



**TOWN OF LAKE HAMILTON
TOWN COUNCIL
SPECIAL MEETING AGENDA
Tuesday, February 15, 2022
4:00 P.M.**

The Town Council of the Town of Lake Hamilton will hold a Special Meeting on Tuesday, February 15, 2022, at 4:00 PM at the Town Hall, 100 Smith Ave, Lake Hamilton, FL 33851.

- 1. CALL TO ORDER BY THE MAYOR**
- 2. INVOCATION**
- 3. PLEDGE OF ALLEGIANCE**
- 4. ROLL CALL OF COUNCIL MEMBERS BY THE CLERK**
- 5. ITEMS TO BE DISCUSSED BY THE COUNCIL**
 - a. Approve Developer's Agreement Water Capital Charge AtlanticBlue *pages 1-5*
 - b. Approve request to withdraw from Law Enforcement Trust Fund *pages 6*
 - c. Water & Wastewater Update
 - i. Recommendations on PRWC Agreements – *pages 7-172*
 - d. Kokomo Road Speed Limit update/action as required – No docs
 - e. First Reading of Ordinance O-22-08 – Weiberg West PUD *pages 173-179*
 - f. Adopt Resolution R-2022-03 Appropriations Request for Capital Projects *pages 180-183*
 - g. Municipal Election Administration Agreement with the SOE *pages 184-187*
 - h. Move April regular council meeting date– no doc
- 6. ADJOURNMENT**

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND F. S. 286.26, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THESE PROCEEDINGS PLEASE CONTACT TOWN CLERK, BRITTNEY SANDOVALSOTO, TOWN HALL, LAKE HAMILTON, FL AT 863-439-1910 WITHIN TWO (2) WORKING DAYS OF YOUR RECEIPT OF THIS NOTIFICATION. IF A PERSON DESIRES TO APPEAL ANY DECISION MADE BY THE TOWN COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, AFFECTED PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE WHICH THE APPEALS IS TO BE BASED. (F.S. 286.26.105)



TOWN OF LAKE HAMILTON

DEVELOPER'S AGREEMENT WATER CAPITAL CHARGE INSTALLMENT PAYMENT PLAN

THIS AGREEMENT is made and entered into this _____ day of January 2022 ("Effective Date"), by and between the TOWN OF LAKE HAMILTON, a Florida municipal corporation, whose address is P.O. Box 126, 100 Smith Avenue, Lake Hamilton, FL 33851 (hereinafter referred to as the "TOWN") and ATLANTICBLUE CAPITAL, LLC, whose address is 122 East Tillman Avenue, Lake Wales, FL 33853 (hereinafter referred to as the "DEVELOPER"). This AGREEMENT is for Reservation of Water Capacity and to establish a Water Capital Charge Installment Payment Plan.

WHEREAS, the DEVELOPER PROPOSES a project now known as SCENIC TERRACE SOUTH, composed of Seven Hundred Forty-Four (744) single-family homes on approximately Two Hundred Six (206) Acres of land located on the PROPERTY from west of Scenic Highway (State Road 17) along both sides of Hughes Road to its eastern boundary three-eighths (3/8) of a mile east of Detour Road; and

WHEREAS, in accordance with the Lake Hamilton Code of Ordinances (Town Code), Chapter 32 UTILITIES, Section 32-4(b) the TOWN has a duty to provide potable water and wastewater to the DEVELOPER within the TOWN's Exclusive Utilities Service Area, subject to the DEVELOPER's compliance with the TOWN's service extension regulations and policies; and

WHEREAS, the TOWN has adopted by Ordinance a Water Impact Fee of Two Thousand Three Hundred Nineteen Dollars and Twenty-Nine Cents (\$2,319.29), which each user of the TOWN's water system shall pay for one proposed equivalent residential unit (ERU); and adopted Ordinance O-21-11, the Scenic Terrace South Planned Unit Development (PUD) ordinance, that specifically requires a financial investment by the DEVELOPER to secure the reservation of water capacity for the PROJECT.

SECTION 1. RESERVATION OF CAPACITY.

1.1 The TOWN and the DEVELOPER estimate and agree that based on the standard of 360 gpd of potable water demand per ERU that the reserved water capacity needed for the PROJECT (Water Reserve Capacity) is Two Hundred Sixty-Seven Thousand Eight Hundred Forty (267,840)

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gallons per day (gpd). The results of the calculations are based on previous approvals by the TOWN of an Amendment of the Lake Hamilton Comprehensive Plan and a Planned Unit Development (PUD) for a final count of 744 residential units also known as ERUs.

1.2 The TOWN hereby commits to reserve the capacity stated above for the exclusive service of the PROJECT for total Impact Fees of One Million, Seven Hundred Twenty-Five Thousand, Five Hundred Fifty-One Dollars and Seventy-Six Cents (\$1,725,551.76). The TOWN further agrees to accept installment payments for this PROJECT as detailed in SECTION 3 of this AGREEMENT. In accordance with Section 32-8 of the Town Code Impact Fees shall be set aside and placed into a reserve fund to be used solely for purposes of improving and expanding the water facilities and used for no other purpose.

SECTION 2. WATER CAPITAL CHARGE.

2.1 As a condition of Ordinance O-11-21, the DEVELOPER shall pay a Water Capital Charge in the amount of Two Thousand Three Hundred Nineteen Dollars Twenty-Nine Cents (\$2,319.29) for each Equivalent Residential Unit (ERU) proposed in the PROJECT in accordance with SECTION 3 (below).

2.2 Specifically, payments received by the Town will be used to facilitate the design of plans and preparation of specifications; obtaining permits; conducting the bidding process; and construction by the TOWN or the Polk Regional Water Cooperative (PRWC) of new wells, expanded ground storage capacity, upgrades to pumps and mechanical equipment at the Water Treatment Plant (WTP) and development of Alternate Water Supply (AWS) capacity, in order to increase overall capacity by an additional One Million Five Hundred Thousand Gallons Per Day (1,500,000 gpd).

SECTION 3. AUTHORIZATION TO MAKE INSTALLMENT PAYMENTS; IMPACT FEE CREDITS.

3.1 The DEVELOPER agrees to pay to the TOWN the total capital charges for 744 ERUs on an installment basis with respect to the construction of Water Facilities.

Payment 1	Water Capital Charge First Payment (20%)	
149 ERUs @ \$2,319.29 per ERU, Upon Execution of this Agreement =		\$ 345,574.21

Payment 2	Water Capital Charge Second Payment (40%)	
298 ERUs @ \$2,319.29 per ERU, Before the end of Month 8	=	\$ 691,148.42

Payment 3	Water Capital Charge Third Payment (30%)	
223 ERUs @ \$2,319.29 per ERU, Before the end of Month 15	=	\$ 517,201.67

Payment 4	Water Capital Charge Fourth Payment (10%)	
74 ERUs @ \$2,319.29 per ERU, Before the end of Month 22	=	<u>\$ 171,627.46</u>

Total ERUs purchased = 744

Sub-total:

\$ 1,725,551.76

3.2 The DEVELOPER shall make the First Payment upon acceptance and execution of this Agreement and each installment thereafter on the last day of the month indicated above until the entire principal balance is paid in full. Payments shall be made to TOWN OF LAKE HAMILTON at P.O. Box 126, 100 Smith Avenue, Lake Hamilton, FL 33851, or at such other place as the TOWN may designate in writing.

3.3 Should the DEVELOPER fail to make all payments for the ERUs to be purchased under this Agreement, then the water service capacity will be correspondingly reduced based upon the payments that have been made to date under this Agreement.

3.4 The DEVELOPER shall be entitled to 744 ERUs of Reserved Water Capacity (ERU Credits) (or in the event all payments set forth in SECTION 3.1 are not made, such number of ERU Credits proportional to the payments paid by the DEVELOPER based on the Water Capital Charge rate as of the Effective Date) without the requirement to pay any other water capital charge, impact fee, connection fee, or contribution in aid of such water capacity development or construction. Effective upon completion of each payment, the TOWN hereby grants the DEVELOPER the number of ERU Credits set forth in SECTION 3.1 above, which such grant shall be evidenced in writing to the DEVELOPER by the TOWN. For the avoidance of doubt, in the event the TOWN increases its Water Capital Charge rate, the DEVELOPER or its assigns shall not be required to pay any additional capital charges for each pre-paid ERU.

3.5 The TOWN hereby authorizes the DEVELOPER to collect and retain from third parties the Water Capital Charges applicable to each ERU Credit granted to the DEVELOPER to recover its contribution in aid of construction of the Water Facilities. All ERU Credits granted to the DEVELOPER shall be transferable and assignable to third parties, and the TOWN hereby commits and guarantees to provide any additional ERUs of Reserved Water Capacity when needed.

SECTION 4. PRE-PAYMENT RIGHT. The DEVELOPER shall have the right to prepay the whole or any part of the unpaid balance of the indebtedness created under this Agreement without penalty. Any prepayment, if partial, shall apply as prepayment of the last installment or installments due. However, if no connections exist after 36 months from the date of the executed agreement, then a service availability fee will be charged monthly per ERU based on currently adopted rates. If non-connections continue to exist after 48 months, the Town may, at its discretion, terminate the agreement and refund any capital charges which may have been collected, along with interest.

SECTION 5. RIGHT TO TERMINATE, DEVELOPER. Notwithstanding anything to the contrary contained in this Agreement, the DEVELOPER shall have the absolute right to terminate this Agreement by delivering written notice of termination hereof to the TOWN anytime within

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thirty (30) days after execution of this Agreement. Any payments made by DEVELOPER prior to termination shall become the property of the TOWN.

SECTION 6. RIGHT TO TERMINATE, TOWN. If within two (2) years following execution of this Agreement the TOWN is unable to permit, construct or provide water treatment plant capacity sufficient to comply with the terms of this Agreement, it shall have the option to terminate this Agreement and return any moneys paid to TOWN by DEVELOPER and not expended on the water treatment plant.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

ATLANTICBLUE CAPITAL, LLC



Signature

TOWN OF LAKE HAMILTON

By: _____

Michael Kehoe, Mayor

JD Alexander, Manager
Printed Name & Title

From the Desk of ...

Chief Michael Teague



January 28, 2022

TO: Mayor Kehoe and Council Members

SUBJECT: Law Enforcement Trust Fund Request

Background: Total ID Kidprint System

I, Michael Teague, Chief of Police, I am requesting that I be allowed to withdraw \$4999.2 from the law enforcement trust fund to fund the purchase of an identi-kid system to be used for events. This system includes all items to create fingerprint and id's for children in the community.

Your authorization for this expenditure would be greatly appreciated.

Thank you in advance.

SINCERELY,

MICHAEL TEAGUE

Michael Teague

CHIEF OF POLICE

MT:



Combined Project Cost Share Table

- Test production wells demonstrate feasibility; are Phase 1 element.
- Costs would be added to Combined projects agreement.

Combined Projects Participants	Combined Projects Agreement Cost Share %	Current Cost Share Dollars	TPW #3 (SEWF) and TPW #2 (WPWF)	Proposed Cost Share Dollars
Auburndale	7.11%	\$1,647,875.82	\$628,865.77	\$2,276,741.59
Bartow	6.95%	\$1,612,815.73	\$615,486.06	\$2,228,301.79
Davenport	0.93%	\$215,376.06	\$82,192.26	\$297,568.32
Dundee	2.25%	\$520,909.09	\$198,790.40	\$719,699.49
Eagle Lake	1.34%	\$310,542.48	\$118,509.86	\$429,052.34
Fort Meade	0.56%	\$130,227.53	\$49,697.70	\$179,925.23
Frostproof	0.00%	\$0.00	\$0.00	\$0.00
Haines City	5.16%	\$1,197,089.94	\$456,835.93	\$1,653,925.87
Lake Alfred	1.71%	\$395,691.02	\$151,004.42	\$546,695.44
Lake Hamilton	0.04%	\$10,017.89	\$3,823.05	\$13,840.94
Lakeland	25.12%	\$5,825,168.48	\$2,223,012.81	\$8,048,181.29
Lake Wales	4.08%	\$946,652.77	\$361,263.58	\$1,307,916.35
Mulberry	0.78%	\$180,314.96	\$68,812.17	\$249,127.13
Polk City	1.68%	\$390,681.57	\$149,092.71	\$539,774.28
Polk County	32.72%	\$7,588,246.37	\$2,895,842.22	\$10,484,088.59
Winter Haven	9.57%	\$2,218,873.48	\$846,771.07	\$3,065,644.55
Totals	100.00%	\$23,190,483.19	\$8,850,000.00	\$32,040,483.19



Action Item #1

Staff requests the Combined Project Implementation Agreement Cost Share Table be increased by approximately \$8.85 M to include TPW #2 and TPW #3.



Payment Options

- Cost of two wells: ~\$8.85 M.
 - APT easements and other expenses may be incurred and are included here.
- Costs are shared with District** and divided among PRWC members.
- Existing planning SRF can be amended to add this expense.
- Self-funding members can be added to this loan.
- Members can elect to self fund.

1. Bartow to recover initial amount from SRF

Community	Financing Election	Combined Projects Agreement Cost Share %	TPW #3 (SEWF) and TPW #2 (WPWF)	Local Share Dollars for TWP's Due FY 2022
Auburndale	PRWC	7.11%	628,865.71	314,432.88
Bartow ¹	Self	6.95%	615,486.06	818,396.03
Davenport	Self	0.93%	82,192.26	41,096.13
Dundee	PRWC	2.25%	198,790.40	99,395.20
Eagle Lake	Self	1.34%	118,509.86	59,254.93
Fort Meade	PRWC	0.56%	49,697.70	24,848.85
Haines City	PRWC	5.16%	456,835.93	228,417.96
Lake Alfred	Self	1.71%	151,004.42	75,502.21
Lake Hamilton	Self	0.04%	3,823.05	1,911.52
Lakeland	PRWC	25.12%	2,223,012.81	1,111,506.40
Lake Wales	PRWC	4.08%	361,263.58	180,631.79
Mulberry	Self	0.78%	68,812.17	34,406.08
Polk City	Self	1.68%	149,092.71	74,546.35
Polk County	PRWC	32.72%	2,895,842.21	1,447,921.11
Winter Haven	PRWC	9.57%	846,771.07	423,385.54
Totals		100.00%	8,850,000.00	4,935,653.00



Action Item #2

Staff requests member concurrence of the following SRF loan elections:

Community	Financing Election	Combined Projects Agreement Cost Share %	TPW #3 (SEWF) and TPW #2 (WPWF)	Local Share Dollars for TWP's Due FY 2022
Auburndale	PRWC	7.11%	628,865.77	314,432.88
Bartow ¹	Self	6.95%	615,486.06	818,396.03
Davenport	Self	0.93%	82,192.26	41,096.13
Dundee	PRWC	2.25%	198,790.40	99,395.20
Eagle Lake	Self	1.34%	118,509.86	59,254.93
Fort Meade	PRWC	0.56%	49,697.70	24,848.85
Haines City	PRWC	5.16%	456,835.93	228,417.96
Lake Alfred	Self	1.71%	151,004.42	75,502.21
Lake Hamilton	Self	0.04%	3,823.05	1,911.52
Lakeland	PRWC	25.12%	2,223,012.81	1,111,506.40
Lake Wales	PRWC	4.08%	361,263.58	180,631.79
Mulberry	Self	0.78%	68,812.17	34,406.08
Polk City	Self	1.68%	149,092.71	74,546.35
Polk County	PRWC	32.72%	2,895,842.22	1,447,921.11
Winter Haven	PRWC	9.57%	846,771.07	423,385.54
Totals		100.00%	8,850,000.00	4,935,653.00



Next Steps

- Executive Director to request increase in SRF loan by end of January.
- SRF to authorized funds at February meeting.
- PRWC members to approve loan guarantee agreements in March.

POLK REGIONAL WATER COOPERATIVE**Resolution 2022-_____****RESOLUTION APPROVING AMENDED TEC AND COST SHARE TABLE
IN THE COMBINED PROJECTS IMPLEMENTATION AGREEMENT**

The Polk Regional Water Cooperative ("Cooperative"), created pursuant to Section 373.713, Florida Statutes, and Interlocal Agreement pursuant to Section 163.01, Florida Statutes, in lawful session and in regular order of business properly presented, finds that:

WHEREAS, in 2017 the Cooperative, the City of Auburndale, the City of Bartow, City of Davenport, City of Eagle Lake, City of Fort Meade, City of Frostproof, the City of Haines City, the City of Lake Alfred, City of Lakeland, City of Lake Wales, City of Mulberry, Polk City, City of Winter Haven, Town of Dundee, Town of Lake Hamilton and Polk County entered into the Combined Projects Implementation Agreement, with an effective date of May 1, 2017; and

WHEREAS, the Combined Projects Implementation Agreement established a Total Estimated Cost (TEC) of Twenty-Three Million Dollars (\$23,000,000.00) for Phase 1 of the Combined Projects; and

WHEREAS, the Cooperative entered into Funding Agreements with the Southwest Florida Water Management District (SWFWMD) to pay up to fifty (50%) percent of the TEC or approximately Eleven Million Five Hundred Thousand Dollars (\$11,500,000.00); and

WHEREAS, the Combined Project Participants were responsible for paying their share of the remaining Eleven Million Five Hundred Thousand Dollars (\$11,500,000.00) according to the Cost Share Table contained in Section 8.5.1 of the Combined Projects Implementation Agreement; and

WHEREAS, on November 17, 2021, the Cooperative Combined Project Board approved an amended TEC in the amount of Twenty-Three One Hundred Ninety Thousand Four Hundred and Eighty Three Dollars and 19 cents (\$23,190,483.19) and a new Cost Share Table replacing the one currently contained in the Combined Projects Implementation Agreement; and

WHEREAS, SWFWMD has requested the Cooperative to construct two test production wells (Well No. 2 West Polk Lower Floridan Aquifer Wellfield) and (Well No. 3 Southeast Wellfield) to verify program feasibility, specifically water quality; and

WHEREAS, the two test production wells are expected to cost the same with SWFWMD co-funding fifty (50%) percent of engineering, construction and administration and the Cooperative paying one hundred (100%) percent of the land cost; and

WHEREAS, the TEC needs to be increased by Eight Million Eight Hundred and Fifty Thousand (\$8,850,000) to cover the cost of the two test production wells and the revised Cost Share Table in Section 8.5.1 of the Combined Projects Implementation Agreement needs to be revised to reflect the updated cost share for each Combined Project Participant; and

WHEREAS, Section 8.5.2 of the Combined Projects Implementation Agreement authorizes the Combined Projects to amend the TEC and by implication the Cost Share Table.

NOW, THEREFORE, BE IT RESOLVED:

Section 1. The Cooperative Combined Projects Board does hereby approve an amended TEC in the amount of Thirty-Two Million Forty Thousand Four Hundred and Eighty Three Dollars and nineteen cents (\$32,040,483.19) and a new Cost Share Table replacing the one currently contained in the Combined Projects Implementation Agreement, as set forth in **Exhibit A**.

DONE at Winter Haven, Florida this 19th day of January, 2022

Project Board of the Polk Regional Water Cooperative:

Mayor Eugene Fultz
Chair

Mayor William "Bill" Mutz
Secretary/Treasurer

Approved as to Form:

Edward P. de la Parte
Legal Counsel

Exhibit A - Combined Projects Implementation Agreement
PROPOSED COST SHARE TABLE

Combined Projects Participants	Combined Projects Agreement Cost Share %	Current Cost Share Dollars	TPW #3 (SEWF) and TPW #2 (WPWF)	Proposed Cost Share Dollars
Auburndale	7.11%	\$1,647,875.82	\$628,865.77	\$2,276,741.59
Bartow	6.95%	\$1,612,815.73	\$615,486.06	\$2,228,301.79
Davenport	0.93%	\$215,376.06	\$82,192.26	\$297,568.32
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Fort Meade	0.56%	\$130,227.53	\$49,697.70	\$179,925.23
Frostproof	0.00%	\$0.00	\$0.00	\$0.00
Haines City	5.16%	\$1,197,089.94	\$456,835.93	\$1,653,925.87
Lake Alfred	1.71%	\$395,691.02	\$151,004.42	\$546,695.44
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Lake Wales	4.08%	\$946,652.77	\$361,263.58	\$1,307,916.35
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Winter Haven	9.57%	\$2,218,873.48	\$846,771.07	\$3,065,644.55
Totals	100.00%	\$23,190,483.19	\$8,850,000.00	\$32,040,483.19

COMBINED PROJECTS IMPLEMENTATION AGREEMENT

THIS COMBINED PROJECTS IMPLEMENTATION AGREEMENT (the “Agreement”) is made and entered into as of the Effective Date as hereinafter defined, by and among the Polk Regional Water Cooperative (“Cooperative”), whose address is 330 W. Church Street, Bartow, FL 33830 and the City of Auburndale whose address is P.O. Box 186, Auburndale, FL 33823, the City of Bartow whose address is P.O. Box 1069, Bartow, FL 33831, the City of Davenport whose address is P.O. Box 125, Davenport, FL 33836, the City of Eagle Lake whose address is P.O. Box 129, Eagle Lake, FL 33839, the City of Fort Meade whose address is P.O. Box 856, Fort Meade, FL 33841, the City of Frostproof whose address is P.O. Box 308, Frostproof, FL 33843, the City of Haines City whose address is 620 E. Main Street, Haines City, FL 33844, the City of Lake Alfred whose address is 120 E Pomelo Street, Lake Alfred, FL 33850, the City of Lakeland whose address is 228 S Massachusetts Ave., Lakeland, FL 33801, the City of Lake Wales whose address is P.O. Box 1320, Lake Wales, FL 33859, the City of Mulberry whose address is P.O. Box 707, Mulberry, FL 33860, the City of Polk City whose address is 123 Broadway Blvd SE, Polk City, FL 33868, the City of Winter Haven whose address is P.O. Box 2277, Winter Haven, FL 33883, the Town of Dundee whose address is P.O. Box 1000, Dundee, FL 33838, the Town of Lake Hamilton whose address is P.O. Box 126, Lake Hamilton, FL 33851 and Polk County (“Polk County”), a charter county and political subdivision of the State of Florida, whose address is P.O. Box 9005, Bartow, Florida 33831, individually also referred to as a “Party” and collectively referred to as the “Parties.”

THE PURPOSE of this Agreement is to implement the Combined Projects, all of which are Approved Water Projects of the Cooperative, pursuant to the Interlocal Agreement Relating to the Establishment of the Polk Regional Water Cooperative (“Interlocal Agreement”) and Sections 163.01 and 373.713, Florida Statutes.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, each to the other, receipt of which is hereby acknowledged and the Parties hereby agree, stipulate and covenant as follows:

1. DEFINITIONS. As used in this Agreement, the following terms shall have the following meanings, unless the context clearly requires otherwise:

“Agreement” means this Combined Projects Implementation Agreement, as may be amended or restated from time to time.

“Alternative Water Supply” or **“AWS”** shall have the same meaning as in the Interlocal Agreement.

“Approved Water Project” shall have the same meaning as in the Interlocal Agreement.

“Base Rate Charge” means for any Fiscal Year, that component of the Water Charge computed according to Section 11.3.1.

“Board of Directors” shall have the same meaning as in the Interlocal Agreement.

“Capital Cost” means fixed, one-time expenses incurred for the acquisition of real property, tangible property and intangible property, the construction of tangible personal property and other expenditures required for the production of water and other goods or the rendering of services in connection with the Project.

