

Eric Fryson

From: Lisa D'Angelo [Lisa.D'Angelo@arlaw.com]
Sent: Tuesday, March 06, 2012 4:36 PM
To: Filings@psc.state.fl.us
Cc: pcflynn@uiwater.com; mfriedman@SFFlaw.com; reilly.steve@leg.state.fl.us; David Bernstein; Andrew McBride; Kenneth Curtin
Subject: LABRADOR UTILITIES, INC. RATE ACTION (Docket. No. 11-0264-WS): MOTION TO DISMISS OR ABATE

Attachments: 1515_001.pdf

Electronic Filing

a. Person Responsible for this electronic filing:

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 150 Second Avenue North, Suite 1700
 St. Petersburg, Florida 33701
 Direct: (727) 502-8215
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b. Docket No. 11-02640-WS

In Re: Application for increase in water and wastewater rates in Pasco County by Labrador Utilities, Inc.

c. Document being filed on behalf of FOREST LAKE ESTATES CO-OP, INC.

d. There are a total **38** pages

e. The document attached for electronic filing is Intervener, FOREST LAKE ESTATES CO-OP, INC's MOTION TO DISMISS OR ABATE

Thank you for your cooperation and attention to this matter.

Lisa M. D'Angelo, Secretary to
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 and Susan G. Sherman, CP
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ADAMS AND REESE LLP



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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water
and wastewater rates in Pasco County
by Labrador Utilities, Inc.

Docket No. 11-0264-WS
Filed: March 6, 2012

MOTION TO DISMISS OR ABATE

Intervenor, Forest Lake Estates Co-Op, Inc.¹ (“Intervenor”), by and through its undersigned counsel, files this its Motion to Dismiss or Abate (the “Motion”), and in support states:

FACTS

1. Intervenor is the owner and operator of Forest Lake Estates Mobile Home Park and the Forest Lake Estates R.V. Park (collectively, the “Property”). The Property consists of mobile home and R.V. lots along with various common area elements and facilities.

2. Pursuant to a Lease Agreement for Water and Wastewater Treatment Facilities dated June 10, 1999 (“Commercial Lease”) entered into between Intervenor and Labrador Services, Inc., as predecessor in interest to Labrador Utilities, Inc. (“Utility”), Intervenor leases certain Leased Premises (the “Leased Premises”) to Utility for purposes of operating a water and wastewater plant at the Property. A copy of the Lease is attached hereto as Exhibit “A.” The Leased Premises are described in Exhibit A to the Commercial Lease.

¹ Intervenor filed its Amended Motion for Intervention on January 18, 2012, although no ruling has been made on that Amended Motion. However, because the instant Motion goes to Utility’s compliance with statutory requirements for a rate increase, and therefore affects its standing before this Commission, the lack of formal intervention by Intervenor is irrelevant to the PSC’s ruling on this Motion.

3. Utility has been issued Certificates 530S and 616W in connection with its provision of water and wastewater service at the Property.

4. On or about August 31, 2011, Utility informed the Florida Public Service Commission (the "Commission") of its intention to submit an application of general rate relief for its water and wastewater system located at the Property ("Rate Case").

5. Pursuant to Section 3 of the Commercial Lease, Utility pays monthly rent to Intervenor in consideration for lease of the Leased Premises.

6. Pursuant to Section 3(3) of the Commercial Lease, the monthly rental amount paid by Utility to Intervenor under the Commercial Lease automatically increases every six (6) years based on increases in the Consumer Price Index.

7. As a sophisticated commercial entity and a party to the Commercial Lease, Utility knew that it was under an obligation to pay this increased monthly rental amount beginning June, 2011.

8. Despite this obligation to pay the increased monthly rental amount, Utility failed to do so.

9. Notwithstanding that Intervenor had the right to notice Utility of this default under the Commercial Lease and seek to have the Commercial Lease terminated, on August 3, 2011, as a courtesy, Intervenor provided Utility with notice of the increased monthly rental amount owing to Intervenor (the "Increase Notice"). The Increase Notice specified that the monthly rental amount had increased to \$4,750.20 per month beginning with the June, 2011 payment.

10. Thereafter, Utility failed to pay the increased monthly rental amount owing to Intervenor under the terms of the Commercial Lease for June, July, August, September, October, November, and December, 2011, and January, 2012.

11. The difference owing between the original monthly rental amount and the increased monthly rental amount for the months of June, 2011 through January, 2012—\$5,241.60—constitutes an arrearage for which Utility is liable to Intervenor (the “Arrearage”). Non-payment of the Arrearage constitutes a monetary default (the “Monetary Default”) under the Commercial Lease.

12. On January 11, 2012, and pursuant to the notice provisions contained in the Commercial Lease, Intervenor served Utility with notice advising Utility that if it does not cure the Monetary Default within fifteen (15) days of receipt thereof, Intervenor would be entitled to take legal action against Utility as permitted by the Commercial Lease (the “Cure Notice”).

13. On or about January 30, 2012, Utility tendered a payment to Intervenor in the amount of \$3,744.00 (the “Partial Payment”). This Partial Payment constitutes only a portion of the Arrearage owing to Intervenor and does not cure the Monetary Default.

14. Moreover, on January 25, 2012, Commission Staff sent counsel for Utility its Staff’s Fourth Data Request requesting proof that Utility is in good standing with respect to the Commercial Lease with Intervenor as required by F.A.C. 25-30.433(10).

15. On February 3, 2012, Utility’s counsel filed its written response to Staff’s Fourth Data Request, wherein it represented to Staff that Utility had cured the Monetary Default and was in good standing under the Commercial Lease.

16. However, despite these representations to Staff, Utility failed to timely and fully cure the Monetary Default owing to Intervenor.

17. Accordingly, on February 9, 2012, due to this failure to cure the Monetary Default and after proper notice to do so, and in express accordance with the terms of the Commercial Lease, Intervenor issued to Utility a notice of termination (the "Termination Notice") of the Commercial Lease requiring Utility to immediately quit, surrender, and remise the Leased Premises to Intervenor. A copy of the Termination Notice is attached hereto as Exhibit "B."

18. Utility has wantonly and unjustifiably failed to comply with the Termination Notice and remains in possession of the Leased Premises, notwithstanding that the Commercial Lease is terminated and all of Utility's occupancy rights as to the Leased Premises have been revoked.

19. Accordingly, on February 22, 2012, in the matter of *Forest Lake Estates Co-Op, Inc. v. Labrador Utilities, Inc.*, Pasco Circuit Case No. 51-08-CA-4033-ES/B, Intervenor filed its Motion for Leave to Amend Complaint. The Amended Complaint attached thereto includes a count against Utility for formal, judicial recognition of the termination of the Commercial Lease and entry of an eviction judgment against Utility.

20. Related thereto, on February 16, 2012, in that same matter, Utility filed its Motion for Emergency Injunction seeking to prevent Intervenor from terminating the Commercial Lease.

21. At a hearing on February 24, 2012, attended by counsel for Intervenor and Utility, the Honorable Linda Babb, Pasco Circuit Judge, entered an Order denying the Motion for Emergency Injunction and Granting the Motion for Leave to File Amended

Complaint (“Order Denying Injunction and Granting Motion to Amend”). A copy of the Order Denying Injunction and Granting Motion to Amend is attached hereto as Exhibit “C.”

22. Pursuant to the Order Denying Injunction and Granting Motion to Amend, the Amended Complaint—including Count III contained in the Amended Complaint for judicial termination of the Commercial Lease—is now pending before the Pasco Circuit Court and Utility must file a responsive pleading to the Amended Complaint within ten (10) days of the date of the Order Denying Injunction and Granting Motion to Amend, or March 10, 2012.

23. Litigation is pending over Utility’s rights under the Commercial Lease, if any.

ARGUMENT

24. This rate case must be dismissed as Utility has no legally enforceable rights under the Commercial Lease following termination of the Commercial Lease by Intervenor. Alternatively, this rate case must be abated until such time as the issue of Utility’s rights under the Commercial Lease, if any, may be resolved in the Pasco Circuit Court litigation.

25. Section 367.1213, *Florida Statutes*, provides:

Adequate land ownership; commission rulemaking authority.—A utility under the Water and Wastewater System Regulatory Law must own the land or possess the right to continued use of the land upon which treatment facilities are located. The commission shall adopt rules in accordance with this section.

26. Further, the Commission has adopted F.A.C. 25-30.433(10), which provides:

In a rate case proceeding....

(10) A utility is required to own the land upon which the utility treatment facilities are located, or possess the right to the continued use of the land, such as a 99-year lease. The Commission may consider a written easement or other cost-effective alternative.

27. Utility cannot meet the requirement of Section 367.1213, *Florida Statutes*, because it cannot demonstrate to this Commission that it has the right to “continued use of the land” upon which the water and wastewater treatment facilities are located, i.e. the Leased Premises.

28. Similarly, Utility cannot meet the requirement of F.A.C. 25-30.433(10) by showing that it has valid, enforceable rights to the Leased Premises following the termination of the Commercial Lease.

