

State of Florida



# Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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**DATE:** March 29, 2012

**TO:** Office of Commission Clerk (Cole)

**FROM:** Division of Economic Regulation (Brady Rieger) *pb SDR PR @*  
Office of the General Counsel (Jaeger) *W JSC*

**RE:** Docket No. 090445-WS – Application for original certificates for proposed water and wastewater system and request for initial rates and charges in Indian River, Okeechobee and St. Lucie counties by Grove Land Utilities, LLC.  
Counties: Indian River, Okeechobee, and St. Lucie

**AGENDA:** 04/10/12 – Regular Agenda – Proposed Agency Action for Issues 3 - 6 – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Brisé

**CRITICAL DATES:** 04/12/12 (Statutory deadline for original certificate pursuant to Section 367.031, Florida Statutes)

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\090445.RCM.DOC

### Case Background

On September 11, 2009, Grove Land Utilities, LLC (Grove Land or utility) filed an application for original water and wastewater certificates and initial rates and charges. The utility is an LLC which is ultimately owned by Evans Properties, Inc. (Evans) through a utility subsidiary, Evans Utilities Company, Inc. (Evans Utilities). The proposed territory consists of a total of 11,208 acres, all owned by Evans, with 3,823 acres in Indian River County (Indian River), 5,628 acres in Okeechobee County (Okeechobee), and 1,757 acres in St. Lucie County (St. Lucie). While Okeechobee and St. Lucie Counties have turned over jurisdiction of the

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privately owned water and wastewater utilities within their counties to the Commission, pursuant to Chapter 367.171, Florida Statutes (F.S.), Indian River has not. However, pursuant to Section 367.171(7), F.S., the Commission has exclusive jurisdiction over all utility systems whose service transverses county boundaries, whether the counties involved are jurisdictional or nonjurisdictional; therefore, the Commission has jurisdiction over the portion of the proposed service area in Indian River. Grove Land's service territory is located in both the South Florida Water Management District (SFWMD) and the St. Johns River Water Management District (SJRWMD). At buildout, Grove Land proposes to serve 1,296 water and 1,286 wastewater equivalent residential connections (ERC).

On September 25, 2009, shortly after the application in this docket was filed, a separate application was filed in Docket No. 090459-WS for original water and wastewater certificates and initial rates and charges for Bluefield Utilities, LLC (Bluefield), another LLC owned by Evans. In October of 2009, St. Lucie, Indian River, Fort Pierce Utilities Authority (FPUA), and Okeechobee filed for leave to intervene and objection to the application in this docket. Bluefield's application received similar objections from St. Lucie, FPUA, the City of Port Lucie, and Martin County. On March 26, 2010, Indian River withdrew its objection to Grove Land's application pursuant to an attached Agreement Between Grove Land Utilities, LLC and Indian River (Indian River Agreement) dated March 23, 2010. The withdrawal of Indian River's protest was conditioned on the Indian River Agreement being included as a part and condition of the Commission's approval of Grove Land's certificates. On April 7, 2010, Order No. PSC-10-0224-PCO-WS was issued consolidating the Grove Land and Bluefield dockets and establishing the procedures for a hearing to be held in February 2011. On December 13, 2010, Order No. PSC-10-0728-PCO-WS was issued granting an emergency stipulated motion for abatement. Continued motions for abatement were granted by orders issued on February 7, March 8, and June 21, 2011.<sup>1</sup>

On April 8, 2010, FPUA withdrew its objection to Grove Land's application without conditions. On October 18, 2010, Okeechobee also withdrew its objection to Grove Land's application without conditions. Lastly, on January 13, 2012, St. Lucie withdrew its objection to Grove Land's application pursuant to an attached Agreement Between Grove Land Utilities, LLC, Evans Properties, Inc., and St. Lucie County, Florida (St. Lucie Agreement) dated December 6, 2011. As with Indian River's withdrawal, St. Lucie conditioned its withdrawal on the Commission's approval of the St. Lucie Agreement. With the withdrawal of St. Lucie County's objection on January 13, 2012, as the last remaining objection, there are no outstanding objections to Grove Land's application. Therefore, pursuant to the statutory deadline for original certificates in Section 367.031, F.S., the application must be ruled upon by April 12, 2012. On February 24, 2012, Order No. PSC-12-0083-PCO-WS was issued rescinding the prior order consolidating the Grove Land and Bluefield applications so that Grove Land's application could proceed to agenda.

This recommendation addresses the Agreements, the granting of water and wastewater certificates, and the establishment of initial rates and charges. The Commission has jurisdiction pursuant to Sections 367.031, 367.045, 367.081, 367.091, 367.101, and 367.171, F.S.

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<sup>1</sup> Order Nos. PSC-11-0102-PCO-WS, PSC-11-0160-PCO-WS, and PSC-11-0268-PCO-WS, respectively.

### Discussion of Issues

**Issue 1:** Should the Commission approve the Indian River Agreement and the St. Lucie Agreement?

**Recommendation:** Yes. The Commission should approve the Agreements. (Jaeger, Brady)

**Staff Analysis:** As stated in the case background, Indian River conditioned its March 26, 2010 withdrawal of its protest to Grove Land's application upon the Commission approving the Indian River Agreement dated March 23, 2010 and appended to this recommendation as Attachment A. St. Lucie also conditioned its January 13, 2012 withdrawal of its protest upon the Commission approving the St. Lucie Agreement dated December 6, 2010 and appended to this recommendation as Attachment B. Because these agreements are very similar, staff has combined the requests in this issue.

The St. Lucie Agreement contained the following three main provisions whereby the parties would be bound if the Commission ultimately agreed that Grove Land should be granted water and wastewater certificates for the requested area.

**Utility Boundaries.** Under this provision, Grove Land agreed to not provide or seek to provide domestic utility service outside the boundaries of the service territory sought in this docket (Grove Land's Utility Territory) and within the utility service territory of the St. Lucie County Water and Sewer District (District). This provision included the following proviso:

This paragraph shall not prohibit Grove Land from, (a) providing surface water retention and/or cleansing services that would require Grove Land to take surface water from outside of Grove Land's Utility Territory..., (b) selling water retention or cleansing services or credits to customers outside of Grove Land's Utility Territory, or (c) selling bulk potable or non-potable water to the City of Port St. Lucie or the Fort Pierce Utility Authority, or any other customers not located within the District's utility service area . . . .

Staff notes that the Commission has determined that pursuant to Section 367.045(5)(a), F.S., it "may not grant authority greater than that requested in the application . . . ." Further, the above provision does not deprive or give up any jurisdiction of the Commission. Staff notes that pursuant to Section 367.022(12), F.S., bulk sales to a governmental authority are exempt from the Commission's regulation. Further, for jurisdictional sales, staff notes that pursuant to Sections 367.021 and 367.045(2), F.S., a utility may not provide service outside its certificated territory. Staff does not believe there are any objectionable conditions in this provision which would warrant the Commission's disapproval.

**County Review.** This provision underscores St. Lucie's right to review and approve the engineering plans for any water or wastewater plant to be constructed within Grove Land's Utility Territory. The provision specifically notes that such review shall not be unreasonably withheld, and that approval or comments will be provided within 45 days of submission. Further, the provision, as an example of unreasonableness, includes requiring that the design include: (a) significant overcapacity above the capacity required by the Florida Department of

Environmental Protection (FDEP); or (b) design elements that the Commission would deem “not used or useful.” Again, staff can discern no conditions which would warrant the Commission’s disapproval.

**Preemption by Public Service Commission.** This provision specifically notes services that may be rendered by Grove Land which would not come under the Agreement. Further, the provision notes that Grove Land would be permitted to provide the specifically noted services “pursuant to applicable regulation by the FPSC and/or the FDEP.” As with the prior two provisions, staff can discern no conditions which would warrant the Commission’s disapproval.

