

Agreement for Temporary Operation of Utility

This Agreement ("Agreement"), is made and entered into as of this 23rd day of April, 2003, by and between Nassau County, a political subdivision of the State of Florida ("Nassau County" or "Owner") and Florida Water Services Corporation, a Florida corporation ("Florida Water").

Recitals:

A. Nassau County owns the water and wastewater utility system located on Amelia Island acquired through a Stipulated Order of Taking entered into and agreed to by the parties on March 31, 2003 (the "Utility").

B. Nassau County has requested and Florida Water has agreed to provide operations services to Nassau County for a temporary period of time as set forth in this agreement in order to allow a smooth transition of the operation of the utility from Florida Water to the County.

THEREFORE, in consideration of the mutual promises and agreements contained herein, the parties hereto do agree for themselves, their permitted successors and assigns as follows:

1. **Services Provided.** During the term of this Agreement Florida Water shall provide the following services ("Services") in the same manner it did immediately prior to the ownership of the Utility by Nassau County:

- a. operation and maintenance of the Utility;
- b. engineering for construction projects as needed;
- c. environmental services to provide data and reports required by existing permits;
- d. meter reading, billing and customer services;
- e. developer relations services; and
- f. administrative support services including finance, accounting, and information technology support.

2. **Final Meter Readings.** Florida Water shall take final meter readings within 30 days of the date of the Stipulated Order of Taking to determine revenues due to Florida Water for

the last billing cycle prior to the transfer of ownership of the Utility to Nassau County. Revenues will be prorated between the parties based on the number of days of ownership during the billing cycle.

3. **Monthly Statement.** On or before the 20th of each month, Florida Water will provide the Owner with a statement identifying the costs for Services provided to the Owner for the preceding month. In addition to the costs for Services, Florida Water's charges shall include a \$15,000 monthly fee for providing these services. This monthly statement shall identify the difference between the revenues collected and costs incurred. If Florida Water owes the difference it shall remit a check to the Owner concurrent with the monthly statement. If the Owner owes the difference it shall remit payment to the Florida Water within twenty (20) days of receipt of the monthly statement.

4. **Property Insurance and Risk of Loss.** Owner is responsible for all aspects of ownership of the Utility including compliance with applicable laws and has the risk of loss for the Utility in the same manner as would the owner of any other facility, equipment or property. Owner shall be responsible for all insurance of the Utility during the term of this Agreement. Florida Water shall be named as an additional insured under the Owner's general liability insurance policy.

5. **Employees.** Florida Water shall be responsible for all employees including wages, salaries, benefits, workers compensation and unemployment insurance during the term of this Agreement.

6. **Equipment and Consumables.** Florida Water shall provide all equipment, vehicles, materials and other consumables necessary to operate and maintain the Utility in the same manner it provided those items during the time immediately preceding this Operations Agreement. In the event work is required which necessitates the rental of special equipment Florida Water will identify a separate charge on the monthly statement for the rental of such special equipment. Florida Water will obtain the approval from the Owner prior to the rental of any special equipment costing in excess of ten thousand dollars (\$10,000).

7. **Capital Projects.** Florida Water shall not undertake any capital improvements to the Utility in excess of ten thousand dollars (\$10,000) without prior written approval of the Owner.

The Owner shall provide an answer to any such written request submitted by Florida Water within 10 days of receipt thereof.

8. **Emergencies.** In the event of an emergency situation, Florida Water shall take all steps reasonably necessary to address the emergency without obtaining prior approval from the Owner and shall notify the Owner as soon as reasonably possible after addressing the emergency.

9. **Electric, Telephone, and Garbage Service Accounts.** As soon as practical, Owner shall open accounts with the local electric utility, telephone, and garbage service provider and all such accounts for the Utility shall be in the name of the Owner.

10. **Vehicle Leases.** Florida Water shall pay off the Donellan vehicle leases for those vehicles used by employees that will become employees of the Owner following termination of this Agreement. Florida Water will identify the amount due for those vehicles on the monthly statement provided to Owner. Prior to termination of this Agreement, Florida Water will transfer title to those vehicles to the Owner.

11. **Term and Termination.** This Agreement is entered into for the sole purpose of allowing for a smooth transition of ownership of the utility from Florida Water to Nassau County and shall automatically terminate on July 31, 2003 unless otherwise amended by the parties in writing. Upon termination of this Agreement, Nassau County assumes full responsibility for all aspects of operation of the utility and Florida Water shall have no further responsibility for any aspect of operation of the utility. The parties recognize that Florida Water is presently attempting to sell its other utility assets and may not continue to be in business. If requested, Florida Water will endeavor to cooperate with the Owner to extend the term of this Agreement if Florida Water determines that it is in a position to do so.