29. This Commission has consistently ruled that utilities must provide proof of compliance with Section 367.1213, *Florida Statutes* and F.A.C. 25-30.433(10) prior to receiving a rate increase. *See In re: Application for rate increase in Martin County by Indiantown Company, Inc.*, Order No. PSC-00-2054-PAA-WS, 2000 Fla. PUC LEXIS 1253 (holding that a year-to-year lease was not sufficient and ordering utility to obtain a long term lease as to property); *In Re: Application for Rate Increase in Lee County by Harbor Utilities Company, Inc.*, Order No. PSC-94-0075-FOF-WS, 1994 Fla. PUC LEXIS 78 (denying rate increase and ordering utility to secure ownership rights in property within thirty days of order); *In re: Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.*, Order No. PSC-02-1168-PAA-WS, 2002 Fla. PUC LEXIS 605 (ordering utility to come into compliance with Section 367.1213, *Florida Statutes* and F.A.C. 25-30.433(10)); *In re: Application for limited*

proceeding rate increase in Lee County by Useppa Island Utility, Inc., Order No. PSC-00-2117-PAA-SU, 2000 Fla. PUC LEXIS 1438.

30. Because Utility cannot do so, this rate case must be dismissed or, in the alternative, abated until such time as Utility's rights under the Commercial Lease are determined by the Pasco Circuit Court.

31. This Commission should not determine the merits of a rate increase for a utility whose lease rights are subject to a pending Circuit Court action wherein those lease rights might be terminated. Section 367.1213, *Florida Statutes*; F.A.C. 25-30.433(10).

32. Significant prejudice will result if this Rate Case is not dismissed or abated as the parties and this Commission will expend considerable time and resources litigating the propriety of this Rate Case when Utility's lease has been terminated by Intervener and Utility's leasehold interest in the Leased Premises could well be divested in the Pasco Circuit Court litigation.

WHEREFORE, Intervenor, Forest Lake Estates Co-Op, Inc., moves this Commission to enter an Order granting its Motion to Dismiss or Abate, and for all other relief this Commission deems just and proper.

s/ David S. Bernstein, Esq.
DAVID S. BERNSTEIN
Florida Bar No. 454400
KENNETH M. CURTIN
Florida Bar No. 087319
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Florida Bar No. 67973
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150 2nd Avenue North, Suite 1700
St. Petersburg, Florida 33701
(727) 502-8200 Fax: (727) 502-8915
Attorneys for Intervenor

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished via email (where provided below) and U.S. Mail on March 6, 2012 to: Labrador Utilities, Inc., c/o Patrick C. Flynn, 200 Weathersfield Ave, Altamonte Springs, Florida 32714-4027 (pcflyn@uiwater.com); Martin Friedman, Esq., 766 N. Sun Drive, Suite 4030, Lake Mary, Florida 32746 (mfriedman@SFFlaw.com); and Stephen C. Reilly, Esq., Office of Public Counsel, c/o the Florida Legislature, 111 W. Madison Street, Room 812, Tallahassee, Florida 32393-1400 (reilly.steve@leg.state.fl.us).

s/ David S. Bernstein, Esq. _____
DAVID S. BERNSTEIN
Florida Bar No. 454400

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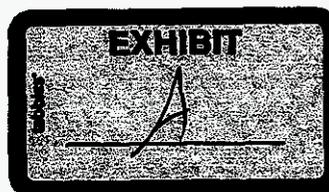
**LEASE AGREEMENT FOR
WATER AND WASTEWATER TREATMENT FACILITIES**

THIS LEASE AGREEMENT (hereafter, the "Agreement") is made and entered into this 12th day of June, 1999, by and between **FOREST LAKE ESTATES CO-OP., INC.**, a Florida not-for-profit corporation ("Lessor"), and **LABRADOR SERVICES, INC.**, a Florida corporation ("Lessee").

RECITALS

1. Lessor is the owner of the real property in Pasco County, Florida operated as Forest Lake Estates Mobile Home Park and Forest Lake Village R.V. Park located at 6429 Forest Lake Drive, Zephyrhills, Florida 33540 (collectively the "Parks").
2. Lessee is the owner of a water production, storage, treatment, transmission, and distribution system (the "Water Plant"), and a wastewater collection, transmission, treatment and disposal system (the "Wastewater Treatment Plant") (the Water Plant and the Wastewater Treatment Plant are sometimes hereafter collectively referred to as the "Systems"). The Systems are located within the boundaries of and service, the Parks.
3. Lessor is the owner of lands in Pasco County, Florida lying under the Systems, said lands being more particularly described in Exhibit "A" attached hereto, with parcel one therein being the site of the Water Plant, parcel two therein being the site of the Wastewater Treatment Plant, and parcel three being the site of the waste water irrigation site, a component of the Waste Water Treatment Plant, said lands being hereinafter collectively referred to as the "Leased Premises".
4. Lessor has agreed to lease the Leased Premises to Lessee pursuant to the Modification to Purchase Agreement dated as of the date of this Agreement, the terms of which grant Lessee the right to lease the Leased Premises from Lessor; to grant a separate non-exclusive perpetual easement and rights of way through, under, over, on and across the Parks to patrol, inspect, alter, improve, repair, rebuild, remove, replace, construct, reconstruct, operate and maintain Systems and other attachments, fixtures, equipment, and accessories desirable in connection therewith over, under, through, upon, and across the Parks at such places, streets, parcels and lots as may be necessary for efficient delivery of utility services to all occupants in the Parks, and to assign such existing easements to Lessee as may be necessary for the foregoing purposes.
5. Lessor desires that Lessee act as the sole and exclusive provider of water and wastewater utility service to the Parks and Lessee agrees to provide such utility services to the residents

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Consumers. All Items, with a base period equaling 100 in 1982-1984. In the event the statistics are not available or in the event that publication of the Consumer Price Index is modified or discontinued in its entirety, the adjustment provided for herein shall be made on the basis of an index chosen by Lessor as a comparable and recognized index of the purchasing power of the United States consumer dollar published by the United States Department of Labor or other governmental agency.

4. Real estate taxes (both ad valorem taxes and non ad valorem taxes) and special assessments, if any, for parcels one and two shall be paid by Lessee.
5. Real estate taxes (both ad valorem taxes and non ad valorem taxes) and special assessments, if any, for parcel three shall be paid by Lessor.
6. Personal property taxes on the Systems, and necessary license and occupational fees, insurance, repair, maintenance and compliance costs for the Systems shall be paid by Lessee.

SECTION 4. USE OF LEASED PREMISES: LESSEE EXCLUSIVE PROVIDER OF UTILITY SERVICES. Lessee agrees that, throughout the term of this Agreement, it shall utilize the Leased Premises for water production, storage, treatment, transmission, distribution, and for wastewater collection, transmission, treatment and disposal, and for no other purpose, except upon the express written consent of the Lessor. Lessee further agrees that it shall maintain, operate and administer the Leased Premises and Systems in a manner consistent with customary standards. Lessor agrees that, throughout the term of this Agreement, Lessee shall be the sole and exclusive provider of water and wastewater utility services for the residents of the Parks.

SECTION 5. SERVICE TO THE PARKS. Lessee shall provide water and wastewater services to each occupied homesite and the common areas within the Parks.

SECTION 6. CUSTOMER RATES. Lessee shall charge each lot occupied by a mobile home (the "Occupied Homesite") of Forest Lake Estates Mobile Home Park an all inclusive fee of \$15 per month per serviced lot for both water and sewer services and each RV lot of Forest Lake Village R.V. Park, regardless of occupancy, an all inclusive fee of \$10 per month per serviced lot for both water and sewer services, which charge shall be due on the first day of each month. Lessor acknowledges that the \$15 fee for each Occupied Homesite and the \$10 fee for each RV lot shall be paid regardless of consumption. The foregoing rates and charges shall remain unchanged until Lessee obtains a certificate from the Florida Public Service Commission ("PSC") for the Systems or until the Systems are sold to a PSC licensed utility who will assess rates in accordance with applicable law. Lessee may pursue collection of delinquent accounts, including the filing of legal actions and termination of service to customers consistent with the practice of independent utility providers in the Pasco and Hillsborough County area. Until such time as the Systems are sold or Lessee obtains a certificate from PSC for the Systems, Lessee shall provide a monthly accounting

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to Lessor and shall remit any profits from the operation of the Systems to Lessor. For one hundred eighty (180) days from the date of this Agreement, Lessor shall collect and remit to Lessee on a monthly basis the monies collected for water and sewer services for each occupied homestead during which time Lessee shall file an application with the PSC. After said one hundred eighty (180) days, Lessee shall collect its charges for water and sewer services from each occupied homestead. Lessor shall have no obligation or liability to Lessee for any uncollected charges for water and sewer services.