The Indian River Agreement had almost identical provisions concerning **County Review** and **Preemption by the Public Service Commission** as in the St. Lucie Agreement discussed above. However, instead of the provision concerning **Utility Boundaries** as described in the St. Lucie Agreement, above, the Indian River Agreement had the following provision.

**Compliance with Comprehensive Plan.** In this provision, Grove Land agrees that any wastewater system, water system, or development must comply with the Comprehensive Plan then in effect. As with all the other provisions, staff can discern no condition which would warrant the Commission’s disapproval.

Staff believes the parties, after extensive negotiations, filed these Agreements to avoid the time and expense of further litigation. Staff further believes that the Commission should accept the parties’ Agreements as a reasonable resolution of this matter. These Agreements will result in withdrawal of objections to the certificate application of Grove Land and will avert the need for a hearing. Further, if any of the above-cited provisions of the Agreements could be said to bind the Commission’s authority to act in this docket, staff notes that the provisions would be unenforceable against the Commission. The Commission has approved similar agreements in the past where it has determined that the parties could not bind the Commission’s authority. By Order No. PSC-99-0635-FOF-WU, issued on April 5, 1999, in Docket No. 960444-WU, In Re: Application for Rate Increase and Increase in Service Availability Charges in Lake County by Lake Utility Services, Inc., the Commission approved a settlement agreement between the utility and the Office of Public Counsel which purported to bind the Commission from instituting future proceedings to change the utility’s rates and charges set forth in the settlement. In approving the parties’ settlement, the Commission noted at page six that “the specific provisions were . . . ‘not fatal flaws; they are simply unenforceable against the Commission and are void ab initio. The parties cannot give away or obtain that for which they have no authority.” Order No. PSC-94-0172-FOF-TL at page six.” Likewise, staff believes that, to the extent these Agreements may contain unenforceable language, it is still appropriate to approve the agreement.

In conclusion, staff notes that the Commission has always favored settlements, and staff believes that the Agreements worked out between Grove Land, Indian River, and St. Lucie are reasonable resolutions to the controversy, are in the public interest, and should be approved. If the Commission agrees, then the Commission should address the remaining issues. Because withdrawal of Indian River’s and St. Lucie’s protests are contingent upon approval of these Agreements, if the Commission does not approve the Agreements, the formal hearing for these protests should be rescheduled.

**Issue 2:** Should the application for original water and wastewater certificates by Grove Land Utilities, LLC be approved?

**Recommendation:** Yes. Grove Land should be granted Certificate Nos. 658-W and 563-S to serve the territory described in Attachment C, effective the date of the Commission's vote. The resultant order should serve as the utility's water and wastewater certificates and it should be retained by the utility. Grove Land should be required to file executed copies of its water and wastewater lease agreements, containing a legal description of the lease sites, within 30 days after the date of the order granting the certificates. (Brady, Rieger, Jaeger)

**Staff Analysis:** On September 11, 2009, Grove Land filed an application for original certificates to provide water and wastewater services in Indian River, Okeechobee, and St. Lucie Counties. The application is in compliance with the governing statute, Section 367.045, F.S., and other pertinent statutes and administrative rules concerning an application for original certificates.

**Notice.** The application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code (F.A.C.). As noted, the application was protested by several governmental entities, all of which have subsequently withdrawn their objections, with the last objection withdrawn on January 13, 2012. Therefore, pursuant to the statutory deadline for original certificates in Section 367.031, F.S., the application must be ruled upon by April 12, 2012.

**Territory.** The application contains adequate service territory and system maps, along with a territory description, as prescribed by Rule 25-30.033(1)(l),(m) and (n), F.A.C. A description of Grove Land's water and wastewater territory is appended to this recommendation as Attachment C.

**Proof of Ownership.** Pursuant to Rule 25-30.033(1)(j), F.A.C., the application contains proposed water and wastewater lease agreements provided as proof that the utility will have long-term access to the land upon which the water and wastewater treatment facilities will be located. As noted, all the land is owned by Grove Land's parent, Evans. The lease agreements are for the initial term of twenty years and provide for automatic renewals after the initial term without the necessity for the execution of any further instruments. The renewals will be in increments of 10 years, up to a maximum of 99 years. Staff believes that the leases provide proof that the utility will have long-term access to the land upon which the water and wastewater treatment facilities will be located. Staff recommends that the utility be required to file executed copies of its water and wastewater lease agreements, containing a legal description of the lease sites, within 30 days after the date of the order granting the certificates, pursuant to Rule 25-30.033(1)(j), F.A.C. It should be noted that acceptance of the leases as proof of long-term access to the land under the treatment facilities is not a determination as to the prudence of the costs of these leases.

**Financial and Technical Ability.** Rule 25-30.033(1)(e), (r), and (s), F.A.C., requires a statement showing the financial and technical ability of the applicant to provide service, a detailed financial statement, and a list of all entities upon which the applicant is relying to provide funding along with those entities' financial statements. Since Grove Land has not been authorized by the Commission to provide service for compensation, it is relying upon the

financial backing of its parent and landowner, Evans. The Commission has traditionally allowed reliance on the parent's financial ability in situations such as this.<sup>2</sup> The Commission's reasoning has been the logical vested interest of a parent in the financial stability of its subsidiary. The application contains Evans' most recent financial statement as well as a funding agreement between Evans and Grove Land, whereby Evans agrees to provide reasonable and necessary funding to the utility to build and operate the utility systems in Indian River, Okeechobee, and St. Lucie Counties. The application indicates that Evans owns and controls 43,000 acres of real property in Florida, free and clear of debt, on which it conducts substantial commercial activities. In addition, Evans has conducted continuous and successful business operations in Florida for over fifty years. Staff believes that Evans' financial statement and continuous business operations in Florida show adequate and stable funding reserves for the utility. Therefore, staff recommends that Grove Land has demonstrated that it will have access to adequate financial resources to operate the utility.

With respect to technical ability, the application indicates Grove Land's intent to retain the best people to design the facilities, work with state and local governments in the permitting and construction of the facilities, and operate the facilities thereafter. Due to the resources Grove Land expended during the organizational phase of the certificate process, the financial resources pledged by its parent, as well as the parent's prior experience in utilizing water resources for citrus production, staff recommends that Grove Land has demonstrated that it will have access to adequate technical resources to operate the utility.

**Need for Service.** Rule 25-30.033(1)(e), F.A.C., also requires a showing of the need for service in the proposed area to be served, the identity of any other utilities within the proposed area that could potentially provide service, and the steps the applicant took to ascertain whether such other service is available. The proposed service area consists of three separate areas of land, all owned by Evans. According to the application, the most immediate need for service is the provision of central water service to the existing residences and shops for which Grove Land received a request for service from Evans. In addition, Evans requested that Grove Land provide service for bulk water and intensified agribusiness customers. The original application indicated that there are no central potable water or wastewater services in the area nor any other utility capable of providing the necessary level of service. In addition, since Grove Land's parent owns all the land in its proposed service territory, Grove Land believes it would be in the best position to provide water and wastewater services in the most efficient and cost-effective manner.

