

Execution Copy

Doc# 200035683
Book: 962
Pages: 977 - 1015
Filed & Recorded
12/18/2000 12:14:36 PM
J. M. OXLEY JR
CLERK OF CIRCUIT COURT
NASSAU COUNTY, FLORIDA
RECORDING \$ 157.00
TRUST FUND \$ 20.00

**FIRST AMENDED AND RESTATED
INTERLOCAL AGREEMENT RELATING TO
ESTABLISHMENT OF THE
FLORIDA GOVERNMENTAL UTILITY AUTHORITY**

Among

**Citrus County, Florida
Nassau County, Florida
Polk County, Florida
Sarasota County, Florida**

Dated as of December 1, 2000

TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS

SECTION 1.01. DEFINITIONS. 4

ARTICLE II

THE AUTHORITY

SECTION 2.01. CREATION. 8
SECTION 2.02. PURPOSES. 8
SECTION 2.03. AUTHORITY MEMBERS. 9
SECTION 2.04. DURATION OF AUTHORITY. 9
SECTION 2.05. TRANSFER OF UTILITY SYSTEMS TO OTHER AUTHORITIES. 9

ARTICLE III

MEMBERSHIP AND REPRESENTATION

SECTION 3.01. MEMBERSHIP. 10
SECTION 3.02. REPRESENTATION. 10
SECTION 3.03. ACTION. 11
SECTION 3.04. ELECTION OF OFFICERS. 11
SECTION 3.05. AUTHORITY OF OFFICERS. 12
SECTION 3.06. RESIGNATION. 12
SECTION 3.07. POWERS AND DUTIES OF THE BOARD. 12
SECTION 3.08. MEETINGS. 13
SECTION 3.09. WITHDRAWAL OR DISMISSAL OF AUTHORITY MEMBERS. 13
SECTION 3.10. EXPENSES. 14
SECTION 3.11. LIABILITY. 14

ARTICLE IV

POWERS AND DUTIES

SECTION 4.01. POWERS. 15
SECTION 4.02. ACQUISITION OF UTILITY SYSTEMS BY AUTHORITY MEMBERS. 19

SECTION 4.03. ANNUAL BUDGET..... 20
 SECTION 4.04. ADOPTION OF RATES, FEES OR OTHER CHARGES..... 21
 SECTION 4.05. OBLIGATIONS. 23
 SECTION 4.06. AD VALOREM TAXATION NOT AUTHORIZED..... 26
 SECTION 4.07. CONNECTION FEES. 26
 SECTION 4.08. UNPAID FEES. 26
 SECTION 4.09. AUTHORITY APPROVAL OF CONSTRUCTION OF WATER AND
 WASTEWATER FACILITIES. 26
 SECTION 4.10. PLANNING REQUIREMENT..... 27
 SECTION 4.11. EFFECT OF INCORPORATION OR THE PRESENCE OF A
 SPECIAL DISTRICT ON AUTHORITY. 27
 SECTION 4.12. CONDUIT TRANSACTIONS. 27
 SECTION 4.13. WATER PRODUCTION FACILITIES LOCATED WITHIN THE
 JURISDICTION OF TAMPA BAY WATER. 28
 SECTION 4.14. OMITTED..... 28
 SECTION 4.15. PROVISIONS RELATING TO CITRUS COUNTY, FLORIDA. 29
 SECTION 4.16. PROVISIONS RELATING TO POLK COUNTY, FLORIDA. 29
 SECTION 4.17. PROVISIONS RELATING TO SARASOTA COUNTY, FLORIDA... 29

ARTICLE V

MISCELLANEOUS

SECTION 5.01. DELEGATION OF DUTY..... 31
 SECTION 5.02. FILING. 31
 SECTION 5.03. IMMUNITY. 31
 SECTION 5.04. LIMITED LIABILITY. 31
 SECTION 5.05. AMENDMENTS. 32
 SECTION 5.06. SEVERABILITY. 32
 SECTION 5.07. CONTROLLING LAW. 32
 SECTION 5.08. SUPERCEDES ORIGINAL AGREEMENT. 32
 SECTION 5.09. EFFECTIVE DATE. 32

**FIRST AMENDED AND RESTATED
INTERLOCAL AGREEMENT RELATING TO
ESTABLISHMENT OF THE
FLORIDA GOVERNMENTAL UTILITY AUTHORITY**

THIS FIRST AMENDED AND RESTATED INTERLOCAL AGREEMENT, dated as of December 1, 2000 (the "Interlocal Agreement"), entered into among a certain number of local governmental units executing this Interlocal Agreement, each one constituting either a county or municipal corporation located in the State of Florida, and constituting a "public agency" under Part I of Chapter 163, Florida Statutes, which shall on the date hereof be Citrus County, Florida, Nassau County, Florida, Polk County, Florida and Sarasota County, Florida (collectively, the "Authority Members"), as evidenced by the signatures of their authorized representatives hereby amends and restates in its entirety that certain Interlocal Agreement, dated as of February 1, 1999, among certain of the Authority Members (the "Original Agreement");

WITNESSETH:

WHEREAS, pursuant to the Original Agreement certain of the Authority Members created the Authority for the purposes provided therein; and

WHEREAS, the Authority has determined to amend the Original Agreement in certain respects and to expand the membership in the Authority to include Nassau County, Florida and Citrus County, Florida; and

WHEREAS, it is necessary and desirable to amend and restate in its entirety the Original Agreement in order to amend the Original Agreement and to expand the Authority;

NOW, THEREFORE, in consideration of the mutual covenants herein, the Original Agreement is hereby amended and restated in its entirety to read as follows:

WHEREAS, each of the Authority Members have the power to acquire, own, improve, operate and maintain water and wastewater utility facilities pursuant to their Florida Constitutional powers of local self government, Section 125.01, Florida Statutes (in the case of counties), or Section 166.021, Florida Statutes (in the case of municipal corporations); and

WHEREAS, Part I of Chapter 163, Florida Statutes (the "Interlocal Act"), permits the Authority Members, as public agencies under the Interlocal Act, to enter into interlocal agreements with each other to jointly exercise any power, privilege or authority which such Authority Members share in common and which each might exercise separately, permitting

the Authority Members to make the most efficient use of their powers by enabling them to cooperate on a basis of mutual benefit and thereby provide services and facilities in a manner and pursuant to forms of governmental organization that will best serve geographic, economic, population and other factors influencing the needs and development of such Authority Members; and

WHEREAS, Section 163.01(7)(g), Florida Statutes, authorizes the Authority Members pursuant to an interlocal agreement to create a separate legal entity to exercise the common power of the Authority Members to acquire, own, improve, operate and maintain water and wastewater utility facilities; and

WHEREAS, the Authority Members have determined that it is in their best interests to create such a legal entity to acquire, own, improve, operate and maintain water and wastewater utilities, initially consisting of certain utility facilities owned and/or controlled by Avatar Holdings, Inc., and its subsidiaries (collectively, "Avatar"), for the following reasons:

(1) Avatar has heretofore determined and made known that it will not entertain any offer to purchase its utility assets on a piecemeal basis. It will sell all of its utility assets or none of them. From the public perspective, the most cost effective manner of acquiring such assets is through a legal entity created pursuant to the Interlocal Act. The acquisition of the assets by said legal entity will be at a purchase price which will enable the Authority to charge the then existing rates, fees and charges paid by the customers of Avatar so that those rates, fees and charges will not be increased solely as a direct result of the acquisition by the Authority of such utility assets. In addition, the level and standard of services provided by the Authority to such customers will be maintained or improved.