“Capital Replacement and Renewal Cost” means all costs incurred by the Cooperative for the ordinary renewal, replacement, upgrade and improvement of the Project, which are not paid from the proceeds of any Obligation.

“Combined Projects” means the West Polk County Lower Floridan Aquifer Wellfield, Southeast Wellfield and Peace Creek Integrated Water Supply Project.

“Combined Projects Administrator” means the person and/or alternate designated by the appropriate Cooperative Project Board pursuant to Section 7.2 to manage the Cooperative’s responsibilities under this Agreement

“Combined Projects Participants” means all the Parties, other than the Cooperative, who have executed this Agreement for the purpose of implementing Phase 1 of the Agreement.

“Cooperative” shall have the same meaning as in the Interlocal Agreement.

“Debt Service Cost” means the principal, redemption premium, if any, and interest due on Obligations and any recurring costs and expenses relating to Obligations, including but not limited to paying agent, registrar and escrow agent fees, credit enhancement fees and other charges, but only to the extent such cost and expenses are not otherwise reflected in the Capital Replacement and Renewal Cost, Fixed Operation and Maintenance Cost and Variable Operation and Maintenance Cost.

“Director” shall have the same meaning as in the Interlocal Agreement.

“District” means the Southwest Florida Water Management District.

“Effective Date” means the date the Agreement takes legal effect as specified in Section 6.1.

“Financing Documents” shall have the same meaning as in the Interlocal Agreement.

“Fiscal Year” means a twelve (12) month period which commences on October 1 of each year and ends on the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year of the Cooperative.

“Fixed Operation and Maintenance Cost” means all Operation and Maintenance Cost other than Variable Operation and Maintenance Cost.

“Force Majeure Event” means an event not the fault of, and beyond the reasonable control of, the Party claiming excuse which makes it impossible or extremely impracticable for such Party to perform the obligations imposed on it by this Agreement, by virtue of its effect on physical facilities and their operation or employees essential to such performance. Force Majeure Events include (a) an “act of God” such as an earthquake, flood earth movement, or similar catastrophic event; (b) an act of public enemy, terrorism, sabotage, civil disturbance or similar event; (c) a strike, work stoppage, picketing or similar concerted labor action; (d) delays in construction caused by unanticipated negligence or breach of contract by a third party or inability to obtain Project Permits or essential materials after diligent and timely efforts; or (e) an order or regulation issued by a federal, state, regional or local regulatory agency after the Effective Date or a judgment or order entered by a federal or state court after the Effective Date.

“Interlocal Agreement” means that Interlocal Agreement creating the Cooperative, within an effective date of June 1, 2016, including any amendments and supplements thereto.

“Meters” mean those certain water meters and appurtenant recording and transmitting devices to be installed and owned by the Cooperative, as required by Section 10, which are used to measure and bill the quantity of water being delivered to each Project Participant.

“Obligation” shall have the same meaning as in the Interlocal Agreement.

“Operation and Maintenance Cost” means any and all costs incurred by the Cooperative in operating, maintaining and administering the Project, related operation, maintenance, management, security and development of the Project; labor and labor overhead cost; cost associated with tools, equipment, vehicles, supplies, materials, services and support for the operation, maintenance, management, security and development of the Project; any cost of litigation or legal judgment against the Cooperative relating to the Project; cost of purchasing any water related

to the Project; development expenses relating to expansion of the Project; all costs incurred in planning or applying for, obtaining, maintaining and defending Project Permits, which are not paid under Phase 1 of the Project, do not constitute a Capital Cost, Capital Replacement and Renewal Cost and are not payable from the proceeds of any Obligation; administrative, accounting, legal and engineering expenses related to the Project; ordinary and current rentals of equipment or other property related to the Project; refunds of moneys lawfully due to others, pension, retirement, health and hospitalization funds related to the Project; payments in lieu of taxes and impact fees, if applicable, and administrative costs incurred by the Cooperative for management of the Project.

“Parties” mean the Cooperative, the City of Auburndale, the City of Bartow, the City of Davenport, the Town of Dundee, the City of Eagle Lake, the City of Fort Meade, the City of Frostproof, the City of Haines City, the City of Lake Alfred, the Town of Lake Hamilton, the City of Lake Wales, the City of Lakeland, the City of Mulberry, the City of Polk City, the City of Winter Haven and Polk County.

“Peace Creek Integrated Water Supply Project” means an integrated water supply program and facilities to be implemented in the headwaters of the Peace River system.

“Phase 1 Requirements” means those items identified in Section 8.2.

“Points of Connection” means points where a Project connects to the water supply system of a Project Participant..

“Project” means one, two or all three of the Combined Projects, as determined when Phase 2 is implemented.

“Project Board(s)” shall have the same meaning as in the Interlocal Agreement. For Phase 1, the make-up of the Project Board will be based on the Combined Projects Participants.

For Phase 2, the make-up of the Project Board will be based on the Project Participants for the selected Project.

“Project Manager” means the person or alternate(s) designated by the Cooperative pursuant to Section 7.3 to manage the Cooperative’s responsibilities under this Agreement with respect to each of the three Projects. The Cooperative may appoint the Combined Project Administrator as one or more of the Project Managers.

“Project Participants” means those Parties, other than the Cooperative, who have executed this Agreement for the purpose of implementing Phase 2 of the Agreement, which includes development and operation of a Project and receipt of Project Water Service from the Cooperative.

“Project Permits” means all permits, licenses or other third party approvals necessary or convenient for the acquisition, construction, management or operation of the Combined Projects, except for those permits, licenses or other third party approvals requiring final design.

“Project Phasing and Funding Plan” means a written plan describing construction phasing and funding for each of the Combined Projects. The plan shall identify a Water Allocation for each Project Participant for each phase of the plan. This plan shall be developed in Phase 1 and approved in Phase 2, as specified in Section 8.

“Project Preliminary Design Report” means one or more written reports setting forth the general design and implementation of probable costs for each of the Combined Projects, including any amendments.

“Project Preliminary Rate Analysis” means one or more written reports setting forth an estimate of the Water Charge for each phase of each of the Combined Projects identified in the Project Phasing and Funding Plan.

“Project Representative” means the person or alternate designated by each Combined Projects Participant to work with a Project Manager regarding the management and implementation of a Project with regards to Phase 1 and the person or alternate designated by each Project Participant to work with the Project Manager regarding the management and implementation of a Project with regards to Phase 2.

“Project Water” means the finished water produced by the Project to meet the potable water demands of the Project Participants.

“Project Water Estimate” means the document submitted by each Project Participant to the Cooperative detailing the quantity of Project Water on an annual average daily flow basis, it wishes to receive during the upcoming Fiscal Year, as specified in Section 9.1.

“Project Water Service” means the delivery of Project Water by the Cooperative to the Points of Connection for use by the Project Participants.

“Project Yield” means the total quantity of Project Water that each of the Combined Projects can reasonably be expected to produce for Project Water Service to the Project Participants, which can be expressed in terms of maximum and average outputs.

“PSI” means pounds per square inch.

“Quorum” shall have the same meaning as in the Interlocal Agreement.

“Scope of Work” means the activities authorized under this Agreement, as specified in Section 8.2.

“Southeast Wellfield” means a new Lower Floridan aquifer public water supply well-field to be located in southeast Polk County.

“Total Estimated Cost” or **“TEC”** means the total estimated cost required to complete the Scope of Work.

“Variable Operation and Maintenance Cost” means all Operation and Maintenance Cost that change in direct proportion to changes in the volume of water produced by the Project, including, but not limited to, power, chemical and water purchases.

“Water Allocation” means the quantity of Project Water allotted for use by each Project Participant for each phase of the Project, as set forth in the then current Project Phasing and Funding Plan approved pursuant to Section 8.8.

“Water Charge” means for any Fiscal Year, the charge established by the Cooperative pursuant to Section 11 for providing Project Water Service to the Project Participants. This charge is comprised of the Base Rate Charge and the Water Use Charge.

“Water Use Charge” means for any Fiscal Year that component of the Water Charge computed according to Section 11.3.2.

“Weighted Vote Method” shall have the same meaning as in the Interlocal Agreement, except that during Phase 1, each Director shall be assigned a vote in proportion to its cost share percentage, as reflected in the Cost Share Table contained in Section 8.5.1.

“West Polk County Lower Floridan Aquifer Wellfield” means a new Lower Floridan aquifer public water supply wellfield to be located in west Polk County.

2. GENERAL BACKGROUND OF THE PROJECT.

2.1 Peace Creek Integrated Water Supply Project. This Project consists of an integrated water supply program and facilities that will focus on restoration of natural hydrology in the headwaters of the Peace River system to increase environmental benefits according the net benefit component of the Southern Water Use Caution Area rules and create a future AWS water supply. This program will employ green infrastructure design to store additional water so as to enhance and restore wetland areas, increase aquifer recharge and reduce existing and

potential impacts to water bodies with minimum flows and levels. As of the Effective Date, it is estimated this effort will create at least 10 MGD of water resource benefit, with an estimated construction cost for this Project is \$120,885,115 over a 35 year period.

2.2 Southeast Wellfield. This Project consist of a new Lower Floridan aquifer wellfield, a raw water transmission line, a new water treatment plant, concentrate disposal well(s) and finished water transmission lines to the Project Participants. A groundwater withdrawal of 37.5 MGD has already been permitted by the South Florida Water Management District under a 40-year permit. The Project is proposed to be built in three phases, with 10-, 20-, and 30-MGD finished water construction phases. As of the Effective Date, the estimated construction cost for this Project is \$352,385,000 over a 35 year period.

2.3 West Polk County Lower Floridan Aquifer Wellfield. This Project consists of a new Lower Floridan aquifer wellfield, a raw water transmission line, a new water treatment plant, concentrate disposal well(s) and finished water transmission lines to the Project Participants. As of the Effective Date, the estimated finished water yield for this Project is 15 MGD, with an estimated construction cost for this Project is \$166,754,000 over a 35-year period.

3. PURPOSE OF THE AGREEMENT.

3.1 Overall Agreement. This Agreement governs the overall development, implementation, funding and operation of the Combined Projects by the Parties.

3.2 Other Relevant Agreements. The Parties have entered into the Interlocal Agreement. In the event of a conflict between the Interlocal Agreement and this Agreement, the Interlocal Agreement shall control, except to the extent such conflict is waived by the Cooperative Board of Directors according to the terms of the Interlocal Agreement.

3.3 Other Agreements Not Affected by this Agreement. Any other agreement between some or all of the Parties not specifically referenced herein is not intended to be changed or affected by this Agreement. Additionally, nothing in this Agreement is intended to change any existing agreement between the District and any Party regarding the Project.

4. CONSTRUCTION. Terms defined in a given number, tense or form shall have the corresponding meaning when used in this Agreement with initial capitals in another number, tense or form. References containing terms such as “hereof,” “herein,” “hereto,” “hereinafter” and other terms of like import are not limited applicability to the specific provision within such references are set forth, but instead refer to this Agreement taken as a whole. “Includes” or “including” shall not be deemed limited to the specific enumeration of items, but shall be deemed without limitation. The term “or” is not exclusive. The heading contained in this Agreement are solely for the convenience of the Parties. Accounting terms used but not defined herein have the meanings given to them under generally accepted accounting principles in the United States consistently applied throughout the specified period and in the immediately comparable period.

5. REPRESENTATION OF THE PARTIES. As of the Effective Date, each Party makes the following representations (no representation is made by any Party for another Party):

5.1 Status of the Parties. The Parties are each duly organized, validly existing and in good standing under the laws of the State of Florida and are each duly qualified and authorized to satisfy their responsibilities pursuant to this Agreement.

5.2 Authority to Enter Agreement. The Parties each have the power, authority and legal right to enter into and perform the obligations set forth in this Agreement, and the execution and delivery and performance hereof by the Parties: (1) has been duly authorized

by the governing authority of each of the Parties; (2) does not require any consent or referendum of the voters; and, (3) does not constitute a default under, or result in the creation of any lien, charge, encumbrance or security interest upon, the assets of the Parties under any agreement or instrument to which the Parties and their assets may be bound or affected, except as otherwise provided herein.

5.3 Validity of the Contract. This Agreement has been duly entered into and delivered by the Parties as of the Effective Date, constitutes a legal, valid and binding obligation of the Parties, fully enforceable in accordance with its terms, except to the extent that the enforceability of this Agreement may be limited by any applicable bankruptcy, moratorium, reorganization or other similar laws affecting creditor's rights generally, or by the exercise of judicial discretion in accordance with general principles of equity.

5.4 Pending Litigation. There is no action, suit or proceeding, at law or in equity, before or by any court or governmental authority, pending against any Party, wherein an unfavorable decision, ruling or finding would materially and adversely affect the performance by any Party of their obligations hereunder or the other transactions contemplated hereby, or which, in any way, would adversely affect the validity or enforceability of the Agreement.

6. TERM AND TERMINATION.

6.1 Effective Date. This Agreement shall take effect on the date this Agreement is duly authorized and executed by all the Parties, which date shall be memorialized by the Cooperative and distributed to the other Parties.

6.2 Term. The term of this Agreement shall begin on the Effective Date and remain in effect, unless terminated as specified in Section 6.3 below.

6.3 Termination. This Agreement may only terminate upon the occurrence of one of the following events. In the event of termination, the Agreement will terminate on the last day of the Fiscal Year following the Fiscal Year in which the termination event occurs.

6.3.1 Inability to obtain cooperative funding for the TEC for Phase 1.

6.3.2 Expiration of Phase 1 of the Project without satisfaction of the Phase 1 Requirements, unless the Project Board votes to proceed with one or more of the Combined Projects despite the failure to satisfy one or more of these requirements.

6.3.3 Failure of the Parties to decide to proceed with implementation of Phase 2 for at least one Project within ten (10) years of the satisfactory completion of the Phase 1 Requirements, unless the Project Board votes to extend this ten (10) year time period.

6.3.4 Failure of the Parties to agree to a substitute provision for a key provision of the Agreement, as specified in Section 25.

6.3.5 Termination by written agreement of all the Parties.

7. PROJECT ADMINISTRATION.

7.1 Project Administration. The Cooperative shall have overall responsibility for implementing the terms of this Agreement. All the powers, privileges and duties vested in or imposed on the Cooperative with regards to implementation of the Project shall be exercised through the Project Board created for the Combined Project in Phase 1 and by the applicable Project Board for individual Projects in Phase 2; provided, however, that the exercise of any and all executive, administrative and ministerial powers regarding the Project may be delegated by the Project Board. All decisions of the Project Board shall be as specified in the Interlocal Agreement.

7.2 Combined Projects Administrator. No later than thirty (30) days from the Effective Date, the appropriate Cooperative Project Board shall provide in writing to the other Parties, the name, address, phone number, fax number and email address of its Combined Projects Administrator. The Combined Projects Administrator may be changed at any time by the appropriate Project Board immediately upon written notice to the other Parties. The Combined Projects Administrator shall act as the Cooperative's representative with regards to implementation and management of the Combined Projects and will coordinate the Project Managers appointed to manage individual Projects. Whenever an individual agrees to serve as the Combined Project Administrator there shall be uniform cost accounting of its expenses for purposes of reimbursement.

7.3 Project Manager. No later than thirty (30) days after the appointment of the Combined Project Administrator, the appropriate Cooperative Project Board will provide in writing to the other Parties, the name, address, phone number, fax number and email address of the Project Manager for each of the Combined Projects. The Project Manager(s) may be changed at any time by the appropriate Project Board immediately upon written notice to the other Parties. The Project Manager(s) will act as the Cooperative's representative with regards to implementation and management of each Project. The appropriate Cooperative Project Board may appoint the Combined Projects Administrator to act as one or more of the Project Managers. Whenever an individual agrees to serve as a Project Manager there shall be uniform cost accounting of its expenses for purposes of reimbursement.

7.4 Project Representative. No later than thirty (30) days from the Effective Date, each other Party to this Agreement shall provide in writing to the Cooperative and the other Parties, the name, address phone number, fax number and email address of its Project Repre-

sentative. Any Party may change its Project Representative at any time immediately upon written notice to all other Parties. The Combined Projects Manager and the Project Manager(s) will coordinate with the Project Representatives with regards to implementation and management of the Combined Projects and individual Projects.

8. PROJECT IMPLEMENTATION.

8.1 Implementing Project in Phases. The Parties agree to implement the Combined Projects in at least two phases. Phase 1 shall be implemented as described in Sections 8.2 through 8.7 and Phase 2 shall be implemented as described in Section 8.8 through 8.10.

PHASE 1 – PROJECT ASSESSMENT, PRELIMINARY DESIGN REPORT, PERMITTING, YIELD, PRELIMINARY RATE ESTIMATE AND PROJECT PHASING AND FUNDING

8.2 Phase 1 Requirements. Implementation of Phase I shall begin on the Effective Date and shall generally consist of implementing the Scope of Work. At a minimum, the Scope of Work shall include the following requirements with regard to each of the Combined Projects:

8.2.1 Description of the Projects.

8.2.2 Completion of all Project assessment work to determine Project Yield and support Project Permits and the Project Preliminary Rate Analysis.

8.2.3 Completion of a Project Preliminary Design Report.

8.2.4 Issuance of all applicable Project Permits.

8.2.5 Determination of a Project Yield.

8.2.6 Determination of potential Project Participants for each Project.

8.2.7 Completion of a Project Preliminary Rate Analysis.

8.2.8 Completion of a Project Phasing and Funding Plan.

8.3 Phase 1 Duration. The Cooperative shall have five (5) years from the Effective Date to complete the Phase 1 Requirements. This deadline may be extended by vote of the Project Board.

8.4 Phase 1 Administration. The Project Board created for the purpose of administering Phase 1 shall have the following rights and responsibilities with regards to Phase 1, which may be exercised through the Combined Projects Administrator in conjunction with the Project Manager(s), in addition to the rights and responsibilities granted to a Project Board under the Interlocal Agreement:

8.4.1 No later than one hundred and twenty (120) days from the Effective Date, shall prepare a solicitation for a technical consultant(s), which shall be consistent with the Scope of Work and the statutes and rules governing the procurement of consultants by the Cooperative and shall be completed and approved by the Project Board. Once the solicitation documents are approved by the Project Board, the Combined Project Administrator shall implement the procurement process according to the statutes and rules governing procurement by the Cooperative. The technical consultant(s) shall be selected by the Project Board. The Combined Project Administrator shall administer the contract(s) with the technical consultant(s) in conjunction with the Project Managers.

8.4.2 Defend any challenge or protest filed with regards to the procurement decisions made by the Cooperative pursuant to this Agreement, including retention of legal counsel to defend the action.

8.4.3 Prepare and execute contract(s) with technical consultant(s) selected by the Cooperative pursuant to Section 8.4.1 and any other professional(s).

8.4.4 Manage the activities of the technical consultant(s) and other professional(s) to assure that the contract requirements are met.

8.4.5 Manage the review of interim and final deliverables.

8.4.6 Coordinate regularly with the Combined Project Participants and the Project Representatives.

8.4.7 Receive and account for any Obligations, funds received from the Combined Project Participants and any other funds specified in Section 8.5.4.

8.4.8 Process and pay invoices from consultants and other professionals.

8.4.9 Propose amendments to the Scope of Work or TEC for review and approval by the Project Board.

8.4.10 Complete all Project assessment work to determine Project Yield and support any Project Permits and the Preliminary Project Rate Analysis.

8.4.11 Complete a Project Preliminary Design Report.

8.4.12 Submit or modify applications for Project Permits. Respond to request for additional information or clarification from regulatory agencies and provide information as needed to finalize the Project Permit applications and obtain the Project Permits.

8.4.13 Acquire real property interests, as necessary to obtain any Project Permit.

8.4.14 Communicate with regulatory agencies and other interested persons and attend meetings as needed for implementation of the Scope of Work. The Combined Projects Administrator and/or the Project Manager(s) shall give the Project Representatives advance notice and the opportunity to attend any such meetings.

8.4.15 Negotiate the terms of any Project Permit or permit conditions with the regulatory agencies with input from the Project Representatives.

8.4.16 Defend any challenge or protest filed with regards to any Project Permit, including retention of legal counsel to defend the action.

8.4.17 Determine Project Yield, after issuance of the applicable Project Permits.

8.4.19 Complete a Preliminary Project Rate Analysis.

8.4.20 Complete a Project Phasing and Funding Plan, which includes Water Allocations for each Combined Project Participant from one or more Projects.

8.4.21 Undertake any other actions necessary or convenient for the implementation of Phase 1 of the Project.

8.5 Phase 1 Funding.

8.5.1 The TEC for the Scope of Work is Twenty-Three Million Dollars (\$23,000,000.00). Any Obligation issued by the Cooperative to fund the Scope of Work shall not exceed the TEC, unless the TEC is amended as set forth below. Each Combined Projects Participant shall pay the principal and interest and other costs associated with any Obligation(s) issued by the Cooperative, as limited by the TEC, as amended, to fund the Scope of Work, when they become due, according to its cost share as shown in the table set forth below. If the Cooperative does not issue any Obligation to fund the TEC, then each Combined Projects Participant shall pay its share of the cost of implementing the Scope of Work as limited by the TEC, as amended, as shown in the table set forth below, as those costs become due. While it is anticipated that there will be matching funds from SWFWMD for up to fifty percent (50%) of the eligible costs, this Cost Share Table reflects the cost share total dollars for Phase 1 and each Combined Project Par-

participants cost share percentage and amount of the TEC totaling Twenty-Three Million Dollars (\$23,000,000.00), as follows:

COST SHARE TABLE

Combined Projects Participants	Cost Share Percent of Total (%)	Cost Share Total Dollars
Auburndale	7.08	1,627,661.00
Bartow	6.93	1,593,031.00
Davenport	0.92	212,734.00
Dundee	2.24	514,519.00
Eagle Lake	1.33	306,733.00
Fort Meade	0.56	128,630.00
Frostproof	0.41	93,999.00
Haines City	5.14	1,182,405.00
Lake Alfred	1.70	390,837.00
Lake Hamilton	0.04	9,895.00
Lake Wales	4.07	935,040.00
Lakeland	25.02	5,753,710.00
Mulberry	0.77	178,103.00
Polk City	1.68	385,889.00
Polk County	32.58	7,495,159.86
Winter Haven	9.53	2,191,654.12
Total	100.00	\$23,000,000.00

8.5.2 The TEC may only be amended by the Project Board.

8.5.3 All funds provided by the Combined Projects Participants to the Cooperative shall be utilized exclusively for payment of any costs incurred by the Cooperative in implementing the Scope of Work, as limited by the TEC, as amended.

8.5.4 The Cooperative may seek funding for the Scope of Work from any commercial, institutional, regional, state or federal revenue source, including, but not limited

to cooperative funding from water management districts. Any funds obtained by the Cooperative may be used to pay for an expansion of the Scope of Work in excess of the then applicable TEC or to proportionally reduce each Combined Projects Participant's cost share amount of the TEC, as determined by the Project Board.

8.5.5 Each Combined Project participant shall have the option to pre-pay its cost share of the TEC. For those Combined Project Participants, that did not elect to pre-pay its cost share of the TEC, the Cooperative shall invoice the Combined Projects Participant for its share of costs incurred in implementing the Scope of Work. Each Combined Project Participant shall make payments to the Cooperative within forty-five (45) days of receipt of the invoice. Any invoice that remains unpaid twenty-five (25) days following the due date shall be charged with and pay to the Cooperative interest on the amount unpaid from its due date until paid at a rate of eight (8%) annum, unless the timing of these payments is modified by the Project Board based on the exact structure of the debt repayment.

