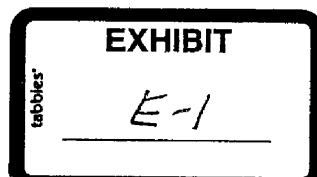
Section 13

The North 1000 feet, less the West 400 feet thereof.

And

From the Northwest corner of said Section 13, run East along the North line of said Section, a distance of 400 feet; thence South $0^{\circ} 06' 00''$ East 1000 feet for a Point of Beginning; thence run East 60 feet, thence South $0^{\circ} 06' 00''$ East 1162.49 feet to the North right-of-way line of State Road Number 500-A; thence North $68^{\circ} 21' 00''$ West along said right-of-way line 64.64 feet; thence North $0^{\circ} 06' 00''$ West 1138.63 feet, to the Point of Beginning.

Effective Date:



By:

Forrest L. Ludsen

Forrest L. Ludsen, Vice President
Finance and Administration

OSCEOLA COUNTY

Description of Territory Served

BUENAVENTURA LAKES

Township 25 South, Range 29 East, Osceola County, Florida.

Section 1
All of Section 1.

Section 2
All of that portion of Section 2 lying East of the Florida State Turnpike.

Section 12
All of that portion of Section 12 lying East of the Florida State Turnpike.

Township 25 South, Range 30 East, Osceola County, Florida.

Section 4
All of the Northwest ¼ lying West of the centerline of Boggy Creek Road (County Road 530).

Section 5
All of that portion of Section 5 lying West of the centerline of said Boggy Creek Road (County Road 530).

Section 6
All of Section 6.

Section 7
All of Section 7.

Section 8
All of the Southwest ¼ of Section 8 lying West of the centerline of said Boggy Creek Road (County Road 530).

Section 17
That portion of the Northwest ¼ of the Northwest ¼ of Section 17 West of the centerline of said Boggy Creek Road (County Road 530) described as follows:

Begin at the Northwest corner of said Section 17, thence North 89° 40' 27" East 940.72 feet along the North line of said Section 17 to a point, said point being the intersection of the North line of said Section 17 and the centerline of said Boggy Creek Road (County Road 530), thence South 33° 50' 14" West 596.68 feet along the centerline of said Boggy Creek Road (County Road 530) to a point, thence leaving the centerline of said Boggy Creek Road (County Road 530) North 69° 29' 40" West 649.13 feet to a point on the West line of said Section 17, thence North 00° 05' 58" West 262.87 feet to the point of beginning.

DOCUMENT VALUE DATE
03952 APR-83
FLORIDA WATER SERVICES CORPORATION

Effective Date:

DOCUMENT NUMBER-DATE

03952 APR-83

By: *Forrest L. Ludsen*

Forrest L. Ludsen, Vice President
Business Development

FLORIDA WATER SERVICES CORPORATION

OSCEOLA COUNTY

Description of Territory Served

BUENAVENTURA LAKES (Cont.)

Section 18

That portion of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 18 described as follows:

Begin at the Northeast corner of said Section 18, thence South $00^{\circ} 05' 58''$ East 262.87 feet along the East line of said Section 18 to a point, thence leaving the East line of said Section 18 North $69^{\circ} 29' 40''$ West 740.83 feet to a point on the North line of said Section 18, thence North $89^{\circ} 43' 20''$ East 693.44 feet along the North line of said Section 18 to the point of beginning.

Effective Date:

By:



Forrest L. Ludsen, Vice President
Business Development

OSCEOLA COUNTY

Description of Territory Served

THE FOUNTAINS

Township 26 South, Range 29 East, Osceola County, Florida

Section 18

The South $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ and the South $\frac{1}{2}$ of the North $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of said Section 18.

also

The East $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ and the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of said Section 18.

Section 19

The North $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ and the North $\frac{1}{2}$ of the South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of said Section 19.

also

The East $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ and the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of said Section 19.

Effective Date:

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

OSCEOLA COUNTY

Description of Territory Served

INTERCESSION CITY

Township 25 South, Range 28 East, and Township 26 South, Range 28 East, Osceola County, Florida.