(2) All Authority Members must meet the comprehensive planning requirements of Chapter 163, Florida Statutes, which mandate that Florida local governments, including the Authority Members, coordinate their plans for future growth with available sources of funding and the availability of infrastructure. The provision of water and wastewater utilities is a major factor in such infrastructure coordination. Public ownership of water and wastewater utility facilities is more desirable and more readily allows for Florida local governments to meet their statutory mandate with respect to the utilities element of their respective comprehensive plans.

(3) The establishment of such legal entity, in the form of the hereinafter described Authority, will ensure that the customers of the water and wastewater facilities owned by the Authority are provided the best, most cost effective service and assure that proper future

expansion of the water and wastewater facilities will occur to meet the demands of development of each affected local government.

NOW, THEREFORE, in consideration of the foregoing and the covenants herein, it is mutually agreed and understood by and among the Authority Members, that now or may hereafter execute this Interlocal Agreement, that the "Florida Governmental Utility Authority," a legal entity and public body and a unit of local government with all of the privileges, benefits, powers and terms of the hereinafter defined Act and this Interlocal Agreement, is hereby created for the purposes described herein, as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01. DEFINITIONS. The following definitions shall govern the interpretation of this Interlocal Agreement:

"**Act**" shall mean, collectively, Section 125.01, Florida Statutes (in the case of counties), Section 166.021, Florida Statutes (in the case of municipal corporations), the Interlocal Act, any Charters of Authority Members, and other applicable provisions of law.

"**Assessable Improvements**" shall mean improvements to the Authority Facilities of a local nature and of special benefit to the premises or lands served thereby.

"**Authority**" shall mean the Florida Governmental Utility Authority, a legal entity and public body created pursuant to the provisions of this Interlocal Agreement and the Act.

"**Authority Facilities**" shall mean the Authority's water production, transmission, treatment and distribution facilities and property, and the Authority's wastewater treatment, collection and disposal facilities and property, including reuse and reclaimed water facilities, as they may be modified, improved or expanded from time to time, which are owned, leased, operated, managed and/or used, from time to time, by the Authority to provide public water and wastewater services. The Authority Facilities shall include all Utility Systems. Authority Facilities shall include all property, real or personal, tangible or intangible, now or hereafter owned, leased, operated or managed by the Authority in connection with the provision of public water and wastewater services.

"**Authority Member**" or "**Authority Members**" shall mean the member or members of the Authority, from time to time, as shall be provided for by this Interlocal Agreement. The Authority Members shall on the date hereof be Citrus County, Florida, Nassau County, Florida, Polk County, Florida and Sarasota County, Florida.

"**Avatar**" shall mean Avatar Holdings, Inc., its subsidiaries and affiliate entities, and any successors or assigns thereto.

"**Avatar Facilities**" shall mean the water and wastewater facilities, property and assets owned by Avatar which shall be acquired by the Authority.

"Board" shall mean the governing board of the Authority, consisting of the Directors appointed hereunder.

"Connection Fees " shall mean fees and charges imposed by the Authority to acquire, construct, equip or expand the capacity of the Authority Facilities for the purpose of paying or reimbursing the equitable share of the capital cost relating to such acquisition, construction, expansion or equipping of capacity of the Authority Facilities or expansion thereof in order to serve new users of the facilities of the Authority Facilities and new development within the Service Areas served by the Authority Facilities. Such Connection Fees may include interest carrying costs associated with the Authority Facilities.

"Cost" when used in connection with a Project, shall mean (1) the Authority's cost of construction; (2) costs of acquisition by or for the Authority of such Project; (3) costs of land and interests thereon and the cost of the Authority incidental to such acquisition; (4) the cost of any indemnity and/or surety bonds and premiums for insurance during construction; (5) all interest due to be paid on the Obligations relating to the Project during the period of acquisition and construction of such Project and for a reasonable period subsequent to completion of acquisition and construction as the Board may determine by resolution; (6) engineering, legal and other consulting fees and expenses; (7) costs and expenses of the financing incurred for such Project, including audits, fees and expenses of any paying agent, registrar, trustee, consultants, attorneys, engineers, credit enhancers or depository; (8) payments, when due (whether at the maturity of principal or the due date of interest or upon redemption) on any interim or temporary indebtedness incurred for such Project; (9) costs of machinery, equipment, supplies and spare parts required by the Authority for the commencement of operation of such Project or continuation of operation of such Project; and (10) any other costs properly attributable to such Project or to the issuance of Obligations which finance such Project, as determined by generally accepted accounting principles applicable to such Project, and shall include reimbursement to the Authority for any such items of cost paid by the Authority prior to issuance of the Obligations issued to finance such Project. Additional items of cost may be provided pursuant to the Financing Documents.

"Director" shall mean that individual appointed in accordance with the provisions hereof to serve as part of the Board. "Director" shall also include an alternate who is appointed to fill such role by an Authority Member.

"Equivalent Residential Connection" shall mean the standard water and wastewater unit used to calculate demand upon either water or wastewater system capacity, based respectively upon usage of 350 gallons per day of water treatment capacity and 275

gallons per day of wastewater disposal capacity or such other daily usage standard applicable to a Utility System as determined by resolution of the Board.

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

"Fiscal Year" shall mean the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be determined by the Board.

"General Manager" shall mean the individual or entity selected and employed by the Board to serve the Authority in such capacity.

"Interlocal Act" shall mean Part I of Chapter 163, Florida Statutes.

"Interlocal Agreement" shall mean this Interlocal Agreement, including any amendments or supplements hereto, executed and delivered in accordance with the terms hereof.

"Obligations" shall mean a series of bonds or other evidence of indebtedness, including, but not limited to, notes, commercial paper, capital leases or any other obligations of the Authority issued hereunder and pursuant to the Financing Documents.

"Pledged Funds" shall mean (1) the revenues, fees, charges, special assessments and other moneys received by the Authority or its designee relating to its ownership or operation of the Authority Facilities, or some portion thereof, (2) until applied in accordance with the terms of the Financing Documents, all moneys in the funds, accounts and subaccounts established thereby, including investments therein, and (3) such other property, assets and moneys of the Authority as shall be pledged pursuant to the Financing Documents; in each case to the extent provided by the Board pursuant to the Financing Documents. The Pledged Funds pledged to one series of Obligations may be different than the Pledged Funds pledged to other series of Obligations.

"Project" shall mean any structure, property or facility which the Authority, from time to time, may determine to construct or acquire as part of its Authority Facilities, together with all improvements, equipment, structures and other facilities necessary or appropriate in connection therewith. This term is to be broadly construed so as to include any lawful undertaking which will accrue to the benefit of the Authority Facilities, including joint ventures and acquisitions of partial interests or contractual rights. "Project" shall

include, but not be limited to, acquisition of the Avatar Facilities, and the construction of any improvements thereto. "Project" may also include working capital, as well as any costs or judgments associated with litigation.

"Public Agencies" shall mean any "public agency", as defined in the Interlocal Act.

"Service Area" shall mean the geographic boundaries within which each Utility System provides or is otherwise authorized to provide water and/or wastewater services.

"State" shall mean the State of Florida.

