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Sent: Friday, March 09, 2012 12:52 PM
To: Filings@psc.state.fl.us
Cc: Martha Brown; Reilly, Steve; david.bernstein@arlaw.com
Subject: {BULK} Docket No.: 110264-WS; Application of Labrador Utilities, Inc. for an Increase in Water and Wastewater Rates in Pasco County
Importance: Low

Attachments: Response to Motion to Dismiss or Abate (Forest Lake Lawsuit).pdf

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- b. Docket No.: 110264-WS; Application of Labrador Utilities, Inc. for an Increase in Water and Wastewater Rates in Pasco County
 - a. Labrador Utilities, Inc.
 - b. Response (5 pages) and Exhibit to Response (44 pages)
 - c. Response to Motion to Dismiss or Abate (DN 01321-12)

MICHELE PARKS

Paralegal for Martin S. Friedman and Bridget M. Grimsley

PLEASE NOTE: Our changed firm name and email address.
Please update your contacts accordingly. Thank you.

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DOCUMENT NUMBER-DATE
 01394 MAR-9 2012
 FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of
LABRADOR UTILITIES, INC.
for an increase in water and wastewater
rates in Pasco County, Florida

DOCKET NO. 110264-WS

LABRADOR UTILITIES, INC.'s RESPONSE
TO MOTION TO DISMISS OR ABATE

LABRADOR UTILITIES, INC., ("Labrador") by and through its undersigned attorneys, files this Response to the Motion to Dismiss or Abate filed by FOREST LAKE ESTATES CO-OP, INC. ("Co-Op") (DN 01321-12), and states as follows:

1. The Co-Op argues that since it is seeking to evict Labrador from the property upon which Labrador's water treatment plant, wastewater treatment plant, and reclaimed disposal site are located, that somehow the Commission must conclude that Labrador is in violation of §367.1213, Florida Statutes, and Rule 25-30.433 (10), Florida Administrative Code, which require that a utility own the land upon which a utility's treatment facilities are located.

2. The irrational and unreasonable position of the Co-Op is readily apparent from a review of the facts. The Lease (Exhibit A to the Co-Op's Motion) provides that rents increase every six (6) years based upon an increase in the Consumer Price Index ("CPI"). Neither Labrador nor the Co-Op realized the increase in rent occurred in June, 2011, until the Co-Op realized it in August, 2011, and advised Labrador accordingly. The Co-Op seeks to place all of the blame of this omission on Labrador.

DOCUMENT NUMBER-DATE

01394 MAR-9 2011

FPSC-COMMISSION CLERK

3. Labrador does acknowledge that it mistakenly failed to pay the increased amount of rent, but continued to pay the amount due prior to the CPI increase. That CPI increase was sixteen percent (16%) which increased the monthly rent on the two treatment plant parcels by \$187.20, and the spray irrigation parcel by \$468.00.

4. In January of 2012, the Co-Op advised Labrador, in writing, (Exhibit "B" to Co-Op's Motion) that it was in default for failure to pay the increased amount of the Lease payments. Due to the manner in which the rent payments were broken down on that demand letter (spacing with regard to Parcel 3), the letter was misread and Labrador sent the Co-Op a check for \$3,744.00, which was actually only for Parcel 3. The Co-Op returned that check since Labrador omitted the \$1,497.60 due on Parcels 1 and 2, and then demanded that Labrador "immediately quit, surrender, and remise to Lessor all of the Leased Premises."

5. In response to the demand to immediately surrender the leased property, Labrador was compelled to seek an injunction. In response, at the hearing on the Motion for Injunction, the Co-Op advised the Court that the Co-Op would be amending its existing Complaint against Labrador to include a count for eviction. Since the Co-Op represented to the Court that it would not evict Labrador unless and until the Court ruled upon the eviction, there was no irreparable harm to Labrador, which was the basis upon which the Court denied Labrador's Motion for an injunction.

6. The Co-Op has filed an Amended Complaint, a copy of which is attached hereto as Exhibit "A". Count III of the Amended Complaint seeks a judicial determination that the Lease is terminated. Labrador is continuing to make the Lease payments into the

Court Registry during the pendency of the lawsuit. Unless and until a Court enters a judgment terminating the Lease, Labrador continues to have all possessory rights afforded to it pursuant to the Lease.

7. The Co-Op's assertion that Labrador has no legally enforceable rights under the Lease is simply not true. Until a court rules otherwise, Labrador continued to enjoy all of its rights under the Lease. As such, Labrador is in full and complete compliance with §367.1213, F.S., and Rule 25-30.433 (10), F.A.C.

8. The Co-Op seeks to have this Commission usurp the jurisdiction of the Circuit Court to determine whether the Co-Op's attempts to terminate the Lease will be successful. There is no legitimate basis for this Commission to dismiss or abate Labrador's rate case, based upon the grounds asserted by the Co-Op.

9. The assertion that the Co-Op will be prejudiced if this proceeding is not dismissed or abated borders on the absurd. The customers of Labrador are continuing to receive water and wastewater service. The only change may be that the rates should increase to reflect the increase in the Lease payments for the land. Otherwise, it is business as usual.

10. Even if the Court were to err and terminate the Lease, Labrador would exercise its rights of eminent domain pursuant to §§ 361.04 and 361.07, Florida Statutes. In doing so, it would maintain its rights to the water and wastewater treatment plant lands and spray irrigation site.

WHEREFORE, LABRADOR UTILITIES, INC., respectfully requests that this Commission deny FOREST LAKE ESTATES CO-OP, INC.'s Motion to Dismiss or Abate.

Respectfully submitted this 9th day of March, 2012, by:

SUNDSTROM, FRIEDMAN & FUMERO, LLP
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MARTIN S. FRIEDMAN
For the Firm

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S.

Mail this 9th day of March, 2012, to:

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MARTIN S. FRIEDMAN
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For the Firm

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.

AMENDED COMPLAINT

Plaintiff, Forest Lake Estates Co-Op, Inc., a Florida non-profit corporation (the "Co-Op"), by and through its undersigned counsel, hereby sues Defendant, Labrador Utilities, Inc., a Florida corporation ("Labrador"), and alleges as follows:

Parties and Venue

1. Jurisdiction is founded in this Court because the amount in controversy exceeds damages in excess of Fifteen Thousand Dollars (\$15,000.00), excluding costs, interests, and attorneys' fees.