Copies of letters supporting Grove Land's application were provided by the Department of Agriculture and Consumer Services (Dept. of Agriculture), SFWMD, and SJRWMD. The Dept. of Agriculture, acknowledging the unprecedented challenges facing citrus growers due to the impacts of citrus greening and canker as well as poor market conditions and global

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<sup>2</sup> Order No. PSC-08-0540-PAA-WS, issued August 18, 2008, in Docket No. 080103-WS, In re: Application for certificates to provide water and wastewater service in Hardee and Polk Counties by TBBT Utility LLC; Order No. PSC-07-0076-PAA-SU, issued January 29, 2007, in Docket No. 060602-SU, In re: Application for certificate to provide wastewater service in Lee and Charlotte Counties by Town and Country Utilities Company; and Order No. PSC-07-0274-PAA-WS, issued April 2, 2007, in Docket No. 060694-WS, In re: Application for certificates to provide water and wastewater service in Flagler and Volusia Counties by D & E Water Resources.

competition, supported Evans' efforts to diversify its business activities. The SFWMD and SJRWMD expressed their support for the public-private partnership proposed by Evans to capture excess water currently being discharged into Indian River Lagoon's estuarine system by constructing a reservoir and stormwater treatment area located on Evans' property. The reservoir would reduce damaging tidal discharges into the Indian River Lagoon and improve the health of the St. Lucie River and estuary while also providing a significant new source of water. Other projects under consideration for the Grove Land properties include residential and commercial development, wastewater services in response to new nutrient standards, production of biofuels, and service for onsite worker housing. Staff recommends that Grove Land has provided a demonstration of need consistent with prior Commission decisions.<sup>3</sup>

**Comprehensive Plan Consistency.** Rule 25-30.033(1)(f), F.A.C., requires a statement that, to the best of the applicant's knowledge, the provision of service will be consistent with the water and wastewater sections of the local comprehensive plan as approved by the Department of Community Affairs (DCA) at the time the application is filed. Grove Land's application contains such a statement and the proposed ERCs through buildout of Phase IV are consistent with the allowed densities in the Future Land Use Maps of Indian River, Okeechobee, and St. Lucie Counties. While the DCA originally objected to the application, in a letter dated July 14, 2011, it stated it no longer had any objections to the application given its newly created role which leaves local governments with the primary role of commenting on comprehensive plan consistency. Further, Indian River, Okeechobee, and St. Lucie Counties' objections to the application, in part based on comprehensive plan issues, have been withdrawn. Therefore, staff recommends that Grove Land has demonstrated that the provision of potable water and wastewater services will be consistent with the local comprehensive plans.

**Facilities Design.** Rule 25-30.033(1)(g), (h), and (i), F.A.C., requires a description of when the applicant proposes to begin service, the number of ERCs proposed to be served, and the types of customers. Grove Land proposes to provide potable water and wastewater services in four phases. Construction for Phase I is intended to begin as soon as practicable after certification and be completed within six years, with 80 percent buildout in year five. In Phase I, potable water service will be provided to 195 ERCs, including the existing 10 ERCs, and wastewater service will be provided to 185 ERCs, with existing structures continuing to utilize on-site septic systems. At buildout of Phase IV in 2025, the utility proposes to serve 1,296 potable water and 1,286 wastewater ERCs. Proposed initial rates and charges are based on residential and general service customers served by 5/8" x 3/4" meters.

Rule 25-30.033(1)(o), (p), and (q), F.A.C., requires statements regarding the proposed capacities of lines and plant, types of treatment provided, and whether effluent disposal by means of reuse will be utilized. The total proposed water system capacity for Phase I is 68,250 gallons per day (gpd), which will be provided by three 12-inch wells and treated by chlorination. The total proposed wastewater system capacity for Phase I is 49,950 gpd, which will utilize a low-pressure collection system. Treatment will be by three separate wastewater treatment plants

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<sup>3</sup> Order No. PSC-04-0980-FOF-WU, p. 7, issued October 8, 2004, in Docket No. 021256-WU, In re: Application for certificate to provide water service in Volusia and Brevard Counties by Farnton Water Resources, LLC and Order No. PSC-92-0104-FOF-WU, p. 19, issued March 27, 1992, in Docket No. 910114-WU, In re: Application of East Central Services, Inc., for an original certificate in Brevard, Orange and Osceola Counties.

using extended aeration and nitrogen removal processes. Effluent disposal will be by means of percolation ponds and rapid infiltration basins. Reuse for effluent disposal is not financially feasible in Phase I, but will be considered for future phases.

**Regulatory Requirements.** Grove Land has indicated its intent to comport with the National Association of Regulatory Utility Commissioners' Uniform System of Accounts. In addition, Grove Land has indicated it is aware that it may not change its rates or charges, add new services, serve outside its certificated territory, or sell the utility without prior Commission approval.

**Conclusion.** Based on all the above, staff recommends that it is in the public interest to grant Grove Land Utilities, LLC Certificate Nos. 658-W and 563-S to serve the territory described in Attachment C, effective the date of the Commission's vote. The resultant order should serve as the utility's water and wastewater certificates and it should be retained by the utility. Grove Land should be required to file executed copies of its water and wastewater lease agreements, containing a legal description of the lease sites, within 30 days after the date of the order granting the certificates.



**Issue 3:** What are the appropriate potable water and wastewater rates and return on investment for Grove Land Utilities, LLC?

**Recommendation:** Grove Land's potable water and wastewater rates shown on Schedule Nos. 1 and 2, respectively, are reasonable and should be approved. The approved rates should be effective for services rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. Grove Land should be required to charge the approved rates until authorized to change them by the Commission in a subsequent proceeding. A return on equity of 11.16 percent plus or minus 100 basis points should also be approved. (Brady, Rieger)

**Staff Analysis:** Rule 25-30.033(1)(t), (u), (v), and (w), F.A.C., specifies the requirements for establishing rates and charges for original certificates, including submission of a cost study, growth projections, and data related to the projected plant, capital structure, and operating expenses. As noted, Grove Land's proposed water and wastewater rates are based on 80 percent of Phase I capacity, which is consistent with Commission policy for setting initial rates and charges. Grove Land anticipates that 80 percent of Phase I design capacity will occur five years after the initiation of construction. The water and wastewater facilities are conceptually designed to be in accordance with the local comprehensive plan's density restrictions. As such, water and wastewater ERCs at 80 percent buildout of Phase I are anticipated to be 195 and 185, respectively. Water and wastewater usage per ERC is estimated at 350 gpd and 270 gpd, respectively.

**Projected Rate Base.** Consistent with Commission practice in applications for original certificates, projected rate base is established only as a tool to aid the Commission in setting initial rates and is not intended to formally establish rate base. Grove Land's projected rate base calculations are shown on Schedule No. 1 for water service and Schedule No. 2 for wastewater service.

The utility projected water and wastewater utility plant in service and contributions in aid of construction (CIAC) are consistent with 80 percent of design capacity for the described facilities. Accumulated depreciation and amortization of CIAC are based on the average service lives guidelines, as set forth in Rule 25-30.140, F.A.C. Working capital is based on one-eighth of the operating and maintenance expense for each service. Staff recommends that Grove Land's proposed rate base calculations of \$321,003 for water service and \$311,848 for wastewater service shown on Schedule Nos. 1 and 2, respectively, are reasonable and should be approved.

**Cost of Capital.** Grove Land's projected capital structure consists of 40 percent equity and 60 percent debt. The utility's proposed cost of equity of 11.16 percent is consistent with the Commission's most recent leverage graph formula,<sup>4</sup> and its proposed cost of debt of 6.00 percent is based on the 10-year average prime rate plus 1 percent. Staff recommends that the utility's cost of equity and debt are reasonable. These costs result in an overall cost of capital of 8.06 percent as shown on the following chart.

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<sup>4</sup> Order No. PSC-11-0287-PAA-WS, issued July 5, 2011, in Docket No. 110006-WS, In re: Water and wastewater industry annual reestablishment of authorized rate of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.