"Utility Acquisition Agreement" shall mean an agreement between the Authority and an Authority Member, other Public Agency or entity, if applicable, relating to the disposition of a Utility System, or portion thereof, which is located within the jurisdiction of such Authority Member or Public Agency.

"Utility System" shall mean the Authority Facilities comprising a separate water and/or wastewater system, which shall be accounted for separately from any other Authority Facilities. A Utility System may consist of utility facilities which are located in more than one Public Agency and which may or may not be contiguous with each other. Each Utility System shall be designated as such by the Board.

Whenever any words are used in this Interlocal Agreement in the masculine gender, they shall be construed as though they were also used in the feminine or neuter gender in all situations where they would so apply, and whenever any words are used in this Interlocal Agreement in the singular form, they shall be construed as though they were also used in the plural form in all situations where they would so apply.

ARTICLE II

THE AUTHORITY

SECTION 2.01. CREATION. The Authority Members hereby create and establish the "Florida Governmental Utility Authority", a legal entity and public body and a unit of local government, with all of the privileges, benefits, powers and terms provided for herein and by the Act.

SECTION 2.02. PURPOSES. (A) The purpose of this Interlocal Agreement is for the establishment of the Authority in order to: (i) acquire water and/or wastewater utility facilities and systems throughout the State of Florida, including, but not limited to, the Avatar Facilities and to make improvements to such facilities and systems which are acquired by the Authority; (ii) acquire, construct, own, improve, operate, manage and/or maintain the Authority Facilities; (iii) provide the most economic and efficient water and wastewater utility services throughout the Service Area of each Utility System in a non-discriminatory manner; (iv) make provision for rates whereby rates from one Utility System will not subsidize improvements, operation and maintenance costs or other expenses of another Utility System; and (v) dispose, from time to time, of such portions of the Authority Facilities to Authority Members, other Public Agencies or entities as it deems appropriate in accordance with the terms hereof, the Financing Documents and the terms of any Utility Acquisition Agreements.

(B) The Authority Members do hereby consent and agree to the acquisition of the Avatar Facilities within their respective jurisdictions by the Authority and consent to the Authority acquiring, owning, improving, operating and maintaining the Avatar Facilities within their respective jurisdictions in accordance with the terms of this Interlocal Agreement, sound engineering practices and applicable law.

(C) The creation and organization of the Authority and the fulfillment of its objectives serves a public purpose, and is in all respects for the benefit of the people of this State, affected Public Agencies and their constituents, and the persons or entities served by the Authority Facilities. The Authority is performing an essential governmental function. All property of the Authority is and shall in all respects be considered to be public property, and the title to such property shall be held by the Authority for the benefit of the public. The use of such property shall be considered to serve a public purpose, until disposed of upon such terms as the Authority may deem appropriate. Insofar as provided for by law, all Obligations and interest or income thereon and all the property, facilities, services, activities and revenues of the Authority are declared to be nontaxable for any and all purposes by the

State or federal government or any unit of the State or federal government to the same extent as if owned or issued by or on behalf of the Authority Members or a Public Agency.

SECTION 2.03. AUTHORITY MEMBERS. The Authority Members shall consist of those Public Agencies as provided in Article III hereof.

SECTION 2.04. DURATION OF AUTHORITY. The Authority shall exist so long as any portion of the Authority Facilities is owned, operated, leased or managed by the Authority or the Authority has Obligations outstanding. At such time as the Authority no longer owns, operates, leases or manages any portion of the Authority Facilities and no Obligations are outstanding, the Authority may dissolve by majority vote of the Board. In the event of dissolution, any assets of the Authority shall be allocated among the Authority Members based upon the number of Equivalent Residential Connections of each Authority Member at the time of such termination.

SECTION 2.05. TRANSFER OF UTILITY SYSTEMS TO OTHER AUTHORITIES. The Authority may transfer Utility System(s) and any Obligations relating thereto to another governmental utility authority upon satisfaction of the following conditions:

(A) Such governmental utility authority has been duly created pursuant to Section 163.01(7)(g), Florida Statutes, with substantially the same powers provided herein and such authority assumes all responsibilities and liabilities in regard to such transfer.

(B) Such transfer is approved by two-thirds (2/3) of the Directors, which includes the Authority Member Director where such Utility System is located.

(C) Such transfer shall be approved by the governing body of any Authority Member in whose jurisdiction the Utility System is located.

(D) The Authority receives an opinion of nationally recognized bond counsel to the effect that the transfer of such Utility System and Obligations will not adversely affect the tax-exempt status of such Obligations.

ARTICLE III

MEMBERSHIP AND REPRESENTATION

SECTION 3.01. MEMBERSHIP. (A) Membership in the Authority shall consist of those Public Agencies selected pursuant to this Article III.

(B) The Authority Members shall on the date hereof consist of: Citrus County, Florida, Nassau County, Florida, Polk County, Florida and Sarasota County, Florida.

(C) To the extent permitted by the Interlocal Act, the Authority may admit any Public Agency to membership upon application of such Public Agency and the affirmative vote of the majority plus one of all Directors at a duly called meeting of the Authority. This Interlocal Agreement need not be amended in order to admit any Public Agency as an Authority Member. Approval of the governing bodies of the Authority Members shall not be required to admit a new Authority Member.

(D) As a precondition to membership in the Authority, each Authority Member shall constitute a Florida municipality, county or such other Public Agency which is permitted by the Interlocal Act to be a member of the Authority. Such new Authority Member shall execute, deliver and record a duly authorized counterpart to this Interlocal Agreement. Authority Members may be admitted regardless of whether any Authority Facilities are located within the jurisdiction of such Authority Member.

SECTION 3.02. REPRESENTATION. (A) Each Authority Member shall appoint one Director to act on its behalf on the Board. Each Director shall be an individual who shall be appointed specifically by name or by position. In addition, each Authority Member may appoint an alternate Director to serve in the absence or unavailability of the Director.

(B) In the event the Director of an Authority Member shall resign or be removed, such Authority Member shall appoint a new Director within thirty (30) calendar days. In the event such Authority Member does not appoint a new Director within thirty (30) calendar days of resignation or removal and such Authority Member has appointed an alternate Director, such alternate Director shall serve in the capacity as Director. In the event such Authority Member does not appoint a new Director within thirty (30) calendar days of resignation or removal and such Authority Member has not appointed an alternate Director, the Board may appoint such Director who shall serve until such time as such affected Authority Member shall appoint a new Director; provided any new Director appointed by

the Board shall be a resident of such Authority Member. Any Director who is absent for three (3) consecutive meetings of the Board shall be deemed to have resigned.

(C) Each Authority Member, in its sole discretion, may remove its Director at any time and may appoint a new Director to serve on the Board upon notice being given to the Authority as provided by Section 3.06(A) hereof for resignation of a Director.

(D) No Director may be an elected official of an Authority Member. Directors may be employees of an Authority Member.

(E) Any Director may be removed upon the affirmative vote of at least two-thirds (2/3) of all Directors at a duly called meeting of the Authority.

SECTION 3.03. ACTION. (A) The affairs, actions and duties of the Authority shall be undertaken at a duly called meeting pursuant to Section 3.08 hereof.

(B) At any meeting of the Authority at which any official action is to be taken, a majority of all Directors shall constitute a quorum. A majority vote of a quorum of the Directors present at a duly called meeting shall constitute an act of the Authority, except as otherwise provided herein.