SECTION 7. LIMITED OPTION TO PURCHASE SYSTEMS. Lessee, subject to the limitations hereinafter set forth, grants to the Lessor, a limited option to purchase all of Seller's right, title, and interest in and to the Systems and its leasehold interest in the Leased Premises together with all easements, rights of way, licenses, privileges, incidents, and appurtenances, if any, ~~including the benefit of the Systems, all improvements and fixtures situated on the Leased Premises and all intangible personal property owned by Lessee and used in the ownership, operation and maintenance of the Systems and Leased Premises, including without limitation, all contract rights, instruments, documents of title, general intangibles, transferable licenses and good will pertaining to the ownership, operation and maintenance of the Systems.~~

- A. **Term.** The option hereby granted must be exercised by the Lessor no later than December 31, 1999. This option shall expire without notice and be of no further effect upon the earlier of December 31, 1999 or notification from Lessee of a bona fide offer to purchase Lessor's interest in the Systems and the Leased Premises pursuant to Lessor's right of first refusal to acquire the Systems more fully described below. Upon such notification of a bona fide offer and purchase the Systems pursuant to its right of first refusal set forth in subsection 7(K) below, Lessor's sole and exclusive right with respect to acquiring the Systems, shall be its right of first refusal set forth in subsection 7(K) below.
- B. **Exercise of option.** The option granted may be exercised by written notice delivered by the Lessor to the Lessee at the address stated in Section 11 of this Agreement.
- C. **Purchase Price.** Subject to the adjustments and proration hereinafter described, the purchase price to be paid by the Lessor to the Lessee for the purchase of the Systems and Lessee's leasehold interest in the Leased Premises shall be the "fair market value" of the Systems and the leasehold interest in the Leased Premises and easements benefitting same as of the date the option to purchase is exercised. "Fair market value" shall be determined by an appraiser experienced in appraising utility systems of the type and nature of the Systems. In the event the parties cannot agree upon an appraiser, then each party shall select an appraiser, with both appraisers having significant experience in evaluation of the utility systems comparable to the Systems, and these two appraisers shall pick a third appraiser, who shall also have significant experience in appraising utility systems comparable to the Systems. The third appraiser so selected shall value the Systems together with the leasehold

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interest in the Leased Premises and encumbrances benefitting same. The valuation by this third appraiser shall be binding upon the parties. The purchase price for the Systems, as determined by the foregoing appraisal, shall be payable, in cash, at closing.

D. **Physical Condition of Systems.** Lessor acknowledges that upon the exercise of its option to purchase the Systems or upon its exercise of its right of first refusal described below, the Systems will be acquired by Lessor AS IS, WITH ALL FAULTS, AND WITHOUT EXPRESSED OR IMPLIED WARRANTY AS TO THE FITNESS FOR ANY PARTICULAR PURPOSE.

E. **Adjustments: Prorations.** All receipts and disbursements relating to the Systems will be prorated on the Closing Date with the Closing Date being the Seller's date for purposes of the prorations. The purchase price will be adjusted on the following basis:

1. **Receipts** - Any revenues received with respect to the Systems earned and attributable to the period through the Closing Date will be paid to the Lessee to the extent that such sums have been collected on or before the Closing Date; amounts earned and attributable to the period beginning the day after the Closing Date, and thereafter, will be paid to the Lessor. On receipt, after the Closing Date by the Lessor of accounts receivable with respect to the revenues earned through the Closing Date, the same will be promptly paid to Lessee; provided that Lessor will have no obligation to enforce the collection of said sums, such right being reserved to the Lessee.

2. **Disbursements** - All sums due for accounts payable which were owing or incurred in connection with the Systems through the Closing Date will be paid by the Lessee. The Lessor will promptly furnish to the Lessee any bills for such period received after the Closing Date for payment and Lessor will have no further obligation with respect thereto.

3. **Property Taxes; Licenses** - Personal property taxes, real property ad valorem taxes, non ad valorem taxes, special assessments, license and occupational fees for the calendar year in which the Closing Date occurs will be prorated through the Closing Date, based upon the latest available tax rate and assessed valuation.

4. **Insurance** - Lessee will terminate all existing insurance policies on the Closing Date and the Lessor will be responsible for placing all insurance coverage desired by the Lessor. Any prepaid insurance premiums will be retained by the Lessee.

F. **Default Remedy** - In the event that either party fails to perform such party's obligations hereunder (except as excused by the other party's default), the party claiming default will make written demand for performance. If either party fails to comply with such written

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demand within 45 days after receipt thereof, the non-defaulting party will have the option to waive such default, to demand specific performance or to terminate this Agreement. On termination of this Agreement by reason of default, the parties will be discharged from all further obligations and liabilities hereunder; provided, however, all rights and remedies set forth in Section 37 of this Agreement shall survive termination.

G. **Lessor's Indemnification of Lessee.** After the Closing of purchase of Lessor's rights in the Systems and Leased Premises ("Closing"), the Lessor agrees to defend, indemnify, and hold the Lessee harmless from all damages, liabilities, costs and expenses (including attorneys fees and other litigation expenses) arising from the ownership, use, and operation of the Systems incurred or accrued after the Closing or which are specifically assumed by the Lessor. The indemnification procedures to be followed will be those set forth in Section 10 of this Agreement.

H. **Assignability.** This option is personal to Lessor and may not be assigned. Any attempt to assign this option shall be null and void.

I. **Deposit.** At the time of the exercise of the option of right of refusal described below, Lessor shall make a \$25,000 earnest money deposit to be credited to Lessor at Closing, which deposit will be held by a mutually agreeable escrow agent.

J. **Closing.** Closing on the option to purchase the Systems or under Lessor's exercise of its right of first refusal shall occur on or before 45 calendar days from Lessor's exercise of the option or right of first refusal, as the case may be.

K. **Lessor's Right of First Refusal.** In addition to the option granted in this Section 7, Lessor shall have the right to purchase the Systems by meeting the exact terms and conditions of any bona fide offer to purchase the Systems that Lessee receives. Lessee shall have 20 days from notification of the bona fide offer to accept and exercise its right of first refusal, which acceptance must be in writing and delivered to Lessee as provided in the Notice provision in Section 11 of this Agreement. This right of first refusal is personal to Lessee's sale of its interest in the Systems and the Leased Premises and in the event that Lessee sells the property to a third party and Lessor fails to exercise its right of first refusal, then Lessor's right of first refusal shall expire without notice and be of no further effect. This right of first refusal is not assignable. Any attempt to assign this right of first refusal shall be void.

SECTION 8. TERMINATION OF LEASE. Lessor and Lessee agree that this Agreement may be terminated during the ninety-nine (99) year term as follows:

This Agreement may be terminated by Lessee as to either parcel one, two, or three, or all of them, solely, at Lessee's discretion, with termination to be effective 180 days after written notice to Lessor

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(the "Termination Date"). Upon the Termination Date, Lessee and Lessor shall prorate revenues and expenses for the Systems as set forth in subsection 7(E) of this Agreement through the Termination Date, with Lessee retaining its rights to collect revenues earned prior to the Termination Date and Lessee and Lessor shall be released and discharged from their respective obligations under this Agreement; provided, however, Lessee shall continue to make the rental payments due to Lessor for parcel three pursuant to Section 3 of this Agreement through and including the seventy-second (72nd) month of the term of this Agreement.

In the event that this Agreement is terminated, as aforesaid, then Lessee agrees that it shall deliver up possession of the Leased Premises and the Systems to the Lessor as of the Termination Date.

SECTION 9. UTILITIES, REPAIRS, AND OTHER EXPENSES. During the term of this Agreement, the Lessee shall provide potable water service to Lessor for service area of the existing water service to the service area. Such potable water service shall be provided by Lessee at the rates set forth in Section 6 of this Agreement with no additional charges or costs for the common areas of the Parks. The Lessee agrees that it shall pay for the operating costs necessary to operate and maintain the Systems. Lessee shall be responsible for the payment of all maintenance and repairs that may, from time to time, be required in order to keep the Systems in good operating condition and repair.

SECTION 10. LIABILITY OF PARTIES. Lessee shall indemnify and hold Lessor harmless for any claims, actions, expenses or damages, including costs and attorney's fees, at trial and appeal, which Lessor incurs for personal injury or property damage that occurs as a direct result of the negligent act or omission of Lessee, its agents, contractors, representatives and/or employees in the operation or maintenance of the Systems, under the following terms and conditions:

(a) A party seeking indemnification (the "Claimant") shall promptly notify the party from whom indemnification is sought (the "Indemnitor") of any liabilities for which the Indemnitor may be liable hereunder. A Claimant seeking indemnification for any claims brought by third parties shall endeavor to notify the Indemnitor in writing within fifteen (15) days after receipt of written notice of the third party claim (which notice of claim from a third party shall be of a nature which will reasonably advise the recipient of the fact that such a claim is being made). The notice will, to the extent possible, be sufficiently detailed so the Indemnitor is or will be able to reasonably understand the nature of the claim. The right of indemnification under the Agreement shall not be affected by any failure to give or any delay in giving any notice required herein, unless, and then only to the extent that, the rights and remedies of the Indemnitor shall have been prejudiced thereby.