<b>Cost of Capital</b>				
<b>Description</b>	<b>Amount</b>	<b>Weight</b>	<b>Cost Rate</b>	<b>Weighted Cost</b>
Common Equity	\$257,946	40%	11.16%	4.46%
Long and Short-Term Debt	\$289,918	60%	6.00%	3.60%
Overall Cost of Capital	\$664,864	100%		8.06%
<b>Range of Reasonableness</b>			<b>High</b>	<b>Low</b>
Return on Common Equity			12.16%	10.16%

Based on these calculations, staff recommends that the appropriate return on equity for Grove Land is 11.16 percent, plus or minus 100 basis points, and the utility's initial rates should reflect an overall cost of capital of 8.06 percent.

**Net Operating Income.** The projected net operating incomes for potable water and wastewater services are shown on Schedule Nos. 1 and 2, respectively. They are based on the projected rate base for each system and the projected overall cost of capital of 8.06 percent. The resulting net operating incomes for potable water and wastewater services are \$25,135 and \$25,873, respectively.

**Revenue Requirements.** The calculations for Grove Land's projected water and wastewater revenue requirements are also shown on Schedule Nos. 1 and 2, respectively. The revenues include operating and maintenance expenses, net depreciation and amortization expenses, taxes other than income, as well as the above return on investment. The utility's proposed operating and maintenance expenses appear reasonable and net depreciation and amortization expenses are consistent with the guidelines in Rule 25-30.140, F.A.C. As a limited liability company, Grove Land has no income tax expense. Taxes other than income tax are based on regulatory assessments fees of 4.5 percent of the utility's gross revenues. Staff recommends that Grove Land's revenue requirements for potable water and wastewater services of \$148,121 and \$153,603, respectively, are reasonable and should be approved.

**Rates and Rate Structure.** Grove Land has structured its rates in accordance with Rule 25-30.033(2), F.A.C., which requires that a base facility and usage rate structure, as defined in Rule 25-30.437(6), F.A.C., be utilized for metered service. Grove Land's proposed potable water rates shown on Schedule No. 1, consist of a base facility charge of \$28.49 and a usage charge per 1,000 gallons of \$4.05. Proposed wastewater rates shown on Schedule No. 2 consist of a base facility charge of \$31.34 and a usage charge per 1,000 gallons of \$5.88, with a maximum usage cap of 8,000 gallons for residential service. Staff recommends that Grove Land's proposed rates are reasonable and its rate structure is consistent with Commission rules.

**Conclusion.** Based upon the above, staff recommends that Grove Land's potable water and wastewater rates shown on Schedule Nos. 1 and 2, respectively, are reasonable and should be approved. The approved rates should be effective for services rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. Grove Land should be required to charge the approved rates until authorized to change them by the Commission in a subsequent proceeding. A return on equity of 11.16 percent plus or minus 100 basis points should also be approved.

**Issue 4:** What are the appropriate water and wastewater service availability policy and charges for Grove Land Utilities, LLC?

**Recommendation:** Grove Land's proposed service availability policy and charges shown on Schedule Nos. 1 and 2 should be approved. The approved charges should be effective for connections made on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. Grove Land should be required to collect its approved service availability charges until authorized to change them by the Commission in a subsequent proceeding. (Brady, Rieger)

**Staff Analysis:** Pursuant to Rule 25-30.580(1), F.A.C., the maximum amount of CIAC, net of amortization, should not exceed 75 percent of the total original cost, net of depreciation, of the utility's facilities and plant when the facilities and plant are at their designed capacity. Rule 25-30.580(2), F.A.C., provides that the minimum amount of CIAC should not be less than the percentage of such facilities and plant that is represented by water transmission and distribution and sewage collection systems.

Grove Land's water and wastewater service availability policy requires developers to construct and convey all on-site distribution and off-site transmission facilities. At the utility's option, where facilities are required to serve more than one developer, the first developer may be required to construct oversized facilities. In that event, subsequent developers, builders, and individuals who connect to those facilities, or use those facilities, may be required to pay their prorata share of the costs of the facilities, which will be refunded to the developer who constructed the facilities. Grove Land's proposed water and wastewater service availability charges shown on Schedule Nos. 1 and 2 include meter installation charges, as well as main extension and plant capacity charges. Grove Land's proposed service availability charges result in net contribution levels of 72 percent for water and 66 percent for wastewater, consistent with the guidelines in Commission rules.

Staff recommends that Grove Land's proposed service availability policy and charges shown on Schedule Nos. 1 and 2 should be approved. The approved charges should be effective for connections made on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. Grove Land should be required to collect the approved charges until authorized to change them by the Commission in a subsequent proceeding.

**Issue 5:** Should Grove Land Utilities, LLC's proposed miscellaneous service charges be approved?

**Recommendation:** Yes. Grove Land's proposed miscellaneous service charges should be approved and effective for services rendered or connections made on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. Grove Land should be required to charge its approved miscellaneous service charges until authorized to change them by the Commission in a subsequent proceeding. (Brady)

**Staff Analysis:** Rule 25-30.460, F.A.C., defines the categories of miscellaneous service charges. The purpose of these charges is to place the burden for requesting or causing these services on the cost causer, rather than the general body of ratepayers. Grove Land's proposed charges for the four categories of miscellaneous service are shown on the table below.

<b>Miscellaneous Service Charges</b>		
<b>Description</b>	<b>Water Service</b>	<b>Wastewater Service</b>
Initial Connection	\$15.00	\$15.00
Normal Reconnection	\$15.00	\$15.00
Violation Reconnection	\$15.00	Actual Cost
Premise Visit Charge	\$15.00	\$15.00

Since the utility has not yet begun service, Grove Land's proposed charges are based on estimated expenses; however, similar charges have been approved by the Commission.<sup>5</sup> When both water and wastewater services are provided, a single charge is appropriate unless circumstances beyond the control of the utility require multiple actions.

Staff recommends that Grove Land's proposed miscellaneous service charges should be approved and effective for services rendered or connections made on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. Grove Land should be required to charge its approved miscellaneous service charges until authorized to change them by the Commission in a subsequent proceeding.

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<sup>5</sup> Order No. PSC-05-0309-PAA-WU, issued March 21, 2005, in Docket No. 040160-WU, In re: Application for transfer of portion of Certificate No. 582-W by Keen Sales, Rentals and Utilities, Inc. in Polk County.

**Issue 6:** What is the appropriate Allowance for Funds Used During Construction (AFUDC) rate for Grove Land Utilities, LLC?

**Recommendation:** An annual AFUDC rate of 8.06 percent and a discounted monthly rate of 0.64806124 percent should be approved and applied to the qualified construction projects beginning on or after the date the certificates of authorization are issued. (Brady)

**Staff Analysis:** Rule 25-30.033(4), F.A.C., authorizes utilities obtaining initial certificates to accrue an annual allowance for projects found eligible pursuant to Rule 25-30.116(1), F.A.C. This allows the utility to earn compensation for capital costs incurred during construction, but ratepayers are not required to pay for those capital costs until the plant is actually in service and considered used and useful. For purposes of establishing an AFUDC rate, the utility's overall cost of capital is used. Therefore, staff recommends that an AFUDC rate of 8.06 percent, with a discounted monthly rate of 0.64806124, be approved and applied to qualified construction projects beginning on or after the date the Commission vote on certificates of authorization.

**Issue 7:** Should this docket be closed?

**Recommendation:** No. The certification portion of this recommendation will become final agency action upon the Commission's vote. The docket should remain open pending receipt of executed copies of Grove Land's water and wastewater lease agreements, containing a legal description of the lease sites. If no timely protest to the proposed agency action portion of this recommendation with respect to initial rates and charges is filed with the Commission by a substantially affected person, a Consummating Order should be issued. Following the expiration of the protest period with no timely protest, the issuance of a Consummating Order, and the utility's submission of the lease agreements, the docket should be closed administratively. (Jaeger)

**Staff Analysis:** The certification portion of this recommendation will become a final agency action upon the Commission's vote. The docket should remain open pending receipt of executed copies of Grove Land's water and wastewater lease agreements, containing a legal description of the lease sites. If no timely protest to the proposed agency action portion of this recommendation with respect to initial rates and charges is filed with the Commission by a substantially affected person, a Consummating Order should be issued. Following the expiration of the protest period with no timely protest, the issuance of a Consummating Order, and the utility's submission of the lease agreements, the docket should be closed administratively.