8.5.6 Each Combined Projects Participant shall pay its respective share of cost incurred by the Cooperative in implementing the Scope of Work. Said payments shall be made without notice or demand and without set-off, counterclaim, abatement, suspension or deduction. The Cooperative is undertaking the implementation of Phase I on the representation, warranties and covenants of the Combined Projects Participants to pay their portion of the costs incurred in implementing the Scope of Work in a timely manner.

8.5.7 The source of funds for payment of costs incurred by the Cooperative in implementing the Scope of Work shall be the water utility enterprise fund established by each Combined Projects Participant. Each Combined Projects Participant shall maintain an operation and maintenance account as part of its water utility enterprise fund throughout the duration

of Phase 1 of the Project. At all times during the duration of Phase 1 of the Project, a Combined Project Participant shall pay any invoice submitted by the Cooperative for work incurred in implementing the Scope of Work from its water utility system operation and maintenance account.

8.5.8 The Combined Projects Participants shall fix, revise, maintain and collect such fees, rates, tariffs, rentals, or other charges for the use of products, services and facilities of their respective water utility systems to the extent necessary to fund the timely payment of any invoice submitted by the Cooperative for work incurred in implementing the Scope of Work.

8.5.9 The obligation of the Combined Projects Participants to pay any invoice submitted by the Cooperative for work incurred in implementing the Scope of Work does not constitute the general indebtedness of any Combined Projects Participant within the meaning of any constitutional, statutory or charter provision limiting the amount and nature of the indebtedness that may be incurred by the Combined Projects Participants. Neither the Cooperative, nor the holder of any Obligations issued by the Cooperative to fund the Scope of Work nor any regional, state or federal agency providing cooperative funding for the Scope of Work shall have the right to require a Combined Projects Participant to exercise its ad valorem taxing power, if any, to pay their obligations and liabilities with regards to the Scope of Work or to compel payment from any source, other than as indicated in Section 8.5.7.

8.6 Completion of Phase 1 Requirements. Completion of the Phase 1 Requirements shall be separately determined by the appropriate Project Board for each of the Combined Projects. The Combined Projects Administrator shall notify the Combined Project Participants when the Phase 1 Requirements are successfully completed for one of the Combined Projects. Once the Phase I Requirements are successfully completed for a Project, that Project

and its associated Project Participants are then eligible to proceed to Phase 2. Thus, it is possible that the Phase 2 start date may differ for each of the Combined Projects.

8.7 Inability to Successfully Complete the Phase I Requirements

Prior to the Expiration of Phase 1 of the Project. If the Cooperative is unable to successfully complete the Phase I Requirements for all the Combined Projects prior to the expiration of Phase 1, the Combined Projects Administrator shall notify the Combined Projects Participants in writing of such an event. Each Combined Project Participant shall respond in writing within ninety (90) days of receiving notice from the Cooperative stating whether or not it wishes to continue participating in Phase 1. Any Combined Projects Participant, who responds in writing to the Cooperative that it no longer wishes to participate in Phase 1 or any Combined Projects Participant, who fails to respond within this ninety (90) day period, shall be deemed to have withdrawn from the Agreement pursuant to Section 17. The remaining Combined Projects Participants shall convene a meeting with the Cooperative within one hundred and twenty (120) days of receiving notice from the Cooperative to determine whether it is still feasible to continue with Phase 1. Any decision to continue with the Combined Projects, as modified, shall be made by the Project Board. If no Combined Projects Participants remain after the initial ninety (90) day notice by the Cooperative or, if the Project Board is unable to decide to pursue the Combined Projects by unanimous written agreement within one hundred and eighty (180) days of receiving notice from the Cooperative, then the Agreement shall be deemed to terminate pursuant to Section 6.3.1.

PHASE 2 – PROJECT IMPLEMENTATION AND SALE OF PROJECT WATER TO PROJECT PARTICIPANTS

8.8 Decision to Implement Phase 2. Following the successful completion of the Phase 1 Requirements for a Project pursuant to Section 8.6 or a decision is made to proceed with a Project pursuant to Section 8.7, Phase 2 shall be implemented for that Project upon either

1) a written agreement by one or more Project Participants approved by their respective governing bodies to proceed with the Project; or 2) a written request by a Project Participant to the other Projects Participants associated with the specific Project to proceed with Phase 2 due to that Projects Participant's need for Project Water from that Project. If the Cooperative and the Projects Participants associated with the Project do not unanimously agree to implement Phase 2 in response to the request of one or more of the Projects Participants, then one or more other Projects Participants may offer to sell water from its water utility system to meet the needs, in whole or in part, of the requesting Project Participant. Any offer by one or more of the other Project Participants associated with the specific Project shall be made in writing and delivered to the requesting Projects Participant(s) not later than ninety (90) days after receiving the Project Participant's request. If an offer to sell water is acceptable to a requesting Projects Participant, then the sale and purchase of water shall be governed by a separate water supply contract between the offering and requesting Project Participants. If a separate water supply contract is entered into between the offering and requesting Projects Participants, then the requesting Project Participant's request to implement Phase 2 shall be deemed withdrawn, without prejudice to that Project Participant submitting a new request to implement Phase 2 with regards to the specific Project in the future. If at the conclusion of ninety (90) days, the requesting Project Participant does not enter into a water supply contract with the offering Project Participant, the approval to implement Phase 2 shall be deemed to have occurred and Phase 2 shall be implemented with respect to that specific Project upon approval of a written agreement by one or more Project Participants. This implementation process may occur until Phase 2 is implemented for all three Combined Projects If a decision is not made to implement Phase 2 for any of the Combined Projects within ten (10) years of the successful completion of Phase I Requirements for all three Projects, unless extend-

ed by vote of the Project Board, then this Agreement shall be deemed terminated pursuant to Section 6.3.3. If a decision is made to implement Phase 2 for one or two, but not all of the Combined Projects within ten (10) years of the successful completion of Phase I Requirements for all three Projects, then Phase 2 cannot be implemented for the remaining Projects under this Agreement.

8.9 Implementation of Phase 2. Once the decision is made to implement Phase 2 with regards to a specific Project, the Project Board composed of the Project Participants associated with that specific Project shall within one hundred eighty (180) days of that decision either approve the Project Phasing and Funding Plan prepared during Phase I for that specific Project or approve a modification of the Plan for that specific Project. The Project Phasing and Funding Plan approved by the Project Board for that specific Project shall include a Water Allocation for each Project Participant for each phase of the specific Project. The Cooperative shall be responsible for constructing the specific Project according to the approved Project Phasing and Funding Plan and supplying water to each Project Participant according to its specified Water Allocation, including, but not limited to issuing Obligations and/or seeking cooperative funding to pay for construction of each Project phase. The Project Board may modify and update the Project Phasing and Funding Plan from time to time, as necessary. Sections 9-13 shall separately take effect for each Project upon implementation of Phase 2 for that specific Project. These provisions will not take effect for any other of the Combined Projects nor impact Project Participants associated with those other Combined Projects, unless and until Phase 2 is implemented for the other Combined Projects.

8.10 Funding Construction of Phase 2. For each phase identified in the approved Project Phasing and Funding Plan, each Project Participant will be assigned a portion of

the Capital Cost necessary for construction of the Project associated with this phase according to the Water Allocation assigned to that Project Participant for that phase. Each Project Participant shall have the option to pay its portion of the Capital Cost or have the Cooperative issue an Obligation to pay for the Capital Cost. The entire payment of a Project Participant's portion of the Capital Cost shall be made to the Cooperative either at the time the Cooperative receives proceeds from any Obligation issued to pay the Capital Cost associated with the phase or upon reasonable notice by the Cooperative, no later than thirty (30) days prior to the first payment of the Capital Cost for construction of this phase, whichever comes first. In the event, one or more Project Participants elects not to pay its portion of the Capital Cost, the Cooperative may issue an Obligation to finance that Capital Cost.

9. PROJECT WATER SERVICE.

9.1 Delivery of Project Water Service. During each Fiscal Year, the Cooperative shall provide Project Water Service to the Project Participants, as follows:

9.1.1 Delivery of Project Water Estimates. Each Project Participant shall deliver to the Cooperative its Project Water Estimate for the upcoming Fiscal Year on or before June 1. The Project Water Estimate shall identify the quantity of Project Water, at an annual average daily rate, the Project Participant wishes the Cooperative to deliver to its Point of Connection during the upcoming Fiscal Year. A Project Water Estimate shall not require the Cooperative to provide Project Water Service in excess of the Project Participant's Water Allocation for the upcoming Fiscal Year, unless the Project Participant has received all or a portion of another Project Participant's Water Allocation for the upcoming Fiscal Year. Any transfer of Water Allocations shall be in writing and executed by both Project Participants and shall be included along with the Project Water Estimate submitted to the Cooperative by both Project Par-

ticipants. The Cooperative shall send a written reminder to the Project Participants on or before May 1, if a Project Water Estimate has not been received from that Project Participant. If a Project Participant fails to deliver a Project Water Estimate to the Cooperative by June 1, then the Project Participant shall be deemed to not need any Project Water during the upcoming Fiscal Year and the Cooperative will not be under any obligation to provide Project Water Service to that Project Participant. Failure to submit a Project Water Estimate to the Cooperative by June 1 will not excuse the Project Participant from paying the Base Rate Charge portion of the Project Water Charge, unless the Project Participant has voluntarily transferred all of its Water Allocation to another Project Participant for the upcoming Fiscal Year under this Section 9.1.1 or the Project Participant has had all of its Water Allocation involuntarily transferred to another Project Participant under Section 9.1.2.

9.1.2 Involuntary Transfer of Unused Water Allocations and Modification of Delivery Schedules. In the event one or more Project Participant fails to request delivery of its complete Water Allocation in the Project Water Estimate provided to the Cooperative or does not voluntarily transfer all of its Water Allocation to another Project Participant under Section 9.1.1, then its unused Water Allocation will be available for involuntary transfer to the other Project Participants for use during the upcoming Fiscal Year. In that event, the total unused Water Allocation may be claimed by other Project Participants in order to increase their Project Water Estimate for the upcoming Fiscal Year. In the event two or more Project Participants wish to utilize a Project Participant's unused Water Allocation, the unused Water Allocation will be divided among those Project Participants in proportion to their respective Water Allocations for the upcoming Fiscal Year. The involuntary use of another Project Participant's Water Allocation shall be reflected by submission of a modified Project Water Estimate to the Co-

operative no later than July 1 by any Project Participants receiving the involuntary transfer of a Project Participant's unused Water Allocation.

9.2 System Operation. The Cooperative shall at all times maintain the Project in accordance with prudent utility practices. The Cooperative shall adopt an adequate budget to pay for all Operation and Maintenance Costs for the Project as required to provide Project Water Service, as set forth in this Agreement. The Cooperative shall provide sufficient personnel, with appropriate experience and credentials to undertake all regulatory requirements imposed with regards to the Project. If new regulatory requirements necessitate capital improvements, the Cooperative shall take all necessary actions to accomplish the same. The Cooperative shall be responsible for all regulatory violations, including compliance costs or penalties assessed for same, which arise out of or are solely created through 1) material errors or omissions by its personnel or agents in the day-to-day operations of the Project; or, 2) the failure of the Cooperative to timely proceed administratively to undertake or complete a requirement imposed by any regulatory agency in any consent order or Project Permit. The Cooperative shall maintain adequate catastrophic insurance on the Project on such terms and amounts as established by the Cooperative.

9.3 Water Quality. The Cooperative shall deliver Project Water to each Project Participant's Point of Connection: (1) that is stabilized and of good and uniform quality; (2) meets all applicable federal and state drinking water standards and regulations, including, but not limited to the standards set forth in Chapter 62-550, Florida Administrative Code, as may be amended or superseded from time to time; and (3) meets whatever disinfection and treatment techniques are developed during Phase 1.

9.4 Water Pressure. The Cooperative shall deliver Project Water to each Project Participant's Point of Connection at a pressure to be determined at a Point of Connection as developed during Phase 1.

9.5 Project Permits. The Cooperative shall obtain, renew, maintain and modify, if necessary, all Project Permits required for the operation and maintenance of the Project and to ensure that Project Water Service will be provided to the Project Participants under the terms of this Agreement.

9.6 Acquisition of Real Property. The Cooperative shall use its best efforts to acquire all interest in real and personal property (if any) necessary for expansion, construction, management and operation of the Project.

9.7 Compliance with the Law. The Cooperative shall comply with all laws, rules and regulations applicable to this Agreement and its obligations thereunder.

10. POINTS OF CONNECTIONS AND METERING FACILITIES.

10.1 Points of Connection. The Points of Connection and the location of the Meters used for the delivery of Project Water to the Project Participants will be identified when Phase 2 is implemented for that specific Project. The Cooperative and a Project Participant may, by mutual written agreement, more specifically identify or modify the Point of Connection or the location of the corresponding Meter. Any change in the Points of Connection or the location of the Meters shall be reflected in a map prepared by the Cooperative.

10.2 Installation and Maintenance of Meters. The quantity of Project Water delivered by the Cooperative to each Point of Connection shall be exclusively measured by a Meter. The Cooperative shall own, install, maintain and read each Meter. The type of Meter shall

be selected at the discretion of the Cooperative, subject to compliance with industry standards for similar Meters.

10.3 Inspection of Meters. Each Meter shall be inspected semi-annually and an inspection report shall be prepared at the conclusion of each inspection detailing the condition and accuracy of each Meter. Each inspection shall be performed by a representative of the manufacturer or other certified, competent entity agreeable to the Cooperative and the Project Participants and a copy of each inspection report shall be furnished to all Project Participants. Upon request of a Project Participant, the Cooperative shall make arrangements for a test of the Meter installed at the Project Participant's Point of Connection by an independent testing entity. The Cooperative shall be responsible for selecting and engaging the independent testing entity. All costs and expenses shall be borne by the Project Participant requesting the test, unless the Meter is found to be inaccurate beyond the manufacturer's guaranteed range of accuracy, in which case, the cost and expense of the test shall be borne by the Cooperative and such cost may not be passed along to the Project Participant requesting the test, as part of the Water Charge.

10.4 Meter Inaccuracy. Should the Meter be determined to be inaccurate beyond the manufacturer's guaranteed range of accuracy, the Cooperative shall repair or replace the malfunctioning Meter at its earliest convenience, recognizing that time is of the essence. Additionally, the Meter shall be assumed to have been inaccurate since the last inspection or test and the following month's billing will be adjusted taking into account the nature of the inaccuracy to show a credit or additional charge to the Project Participant for the metered flow for that period.

11. WATER CHARGE. For each Fiscal Year, the Project Participants shall pay the Cooperative the applicable Water Charge as follows:

11.1 General. The Water Charge shall be sufficient to pay the Debt Service Costs, Capital Renewal and Replacement Costs, Fixed Operation and Maintenance Costs and Variable Operation and Maintenance Costs as required to provide Project Water Service to the Project Participants for the upcoming Fiscal Year. The Water Charge shall consist of a Base Rate Charge and a Water Use Charge. With the exception of the Debt Service Component of the Base Rate Charge, the Water Charge shall be uniform for all Project Participants. The Water Charge shall be computed in the manner specified in Section 11.3 prior to the upcoming Fiscal Year and the Project Participants shall be notified of the Water Charge for the upcoming Fiscal Year in the manner provided in Section 11.2. The Water Charge shall be just, reasonable and equitable to all Project Participants and the Cooperative may not discriminate against any Project Participant, when establishing the Water Charge. Establishment of the Water Charge shall be made by the applicable Project Board and the Project Board's decision shall not be subject to supervision or regulation by any commission, board, bureau, agency, municipality, county or political subdivision of the State of Florida, provided however, the Water Charge must be established in strict compliance with this Agreement and the Cooperative's failure to properly establish the Water Charge may lead to the appointment of a receiver, as specified in Section 16.4.

11.2 Notification of Water Charge. On or before August 15 prior to the Fiscal Year in which the Project Water Service is scheduled to commence and every August 15 thereafter, the Cooperative shall provide the Project Participants the Water Charge for the upcoming Fiscal Year. The Water Charge shall be accompanied by a report detailing the manner in which the Water Charge was computed for the upcoming Fiscal Year. In lieu of a report, the ba-

sis for the Water Charge may be detailed in the annual budget adopted by the Cooperative for this Project for the upcoming Fiscal Year.

11.3 Establishment of Water Charge. The Water Charge shall be established by the Cooperative as follows:

11.3.1 The Base Rate Charge shall be computed as follows:

11.3.1.1 The Cooperative shall estimate the Debt Service Cost, the Capital Renewal and Replacement Cost, Fixed Operation and Maintenance Cost and Variable Operation and Maintenance Cost required to meet the cash needs of the Project for the upcoming Fiscal Year.

11.3.1.2 The Base Rate Charge shall consist of the total of the Capital Renewal and Replacement Cost and Fixed Operation and Maintenance Cost determined pursuant to Section 11.3.1.1. The Base Rate Charge for each Project Participant shall be computed based upon each Project Participant's Water Allocation, as modified pursuant to Sections 9.1.1 and 9.1.2 for the upcoming Fiscal Year. For example, if a Project Participant's Water Allocation was thirty (30%) percent, then that Project Participant would be responsible for paying thirty (30%) percent of the Base Rate Charge. Also, for example, if the Water Allocation for two Project Participants was thirty (30%) percent, each, but the first Project Participant transfers ten (10%) percent of its Water Allocation to the second Project Participant pursuant to Section 9.1.1, then the first Project Participant would be responsible for paying twenty (20%) percent of the Base Rate Charge for that Fiscal Year and the second Project Participant would be responsible for paying forty (40%) percent of the Base Rate Charge for that Fiscal Year. If a Project Participant did not submit a Project Water Estimate or submitted a Project Water Estimate indicating zero Project Water for the upcoming Fiscal Year, it would still be responsible for paying the

Base Rate Charge, unless all or some of its Water Allocation was transferred to other Project Participants pursuant to either Section 9.1.1 or Section 9.1.2.

11.3.1.3 In addition to the Capital Renewal and Replacement Cost and Fixed Operation and Maintenance Cost, if a Project Participant elected to have the Cooperative issue an Obligation to finance its portion of the Capital Cost associated with the construction or expansion of the Project, the Base Rate Charge for that Project Participant shall include its portion of the Debt Service Cost determined pursuant to Section 11.3.1.1.

11.3.1.4 The Base Rate Charge computed for each Project Participant pursuant to Sections 11.3.1.2 and 11.3.1.3 shall be increased by any underpayment or decreased by any overpayment determined pursuant to Section 11.5.

11.3.2 Water Use Charge. The Water Use Charge shall be computed as the Variable Operation and Maintenance Cost determined pursuant to Section 11.3.1.1 divided by the total Project Water Estimate submitted by the Project Participants for the upcoming Fiscal Year and expressed as a cost per thousand (1,000) gallons of water.

11.4 Payment of the Water Charge. For each Fiscal Year, the Project Participants shall pay the Water Charge as follows:

11.4.1 The Project Participants shall pay their individual Base Rate Charge as specified in Section 11.3.1 in twelve (12) equal monthly payments on or before the 1st day of each calendar month starting on October 1 and ending on the following September 1 without the need for any invoicing or billing by the Cooperative.

11.4.2 The Project Participants shall pay their Water Use Charge on a monthly basis. Each Project Participant's monthly payment shall be determined by multiplying the actual amount of Project Water delivered by the Cooperative to the Project Participant's

Point of Connection during the prior calendar month by the Water Use Charge identified in Section 11.3.2.

11.5 Accounting, Audits and Adjustments for Actual Expenses and Water Use. The Cooperative shall maintain accounts and records of actual water use by the Project Participants, all revenue received from all sources to meet the cash needs of the Project and the actual Debt Service Costs, Capital Renewal and Replacement Costs, Fixed Operation and Maintenance Costs and Variable Operation and Maintenance Costs incurred with respect to the Project. On or before each January 31, beginning on the January 31 immediately following the Fiscal Year in which Phase 2 was initiated, the Cooperative shall complete an audit of the aforesaid records and accounts and determine what should have been the Water Charge for each Project Participant based on actual water use and actual costs during the preceding Fiscal Year. Said audit shall be conducted by a nationally recognized certified public accounting firm. In the event the audit determines an underpayment was made by a Project Participant, then said underpayment shall be added to that Project Participant's Base Rate Charge for the upcoming Fiscal Year and paid in the manner specified in Section 11.4.1. If the audit determines that an overpayment was made to a Project Participant, then said overpayment shall be deducted from that Project Participant's Base Rate Charge for the upcoming Fiscal Year in the manner specified in Section 11.4.1.

11.6 Prohibition Against Surcharges, Transfers to General Fund and Certain Payments. The Water Charge shall not include any surcharge, tax, payment in lieu of taxes, payment in lieu of franchise fees, transfers to the Cooperative's general administrative expenses or any charge or payment not directly related to the cost of providing Project Water Service.

12. BILLING, PAYMENT, SOURCE OF FUNDS AND RELATED MATTERS.

12.1 Billing and Payment. The Cooperative shall invoice each Project Participant for their Water Use Charge on regular monthly intervals. The Meters shall be read and recorded on or about the last normal work day of the calendar month during which the Project Water Service was provided. Billing to each Project Participant shall be made on the 10th day of the following calendar month and payment to the Cooperative shall be due by the 30th day of the month in which the statement was received. Payment of the Base Rate Water Charge shall be as specified in Section 11.4.1. If the Base Rate Water Charge, the Water Use Charge or any portion thereof remains unpaid twenty-five (25) days following its due date, the Project Participants shall be charged with and pay to the Cooperative interest on the amount unpaid from its due date until paid at the rate of eight (8%) per annum.

12.2 Irrevocable Commitment to Pay. The Project Participants shall pay their respective Water Charge for every Fiscal Year throughout the term of the Agreement in the manner provided in Section 12.1. Said payments shall be made without notice or demand and without set-off, counterclaim, abatement, suspension or deduction. The Cooperative is undertaking the acquisition, construction, operation and replacement and expansion of the Project on the representation, warranties and covenants of the Project Participants to pay the Water Charge in a timely manner.

12.3 Source of Payment. The source of funds for payment of the Water Charge shall be the utility enterprise fund established by each Project Participant. Each Project Participant shall maintain an operation and maintenance account as part of its water utility enterprise fund throughout the term of this Agreement. At all times during the terms of this Agree-

ment, a Project Participant shall pay the Water Charge from its water utility system operation and maintenance account.

12.4 Water Utility System Charges. Each Project Participant shall fix, revise, maintain and collect such fees, rates, tariffs, rentals or other charges for the use of products, services and facilities of their respective water utility systems to the extent necessary to fund the timely payment of the Water Charge.

12.5 Prohibition Against Indebtedness and Ad Valorem Taxation. The obligation of the Project Participants to pay the Water Charge pursuant to this Agreement does not constitute general indebtedness of the Project Participants or any other municipality or county within the meaning of any constitutional, statutory or charter provision limiting the amount and nature of indebtedness that may be incurred by the Project Participants. Neither the Cooperative nor the holder of any Obligations issued by the Cooperative to finance the construction, alteration, improvement, replacement, expansion or operation of the Project nor any regional, state or federal agency providing cooperative funding to fund the construction, alteration, improvement, replacement, expansion or operation of the Project shall have the right to require the Project Participants to exercise their ad valorem taxing power, if any, to pay their obligations and liabilities under this Agreement or to compel payment from any source, other than as indicated in Section 12.3.