(C) Any action taken by the Board authorizing the acquisition, lease or sale of a Utility System or portion thereof in the jurisdiction of an Authority Member shall require the affirmative vote of the Director representing such Authority Member. Any swap, hedge or other similar arrangement relating to Obligations described in Section 4.05(M) hereof shall require the affirmative vote of the Director of any Authority Member where a Utility System or portion thereof, the revenues of which are pledged to the payment of such Obligations, is located.

(D) A certificate, resolution or instrument signed by the Chairman, Vice-Chairman or such other person of the Authority as may be hereafter designated and authorized by the Board shall be evidence of the action of the Authority and any such certificate, resolution or other instrument so signed shall conclusively be presumed to be authentic. Likewise, all facts and matters stated therein shall conclusively be presumed to be accurate and true.

SECTION 3.04. ELECTION OF OFFICERS. Once a year, and at such other time as may be necessary to fill a vacancy, at a duly called meeting of the Board called for the purpose thereof, the Authority through its Directors shall elect a Chairman, a Vice-Chairman and Secretary-Treasurer to conduct the meetings of the Authority and to perform such other functions as herein provided. At the discretion of the Board, the General

Manager (or representative thereof) may be appointed as the Secretary-Treasurer. Said Chairman, Vice-Chairman and Secretary-Treasurer shall serve one (1) year terms unless they resign from the Authority or such officer is replaced by the Board.

SECTION 3.05. AUTHORITY OF OFFICERS. (A) The Chairman and the Vice-Chairman shall take such actions, have all such powers and sign all documents on behalf of the Authority and in furtherance of the purposes of this Interlocal Agreement as may be approved by resolution of the Board adopted at a duly called meeting.

(B) The Secretary-Treasurer, or his designee, shall keep minutes of all meetings, proceedings and acts of the Board, but such minutes need not be verbatim. Copies of all minutes of the meetings of the Authority shall be sent by the Secretary-Treasurer or his designee to all Directors to the Authority. The Secretary-Treasurer may also attest to the execution of documents. The Secretary-Treasurer shall have such other powers as may be approved by resolution of the Board adopted at a duly called meeting.

SECTION 3.06. RESIGNATION. (A) Any Director may resign from all duties or responsibilities hereunder by giving at least thirty (30) calendar days prior written notice sent by registered mail to the General Manager. Such notice shall state the date said resignation shall take effect and such resignation shall take effect on that date.

(B) Any resigning Director who is an officer of the Authority shall immediately turn over and deliver to the General Manager any and all records, books, documents or other property in his possession or under his control which belong to the Authority.

SECTION 3.07. POWERS AND DUTIES OF THE BOARD. The Board shall act as the governing board of the Authority and shall have, in addition to all other powers and duties described herein, the following powers and duties:

(A) To fix the time and place or places at which its regular meetings shall be held, and to call and hold special meetings.

(B) To make and pass rules, regulations, resolutions and orders not inconsistent with the Constitution of the United States or of the State, or to the provisions of the Interlocal Act or this Interlocal Agreement, necessary for the governance and management of the affairs of the Authority, for the execution of the powers, obligations and responsibilities vested in the Authority, and for carrying into effect the provisions of this Interlocal Agreement.

(C) To fix the location of the principal place of business of the Authority and the location of all offices maintained thereunder.

(D) To create any and all necessary offices in addition to Chairman, Vice-Chairman and Secretary-Treasurer; to establish the powers, duties and compensation of all employees; and to require and fix the amount of all official bonds necessary for the protection of the funds and property of the Authority.

(E) To select and employ a General Manager, who shall administer the affairs and manage the staff of the Authority with Board approval, and perform all other administrative duties as directed by the Board.

(F) To employ or hire such attorneys or firm(s) of attorneys as it deems appropriate to provide legal advice and/or other legal services to the Authority.

(G) To amend the Authority's name, as permitted by law.

SECTION 3.08. MEETINGS. (A) The Board shall convene at a meeting duly called by either a majority of the Directors or the Chairman. The Directors may establish regular meeting times and places. Meetings shall be conducted at such locations as may be determined by the majority of the Directors or the Chairman. Notice of a special meeting, unless otherwise waived, shall be furnished to each Director by the General Manager not less than seven (7) calendar days prior to the date of such meeting; provided the Chairman or, in his absence or unavailability, the Vice-Chairman, may call a meeting upon twenty-four (24) hours written notice, if such officer determines an emergency exists. All meetings shall be noticed in accordance with applicable law.

(B) Within thirty (30) calendar days of the creation of the Authority, the duly appointed Directors shall hold an organizational meeting to elect officers and perform such other duties as are provided for under this Interlocal Agreement.

SECTION 3.09. WITHDRAWAL OR DISMISSAL OF AUTHORITY MEMBERS. (A) Any Authority Member may withdraw from the Authority at any time, if the following conditions are satisfied: (i) there shall be at least two (2) Authority Members remaining in the Authority subsequent to withdrawal, and (ii) a certified resolution from the Authority Member's governing body setting forth its intent to withdraw is presented to the Authority. Upon satisfaction of the foregoing conditions, such withdrawal shall be effective.

(B) In the event the Authority does not own, operate, lease or manage a Utility System, or portion thereof, within the jurisdiction of an Authority Member, such Authority Member may be dismissed from the Authority by majority vote of all Directors unless subsequent to dismissal there shall be less than two (2) Authority Members remaining in the Authority.

SECTION 3.10. EXPENSES. The Authority may establish, from time to time, procedures for reimbursement for reasonable expenses incurred by Authority Members, Directors and employees of the Authority.

SECTION 3.11. LIABILITY. No Director, agent, officer, official or employee of the Authority shall be liable for any action taken pursuant to this Interlocal Agreement in good faith or for any omission, except gross negligence, or for any act of omission or commission by any other Director, agent, officer, official or employee of the Authority.

ARTICLE IV

POWERS AND DUTIES

SECTION 4.01. POWERS. (A) The Authority shall have all powers to carry out the purposes of this Interlocal Agreement, including the following powers which shall be in addition to and supplementing any other privileges, benefits and powers granted by the Act:

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

(ii) To the extent permitted by law, to provide for mandatory water and wastewater connections of potential customers located in a Service Area upon availability of service by the Authority.

(iii) To fix, levy and collect rates, fees and other charges (including Connection Fees) from persons or property, or both, for the use of the services, facilities and product of the Authority Facilities or to pay the operating or financing costs of the Authority Facilities available to potential users; to fix and collect charges for making connections with the Authority Facilities and, to the extent provided by law, to provide for reasonable penalties to be imposed on any users or property for any such rates, fees or charges that are delinquent, all as more specifically described in Section 4.04 hereof.

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

(v) To acquire such lands and rights and interests therein, including lands under water and riparian rights and to acquire such personal property as the Authority may deem necessary and appropriate in connection with the acquisition, ownership, expansion, improvement, operation and maintenance of the Authority Facilities and to hold and dispose of all real and personal property under its control. To the extent the power of eminent domain is available to the Authority in accordance with applicable law, in particular the Interlocal Act, such power may be exercised by the Authority both within and outside the Service Areas of the Authority Facilities for the purpose of carrying out the intent of this Interlocal Agreement.

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

(vii) To enter into other interlocal agreements or join with any other special purpose or general purpose local governments, public agencies or authorities in the exercise of common powers or to assist the Authority in acquiring land and rights or interests therein.