**EXHIBIT "A"**

A TRUE COPY  
CERTIFICATION ON LAST PAGE  
J.K. BARTON, CLERK

**AGREEMENT BETWEEN  
GROVE LAND UTILITIES, LLC  
AND  
INDIAN RIVER COUNTY, FLORIDA**

**THIS AGREEMENT** is made and entered into this 23 day of March, 2010, by and between the Indian River County Board of County Commissioners, and Grove Land Utilities, LLC, a Florida limited liability company (hereinafter referred to as "Grove Land")(each a "Party" and collectively the "Parties").

**RECITATIONS**

1. On or about September 11, 2009, Grove Land filed an application before the Florida Public Service Commission ("FPSC") for the certification of a public utility with territory in St. Lucie County, Indian River County and Okeechobee County, PSC Docket No. 090445-WS (the "Application").
2. On or about October 7, 2009, Indian River County ("Indian River") filed an objection to the Application with the FPSC, attached hereto as Exhibit "A", raising certain concerns as set forth therein.
3. The Parties hereto desire to enter into this Agreement to resolve Indian River's concerns with respect to the Application.

**NOW, THEREFORE**, for and in consideration of the mutual promises, covenants, representations, and warranties entered into between the Parties, and in consideration of the benefits to accrue to each, it is agreed as follows:

1. Recitations Incorporated: The above recitals are true and correct, and are hereby incorporated herein by specific reference.
2. Compliance with Comprehensive Plan:
  - a. Any development of a wastewater treatment plant and related pipelines, lift stations and other wastewater treatment facilities, constructed within Grove Land's territory in Indian River County (as more specifically described in Exhibit "B" attached hereto) and serving residential development or non-agricultural commercial development (collectively a "Package Treatment Plant"), shall comply with the requirements of the Indian River County Comprehensive Plan (the "Comp Plan"), in its current form as of the date of this Agreement, governing Package Treatment Plants, as set forth in Objective 6 of the Sanitary Sewer Sub-Element of the Comp Plan, attached hereto as Exhibit "C".
  - b. Any development of a potable water plant and related pipelines, pumps and other potable water facilities, constructed within Grove Land's territory in Indian River County and serving residential development or non-agricultural commercial development (collectively a "Privately Owned Public Water Plant"), shall comply with the requirements of the Comp Plan, in its current

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FPSC-COMMISSION CLERK

A TRUE COPY  
CERTIFICATION ON LAST PAGE  
J.K. BARTON, CLERK

form as of the date of this Agreement, governing Privately Owned Public Water Plants, set forth in Objective 6 of the Potable Water Sub-Element of the Comp Plan, attached hereto as Exhibit "D".

c. Any development, as defined in §380.04, Fla Stat. (2009), (but excluding water or wastewater facilities specifically addressed by Sections 2.a., 2.b, and 3 of this Agreement) built within Grove Land's territory in Indian River County must comply with the Comp Plan then in effect, and Grove Land shall not provide water or sewer service to any development that is inconsistent with the provisions of the Comp Plan.

3. Preemption by Public Service Commission: A water or wastewater treatment plant serving a biofuel or other alternative energy facility or energy related uses, or serving agriculture or agriculture related uses, or serving a surface water cleansing, retention or treatment facility, shall not be considered a Package Treatment Plant or Privately Owned Public Water Plant for the purposes of this Agreement. Grove Land shall be permitted to provide water and wastewater services to the foregoing uses, pursuant to applicable regulation by the FPSC and/or the Florida Department of Environmental Protection ("FDEP"), which shall preempt any regulation by Indian River. Any water or wastewater treatment plant serving the foregoing uses constructed within Grove Land's territory in Indian River County shall also be required to comply with the applicable requirements of the Indian River County Land Development Code relating to site planning and construction permitting.

4. County Review: Indian River shall have the right to review and approve the engineering plans for any Package Treatment Plant or Privately Owned Public Water Plant to be constructed within Grove Land's territory in Indian River County. Indian River shall provide approval or comments on any such engineering plans submitted to Indian River within forty-five (45) days of receipt of such plans. Approval of such engineering plans shall not be unreasonably withheld. Requiring Grove Land to design such Package Treatment Plant or Privately Owned Public Water Plant to include either (a) significant overcapacity (above the capacity required by FDEP), thereby resulting in materially increased costs to utility rate payers, or (b) design elements that the FPSC would deem "not used or useful", and therefore would prohibit Grove Land from charging rate payers for the cost of such design elements, shall be considered "unreasonable" for purposes of this Agreement. Any Package Treatment Plant or Privately Owned Public Water Plant constructed within Grove Land's territory in Indian River County shall also be required to comply with the applicable requirements of the Indian River County Land Development Code relating to site planning and construction permitting.

5. Withdrawal of County Objection: Promptly upon the execution of this Agreement, Indian River agrees to file with the FPSC a withdrawal of its objection to the Application, together with a copy of this Agreement to be included as a part and condition of the FPSC approval of the certificate requested by the Application.

6. Notification of Communication with Public Service Commission: After Grove Land receives FPSC approval of the Application, Grove Land and its successors and assigns shall copy Indian River (at the addresses provided below) on any written request or inquiry to the FPSC, potentially affecting its property or operations in Indian River County.



A TRUE COPY  
CERTIFICATION ON LAST PAGE  
J.K. BARTON, CLERK

7. Notices: The Parties designate the following persons to be contacted and to receive all notices regarding this Agreement:

If to Indian River, such notice shall be addressed to Indian River at:

County Administration Office  
1801 27th Street  
Vero Beach, Florida 32960-3365  
Attention: County Administrator

With a copy to:

Indian River County Attorney's Office  
1801 27th Street  
Vero Beach, Florida 32960-3365  
Attention: County Attorney

If to Grove Land, such notice shall be addressed to the Utility at:

Grove Land Utilities, LLC  
660 Beachland Boulevard  
Vero Beach, FL 32963  
Attention: Ron Edwards

With a copy to:

Dean, Mead, Minton & Zwemer  
1903 South 25<sup>th</sup> Street  
Suite 200  
Fort Pierce, FL 34947  
Attention: Michael D. Minton

Any Notice or other document required or allowed to be given pursuant to this Agreement shall be in writing and shall be delivered personally, or by overnight courier, or sent by Certified Mail, Postage Prepaid, Return Receipt Requested. The use of electronic communication is not considered as providing proper notice pursuant to this Agreement.

8. Assignment: This Agreement shall be binding upon, and inure to the benefit of, both Indian River's and Grove Land's successors and assigns.

9. Beneficiaries: This Agreement is solely for the benefit of Indian River and Grove Land and no other causes of action shall accrue upon or by reason hereof to or for the benefit of any third party, who or which is not a Party to this Agreement.

10. Amendment: This Agreement cannot be modified or amended except by a written instrument executed by all Parties and supported by valid consideration.

A TRUE COPY  
CERTIFICATION ON LAST PAGE  
J.K. BARTON, CLERK

11. Enforcement: Grove Land and Indian River recognize that this Agreement creates a valid enforceable contract between the parties hereto and that either party may enforce the provisions contained herein by seeking all available remedies through the judicial court system or through the appropriate administrative agency.