13. PLEDGE OF CONTRACT REVENUES. The Cooperative is authorized to pledge all payments due, owing or received from the Project Participants, including any interest derived from monies received under this Agreement for the purpose of securing Obligations issued by the Cooperative to construct or expand the Projects.

14. FORCE MAJEURE.

14.1 Excuse from Performance. No Party shall be liable to any other Party for delay in performance of, or failure to perform, its obligations under this Agreement, if such delay or failure is caused by a Force Majeure Event.

14.2 Notice. The Party claiming excuse shall deliver to the other Parties a written notice of intent to claim excuse from performance under this Agreement by reason of a Force Majeure Event. Notice required by this section shall be given promptly in light of circumstances, and, in the case of events described in (c), (d) or (e) of the definition of Force Majeure Event only, not later than ten (10) days after the occurrence of the Force Majeure Event. Such notice shall describe the Force Majeure Event, the services impacted by the claimed event, the length of time that the Party expects to be prevented from performing and the steps which the Party intends to take to restore its ability to perform.

14.3 Obligation to Restore Ability to Perform. Any suspension of performance by a Party pursuant to this Section shall be only to the extent, and for a period of no longer duration than, required by the nature of the Force Majeure Event, and the Party claiming excuse shall use its best efforts to remedy its inability to perform as quickly as possible.

15. DISPUTE RESOLUTION. Before proceeding to the default and remedy provisions of this Agreement in Section 16, the Parties shall attempt to resolve the dispute according to the procedures set forth in Chapter 164, Florida Statutes.

16. DEFAULT AND REMEDY.

16.1 Default. If any Party fails to observe, comply with, perform or maintain any material way any term, covenant, condition, duty, obligation, representation or warranty contained or arising under this Agreement, such action shall constitute a default and the other Parties may seek remedies set forth herein, if that default is not timely cured within thirty (30) days, unless such default is capable of being cured within thirty (30) day, in which case the Party must cure the default as soon as practicable. Recognizing the Project Participants' paramount need for a safe and dependable water supply, the Parties agree that the exclusive remedy for default under this Agreement shall be for the non-defaulting Parties to individually or jointly seek specific performance arising from such default.

16.2 Participant Payment Dispute. A Project Participant that disputes a payment under Section 8.5 or a payment of the Water Charge under Section 12 shall be obligated to continue paying the disputed charge until the disagreement is resolved. If the dispute is decided in the favor of the Project Participant, the Cooperative shall be required to either pay the disputed charge either as a credit against any payment due under Section 8.5 or as a credit against the Water Charge for the next Fiscal year or through a direct one-time payment to the Project Participant.

16.3 Suspension of Project Water Service in the Event of Non-Payment of the Water Charge. A Project Participant that fails to pay its Water Charge or any portion thereof within ninety (90) days following its due date shall be in default of this Agreement and upon

thirty (30) days written notice, the Cooperative may suspend Project Water Service to the Project Participant. Suspension of Project Water Service to a Project Participant because of its failure to pay the Water Charge or any portion thereof shall not excuse the Project Participant from paying the Cooperative the Base Rate Charge, when it becomes due nor prohibit the Cooperative from continuing to charge interest on the amount unpaid. Upon payment of all outstanding Water Charges, including any interest, the Cooperative shall immediately resume Project Water Service to the Project Participant. The Cooperative's decision to suspend Project Water Service to a Project Participant under this section shall not be subject to the dispute resolution process in Section 15 and shall not be considered a default under Section 16. However, the Cooperative's failure to resume Project Water Service upon payment of all outstanding Water Charges, including any interest, may constitute a default under Section 16 and shall be subject to the dispute resolution process specified in Section 15.

17. WITHDRAWAL OF A PROJECT PARTICIPANT FROM THIS AGREEMENT.

17.1 Withdrawal Prior to the Decision to Implement Phase 2. Prior to the decision to implement Phase 2 pursuant to Section 8.8, any Combined Projects Participant may, at its option and upon thirty (30) days written notice to all other Parties, withdraw from participation in this Agreement. A Combined Projects Participant that withdraws from this Agreement prior to a decision to implement Phase 2 shall forfeit or surrender its right to participate in any of the Combined Projects and shall no longer be considered a voting member of the Project Board. Upon notice by the Cooperative, a withdrawing Combined Projects Participant shall apply to withdraw from any Project Permit issued in its name and shall not oppose or challenge any modification to a Project Permit necessitated by its withdrawal. A withdrawing Combined Projects

Participant shall remain liable for payment of its share of the Phase I funding under Section 8.5. The provisions of this Section 17.1 shall survive the termination of this Agreement.

17.2 Withdrawal After the Decision to Implement Phase 2. After the decision to implement Phase 2 pursuant to Section 8.8 for a specific Project, any Project Participant associated with that specific Project may, at its option and upon thirty (30) days written notice to all other Parties, withdraw from participation in this Agreement. A Project Participant associated with a specific Project that withdraws from the Agreement shall surrender its Water Allocation and immediately forfeit its right to receive Project Water Service from the Cooperative from that specific Project. All or part of its Water Allocation for the existing phase of the Project and all future phases of the Project shall be subject to redistribution among those remaining Project Participants associated with that specific Project. Each remaining Project Participant shall be entitled to a pro-rated amount of the withdrawing Project Participant's Water Allocation for that specific Project. Redistribution of the withdrawing Project Participant's Water Allocation to the remaining Project Participants associated with that specific Project shall take place any time during the term of the Agreement upon written notice by a Project Participant to the Cooperative of its intent to take some or all of the withdrawing Project Participant's Water Allocation. Until such time as the remaining Project Participants associated with a specific Project take all of a withdrawing Project Participant's Water Allocation, the withdrawing Project Participant shall remain liable for payment of its share of the Base Rate Charge based on its remaining Water Allocation. This liability shall continue for the term of the Agreement until such time as the withdrawing Project Participant's Water Allocation is completely redistributed to the remaining Project Participants associated with that specific Project. A withdrawing Project Participant shall no longer be considered a voting member of the Project Board with regards to that specific Project. Upon

notice by the Cooperative, a withdrawing Project Participant shall apply to withdraw from any Project Permits issued in its name and shall not oppose or challenge any modification to a Project Permit necessitated by its withdrawal. The provisions of this Section 17.2 shall survive the termination of this Agreement.

18. SUBSTITUTION AND ADDITION OF PROJECT PARTICIPANTS AND ASSIGNMENT OF THIS AGREEMENT.

18.1 Substitution. As a matter of right, a new Combined Project Participant and/or Project Participant may be substituted for an existing Combined Project Participant and/or Project Participant, if the new Combined Project Participant or Project Participant agrees to enter this Agreement and fully perform all the obligations of the existing Combined Project Participant and/or Project Participant. Substitution prior to the decision to implement Phase 2 shall mean the new Combined Project Participant shall at a minimum agree to fulfill all of the old Combined Project Participant's Phase 1 funding obligations under Section 8.5. Substitution after the decision to implement Phase 2 shall mean the new Project Participant shall at a minimum succeed to the old Project Participant's entire Water Allocation and shall agree to the Water Charge that the old Project Participant was otherwise obligated to pay. Upon substitution, the old Project Participant shall withdraw from any further participation in this Agreement and shall no longer be considered a voting member of the Project Board. Additionally, the old Project Participant shall cooperate with the Cooperative in any modifications to the Project Permits necessary to effectuate this substitution.

18.2 Addition. No new Combined Project Participant and/or Project Participant may be added to this Agreement unless such addition is approved by the unanimous written consent of all the Parties. At a minimum, the addition of a new Combined Project Participant

prior to the decision to implement Phase 2 shall require a recalculation of the cost share table specified in Section 8.5.1 to reflect the addition of the new Combined Project Participant. At a minimum, the addition of a new Project Participant after the decision to implement Phase 2 shall require a recalculation of the Water Allocations assigned to all the Project Participants to reflect the addition of the new Project Participant.

18.3 Assignment. This Agreement may not be assigned, in whole or in part, unless such assignment is approved by the unanimous written consent of all the Parties.

19. SOVEREIGN IMMUNITY AND INDEMNIFICATION. The Parties intend to avail themselves of the benefits of Section 768.28, Florida Statutes, and any other statute and common law governing sovereign immunity to the fullest extent possible and nothing herein shall be construed as a waiver of sovereign immunity by these Parties. Additionally, neither the Combined Project Participants nor the Project Participants are jointly or severally liable for any torts attributable to the Cooperative and only the Cooperative shall be liable for torts attributable to it or for the torts of its officers, agents, attorneys or employees under this Agreement, and then only to the extent of the waiver of sovereign immunity or limitation specified in Section 768.28, Florida Statutes. Finally, the Cooperative agrees to indemnify and hold the Combined Project Participants and Project Participants harmless from any injury that the Cooperative or its officers, agents, attorneys, employees or invitees sustain while carrying out the Cooperative's obligations under this Agreement.

20. APPLICABLE LAW, VENUE AND WAIVER OF JURY TRIAL. This Agreement and the rights and obligations of the Parties are to be governed by, construed and interpreted in accordance with the laws of the State of Florida. In the event of any legal proceeding arising under this Agreement, the exclusive venue for such proceeding shall be in a State court of

competent jurisdiction located in Polk County, Florida. In any such legal proceeding, the Parties hereby consent to trial by the court and waive the right to a jury trial as to any issues that are triable before a jury.

21. NOTICES.

21.1 All notices provided for in this Agreement must be in writing and shall be sufficient and deemed to be given when sent by certified mail or registered mail, return receipt requested. A copy shall also be sent to the Party by email. All notices shall be delivered or sent to the Parties at their respective addresses shown below or such other addresses as a Party may designate by prior notice given in accordance with this provision to the other Parties:

City of Auburndale
City Manager
P.O. Box 186
Auburndale, Florida 33823
863-965-5530

City of Bartow
City Manager
P.O. Box 1069
Bartow, Florida 33831
863-534-0100

City of Davenport
City Manager
P.O. Box 125
Davenport, Florida 33836
863-419-3300

City of Eagle Lake
City Manager
P.O. Box 129
Eagle Lake, Florida 33839
863-293-4141

City of Fort Meade
City Manager
P. O. 856

Fort Meade, Florida 33841
863-285-1100

City of Frostproof
City Manager
P.O. Box 308
Frostproof, Florida 33843
863-635-7855

City of Haines City
City Manager
620 E Main Street
Haines City, Florida 33844
863-421-3600

City of Lake Alfred
City Manager
155 E Pomelo Street
Lake Alfred, Florida 33850
863-291-5270

City of Lakeland
City Manager
228 S Massachusetts Ave
Lakeland, Florida 33801
863-834-6000

City of Lake Wales
City Manager
P. O. Box 1320
Lake Wales, Florida 33859
863-678-4196

City of Mulberry
City Manager
P.O. Box 707
Mulberry, Florida 33860
863-425-1125

City of Polk City
City Manager
123 Broadway SE
Polk City, Florida 33868
863-984-1375

City of Winter Haven
 City Manager
 P. O. Box 2277
 Winter Haven, Florida 33883
 863-291-5600

Town of Dundee
 Town Manager
 P.O. Box 1000
 Dundee, Florida 33838
 863-438-8330

Town of Lake Hamilton
 Town Manager
 P.O. Box 126
 Lake Hamilton, Florida 33851
 863-439-1910

Polk County
 County Manager
 Drawer CA01/P.O. Box 9005
 Bartow, Florida 33831
 Phone: 863-534-6444

21.2 All notices shall also be sent to the Cooperative, to the attention of its executive director, with a separate copy to its general counsel.

21.3 Any Party, may, by notice in writing given to the others, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice shall be deemed given on the date such notice is delivered by hand (or facsimile transmission) or three (3) days after the date mailed.

22. DISCLAIMER OF THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the Parties and no right or cause of action shall accrue to or for the benefit of anyone that is not a Party hereto. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give any person or entity, other than the Parties any right, remedy or claim under or by reason of this Agreement or any provisions or conditions

hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of and shall be binding upon the Parties.

23. AMENDMENT. In Phase 1, this Agreement may only be amended in writing signed by all the Parties. In Phase 2, Section 8.8, 8.9, 8.10, 9, 10, 11, 12 and 13 may be amended in writing signed by all the Project Participants for their specific Project, but the other provisions may only be amended in writing signed by all the Parties.

24. WAIVER. No failure by a Party to exercise any right, power or privilege under this Agreement is a waiver of that or any other right, power or privilege under this Agreement, except as otherwise expressly set forth in the Agreement.

25. SEVERABILITY. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, it shall be considered deleted, and shall not invalidate the remaining provisions. However, if the deleted language is considered a key provision of the Agreement, the Parties must agree to a substitute provision that will accomplish the original intent of the Parties. If the Parties cannot agree to a substitute provision within ninety (90) days of the determination by the court, then the Agreement shall be deemed terminated.

26. ATTORNEY'S FEES AND COSTS.

26.1 Dispute Resolution or Litigation Under the Agreement. Each Party shall bear its own costs, including attorney's fees, incurred in any litigation arising under this Agreement. The award of attorney's fees with regards to dispute resolution will be addressed pursuant to Chapter 164, Florida Statutes. Notwithstanding the foregoing, any costs, including attorney's fees incurred by the Cooperative in any dispute resolution or litigation arising under this Agreement may be included in computation of the Water Charge upon approval by the Project Board.

26.2 Litigation Outside the Agreement Concerning the Project. Any damages or costs, including attorney's fees incurred by the Cooperative in any litigation concerning the Project, excluding litigation described in Section 26.1, shall be included in computation of the Water Charge. Any damages or costs, including attorney's fees awarded to the Cooperative in any litigation concerning the Project, excluding litigation described in Section 26.1, shall be deemed a credit to be considered in computation of the Water Charge.

27. ENTIRE AGREEMENT. This Agreement, including Exhibits, constitutes the entire contract among the Parties pertaining to the subject matter hereof, and there are no warranties, representations or other agreements in connection with the subject matter hereof, except as specifically set forth herein.

28. EXECUTION OF DOCUMENTS. This Agreement shall be executed in multiple duplicate originals, any of which shall be regarded for all purposes as an original and all of which shall constitute one and the same instrument.

29. AMBIGUITY. The Parties agree that each has played an equal part in negotiation and drafting of this Agreement, and in the event ambiguity should be asserted or realized in the interpretation or construction of this Agreement, the result of such ambiguity shall be equally assumed and realized by each Party.

30. RELATIONSHIP OF THE PARTIES. Nothing herein shall make any Party a partner or joint venturer or create any fiduciary relationship among the Parties.

31. GOOD FAITH. The Parties hereto agree to exercise good faith and fair dealings in respect to all matters relating to this Agreement.

32. DUTY TO COOPERATE. The Parties shall work together in good faith to implement the terms of this Agreement. As part of this cooperation, the Parties will at a minimum do the following:

32.1 Acquisition of Real Property. The Project Participants shall cooperate and assist and not interfere with the Cooperative's ability to acquire all interests in real property necessary to construct, manage and operate the Project, as needed to provide Project Water Service to the Project Participants.

32.2 Project Permits. The Project Participants shall cooperate and assist and not interfere with the Cooperative's ability to obtain, maintain and comply with all Project Permits necessary to construct, manage and operate the Project, as needed to provide Project Water Service to the Project Participants.

32.3 Construction, Management and Operation of Project. The Project Participants shall cooperate and not interfere with the Cooperative's ability to manage and operate the Project, as needed to provide Project Water Service to the Project Participants.

32.4 Obligations. The Parties shall cooperate with each other in the issuance of any Obligations necessary to allow the Cooperative to provide Project Water Service, including, but not limited, Obligations needed to fund the Capital Cost incurred by the Cooperative in constructing the Project. In such event, the Parties shall comply with the reasonable request of any Party and will, upon request, do as follows: (1) make available general and financial information about itself; (2) consent to publication and distribution of its financial information; (3) certify that its general and financial information is accurate, does not contain any untrue statements of a material fact and does not omit to state a material fact necessary to make the statements in the information, in light of circumstances under which they are made, not misleading;

(5) provide reasonable certifications to be used in a transcript of closing documents; and, (6) provide and pay for reasonable requested opinions of counsel as to the validity of actions taken in respect to and the binding effect of this Agreement, the Interlocal Agreement, title to the Project, as applicable, and pending litigation which could materially affect its performance hereunder. In addition, each Party agrees to take no action which shall adversely affect the exclusion from gross income of interest on the Obligations for purposes of federal income taxation.

32.5 Grants. The Parties shall cooperate with each other in applying for federal, state, regional or local grants or other forms of cooperative funding to construct or expand the Project, including, but not limited to, providing any necessary information required by any federal, state, regional or local agency in order to apply for and process the grant or cooperative funding application and, if the grant or cooperative funding is obtained, in order to maintain and utilize the grant or cooperative funding, including any post-grant or cooperative funding audit.

33. FURTHER ASSURANCES. The Parties shall use all reasonable efforts to provide such information, execute such further instruments and documents and take actions as may be reasonably requested by another Party and not inconsistent with the provisions of this Agreement and not involving the assumption of obligations or liabilities different from, in excess of, or in addition to those expressly provided for in this Agreement to carry out the intent of this Agreement.

34. PUBLIC RECORDS. Should any Party assert any exemption to, or inapplicability of, the requirements of Chapter 119 and related statutes, the burden and cost of establishing such an assertion, by way of injunctive or other relief as provided by law, shall be upon that Party. The Parties shall allow public access to all Project documents and materials that are subject to the requirements of Chapter 119, Florida Statutes or claim that a document does not constitute a

public record, the burden of establishing such an exemption or excluding a document as a public record, by way of injunctive or other relief as provided by law, shall be upon the Party asserting the exemption or the claim that a document does not constitute a public record. Additionally, nothing in this Agreement shall be construed nor is intended to, expand the scope of Chapter 119, Florida Statutes or make into a public record a document that is not a public record under the applicable law.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed and entered into by the Parties

CITY COMMISSION OF THE
CITY OF AUBURNDALE, FLORIDA


By: 
Timothy J. Pospichal, Mayor

Date: 2-6-17

ATTEST:

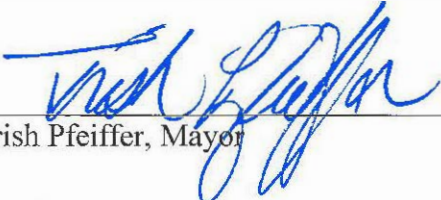
By: 
Shirley Lowrance, City Clerk

APPROVED AS TO FORM AND CORRECTNESS:


V. Patton Kee, City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Combined Projects Implementation Agreement to be duly executed and entered into as of the Effective Date.

CITY COMMISSION OF THE
CITY OF BARTOW, FLORIDA

By: 
Trish Pfeiffer, Mayor

Date: 02-20-17

ATTEST:

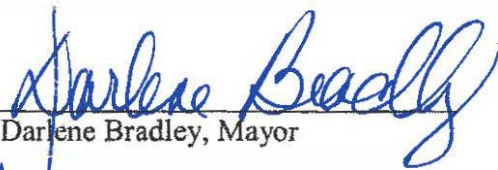
By: 
Jacqueline Poole, City Clerk

IN WITNESS WHEREOF, the undersigned has caused this Combined Projects Implementation Agreement to be duly executed and entered into as of the Effective Date.

IN WITNESS WHEREOF, the undersigned has caused this Combined Projects Implementation Agreement to be duly executed and entered into as of the Effective Date.

CITY COMMISSION OF THE
CITY OF DAVENPORT, FLORIDA

By: _____



Darlene Bradley, Mayor

Date: _____


February 27, 2017

ATTEST:

By: _____


Rachel Castillo, City Clerk

CITY COMMISSION OF THE
CITY OF EAGLE LAKE, FLORIDA

By: J.R. Sullivan
J.R. Sullivan, Mayor

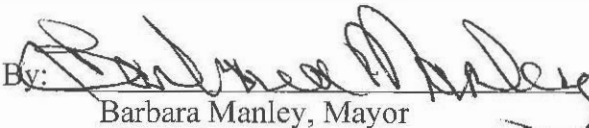
Date: 2-21-17

ATTEST:

By: Dawn Wright
Dawn Wright, City Clerk

IN WITNESS WHEREOF, the undersigned has caused this Combined Projects Implementation Agreement to be duly executed and entered into as of the Effective Date.

CITY COMMISSION OF THE
CITY OF FT. MEADE, FLORIDA

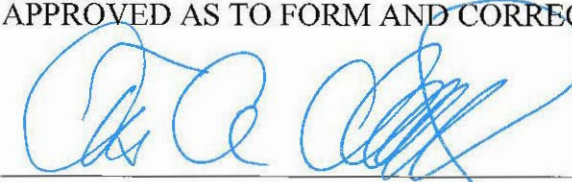
By: 
Barbara Manley, Mayor

Date: February 28, 2017

ATTEST:

By: 
Melissa Newman, Deputy City Clerk

APPROVED AS TO FORM AND CORRECTNESS:


Tom Cloud, City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Combined Projects Implementation Agreement to be duly executed and entered into as of the Effective Date.

IN WITNESS WHEREOF, the undersigned has caused this Combined Projects Implementation Agreement to be duly executed and entered into as of the Effective Date.

CITY COUNCIL OF THE
CITY OF FROSTPROOF, FLORIDA

By: _____
Rodney Cannon, Mayor

Date: _____

ATTEST:

By: _____
Nicole McDowell, City Clerk

*Frostproof
Not Signing
the Combined
Projects
Implementation
Agmt*

CITY COMMISSION OF THE
CITY OF HAINES CITY, FLORIDA

By: [Signature]
Horace West, Mayor

Date: 2/2/17

ATTEST:

By: [Signature]
Linda Bourgeois, City Clerk



APPROVED AS TO FORM AND CORRECTNESS:

[Signature]
Fred Reilly, City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Combined Projects Implementation Agreement to be duly executed and entered into as of the Effective Date.

IN WITNESS WHEREOF, the undersigned has caused this Combined Projects Implementation Agreement to be duly executed and entered into as of the Effective Date.

CITY COMMISSION OF THE
CITY OF LAKE ALFRED, FLORIDA

By: Charles O. Lake
Charles O. Lake, Mayor

Date: 2/14/17

ATTEST:

By: Ameé Bailey-Speck
Ameé Bailey-Speck, City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Frederick J. ("John") Murphy, Jr.
Frederick J. ("John") Murphy, Jr., City Attorney

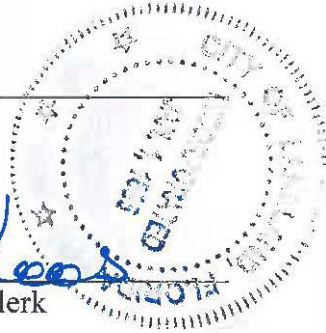
CITY COMMISSION OF THE
CITY OF LAKE LAND, FLORIDA

By: 
R. Howard Wiggs, Mayor

Date: 02-23-17

ATTEST:

By: 
Kelly Koos, City Clerk



APPROVED AS TO FORM AND CORRECTNESS:



Timothy J. McCausland, City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Combined Projects Implementation Agreement to be duly executed and entered into as of the Effective Date.

IN WITNESS WHEREOF, the undersigned has caused this Combined Projects Implementation Agreement to be duly executed and entered into as of the Effective Date.