2. Venue is proper in Pasco County, Florida, because all actions that form the basis of this Amended Complaint took place in Pasco County, Florida, and the Forest Lake Estates Mobile Home Park (the "Park"), the Forest Lake Estates R.V. Park (the "RV Resort") (hereinafter, the Park and the RV Resort are sometimes collectively referred to as "Forest Lakes Estates"), and the water and wastewater treatment plant and systems and equipment associated therewith (collectively, the "Plant"), of subject herein and servicing Forest Lake Estates, are all located in Pasco County, Florida.



3. The Co-Op is a Florida non-profit corporation cooperative (the “**Cooperative**”) with its principal place of business located at 6429 Forest Lake Drive, Zephyrhills, Florida 33540. The Co-Op is the owner of Forest Lake Estates.

4. Labrador is a Florida corporation with its principal place of business located at 2335 Sanders Road, Northbrook, Illinois 60062.

General Allegations Common to All Counts

5. Three separate types of tenancies exist at Forest Lake Estates. First, the Co-Op has shareholders who are members of the Cooperative (“**Shareholders**”) and own a membership share in the Cooperative (“**Membership Share**”). Those Shareholders’ tenancies are governed by Chapter 719, *Florida Statutes*. Second, the Co-Op rents individual lots at Forest Lake Estates to residents who place their own mobile home on each lot (“**Chapter 723 Residents**”). Those Chapter 723 Residents’ tenancies are governed by Chapter 723, *Florida Statutes*. Finally, the Co-Op rents lots to residents who place their own recreational vehicle on each lot (“**Chapter 83 Residents**”)(hereinafter, the Shareholders, the Chapter 723 Residents, and the Chapter 83 Residents are sometimes collectively referred to as the “**Residents**”). Those Chapter 83 Residents’ tenancies are governed by Chapters 83 and 513, *Florida Statutes*.

6. In relation to all three tenancies, the Co-Op is under a statutory obligation to provide competent and sanitary water and wastewater service to its Residents. Specifically, Section 723.022, *Florida Statutes*, requires the Co-Op to maintain utility connections and systems in proper operating condition; Section 83.51(2)(a)(5), *Florida Statutes*, requires the Co-Op to provide and make reasonable provisions for running water and hot water; and Section 719.504(18), *Florida Statutes*, requires the Co-Op to specifically make provisions for water and wastewater within the Co-Op’s statutory prospectus.

7. With respect to its obligation to provide water and wastewater service to its Residents, the Co-Op has contractually outsourced that obligation to Labrador pursuant to the terms and conditions of a Commercial Lease Agreement for Water and Wastewater Treatment Facilities dated June 10, 1999 (the "**Commercial Lease**"), by and between the Co-Op and Labrador Services, Inc., a Florida corporation ("**Labrador Services**"), as assigned by Labrador Services to Labrador pursuant to an Assignment and Assumption of Contracts and Leases dated May 13, 2002 (the "**Assignment**"), as recorded in O.R. Book 5470, beginning on Page 684, of the Public Records of Pasco County, Florida (hereinafter, the Commercial Lease and the Assignment are sometimes collectively referred to as the "**Contract**"). A true and correct copy of the Commercial Lease and the Assignment are attached hereto as **Composite Exhibit "A."**

8. Pursuant to the Commercial Lease, Labrador supplies the water and wastewater to all of the residential lots and the common area elements and facilities located at the Property. The real property that Labrador leases from the Co-Op in order to operate the Plant is referred to as the Leased Premises (the "**Leased Premises**") and is described in Exhibit "A" to the Commercial Lease.

9. The Commercial Lease is memorialized in a Memorandum of Lease dated June 10, 1999 (the "**Memorandum**"), recorded in O.R. Book 4170, beginning on Page 861, of the Public Records of Pasco County, Florida, as subsequently amended. A true and correct copy of the Memorandum is attached hereto as **Exhibit "B."**

10. Labrador, by way of the Assignment from Labrador Services, further obtained a Utility Easement dated June 10, 1999, as recorded in O.R. Book 4170, beginning on Page 849, of the Public Records of Pasco County, Florida (the "**Easement**"), from the Co-Op that provided Labrador with a perpetual non-exclusive easement and right of way over an area more particularly described in the Easement and which gave Labrador the authority to patrol, inspect,

alter, improve, repair, rebuild, remove, replace, install, construct, operate, and maintain the Plant.

A true and correct copy of the Easement is attached hereto as **Exhibit "C."**

11. Thus, since July, 2002, Labrador (as opposed to Labrador Services) has been engaged in the business of providing water and wastewater services to Forest Lake Estates.

12. Subsequent to Labrador commencing with providing water and wastewater services to the Co-Op and the Residents of Forest Lake Estates, Labrador has been notified by the Co-Op and the Florida Public Service Commission (the "**Commission**") that it is maintaining, or causing, a sanitary nuisance on the property comprising Forest Lake Estates.

13. Such sanitary nuisance is a result of extreme and noxious odors emanating from the Plant causing the Co-Op and its Residents to suffer extreme discomfort and, in some cases, physical illness.

14. As a result of such sanitary nuisance, the Co-Op has received repeated and innumerable complaints from its Residents, as well as from the statutory home owners' association which represents the Chapter 723 Residents.

15. Accordingly, the sanitary nuisance caused by Labrador and the failure of Labrador to properly perform under the Commercial Lease and competently maintain the Plant facilities has directly damaged the Co-Op. These damages include, but are not limited to:

- i. Current and potential Chapter 83 Residents not entering into or renewing lease agreements with the Co-Op and not purchasing, or prematurely selling, recreational vehicles located at Forest Lake Estates, all of which deprives the Co-Op of commissions, profits, and rental income;
- ii. Current and potential Chapter 723 Residents not entering into or renewing lease agreements with the Co-Op and not purchasing, or prematurely selling, mobile homes located at Forest Lake Estates, all of which deprives the Co-Op of commissions, profits, and rental income;
- iii. Current and potential Shareholders not purchasing or prematurely selling mobile homes located at Forest Lake Estates and Membership Shares in the Co-Op, all of which deprives the Co-Op of commissions, profits, and Shareholder maintenance fee income;

- iv. Reduction in the sale price of mobile homes and recreational vehicles and leases of lots at Forest Lake Estates, all of which deprives the Co-Op of commissions, profits, and rental income;
- v. Diminution in the value and reduced marketability of Forest Lake Estates as a result of the all of the foregoing.