(viii) To contract with private or public entities or persons to provide, treat or receive water or to provide or receive wastewater disposal, collection or treatment. To contract with any private or public entity or person for the operation or management of the Authority Facilities.

(ix) To prescribe methods of pretreatment of industrial wastes not amenable to treatment with domestic wastewater before accepting such wastes for treatment and to refuse to accept such industrial wastes when not sufficiently pretreated as may be prescribed, and, to the extent permitted by law, to prescribe penalties for the refusal of any person or corporation to so pretreat such industrial wastes.

(x) To the extent provided by law, to require and enforce the use of services, products and facilities of the Authority whenever and wherever they are accessible, and to require and enforce the installation and dedication to the Authority of water and wastewater facilities or easements as a condition precedent to the provision of service by the Authority or by another entity authorized by the Authority to provide interim service until Authority services, products and facilities are available.

(xi) To sell or otherwise dispose of the effluent, sludge or other by-products as a result of wastewater treatment.

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

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

(xiv) Subject to such provisions and restrictions as may be set forth in any Financing Document, to enter into contracts with the government of the United States or any agency or instrumentality thereof, the State, or with any municipality, county, district, authority, political subdivision, private corporation, partnership, association or individual providing for or relating to the treatment, collection and disposal of wastewater, or the treatment, supply and distribution of water and any other matters relevant thereto or otherwise necessary to effect the purposes of this Interlocal Agreement. To receive and accept from any federal or State agency, grants or loans for or in aid of the planning, construction, reconstruction or financing of improvements, additions or extensions to the Authority Facilities and to receive and accept aid or contributions or loans from any other source of either money, labor or other things of value, to be held, used and applied only for the purpose for which such grants, contributions or loans may be made.

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

(xvi) To divide the Authority Facilities into separate units, benefit areas, subsystems or subdistricts, including Utility Systems, for imposing special assessments, setting rates, accounting or financing improvements or additions, or any other purpose.

(xvii) To appoint advisory boards and committees to assist the Board in the exercise and performance of the powers and duties provided in this Interlocal Agreement.

(xviii) To sue and be sued in the name of the Authority.

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

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

(xxi) Subject to such provisions and restrictions as may be set forth herein and in any Financing Document, to sell or otherwise dispose of the Authority Facilities, or any portion thereof, upon such terms as the Board deems appropriate. To enter into Utility Acquisition Agreements to effect such dispositions.

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

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

(xxiv) To provide such retirement benefits and program as the Board deems appropriate.

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

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

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

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

(xxix) To assess, levy, impose, collect and enforce special assessments to provide Assessable Improvements upon all or any portion of the lands located within a Service Area. Such special assessments may be apportioned among benefitted property in a manner proportionate with the benefits received or commensurate with the burdens alleviated by the maintenance and use of property based upon such factors or combination of factors as determined by resolution of the Board. Such

special assessments may, in the discretion of the Board, be imposed, collected and enforced using any methods and procedures authorized by law, including Section 197.3632, Florida Statutes; or the Board may adopt by resolution its own method or procedures or use any other method or means for levy, imposition, collection and enforcement not inconsistent with law.

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

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

(xxxixii) To invest its moneys in such investments as directed by the Board in accordance with State law and which shall be consistent in all instances with the applicable provisions of the Financing Documents.

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

(xxxixiv) To do all acts and to exercise all of the powers necessary, convenient, incidental, implied or proper in connection with any of the powers, duties or purposes authorized by this Interlocal Agreement or the Act.

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

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

SECTION 4.02. ACQUISITION OF UTILITY SYSTEMS BY AUTHORITY MEMBERS. (A) To the extent not inconsistent with the applicable Financing Documents, each Authority Member in whose jurisdiction the Authority owns a Utility System, or portion thereof, shall have the exclusive right to acquire such Utility System, or portion thereof. The terms of such acquisition and purchase price thereof shall be established pursuant to the Financing Document relating thereto or the Utility Acquisition Agreement between the Authority and the respective Authority Member.

(B) The Authority agrees that each Authority Member shall have the exclusive right to acquire any Utility System, or portion thereof, located within the jurisdiction of such Authority Member in the event the Authority, in its sole discretion, determines to sell such Utility System, or portion thereof, and the Authority and Authority Member have not entered into a Utility Acquisition Agreement in regard to such Utility System. The purchase price for such Utility System, or portion thereof, shall be consistent with the applicable Financing Documents and shall be an amount mutually agreed upon by the Authority and the Authority Member.

SECTION 4.03. ANNUAL BUDGET. (A) Prior to October 1 of each year the Board will adopt an annual budget for the Authority and for each Utility System. Such budget shall be prepared within the time periods required for the adoption of a tentative and final budget for county governments under general law. The annual budget shall contain an estimate of receipts by source and an itemized estimation of expenditures anticipated to be incurred to meet the financial needs and obligations of the Authority and each Utility System. The General Manager shall prepare the annual budget. The annual budget shall contain a five-year capital improvement plan for each Utility System.

(B) The Board shall publish a notice of the meeting in which the annual budget is to be adopted, which notice shall be published once a week for two (2) consecutive weeks thirty (30) days prior to the date of the hearing in a newspaper qualified to accept legal advertisement within each county in the jurisdiction of the Authority in which a Utility System is located. A copy of the proposed budget indicating the five-year capital plan for each Utility System and a notice of the time and place of the Board meeting at which the annual budget is to be adopted shall be provided to each Authority Member prior to the first publication date.

(C) The adopted budget shall be the operating and fiscal guide for the Authority for the ensuing Fiscal Year. The Board may from time to time amend the budget at any duly called regular or special meeting.

(D) The Authority shall provide financial reports in such form and in such manner as prescribed pursuant to this Interlocal Agreement and Chapter 218, Florida Statutes.

(E) The Board shall cause to be made at least once a year, within one hundred eighty (180) days of the end of the Fiscal Year, a report of the Authority Facilities, including all matters relating to expansions, acquisitions, rates, revenues, expenses, principal and interest requirements of the Obligations and the status of all funds and accounts. Copies of such report shall be filed with the Secretary-Treasurer and shall be open to public inspection. The report shall be known as the "Annual Authority Facilities Report". The Annual

Authority Facilities Report may be included as a part of any other report or reports required by law or may be issued separately. The Secretary-Treasurer shall provide each Authority Member with a copy of the Annual Authority Facilities Report.

SECTION 4.04. ADOPTION OF RATES, FEES OR OTHER CHARGES.

(A) The Board shall adopt by resolution a schedule of rates, fees or other charges for the use of the services, facilities and products of each Utility System comprising a portion of the Authority Facilities to be paid by each customer which may be connected with or provided service by such Authority Facilities. The Authority may establish separate rates, fees and charges for different portions of the Authority Facilities, including separate rates, fees and charges for each Utility System. The Board may establish different rates, fees and charges for services, facilities and products provided by a portion of a Utility System provided such rates, fees and charges are consistent with applicable law. Each Utility System shall be maintained as an independent enterprise fund.