CITY COMMISSION OF THE
CITY OF LAKE WALES, FLORIDA

By: Eugene L. Fultz
Eugene Fultz, Mayor

Date: 02/10/2017

ATTEST:

By: Clara VanBlargan
Clara VanBlargan, City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Albert C. Galloway, Jr.
Albert C. Galloway, Jr., City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Combined Projects Implementation Agreement to be duly executed and entered into as of the Effective Date.

CITY COMMISSION OF THE
CITY OF MULBERRY, FLORIDA

By: _____
George H. Hatch, Mayor

Date: _____


ATTEST:

By: _____
Sharon Lauther, City Clerk

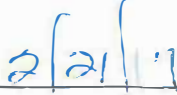
Mulberry
tabled
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They tabled
All
Agreements

CITY COMMISSION OF THE
CITY OF POLK CITY, FLORIDA

By: _____

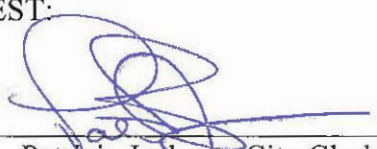

Joe LaCascia, Mayor

Date: _____



ATTEST:

By: _____


Patricia Jackson, City Clerk

City Manager

IN WITNESS WHEREOF, the undersigned has caused this Combined Projects Implementation Agreement to be duly executed and entered into as of the Effective Date.

CITY COMMISSION OF THE
CITY OF WINTER HAVEN, FLORIDA

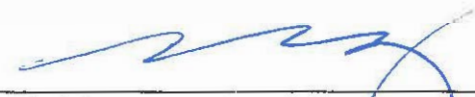
By: 
Steven M Hunnicutt, Mayor

Date: 2/27/2017

ATTEST:

By: 
Vanessa Castillo, City Clerk

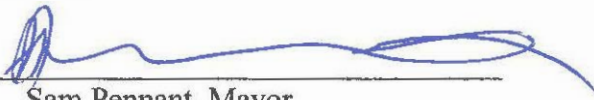
APPROVED AS TO FORM AND CORRECTNESS:


Frederick J. ("John") Murphy, Jr., City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Combined Projects Implementation Agreement to be duly executed and entered into as of the Effective Date.

IN WITNESS WHEREOF, the undersigned has caused this Combined Projects Implementation Agreement to be duly executed and entered into as of the Effective Date.

TOWN COMMISSION OF THE
TOWN OF DUNDEE, FLORIDA

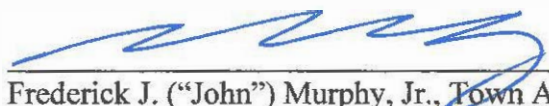
By: 
Sam Pennant, Mayor

Date: 2/14/2017

ATTEST:

By: 
Deena Ware, Town Clerk

APPROVED AS TO FORM AND CORRECTNESS:

 2-15-17
Frederick J. ("John") Murphy, Jr., Town Attorney

IN WITNESS WHEREOF, the undersigned has caused this Combined Projects Implementation Agreement to be duly executed and entered into as of the Effective Date.

TOWN COUNCIL OF THE
TOWN OF LAKE HAMILTON, FLORIDA

By: Marlene M. Wagner
Marlene M. Wagner, Mayor

Date: 2-7-2017

ATTEST:

By: Sara Irvine
Sara Irvine, Town Clerk

IN WITNESS WHEREOF, the undersigned has caused this Combined Projects Implementation Agreement to be duly executed and entered into as of the Effective Date.

ATTEST:

POLK COUNTY, a political subdivision of
The State of Florida

Stacy M. Butterfield
Clerk to the Board

By: *Chris Valle*
Deputy Clerk

By: *Melony M. Bell*
Melony M. Bell, Chairman

Dated and signed by the Chairman: 2/23/17



Reviewed as to form and legal sufficiency:

Chris Norrally
County Attorney's Office

IN WITNESS WHEREOF, the undersigned has caused this Combined Projects Implementation Agreement to be duly executed and entered into as of the Effective Date.

POLK REGIONAL WATER COOPERATIVE,
a public agency and unit of special purpose government

By: 
George Lindsey, Chair

Date: 3/16/17

Approved as to form:


Edward P. de la Parte, Legal Counsel

PEACE RIVER PROJECT INTERLOCAL WATER PLANT CONSENT AGREEMENT

THIS PEACE RIVER PROJECT INTERLOCAL WATER PLANT CONSENT AGREEMENT (the "Agreement") is made and entered into as of the Effective Date as hereinafter defined, by and among the Polk Regional Water Cooperative ("Cooperative"), whose address is 330 W. Church Street, Bartow, FL 33830, City of Auburndale whose address is P.O. Box 186, Auburndale, FL 33823, the City of Bartow whose address is P.O. Box 1069, Bartow, FL 33831, the City of Davenport whose address is P.O. Box 125, Davenport, FL 33836, the City of Eagle Lake whose address is P.O. Box 129, Eagle Lake, FL 33839, the City of Fort Meade, Florida, a Florida municipal corporation, whose address is P.O. Box 856, Fort Meade, FL 33841, the City of Frostproof whose address is P.O. Box 308, Frostproof, FL 33843, the City of Haines City whose address is 620 E. Main Street, Haines City, FL 33844, the City of Lake Alfred whose address is 120 E. Pomelo Street, Lake Alfred, FL 33850, the City of Lakeland whose address is 228 S. Massachusetts Ave., Lakeland, FL 33801, the City of Lake Wales whose address is P.O. Box 1320, Lake Wales, FL 33859, the City of Mulberry whose address is P.O. Box 707, Mulberry, FL 33860, Polk City, Florida, a Florida municipal corporation, (fka "City of Polk City") whose address is 123 Broadway Blvd SE, Polk City, FL 33868, the City of Winter Haven whose address is P.O. Box 2277, Winter Haven, FL 33883, the Town of Dundee whose address is P.O. Box 1000, Dundee, FL 33838, the Town of Lake Hamilton whose address is P.O. Box 126, Lake Hamilton, FL 33851 and Polk County ("Polk County"), a charter county and political subdivision of the State of Florida, whose address is P.O. Box 9005, Bartow, Florida 33831, individually also referred to as a "Party" and collectively referred to as the "Parties".

RECITALS

1. The parties entered into that Interlocal Agreement relating to the Establishment of the Polk Regional Water Cooperative effective June 1, 2016 (hereafter "Charter Interlocal Agreement."
2. The purpose of the Charter Interlocal Agreement is to create and establish a separate legal entity, public agency and unit of special purpose local government, pursuant to §§ 163.01(7)(g) and 373.713, Florida Statutes, with all of the privileges, benefits, powers and terms provided in the Charter Interlocal Agreement and by law.
3. In its Preamble, the Charter Interlocal Agreement states that "The intent of the Cooperative is to support the right of the Member Governments to keep their existing permitted allocations and to advocate on behalf of the Member Governments with federal, state, regional or local authorities, including, but not limited to legislative bodies and executive agencies regarding matters within the scope of the responsibilities assigned to the Cooperative under this Interlocal Agreement."

4. Pursuant to § 1.04(K) of the Charter Interlocal Agreement, the Member Governments agreed that the Cooperative may not exercise any power granted under this Interlocal Agreement within the water service territory of a Member Government so as to interfere with said Member Government's existing water distribution and treatment facilities, existing consumptive use permits or existing water supplies, except with the consent of the Member Government.

5. Section 1.04(K) also provided that this provision is supplemental to and shall not be interpreted as limiting the restrictions placed on the Cooperative's exercise of power by Sections 1.04(J), 2.07(D), 2.11(E) and 2.11(F) of the Charter Interlocal Agreement.

6. The Preamble and §§ 1.04(J), 1.04(K), 2.01(B), 2.06(A)(35), and 2.06(D) contained in the Charter Interlocal Agreement provides that the Water Cooperative shall advocate and support on behalf of the Member Governments with federal, state, regional or local authorities, including, but not limited to legislative bodies and executive agencies regarding matters within the scope of the responsibilities assigned to the Cooperative under this Interlocal Agreement, including, but not limited to supporting the right of the Member Governments to keep their existing permitted allocations.

7. But for the obligation to refrain from entering the water service territories or interfere with existing water distribution and treatment facilities, existing water use permits, or existing water supplies, the City of Fort Meade would not have entered into the Charter Interlocal Agreement.

8. The Peace River/Land Use Transmission Project (hereafter "Peace River Project") is one of the Combined Projects identified in the Combined Projects Implementation Agreement.

9. Portions of the Peace River Project may be located in the City of Fort Meade's exclusive chapter 180 Utility Service Area for all water-related utilities created by Fort Meade Ordinance No. 00-26 ("Ordinance No. 00-26"), codified as §§ 24-3 and 24-4 of Article I, Chapter 24, City of Fort Meade City Code.

10. The City of Fort Meade has borrowed significant debt based upon the assumption and representation that its exclusive Utility Service Area shall remain free of other utilities.

11. As a condition of granting its consent to the permitting, construction and operation of the Peace River Project in its exclusive Utility Service Area, the Parties agree to the terms and conditions set forth in this Agreement.

12. The purpose of this Agreement is to protect the City of Fort Meade's rights with regards to the permitting, construction operation of the Peace River Project and to provide Fort Meade's consent to the permitting, construction and operation of the Peace River Project.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, each to the other, receipt of which is hereby acknowledged, the Parties hereby agree, stipulate and covenant as follows:

SECTION 1. RECITALS. The above Recitals are true and correct, and form a material part of this Agreement.

SECTION 2. DEFINITIONS. As used in this Agreement, the following terms shall have the following meanings, unless the context clearly requires otherwise:

1.1 “Agreement” means this Peace River Project Interlocal Water Plant Consent Agreement, as may be amended or restated from time to time.

1.2 “Charter Interlocal Agreement” means that Interlocal Agreement creating the Cooperative, with an effective date of June 1, 2016, including any amendments and supplements thereto.

1.3 “Combined Projects Implementation Agreement” means the Combined Projects Implementation Agreement with an effective date of May 1, 2017, including any amendments thereto.

1.4 “Cooperative” shall have the same meaning as in the Charter Interlocal Agreement. Pursuant to and in accordance with the Charter Interlocal Agreement, all powers, privileges, and duties vested in or imposed on the Cooperative with regards to the approval and implementation of the Project shall be exercised by the Project Board. Accordingly, references to the “Cooperative” within this Agreement pertaining to the exercise of such powers, privileges, and duties are understood as resulting from the Project Board’s exercise of such authority by and on behalf of the Polk Regional Water Cooperative. For purposes of this Agreement, the Cooperative acts through the Project Board for the Combined Projects Implementation Agreement.

1.5 “Director” shall have the same meaning as in the Charter Interlocal Agreement. For purposes of this Agreement, Directors shall be Directors and/or alternates appointed by the Combined Projects Implementation Agreement Project Participants.

1.6 “District” means the Southwest Florida Water Management District.

1.7 “Effective Date” means the date the Agreement takes legal effect as specified in Section 5.

1.8 “Project Board” shall have the same meaning as in the Charter Interlocal Agreement. The Project Board for the Peace River Project will consist of

Directors and/or alternates appointed by the Project Participants to the Combined Projects Implementation Agreement.

1.9 “Project Permits” means all permits, licenses or other third-party approvals necessary or convenient for the acquisition, construction, management or operation of the Peace River Project.

SECTION 2. PURPOSE OF THE AGREEMENT; EFFECT UPON OTHER AGREEMENTS. This Agreement governs the terms and conditions applicable to the City of Fort Meade’s grant of consent to the permitting and construction of the Peace River Project in the City of Fort Meade’s exclusive Utility Service Area. While the Parties to this Agreement have not yet decided to implement the Peace River Project, the terms and conditions of this Agreement shall govern over conflicting terms and conditions of the Combined Project Implementation Agreement with regards to the Peace River Project. Any other agreement between some or all of the Parties not specifically referenced herein is not intended to be changed or affected by this Agreement. Additionally, nothing in this Agreement is intended to change any existing agreement, permit and/or other similar administrative matters between the District and any Party.

SECTION 3. CONSTRUCTION OF TERMS. Terms defined in a given number, tense or form shall have the corresponding meaning when used in this Agreement with initial capitals in another number, tense or form. References containing terms such as “hereof,” “herein,” “hereto,” “hereinafter” and other terms of like import are not limited in applicability to the specific provision within which such references are set forth, but instead refer to this Agreement taken as a whole. “Includes” or “including” shall not be deemed limited to the specific enumeration of items, but shall be deemed without limitation. The term “or” is not exclusive. The headings contained in this Agreement are solely for the convenience of the Parties. Accounting terms used but not defined herein have the meanings given to them under generally accepted accounting principles in the United States of America consistently applied throughout the specified period and in the immediately comparable period.

SECTION 4. REPRESENTATIONS OF THE PARTIES. As of the Effective Date, each Party makes the following representations (no representation is made by any Party for another Party):

4.1 Status of the Parties. The Parties are each duly organized, validly existing and in good standing under the laws of the State of Florida and are each duly qualified and authorized to satisfy their responsibilities pursuant to this Agreement.

4.2 Authority to Enter Agreement. The Parties each have the power, authority and legal right to enter into and perform the obligations set forth in this Agreement, and the execution and delivery and performance hereof by the Parties: (1) has been duly authorized by the governing authority of each of the Parties; (2) does not require any consent or referendum of the voters; and, (3) does not constitute a default under, or result in the creation of any lien, charge, encumbrance or security interest upon,

the assets of the Parties under any agreement or instrument to which the Parties and their assets may be bound or affected, except as otherwise provided herein.

4.3 Validity of the Contract. This Agreement has been duly entered into and delivered by the Parties as of the Effective Date, constitutes a legal, valid and binding obligation of the Parties, fully enforceable in accordance with its terms, except to the extent that the enforceability of this Agreement may be limited by any applicable bankruptcy, moratorium, reorganization or other similar laws affecting creditor's rights generally, or by the exercise of judicial discretion in accordance with general principles of equity.

4.4 Pending Litigation. There is no action, suit or proceeding, at law or in equity, before or by any court or governmental authority, pending against any Party, wherein an unfavorable decision, ruling or finding would materially and adversely affect the performance by any Party of their obligations hereunder or the other transactions contemplated hereby, or which, in any way, would adversely affect the validity or enforceability of the Agreement.

SECTION 5. TERM AND TERMINATION. The term of this Agreement shall begin on the Effective Date and remain in effect, unless terminated by written agreement of all the Parties.

SECTION 6. CONSENT TO FILE PERMITS, DESIGN & CONSTRUCT PEACE RIVER PROJECT. Pursuant to § 180.06, Florida Statutes, the City of Fort Meade hereby grants its consent to the Cooperative acting through the Project Board to apply for and obtain all required Project Permits for the Peace River Project and, to design, construct, maintain and operate the Peace River Project (hereafter "City Consent") subject to the following terms and conditions:

6.1 The Parties hereby covenant and agree that they shall take no action or fail to take an action that will result in the loss or reduction of the City of Fort Meade's permitted water use allocation of 759,500 gallons per day, annual average, 1,169,600 gallons per day, peak month and 759,500 gallons per day, drought annual average (hereinafter "Fort Meade Permitted Allocation") authorized by Water Use Permit No. 20 000645.008 dated April 10, 2014 (hereafter "Fort Meade Water Use Permit").

6.2. The Parties shall not interfere with Fort Meade Water Use Permit or existing water, wastewater, or reclaimed water facilities of Fort Meade, except as may otherwise be consented to in writing by Fort Meade under this Agreement or some other contract.

6.3 The Parties shall not include, list, or seek, either verbally or in writing, any portion of the City of Fort Meade's exclusive Utility Service Area as described in Ordinance No. 00-26 as being a part of the need or to be served in any capacity by the Peace Project in any application for a Project Permit, including but not limited to the water

use permit/allocation applicable to the Peace River Project, nor shall they serve or offer to provide any water service within the City of Fort Meade's exclusive Utility Service Area.

6.4 In seeking to obtain any consumptive/water use permit for the Peace River Project, the Parties shall have an affirmative duty to seek to include a condition that specifies that the said permitted water use is not and does not and will not be used as substitute for the Fort Meade Permitted Allocation.

6.5 The Parties shall cooperate with each other and no Party to this Agreement shall interfere with the ability of the Cooperative acting through the Project Board to obtain, maintain and comply with any Project Permits so long as that Project Permit does not interfere with the Fort Meade Water Use Permit.

6.6 No Party to this Agreement shall purposefully submit information to a regulatory agency that conflicts with information submitted by the Cooperative acting through the Project Board in support of any application for a Project Permit for the Peace River Project, unless the Project Permit directly threatens an existing legal right of a Peace River Project Participant to use the water resources of the state, in existence prior to the date of the Project Permit.

6.7 No Party to this Agreement shall legally challenge or support any legal challenge against any proposed or final agency action or any legal instrument with regard to the Peace River Project Permit sought by the Cooperative acting through the Project Board, unless the proposed Project Permit directly threatens an existing legal right of a Peace River Project Participant to use the water resources of the state, in existence prior to the date of the application for the Project Permit.

6.8 A Member Government of the Cooperative that is not a Party to this Agreement is not responsible, either directly or indirectly, for compliance with the terms and conditions of any Project Permits nor shall it be liable or responsible, either directly or indirectly, for compliance with the terms and conditions of any Project Permits nor shall it be liable or responsible, either directly or indirectly, for any fines, penalties or damages associated with any Project Permits.

6.9 No Party shall take any action or fail to take an action that results in the City of Fort Meade being unable to utilize its existing constructed water treatment plant and wells.

6.10 Should the District reduce or terminate the Fort Meade Permitted Allocation as the proximate result of the permitting, construction or operation of the Peace River Project, after the conclusion of all legal proceedings, including but not limited to exhaustion of all reasonable and ethically justifiable appeals, then the Parties shall be responsible for the costs of replacing any such reduced or terminated Fort Meade Permitted Allocation from one of the Alternative Water Supply Projects implemented by the Cooperative.

SECTION 7. DISPUTE RESOLUTION. If there is a dispute between two or more Parties arising out of or related to this Agreement which cannot be resolved, then unless it shall be unreasonable to do so or an emergency situation or necessity dictates otherwise, before proceeding to the default and remedy provisions of this Agreement in Section 8, the affected Parties (“Mediating Parties”) shall attempt to resolve the dispute by non-binding mediation. The mediation will be conducted by a mediator mutually agreeable to all Mediating Parties who has experience in mediating disputes of a similar nature. The Mediating Parties will use a procedure agreeable to those Parties and the mediator. The Mediating Parties will mediate in good faith, and will be bound by any resulting mediation agreement that is approved by the governing body for each Party, equally share the costs of mediation and timely pay same. Mediation will commence within thirty (30) days after the date a Party requests mediation of a dispute, or if the agreed mediator is not available within that time period, then at the first opportunity the agreed mediator is available. A Party may not commence litigation of the dispute pursuant to Section 8 until (a) the mediator has declared the Mediating Parties are at an impasse, or (ii) one or all Mediating Parties have terminated the mediation. Among other matters the Parties intend this mediation process as an alternative to the conflict resolution procedure described in the Florida Governmental Conflict Resolution Act, Chapter 164, Florida Statutes.

SECTION 8. DEFAULT AND REMEDY. If any Party fails to observe, comply with, perform or maintain in any material way any term, covenant, condition, duty, obligation, representation or warranty contained or arising under this Agreement, such action shall constitute a default and the other Parties may seek remedies set forth herein, if that default is not timely cured within thirty (30) days, unless such default is capable of being cured within thirty (30) day, in which case the Party must cure the default as soon as practicable. Recognizing the Project Participants’ paramount need for a safe and dependable water supply, the Parties agree that the exclusive remedy for default under this Agreement shall be for the non-defaulting Parties to individually or jointly seek specific performance arising from such default.

SECTION 9. SOVEREIGN IMMUNITY AND INDEMNIFICATION. The Parties intend to avail themselves of the benefits of Section 768.28, Florida Statutes, and any other statute and common law governing sovereign immunity to the fullest extent possible and nothing herein shall be construed as a waiver of sovereign immunity by these Parties. Additionally, Parties other than the Cooperative are not jointly or severally liable for any torts attributable to the Cooperative and only the Cooperative shall be liable for torts attributable to it or for the torts of its officers, agents, attorneys or employees under this Agreement, and then only to the extent of the waiver of sovereign immunity or limitation specified in Section 768.28, Florida Statutes, regardless of whether such claims are grounded in contract, statute, tort, negligence, product liability, strict liability, or otherwise. Finally, the Cooperative agrees to indemnify and hold the other Parties harmless from any injury that the Cooperative, the Project Board or its officers, agents, attorneys, employees or invitees sustain while carrying out the Cooperative’s obligations under this Agreement.

SECTION 10. APPLICABLE LAW, VENUE AND WAIVER OF JURY TRIAL.

This Agreement and the rights and obligations of the Parties are to be governed by, construed and interpreted in accordance with the laws of the State of Florida. In the event of any legal proceeding arising under this Agreement, the exclusive venue for such proceeding shall be either in a State court of competent jurisdiction located in Polk County, Florida or the United States District Court in and for the Middle District of Florida, Tampa Division. In any such legal proceeding, the Parties hereby consent to trial by the court and waive the right to a jury trial as to any issues that are triable before a jury.

SECTION 11. NOTICES.

11.1 All notices provided for in this Agreement must be in writing and shall be sufficient and deemed to be given when sent by certified mail or registered mail, return receipt requested. A copy shall also be sent to the Party by email. All notices shall be delivered or sent to the Parties at their respective addresses shown in the Combined Projects Implementation Agreement.

11.2 All notices shall also be sent to the Project Board.

11.3 Any Party, may, by notice in writing given to the others, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice shall be deemed given on the date such notice is delivered by hand (or facsimile transmission) or three (3) days after the date mailed.

SECTION 12. DISCLAIMER OF THIRD-PARTY BENEFICIARIES. This Agreement is solely for the benefit of the Parties and no right or cause of action shall accrue to or for the benefit of anyone that is not a Party hereto. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give any person or entity, other than the Parties any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of and shall be binding upon the Parties.

SECTION 13. AMENDMENT. The Agreement may only be amended in writing executed by all the Parties.

SECTION 14. WAIVER. No failure by a Party to exercise any right, power or privilege under this Agreement is a waiver of that or any other right, power or privilege under this Agreement, except as otherwise expressly set forth in the Agreement.

SECTION 15. SEVERABILITY. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, it shall be considered deleted, and shall not invalidate the remaining provisions. However, if the deleted language is considered a key provision of the Agreement, the Parties must agree to a substitute provision that will accomplish the intent of the Parties. If the Parties cannot agree to a substitute provision

within ninety (90) days of the determination by the court, then the Agreement shall be deemed terminated.

SECTION 16. ENTIRE AGREEMENT. This Agreement, including Exhibits, constitutes the entire contract among the Parties pertaining to the subject matter hereof, and there are no warranties, representations or other agreements in connection with the subject matter hereof, except as specifically set forth herein.

SECTION 17. EXECUTION OF DOCUMENTS. This Agreement shall be executed in multiple duplicate copies, any of which shall be regarded for all purposes as an original and all of which shall constitute one and the same instrument.

SECTION 18. AMBIGUITY. The Parties agree that each has played an equal part in negotiation and drafting of this Agreement, and in the event ambiguity should be asserted or realized in the interpretation or construction of this Agreement, the result of such ambiguity shall be equally assumed and realized by each Party.

SECTION 19. RELATIONSHIP OF THE PARTIES. Nothing herein shall make any Party a partner or joint venturer or create any fiduciary relationship among the Parties.