16. By letter dated February 21, 2001, which is attached hereto as **Exhibit "D,"** the Co-Op previously notified Labrador Services of the nuisance and its non-monetary default of the Contract pursuant to Section 38 of the Commercial Lease. The Co-Op, pursuant to Section 10 of the Commercial Lease, further claimed that it would seek indemnification for any claims, expenses, or damages, including attorneys' fees and costs, incurred by the Co-Op as a result of the extreme, noxious odors emanating from the Plant.

17. Despite being notified by the Co-Op of the sanitary nuisance caused by the odors or stench emanating from the Plant, Labrador failed to take sufficient corrective or remedial measures to completely eliminate or abate same.

18. The Co-Op subsequently filed complaints with the Commission and the Florida Department of Environmental Protection ("**DEP**") citing the odor problems and, with respect to DEP, requesting that Labrador Services and/or Labrador (as the case may be), take action to abate the noxious odors or stench emanating from the Plant.

19. Despite such efforts and dealings by the Co-Op with the Commission, DEP, Labrador Services, and Labrador, the extreme noxious odors or stench continues to emanate from the Plant to the present date.

20. Pursuant to Section 38 of the Commercial Lease, Labrador is liable to the Co-Op for the actual damages sustained by the Co-Op due to Labrador's failure to perform under the Commercial Lease. Moreover, the Co-Op's rights under the Commercial Lease are cumulative and non-exclusive in nature and survive termination of the Commercial Lease.

21. The Co-Op has retained the undersigned attorneys to represent it in this action and is obligated to pay them a reasonable fee for their services.

22. All conditions precedent to bringing this action have occurred, been performed, or been waived.

COUNT I - PRIVATE NUISANCE

23. The Co-Op re-alleges and re-incorporates the allegations contained in Paragraphs 1-22 above as if fully set forth herein.

24. As a direct and proximate result of the sanitary nuisance being caused by the extreme, noxious odors emanating from the Plant, the Co-Op and the Residents of Forest Lake Estates have experienced physical health symptoms and in fact become ill from same.

25. Based on information and belief, such impaired physical condition and illness to such Residents are directly and proximately caused by inhalation of the gases and particulates emitted from the Plant.

26. Residents have been unable on numerous occasions in the past and present to stay outdoors or keep windows open due to such noxious odor emanating from the Plant.

27. The Co-Op and the Residents of Forest Lake Estates have experienced decreases in the monetary values of their mobile homes, recreational vehicles, and Membership Shares, and a reduced ability to sell or lease same due to the sanitary nuisance caused by such extreme, noxious odors emanating from the Plant.

28. The Co-Op has additionally lost sales of mobile homes and been rejected by potential residents from renting lots within Forest Lakes Estates and purchasing Membership Shares in the Cooperative, all of which deprives the Co-Op of commissions, profits, and rental income, specifically because of the sanitary nuisance caused by the extreme, noxious odors emanating from the Plant.

29. As a proximate result of such sanitary nuisance maintained by Labrador, and due to the impaired physical condition and illnesses resulting from same, the Co-Op and its Residents have been damaged and will continue to endure pain and suffering until such sanitary nuisance is eliminated or abated.

30. As a further proximate result of the sanitary nuisance maintained by Labrador, the Co-Op and the Residents of Forest Lake Estates are unable to enjoy and use their property located in Forest Lake Estates, and continuously experience annoyance, discomfort, and inconvenience resulting from same.

31. Because monetary damages are unable to adequately compensate the Co-Op for the continuous injuries caused to the health of the Co-Op and the Residents of Forest Lake Estates due to such extreme, noxious odors emanating from the Plant, the Co-Op has no adequate remedy at law.

WHEREFORE, based on the foregoing, the Co-Op requests that this Court grant or award the Co-Op the following injunctive and/or other relief such as to abate the private sanitary nuisance caused by the extreme, noxious odors emanating from the Plant, and to compensate the Co-Op for damages sustained as a result thereof:

i. Temporary and permanent injunctions restraining and enjoining Labrador from continuing to operate and maintain the Plant in such a manner as to cause a sanitary nuisance from noxious odors emanating from the Plant thereby threatening the health of the Co-Op and the Residents of Forest Lake Estates; and that diminishes the values, or interferes with the use and enjoyment, of property owned and/or leased by the Co-Op and the Residents of Forest Lake Estates; and

ii. An award of the Co-Op's monetary damages suffered as a result of Labrador's maintenance of the nuisance, including but not limited to compensatory,

incidental, special, and other damages, along with lost profits and diminution in the value of Forest Lake Estates;

- iii. Attorneys' fees and costs incurred in having to bring this action; and
- iv. Such other and further relief as this Court deems proper.

COUNT II - BREACH OF CONTRACT – FAILURE TO MAINTAIN

32. The Co-Op re-alleges and re-incorporates the allegations contained in Paragraphs 1-22 above as if fully set forth herein.

33. Pursuant to the terms of the Commercial Lease, the Easement, and the Memorandum, Labrador leases the Leased Premises, and possesses easement rights over adjacent property, from the Co-Op for purposes of operating the Plant on the Leased Premises.

34. With respect to the Commercial Lease, Sections 4 and 9 specifically provide as follows:

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.*

* * *

SECTION 9. UTILITIES, REPAIRS, AND OTHER EXPENSES. . . . 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.*

Commercial Lease §§4 and 9 (emphasis added).

35. Section 39(2) of the Commercial Lease provides that: “[i]n 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.”

36. Labrador is in breach of the Commercial Lease because Labrador has not maintained, operated, or administered the Leased Premises upon which the Plant is located, the Plant, or any systems and equipment associated with the Plant, in such a manner that is consistent with customary standards, and because Labrador has failed to maintain and repair the Plant and its associated systems and equipment in such a manner as to keep them in good operating condition and repair so as to not create a sanitary nuisance by allowing extreme noxious, odors to emanate from the Plant..