(B) Such rates, fees and charges shall be adopted and revised so as to provide moneys, which, with other funds available for such purposes, shall be at least sufficient at all times to pay the expenses of operating, managing, expanding, improving and maintaining the Authority Facilities, including renewal and replacement reserves for such Authority Facilities, to pay costs and expenses provided herein and the Financing Documents, and to pay the principal and interest on the Obligations as the same shall become due and reserves therefore, and to provide a reasonable margin of safety over and above the total amount of such payments. Notwithstanding any other provision in this Interlocal Agreement, such rates, fees and charges should always be sufficient to comply fully with any covenants contained in the Financing Documents. The Authority shall charge and collect such rates, fees and charges so adopted and revised, and such rates, fees and charges shall not be subject to the supervision or regulation by any other commission, board, bureau, agency or other political subdivision of the State. The Authority may enter into an interlocal agreement with an Authority Member which delegates to such Authority Member in whole or in part the power to approve the rates, fees and charges of the Utility System located within the jurisdiction of such Authority Member. In exercising such delegated power of approval of the rates, fees and charges of any such Utility System, the rates, fees and charges established by the Authority Member shall be consistent with the requirements contained in this Section 4.04 and shall be sufficient to comply fully with all covenants contained in the applicable Financing Documents.

(C) Such rates, fees and charges for each Utility System or portion thereof shall be just and equitable and uniform for the users in the same class and may be based upon or computed upon any factor or combination of factors affecting the use of the services, products or facilities furnished to the customers of such Utility System or portion thereof,

as may be determined by the Board from time to time. Except as described in Sections 4.04(F) and (G) hereof, no rates, fees or charges shall be fixed, adopted or revised under the foregoing provisions of this Section 4.04 until after a duly noticed public hearing at which all of the customers of the Authority Facilities affected thereby, or owners, tenants or occupants served or to be served thereby and all other interested persons shall have an opportunity to be heard concerning the proposed rates, fees or charges. Notice of such public hearing setting forth the proposed schedule or schedules of rates, fees or charges shall be given by one publication in a newspaper circulating in the portion of the Service Area or Areas affected by such proposed rates, fees or charges at least twenty (20) days before the date fixed in such notice for the public hearing, which may be adjourned from time to time. After such hearing, the proposed schedule or schedules, either as initially adopted, or as modified or amended, may be finally adopted.

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

(E) The Board may appoint the General Manager, a Director, committee of Directors, and/or a special master to conduct the public hearing or hearings on its behalf relating to rates, fees and charges. The General Manager, Director, committee of Directors and/or designated special master shall act as hearing officers and report to the Board its findings relating to such public hearing. Except as provided pursuant to a delegation in an interlocal agreement with an Authority Member, only the Board may set or revise rates, fees and charges.

(F) Notwithstanding the provision of Section 4.04(C) hereof, upon acquisition of a Utility System, no public hearing shall be required for adoption by the Authority by resolution of the rates, fees and charges contained in the rate tariff relating thereto approved by the Florida Public Service Commission, any governmental seller thereof or any county which has exercised its right to regulate such rates for such Utility System. Likewise, the Board shall have the authority to adopt by resolution approved rate tariffs of other acquired Utility Systems in the future without the requirement of such a public hearing.

(G) Notwithstanding the provisions of Section 4.04(C) hereof, no public hearing shall be required for adoption by the Board of a periodic automatic indexing factor applicable to the initial or any revised schedule of rates, fees and charges of any Utility System.

(H) Notwithstanding anything in this Interlocal Agreement to the contrary, the Authority, by unanimous vote of its Directors, may establish an administrative account into

which moneys may be deposited from the rates, fees and charges of the Authority Facilities or portion thereof or from such other source deemed appropriate by the Board. Any moneys deposited to such administrative account from rates, fees and charges of Authority Facilities shall be considered a loan from such Authority Facilities and shall be repaid within a reasonable period of time to the extent moneys are available therefor. Moneys in such administrative account may be used to pay for costs and expenses associated with acquiring Authority Facilities and any other lawful purpose approved by the Board.

SECTION 4.05. OBLIGATIONS. (A) The Board shall have the power and it is hereby authorized to provide pursuant to the Financing Documents, at one time or from time to time in series, for the issuance of Obligations of the Authority, or notes in anticipation thereof, for one or more of the following purposes:

- (i) Paying all or part of the Cost of one or more Projects,
- (ii) Refunding any bonds or other indebtedness of the Authority,
- (iii) Assuming or repaying the indebtedness relating to Authority Facilities, acquired or leased by the Authority from a public or private entity,
- (iv) Setting aside moneys in a renewal or replacement account,
- (v) Funding a debt service reserve account,
- (vi) Capitalizing interest on the Obligations,
- (vii) Paying costs of issuance relating to the Obligations, and
- (viii) Any other purpose relating to this Interlocal Agreement.

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

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

(C) Prior to the preparation of definitive Obligations of any series, the Board may issue interim receipts, interim certificates or temporary Obligations, exchangeable for definitive Obligations when such Obligations have been executed and are available for delivery. The Board may also provide for the replacement of any Obligation which shall become mutilated, or be destroyed or lost. Obligations may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Interlocal Agreement, the Financing Documents or other applicable laws.

(D) The proceeds of any series of Obligations shall be used for such purposes, and shall be disbursed in such manner and under such restrictions, if any, as the Board may provide pursuant to the Financing Documents.

(E) The Financing Documents may also contain such limitations upon the issuance of additional Obligations as the Board may deem appropriate, and such additional Obligations shall be issued under such restrictions and limitations as may be prescribed by such Financing Documents. The Financing Documents may contain such provisions and terms in relation to the Obligations and the Pledged Funds as the Board deems appropriate and which shall not be inconsistent herewith.

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

(G) All Pledged Funds shall be deemed to be trust funds, to be held and applied solely as provided in the Financing Documents. Such Pledged Funds may be invested by the Authority in such manner as provided in the Financing Documents.

(H) Any holder of Obligations, except to the extent the rights herein given may be restricted by the Financing Documents, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State or granted hereunder or under the Financing Documents, and may enforce and compel the performance of all agreements or covenants required by this Interlocal Agreement, or by such Financing Documents, to be performed by the Authority or by any officer thereof.

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

(J) In addition to the other provisions and requirements of this Interlocal Agreement, any Financing Documents may contain such provisions as the Board deems appropriate.

(K) All Obligations issued hereunder shall not be invalid for any irregularity or defect in the proceedings for the issuance and sale thereof and shall be incontestable in the hands of bona fide purchasers for value. No proceedings in respect to the issuance of such Obligations shall be necessary except such as are required by this Interlocal Agreement, the Financing Documents and general law. The provisions of the Financing Documents shall

constitute an irrevocable contract between the Authority and the holders of the Obligations issued pursuant to the provisions thereof.

(L) Holders of Obligations shall be considered third party beneficiaries hereunder and may enforce the provisions hereof.

(M) The Board may enter into such swap, hedge or other similar arrangements relating to any Obligations as it deems appropriate.

SECTION 4.06. AD VALOREM TAXATION NOT AUTHORIZED. The Authority shall not have the power to levy and assess an ad valorem tax on any property within the Service Areas for any reason.

SECTION 4.07. CONNECTION FEES. (A) The Authority is empowered to levy and collect Connection Fees relating to the Authority Facilities for capital improvements and debt service on such capital improvements under such conditions as shall be prescribed by the Board. Connection Fees may become Pledged Funds in accordance with the terms of the Financing Documents.

(B) The Board may change or revise the schedule of Connection Fees upon compliance with the notice and hearing requirements set forth for the adoption of rates, fees and other charges.