From a point, 943.61 feet, North and 133.4 feet, East of the Southwest corner of the Southeast $\frac{1}{4}$ of Section 33, Township 25 South, Range 28 East, Osceola County, Florida, run South $76^{\circ} 12'$ East, along the Northerly right-of-way line of U.S. Highway No. 17 & 92, 220.0 feet, to the Point of Beginning; run thence North $34^{\circ} 03''$ East, to the Northerly right-of-way line of SCL Railroad; run thence South 74 degrees East along said right-of-way line, to the Westerly right-of-way line of Hicpochee Street; run thence North 16° East, along said right-of-way line to the Northerly right-of-way line of Okaloosa Avenue; run thence South 74° East, along said Northerly right-of-way line, 325.0 feet; run thence North 16° East, 515.0 feet; run thence South 74° East, 3590 feet; run thence South 16 degrees West 1390.0 feet, to the Northerly right-of-way line of SCL Railroad; run thence North 74° West, along said right-of-way line, 1060 feet; run thence South 16° West, to the North line of Section 3, Township 26 South, Range 28 East; run thence Westerly to the Northeast corner of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ said Section 3; run thence South to the Southeast corner of said Northwest $\frac{1}{4}$ of Northwest $\frac{1}{4}$; run thence West, to the Southwest corner of the East $\frac{1}{2}$ of Northeast $\frac{1}{4}$ of Northeast $\frac{1}{4}$ of Section 4, Township 26 South, Range 28 East; run thence North, to the Northwest corner of the East $\frac{1}{2}$ of Northeast $\frac{1}{4}$ of Northeast $\frac{1}{4}$; run thence West, along the North line of said Section 4, 1877.9 feet; run thence North $13^{\circ} 48'$ East, 914.3 feet; to the Northerly right-of-way line of U.S. Highway No. 17 & 92; run thence North $76^{\circ} 12'$ West, along said right-of-way line to the Point of Beginning.

Effective Date:

By: 

Forrest L. Ludsen, Vice President
Finance and Administration

OSCEOLA COUNTY

Description of Territory Served

LAKE AJAY ESTATES

Township 25 South, Range 31 East, Sections 4 and 5, Osceola County, Florida.

That portion of Lots 1, 2, 15, 15 and 25 in Section 5, Lots 5, 6, 7, 8 and 9 in Section 4, and Lots 10 and 11 in Sections 4 and 5 of Township 25 S Range 31 E, according to the Narcoossee Farm and Townsite Company's survey and plat of said Sections 4 and 5, situated and lying East of State Road No. 15 North of South Florida Water Management District Canal 29-B and West of said District Canal 29-A in Osceola County, Florida. More particularly described as:

Beginning at the NE corner of Section 5, Township 25 S, Range 31 E, Osceola County, Florida, run N 89° 32' 05" W along the North line of said Section 5, 1331.81 feet, to the easterly right-of-way line of State Road No. 15; run thence S 41° 23' 21" E, along said right-of-way line, 921.96 ft, to the point of curve of a 2338.54 feet a radius curve to the right, with a delta of 41° 56' 52"; run thence along said curve, 1712.11 feet, to the point of tangency; run thence along said right-of-way line, S 00° 33' 31" W, 523.79 feet, to the North right-of-way line of South Florida Water Management District Canal 29-B; run thence N 87° 45' 46" E, along said district right-of-way line, 40.05 feet, run thence S 00° 33' 31" West 25.00 feet; run thence N 87° 45' 46" E, along said right-of-way line, 559.82 feet; run thence S 02° 14' 14" E, 40.00 feet; run thence along said right-of-way line, N 87° 45' 46" E 178.36 feet to the ordinary high water line of Lake Ajay at elevation 57.00 M.S.L.; run thence on a traverse of said elevation line, the following bearings and distances: N 37° 46' 57" E, 326.44 feet; N 18° 45' 28" E, 133.89 feet; N 10° 02' 03" W, 378.51 feet; N 61° 22' 13" W, 243.64 feet; N 29° 25' 35" E, 293.72 feet; N 09° 03' 58" E, 254.94 feet; N 15° 18' 25" W, 309.42 feet; S 36° 47' 52" E, 158.60 feet; N 69° 59' 14" E, 493.82 feet; S 26° 56' 08" W, 207.51 feet; S 10° 58' 38" E, 236.32 feet; N 36° 03' 38" E, 254.82 feet; N 66° 25' 31" E, 540.08 feet; to the Westerly right-of-way line of South Florida Water Management District Canal 29-A; run thence N 21° 33' 44" E, along said right-of-way line, 982.02 feet; to the North line of Section 4, Township 25 S, Range 31 E; run thence N 89° 49' 13" W, along said North line, 2375.52 feet to the Point of Beginning.