(b) The Indemnitor shall have the right to negotiate with the third party relative to a claim, to control all settlements and to select lead counsel to defend any and all claims. The Claimant may select counsel to participate in any defense at the Claimant's sole cost and expense.

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(c) In connection with any claim, all parties shall cooperate with each other and provide each other with access to relevant books and records in their possession or under their control, all at the cost of the indemnitor.

(d) Lessor shall only be liable hereunder for actual claims, losses, damages, costs and expenses arising from matters covered under this indemnity. In no event shall Indemnitee be liable to Claimant for consequential, special, incidental or punitive damages, which are expressly excluded from this indemnity.

SECTION 11. NOTICES. Any notices which are required or permitted hereunder shall be delivered by United States mail, return receipt requested, postage prepaid or by hand delivery, to the parties at the following addresses:

LESSEE: Labrador Services, Inc.
39 Treasure Circle
Sebastian, Florida 32958

with copy to: Richard S. Webb, IV, Esq.
Lutz, Webb & Robo, P.A.
2 North Tamiami Trail, Suite 500
Sarasota, Florida 34236

LESSOR: Forest Lake Estates Co-Op, Inc.
6429 Forest Lake Drive
Zephyrhills, Florida 33540

with copy to: David Bernstein, Esq.
Rudon, McClosky, Smith, Schuster & Russell, P.A.
150 Second Avenue North, 17th Floor
P.O. Box 14034 (33733)
St. Petersburg, Florida 33701

Notice of an address change shall be given in writing by the appropriate party to the other prior to the change. All notices shall be deemed delivered three (3) days after deposit in the United States mail, or at the time of hand delivery. Facsimile transmissions shall be treated as originals for purposes of giving notice under this Agreement.

SECTION 12. INSURANCE. Lessee agrees to provide and maintain hazard and liability insurance upon the Systems and Leased Premises throughout the term of this Agreement. Lessor shall be named as an additional insured.

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SECTION 13. ASSIGNMENTS AND SUBLEASES. Lessee may assign or sublease all or any part of the Systems and Leased Premises without the prior written consent of the Lessor.

SECTION 14. COVENANTS RUNNING WITH THE LAND; SUCCESSORS AND ASSIGNS. All covenants and agreements herein contained shall run with the lands described in Exhibit "A" and shall be binding on the parties and shall inure to the benefit of the successors and assigns of the parties hereto.

SECTION 15. QUIET ENJOYMENT. Lessee, upon paying the rent reserved hereunder and performing all the other covenants and conditions required to be performed under this Agreement, shall and may peaceably and quietly have, hold and enjoy the Systems and the Leased Premises hereby demised for the term aforesaid, free from disturbance by the Lessor or anyone claiming by, through or under the Lessor.

SECTION 16. ENVIRONMENTAL INDEMNITY. Lessee, subject to the procedures and the limitations set forth in Section 10 of this Agreement, hereby agrees to indemnify, reimburse, defend and hold harmless Lessor, First Union National Bank and Resident Co-op Finance, LLC, and their officers, directors, employees, successors and assigns from and against all demands, claims, civil or criminal actions or causes of action, liens, assessments, civil or criminal penalties or fines, losses, damages, liability, obligations, costs, disbursements, expenses or fees of any kind or of any nature (including, without limitation, cleanup costs, attorneys', paralegals', consultants' or experts' fees and disbursements and costs of litigation) which may at any time be imposed upon, incurred by or asserted or awarded against, Lessor directly or indirectly, related to or resulting from: (a) any acts or omissions of Lessee at, on or about the Leased Premises which contaminate air, soils, surface waters or ground waters over, on or under the Leased Premises; (b) the breach of any representation or warranty under this Agreement; (c) pursuant to or in connection with the application of any Environmental Law, the acts or omissions of Lessee or its affiliates which result in any environmental damage alleged to have been caused, in whole or in part, by the manufacture, processing, distribution, use, handling, transportation, treatment, storage, or disposal of any Hazardous Substance on, in or about the Leased Premises; or (d) the presence, whether past present or future, of any Hazardous Substances introduced by Lessee or its agents, successors, assigns, contractors or employees, on, in or about the Leased Premises.

(a) Lessee's indemnification obligation under this section shall be subject to and limited by the procedures and the limitations set forth in Section 10 of this Agreement and shall continue, survive and remain in full force and effect notwithstanding termination of this Agreement.

(b) Those liabilities, losses, claims, damages and expenses for which a lender is indemnified under this section shall be reimbursable to Lessor at Lessor's option to make payments with respect thereto, without any requirement of waiting for ultimate outcome of any litigation, claim or other proceeding, and Lessee shall pay such liability, losses, claims, damages and expenses to

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Lessor as so incurred within thirty (30) days after notice from Lessor itemizing the amounts incurred to the date of such notice.

(c) Lessee waives any acceptance of this indemnity by Lessor. The failure of Lessor to enforce any right or remedy hereunder, or to promptly enforce any such right or remedy, shall not constitute a waiver thereof nor give rise to any estoppel against Lessor, nor excuse Lessee from its obligations hereunder. Any waiver of such right or remedy must be in writing and signed by Lessor. This indemnity is subject to enforcement at law and/or equity, including actions for actual damages and/or specific performance; provided, however, any provision in this Section 16 to the contrary notwithstanding, Lessee shall in no event be liable for consequential, special, incidental or punitive damages.

(d) For purposes of this Agreement, "Environmental Law" shall mean any applicable federal, state, or local statutory or common law, ordinance, rule or regulation relating to pollution or protection of the environment, including without limitation, any common law of nuisance or trespass, and any law, rule or regulation relating to emissions, discharges, releases or threatened releases of pollutants, contaminants or chemicals, or industrial, toxic or hazardous substances or waste into the environment (including without limitation, ambient air, surface water, groundwater, land surface or subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants or chemicals or industrial, toxic or hazardous substances or wastes.

(e) For the purposes of this Agreement, the term "Hazardous Substance" means any substance or material (i) identified in Section 101(14) of CERCLA, 42 U.S.C. Statute 9601(14) and as set forth in Title 40, Code of Federal Regulations, part 302, as the same may be amended from time to time, or (ii) determined to be toxic, a pollutant or contaminant, under Federal, state or local statute, law, ordinance, rule, or regulation or judicial or administrative order or decision, as same may be amended from time to time, (iii) asbestos, (iv) radon, (v) polychlorinated biphenyls and (vi) such other materials, substances or waste which are otherwise dangerous, hazardous, harmful or deleterious to human health or the environment.

SECTION 17. SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN

(a) This Agreement is and shall be subject and subordinate to that certain Mortgage and Security Agreement between Lessor and First Union National Bank and that certain Mortgage and Security Agreement between Resident Co-op Finance, LLC and Lessor (collectively, the "Mortgage") encumbering the Parks and the Leased Premises and to all renewals, modifications, consolidations, replacements and extensions of the Mortgage.

(b) In the event of a foreclosure of the Mortgage or should a mortgagee obtain title by deed in lieu thereof, or otherwise, Lessee may continue its occupancy of the Leased Premises in

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accordance with the terms and provisions of this Agreement, so long as Lessee continues to pay rent and otherwise to perform its obligations thereunder.

(c) Lessee agrees to attorn to: (i) said mortgagee when in possession of the Leased Premises; (ii) a receiver appointed in an action or proceeding to foreclose the Mortgage or otherwise; or (iii) to any party acquiring title to the Leased Premises as a result of foreclosure of the Mortgage or deed in lieu thereof. Lessee further covenants and agrees to execute and deliver, upon request of a mortgagee, or its assigns, an appropriate agreement of attornment with any subsequent titleholder of the Leased Premises.

(d) This Section 17 is to be effective and self-operative without the execution of any other instrument.

SECTION 18. RADON GAS. RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY PUBLIC HEALTH UNIT.

SECTION 19. WAIVER AND AMENDMENT. No provision of this Agreement shall be deemed waived or amended except by a written instrument unambiguously setting forth the matter waived or amended and signed by both parties. Waiver of any matter shall not be deemed a waiver of the same or any other matter on any future occasion. No acceptance by Lessor of an amount less than the annual rent set forth in Section 3 shall be deemed to be other than a payment on account of the earliest such rent or other payments then due or in arrears nor shall any endorsement or statement on any check or letter accompanying any such payment be deemed a waiver of Lessor's right to collect any unpaid amounts or an accord and satisfaction.

SECTION 20. SUCCESSORS BOUND. Except as otherwise specifically provided herein, the terms, covenants and conditions contained in this Agreement shall bind and inure to the benefit of the respective heirs, successors, executors, administrators and assigns of each of the parties hereto.

SECTION 21. NO MERGER. The voluntary or other surrender of this Agreement by Lessee, or a mutual cancellation thereof, shall not result in a merger of Lessor's and Lessee's estates, and shall, at the option of Lessor, either terminate any or all existing subleases or subtenancies, or operate as an assignment to Lessor of any or all of such subleases or subtenancies.