37. With respect to the Easement, Sections 8 and 9 contained therein provide in pertinent part as follows:

8. Maintenance.

* * *

(b) *Grantee shall maintain operate, repair, and make capital replacements to the Systems in compliance with law and applicable governmental requirements, and keep the Water and Sewage Facilities in good order and repair (collectively “Maintenance”).*

* * *

9. Easement Limitations. Notwithstanding the rights and easements granted and conveyed to Grantee above, the following limitations and restrictions shall apply to each right and easement so granted:

(a) No Nuisance. *Grantee shall use its easements so as not to unreasonably interfere with the use or enjoyment of any other easement granted herein or the use or enjoyment of the property over which the particular easement is granted and so as not to create a nuisance.*

Easement §§8 and 9 (emphasis added).

38. Labrador has breached Sections 8(b) and 9(a) of the Easement because it has used the easement area more particularly described in the Easement, and failed to maintain, operate,

and repair all systems and equipment located therein, in such a manner as to unreasonably interfere with the use and enjoyment of the property that the Easement encumbers, and all adjacent property located in Forest Lake Estates, due to the sanitary nuisance caused by the extreme, noxious odors emanating from the Plant.

39. Likewise, Section 9(b) of the Easement requires Labrador to comply with all laws, orders, rules, and regulations (collectively, the "Laws") of all applicable governmental and environmental authorities having jurisdiction over same with respect to the construction, installation, maintenance, upkeep and repair of the Plant and its supporting systems and equipment.

40. Again, Labrador has failed to comply with the Laws by allowing a sanitary nuisance to be created from the extreme, noxious odors emanating from the Plant.

41. Despite the Co-Op's numerous complaints about the sanitary nuisance caused by the extreme, noxious odors emanating from the Plant, Labrador has refused, and refuses, to take any action to eliminate or abate same.

42. Thus, based on the numerous breaches of the Commercial Lease and the Easement, both of which constitute interests in real property, the Co-Op is entitled to an award of money damages against Labrador.

WHEREFORE, the Co-Op prays that this Court enter a judgment in its favor and against Labrador that:

- i. Finds Labrador to be in breach of the Contract and the Easement;
- ii. Awards the Co-Op its monetary damages suffered as a result of the breach of the Contract and Easement by Labrador, including but not limited to all damages arising out of the breach, including compensatory damages, along with lost profits and diminution in the value of Forest Lake Estates;

iii. Awards the Co-Op its reasonable attorneys fees and costs incurred in having to bring this action; and

iv. Awards such other and further relief as this Court deems just and proper.

COUNT III – TERMINATION OF COMMERCIAL LEASE

43. The Co-Op re-alleges and re-incorporates the allegations contained in Paragraphs 1-11 and 20-22 above as if fully set forth herein.

44. Pursuant to Section 3 of the Commercial Lease, Labrador pays monthly rent to the Co-Op in consideration for lease of the Leased Premises.

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

46. Despite this obligation to pay the increased monthly rental amount, Labrador failed to do so.

47. Notwithstanding that the Co-Op had the right to notice Labrador of this default under the Commercial Lease and seek to have the Commercial Lease terminated, on August 3, 2011, as a courtesy, the Co-Op provided Labrador with notice of the increased monthly rental amount owing to the Co-Op (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. A true and correct copy of the Increase Notice is attached hereto as **Exhibit “E.”**

48. Thereafter, Labrador failed to pay the increased monthly rental amount owing to the Co-Op under the terms of the Commercial Lease for June, July, August, September, October, November, and December, 2011, and January, 2012.

49. 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 Labrador is liable to the Co-Op (the “**Arrearage**”). Non-payment of the Arrearage constitutes a monetary default (the “**Monetary Default**”) under the Commercial Lease.

50. On January 11, 2012, and pursuant to the notice provisions contained in the Commercial Lease, the Co-Op served Labrador with notice advising Labrador that if it does not cure the Monetary Default within fifteen (15) days of receipt thereof, the Co-Op would be entitled to take legal action against Labrador as permitted by the Commercial Lease (the “**Cure Notice**”). A true and correct copy of the Cure Notice is attached hereto as **Exhibit “F.”**

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

52. Pursuant to the plain language of the Commercial Lease, Section 38, the Cure Notice is the only notice that Labrador is entitled to in order to cure the Monetary Default. Moreover, pursuant to Section 36 of the Commercial Lease, the parties expressly agreed that time is of the essence with respect to the parties’ obligations under the Commercial Lease.

53. On February 9, 2012, due to Labrador’s failure to fully and timely cure the Monetary Default by tendering full and complete payment of the Arrearage to the Co-Op, pursuant to Section 38 of the Commercial Lease, and again pursuant to the notice provisions contained in the Commercial Lease, the Co-Op returned the Partial Payment and served Labrador with notice of termination of the Commercial Lease (the “**Termination Notice**”). The Termination Notice required Labrador to immediately quit, surrender, and remise to the Co-Op the Leased Premises. A true and correct copy of the Termination Notice is attached hereto as **Exhibit “G.”**

54. Labrador 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 Labrador's occupancy rights as to the Leased Premises have been revoked.

55. Accordingly, the Co-Op requires an Order of this Court holding that the Commercial Lease is terminated, placing the Co-Op in possession of the Leased Premises, and removing Labrador from same.

56. Section 39(2) of the Commercial Lease provides that: "[i]n 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."

WHEREFORE, the Co-Op prays for entry of a Final Judgment that:

- i. Determines that the Commercial Lease is terminated;
- ii. Terminates all rights of Labrador under the Easement, Assignment, and Memorandum;
- iii. Requires Labrador while litigation is pending and for as long as Labrador remains in possession of the Leased Premises to pay all rental amounts owing under the Commercial Lease into the registry of the Court, without any waiver of the Co-Op's right to seek a judicial termination of the Commercial Lease;
- iv. Finds that all possessory and leasehold interest of Labrador in the Leased Premises are terminated, and that Labrador is forever barred from any right of possession or use of the Leased Premises;
- v. Directs the Clerk of Court to issue and the Pasco Sheriff to enforce a Writ of Possession, or otherwise enters an appropriate order, placing the Co-Op in possession

of the Leased Premises and permanently removing Labrador, and all of its employees, agents, or any other related entity, from same;