Effective Date:



Forrest L. Ludson, Vice President
Finance and Administration

OSCEOLA COUNTY

Description of Territory Served

PINE RIDGE ESTATES

Per Order #17031, Docket No. 860043-WU

Section 18

The North half of the Northeast one-quarter of Section 18, Township 26 South, Range 29 East and the North half of the Northwest one-quarter of Section 17, Township 26 South, Range 29 East, situated and lying West of State Highway No. S-531, in Osceola County, Florida and contains 110.75 acres.

AND

A tract of land lying between old S.R. 531 and the new relocation of S.R. 531, also known as Pleasant Hill Road, lying in the North half of the North half of the Northwest one-quarter of Section 17, Township 26 South, Range 29 East, Osceola County, Florida, more particularly described as follows:

Beginning at the intersection of the Easterly right-of-way line of old S.R. 531, and the South line of the North half of the North half of the Northwest one-quarter of said section 17, thence run N 26° 30' 51" East along said Easterly right-of-way line a distance of 311.90 feet to the Point of curvature of a curve to the right; thence run Northeasterly along the arc of said curve to the right having a radius of 641.61 feet, a central angle of 43° 52' 11" and a tangent of 258.38 feet, a distance of 491.26 feet to the Westerly right-of-way line of said relocated S.R. 531, there run Southwesterly along the said Westerly right-of-way line, which is on a curve to the right, having a radius of 1972.41 feet, a central angle of 03° 58' 21", and a tangent of 68.40 feet, a distance of 136.75 feet to the point of tangency of said curve; thence run S 40° 11' 20" W along said Westerly right-of-way line, a distance of 640.78 feet to the Point of Beginning.

Windmill Point - Phase

Per Order #PSC-92-0004-FOF-WU, Docket No. 910831-WU

Township 26 South, Range 29 East, Osceola County

Section 16

That portion of the North ¼ of said Section 16 which is lying Westerly of the shore line of Lake Tohopekaliga.

Section 17

That portion of the North ¼ of said Section 17 which is lying East of the Western right-of-way of State Road 531.

Effective Date:

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

OSCEOLA COUNTY

Description of Territory Served

TROPICAL PARK

Township 25 South, Range 29 East, Osceola County, Florida.

Section 3

The West 810 feet more or less of the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of said Section 3.

Section 4

The East 200 feet of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 4.

Section 9

The East $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ and the East 520 feet of the South 1,070 feet of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 9.

Section 10

The West $\frac{1}{2}$ of the West $\frac{1}{2}$ (less and except the East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$; less and except the East 205 feet of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$; less and except the East 550 feet of the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$; less and except the West 110 feet of the North 144.2 feet of the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$; less and except the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$; less and except the East $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$; less and except the East $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$; less and except the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$; less and except the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$) of said Section 10.

Effective Date:

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

OSCEOLA COUNTY

Description of Territory Served

WINDSONG

Township 25 South, Range 29 East, Osceola County, Florida.

Section 15

Commence at the Northeast corner of Section 15, Township 25 South, Range 29 East, Osceola County, Florida, run S 00° 02' 24" E 1325.63 feet to the South line at the North ½ of the Northeast ¼ of said Section 15; thence S 89° 59' 41" W 40.00 feet along said South line to the West right-of-way of Michigan Avenue and the Point of Beginning; thence continue along said South line S 89° 59' 41" W 1625.50 feet to the Easterly right-of-way of the Seaboard Coastline Railroad; thence along said railroad right-of-way N 11° 59' 35" E 1109.90 feet; thence N 89° 42' 55" E 1094.13 feet; thence N 00° 02' 24" W 200.00 feet to the South right-of-way of Donegan Avenue thence along said right-of-way N 89° 42' 55" E 100.00 feet; thence S 00° 02' 24" E 200.00 feet; thence 89° 42' 55" E 200.00 feet to the West right-of-way of Michigan Avenue thence along said right-of-way S 00° 02' 24" E 1092.43 feet to the Point of Beginning. Containing 38.20 acres.