12. Applicable Law and Venue: This Agreement will be interpreted in accordance with the laws of the State of Florida. Venue for any action related to, arising out of, or in any way connected to this Agreement shall be in the state and federal courts located in and for Indian River County, Florida, and the Parties agree to submit to the jurisdiction of such courts, provided however, that to the extent that any such action is more appropriately within the jurisdiction of any other administrative tribunal or court, the Parties shall submit to such jurisdiction.

13. Entire Agreement and Effective Date: This Agreement constitutes the entire agreement and understanding between the Parties with regard to the content herein and has been entered into voluntarily and with independent advice and legal counsel and has been executed by authorized representatives of each Party on the date written above. This Agreement shall become effective (the "Effective Date") when the last party to this Agreement executes the Agreement. There are no representations, warranties or covenants of any nature, oral or written, which are not included herein.

14. Approvals: This Agreement does not grant any development approvals or commit Indian River to grant any development approvals. Nothing in this Agreement shall be deemed to have vested Grove Land with any development rights without such rights being approved by the required Indian River County entity at open meetings pursuant to law and pursuant to appropriate comprehensive plan amendments, land development regulations, and development orders. Nothing contained in this Agreement shall be interpreted as to deny any resident of Indian River County the right to challenge a development order issued by Indian River County, for inconsistency with the Comp Plan.

15. Severability: If any provision or part of a provision of this Agreement shall be determined to be void or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall, to the extent possible to ensure that the Agreement satisfies the intent of the Parties, remain valid and enforceable by any Party.

16. Construction of Agreement: If any provision of this Agreement requires judicial interpretation, the Parties agree that they have each collectively participated in the negotiation and drafting of this Agreement and that there shall be no judicial or other presumption against either Party regarding the construction of this Agreement.

17. Time is of the Essence: Time is of the essence with respect to each provision of this Agreement.

18. Interpretation: Words used in this Agreement in the singular shall be held to include the plural and vice versa, and words of one gender shall be held to include other genders as the context requires. The terms hereof, herein, and herewith and words of similar import shall be construed to refer to this Agreement in its entirety and not to any particular provision unless otherwise stated.

A TRUE COPY  
CERTIFICATION ON LAST PAGE  
J.K. BARTON, CLERK

19. Counterparts: This Agreement may be executed in a number of identical counterparts. If so executed, each of such counterparts is to be deemed an original for all purposes and all such counterparts shall, collectively, constitute one agreement, but, in making proof of this Agreement, it shall not be necessary to produce or account for more of such counterparts than are required to show that each party hereto executed at least one such counterpart.

[SIGNATURE PAGE TO FOLLOW]

A TRUE COPY  
CERTIFICATION ON LAST PAGE  
J.K. BARTON, CLERK

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date set forth above.

BOARD OF COUNTY COMMISSIONERS  
INDIAN RIVER COUNTY, FLORIDA

ATTEST  
Jeffrey K. Barton, Clerk of Circuit  
Court and ex-Officio Clerk to the  
Board of County Commissioners

By: Peter D. O'Bryan  
Peter D. O'Bryan, Chairman

By: Laura Allen, D.C.  
Deputy Clerk

Approved as to form and legal sufficiency:  
George Glenn  
George Glenn, Assistant County Attorney

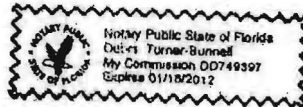
GROVE LAND UTILITIES, LLC, a Florida  
limited liability company

By: Ronald L. Edwards  
Ronald L. Edwards, Manager

STATE OF FLORIDA  
COUNTY OF Indian River

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of March, 2010, by RONALD L. EDWARDS, as Manager of GROVE LAND UTILITIES, LLC, a Florida limited liability company. Said person (check one)  is personally known to me,  produced a driver's license (issued by a state of the United States within the last five (5) years) as identification, or  produced other identification, to wit:

Debra Turner-Bunnell  
Print Name: DEBRA TURNER-BUNNELL  
Notary Public, State of Florida  
Commission No.: DD749397



**AGREEMENT BETWEEN  
GROVE LAND UTILITIES, LLC  
EVANS PROPERTIES, INC.  
AND  
ST. LUCIE COUNTY, FLORIDA**

THIS AGREEMENT is made and entered into this 6<sup>th</sup> day of December 2011, by and between St. Lucie County, a political subdivision of the State of Florida (hereinafter referred to as the "County"), Grove Land Utilities, LLC, a Florida limited liability company (hereinafter referred to as "Grove Land"), Evans Utilities Company, Inc., a Florida corporation and Evans Properties, Inc., a Florida corporation (each a "Party" and collectively the "Parties").

**RECITATIONS**

WHEREAS, Grove Land is a subsidiary of Evans Utilities Company, Inc. ("Evans Utilities"), which is a subsidiary of Evans Properties, Inc.

WHEREAS, Evans Properties, Inc. ("Evans") is a family owned company that currently predominately grows citrus on its properties.

WHEREAS, following the lead of other progressive, diversified agricultural businesses in Florida, Evans has undertaken to form and certificate utilities for a number of its properties across the state.

WHEREAS, Evans is undertaking these steps in order to diversify its business activities and position itself to take advantage of potential opportunities to meet water and wastewater needs.

WHEREAS, such opportunities may include, but not be limited to (a) supplying water for bio-fuel production, which requires large quantities of water and close proximity to crop-lands, (b) bulk-water sales to municipalities or other large water users, (c) providing water and wastewater service for future development as approved by the Board of County Commissioners, to the extent such approval is required by the County Land Development Code or (d) fees for environmental services, such as water retention or cleansing facilities to meet coming water quality standards. Water retention and storage capacity could be provided under contract to one or more governmental entities or credits could be sold to agri-business or other users that are required to have retention and storage capacity.

WHEREAS, the granting of a certificate to provide water or wastewater service in a territory does not imply that the certificate is issued for any specific class of service, and it is common for the Florida Public Service Commission ("FPSC") to grant an original water certificate and approve rates for services which may be in demand at a future time.

WHEREAS, the benefits to Evans of having a certificated utility include, but will not be limited to, Evans' improved position to enter into contracts with bulk users, governmental entities, and other

utilities, Evans' ability to obtain more favorable financing for constructing infrastructure improvements, and Evans' ability to provide water and wastewater services for the Grove Land proposed certified properties as and when needed.

**WHEREAS**, on or about September 11, 2009, Grove Land filed an application before the Florida Public Service Commission ("FPSC") for the certification of a public utility with territory in St. Lucie County, Indian River County and Okeechobee County, PSC Docket No. 090445-WS (the "Grove Land Application").

**WHEREAS**, on or about October 15, 2009, the County filed an objection to the Grove Land Application with the FPSC, raising certain concerns as set forth therein.

**WHEREAS**, this Agreement is intended to address the County's concerns with respect to the Grove Land Application.

**NOW, THEREFORE**, for and in consideration of the mutual promises, covenants, representations, and warranties entered into between the Parties, and in consideration of the benefits to accrue to each, it is agreed as follows:

1. **Utility Boundaries:** As an inducement for the County to withdraw its objections, Grove Land agrees that within St. Lucie County, Grove Land shall not provide domestic utility service outside the boundaries of Grove Land's territory, as such territory is certificated by the FPSC (the "Utility Territory"). Grove Land's Utility Territory, as set forth in the Grove Land Application, is depicted in Exhibit "A", attached hereto and made a part hereof. Grove Land shall not apply to the FPSC for any expansion of its Utility Territory, nor shall Grove Land otherwise extend domestic potable water and/or wastewater utility service outside its Utility Territory, within the utility service territory of the St. Lucie County Water and Sewer District ("District"), without prior written approval from the County Commission sitting as the District governing board. This paragraph shall not prohibit Grove Land from, (a) providing surface water retention and/or cleansing services that would require Grove Land to take surface water from outside of Grove Land's Utility Territory, cleanse and/or retain it inside its Utility Territory and deliver it back outside of its Utility Territory, (b) selling water retention or cleansing services or credits to customers outside of Grove Land's Utility Territory, or (c) selling bulk potable or non-potable water to the City of Port St. Lucie or the Fort Pierce Utility Authority, or any other customers not located within the District's utility service area, even though the utility lines delivering such water may pass through the District's utility service area, provided the District does not waive any authority it has pursuant to Chapter 153, Part II, Florida Statutes. The parties hereto agree that the County may enforce the provisions of this paragraph by specific performance or injunctive relief and Grove Land waives any defense that the FPSC has jurisdiction to reject the contractual right provided in this section.