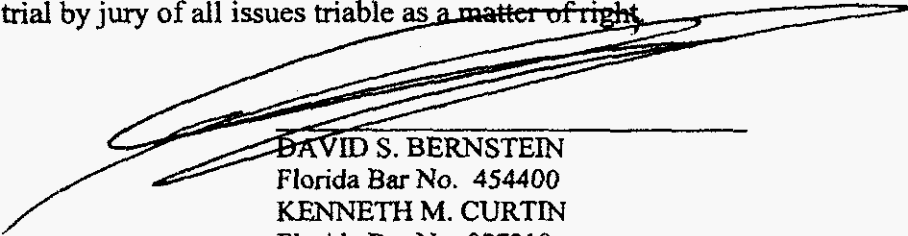
vi. Appoints a receiver or other gap service provider or takes whatever other action is reasonably necessary to ensure an orderly and lawful transition of the Plant and water and wastewater system from Labrador to the Co-Op or other licensed utility provider approved by the Co-Op upon termination of the Commercial Lease;

vii. Awards the Co-Op its reasonable attorneys' fees and costs incurred in bringing this action against Labrador for termination of the Commercial Lease; and

viii. Orders all further relief this Court deems necessary and just.

DEMAND FOR JURY TRIAL

The Co-Op demands a trial by jury of all issues triable as a matter of right.



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Sent By: LUTZ WEBB ET AL;

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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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and the common areas of the Parks under the terms and conditions set forth in this Agreement.

6. Lessor and Lessee desire to set forth herein the terms and conditions under which the Lessee shall be granted the sole and exclusive right to use the Leased Premises to operate and maintain the Systems and shall be granted the sole and exclusive right to provide water and wastewater utility services to the residents of the Parks.
7. The Parties have negotiated in good faith and are empowered to be bound by the terms and conditions set forth in this Agreement.

ACCORDINGLY, for and in consideration of the sum of Ten (\$10.00) Dollars, the above Recitals and benefits to be derived from the ~~fulfillment~~ representation of the covenants, obtained herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

SECTION 1. AGREEMENT TO LEASE. Subject to the terms and conditions hereinafter set forth, Lessor hereby demises and leases the Leased Premises exclusively to Lessee and Lessee does hereby hire and take the Leased Premises from Lessor.

SECTION 2. TERM. To have and to hold for a term of ninety-nine (99) years for parcels one and two and for a term of thirty (30) years for parcel three, unless sooner terminated, as provided hereinbelow. The term of this lease shall commence on the date on which the last of the parties executes the Agreement below ("Effective Date") and shall expire ninety-nine (99) years from that date for parcels one and two and thirty (30) years from that date for parcel three.

SECTION 3. RENTAL. The rent reserved under this Agreement shall be as follows:

1. Annual rental of \$12,000 per year for parcels 1 and 2, payable in equal monthly installments of \$1,000 per month, payable the first day of each month.
2. Annual Rental from parcel 3 shall be \$30,000 per year payable in 12 equal monthly installments of \$2,500 per month, payable on the first day of each month.
3. The annual rental amounts in subparagraphs 1. and 2. above shall increase based upon the Consumer Price Index (as hereinafter defined) commencing on the seventy-third (73rd) month from the date of this Agreement. Every six (6) years thereafter, rental amounts shall be increased to an amount equal to the increase in the Consumer Price Index which shall be determined every six (6) years and paid at the new rental rate adjusted by the cumulative increase over the prior six (6) years. "Consumer Price Index" shall mean the Consumer Price Index which is presently designated as the United States City Average for All Urban

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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 licenses and occupational fees, insurance, repairs, 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 charges 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, accretions, and appurtenances, if any, ~~inherent in 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 those 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 easements 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~~ 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 Lessor 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 OR 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. Lessor 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:

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

with copy to: Richard S. Webb, IV, Esq.
Lutz, Webb & Bobo, 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.
Ruden, 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 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 ATTORNEYMENT.

(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 mortgages 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 recited 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.

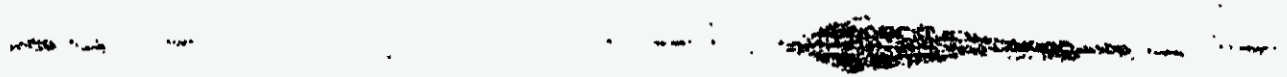
SECTION 38. DEFAULT. If a monetary default shall occur hereunder which is not cured within fifteen (15) days following receipt of written notice to Lessee from Lessor or if a non-monetary default shall occur hereunder and remains uncured for thirty (30) days following receipt of written notice to Lessee 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 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: 
Edgna C. Irving, as its President

Kelly D. McKinlay
Print Name: Kelly D. McKinlay

LESSEE:
~~CONTRACTOR SERVICES, INC.~~
a Florida corporation

Lynn V. Craven
Print Name: Lynn V. Craven

By: 
Henri Viru, as its President

Kelly D. McKinlay
Print Name: Kelly D. 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°55'24" E, along said platted South right-of-way line, 50.00 feet to a point on the platted East right-of-way line of Frontier Acres 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 5, a distance of 600.21 feet; thence run N 89°54'15" E, 2001.99 feet; thence S 00°00'38" E, 3473.89 feet; thence N 69°55'55" W., 2007.29 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°23'43" 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 Northeastarily, 195.73 feet along the arc of a curve to the right, having a radius of 168.00 feet, a central angle of 67°58'08", 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 Northeastarily, 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., 222.59 feet to a point of tangency; thence N. 00°05'45" W., 205.85 feet to a point of curvature; thence Northwestarily, 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., 59.24 feet to the Southerly Right-of-way line of State Road No. 54; thence N. 69°35'49" 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 Southeastarily, 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 Southwestarily, 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 Southwestarily, 136.42 feet along the arc of a curve to the left, having a radius of 118.00 feet, a central angle of 67°58'06", and a chord bearing and distance of S. 33°53'18" W., 128.58 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 128.56 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., 1094.12 feet; thence S.89°54'15"W., 1224.80 feet to the Point of Beginning.

TO BE RUN TOGETHER WITH a non-exclusive easement for ingress, egress and utilities as created by Easement Agreement recorded May 8, 1988, in Official Records Book 1803, 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°29'43"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 Northeastery, 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., 194.45 feet to a point of tangency; thence N. 67°52'21" E., 47.16 feet to a point of curvature; thence Northeastery, 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 Northwestery, 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., 73.85 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 Southeastery, 92.88 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 Southeastery, 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 Southwestery, 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.