Effective Date:

By:

Forrest L. Ludsen

Forrest L. Ludsen, Vice President
Finance and Administration

OSCEOLA COUNTY

Description of Territory Served

BUENAVENTURA LAKES

Township 25 South, Range 29 East, Osceola County, Florida.

Section 1
All of Section 1.

Section 2
All of that portion of Section 2 lying East of the Florida State Turnpike.

Section 12
All of that portion of Section 12 lying East of the Florida State Turnpike.

Township 25 South, Range 30 East, Osceola County, Florida.

Section 4
All of the Northwest ¼ lying West of the centerline of Boggy Creek Road (County Road 530).

Section 5
All of that portion of Section 5 lying West of the centerline of said Boggy Creek Road (County Road 530).

Section 6
All of Section 6.

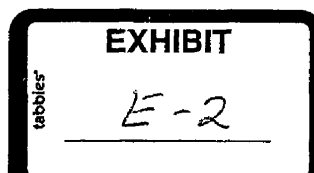
Section 7
All of Section 7.

Section 8
All of the Southwest ¼ of Section 8 lying West of the centerline of said Boggy Creek Road (County Road 530).

Section 17
That portion of the Northwest ¼ of the Northwest ¼ of Section 17 West of the centerline of said Boggy Creek Road (County Road 530) described as follows:

Begin at the Northwest corner of said Section 17, thence North 89° 40' 27" East 940.72 feet along the North line of said Section 17 to a point, said point being the intersection of the North line of said Section 17 and the centerline of said Boggy Creek Road (County Road 530), thence South 33° 50' 14" West 596.68 feet along the centerline of said Boggy Creek Road (County Road 530) to a point, thence leaving the centerline of said Boggy Creek Road (County Road 530) North 69° 29' 40" West 649.13 feet to a point on the West line of said Section 17, thence North 00° 05' 58" West 262.87 feet to the point of beginning.

Effective Date:



By:

A handwritten signature in cursive script, appearing to read "Forrest L. Ludsen".

Forrest L. Ludsen, Vice President
Business Development

OSCEOLA COUNTY

Description of Territory Served

BUENAVENTURA LAKES (Cont.)

Section 18

That portion of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 18 described as follows:

Begin at the Northeast corner of said Section 18, thence South $00^{\circ} 05' 58''$ East 262.87 feet along the East line of said Section 18 to a point, thence leaving the East line of said Section 18 North $69^{\circ} 29' 40''$ West 740.83 feet to a point on the North line of said Section 18, thence North $89^{\circ} 43' 20''$ East 693.44 feet along the North line of said Section 18 to the point of beginning.

Effective Date:

By:



Forrest L. Ludsen, Vice President
Business Development

APPLICATION FOR TRANSFER TO GOVERNMENTAL AUTHORITY

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

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

The undersigned hereby makes application for the approval of the transfer of all of the facilities operated under Water Certificate No. 066-W and Wastewater Certificate No. 289-S located in Osceola 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

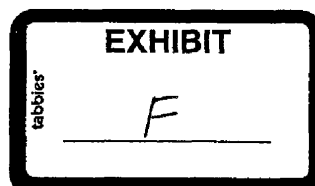
PO Box 609520, Orlando, Florida, 32860-9520

Mailing address if different from street address

www.florida-water.com

Internet address if applicable

PSC/ECR 012 (Rev. 2/91)



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 Phone No.

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 Kissimmee
Name of Utility

(407) 518-2300 (407) 846-8369
Phone No. Fax No.

101 N Church Street
Office street address

Kissimmee Florida 34741-5054
City State Zip Code

N/A
Mailing address if different from street address

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

The City of Kissimmee 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 plotted by use of metes and bounds or quarter sections and with a defined reference point of beginning. If the water and wastewater territory is different, provide separate maps.

C) **TARIFF SHEETS**

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

PART IV AFFIDAVIT

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

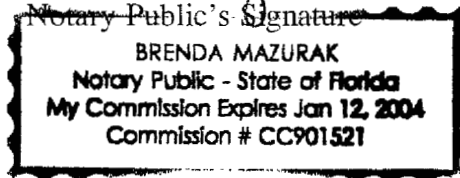
BY: Tony Isaacs
Applicant's Signature

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 10

EXHIBIT B

The deposits of Florida Water's customers in Osceola 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 Kissimmee.

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 Kissimmee 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 Kissimmee.