SECTION 4.08. UNPAID FEES. The Board shall have the power, under such reasonable procedures as the Board may adopt from time to time, to discontinue and shut off either or both water and wastewater services until delinquent fees, rates or charges, including interest and charges for the discontinuance and the cost of restoration of such water and wastewater services, or both, are fully paid; and, for such purposes, the Authority may enter onto any lands, waters or premises of any person, firm, corporation or body, public or private, served by the Authority within the Service Areas.

SECTION 4.09. AUTHORITY APPROVAL OF CONSTRUCTION OF WATER AND WASTEWATER FACILITIES. (A) The Board may adopt all necessary regulations by resolution that provide design and construction specifications and procedures for the dedication of facilities to the Authority.

(B) The Authority may require, as a condition precedent to the approval of any connection to the Authority Facilities, (i) that all subdivision-type infrastructure, or other contributed transmission or distribution infrastructure necessary to serve a particular project or customer, and necessary easements be dedicated to the Authority, (ii) that the developer

make available interim treatment facilities or services or contract for same on an interim basis from an authorized service provider, and (iii) that the developer, or the person or entity the developer has contracted with, provide interim treatment service, or lease back for nominal consideration and maintain such dedicated or contributed facilities until such time as the Authority provides services; provided in each case the foregoing actions shall be consistent with applicable regulations of the Authority Members.

SECTION 4.10. PLANNING REQUIREMENT. (A) In addition to the other powers enumerated in this Interlocal Agreement the Authority shall have the power to adopt a master plan for the provision of utility services within the Service Area of each Utility System. Such master plan may include for each Utility System, at a minimum: the identification of current customers and the projections of future customers and their profiles (residential, commercial, industrial); a review and general inventory of all existing infrastructure and facilities within the Service Area of each Utility System; and an identification of water supply and treatment alternatives and available wastewater treatment and disposal alternatives, including plans for the use of reclaimed or reused water alternatives.

(B) Prior to the adoption of the annual budget, a five-year capital improvement plan shall be submitted to each Authority Member for the Utility System within their respective jurisdictions for a determination by such Authority Member that the capital improvement plan is consistent with the applicable local government comprehensive plan of such Authority Member adopted pursuant to Chapter 163, Part II, Florida Statutes.

(C) All utility expansion or line extension policies adopted by the Board shall be consistent with the land development regulations, local comprehensive plans and other applicable regulations adopted by the Authority Members within which a Utility System is located.

SECTION 4.11. EFFECT OF INCORPORATION OR THE PRESENCE OF A SPECIAL DISTRICT ON AUTHORITY. The subsequent incorporation or annexation of any area initially included within a Service Area, or the presence or creation of any special district within a Service Area, shall not impair nor alter the authority, power and purposes of the Authority for providing water and wastewater services and facilities within any portion of such Service Area now included within any municipality, special district or subsequently included within any municipality or special district.

SECTION 4.12. CONDUIT TRANSACTIONS. In addition to the powers granted to the Authority hereunder, including the power to issue Obligations pursuant to this Article IV, the Authority may issue Obligations, to the extent permitted by law, for the

principal purpose of loaning the proceeds thereof to a public or private entity, which shall finance or refinance the acquisition and construction of water treatment, production or transmission facilities or wastewater treatment, transmission or disposal facilities. Such Obligations shall be secured in such manner as determined by the Board. Such security may include moneys received pursuant to a loan agreement between the Authority and such public or private entity. Such Obligations shall have the terms provided in Section 4.05 hereof.

SECTION 4.13. WATER PRODUCTION FACILITIES LOCATED WITHIN THE JURISDICTION OF TAMPA BAY WATER. In order to comply with Section 3.02(B) of the Amended and Restated Interlocal Agreement reorganizing Tampa Bay Water, a Regional Water Supply Authority ("Tampa Bay Water"), the Authority agrees to use Tampa Bay Water (directly or through a member government of Tampa Bay Water) as its exclusive supplier of water to be delivered to customers located within the geographic territory of Tampa Bay Water, to the same extent as required by the member governments of Tampa Bay Water (other than Tampa) under such Amended and Restated Interlocal Agreement. In order to comply with this provision as it relates to the proposed acquisition of the water facilities of Avatar and other water facilities located in Hillsborough County, Florida, Pasco County, Florida and Pinellas County, Florida (the "Tampa Bay Water Service Area"), the Authority shall offer to sell, lease or otherwise dispose of the water production facilities of Avatar and any other water production facilities which it acquires within the Tampa Bay Water Service Area to Tampa Bay Water at or prior to the time of acquisition of such facilities by the Authority, at a cost equal to the average of two independent MAI appraisals of such water production facilities, one of which shall be by an appraiser selected by Tampa Bay Water. Notwithstanding any other provision of this Interlocal Agreement, and solely for purposes of enforcing the provisions of this Section 4.13, the Authority Members agree that Tampa Bay Water is hereby designated as a third-party beneficiary hereto. The provisions of this Section 4.13 shall control over any other provisions of this Interlocal Agreement which may be in conflict herewith. Notwithstanding any provisions in this Section 4.13 to the contrary, the Authority need not offer to sell, lease or otherwise dispose of the water production facilities of Avatar which are acquired by the Authority and it may own and operate such facilities, provided Hillsborough County is not an Authority Member.

SECTION 4.14. OMITTED.

SECTION 4.15. PROVISIONS RELATING TO CITRUS COUNTY, FLORIDA. The following provisions of this Section 4.15 shall relate solely to Citrus County:

None

SECTION 4.16. PROVISIONS RELATING TO POLK COUNTY, FLORIDA. The following provisions of this Section 4.16 shall relate solely to Polk County:

(A) Service Area. The Service Area of the Utility System relating to the facilities acquired from Avatar which are located in Polk County shall be the existing Service Area. The Authority may not serve areas outside such Service Area located in Polk County without the prior written consent of Polk County. The decision to grant, grant with conditions or deny a request to serve an area outside such initial Service Area shall be treated as a legislative decision of the Polk County Board of County Commissioners. The Authority shall not compete against the Polk County water and wastewater system. Solely for purposes of Section 11.14 of the Polk County water and wastewater bond resolution, Polk County acknowledges that the Authority shall have a franchise to operate within such Service Area located in Polk County under the conditions provided herein, such franchise shall not exceed in any respect any franchise heretofore approved by Polk County. This provision may not be modified without the consent of Polk County.

SECTION 4.17. PROVISIONS RELATING TO SARASOTA COUNTY, FLORIDA. The following provisions of this Section 4.17 shall relate solely to Sarasota County:

(A) Service Area. The Service Area of the Utility System relating to the facilities acquired from Avatar which are located in Sarasota County (the "Avatar Utility System") shall be the existing area franchised to Avatar by Sarasota County. The Authority may not serve areas outside such Service Area without the prior written consent of Sarasota County. The decision to grant, grant with conditions or deny a request to serve an area outside the initial Service Area shall be treated as a legislative decision of the Sarasota County Board of County Commissioners.

(B) Cooperation. The Authority agrees to cooperate with Sarasota County for the purpose of interconnecting the Avatar Utility System with the water and wastewater utility system owned and operated by Sarasota County. The Authority and Sarasota County agree that, to the extent practicable, either party may obtain bulk service for treatment of wastewater from the other party at a reasonable cost based upon usage to the extent

wastewater capacity for such bulk service is available. The cost of any interconnections by the Authority and Sarasota County shall be borne by the parties based on an agreed to usage of the interconnection. The Authority agrees to enter into an agreement with Sarasota County whereby treated effluent from the Avatar Utility System will be made available for distribution through Sarasota County's Regional Reclaimed Water Distribution System. There shall be no charge for effluent which is transferred to the County's Regional Reclaimed Water Distribution System.