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, 926.81 FEET FOR A POINT OF BEGINNING; THENCE CONTINUE N 89°54'15" E, 265.84 FEET; THENCE S 00°05'45" E, 5.16 FEET; THENCE S 37°15'38" E, 54.81 FEET; THENCE S 45°07'40" W, 192.77 FEET; THENCE N 63°48'08" W, 301.31 FEET; THENCE NORTH 00°02'02" W, 65.78 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 5, TOWNSHIP 26 SOUTH, RANGE 22 EAST, PASCO COUNTY, FLORIDA AND RUN S 00°35'43" W, ALONG THE WEST BOUNDARY OF THE SOUTHWEST 1/4 OF SECTION 5, 210.43 FEET; THENCE RUN N 88°54'15" E, 1269.86 FEET FOR A POINT OF BEGINNING; THENCE RUN S 00° 02'02" E, 2.63 FEET; THENCE RUN S 37°13'50" E, 120.86 FEET; THENCE S 32°27'35" E, 45.85 FEET; THENCE N 80°41'54" E, 140.84 FEET; THENCE S 10°12'31" W, 291.24 FEET; THENCE S 41°50'25" W, 194.30 FEET; THENCE S 47°58'30" W, 194.30 FEET; THENCE S 00°02'02" E, 400.47 FEET; THENCE S 47°54'17" W, 188.69 FEET; THENCE S 47°58'30" W, 194.30 FEET; THENCE S 02°28'28" E, 284.81 FEET; THENCE S 00°02'02" E, 400.47 FEET; THENCE S 37°19'38" E, 176.84 FEET; THENCE S 02°28'28" E, 284.81 FEET; THENCE S 10°54'52" E, 74.81 FEET; THENCE S 34°22'05" W, 185.48 FEET; THENCE S 81°48'40" W, 177.88 FEET; THENCE S 10°54'52" E, 74.81 FEET; THENCE S 00°58'01" E, 138.21 FEET; THENCE S 13°02'19" E, 186.02 FEET; THENCE N 71° 02'58" E, 400.47 FEET; THENCE N 58°51'06" E, 179.88 FEET; THENCE S 40°04'10" E, 639.23 FEET; THENCE N 38°03'40" E, 228.00 FEET; THENCE N 35°26'57" E, 182.61 FEET; THENCE N 35°26'57" E, 182.61 FEET; THENCE S 83°04'07" E, 103.78 FEET; THENCE RUN 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°35'43" W, ALONG THE WEST BOUNDARY OF THE SOUTHWEST 1/4 OF SAID SECTION, 210.43 FEET; THENCE RUN N 88°54'15" E, 1269.86 FEET; THENCE RUN S 00°02'02" E, 2.63 FEET; THENCE RUN S 37°13'50" E, 120.86 FEET; THENCE RUN S 32°27'35" E, 45.85 FEET; THENCE RUN N 80°41'54" E, 140.84 FEET; THENCE RUN S 10°12'31" W, 291.24 FEET; THENCE RUN S 41°50'25" W, 194.30 FEET; THENCE RUN S 47°58'30" W, 194.30 FEET; THENCE RUN S 00°02'02" E, 400.47 FEET; THENCE RUN S 47°54'17" W, 188.69 FEET; THENCE RUN S 47°58'30" W, 194.30 FEET; THENCE RUN S 02°28'28" E, 284.81 FEET; THENCE RUN S 00°02'02" E, 400.47 FEET; THENCE RUN S 37°19'38" E, 176.84 FEET; THENCE RUN S 02°28'28" E, 284.81 FEET; THENCE RUN S 10°54'52" E, 74.81 FEET; THENCE RUN S 34°22'05" W, 185.48 FEET; THENCE RUN S 81°48'40" W, 177.88 FEET; THENCE RUN S 10°54'52" E, 74.81 FEET; THENCE RUN S 00°58'01" E, 138.21 FEET; THENCE N 71° 02'58" E, 400.47 FEET; THENCE N 58°51'06" E, 179.88 FEET; THENCE N 58°51'06" E, 179.88 FEET; THENCE N 38°03'40" E, 228.00 FEET; THENCE RUN S 40°04'10" E, 639.23 FEET FOR A POINT OF BEGINNING; THENCE N 38°03'40" E, 228.00 FEET; THENCE RUN N 35°26'57" E, 182.61 FEET; THENCE N 35°26'57" E, 182.61 FEET; THENCE N 25° 23'45" E, 82.02 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°40'15" W, 60.14 FEET; THENCE RUN N 45°08'40" W, 473.70 FEET TO THE POINT OF BEGINNING.

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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 1/4 of the Southeast 1/4 of Section 6, Township 26 South, Range 22 East and run thence South 00°00'00" East, along the West boundary of the Northeast 1/4 of the Southwest 1/4 of said Section 6, a distance of 211.08 feet; thence North 89°56'57" East, a distance of 1176.15 feet to a point 30 feet East of the West boundary of the Southwest 1/4 of said Section 5 for a POINT OF BEGINNING; thence North 00°36'06" East parallel with and 50 feet East of the West boundary of the Southwest 1/4 of said Section 5, a distance of 357.18 feet to an intersection with the Southern right of way line of State Road 54; thence Northeast along said right of way and a curve to the left having a radius of 5779.58 feet, a chord bearing North 71°56'58" East, 684.96 feet along the arc of said curve through a central angle of 06°47'40", a distance of 685.36 feet; thence continue along said right of way line North 68°33'08" East, a distance of 381.15 feet; thence South 21°21'33" East, a distance of 59.18 feet; thence Southeast along a curve to the right having a radius of 250.00 feet a chord bearing South 10°42'15" East, 92.44 feet, along the arc of said curve through a central angle of 21°18'30" a distance of 92.97 feet; thence South 00°03'03" East, a distance of 206.85 feet; thence Southwest along a curve to the right having a radius of 250.00 feet a chord bearing South 33°56'00" West, 279.48 feet, along the arc of said curve through a central angle of 67°58'04", a distance of 296.57 feet; thence South 67°55'03" West, a distance of 47.16 feet; thence Southwest along a curve to the left having a radius of 115.00 feet, a chord bearing South 33°56'00" West, 128.58 feet, along the arc of said curve through a central angle of 67°58'04", a distance of 136.43 feet; thence South 89°56'57" West, a distance of 777.19 feet to the POINT OF BEGINNING.