12. **Final Monthly Statement and Subsequent True Up.** Following termination of this Agreement, the final monthly statement shall include a transfer of all customer deposits including interest thereon. Within one hundred twenty (120) days following termination of this Agreement, Florida Water shall provide the Owner with a final true-up statement that includes any invoices and revenues received after the final monthly statement.

13. **Harbor Branch Laboratory Services.** Florida Water shall maintain its existing agreement with Harbor Branch Oceanographic Institute to provide laboratory services through the period of this Agreement. Expenses for laboratory services shall be included in the monthly statement provided to the Owner by Florida Water. Nassau County will make arrangements for the provision of laboratory services after termination of this Agreement with Harbor Branch or some other laboratory services provider.

14. **Permits.** Florida Water will immediately transfer to Nassau County all permits issued by the Florida Department of Environmental Protection and the St. Johns River Water Management District.

15. **Occupational Licenses.** Nassau County will obtain all required Occupational Licenses.

16. **Existing Contracts with Third Parties.** To the extent permitted, the parties will cooperate with each other to endeavor to assign and transfer all existing contracts Florida Water presently has with third parties that apply to the Utility including but not limited to developer contracts and sludge hauling contracts.

17. **Transition Meetings.** During the term of this Agreement, representatives of the parties shall routinely meet to discuss the progress of transitioning the operation of the utility from Florida Water to Nassau County. The parties shall use good faith efforts to meet the transition schedule set forth in **Exhibit A** which is attached hereto and incorporated herein.

18. **Compliance with Laws.** Each party shall comply with all local, State and federal laws, codes, ordinances and regulations as they pertain to the Utility.

19. **Indemnification.** Owner shall protect, defend, indemnify and hold Florida Water harmless from and against any and all liabilities, claims, losses, and expenses, including attorney's fees and all costs of litigation arising out of Florida Water's performance of this Operations Agreement except for events caused by Florida Water's negligence.

20. **Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered by hand or overnight delivery or mailed by registered or certified mail, postage prepaid, to the parties at the following addresses:

To Nassau County: J. M. Oxley, Jr.
Nassau County Clerk of Court
P. O. Box 456
Fernandina Beach, FL 32034

with a copy to: Michael Mullin, Esquire
P. O. Box 1010
Fernandina Beach, FL 32034

To Florida Water: Judy Kimball, CFO
Florida Water Services Corporation
1000 Color Place
Apopka, Florida 32703

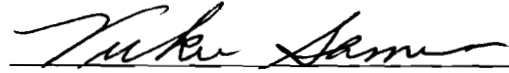
with a copy to: Carlyn Kowalsky, General Counsel
Florida Water Services Corporation
1000 Color Place
Apopka, Florida 32703

Any notice shall be deemed given and received on the date such notice is delivered by hand or overnight delivery or five (5) days after the date mailed.

24. **Entire Agreement.** This Agreement is the entire agreement between the parties and supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions of the agreements, understandings, negotiations, and discussions of the parties, whether oral or written, pertaining to the subject matter hereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and entered into on the date first above written.

NASSAU COUNTY
BOARD OF COUNTY COMMISSIONERS



By: Vickie Samus

Its: Chairman

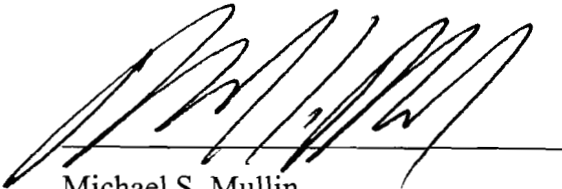
ATTEST:



J. M. "Chip" Oxley, Jr.

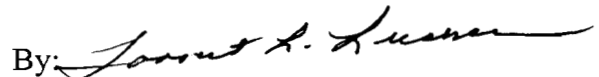
Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney:



Michael S. Mullin

FLORIDA WATER SERVICES
CORPORATION

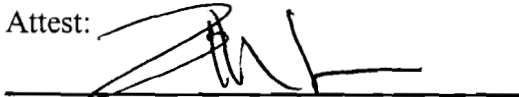
By: 