(C) Capital Improvement Plan. Prior to the adoption of its annual budget, the Authority shall prepare a five-year capital improvement plan as described in Section 4.10(B) hereof. Such plan shall be consistent with Sarasota County Utility Master Plans, as amended from time to time. The proposed capital improvement plan shall be submitted to Sarasota County no less than thirty (30) days prior to its adoption. Sarasota County shall review and comment on the appropriateness of the proposed capital improvement plan within twenty (20) days following receipt of same. The Authority agrees to cooperate with Sarasota County in adjusting its capital improvement plan, if necessary, to be consistent with Sarasota County's Utility Master Plans.

(D) Rates, Fees and Charges. Sarasota County shall have the power to approve rates, fees and charges of the Avatar Utility System, to the extent allowed under Section 4.04(B) hereof. Sarasota County agrees that it shall have no power to approve rates, fees and charges in the event the Authority establishes such rates, fees and charges in order to comply with the covenants contained in the Financing Documents. Sarasota County shall apply its ordinances and rules and regulations which pertain to water and sewer franchise utilities in determining rates, fees and charges for the Avatar Utility System. Sarasota County recognizes that certain rate making principles, such as contributed property and return on investment concepts, are not applicable to the Authority. Sarasota County and the Authority agree to enter into a separate interlocal agreement with respect to the process to be followed in applying for approval of rates, fees and charges of the Avatar Utility System.

(E) Acquisition. Notwithstanding anything in Section 4.02 hereof, Sarasota County has an existing right to acquire the Avatar Utility System as provided in the Indenture of Trust relating thereto.

ARTICLE V

MISCELLANEOUS

SECTION 5.01. DELEGATION OF DUTY. Nothing contained herein shall be deemed to authorize the delegation of any of the constitutional or statutory duties of the State or the Authority Members or any officers thereof.

SECTION 5.02. FILING. A copy of this Interlocal Agreement shall be filed for record with the Clerk of the Circuit Court in each county wherein an Authority Member is located.

SECTION 5.03. IMMUNITY. (A) All of the privileges and immunities from liability and exemptions from laws, ordinances and rules which apply to the activity of officials, officers, agents or employees of the Authority Members shall apply to the officials, officers, agents or employees of the Authority when performing their respective functions and duties under the provisions of this Interlocal Agreement.

(B) The Authority Members intend to utilize Sections 768.28 and 163.01(9)(c), Florida Statutes, other Florida Statutes and the common law governing sovereign immunity to the fullest extent possible. Pursuant to Section 163.01(5)(o), Florida Statutes, Authority Members may not be held jointly liable for the torts of the officers or employees of the Authority, or any other tort attributable to the Authority, and that the Authority alone shall be liable for any torts attributable to it or for torts of its officers, employees or agents, and then only to the extent of the waiver of sovereign immunity or limitation of liability as specified in Section 768.28, Florida Statutes. The Authority Members intend that the Authority shall have all of the privileges and immunities from liability and exemptions from laws, ordinances, rules and common law which apply to the municipalities and counties of the State. Nothing in this Interlocal Agreement is intended to inure to the benefit of any third-party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

SECTION 5.04. LIMITED LIABILITY. No Authority Member shall in any manner be obligated to pay any debts, obligations or liabilities arising as a result of any actions of the Authority, the Directors or any other agents, employees, officers or officials of the Authority, except to the extent otherwise mutually agreed upon, and neither the Authority, the Directors or any other agents, employees, officers or officials of the Authority have any authority or power to otherwise obligate any individual Authority Member in any manner.

SECTION 5.05. AMENDMENTS. This Interlocal Agreement may be amended in writing at any time by the concurrence of all of the Directors present at a duly called meeting of the Authority and subsequent ratification by the governing body of each Authority Member. However, this Interlocal Agreement may not be amended so as to (A) permit any profits of the Authority to inure to the benefit of any private person, (B) permit the diversion or application of any of the moneys or other assets of the Authority for any purposes other than those specified herein, (C) adversely affect the tax-exempt status, if applicable, of interest on the Obligations, or (D) materially, adversely affect the security for any Obligations. Notwithstanding any other provision herein, Sections 4.14 through 4.17 hereof may be amended by an interlocal agreement between the Authority and the Authority Member on whose benefit the provision of any such Section is made without the consent of any other Authority Member provided such amendment does not adversely affect any other Authority Member or the Utility System located within the affected Authority Member.

SECTION 5.06. SEVERABILITY. In the event that any provision of this Interlocal Agreement shall, for any reason, be determined invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the other provisions of this Interlocal Agreement shall remain in full force and effect.

SECTION 5.07. CONTROLLING LAW. This Interlocal Agreement shall be construed and governed by Florida law.

SECTION 5.08. SUPERCEDES ORIGINAL AGREEMENT. This First Amended and Restated Interlocal Agreement shall supercede in all respects the Original Agreement as of the date hereof. Upon approval of this First Amended and Restated Interlocal Agreement as provided in Section 5.05 hereof, the Original Agreement shall be of no further force and effect.

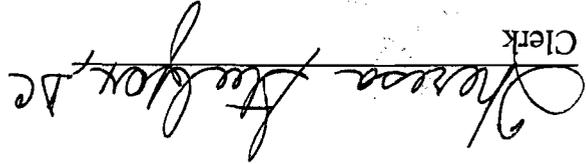
SECTION 5.09. EFFECTIVE DATE. This Interlocal Agreement shall become effective on the later of (A) the dated date hereof or (B) the date the last initial Authority Member executes this Interlocal Agreement and the filing requirements of Section 5.02 hereof are satisfied.

IN WITNESS WHEREOF, this Interlocal Agreement has been executed by and on behalf of the Authority Members by their authorized officers or officials on this 13th day of December, 2000.

CITRUS COUNTY, FLORIDA

By:  Chairman

ATTEST:

 Clerk

IN WITNESS WHEREOF, this Interlocal Agreement has been executed by and on behalf of the Authority Members by their authorized officers or officials on this 22nd day of May, 2000.

NASSAU COUNTY, FLORIDA

By: 

Chairman
Nick D. Deonas

ATTEST:


Clerk

J. M. "Chip" Oxley, Jr.

Approved as to form by the
Nassau County Attorney:


Michael S. Mullin

IN WITNESS WHEREOF, this Interlocal Agreement has been executed by and on behalf of the Authority Members by their authorized officers or officials on this 25 day of July, 2000.

POLK COUNTY, FLORIDA

By: 
Chairman

ATTEST:

Richard M. Weiss
Clerk

By: Marie E. Kessler
Deputy Clerk

IN WITNESS WHEREOF, this Interlocal Agreement has been executed by and on behalf of the Authority Members by their authorized officers or officials on this 12th day of September, 2000.

SARASOTA COUNTY, FLORIDA

By: *Ronald R. Miller*
Chairman

ATTEST:

Clerk

ATTEST:
KAREN E. RUSHING, Clerk of
the Circuit Court and
Ex-Officio Clerk of the Board
of County Commissioners of
Sarasota County, Florida.

By: *Karen E. Rushing*
Deputy Clerk