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SECTION 22. CAPTIONS. Captions are used throughout this Agreement for convenience of reference only and shall not be considered in any manner in the construction or interpretation hereof.

SECTION 23. SEVERABILITY. The provisions of this Agreement shall be deemed severable. If any part of this Agreement shall be held unenforceable by any court of competent jurisdiction, the remainder shall remain in full force and effect, and such unenforceable provision shall be reformed by such court so as to give maximum legal effect to the intention of the parties as expressed therein.

SECTION 24. CHARACTERIZATION. It is the intent of the parties hereto that the business relationship created by this Agreement and any related documents is solely that of a long-term commercial lease between Lessor and Lessee and has been entered into by both parties in reliance upon the economic and legal bargains contained herein. None of the agreements contained herein are intended, nor shall the same be deemed or construed, to create a partnership between Lessor and Lessee, to make them joint venturers, to make Lessee an agent, legal representative, partner, subsidiary or employee of Lessor, nor to make Lessor in any way responsible for the debts, obligations or losses of Lessee.

SECTION 25. EASEMENTS. During the Lease Term, Lessor shall have the right to grant non-exclusive electric or cable utility easements on, over, under and above the Leased Premises without the prior consent of Lessee, provided that such non-exclusive electric or cable utility easements will not materially interfere with Lessee's long-term use of the Premises.

SECTION 26. FURTHER ASSURANCES. Each of the parties agrees to sign such other and further documents and otherwise cooperate with each other as may be necessary or appropriate to carry out the intentions expressed in this Agreement.

SECTION 27. ENTIRE AGREEMENT. This Agreement, and any other instruments or agreements referred to herein, constitute the entire agreement between the parties with respect to the subject matter hereof, and there are no other representations, warranties or agreements except as herein provided.

SECTION 28. CHOICE OF LAW; VENUE. The creation of this Agreement and the rights and remedies of Lessor with respect to the Premises shall be governed by and construed in accordance with the internal laws of the State of Florida. Venue for the resolution of any dispute between the Lessor and Lessee shall be in Pasco County, Florida and those Florida and federal courts whose jurisdiction includes Pasco County, Florida.

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SECTION 29. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all such counterparts shall constitute but one agreement.

SECTION 30. RECORDING OF LEASE. After execution of this Agreement, the parties shall execute and record in Pasco County, Florida, a short form memorandum describing the Land and the stating the Lease Term and other information the parties agree to include. The Memorandum of Lease to be executed and recorded is attached as Exhibit "B".

SECTION 31. NO BROKERAGE. Lessor and Lessee represent and warrant to each other that they have not contracted with any broker for compensation for real estate services in connection with this Agreement. Each of Lessor and Lessee agrees to protect, indemnify, save and keep harmless the other, against and from all liabilities, claims, losses, costs, damages and expenses, including attorney's fees, arising out of, resulting from or in connection with their breach of the foregoing warranty and representation.

SECTION 32. NO ASSUMPTION OF LIABILITIES BY LESSOR. The parties acknowledge that Lessor shall not incur any liabilities with respect to Lessee. Accordingly, in addition to the other terms and conditions of this Agreement, Lessor shall neither assume nor be liable for any payments and benefits to past and/or present employees of Lessee in connection with the business it conducts on or from the Premises except as otherwise agreed to in writing by Lessor, including, but not limited to, salaries, wages, commission, bonuses, vacation pay, health and welfare contributions, pensions, profit sharing, severance or termination pay, or any other form of compensation or fringe benefit.

SECTION 33. NO JOINT VENTURE. Lessee acknowledges that Lessor shall not be deemed a partner or joint venturer with Lessee or any contractor, agent, representative, management company or broker affiliated with Lessee. Lessee shall indemnify and hold Lessor harmless from and against any and all liabilities, damages, claims of losses, demands, costs or fees (including attorney's fees) incurred based on any such assertion under the procedures and subject to the limitations set forth in Section 10 of this Agreement.

SECTION 34. NO CONSTRUCTION. No construction shall be commenced on any portion of parcel three without the prior written consent of Lessor.

SECTION 35. NO IMPACT FEES. All impact fees relating to the Systems shall be paid by Lessee. In no event shall Lessor or any resident of the Parks be responsible for any impact fees relating to the Systems, including but not limited to hook-up fees for individual mobile homes located in the Parks.

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SECTION 36. TIME IS OF THE ESSENCE. Time is of the essence with respect to each and every provision of this Agreement in which time is a factor.

SECTION 37. COMPLIANCE WITH LAWS. The use, operation and occupation of the Leased Premises, and the condition thereof, shall be at the sole cost and expense of Lessee and Lessee shall fully comply with all applicable statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals or any governmental agencies, departments, commissions, bureaus, boards or instrumentalities of the United States, the state in which the Leased Premises are located and all political subdivisions thereof, including, without limitation, all health, building, fire, safety, and other codes, ordinances and requirements.

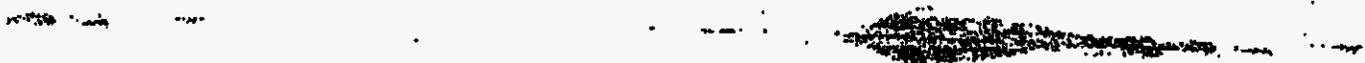
SECTION 38. DEFAULT. If a monetary default shall occur hereunder which is not cured within fifteen (15) days following receipt of written notice to Lessee from Lessor or the Department of Environmental Protection, unless steps have, in good faith, been commenced promptly by Lessee to rectify the non-monetary default during the thirty (30) day period (or shorter time period if required by applicable law) and Lessee thereafter prosecutes the rectification to completion with diligence and continuity, Lessee shall be deemed in default under this Agreement. In the event that Lessee shall be deemed in default under this Agreement, Lessor shall then be entitled to terminate this Agreement prior to the natural expiration thereof. Upon the exercise of Lessor's right to terminate this Agreement, Lessor or its agents may immediately or any time thereafter, re-enter and resume possession of the Leased Premises and remove all persons and property therefrom, by a suitable action or proceeding at law. In addition to any insurance and indemnity provision contained in this Agreement, upon the default of Lessee under this Agreement, Lessor shall be entitled to recover any and all actual damages incurred by Lessor as a result of Lessee's default, but not consequential, special, incidental or punitive damages. No remedy herein conferred upon or reserved to Lessee or Lessor shall exclude any other remedy herein or by law provided, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute and shall survive termination of this Agreement.

SECTION 39. MISCELLANEOUS.

- (1) All of the parties to this Agreement have participated fully in the negotiation and preparation hereof, and accordingly, this Agreement shall not be more strictly construed against any one of the parties hereto.
- (2) In the event of any litigation between the parties under this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs at all trial and appellate levels.

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Signed, sealed and delivered
in the presence of:

LESSOR:
FOREST LAKE ESTATES CO-OP, INC., a Florida
not-for-profit corporation

Lynn V. Craven
Print Name: Lynn V. Craven

By: [Signature]
Edgar C. Irving, as its President

Kelly J. McKinlay
Print Name: Kelly J. McKinlay

LESSEE:
CORPORATION SERVICES, INC.,
a Florida corporation

Lynn V. Craven
Print Name: Lynn V. Craven

By: [Signature]
Henri Viou, as its President

Kelly J. McKinlay
Print Name: Kelly J. McKinlay

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**EXHIBIT "A"
LEGAL DESCRIPTION**

**PARCEL 1
FOREST LAKE ESTATES MOBILE HOME PARK**

A tract of land lying in Sections 5 and 8, Township 26 South, Range 22 East, Pasco County, Florida, being more particularly described as follows: Begin at the Southwest corner of said Section 5, also being the Northwest corner of said Section 8; thence N 00°35'43" E, along the West boundary of said Section 5, 1747.18 feet to the platted South right-of-way line of Frontier Acres Drive, as recorded in the plat of Frontier Acres Drive of the public records of Pasco County, Florida; thence run S 89°55'21" E, along said platted South right-of-way line, 50.00 feet to a point on the platted East right-of-way line of said Boulevard; thence run N 00°35'43" E, along said platted East right-of-way line, said line also being 50.00 feet East of and parallel to the West boundary of said Section 8, a distance of 690.21 feet; thence run N 89°54'15" E, 2001.99 feet; thence S 00°00'38" E, 3473.89 feet; thence N 89°55'55" W., 2097.29 feet to a point on the West boundary of said Section 8; thence run N 01°04'30" E, along said West boundary of Section 8, 1030.84 feet to the Point of Beginning.