FORREST L. LUDSEN

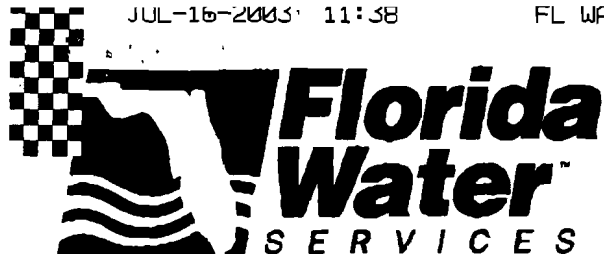
Its: EXECUTIVE VICE PRESIDENT +

CHIEF OPERATING OFFICER

Attest:



KIRK D. MARTIN
ASSISTANT SECRETARY

OFFICE OF CLERK OF COURTS
NASSAU COUNTY, FLORIDA

2003 JUL 16 AM 11:28

July 16, 2003

VIA FACSIMILE
AND REGULAR MAIL

Mr. J. M. "Chip" Oxley, Jr.
Nassau County Clerk of Courts
191 Nassau Place
Yulee, Florida 32097

Dear Mr. Oxley:

Pursuant to your request, Florida Water Services has agreed to extend the term of that certain "Agreement for Temporary Operation of Utility" entered into between Nassau County and Florida Water Services on April 23, 2003. This modification shall extend the term of the agreement by 30 days, to expire as of August 31, 2003. All other terms and conditions of the Agreement shall remain the same.

If the foregoing correctly states our understanding, please sign this letter in the space provided below and return it to me. We look forward to our continued work together.

Sincerely,

Forrest L. Ludsen
Executive Vice President and
Chief Operating Officer

Agreed to and accepted by:

J. M. "Chip" Oxley, Jr.
Ex-Officio Clerk
Nassau County

AN ALLETE COMPANY

P.O. Box 609520 / Orlando, Florida 32860-9520 / Phone 407/598-4100

Water For Florida's Future

TOTAL P.01



April 25, 2003

Ms. Joyce Bradley
c/o Clerk of Courts Office
191 Nassau Place
Yulee, FL 32097

Dear Ms. Bradley:

As requested by Mr. Mullin, I forward to you one original "Agreement for Temporary Operation of Utility" by and between Nassau County and Florida Water Services Corporation. It is appropriately executed on behalf of Florida Water Services.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Kirk D. Martin", with a long horizontal line extending to the right.

Kirk D. Martin
Legal Administrator

Enclosure

AN ALLETE COMPANY
◊

Florida Water Services Corporation / P.O. Box 609520 / Orlando, Florida 32860-9520 / Phone 407/598-4100

Water For Florida's Future



NASSAU COUNTY
BOARD OF COUNTY COMMISSIONERS
P. O. Box 1010
Fernandina Beach, Florida 32035-1010

Nick Deonas
Ansley Acree
Vickie Samus
Floyd L. Vanzant
Marianne Marshall

Dist. No. 1 Fernandina Beach
Dist. No. 2 Fernandina Beach
Dist. No. 3 Yulee
Dist. No. 4 Hilliard
Dist. No. 5 Callahan

J. M. "Chip" OXLEY, JR.
Ex-Officio Clerk

MICHAEL S. MULLIN
County Attorney

VIA FEDERAL EXPRESS

April 24, 2003

Mr. Carlyn Kowalsky, Esquire
General Counsel
Florida Water Services Corporation
1000 Color Place
Apopka, FL 32703

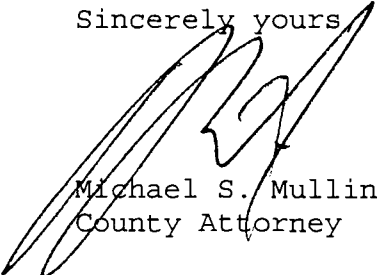
Dear Carlyn:

Enclosed please find two (2) originals of the Agreement for Temporary Operation of Utility between Nassau County and Florida Water Services Corporation, executed by the Board of County Commissioners in Special Session of April 23, 2003.

Please have the appropriate representative of Florida Water Services Corporation execute both originals and return one to Nassau County in the enclosed self-addressed envelope.

Thank you for your prompt attention to this matter.

Sincerely yours



Michael S. Mullin
County Attorney

MSM:jb

CC: J. M. "Chip" Oxley, Jr., Ex-Officio Clerk
Members, Board of County Commissioners
Ted Selby, Financial Services Director

(904) 321-5703, 879-1029, (800) 958-3496

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