2. **County Review:** The County shall have the right to review and approve the engineering plans for any Water or Wastewater Plant to be constructed within the Utility Territory in St. Lucie County. For the purposes of this Agreement, a "Water or Wastewater Plant" shall be defined as a potable water plant or wastewater treatment plant, and related pipelines, lift stations, pumps and other potable water or wastewater facilities, serving residential development or non-agricultural commercial development. The County shall provide approval or comments on any such engineering plans submitted or

resubmitted to the County within forty-five (45) days of receipt of such plans. The County's comments, if any, shall set forth the changes required to such engineering plans in order for them to receive the County's approval. Approval of such engineering plans shall not be unreasonably withheld. As an example, which shall not be considered exclusive, requiring the design of such Water or Wastewater Plant to include either (a) significant overcapacity (above the capacity required by the Florida Department of Environmental Protection ("FDEP")) thereby resulting in materially increased costs to utility rate payers, or (b) design elements that the FPSC would deem "not used or useful", and therefore would prohibit Grove Land from charging rate payers for the cost of such design elements, shall be considered "unreasonable" for purposes of this Agreement. Any Water or Wastewater Plant constructed within the Utility Territory in St. Lucie County shall also be required to comply with the applicable requirements of the St. Lucie County Land Development Code relating to land use, zoning, site planning and construction permitting, provided however, that Grove Land does not waive any of its rights as a FPSC regulated utility.

3. Preemption by Public Service Commission: Utility facilities serving biofuel production, energy or alternative energy production or uses related to biofuel or energy production, or serving agriculture or agriculture related uses, or serving a surface water cleansing, retention or treatment facility, shall not be considered a Water or Wastewater Plant for the purposes of this Agreement. Grove Land shall be permitted to provide water and wastewater services to the foregoing uses, pursuant to applicable regulation by the FPSC and/or the FDEP, which shall preempt any regulation by St. Lucie County. Any Water or Wastewater Plant serving the foregoing uses constructed within the Utility Territory in St. Lucie County shall also be required to comply with the applicable requirements of the St. Lucie County Land Development Code relating to land use, zoning, site planning and construction permitting, provided however, that Grove Land does not waive any of its rights as a FPSC regulated utility.

4. Withdrawal of County Objection: Promptly upon the execution of this Agreement, the County agrees to file with the FPSC a withdrawal of its objections to the Grove Land Application, together with a copy of this Agreement to be included as a part and condition of the FPSC approval of the certificates requested by the Applications.

5. FPSC Approval: This Agreement shall be submitted to the FPSC for its recognition and for the issuance of a utility certificate for Grove Land. In the event that the Grove Land Application is withdrawn, or the issuance of a utility certificate for Grove Land is denied by the FPSC, then this Agreement shall be null and void and have no further force or effect.

6. Bluefield Utilities Excluded: This Agreement shall not be binding upon or with respect to Bluefield Utilities, LLC ("Bluefield") or with respect to any utility other than Grove Land, nor shall it require the County to withdraw its objections to Bluefield's application before the FPSC for the certification of a public utility in St. Lucie County and Martin County, PSC Docket No. 090459-WS.

7. Notices: The Parties designate the following persons to be contacted and to receive all notices regarding this Agreement:

---

If to St. Lucie County, such notice shall be addressed to St. Lucie County at:

St. Lucie County Administration Office  
2300 Virginia Avenue  
Fort Pierce, Florida 34952  
Attention: County Administrator  
With a copy to:

St. Lucie County Attorney's Office  
2300 Virginia Avenue  
Fort Pierce, Florida 34952  
Attention: County Attorney

If to Grove Land, Evans, or Evans Utilities such notice shall be addressed to such party at:

Evans Properties, Inc.  
660 Beachland Boulevard  
Vero Beach, FL 32963  
Attention: Ron Edwards

With a copy to:

Dean, Mead, Minton & Zwemer  
1903 South 25<sup>th</sup> Street, Suite 200  
Fort Pierce, FL 34947  
Attention: Michael D. Minton

Any Notice or other document required or allowed to be given pursuant to this Agreement shall be in writing and shall be delivered personally, or by overnight courier, or sent by Certified Mail, Postage Prepaid, Return Receipt Requested. The use of electronic communication is not considered as providing proper notice pursuant to this Agreement.

8. **Assignment:** This Agreement shall be binding upon, and inure to the benefit of, the County's, Grove Land's, Evans's and Evans Utilities's successors and assigns, excluding Bluefield. However, if the District or the District's utility is conveyed to or merges with another municipality, utility authority, or other entity, the terms and restrictions set forth in Paragraphs 1 and 2 hereof shall have no further force or effect and shall not be assignable to any successor entity.

9. **Beneficiaries:** This Agreement is solely for the benefit of the County, the District, Grove Land, Evans, and Evans Utilities and no causes of action shall accrue upon or by reason hereof to or for the benefit of any other party, who or which is not a Party to this Agreement.

10. **Amendment:** This Agreement cannot be modified or amended except by a written instrument executed by all Parties and supported by valid consideration.



11. Applicable Law and Venue: This Agreement will be interpreted in accordance with the laws of the State of Florida. Except to the extent that such matters are specifically within the exclusive jurisdiction of the FPSC or other governmental authority, venue for any action related to, arising out of, or in any way connected to this Agreement shall be in the state and federal courts located in and for St. Lucie County, Florida and nowhere else, and the Parties agree to submit to the jurisdiction of such courts.

12. Entire Agreement and Effective Date: This Agreement constitutes the entire agreement and understanding between the Parties with regard to the content herein and has been entered into voluntarily and with independent advice and legal counsel and has been executed by authorized representatives of each Party on the date written above. This Agreement shall become effective (the "Effective Date") when the last party to this Agreement executes the Agreement. There are no representations, warranties or covenants of any nature, oral or written, which are not included herein.

13. Severability: If any provision or part of a provision of this Agreement shall be determined to be void or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall, to the extent possible to ensure that the Agreement satisfies the intent of the Parties, remain valid and enforceable by any Party.

14. Construction of Agreement: If any provision of this Agreement requires judicial interpretation, the Parties agree that they have each collectively participated in the negotiation and drafting of this Agreement and that there shall be no judicial or other presumption against either Party regarding the construction of this Agreement.

15. Time is of the Essence: Time is of the essence with respect to each provision of this Agreement.

16. Interpretation: Words used in this Agreement in the singular shall be held to include the plural and vice versa, and words of one gender shall be held to include other genders as the context requires. The terms hereof, herein, and herewith and words of similar import shall be construed to refer to this Agreement in its entirety and not to any particular provision unless otherwise stated.

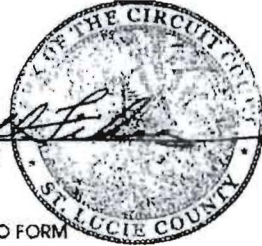
17. Counterparts: This Agreement may be executed in a number of identical counterparts. If so executed, each of such counterparts is to be deemed an original for all purposes and all such counterparts shall, collectively, constitute one agreement, but, in making proof of this Agreement, it shall not be necessary to produce or account for more of such counterparts than are required to show that each party hereto executed at least one such counterpart.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date set forth above.