SECTION 20. GOOD FAITH. The Parties hereto agree to exercise good faith and fair dealings in respect to all matters relating to this Agreement.

SECTION 21. FURTHER ASSURANCES. The Parties shall use all reasonable efforts to provide such information, execute such further instruments and documents and take actions as may be reasonably requested by another Party and not inconsistent with the provisions of this Agreement and not involving the assumption of obligations or liabilities different from, in excess of, or in addition to those expressly provided for in this Agreement to carry out the intent of this Agreement.

SECTION 22. PUBLIC RECORDS. Should any Party assert any exemption to, or inapplicability of, the requirements of Chapter 119 and related statutes, the burden and cost of establishing such an assertion, by way of injunctive or other relief as provided by law, shall be upon that Party. The Parties shall allow public access to all Project documents and materials that are subject to the requirements of Chapter 119, Florida Statutes or claim that a document does not constitute a public record, the burden of establishing such an exemption or excluding a document as a public record, by way of injunctive or other relief as provided by law, shall be upon the Party asserting the exemption or the claim that a document does not constitute a public record. Additionally, nothing in this Agreement shall be construed nor is intended to, expand the scope of Chapter 119, Florida Statutes or make into a public record a document that is not a public record under the applicable law.

SECTION 23. NON-PARTICIPATING MEMBER GOVERNMENTS. This Agreement is not binding upon and cannot negatively affect a Member Government, who

is not a Party to the Agreement nor shall a Member Government, who is not a Party to the Agreement, incur any liability under this Agreement solely by virtue of being a Member Government of the Cooperative.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed and entered into as of the Effective Date:

CITY COMMISSION OF THE
CITY OF AUBURNDALE, FLORIDA

By: _____
Timothy J. Pospichal, Mayor

Date: _____

ATTEST:

By: _____
Shirley Lowrance, City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Fredrick J. Murphy, Jr., City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed and entered into as of the Effective Date.

CITY COMMISSION OF THE
CITY OF BARTOW, FLORIDA

By: _____
Scott Sjoblom Coler, Mayor

Date: _____

ATTEST:

By: _____
Jacqueline Poole, City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Sean Parker, City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed and entered into as of the Effective Date.

CITY COMMISSION OF THE
CITY OF DAVENPORT, FLORIDA

By: _____
H. B. Robinson, III, Mayor

Date: _____

ATTEST:

By: _____
Rachel Castillo, City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Thomas A. Cloud, City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed and entered into as of the Effective Date.

CITY COMMISSION OF THE
CITY OF EAGLE LAKE, FLORIDA

By: _____
Cory Coler, Mayor

Date: _____

ATTEST:

By: _____
Dawn Wright, City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Jeffrey Dawson, City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed and entered into as of the Effective Date.

CITY COMMISSION OF THE
CITY OF FORT MEADE, FLORIDA

By: _____
Samuel Berrien, Mayor

Date: _____

ATTEST:

By: _____
Melissa Cannon, Deputy City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Thomas A. Cloud, City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed and entered into as of the Effective Date.

CITY COMMISSION OF THE
CITY OF FROSTPROOF, FLORIDA

By: _____
Jon Albert, Mayor

Date: _____

ATTEST:

By: _____
Audrey Figel, City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Albert C. Galloway, Jr., City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed and entered into as of the Effective Date.

CITY COMMISSION OF THE
CITY OF HAINES CITY, FLORIDA

By: _____
Morris L. West, Mayor

Date: _____

ATTEST:

By: _____
Erica Anderson, City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Frederick J. Reilly, City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed and entered into as of the Effective Date.

CITY COMMISSION OF THE
CITY OF LAKE ALFRED, FLORIDA

By: _____
Nancy Z. Daley, Mayor

Date: _____

ATTEST:

By: _____
Linda Bourgeois, City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Frederick J. Murphy, City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed and entered into as of the Effective Date.

CITY COMMISSION OF THE
CITY OF LAKE WALES, FLORIDA

By: _____
Eugene L. Fultz, Mayor

Date: _____

ATTEST:

By: _____
Jennifer Nanek, City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Albert C. Galloway, Jr., City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed and entered into as of the Effective Date.

CITY COMMISSION OF THE
CITY OF LAKELAND, FLORIDA

By: _____
William "Bill" Mutz, Mayor

Date: _____

ATTEST:

By: _____
Kelly Koos, City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Palmer Davis, City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed and entered into as of the Effective Date.

CITY COMMISSION OF THE
CITY OF MULBERRY, FLORIDA

By: _____
George H. Hatch, Mayor

Date: _____

ATTEST:

By: _____
Sharon Lauther, City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Frederick J. Murphy, City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed and entered into as of the Effective Date.

POLK CITY, FLORIDA, a Florida Municipal Corporation

By: _____
Joseph LaCascia, Mayor

Date: _____

ATTEST:

By: _____
Patricia R. Jackson, City Clerk

APPROVED AS TO FORM & LEGALITY:

Thomas A. Cloud, City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed and entered into as of the Effective Date.

CITY COMMISSION OF THE
CITY OF WINTER HAVEN, FLORIDA

By: _____
Bradley T. Dantzler, Mayor

Date: _____

ATTEST:

By: _____
Vanessa Castillo, City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Frederick J. Murphy, City Attorney

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed and entered into as of the Effective Date.

TOWN COMMISSION OF THE
TOWN OF DUNDEE, FLORIDA

By: _____
Samuel Pennant, Mayor

Date: _____

ATTEST:

By: _____
Jenn Garcia, City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Frederick J. Murphy, Town Attorney

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed and entered into as of the Effective Date.

TOWN COMMISSION OF THE
TOWN OF LAKE HAMILTON, FLORIDA

By: _____
Michael Kehoe, Mayor

Date: _____

ATTEST:

By: _____
Brittney Sandovalsoto, City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

Jeffrey Dawson, Town Attorney

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed and entered into as of the Effective Date.

ATTEST:
of

POLK COUNTY, a political subdivision
The State of Florida
as a Project Participant.

Stacy M. Butterfield
Clerk to the Board of County Commissioners

By:

By: _____
Deputy Clerk

W.C. Braswell, Chair
Board of County Commissioners

Dated and signed by the Chairman: _____

Reviewed as to form and legal sufficiency:

County Attorney's Office

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed and entered into as of the Effective Date.

POLK REGIONAL WATER COOPERATIVE

By: _____
George Lindsey, Vice-Chair

Date: _____

ATTEST:

By: _____
William "Bill" Mutz, Secretary/Treasurer

APPROVED AS TO FORM AND CORRECTNESS:

Edward P. de la Parte, Jr., Legal Counsel

February 16, 2022 Polk Regional Water Cooperative Regular Meeting
Agenda Item #1

SUBJECT

Southeast Wellfield Implementation Agreement amendment (ACTION ITEM)

DESCRIPTION

In April of 2021, the Cooperative board approved the agreement for the implementation of the Southeast Wellfield final design and construction ("Implementation Agreement"). Since that time, staff, PRWC financial consultants, and members of the PRWC Funding Group have made significant progress to advance the grant and loan programs necessary to fund the project. As part of this process, the Implementation Agreement has been reviewed by Florida Department of Environmental Protection (FDEP), U.S. Environmental Protection Agency (EPA), and Southwest Florida Water Management District (SWFWMD) staff for consistency with the SRF loan, WIFIA loan, and SWFWMD cofunding programs. As a result of this review, modifications to the agreement have been suggested which would ensure the highest rating and to meet the financing and grant requirements of various agencies. These suggestions have been provided to PRWC member staff and legal counsel. Modifications have been made to the Implementation Agreement to address these concerns.

Attachments to this agenda item include:

- Outline of Major Amendments to SEWF and WPLFA Implementation Agreements
- Memorandum from Michael Wiener (Holland & Knight LLP) and Julie Santamaria (RBC Capital Markets) detailing suggested modifications to ensure the highest rating and to meet the financing requirements of WIFIA and other potential lenders.
- Letter from SWFWMD Executive Director Brian Armstrong regarding the Draft Cooperative Funding Agreement.

These attachments are also relevant to the West Polk Lower Floridan Aquifer Implementation Agreement.

If consensus approval is given regarding the changes, the amended Implementation Agreement will be distributed to member governments for their Commissions consideration and approval and for allocation request (2045 demand quantity) updates.

Staff asks that member governments take this to their Commissions for consideration prior to the March 16, 2022 PRWC BOD meeting.

RECOMMENDATION

Staff recommends distributing the Implementation Agreement to member governments as amended to confirm acceptance, participation and requested allocation.



**POLK REGIONAL
WATER COOPERATIVE**

Implementation Agreement Modifications

Agenda

- PRWC Accomplishments
- Lessons from the Past
- Water Supply Needs
- Implementation Agreement Changes
- Discussion

Regional strength pays off

- “Cooperative” means leveraging funding.
- WIFIA loan invitation.
- Historic state appropriations.
- 50% District match.

PRWC Accomplishments

109

G.1.a

Identified water supply challenge

Formed countywide cooperative to respond and meet growing demands

Selected and studied 4 AWS projects to determine infrastructure needs

Continues to meet SWFWMD grant criteria

Preparing for final design and construction of Southeast and West Polk Wellfields

\$22+ million in investments so far



Learning from the Past

Tampa Bay Water

- 1994 emergency order required reduction of over-pumping
- Decades and \$10s of millions spent on litigation resulted in a settlement agreement
- Pumping from 11 facilities was reduced by nearly 50%

PRWC

Prevent impacts to the natural environment due to over-pumping

Proactive approach to developing AWS can avoid millions in costly litigation

Current collaborative approach means **50% District co-funding** and favorable loan terms

Allows **time** to develop AWS solutions and implement other cost-savings measures

By the numbers



**POLK REGIONAL
WATER COOPERATIVE**

111

G.1.a

103.5 MGD

Water County needs
by 2045

82.5 MGD

21 MGD

82.5 MGD available from
Upper Floridan Aquifer

12.5 MGD

10 MGD

21 MGD must come from
non-traditional or AWS

12.5 MGD

10 MGD

Southeast and West Polk
Wellfields can meet needs

Attachment: 20220216_IA (18232 : Southeast Wellfield

AWS is More Costly to Produce



- Alternative water supplies (surface, reclaimed, brackish) require more treatment
- Additional treatment is more costly
- Conservation can defer costly investment
- **Regional collaboration can help lower costs**

Southeast Wellfield – Phase 1

\$346M = Cost for design and construction of treatment facility plus transmission pipelines, land acquisition, injection wells



- 5 MGD of drinking water in 2026
- Desalination by reverse osmosis
- Preliminary design completed October 2021
- Final design to initiate March 2022
- Meets all requirements for SWFWMD grant and WIFIA loan funding

West Polk Wellfield – Phase 1

\$129M = Cost for design and construction of treatment facility plus transmission pipelines, land acquisition, injection wells



- 2.5 MGD of drinking water in 2027
- Desalination by reverse osmosis
- Preliminary design completed October 2021
- Final design to initiate October 2022
- Meets all requirements for SWFWMD grant and WIFIA loan funding

Funding and Financing Opportunities

SWFWMD Grants

- Resolution 15-07 appropriated \$40m
- Resolution 18-06 appropriated \$25m
- FY 2021 CFI funding for Southeast Wellfield
- **Cuts PRWC costs nearly in half.**

WIFIA Loan

- Up to \$235 million; covers remainder of member costs
- Federal guarantee – lower rates, fees, and costs
- Deferred repayment
- Loan amount tied directly to SWFWMD funding

Loan and grant surety must be demonstrated.

Funding and Financing Opportunities

State Appropriations

In 3 years, the State of Florida will have funneled \$20m to PRWC – more than all its member governments have received over the last 10 years in

SRF Loan

- Low interest
- Available immediately
- **But requires member action**

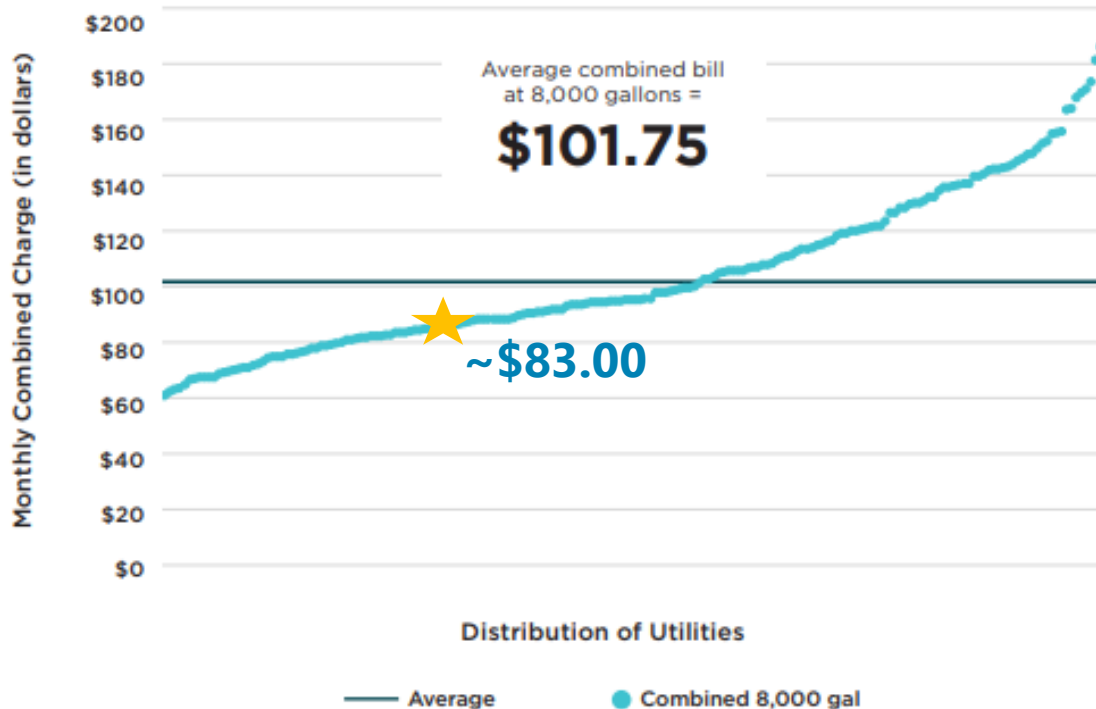
Rapid growth is driving the need for interim funding solutions

Future Water Rates

117

G.1.a

Combined Monthly Water and Wastewater Bill at 8,000 Gallons



- Water rates throughout the County are lower than the statewide average. Other communities are already relying on AWS
- After PRWC develops AWS, communities can expect to have water rates similar to the statewide average.

Attachment: 20220216_IA (18232 : Southeast Wellfield

Implementation Agreements

Originally Signed by participating members in April 2021

- Covered the Phase 1 Water Production Facilities and Transmission (design and construction)
- Necessary to secure lender surety
- Created mechanism to initiate final design
- **Are not sufficient to secure WIFIA and SRF Loans**

Why are there changes?

119

G.1.a

April 2021



Original Implementation Agreements Signed

May 2021



SWFWMD, EPA (WIFIA) and FDEP (SRF) provided feedback

August 2021



Memos distributed summarizing PRWC Bond Counsel and Financial Advisor recommended changes

December 2021



SWFWMD letter requesting changes to agreement

December 2021



Draft Southeast IA distributed to attorneys.

Attachment: 20220216_IA (18232 : Southeast Wellfield

Implementation Agreement Changes

Updated version Distributed 12/13/2021

- ✓ Cover the Phase 1 Water Production Facilities and Transmission (design and construction)
- ✓ Necessary to secure loans and grants
- ✓ Create mechanisms to initiate final design
- ✓ Are sufficient to secure WIFIA and SRF Loans

Updates Summary

- **Implements bond counsel and financial advisor suggestions**
 - Eliminates 60% off ramp (but Polk County commitment remains)
 - Makes SE and WP IAs uniform
 - Modifies Force Majeure and withdrawal provisions so that Project Participant is not excused from Base Rate Charge.
 - Creates “Reserves” to ensure continued payment of water charge, if a party temporarily withdraws; defines Reserve use.
 - Modifies “Operation and Maintenance Cost” to reflect costs without carve out.

Updates Summary

- **Updated effective date to eliminate conditions precedent**
- **Implements SWFWMD suggestions**
 - Cooperative is now a party to the agreement.
 - Proposes voting structure which requires majority vote of Project Board *and* Project Participants.
- **Addresses allocation changes***
 - Increases Dundee's allocation
 - To be updated to make Haines City a Project Participant

**To be verified and updated by membership*

Discussion



For questions or additional information, please
contact:

Ryan Taylor
Ed de la Parte
TeamOne

February 9, 2022

**AMENDED AND RESTATED IMPLEMENTATION
AGREEMENT
Southeast Wellfield Project**

THIS AMENDED AND RESTATED PROJECT IMPLEMENTATION AGREEMENT (the “Agreement”) is made and entered into as of the Effective Date as hereinafter defined, by and among the Polk Regional Water Cooperative (“Cooperative”), whose address is P.O. Box 9005, Bartow, Florida 33831, the City of Auburndale whose address is P.O. Box 186, Auburndale, FL 33823, the City of Bartow whose address is P.O. Box 1069, Bartow, FL 33831, the City of Davenport whose address is P.O. Box 125, Davenport, FL 33836, the City of Eagle Lake whose address is P.O. Box 129, Eagle Lake, FL 33839, the City of Fort Meade whose address is P.O. Box 856, Fort Meade, FL 33841, the City of Haines City whose address is 620 E. Main Street, Haines City, FL 33844, the City of Lake Alfred whose address is 120 E Pomelo Street, Lake Alfred, FL 33850, the City of Lake Wales whose address is P.O. Box 1320, Lake Wales, FL 33859, the City of Lakeland whose address is 228 S Massachusetts Ave., Lakeland, FL 33801, the City of Mulberry whose address is P.O. Box 707, Mulberry, FL 33860, the City of Winter Haven whose address is P.O. Box 2277, Winter Haven, FL 33883, the Town of Dundee whose address is P.O. Box 1000, Dundee, FL 33838, the Town of Lake Hamilton whose address is P.O. Box 126, Lake Hamilton, FL 33851, Polk City, a Florida municipal corporation (fka “City of Polk City”), whose address is 123 Broadway Blvd SE, Polk City, FL 33868, and Polk County (“Polk County”), a charter county and political subdivision of the State of Florida, whose address is P.O. Box 9005, Bartow, Florida 33831, individually also referred to as a “Party” and collectively referred to as the “Parties”.

February 9, 2022

THE PURPOSE of this Agreement is to implement the design, permitting, construction, operation, maintenance and funding of the Southeast Wellfield, an Approved Water Project of the Cooperative.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, each to the other, receipt of which is hereby acknowledged, the Parties hereby agree, stipulate and covenant as follows:

1. DEFINITIONS. As used in this Agreement, the following terms shall have the following meanings, unless the context clearly requires otherwise:

1.1 “Agreement” means this Amended and Restated Implementation Agreement for the Southeast Wellfield Project, as it may be amended or restated from time to time.

1.2 “Alternative Procurement Methods” means alternatives to the separate design and construction mechanisms specified in Sections 7.3.7 and 8.3 such as “design build,” “construction management at risk” or “public-private partnership.”

1.3 “Base Rate Charge” means for any Fiscal Year, that component of the Water Charge computed according to Section 13.

1.4 “Bidding Budget” means the approved maximum cost for the award of construction contracts. A Bidding Budget is set at the completion of the final design for the Project infrastructure.

1.5 “Capital Cost” means fixed, one-time expenses incurred for the acquisition of real property, tangible property and intangible property, the construction of tangible personal property and other expenditures required for the production of water and other goods or the rendering of services in connection with the Project, including without limitation the Southeast Wellfield Refund Cost.

February 9, 2022

1.6 “Capital Replacement and Renewal Cost” means all costs incurred by the Cooperative for the ordinary renewal, replacement, upgrade and improvement of the Project, which are not paid from the proceeds of any Obligation and costs that will occur over the life of the Project for the assets comprising the Project.

1.7 “Combined Projects Implementation Agreement” means the Combined Projects Implementation Agreement with an effective date of May 1, 2017, including any amendments thereto.

1.8 “Cooperative” shall have the same meaning as in the Interlocal Agreement. Pursuant to and in accordance with the Interlocal Agreement, all powers, privileges, and duties vested in or imposed on the Cooperative with regards to the approval and implementation of the Project shall be exercised by the Project Board.

1.9 “Construction Budget” means the approved maximum cost for the actual construction of the Project infrastructure, including any contingency. The Construction Budget is set after Project bidding and selection of a contractor or contractors, and may be amended if needed subject to written change orders approved in writing by the Cooperative and the Contractor engaged by the Cooperative.

1.10 “Debt Service Cost” means the principal, redemption premium, if any, and interest due on Obligations and any recurring costs and expenses relating to Obligations, including but not limited to paying agent, registrar and escrow agent fees, credit enhancement fees and other charges, but only to the extent such cost and expenses are not otherwise reflected in the Capital Replacement and Renewal Cost, Fixed Operation and Maintenance Cost, Reserves and Variable Operation and Maintenance Cost

February 9, 2022

1.11 “Design Budget” means the preliminary estimated design and construction cost developed for the Project, which is established after completion of the Preliminary Design Report and before work on the final design.

1.12 “Director” shall have the same meaning as in the Interlocal Agreement.

1.13 “District” means the Southwest Florida Water Management District.

1.14 “Effective Date” means the date the Agreement takes legal effect as specified in Section 5.

1.15 “Excess Water” means Project Water that remains unallocated after completion of the process set forth in Sections 11.1.2.1 through 11.1.2.4.

1.16 “Fiscal Year” means a twelve (12) month period which commences on October 1 of each year and ends on the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year of the Cooperative.

1.17 “Fixed Operation and Maintenance Cost” means all Operation and Maintenance Cost other than Variable Operation and Maintenance Cost.

1.18 “Force Majeure Event” means an event not the fault of, and beyond the reasonable control of a Party claiming excuse when it is either impossible or extremely impracticable for such Party to perform the obligations imposed on it by this Agreement, by virtue of its effect on physical facilities and their operation or employees essential to such performance. Force Majeure Events include (a) an “act of God” such as an earthquake, flood, earth movement, pandemic, or similar catastrophic event; (b) an act of public enemy, terrorism, sabotage, civil disturbance or similar event; (c) a strike, work stoppage, picketing or similar concerted labor action; (d) delays in construction caused by unanticipated negligence or breach of contract by a third party or inability to obtain Project Permits or essential materials after

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diligent and timely efforts; or (e) an order or regulation issued by a federal, state, regional or local regulatory agency after the Effective Date or a judgment or order entered by a federal or state court after the Effective Date.

1.19 “Interlocal Agreement” means that Interlocal Agreement creating the Cooperative, with an effective date of June 1, 2016, including any amendments and supplements thereto.

1.20 “Member Government” shall have the same meaning as in the Interlocal Agreement.

1.21 “Meters” mean those certain water meters and appurtenant recording and transmitting devices to be installed and owned by the Cooperative, as required by Section 11, which are used to measure and bill the quantity of Project Water delivered to each Project Participant or the quantity of Water Offsets withdrawn by a Project Participant.

1.22 “MGD” means million gallons a day.

1.23 “Obligation” shall have the same meaning as in the Interlocal Agreement.