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**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.

EXHIBIT "B"
MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE between FOREST LAKE ESTATES CO-OP, INC., a Florida corporation not-for-profit (hereinafter referred to as "Lessor") and LABRADOR SERVICES, INC., a Florida corporation (hereinafter referred to as "Lessee"), dated this ____ day of June, 1999. The substantive terms and conditions as set forth in an unrecorded Lease between the parties are as follows:

1. Grant of Lease: Lessor demises and leases unto Lessee the Real Property described in Exhibit "A" attached hereto and made a part hereof (the "Leased Premises").
2. Leased Premises: The Leased Premises are described as follows: See Exhibit "A" attached hereto and made a part hereof.
3. Use of property: Operation of water plant and wastewater treatment plant and related production, storage, collection, transmission, distribution, and disposal systems.
4. Term of Lease: Ninety nine (99) years as to parcels one and two of the Leased Premises and thirty (30) years as to parcel three of the Leased Premises, unless earlier terminated as set forth in the unrecorded Lease of even date.
5. Construction: This Memorandum of Lease is not a complete summary of the unrecorded Lease described above. The provisions in this Memorandum should not be used in interpreting the Lease. In the event of conflict between this Memorandum and the unrecorded Lease, the provisions of the unrecorded Lease shall control.

Dated June _____, 1999.

WITNESSES:

Print name: _____

Print name: _____

"LESSOR"

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

By: _____
Print: _____
Title: _____

"LESSEE"

LABRADOR SERVICES, INC.,
a Florida corporation

Print name: _____

Print name: _____

By: _____
Print: _____
Title: _____

STATE OF FLORIDA

COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this ____ day of June, 1999,
by _____, as _____, of FOREST LAKE ESTATES CO-
OP, INC., on behalf of the corporation

_____ who is personally known to me,
_____ who has produced _____ as identification

and who did take an oath, and who acknowledged to and before me that he executed the same freely
and voluntarily for the purposes therein expressed on behalf of the corporation.

(Notary seal)

NOTARY PUBLIC
Print _____
State of Florida at Large (Seal)
My Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this ____ day of June, 1999,
by _____, as _____, of LABRADOR SERVICES, INC.,
on behalf of the corporation

_____ who is personally known to me,
_____ who has produced _____ as identification

and who did take an oath, and who acknowledged to and before me that he executed the same freely
and voluntarily for the purposes therein expressed on behalf of the corporation.

(Notary seal)

NOTARY PUBLIC

Print _____

State of Florida at Large (Seal)

My Commission Expires: _____

JOINDER OF MORTGAGEE

FIRST UNION NATIONAL BANK, its successors and/or assigns ("Mortgagee") is the owner and holder of that certain first mortgage executed by FOREST LAKE ESTATES CO-OP., INC., a Florida not-for-profit corporation ("Mortgagor"), dated June 9, 1999, and recorded on June 15, 1999, in Official Records Book 4170 at Page 700, of the Public Records of Pasco County, Florida (the "Mortgage"), encumbering the real property owned by Mortgagor.

Mortgagor has entered into that certain Lease Agreement for Water and Wastewater Treatment Facilities (the "Lease") with LABRADOR SERVICES, INC., a Florida corporation ("Lessee"), dated as of June 9, 1999, a Memorandum of which was recorded on June 15, 1999, in Official Records Book 4170 at Page 861, of the Public Records of Pasco County, Florida, which Lease encumbered that portion of the Real Property described in Exhibit "A" (the "Leasehold Property") to the Lease, to which this Joinder is attached, and Mortgagee does hereby certify that it has reviewed the foregoing Lease and by causing these premises to be duly and properly executed on its behalf and on behalf of its successors and assigns does evidence and confirm its consent and approval to Section 17 of the Lease. This Joinder shall be binding upon the Mortgagee, its successors and assigns, and shall inure to the benefit of the parties to the Lease, their successors and assigns.

-----WITNESSES:-----

Janice K. Tice
Print Name: Janice K. Tice
C. Jane Bible
Print Name: C. Jane Bible

-----FIRST UNION NATIONAL BANK-----

By: [Signature]
Print Name: Raymond A. Otts
Title: Vice President
Address: 100 S. Ashley Dr Suite 910
Tampa, FL 33602

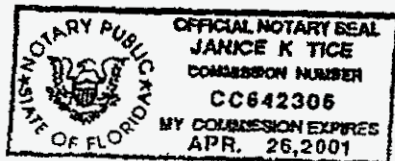
[SEAL]

STATE OF FLORIDA
COUNTY OF ~~Pinellas~~ Hillsborough

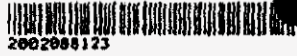
I HEREBY CERTIFY that on this day before me, an officer duly authorized to take acknowledgments, personally appeared Raymond A. Otts as Vice President of FIRST UNION NATIONAL BANK, and who is personally known to me to be the person described in and who executed the foregoing Joinder of Mortgage, or who provided _____ as identification, and acknowledged before me that (s)he executed the same as such officer and that said instrument is the act and deed of said corporation.

WITNESS my hand and official seal in the State and County aforesaid this ____ day of _____, 1999.

My Commission Expires:



Janice K. Tice
Print Name: Janice K. Tice
NOTARY PUBLIC



Rcpt: 594386 Rec: 24.00
DS: 2975.00 FY: 8.00
06/06/02 *K. H.* Dpty Clerk

JED PITTMAN PASCO COUNTY CLERK
06/06/02 04:18pm 1 of 5
OR BK 4970 PG 1707

4/26/02
RETURN TO

LUTZ, WEBB & JOBO, P.A.
ATTORNEYS AT LAW
ONE SARASOTA TOWER, SUITE 600
TWO NORTH TAMiami TRAIL
SARASOTA, FL 34238

ASSIGNMENT AND ASSUMPTION
OF CONTRACTS AND LEASES

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT dated as of May 13, 2002, is by and between Labrador Services, Inc., a Florida corporation, ("Assignor"), and Labrador Utilities, Inc., a Florida corporation, ("Assignee").