TOGETHER WITH a non-exclusive easement for ingress, egress and utilities as created by Easement Agreement recorded May 8, 1989, in Official Records Book 1805, page 1725, Public Records of Pasco County, Florida, over the following described land:

A 50.00 foot Right-of-way Easement in Section 5, Township 26 South, Range 22 East, Pasco County, Florida, described as follows: From the West 1/4 corner of said Section 5, run thence S 00°23'42" W., 210.43 feet along the West boundary of the Southwest 1/4 of said Section 5; thence N. 89°54'15" E., 777.18 feet to the Point of Beginning; thence from a tangent bearing of N. 00°05'45" W., run Northeastly, 195.73 feet along the arc of a curve to the right, having a radius of 165.00 feet, a central angle of 67°58'06", and a chord bearing and distance of N. 33°53'18" E., 184.46 feet to a point of tangency; thence N. 67°52'21" E., 47.16 feet to a point of curvature; thence Northeastly, 237.25 feet along the arc of a curve to the left, having a radius of 200.00 feet, a central angle of 67°58'06"; and a chord bearing and distance of N. 33°53'18" E., 223.59 feet to a point of tangency; thence N. 00°05'45" W., 205.85 feet to a point of curvature; thence Northwestly, 74.38 feet along the arc of a curve to the left, having a radius of 200.00 feet, a central angle of 21°18'30", and a chord bearing and distance of N. 10°45'00" W., 79.95 feet, to a point of tangency; thence N. 21°24'15" W., 59.74 feet to the Southerly right-of-way line of State Road No. 84; thence N. 68°35'45" E., 50.00 feet along said Southerly right-of-way line; thence S. 21°24'15" E., 59.74 feet to a point of curvature; thence Southeastly, 92.98 feet along the arc of a curve to the right, having a radius of 250.00 feet, a central angle of 21°18'30", and a chord bearing and distance of S. 10°45'00" E., 92.44 feet to a point of tangency; thence S 00°05'45" E., 205.85 feet to a point of curvature; thence Southwestly, 296.37 feet along the arc of a curve to the right, having a radius of 250.00 feet, a central angle of 67°58'06", and a chord bearing and distance of S. 33°53'18" W., 279.48 feet to a point of tangency; thence S. 67°52'21" W., 47.16 feet to a point of curvature; thence Southwestly, 136.42 feet along the arc of a curve to the left, having a radius of 115.00 feet, a central angle of 67°58'06", and a chord bearing and distance of S. 33°53'18" W., 128.56 feet; thence S. 89°54'15" W., 50.00 feet to the Point of Beginning.

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**PARCEL 2
FOREST LAKE VILLAGE RV PARK**

From the West 1/4 corner of Section 5, Township 26 South, Range 22 East, Pasco County, Florida, run thence S.00°35'43"W., 210.43 feet along the West boundary of the Southwest 1/4 of said Section 5; thence N.89°54'15"E., 827.19 feet to the Point of Beginning; thence along a non-tangent curve to the right, having a radius of 115.00 feet, an arc of 136.42 feet, a chord of 128.86 feet, chord bearing N.33°53'18"E., thence N.67°52'21"E., 47.16 feet; thence along a curve to the left, having a radius of 250.00 feet, an arc of 296.57 feet; a chord of 279.48 feet, chord bearing of N.33°53'18"E., thence N.00°05'45"W., 205.85 feet; thence along a curve to the left having a radius of 250.00 feet, an arc of 92.88 feet, a chord of 92.44 feet, chord bearing of N.10°45'00"W., thence N.21°24'15"W., 59.74 feet to the Southerly right-of-way line of State Road No. 54; thence N.68°35'45"E., 1067.00 feet along said Southerly right-of-way line; thence S.00°01'19"W., 1096.12 feet; thence S.89°54'15"W., 1224.80 feet to the Point of Beginning.

~~TOGETHER WITH TOGETHER WITH~~ a non-exclusive easement for ingress, egress and utilities created by Easement Agreement recorded May 8, 1989, in Official Records Book 1808, page 125, Public Records of Pasco County, Florida, over the following described land:

A 50.00 foot Right-of-way Easement in Section 5, Township 26 South, Range 22 East, Pasco County, Florida, described as follows: From the West 1/4 corner of said Section 5, run thence S.00°23'43"W., 210.43 feet along the West boundary of the Southwest 1/4 of said Section 5; thence N. 89°54'15" E., 777.19 feet to the Point of Beginning; thence from a tangent bearing of N. 00°05'45" W., run Northeastly, 195.73 feet along the arc of a curve to the right, having a radius of 165.00 feet, a central angle of 67°58'06", and a chord bearing and distance of N. 33°53'18" E., 194.46 feet to a point of tangency; thence N. 67°52'21" E., 47.16 feet to a point of curvature; thence Northeastly, 237.25 feet along the arc of a curve to the left, having a radius of 200.00 feet, a central angle of 67°58'06", and a chord bearing and distance of N.33°53'18" E., 223.59 feet to a point of tangency; thence N.00°05'45" W., 205.85 feet to a point of curvature; thence Northwestly, 74.38 feet along the arc of a curve to the left, having a radius of 200.00 feet, a central angle of 21°18'30", and a chord bearing and distance of N. 10°45'00" W., 73.95 feet, to a point of tangency; thence N. 21°24'15" W., 59.74 feet to the Southerly right-of-way line of State Road No. 54; thence N. 68°35'45" E., 50.00 feet along said Southerly right-of-way line; thence S. 21°24'15" E., 59.74 feet to a point of curvature; thence Southeastly, 92.98 feet along the arc of a curve to the right, having a radius of 250.00 feet, a central angle of 21°18'30", and a chord bearing and distance of S. 10°45'00" E., 92.44 feet to a point of tangency; thence S. 00°05'45" E., 205.85 feet to a point of curvature; thence Southwestly, 296.57 feet along the arc of a curve to the right, having a radius of 250.00 feet, a central angle of 67°58'06", and a chord bearing and distance of S. 33°53'18" W., 279.48 feet to a point of tangency; thence S. 67°52'21" W., 47.16 feet to a point of curvature; thence Southwestly, 136.42 feet along the arc of a curve to the left, having a radius of 115.00 feet, a central angle of 67°58'06", and a chord bearing and distance of S.33°53'18"W., 128.86 feet; thence S.89°54'15"W., 50.00 feet to the Point of Beginning.

ALSO TOGETHER with easements for utilities as created by Easement Agreement and Subordination recorded March 12, 1997 in Official Records Book 3710, page 1324, Public Records of Pasco County, Florida, described as follows:

EASEMENT A -- EASEMENT FOR UTILITIES DESCRIBED AS FOLLOWS:
COMMENCE AT THE WEST 1/4 CORNER OF SECTION 5, TOWNSHIP 26 SOUTH, RANGE 22 EAST, PASCO COUNTY, FLORIDA, RUN THENCE S. 00°35'43" W. ALONG THE WEST BOUNDARY OF THE SOUTHWEST 1/4 OF SAID SECTION, 210.43 FEET; THENCE N. 89°54'15" E. 995.51 FEET FOR A POINT OF BEGINNING; THENCE CONTINUE N. 89°54'15" E. 285.94 FEET; THENCE S. 00°08'02" E. 5.16 FEET; THENCE S. 37°13'59" E. 54.81 FEET; THENCE S. 45°07'40" W. 192.77 FEET; THENCE N. 63°48'08" W. 201.31 FEET; THENCE NORTH 00°02'08" W. 66.78 FEET TO THE POINT OF BEGINNING.

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EASEMENT B - A 15' EASEMENT FOR UTILITIES LYING 7.5 EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE COMMENCE AT THE WEST 1/4 CORNER OF SECTION 8, TOWNSHIP 26 SOUTH, RANGE 22 EAST, PASCO COUNTY, FLORIDA AND RUN S 00°38'43" W, ALONG THE WEST BOUNDARY OF THE SOUTHWEST 1/4 OF SECTION 8, 210.43 FEET; THENCE RUN N 89°54'15" E, 1269.85 FEET FOR A POINT OF BEGINNING; THENCE RUN S 00°02'02" E, 2.63 FEET; THENCE RUN S 37°13'59" E, 120.66 FEET; THENCE S 32°27'33" E, 45.65 FEET; THENCE N 80°41'54" E, 140.84 FEET; THENCE S 10°12'31" W, 251.24 FEET; THENCE S 41°59'55" W, 260.24 FEET; THENCE S 47°54'17" W, 199.69 FEET; THENCE S 47°58'30" W, 194.30 FEET; THENCE S 37°19'36" E, 176.54 FEET; THENCE S 02°29'28" E, 284.81 FEET; THENCE S 00°08'28" E, 400.47 FEET; THENCE S 24°22'08" W, 185.48 FEET; THENCE S 51°48'40" W, 177.68 FEET; THENCE S 10°54'52" E, 74.81 FEET; THENCE S 09°55'01" E, 136.21 FEET; THENCE S 13°52'19" E, 166.02 FEET; THENCE N 71°38'06" E, 123.80 FEET; THENCE N 89°51'06" E, 178.86 FEET; THENCE S 40°04'10" E, 535.23 FEET; THENCE N 39°53'40" E, 228.80 FEET; THENCE N 36°26'57" E, 162.61 FEET; THENCE S 30°54'52" E, 120.54 FEET; THENCE S 00°00'38" E, 802.85 FEET; THENCE S 88°40'15" E, 60.14 FEET TO THE POINT OF TERMINATION.