1.24 “Operation and Maintenance Cost” means any and all costs incurred by the Project Board in operating, maintaining and administering the Project, related operation maintenance management, security and development of the Project; labor and labor overhead cost; cost associated with tools, equipment, vehicles, supplies, materials, and services; the operation, maintenance, management, security and development of the Project, which are not a Capital Replacement and Renewal Cost or are payable from the proceeds of any Obligation. Operation and Maintenance Costs, to the extent not constituting a Capital Replacement and Renewal Cost or payable from the proceeds of any Obligation, include, but are not limited to any cost of litigation or legal judgment against the Cooperative relating to the Project; cost of purchasing any water

February 9, 2022

related to the Project; development expenses relating to expansion of the Project; all costs incurred in planning or applying for, obtaining, maintaining and defending Project Permits, which are not paid under Phase 1 of the Combined Projects Implementation Agreement; administrative, accounting, legal and engineering expenses related to the Project; ordinary and current rentals of equipment or other property related to the Project; refunds of moneys lawfully due to others, pension, retirement, health and hospitalization funds related to the Project; payments in lieu of taxes and impact fees, if applicable; moneys to be deposited to a Rate Stabilization Fund (if one is established); and administrative costs incurred by the Cooperative for management of the Project.

1.25 “Parties” mean the Cooperative, the City of Auburndale, the City of Bartow, the City of Davenport, the City of Eagle Lake, the City of Fort Meade, the City of Haines City, the City of Lake Alfred, the City of Lake Wales, the City of Lakeland, the City of Mulberry, the City of Winter Haven, the Town of Dundee, the Town of Lake Hamilton, Polk City, a Florida municipal corporation (fka “City of Polk City”) and Polk County.

1.26 “Points of Connection” means those points where the Project connects to the water supply system of a Project Participant or the point of connection where the Project Participant takes Water Offset.

1.27 “Project” means the Southeast Wellfield.

1.28 “Project Administrator” means the person or persons and/or alternate or alternates designated by the Cooperative pursuant to Section 7.2 to manage the Cooperative’s responsibilities under this Agreement.

1.29 “Project Associate” means a Party to this Agreement, who has elected to become a Project Associate in order to stay abreast of the status of the Project and enable them to make informed decisions about future participation as a Project Participant. A Project Associate

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has no financial responsibility or liability for the Project or voting rights but may inform the Cooperative about its future plans or needs for Project Water, and make comments and recommendations to the Project Board about the Project's direction and scope. A Project Associate is not a Project Participant as defined herein.

1.30 "Project Board" shall have the same meaning as in the Interlocal Agreement.

1.31 "Project Participant" means a Party to this Agreement, other than the Cooperative or a Project Associate, who has executed this Agreement for the purpose of implementing this Project, which includes the design, permitting, construction, operation, maintenance and funding of the Project and receipt of Project Water Service from the Cooperative.

1.32 "Project Permits" means all permits, licenses or other third-party approvals necessary or convenient for the acquisition, construction, management or operation of the Project, including all permits, licenses or other third-party approvals required so that a Project Participant may use Water Offsets.

1.33 "Project Water" means the finished water produced by the Project to help serve the potable water demands of the Project Participants and the Water Offset used by a Project Participant, who pursuant to the Project plan will not physically take finished water produced by the Project.

1.34 "Project Water Estimate" means the document submitted by each Project Participant to the Cooperative detailing the quantity of Project Water on an annual average daily flow basis, it requests to receive during the upcoming Fiscal Year, as specified in Section 11.1.1.

1.35 "Project Water Service" means the delivery of Project Water by the Cooperative to the Points of Connection for use by the Project Participants.

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1.36 “Project Yield” means the total quantity of Project Water that the Project can reasonably be expected to produce for Project Water Service to the Project Participants, which is expressed as an annual average rate or base production rate.

1.37 “Prudent Utility Practices” means any of the practices, methods and acts engaged in, or approved by, a significant portion of the public water supply utility industry in the United States of America during the relevant time period or any of the practices, methods and acts, which in the exercise of reasonable judgment in light of facts known, that should have been known, at the time the decision was made, or could have only been expected to accomplish the desired results at a reasonable cost consistent with applicable legal, engineering, reliability, safety and time requirements.

1.38 “PSI” means pounds per square inch.

1.39 “Reserves” means adequate monetary reserves established by the Cooperative to ensure the continued operation of the Project, in the event one or more Project Participants are unable to pay their Water Charge on a short term basis.

1.40 “Southeast Wellfield” means a new lower Floridan aquifer public supply wellfield to be located in southeast Polk County as permitted by Permit No. 53-00293-W issued from the South Florida Water Management District.

1.41 “Southeast Wellfield Refund Cost” means those costs incurred by Polk County in developing and permitting the Southeast Wellfield, as detailed in Exhibit “A” to this Agreement.

1.42 “True-up” means the process specified in Section 10 of this Agreement.

1.43 “Variable Operation and Maintenance Costs” means all Operation and Maintenance Costs that change in direct proportion to changes in the volume of finished water

February 9, 2022

produced by the Project, including, but not limited to, power, chemical, water purchases and Water Transfer Costs.

1.44 “Water Offset” means a quantity of upper Floridan aquifer, groundwater withdrawn by a Project Participant that will be offset by another Project Participant relinquishing its right under a District permit to withdraw from the upper Floridan aquifer as stated in the Project plan.

1.45 “Water Offset Cost” means the cost of producing Project Water used by one or more Project Participants for use as a Water Offset. The Water Charge paid by a Project Participant for the use of a Water Offset shall cover the cost of producing the Project Water.

1.46 “Water Allotment” means the quantity of Project Water that each Project Participant is entitled to receive from the Project as set forth in the table below. In the event the Project Yield is different from the totals listed in the Water Allotment Table, the Water Allotment for each of the Project Participants will be determined based on the Water Allotment Percentages set forth in this table.

2045 Water Allotment Table

Name of Party	2045 Water Allotment Annual Average (MGD)	2045 Water Allotment Percentage (%)
City of Auburndale	1.65	16.40%
City of Bartow	0.36	3.58%
*City of Davenport	Project Associate	
* City of Eagle Lake	Project Associate	
* City of Fort Meade	Project Associate	
City of Haines City		
City of Lake Alfred	0.43	4.27%
*City of Lake Wales	Project Associate	
City of Lakeland	0.10	0.99%
* City of Mulberry	Project Associate	
* Polk City	Project Associate	

Commented [Ed1]: Haines City intends to provide a water allotment prior to the PRWC Board meeting.

February 9, 2022

Name of Party	2045 Water Allotment Annual Average (MGD)	2045 Water Allotment Percentage (%)
City of Winter Haven	1.52	15.11%
Town of Dundee	2.60	25.84%
<i>*Town of Lake Hamilton</i>	<i>Project Associate</i>	
Polk County	3.40	33.81%
TOTAL	10.06	100.0000%

Commented [Ed12]: Dundee intends to provide a model allotment prior to the PRWC Board meeting.

1.47 “Water Charge” means for any Fiscal Year, the charge established by the Project Board pursuant to Section 13 for providing Project Water Service to the Project Participants. This charge is comprised of the Base Rate Charge and the Water Use Charge.

1.48 “Water Cost Proportionate Share” means for any Fiscal Year, that portion of the Base Rate Charge each Project Participant is obligated to pay. The Water Cost Proportionate Share shall be based on each Project Participant’s projected 2045 Water Allotment, as revised at least every five (5) years through the True-Up process set forth in Section 10 and/or the provisions set forth in Sections 11, 19 and 20 of this Agreement.

1.49 “Water Transfer Cost” means those costs incurred by the Cooperative in transmitting Project Water from the Southeast Wellfield to Project Participants.

1.50 “Water Use Charge” means for any Fiscal Year that component of the Water Charge computed according to Section 13.3.2.

1.51 “Weighted Vote Method” means that each Director is assigned a vote based on its Water Allotment percentage under the Water Allotment Table identified in Section 1.46.

2. PURPOSE OF THE AGREEMENT.

2.1 Overall Agreement. This Agreement governs the overall implementation of the Project, which includes design, permitting, construction, operation, maintenance and funding

February 9, 2022

of the Project and receipt of Project Water Service from the Cooperative. It is the intent of this Agreement that Project Water be used to help serve the needs of the Project Participants.

2.2 Interlocal Agreement. The Parties have entered into the Interlocal Agreement. In the event of a conflict between the Interlocal Agreement and this Agreement, the Interlocal Agreement shall control.

2.3 Other Agreements Not Affected by this Agreement. Any other agreement between some or all of the Parties not specifically referenced herein is not intended to be changed or affected by this Agreement. Additionally, nothing in this Agreement is intended to change any existing agreement, permit and/or other similar administrative matters between the District and any Party.

2.4 Project Participants and Project Associates. Each Party to this Agreement electing Project Associate status may at any time submit an election in writing to change its status to Project Participant. To receive Project Participant status, the Project Associate shall, prior to the end of the fiscal year, deliver to the Cooperative its Project Water Estimate and pay to the Cooperative its proportionate share of the Capital Cost, Capital Renewal and Replacement Cost, Debt Service Cost Fixed Operation and Maintenance Costs and Reserves, incurred to date by Project Participants, as well as 2.5% of its proportionate share of such costs expended to date. Those Member Governments who are not Project Associates, who wish to become Project Participants shall, prior to the end of the fiscal year, deliver to the Project Board its Project Water Estimate and pay to the Cooperative its proportionate share of the Capital Cost, Capital Renewal and Replacement Cost, Debt Service Cost, Fixed Operation and Maintenance Costs and Reserves, incurred to date by Project Participants, as well as 7.5% of its proportionate share of such costs expended to date. The right of a Project Associate or a Member Government who is not a Project

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Associate to become a Project Participant is subject to the availability of Project Water not committed to existing Project Participants.

3. CONSTRUCTION OF TERMS. Terms defined in a given number, tense or form shall have the corresponding meaning when used in this Agreement with initial capitals in another number, tense or form. References containing terms such as “hereof,” “herein,” “hereto,” “hereinafter” and other terms of like import are not limited in applicability to the specific provision within which such references are set forth, but instead refer to this Agreement taken as a whole. “Includes” or “including” shall not be deemed limited to the specific enumeration of items, but shall be deemed without limitation. The term “or” is not exclusive. The headings contained in this Agreement are solely for the convenience of the Parties. Accounting terms used but not defined herein have the meanings given to them under generally accepted accounting principles in the United States of America consistently applied throughout the specified period and in the immediately comparable period.

4. REPRESENTATIONS OF THE PARTIES. As of the Effective Date, each Party makes the following representations (no representation is made by any Party for another Party):

4.1 Status of the Parties. The Parties are each duly organized, validly existing and in good standing under the laws of the State of Florida and are each duly qualified and authorized to satisfy their responsibilities pursuant to this Agreement.

4.2 Authority to Enter Agreement. The Parties each have the power, authority and legal right to enter into and perform the obligations set forth in this Agreement, and the execution and delivery and performance hereof by the Parties: (1) has been duly authorized by the governing authority of each of the Parties; (2) does not require any consent or referendum of the voters; and, (3) does not constitute a default under, or result in the creation of any lien, charge,

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encumbrance or security interest upon, the assets of the Parties under any agreement or instrument to which the Parties and their assets may be bound or affected, except as otherwise provided herein.

4.3 Validity of the Contract. This Agreement has been duly entered into and delivered by the Parties as of the Effective Date, constitutes a legal, valid and binding obligation of the Parties, fully enforceable in accordance with its terms, except to the extent that the enforceability of this Agreement may be limited by any applicable bankruptcy, moratorium, reorganization or other similar laws affecting creditor's rights generally, or by the exercise of judicial discretion in accordance with general principles of equity.

4.4 Pending Litigation. There is no action, suit or proceeding, at law or in equity, before or by any court or governmental authority, pending against any Party, wherein an unfavorable decision, ruling or finding would materially and adversely affect the performance by any Party of their obligations hereunder or the other transactions contemplated hereby, or which, in any way, would adversely affect the validity or enforceability of the Agreement.

5. EFFECTIVE DATE. The Effective Date of this Agreement shall be the date when the Agreement is duly authorized and executed by the Parties.

6. TERM AND TERMINATION. The term of this Agreement shall begin on the Effective Date and remain in effect, unless terminated by written agreement of all the Parties. Termination shall not take place until all Obligations issued by the Cooperative with respect to the Project have been repaid, all cooperative funding agreements or grants received by the Cooperative have been completed, and any other funding mechanisms used to pay for construction, operation or maintenance of the Project have been successfully concluded.

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7. PROJECT ADMINISTRATION.

7.1 Project Administration. The Cooperative shall have overall responsibility for implementing the terms of this Agreement. All the powers, privileges and duties vested in or imposed on the Cooperative with regard to implementation of the Project shall be exercised through the Project Board; provided, however, that the exercise of any and all executive, administrative and ministerial powers regarding the Project may be delegated by the Project Board. All decisions of the Project Board shall be by majority vote of a quorum of the Project Board using the Weighted Vote Method specified in this Agreement, which vote must include at least a majority of the Project Participants.

7.2 Project Administrator. No later than thirty (30) days from the Effective Date of this Agreement, the Project Board shall designate the name, address, phone number, fax number and email address of its Project Administrator. The Project Administrator may be changed at any time by the Project Board. The Project Administrator shall act as the Cooperative's representative with regard to implementation and management of the Project.

7.3 Performance Standards. The following performance standards shall apply to the Cooperative when implementing this Project:

7.3.1 Defend any challenge or protest filed with regard to procurement decisions made pursuant to this Agreement, including the retention of outside legal counsel to defend the action.

7.3.2 Manage the construction, operation and maintenance of the Project in accordance with the requirements of this Agreement.

7.3.3 Procure, prepare and execute contract(s) with technical consultant(s) selected pursuant to this Agreement.

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7.3.4 Manage the activities of the technical consultant(s) or other professional(s) to assure that the requirements of this Agreement are met.

7.3.5 Manage the review of interim and final deliverables.

7.3.6 Prepare bids, select bidders and enter into construction contracts as required pursuant to this Agreement.

7.3.7 Approve the use of Alternative Procurement Methods, as specified in Section 8.4, for design and construction of the Project.

7.3.8 Manage the activities of the contractor(s) to assure that requirements of this Agreement are met.

7.3.9 Process and pay invoices from consultants, other professionals and contractors.

7.3.10 Initiate and process funding requests to the Project Participants for implementation of the Project.

7.3.11 Issue Obligations, if required, to fund the construction of the Project.

7.3.12 Implement any alternative financing mechanisms.

7.3.13 Conduct the True-Up process specified in Section 10.

7.3.14 Prepare and distribute the Water Charge each Fiscal Year to the Parties.

7.3.15 Receive and account for funds received from the Parties in connection with this Project.

7.3.16 Take legal action, if necessary, to require payment of the Water Charge by each Party.

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7.3.17 Apply for, receive and account for grant funds received from federal, state, regional or local sources in connection with the Project.

7.3.18 Submit or modify applications for Project Permits. Respond to requests for additional information or clarification from regulatory agencies and provide information as needed to finalize Project Permit applications. Obtain all the Project Permits.

7.3.19 Submit applications to modify or renew Project Permits issued in connection with the Project. Respond to requests for additional information or clarification from regulatory agencies and provide information as needed to finalize applications to modify or renew Project Permits. Obtain all modifications or renewals of Project Permits.

7.3.20 Communicate with regulatory agencies and other interested persons and attend meetings as needed to obtain all the Project Permits, including any modification or renewal.

7.3.21 Negotiate the terms of any Project Permit, including any modification or renewal or permit conditions with the regulatory agencies.

7.3.22 Maintain any Project Permit issued in connection with the Project, including, but not limited to, complying with all permit conditions.

7.3.23 Defend any challenge or protest filed with regard to any Project Permit, including the retention of outside legal counsel to defend the action.

7.3.24 Undertake legal actions as necessary to further the work authorized under this Agreement, including the retention of outside legal counsel to defend the action.

8. PROJECT IMPLEMENTATION. The following stages shall be followed to implement the Project. The Cooperative shall procure a consultant or consultants to perform all or a portion of the professional services needed for each stage described below.

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8.1 Final Design and Bidding Stage.

8.1.1 Upon selection of the consultant(s), the Project Administrator shall obtain a scope and fee from the consultant for the final design and Bidding Budget and shall present it to the Project Board for approval.

8.1.2 The Cooperative shall require the consultant to prepare (1) a final design in relative conformance with the Project Preliminary Design Report, and (2) a Bidding Budget based on the final design. The final design shall include a 100% final design. The 100% final design shall include design specifications, design drawings, the final Bidding Budget, and an estimate of real estate acquisition costs.

8.1.3 Once the consultant has completed the 100% final design, the Project Administrator will present it to the Project Board the final design and a Bidding Budget based on the final design for approval..

8.1.4 The engineering consultant will apply for and obtain any Project Permits not obtained before the Effective Date, with the exception of those that are to be obtained by the construction contractor.

8.1.5 Project Participants will develop funding mechanisms as required for their individual sufficient fiscal obligations to the Project.

8.1.6 Upon approval of the final design and Bidding Budget by the ProjectBoard, the Project Administrator will procure bids from contractors to construct the Project and the ProjectAdministrator will obtain a scope and fee from the consultant for its services for the Constructionstage for construction phase, post construction phase and administration services for approval by the Project Board.

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8.1.7 The Project Administrator shall present both the selected contractor and Construction Budget, and the engineering consultant's fee for construction administration to the Project Board for approval.

8.1.8 To encourage Member Governments to initially execute this Agreement as Project Participants, Polk County will pay the 60% final design cost share for any Member Government who does not join this Agreement as a Project Participant. If after Polk County has paid the 60% final design costs for a Member Government that Member Government later seeks to become a Project Participant, it shall first reimburse Polk County the respective 60% final design cost Polk County paid to the Cooperative on behalf of that Member Government, together with interest accruing at the rate payable for judgments pursuant to Florida Statutes, section 55.03, from the date Polk County paid the design costs through the date the Member Government fully pays the amount owed to Polk County.

8.2 Real Estate Acquisition Stage. The Cooperative shall acquire any real property interests necessary to implement the Project, subject to the limitations of the Interlocal Agreement.

8.3 Project Construction Stage. The Project Construction Phase begins upon completion of the Final Design and Bidding Stage. The Project Board shall make all decisions regarding the procurement of a contractor or construction manager at risk to construct the Project. The Project Administrator shall submit all change orders to the Project Board for approval unless otherwise designated by the Project Board.

8.4 Alternative Procurement Methods. The Project Board may approve the use of Alternative Procurement Methods as allowed by Florida Statutes including Chapters 255 and

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287, in place of the separate design and construction mechanisms described in Sections 8.1 and 8.3, including the procurement of a construction manager at risk.

8.5 Project Operation and Maintenance Stage. The Cooperative, upon completion of project construction, shall at all times operate and maintain the Project facilities in its ownership in accordance with Prudent Utility Practices.

8.6 Project Funding. A portion of the Project costs is expected to be reimbursed through cooperative funding from the District. The Cooperative anticipates issuing Obligations that will be used to pay the costs of the Project prior to reimbursement from the District of such Project costs. The Cooperative covenants to not issue Obligations in an amount that exceeds the amounts which the District has agreed to reimburse for such Project costs, which agreement by the District may be subject to such conditions precedent to funding, including appropriation and approval of reimbursement requests.

9. OWNERSHIP. The Cooperative shall own the Project facilities, including the water treatment plant and transmission lines up to and including the Points of Connection. Ownership does not include any infrastructure or facilities owned by Project Participants as of the time of the execution of this Agreement.

10. TRUE-UPS.

10.1 Additions, assignments and substitutions. Before the beginning of each fiscal year, the Project Board will consider for approval any proposed additions, assignments, and substitutions proposed under the process set forth in Section 20.

10.2 Construction phasing. At least every 5 years after the Effective Date of this Agreement, the Project Board will determine the size and timing for constructing the next phase and/or sub-phase of the Project. Any additions, substitutions, assignments, or revisions to the size

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and timing of construction phases or sub-phases must be approved by the Project Board and reflected in an Amendment to this Agreement.

10.3 Expansions and Capital Cost. The Project is permitted for 30 MGD and is proposed to be developed in phases, the first of which will provide approximately 10.06 MGD of finished water availability for Project Participants. Some components of the Project will be constructed to accommodate water production expansion and future development. Therefore, Project Participants will pay Capital Costs and commit to pay Obligations for certain Project components which will benefit the current Project Participants and the Project Participants of future Project expansions (“Common Capital Components”). For each expansion, the Capital Costs and Obligation commitments the Project Participants have made for the Common Capital Components will be re-allotted among all Project Participants of any future Project expansion in accordance with the then-current Water Allocation Table, and the then- current Project Participants shall reimburse the initial Project Participants for that portion of the Capital Costs and Obligation commitments paid for Common Capital Components which benefit the expansion Project Participants. Each time there is an expansion there shall be a similar re-allotment of Capital Costs and Obligation commitments for Common Capital Components based on the new Water Allocation Table and a reimbursement to existing Project Participants for Capital Costs and Obligation commitments paid for Common Capital Components which benefit the expansion Project Participants.

10.4 Water Use Charge. The True-Up of the Water Use Charge is as outlined in Section 13.5.

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10.5 Actual Use Data. During any True-Up process, the costs made true between the Project Participants shall be based upon new data or actual figures reflecting actual use versus estimates.

10.6 Water Allotments. At least once in every 5 year period after the Effective Date of this Agreement, and at any time that a Project Participant's 2045 Water Allotment increases, the Cooperative shall conduct a true-up of the Water Allotment table and of each Project Participant's Water Cost Proportionate Share to reflect the most current data, use and allotment estimates.

11. PROJECT WATER SERVICE.

11.1 Delivery of Project Water Service. During each Fiscal Year, starting with the Fiscal Year in which the Project Water Service is scheduled to commence, the Project Board shall provide Project Water Service to the Project Participants, as follows:

11.1.1 Delivery of Project Water Estimates. Each Project Participant desiring to take Project Water shall deliver to the Project Administrator its Project Water Estimate for the upcoming Fiscal Year on or before May 1. The Project Water Estimate shall identify the quantity of Project Water, at an annual average daily rate, the Project Participant requests the Project Board to deliver to its Point of Connection during the upcoming Fiscal Year or the quantity of Water Offset, at an annual average daily rate that the Project Participant requests to use during the upcoming Fiscal Year. A Project Water Estimate must include all the water a Project Participant will need. The Project Administrator shall send a written reminder to the Project Participants on or before April 1, if a Project Water Estimate has not been received from that Project Participant. If a Project Participant fails to deliver a Project Water Estimate to the Project Administrator by

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May 1, then the Project Participant shall be deemed to have requested its full Water Allotment for the upcoming Fiscal Year.

11.1.2 Prioritization of Project Water. In the event the total quantity of Project Water requested in the Project Water Estimates exceeds the Project Yield, the available Project Water will be allotted by the Project Board according to the following priority schedule:

11.1.2.1 Every Project Participant with a Water Allotment shall be allowed to take up to its full Water Allotment from the Project.

11.1.2.2 Every Project Participant with a Water Allotment shall be allowed to take water in excess of its Water Allotment as long as the Project Participant has received all or a part of another Project Participant's Water Allotment for the upcoming Fiscal Year. Any transfer of Water Allotments shall be in writing and executed by both Project Participants and shall be included with the Project Estimates submitted by both Project Participants. Any transfer of Water Allotments between Project Participants must be reviewed and approved by the Project Board as to technical feasibility.