ATTEST:

By: *Melba A. Fisher*  
Deputy Clerk



ST. LUCIE COUNTY, a political subdivision of the State of Florida

BY: *[Signature]*  
Chairman of the Board of  
County Commissioners

APPROVED AS TO FORM  
AND CORRECTNESS

\_\_\_\_\_  
COUNTY ATTORNEY

Approved as to form and legal sufficiency:

*[Signature]*  
Daniel S. McIntyre, County Attorney

GROVE LAND UTILITIES, LLC, a Florida  
limited liability company

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

EVANS PROPERTIES, INC., a Florida  
corporation

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

EVANS UTILITIES, INC., a Florida  
Corporation

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**Grove Land Utilities, LLC**

**Description of Water and Wastewater  
Indian River, Okeechobee, St. Lucie Counties**

**Okeechobee County**

**Parcel IDs 1, 5, 7 and 9**

**Township 34 South, Range 36 East**

**Sections 1, 2, 3, 10, 11, 12, 13, 14, and 15**

All of Sections 1, 2, 3, 10, 11, 12 AND Sections 13 and 14 LESS the South 125 feet AND Section 15 LESS the South portion measured 145 feet North of the Southeast corner of the Section and 174.49 feet North of the Southwest corner of said Section 15, all in Township 34 South, Range 36 East, Okeechobee County.

**Indian River County**

**Parcel ID 2**

**Township 33 South, Range 38 East**

**Section 31**

Section 31, LESS the South 100 feet in Township 33 South, Range 38 East, Indian River County.

**Indian River County**

**Parcel IDs 3, 8, and 10**

**Township 33 South, Range 37 East**

**Sections 29, 30, 31, 32, and 33 and**

**Township 33 South, Range 36 East**

**Sections 25 and 36**

Section 29, LESS the North 210 feet and LESS the East 250 [feet] of the West 600 feet of the North 720 feet, Section 30 and Section 31 AND the East 1/2 of Section 32, lying North of the Turnpike, all in Township 33 South, Range 37 East.

Together with the East 1/2 of Section 25 AND the East 1/2 of Section 36, lying North of the Turnpike, all in Township 33 South, Range 36 East, Indian River County.

Together with the East 1/2 of Section 32 LESS the Legal Right of Way and LESS the South 250.00 feet thereof.

Together with the West 1/2 of Section 33 LESS the South 250.00 feet thereof, lying West of the following described line: Commence at the Southeast corner of Section 36, Township 33 South, Range 37 East, Indian River County, Florida; then West, 19,080.31 feet to the Point of Beginning; then North 5,079.50 feet to the North line of said Section 33.

**St. Lucie County**

**Parcel IDs 4 and 6**

**Township 34 South, Range 38 East**

**Sections 6 and 7**

Section 6, LESS the North 500 feet and the North 1/2 of Section 7, all in Township 34 South, Range 38 East in St. Lucie County, Florida.

**St. Lucie County**

**Parcel ID 11**

**Township 34 South, Range 38 East**

**Sections 15, 21 and 22**

The West 3/4 of the South 1/2 of Section 15 AND the East 1/2 of the Southeast 1/4 LESS the South 660 feet of Section 21 AND the West 3/4, LESS the South 660 feet of Section 22, all lying in Township 34 South, Range 38 East in St. Lucie County, Florida.

Together with the West 3/4 of the South 1/2 of Section 15 AND the East 1/2 of the Southeast 1/4 LESS the South 660 feet of Section 21 AND the West 3/4, LESS the South 660 feet of Section 22, all lying in Township 34 South, Range 38 East in St. Lucie County, Florida.

**FLORIDA PUBLIC SERVICE COMMISSION**

authorizes

**Grove Land Utilities, LLC**  
pursuant to  
**Certificate Number 658-W**

to provide water service in Indian River, Okeechobee, and St. Lucie Counties in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
*	*	090445-WS	Original Certificate

**\*Order Number and date to be provided at time of issuance.**

**FLORIDA PUBLIC SERVICE COMMISSION**

authorizes

**Grove Land Utilities, LLC**  
pursuant to  
**Certificate Number 563-S**

to provide wastewater service in Indian River, Okeechobee, and St. Lucie Counties in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
*	*	090445-WS	Original Certificate

**\*Order Number and date to be provided at time of issuance.**

**GROVE LAND UTILITIES, LLC  
 WATER SYSTEM**

**Water Rate Base**

Utility Plant in Service	\$ 1,273,379
Accumulated Depreciation	(191,040)
Contributions in Aid of Construction (CIAC)	(862,543)
Accumulated Amortization of CIAC	79,224
Working Capital Allowance	<u>12,828</u>
<b>Water Rate Base</b>	<b><u>\$ 311,848</u></b>

**Water Revenue Requirement**

Operating Revenue	<u>\$ 148,121</u>
Operation and Maintenance Expense	102,627
Net Depreciation Expense	13,694
Taxes Other Than Income	<u>6,665</u>
Total Operating Expense	<u>122,986</u>
Net Operating Income	<b><u>\$ 25,135</u></b>
Water Rate Base	\$ 311,848
Rate of Return	8.06%

**Monthly Water Service Rates – Residential and General Service**

Base Facility Charge	
5/8 x 3/4"	\$ 28.49
3/4"	42.74
1.0"	71.23
1.5"	142.45
2.0"	227.92
3.0"	455.84
Charge per 1,000 gallons	\$ 4.05

**Comparison Residential Water Service Bills**

5,000 gallons	\$ 48.74
7,500 gallons	\$ 58.87
10,000 gallons	\$ 68.99

**Water Service Availability Charges**

Plant Capacity Charge (ERC = 350 gpd)	\$ 1,675.00
All Other – per gallon	4.79
Main Extension Charge (ERC = 350 gpd)	\$ 734.00
All Others – per gallon	2.10
Meter Installation Charge	
5/8" x 3/4"	\$ 230.00
3/4"	280.00
1"	330.00

**GROVE LAND UTILITIES, LLC  
 WASTEWATER SYSTEM**

**Wastewater Rate Base**

Utility Plant in Service	\$ 1,151,661
Accumulated Depreciation	(249,899)
Contributions in Aid of Construction (CIAC)	(669,324)
Accumulated Amortization of CIAC	76,258
Working Capital Allowance	<u>12,307</u>
<b>Water Rate Base</b>	<b>\$ <u>321,003</u></b>

**Wastewater Revenue Requirement**

Operating Revenue	\$ <u>153,603</u>
Operating and Maintenance Expense	98,453
Net Depreciation Expense	22,365
Taxes Other Than Income	<u>6,912</u>
Total Operating Expense	<u>127,730</u>
Net Operating Income	<b>\$ <u>25,873</u></b>
Water Rate Base	\$ 321,003
Rate of Return	8.06%

**Monthly Wastewater Service Rates – Residential Service**

Base Facility Charge	\$ 31.34
Charge per 1,000 gallons (8,000 gallon maximum)	\$ 5.88

**Monthly Wastewater Service Rates – General Service**

Base Facility Charge	
5/8 x 3/4"	\$ 31.34
3/4"	47.01
1.0"	78.35
1.5"	156.70
2.0"	250.72
3.0"	501.44
Charge per 1,000 gallons	\$ 5.88

**Comparison Residential Wastewater Service Bills**

5,000 gallons	\$ 60.74
7,500 gallons	\$ 75.44
10,000 gallons	\$ 90.14

**Wastewater Service Availability Charges**

Plant Capacity Charge	
Residential (ERC = 350 gpd)	\$ 2,005.00
All Others – per gallon	7.43
Main Extension Charge	
Residential (ERC = 270 gpd)	\$ 561.00
All Others – per gallon	2.08