EASEMENT D - AN EASEMENT FOR UTILITIES DESCRIBED AS FOLLOWS:

COMMENCE AT THE WEST 1/4 CORNER OF SECTION 5, TOWNSHIP 26 SOUTH, RANGE 22 EAST, PASCO COUNTY, FLORIDA AND RUN S 00°38'43" W, ALONG THE WEST BOUNDARY OF THE SOUTHWEST 1/4 OF SAID SECTION, 210.43 FEET; THENCE RUN N 89°54'15" E, 1269.85 FEET; THENCE RUN S 00°02'02" E, 2.63 FEET; THENCE RUN S 37°13'59" E, 120.66 FEET; THENCE RUN S 32°27'33" E, 45.65 FEET; THENCE RUN N 80°41'54" E, 140.84 FEET; THENCE RUN S 10°12'31" W, 251.24 FEET; THENCE RUN S 41°59'55" W, 260.24 FEET; THENCE RUN S 47°54'17" W, 199.69 FEET; THENCE RUN S 47°58'30" W, 194.30 FEET; THENCE RUN S 37°19'36" E, 176.54 FEET; THENCE RUN S 02°29'28" E, 284.81 FEET; THENCE S 00°08'28" E, 400.47 FEET; THENCE RUN S 24°22'08" W, 185.48 FEET; THENCE RUN S 51°48'40" W, 177.68 FEET; THENCE S 10°54'52" E, 74.81 FEET; THENCE RUN S 09°55'01" E, 136.21 FEET; THENCE S 13°52'19" E, 166.02 FEET; THENCE N 71°38'06" E, 123.80 FEET; THENCE N 89°51'06" E, 178.86 FEET; THENCE RUN S 40°04'10" E, 535.23 FEET FOR A POINT OF BEGINNING; THENCE N 39°53'40" E, 228.80 FEET; THENCE RUN N 36°26'57" E, 162.61 FEET; THENCE N 30°54'52" E, 120.54 FEET; THENCE N 29°23'45" E, 62.02 FEET; THENCE RUN S 83°04'07" E, 103.78 FEET; THENCE RUN S 00°00'38" E, 802.85 FEET; THENCE RUN N 88°54'31" W, 118.00 FEET; THENCE RUN N 42°08'49" W, 473.70 FEET TO THE POINT OF BEGINNING.

Sent By: LUTZ WEBB ET AL;

941 888 1803;

11 Aug 99 2:38PM; Job 808; Page 21/25

**PARCEL 3
10 ACRE PARCEL**

That portion of Section 5, Township 26 South, Range 22 East, Pasco County, Florida described as follows:

Commence at the Northwest corner of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 6, Township 26 South, Range 22 East and run thence South easterly along the West boundary of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of said Section 6, a distance of 211.08 feet; thence North $89^{\circ}56'57''$ East, a distance of 1376.15 feet to a point 50 feet East of the West boundary of the Southwest $\frac{1}{4}$ of said Section 5 for a POINT OF BEGINNING; thence North $00^{\circ}36'06''$ East parallel with and 50 feet East of the West boundary of the Southwest $\frac{1}{4}$ of said Section 5, a distance of 357.18 feet to an intersection with the Southerly right of way line of State Road 54; thence Northeasterly along said right of way and a curve to the left having a radius of 5779.58 feet, a chord bearing North $71^{\circ}58'56''$ East, 684.96 feet along the arc of said curve through a central angle of $06^{\circ}47'40''$, a distance of 685.36 feet; thence continue along said right of way line North $68^{\circ}33'08''$ East, a distance of 381.15 feet; thence South $21^{\circ}21'33''$ East, a distance of 59.18 feet; thence Southwesterly along a curve to the right having a radius of 250.00 feet a chord bearing South $10^{\circ}42'18''$ East, 92.44 feet, along the arc of said curve through a central angle of $21^{\circ}18'30''$ a distance of 92.97 feet; thence South $00^{\circ}03'03''$ East, a distance of 205.85 feet; thence Southwesterly along a curve to the right having a radius of 250.00 feet a chord bearing South $33^{\circ}56'00''$ West, 279.48 feet, along the arc of said curve through a central angle of $67^{\circ}58'04''$ a distance of 296.57 feet; thence South $67^{\circ}55'03''$ West, a distance of 47.16 feet; thence Southwesterly along a curve to the left having a radius of 115.00 feet, a chord bearing South $33^{\circ}56'00''$ West, 128.56 feet, along the arc of said curve through a central angle of $67^{\circ}58'04''$, a distance of 136.42 feet; thence South $89^{\circ}56'57''$ West, a distance of 777.19 feet to the POINT OF BEGINNING.

Sent By: LUTZ WEBB ET AL;

941 888 1808;

11 Aug 08 2:38PM; Job 608; Page 22/25

**PARCEL 4
60 ACRE PARCEL**

The Southeast 1/4 of the Southwest 1/4, and the South 1/2 of the Northeast 1/4 of the Southwest 1/4 of Section 32, Township 25 South, Range 22 East, Pasco County, Florida; LESS that part thereof within any railroad rights-of-way.

Certified Article Number

7196 9008 9111 3037 3776

SENDERS RECORD

Certified Article Number

7196 9008 9111 3037 3776

SENDERS RECORD

February 9, 2012

David S. Bernstein
Partner - Executive Committee
Direct: 727.502.8220
E-Fax: 727.502.8282
david.bernstein@arlaw.com

*Via Certified Mail -
Return Receipt Requested*
Utilities, Inc.
2335 Sanders Road
Northbrook, Illinois 60062-6196

*Via Certified Mail
Return Receipt Requested*
Labrador Utilities, Inc.
200 Weathersfield Ave
Altamonte Springs, Florida 32714

RE: Lease: Dated June 10, 1999
Lessor: Forest Lake Estates Co-Op, Inc.
Lessee: Labrador Utilities, Inc., as successor-in-interest to Labrador Services, Inc.
Premises: Forest Lake Estates, Pasco County, Florida

To Whom It May Concern:

This firm represents the Lessor, owner of the Premises. Enclosed herein is Check #856325 in the amount of \$3,744.00 issued in favor of Lessor (the "Check"). This Check is returned herewith as it represents merely a partial payment which is insufficient to cure the Monetary Default (the "Monetary Default") as defined and described in that certain written cure notice dated January 11, 2012, another copy of which is enclosed herein.

Pursuant to Section 38 of the Lease, Lessor is terminating the Lease. Lessee shall immediately quit, surrender, and remise to Lessor all of the Leased Premises, and Lessee shall vacate the Leased Premises. Failure to do so shall result in Lessor filing suit for ejectment, eviction and attorneys fees.

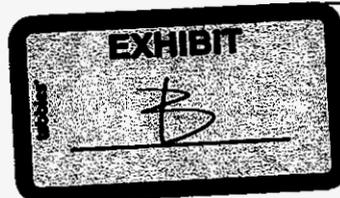
PLEASE GOVERN YOURSELF ACCORDINGLY.

Very truly yours,

David S. Bernstein

DSB:imd
Enclosure

cc: Joseph W. Etter, Esq.



14486321v1

150 Second Avenue North, Suite 1700 | St. Petersburg, Florida 33701 | 727.502.8200 | Fax 727.502.8282

www.adamsandree.com

WATER SERVICE CORP.

DISBURSING ACCOUNT OF
UTILITIES INCORPORATED
2335 SANDERS ROAD
NORTHBROOK, IL 60062

J.P. MORGAN CHASE BANK, N.A.
Columbus, Ohio

NOT VALID NO. **856325**
AFTER 90 DAYS 00856325

VENDOR# DATE NET AMOUNT 56-1544
441

3004607 1/26/2012 \$*****3,744.00

PAY THREE THOUSAND SEVEN HUNDRED FORTY FOUR AND 00/100*****

TWO SIGNATURES REQ'D OVER \$1,000.00



TO THE
ORDER
OF

FOREST LAKE ESTATES, CO-OP, INC
6429 FOREST LAKE DRIVE
ZEPHYRHILLS FL 33540

AUTHORIZED SIGNATURE

James Joseph
AUTHORIZED SIGNATURE

⑈856325⑈ ⑆044115443⑆ 989034290⑈

Certified Article Number
7196 9008 9111 3037 3103
SENDER RECORD

Certified Article Number
7196 9008 9111 3037 3110
SENDER RECORD

January 11, 2012

David S. Bernstein
Partner – Executive Committee
Direct: 727.502.8220
E-Fax: 727.502.8282
david.bernstein@arlaw.com

*Via Certified Mail –
Return Receipt Requested*
Utilities, Inc.
2335 Sanders Road
Northbrook, Illinois 60062-6196

*Via Certified Mail
Return Receipt Requested*
Labrador Utilities, Inc.
200 Weathersfield Ave
Altamonte Springs, Florida 32714

RE: Lease Agreement for Water and Wastewater Treatment Facilities dated June 10, 1999 (the "Lease") between Forest Lake Estates Co-Op, Inc. ("Landlord") and Labrador Utilities, Inc., as successor-in-interest to Labrador Services, Inc. ("Tenant")

To Whom It May Concern:

This firm represents your Landlord. Be advised that Tenant is in default pursuant to Section 38 of the Lease due to its failure to pay the increased rental amount due under Section 3.3 of the Lease (the "Monetary Default") as stated in that certain rate increase notice dated August 3, 2011 (the "Notice"), a copy of which is enclosed and was signed for on August 8, 2011.