WHEREAS, Assignor wishes to assign to Assignee all of its rights, title, interests and benefits arising out of, relating to or in any way associated with the contracts and leases to which Assignor is a party that are listed on Exhibit 4 of the Utility Company Asset Purchase Agreement dated April 2, 2002, including, without limitation, that certain lease between Forest Lake Estates Co-Op, Inc., as Lessor, and Labrador Services, Inc., a Florida corporation, as Lessee, dated June 10, 1999, a Memorandum of which was recorded 6/15/99 in Official Records Book 4170, Page 861, as amended by Amendment to Memorandum of Lease recorded in O.R. Book 4341, Page 1086, of the Public Records of Pasco County, Florida, as to the leasehold premises described in Exhibit "A" attached hereto and made a part hereof (the "Contracts and Leases"), and Assignee will assume all of Assignor's liabilities and obligations under the Contracts and Leases.

NOW, THEREFORE, the parties hereto agree as follows:

1. Assignment and Assumption of Contracts and Leases. Assignor hereby sells, assigns, transfers and sets over to Assignee and its successors and assigns all of Assignor's right, title, interest and benefits in and to the Contracts and Leases. Assignee hereby accepts such assignment and assumes all obligations and liabilities of Assignor arising under the Contracts and Leases accruing on or after the date hereof. Assignor shall perform all obligations accruing under the Contracts and Leases arising at any time prior to the date hereof.



2. Representations by Assignor. Assignor represents that as of the date hereof (a) there are no violations or breaches by Assignor of the Contracts and Leases, (b) all of Assignor's obligations accruing or arising prior to the date hereof have been performed in full under the Contracts and Leases, to the extent performance is required pursuant thereto prior to the date hereof, and (c) Assignor has full right and authority to assign the Contracts and Leases to Assignee, subject to obtaining all consents required of third parties for any such assignment, which Assignor has either obtained or will use reasonable efforts to obtain without adverse consequences to Assignee.

3. Copies of Agreements. Assignor has delivered to Assignee for review true and correct copies of the Contracts and Leases, as amended and currently in effect, and there have been no amendments to the Contracts and Leases that have not been delivered to Assignee.

4. Indemnification. Assignor shall indemnify and hold Assignee harmless from and in respect of any acts or omissions of Assignor arising with regard to the Contracts and Leases prior to the date of this Assignment, including the failure to timely obtain any required consent or provide required notice (except to the extent the failure to provide notice or obtain consents was caused in any material way by actions, omissions or requests of Assignee). Assignee shall indemnify and hold Assignor harmless from and in respect of any acts or omissions of Assignee arising with regard to the Contracts and Leases on and after the date of this Assignment, except in respect of those Contracts and Leases that have not been validly assigned because required third party consents have not been obtained (unless the failure to provide notice or obtain consents was caused in any material way by actions, omissions or requests of Assignee).

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the date first above written.

WITNESS: LABRADOR SERVICES, INC.

[Signature]

By: [Signature]
Sylvia Viau
President

WITNESS:
[Signature]

The foregoing instrument was acknowledged before me this day of May, 2002, by Sylvie Viau, President of LABRADOR SERVICES, INC., a FLORIDA corporation, on behalf of the corporation.

(NOTARY SEAL)

[Signature]
Notary Public # 133157
Province of Quebec
My Commission Expires 12 JUN 2004

WITNESS: LABRADOR UTILITIES, INC.

By: [Signature]
James Camaren
Chairman

WITNESS:

The foregoing instrument was acknowledged before me this day of May, 2002, by James Camaren, Chairman and Chief Executive Officer of LABRADOR UTILITIES, INC., a FLORIDA corporation, on behalf of the corporation.

(NOTARY SEAL)

Notary Public
3 My commission expires:

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the date first above written.

WITNESS: LABRADOR SERVICES, INC.

By: Sylvie Viau
President

WITNESS:

The foregoing instrument was acknowledged before me this 13 day of May, 2002, by Sylvie Viau, President of LABRADOR SERVICES, INC., a FLORIDA corporation, on behalf of the corporation.

(NOTARY SEAL)

Notary Public

My Commission Expires

WITNESS: LABRADOR UTILITIES, INC.

Susan N. Aylin

By: James Camaren
Chairman

WITNESS:

Susan N. Aylin

The foregoing instrument was acknowledged before me this 13 day of May, 2002, by James Camaren, Chairman and Chief Executive Officer of LABRADOR UTILITIES, INC., a FLORIDA corporation, on behalf of the corporation.

(NOTARY SEAL)

Susan N. Aylin
Notary Public

My Commission Expires

GAUTHER (Labrador Assignment and Assumption of Contracts and Leases) v. 1

OFFICIAL SEAL
SUSAN N. AYLIN
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 4-5-2006

EXHIBIT "A"

PARCEL I:

(Sewer Treatment Plant)

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: Commence at the Southwest corner of said Section 5, also being the Northwest corner of said Section 8; thence South 01°04'30" West, along the West boundary of said Section 8, a distance of 1030.84 feet; thence South 89°55'55" East, a distance of 2097.29 feet; thence North 00°00'38" West, a distance of 563.80 feet; thence North 85°54'31" West, a distance of 45.44 feet to the Point of Beginning; thence continue North 85°54'31" West, a distance of 65.42 feet; thence North 41°22'21" West, a distance of 513.27 feet; thence North 39°53'40" East, a distance of 187.85 feet; thence North 38°26'57" East, a distance of 167.61 feet; thence North 30°54'52" East, a distance of 120.54 feet; thence North 25°23'43" East, a distance of 52.02 feet; thence South 83°04'07" East, a distance of 103.78 feet; thence South 00°00'38" East, a distance of 602.65 feet to the Point of Beginning.

PARCEL II:

(Water Treatment Plant)

Commence at the West 1/4 Corner of Section 5, Township 26 South, Range 22 East, Pasco County, Florida; run thence South 00°35'43" West, along the West boundary of the Southwest 1/4 of said Section, 210.43 feet; thence North 89°54'15" East, 896.51 feet to a Point of Beginning; thence continue North 89°54'15" East, 265.94 feet; thence South 00°02'02" East, 3.18 feet; thence South 37°13'59" East, 54.81 feet; thence South 45°07'40" West 192.77 feet; thence North 53°48'08" West, 201.31 feet; thence North 00°02'02" West, 65.76 feet to the Point of Beginning.

PARCEL III:

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 26 South, Range 22 East, Pasco County, Florida; LESS that part thereof within any railroad rights-of-way.