Due to this Monetary Default, and pursuant to Section 38 of the Lease, Tenant has fifteen (15) days from receipt hereof to cure the Monetary Default by paying to Landlord the sum of \$5,241.60 (the "Arrearage"), comprised of the difference between the original monthly rental amount and the increased monthly rental amount for Parcels 1-3 from June, 2011 through January, 2012. A breakdown of the Arrearage is included below:

Parcels 1 and 2:

Monthly Rent through May, 2011	\$1,170.00
Increased Monthly Rent beginning June, 2011	\$ 1,357.20
Arrearage Owing from June, 2011 through January, 2012	<u>\$1,497.60</u>

Parcel 3:

Monthly Rent through May, 2011	\$2,925.00
Increased Monthly Rent beginning June, 2011	\$ 3,393.00
Arrearage Owing from June, 2011 through January, 2012	<u>\$3,744.00</u>

Utilities, Inc.
Labrador Utilities, Inc.
January 11, 2012
Page 2

In the event that Tenant fails to cure the Monetary Default as provided herein, Landlord shall be entitled to take such legal action as permitted under the Lease without further notice.

If you have any questions, do not hesitate to contact me.

Very truly yours,



David S. Bernstein

cc via e-mail:

Beverley A. Culliford, President
Brett Schroder, Community Manager

cc via Certified Mail - RRR

Richard S. Webb, IV, Esq.
Lutz, Webb & Bobo, P.A.
2 North Tamiami Trail, Suite 500
Sarasota, Florida 34236

Labrador Services, Inc.
39 Treasure Circle
Sebastian, Florida 32958

Certified Article Number

7196 9008 9111 3037 3127

SENDERS RECORD

Certified Article Number

7196 9008 9111 3037 3141

SENDERS RECORD

ADAMS AND REESE LLP

Attorneys at Law
Alabama
Florida
Louisiana
Mississippi
Tennessee
Texas
Washington, DC

839950-000001

August 3, 2011
Via Federal Express

Lee Ann Tranford
Direct: 727.502.8211
E-Fax: 727.502.8911
lee.tranford@arlaw.com

Daniel Delgado, Manager
Utilities, Inc.
2335 Sanders Road
Northbrook, Illinois 60062-6196

RE: Lease Agreement for Water and Wastewater Treatment Facilities dated June 10, 1999 (the "Lease") between Forest Lake Estates Co-Op, Inc. ("Landlord") and Utilities, Inc., as successor-in-interest to Labrador Services, Inc. ("Tenant")

Gentlemen:

Pursuant to Section 3.3 of the Lease, the Landlord is permitted to increase the annual rent set forth in the Lease based upon the Consumer Price Index (as defined within the Lease and as hereinafter referred to as "CPI"). Enclosed please find a copy of the Consumer Price Index for the referenced period for your review.

As you are aware, the Lease provides that the annual rental amounts would initially be increased in the 73rd month from the date of the Agreement based upon CPI and the rental rate would be increased every six (6) years thereafter.

For the current period, the 73rd month would be the date for the starting point for the computation of the increase of CPI. June, 2011, which is six (6) years thereafter, would be used as the cumulative index date in order to obtain the multiplier of the rental adjustment.

Using the above scenario, the following calculations express the correct increase, using the CPI for US City Average for All Urban Consumers, All Items, with a base period equaling 100 in 1982-1984:

June 2011 CPI	224.304
June 2005 CPI	<u>193.700</u>

0030.604 divided by 193.7, equaling a multiplier of 16%

Based on the foregoing, the monthly and annual rental payments will increase as follows:

Utilities, Inc.
Page 2
August 3, 2011

Parcels 1 and 2:

Total annual rent since June 2005	\$14,040.00
Increase (\$14,040 x 16%)	\$ <u>2,246.40</u>
Annual Rent Due from June 1, 2011 through May 31, 2017	\$ <u>16,286.40</u>
Monthly Rent Due June 1, 2011 through May 31, 2017	\$ <u>1,357.20</u>

Parcel 3:

Total annual rent since June 2005	\$35,100.00
Increase (\$35,100 x 16%)	\$ <u>5,616.00</u>
Annual Rent Due from June 1, 2011 through May 31, 2017	\$ <u>40,716.00</u>
Monthly Rent Due June 1, 2011 through May 31, 2017	\$ <u>3,393.00</u>

This letter shall serve as notice of the increase of the monthly and annual rent under the referenced Lease. If you have any questions, please do not hesitate to contact me.

Sincerely,



Lee Ann Tranford

LAT/SGS/sd

Encl.

cc via e-mail: Beverley A. Culliford, President
Brett Schroder, Community Manager
David S. Bernstein, Esq.

Databases, Tables & Calculators by Subject

FONT SIZE: **S**

Change Output Options: From: **2005** To: **2011** **GO**

include graphs

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Data extracted on: August 3, 2011 (10:34:45 AM)

Consumer Price Index - All Urban Consumers

Series Id: CUSR0000SA0
 Seasonally Adjusted
 Area: U.S. city average
 Item: All items
 Base Period: 1982-84=100

Download: .xls

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1
2005	191.6	192.4	193.1	193.7	193.6	193.7	194.9	196.1	198.8	199.1	198.1	198.1		
2006	199.3	199.4	199.7	200.7	201.3	201.8	202.9	203.8	202.8	201.9	202.0	203.1		
2007	203.379	204.238	205.247	206.010	206.813	207.162	207.655	207.689	208.467	209.156	210.810	211.416		
2008	212.180	212.684	213.464	214.118	215.304	217.235	219.133	218.780	218.852	216.930	213.002	211.327		
2009	211.903	212.879	212.572	212.799	213.078	214.527	214.782	215.519	215.956	216.445	216.956	217.158		
2010	217.458	217.562	217.611	217.625	217.320	216.865	217.621	218.068	218.427	218.970	219.240	220.186		
2011	221.062	222.270	223.490	224.433	224.804	224.304								

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IN THE CIRCUIT COURT IN AND FOR THE SIXTH JUDICIAL CIRCUIT,
IN AND FOR PASCO COUNTY, FLORIDA
CIVIL DIVISION

FOREST LAKE ESTATES CO-OP, INC.,
a Florida non-profit corporation,

Plaintiff,

vs.

Case No.: 51-08-CA-004033-ES/B

LABRADOR UTILITIES, INC., a Florida
corporation, and UTILITIES, INC., an Illinois
corporation,

Defendants.

ORDER DENYING DEFENDANT'S MOTION FOR EMERGENCY INJUNCTION AND
GRANTING PLAINTIFF'S MOTION FOR LEAVE TO FILE AMENDED COMPLAINT

THIS CAUSE having come before the Court upon the Plaintiff's, FOREST LAKE ESTATES CO-OP, INC., a Florida non-profit corporation ("Co-Op"), Motion for Leave to File Amended Complaint ("Motion to Amend"), and Defendant's, LABRADOR UTILITIES INC., a Florida corporation ("Labrador"), Motion for Emergency Injunction ("Motion for Injunction"), and upon argument of the parties at a duly noticed hearing on February 24, 2012, and the Court being fully advised in the premises, it is thereupon ORDERED and ADJUDGED that

1. The Motion for Injunction is DENIED. The Court finds that there is no irreparable harm to Labrador.
2. The Motion to Amend is GRANTED. The Amended Complaint (the "Amended Complaint") attached to the Motion to Amend as Exhibit "1" is deemed filed. Labrador shall file a responsive pleading to the Amended Complaint within ten (10) days from the date of this Order.



3. The Court reserves jurisdiction on any claims that Labrador may have, if any, for attorneys' fees under Counts I and IV of the Co-Op's original Complaint, filed on May 20, 2008, upon proper motion by Labrador

Entered in Chambers in Dade City, Pasco County, Florida, this ___ day of _____
2012. ~~TRUE COPY~~
Original Signed

FEB 29 2012

LINDA H. BABB
CIRCUIT JUDGE

THE HONORABLE LINDA BABB
CIRCUIT JUDGE

Copies to:
Joseph W. Etter IV
Harold A. Saul
Kubicki Draper
201 North Franklin Street, Suite 2550
Tampa, Florida 33602

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Sundstrom, Friedman and Fumero LLP Largo,
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Lake Mary, Florida 32746

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Andrew J. McBride
Adams and Reese LLP
150 Second Ave North, Suite 1700
St. Petersburg, Florida 33701