11.1.2.3 In the event a Project Participant with a Water Allotment delivers a Project Water Estimate to the Project Board indicating its intent to take a Water Offset during the upcoming Fiscal Year in an amount not exceeding its Water Allotment, a Project Participant may voluntarily request a Water Offset in its Project Water Estimate in order to offset the quantity of Water Offset used by another Project Participant. The request by a Project Participant in its Project Water Estimate to take a Water Offset must be reviewed and approved by the Project Board as to technical feasibility.

11.1.2.4 If there is Excess Water available for use by Project Participants after the available Project Water has been allocated pursuant to Sections 11.1.2.1

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through 11.1.2.4, then the Excess Water will be allocated among the Project Participants requesting Project Water on a pro rata basis.

11.2 System Operation. The Cooperative shall at all times maintain the Project in accordance with Prudent Utility Practices. The Cooperative shall adopt an adequate budget to pay for all Operation and Maintenance Costs for the Project as required to provide Project Water Service, as set forth in this Agreement. The Cooperative shall provide sufficient personnel, with appropriate experience and credentials to undertake all regulatory requirements imposed with regard to the Project, while providing for reliable operations and maintenance. If new regulatory requirements necessitate capital improvements, the Cooperative shall take all necessary actions to accomplish the same. The Cooperative shall be responsible for all regulatory violations, including compliance costs or penalties assessed for same, which arise out of or are solely created through 1) material errors or omissions by its personnel or agents in the day-to-day operations of the Project; or, 2) the failure of the Cooperative to timely proceed administratively to undertake or complete a requirement imposed by any regulatory agency in any consent order or Project Permit. The Cooperative shall maintain adequate catastrophic insurance on the Project on such terms and amounts as established by the Project Board.

11.3 Water Quality. The Cooperative shall deliver Project Water to each Project Participant's Point of Connection that: (1) is stabilized and of good and uniform quality; (2) meets all applicable federal and state drinking water standards and regulations, including, but not limited to the standards set forth in Chapter 62-550, Florida Administrative Code, as may be amended or superseded from time to time; and, (3) meets whatever disinfection and treatment techniques under this Agreement or set forth in Phase 1 of the Combined Projects Implementation Agreement. This Section 11.3 shall not apply to Water Offsets used by a Project Participant.

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11.4 Water Pressure. The Cooperative shall deliver Project Water to each Project Participant's Point of Connection at a minimum pressure of 30 PSI. This Section 11.4 shall not apply to Water Offsets used by a Project Participant.

11.5 Project Permits. The Cooperative, shall obtain, renew, maintain and modify, if necessary, all Project Permits required for the operation and maintenance of the Project and to ensure that Project Water Service will be provided to the Project Participants under the terms of this Agreement.

11.6 Acquisition of Real Property. The Cooperative shall use its best efforts to acquire all interests in real and personal property (if any) necessary for expansion, construction, management and operation of the Project, in a manner consistent with the Interlocal Agreement.

11.7 Compliance with the Law. The Parties shall comply with all laws, rules and regulations applicable to this Agreement and its obligations thereunder.

12. POINTS OF CONNECTIONS AND METERING FACILITIES.

12.1 Points of Connection. The Points of Connection and the location of the Meters used for the delivery of Project Water to the Project Participants will be identified by the Cooperative for those Project Participants with a Water Allotment under the Water Allotment Table set forth above. This requirement applies equally to those Project Participants that will physically take Project Water and those Project Participants that will take Water Offsets. The Cooperative and a Project Participant may, by mutual agreement, more specifically identify or modify the Point of Connection or the location of the corresponding Meter.

12.2 Installation and Maintenance of Meters. The quantity of Project Water delivered by the Cooperative to each Point of Connection or the quantity of Water Offsets taken by a Project Participant shall be exclusively measured by a Meter. The Cooperative shall own,

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install, maintain and read each Meter. The type of Meter shall be selected at the discretion of the Cooperative, subject to compliance with industry standards for similar Meters.

12.3 Inspection of Meters. Each Meter shall be inspected annually and an inspection report shall be prepared at the conclusion of each inspection detailing the condition and accuracy of each Meter. Each inspection shall be performed by a representative of the manufacturer or other certified, competent entity agreeable to the Cooperative and the Project Participants and a copy of each inspection report shall be furnished to all Project Participants. Upon request of a Project Participant, the Cooperative shall make arrangements for a test of the Meter installed at the Project Participant's Point of Connection by an independent testing entity. The Cooperative shall be responsible for selecting and engaging the independent testing entity. All costs and expenses shall be borne by the Project Participant requesting the test, unless the Meter is found to be inaccurate beyond the manufacturer's guaranteed range of accuracy, in whichcase, the cost and expense of the test shall be borne by the Cooperative and such cost may not be passed along to the Project Participant requesting the test, as part of the Water Charge.

12.4 Meter Inaccuracy. Should the Meter be determined to be inaccurate beyond the manufacturer's guaranteed range of accuracy, the Cooperative shall repair or replace the malfunctioning Meter at its earliest convenience, recognizing that time is of the essence. Additionally, the Meter shall be assumed to have been inaccurate since the last inspection or test and the following month's billing will be adjusted taking into account the nature of the inaccuracy to show a credit or additional charge to the Project Participant for the metered flow for the time interval between the date of the last Meter accuracy inspection or test and the date the Meter was corrected.

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13. WATER CHARGE. For each Fiscal Year, the Project Participants shall pay to the order of the Cooperative the applicable Water Charge as follows:

13.1 General. The Water Charge shall be sufficient to pay the Debt Service Costs, Capital Renewal and Replacement Costs, Fixed Operation and Maintenance Costs, Reserves and Variable Operation and Maintenance Costs incurred by the Cooperative in order to provide Project Water Service to the Project Participants for the upcoming Fiscal Year. The Water Charges shall consist of a Base Rate Charge and a Water Use Charge. The Water Charge shall be computed in the manner specified in Section 13.3, prior to the upcoming Fiscal Year and the Project Participants shall be notified of the Water Charge for the upcoming Fiscal Year in the manner provided in Section 13.2. Establishment of the Water Charge shall be made by the Project Board and the Project Board's decision shall not be subject to supervision or regulation by any commission, board, bureau, agency, municipality, county or political subdivision of the State of Florida.

13.2 Notification of Water Charge. On or before May 31 prior to the Fiscal Year in which the Project Water Service is scheduled to commence and on or before every May 31st thereafter, the Cooperative shall provide the Project Participants the Water Charge for the upcoming Fiscal Year. The Water Charge shall be accompanied by a report detailing the manner in which the Water Charge was computed for the upcoming Fiscal Year. In lieu of a report, the basis for the Water Charge may be detailed in the annual budget adopted by the Project Board for this Project for the upcoming Fiscal Year.

13.3 Establishment of Water Charge. The Water Charge shall be established as follows:

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13.3.1 Base Rate Charge. The Base Rate Charge shall be computed as follows:

13.3.1.1 The Cooperative shall estimate the Debt Service Cost, the Capital Renewal and Replacement Cost, Fixed Operation and Maintenance Cost, Reserves and Variable Operation and Maintenance Cost required to meet the cash needs of the Project for the upcoming Fiscal Year.

13.3.1.2 The Base Rate Charge shall consist of the total of the Debt Service Cost, Capital Renewal and Replacement Cost, Fixed Operation and Maintenance Cost and Reserves determined pursuant to Section 13.3.1.1. The Base Rate Charge shall be allocated among each Project Participant based upon each Project Participant's Water Allotment Percentage identified in the then effective Water Allotment Table in Section 1.46, as it may be modified pursuant to Section 10, for the upcoming Fiscal Year.

13.3.1.3 The Base Rate Charge allotment computed for each Project Participant pursuant to Section 13.3.1.2 shall be increased by any underpayment or decreased by any overpayment determined pursuant to Sections 13.5 and/or 10 of this Agreement.

13.3.2 Water Use Charge. The Water Use Charge shall be computed as the Variable Operation and Maintenance Cost determined pursuant to Section 13.3.1.1 divided by the total of all the Project Water Estimates submitted by the Project Participants for the upcoming Fiscal Year and expressed as a cost per thousand (1,000) gallons of water.

13.4 Payment of the Water Charge. For each Fiscal Year, the Project Participants shall pay the Water Charge as follows:

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13.4.1 The Project Participants shall pay their individual Base Rate Charge allotment as specified in Section 13.3.1 in twelve (12) equal monthly payments during each calendar month starting in October and ending on the following September.

13.4.2 The Project Participants shall pay their Water Use Charge on a monthly basis. Each Project Participant's monthly payment shall be determined by multiplying the actual amount of Project Water delivered by the Project Board to the Project Participant's Point of Connection during the prior calendar month by the Water Use Charge identified in Section 13.3.2.

13.5 Accounting, Audits and Adjustments for Actual Expenses and Water Use. The Cooperative shall maintain accounts and records of actual water use by the Project Participants, all revenue received from all sources to meet the cash needs of the Project and the actual Debt Service Costs, Capital Renewal and Replacement Costs, Fixed Operation and Maintenance Costs, Reserves and Variable Operation and Maintenance Costs incurred with respect to the Project. On or before each January 31, beginning on the January 31 immediately following the Fiscal Year in which Project Water Service commenced, the Cooperative shall complete an audit of the aforesaid records and accounts and determine what should have been the Water Charge for each Project Participant based on actual costs during the preceding Fiscal Year. For purposes of verifying the Base Rate Charge portion of the Water Charge for this audit, it shall be assumed that the Project Participants have used the quantity of water specified in their Project Water Estimates even if actual water use was less. Said audit shall be conducted by a nationally recognized certified public accounting firm. In the event the audit determines an underpayment was made by a Project Participant, then said underpayment shall be added to that Project Participant's Base Rate Charge for the upcoming Fiscal Year and paid in the manner specified in Section 13.4.1. If the audit determines that an overpayment was made by a Project Participant, then said overpayment shall

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be deducted from that Project Participant's Base Rate Charge for the upcoming Fiscal Year in the manner specified in Section 13.4.1.

13.6 Certain Payments. The Water Charge shall not include any surcharge, tax, payment in lieu of taxes, payment in lieu of franchise fees, or any charge or payment not directly related to the cost of providing Project Water Service.

13.7 Grants and Other Sources of Funding. The Cooperative may seek grants and utilize other funding sources to cover any costs that would otherwise have to be paid through the Water Charge. Any funds obtained by Cooperative from these other sources must be used to pay Project costs that would otherwise need to be paid by the Project Participants through the Water Charge.

14. BILLING, PAYMENT, SOURCE OF FUNDS AND RELATED MATTERS.

14.1 Billing and Payment. The Cooperative shall invoice each Project Participant for their Water Use Charge on regular monthly intervals. The Meters shall be read and recorded on or about the last normal work day of the calendar month during which the Project Water Service was provided. Billing to each Project Participant shall be made on the 10th day of the following calendar month. Payment of the Water Charge shall be made to the order of the Cooperative no later than thirty (30) days after which the statement was received. If the Water Charge or any portion thereof remains unpaid following their due date, the delinquent Project Participant shall be charged with and pay to the order of the Cooperative interest on the amount unpaid from its due date at such rates the Project Board may establish from time to time.

14.2 Irrevocable Commitment to Pay. The Project Participants shall pay their respective Water Charge for every Fiscal Year throughout the term of the Agreement in the manner provided in Section 14.1. Said payments shall be made without notice or demand and without set-

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off, counterclaim, abatement, suspension or deduction. The Cooperative is undertaking the acquisition, construction, operation and replacement and expansion of the Project on the representation, warranties and covenants of the Project Participants to pay the Water Charge in a timely manner.

14.3 Source of Payment. The source of funds for payment of the Water Charge shall be the utility enterprise fund established by each Project Participant. Each Project Participant shall maintain an operation and maintenance account as part of its utility enterprise fund throughout the term of this Agreement. At all times during the term of this Agreement, a Project Participant shall pay the Water Charge from its utility system operation and maintenance account.

14.4 Water Utility System Charges. Each Project Participant shall fix, revise, maintain and collect such fees, rates, tariffs, rentals or other charges for the use of products, services and facilities of their respective water utility systems to the extent necessary to fund the timely payment of the Water Charge.

14.5 Prohibition Against Indebtedness and Ad Valorem Taxation. The obligation of the Project Participants to pay the Water Charge pursuant to this Agreement does not constitute general indebtedness of the Project Participants or any other municipality or county within the meaning of any constitutional, statutory or charter provision limiting the amount and nature of indebtedness that may be incurred by the Project Participants. Neither the Cooperative nor the holder of any Obligations issued by the Cooperative to finance the construction, alteration, improvement, replacement, expansion or operation of the Project nor any regional, state or federal agency providing cooperative funding to fund the construction, alteration, improvement, replacement, expansion or operation of the Project shall have the right to require the Project Participants to exercise their ad valorem taxing power, if any, to pay their obligations and liabilities

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under this Agreement or to compel payment from any source, other than as indicated in Section 14.3.

15. PLEDGE OF CONTRACT REVENUES. The Cooperative is authorized to pledge all payments due, owing or received from the Project Participants, including any interest derived from monies received under this Agreement for the purpose of securing Obligations issued by the Cooperative to construct or expand the Projects.

16. FORCE MAJEURE.

16.1 Excuse from Performance. No Party shall be liable to any other Party for delay in performance of, or failure to perform, its obligations under this Agreement, if such delay or failure is caused by a Force Majeure Event. However, a Force Majeure Event shall not excuse a Project Participant from paying its Base Rate Charge, when due, pursuant to Section 13.4.

16.2 Notice. The Party claiming excuse shall deliver to the other Parties a written notice of intent to claim excuse from performance under this Agreement by reason of a Force Majeure Event. Notice required by this Section shall be given promptly in light of circumstances, and, in the case of events described in (c), (d) (e) of the definition of Force Majeure Event only, not later than ten (10) days after the occurrence of the Force Majeure Event. Such notice shall describe the Force Majeure Event, the services impacted by the claimed event, the projected length of time that the Party expects to be prevented from performing and the steps which the Party intends to take to restore its ability to perform.

16.3 Obligation to Restore Ability to Perform. Any suspension of performance by a Party pursuant to this Section shall be only to the extent, and for a period of no longer duration than, required by the nature of the Force Majeure Event, and the Party claiming excuse shall use its best efforts to remedy its inability to perform as quickly as possible.

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17. DISPUTE RESOLUTION. If there is a dispute between two or more Parties arising out of or related to this Agreement which cannot be resolved, then unless it shall be unreasonable to do so or an emergency situation or necessity dictates otherwise, before proceeding to the default and remedy provisions of this Agreement in Section 18, the affected Parties (“Mediating Parties”) shall attempt to resolve the dispute by non-binding mediation. The mediation will be conducted by a mediator mutually agreeable to all Mediating Parties who has experience in mediating disputes of a similar nature. The Mediating Parties will use a procedure agreeable to those Parties and the mediator. The Mediating Parties will mediate in good faith, and will be bound by any resulting mediation agreement that is approved by the governing body for each Party, equally share the costs of mediation and timely pay same. Mediation will commence within thirty(30) days after the date a Party requests mediation of a dispute, or if the agreed mediator is not available within that time period, then at the first opportunity the agreed mediator is available. A Party may not commence litigation of the dispute pursuant to Section 18 until (a) the mediator has declared the Mediating Parties are at an impasse, or (ii) one or all Mediating Parties have terminated the mediation. Among other matters the Parties intend this mediation process as an alternative to the conflict resolution procedure described in the Florida Governmental Conflict Resolution Act, Chapter 164, Florida Statutes.

18. DEFAULT AND REMEDY.

18.1 Default. If any Party fails to observe, comply with, perform or maintain in any material way any term, covenant, condition, duty, obligation, representation or warranty contained or arising under this Agreement, such action shall constitute a default and the other Parties may seek remedies set forth herein. For all defaults, except the failure to pay the Base Rate Charge, when due, pursuant to Section 13.4, the defaulting Party shall have thirty (30) days to cure

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the default, unless such default is not capable of being cured within thirty (30) days, in which case the Party must cure the default as soon as practicable. Recognizing the Project Participants' paramount need for a safe and dependable water supply, the Parties agree that, with the exception of the suspension of Project Water Service or Water Offsets pursuant to Section 18.4 of this Agreement, the exclusive remedy for default under this Agreement shall be for the non-defaulting Parties to individually or jointly seek specific performance arising from such default.

18.2 Default in Payment of Base Rate Charge. The failure by a Project Participant to pay the Base Rate Charge, when due, shall be immediately cured. If not cured, the Cooperative shall use the Reserves to pay the defaulting Project Participant's Base Rate Charge in the short term, in order to ensure the continued operation of the Project and the payment of the Debt Service until the defaulting Project Participant cures the default. Additionally, at the request of the Cooperative, the remaining Project Participants shall be obligated to make up any shortfalls created by the defaulting Project Participant's failure to pay its Base Rate Charge, when due, according to the Water Allotment Table in Section 1.46, in order to ensure the continued operation of the Project and the payment of the Debt Service until the defaulting Project Participant cures the default. In order to cure the default, the defaulting Project Participant must repay to the Cooperative its Base Rate Charge. Upon repayment of the Base Rate Charge by the defaulting Project Participant, the Cooperative shall replenish the Reserves and credit the other Project Participants for payments made in order to avoid a shortfall. Repayments to the Cooperative from a defaulting Project Participant shall first be used to credit Project Participants for payments made in order to avoid a shortfall, and then be used to replenish Reserves. If the defaulting Project Participant makes partial repayments to the Cooperative, credits shall be issued in payor order with the largest payor receiving credits first until made whole, and the smallest payor receiving credits last until made whole, until all Project Participants are fully repaid.

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18.3 Project Participant Payment Dispute. A Project Participant that disputes a payment of the Water Charge under Section 13 shall be obligated to continue paying the disputed charge until the disagreement is resolved. If the dispute is decided in the favor of the Project Participant, the Cooperative shall elect to either pay the disputed charge as a credit against the Water Charge for the next Fiscal Year or through a direct one-time payment to the Project Participant.

18.4 Suspension of Project Water Service in the Event of Non-Payment of the Water Charge. A Project Participant that fails to pay its Water Charge or any portion thereof by the due date shall be in default of this Agreement and upon fifteen (15) days written notice, the Cooperative may suspend Project Water Service to a Project Participant and prohibit a Project Participant from using Water Offsets unless there is in mediation a good faith dispute or suspension of service compromises the health, safety, and welfare of the end water users. Suspension of Project Water Service to a Project Participant or prohibition of the use of Water Offsets by a Project Participant because of its failure to pay the Water Charge or any portion thereof shall not excuse the Project Participant from paying the Base Rate Charge, when it becomes due nor prohibit the Cooperative from continuing to charge interest on the unpaid amount. Upon payment of all outstanding Water Charges, including any interest, the Cooperative shall immediately resume Project Water Service to the Project Participant or immediately allow a Project Participant to use a Water Offset. The Cooperative's decision to suspend Project Water Service to a Project Participant or to prohibit Water Offsets use by a Project Participant under this Section shall not be subject to the dispute resolution process in Section 17 and shall not be considered a default under Section 18. However, the Cooperative's failure to resume Project Water Service or to allow a Project Participant to use Water Offsets upon payment of all outstanding Water Charges, including any interest, may

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constitute a default under Section 18 and shall be subject to the dispute resolution process specified in Section 17.

19. WITHDRAWAL OF A PROJECT PARTICIPANT FROM THIS AGREEMENT.

19.1 Withdrawal Process. A Project Participant who withdraws from this Agreement shall remain liable for payment of its share of the Water Charge. If the withdrawing Project Participant has submitted a Project Water Estimate to the Cooperative for the current Fiscal Year, then it shall remain liable to pay the Water Charge for that Fiscal Year, as if it had taken the entire quantity of Project Water specified in its Project Estimate. Additionally, unless the remaining Project Participants take all or a portion of the withdrawing Project Participant's Water Allotment, the withdrawing Project Participant shall continue to remain liable for payment of its share of the Base Rate Charge. This liability shall continue for the term of the Agreement, until such time as the withdrawing Project Participant's Water Allotment is completely redistributed among the remaining Project Participants.

19.2 Duties of and Effect on Withdrawing Project Participant. A withdrawing Project Participant shall no longer be considered a voting member of the Project Board with regard to that specific Project. Upon notice by the Cooperative, a withdrawing Project Participant shall apply to withdraw from any Project Permits issued in its name and shall not oppose or challenge any modification to a Project Permit necessitated by its withdrawal. A withdrawing Project Participant shall surrender its Water Allotment, if any, and immediately forfeit its right to receive Project Water Service from the Project Board, including the use of Water Offsets. A Project Participant who withdraws from the Project may later request to join the Project again as a new

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Project Participant in accordance with Section 20 and, if approved to do so, will receive due credit given for the all previous Project expenditures.

19.3 Redistribution of Water. All of a withdrawing Project Participant's Water Allotment, if any, shall be subject to redistribution among the remaining Project Participants. Each remaining Project Participant shall be entitled to a pro-rated amount of the withdrawing Project Participant's Water Allotment, if any, based upon the then applicable Water Allotment Table. Redistribution of the withdrawing Project Participant's Water Allotment to the remaining Project Participants shall take place within sixty (60) days of the Parties receiving written notice of the withdrawing Project Participant's intent to withdraw from this Agreement. During this sixty (60) dayperiod a Project Participant will notify the Cooperative in writing of its intent to take some or all of the withdrawing Project Participant's Water Allotment. Any redistribution of the withdrawing Project Participant's Water Allotment to another Project Participant must be reviewed and approved by the Project Board as to technical feasibility. If two or more existing Project Participants exercise their right to take all of the withdrawing Project Participant's Water Allotment, then the withdrawing Project Participant's Water Allotment shall be redistributed in proportionate portions to the Project Participants, which requested redistribution. Any of the withdrawing Party's Water Allotment that is not redistributed, shall become Excess Water.

19.4 Survival. The provisions of this Section 19 shall survive the termination of this Agreement.

20. SUBSTITUTION AND ADDITION OF PROJECT PARTICIPANTS AND ASSIGNMENT OF THIS AGREEMENT.

20.1 Substitution. As a matter of right, a new Project Participant or an existing Project Participant may be substituted for an existing Project Participant, if the new Project

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Participant or existing Project Participant agrees to fully perform all the obligations of the existing Project Participant. Substitution shall mean the new or existing Project Participant shall at a minimum succeed to the old Project Participant's entire Water Allotment, if any. Prior to substitution taking effect, the existing Project Participant must notify all other existing Project Participants and Project Associates in writing of the substitution and offer the substitution on the same terms and conditions to the other existing Project Participants and Project Associates, who shall be allowed at least sixty (60) days to exercise the right of first refusal. This right of first refusal shall only apply when a new Party to this Agreement is proposed to be substituted for an existing Project Participant. If one of the existing Project Participants or Project Associates exercises its right of first refusal during this time period, then all of the substituted Project Participant's Water Allotment, if any shall be assigned to the substituting Party. If two or more existing Project Participants or Project Associates exercise their right of first refusal during this time period, then all of the substituted Project Participant's Water Allotment, if any, shall be reassigned in equal portions to the substituting Parties. If none of the existing Project Participants or Project Associates commit to acquire the substituted Project Participant's entire Water Allotment, if any, during this sixty (60) day period, then the Parties to this Agreement shall be considered to have waived their right of first refusal. Any substitution under this Section 20.1 must be reviewed and approved by the Project Board as to technical feasibility. Any new Party to this Agreement must be unanimously approved by the existing Project Participants. Once the substitution takes place, the substituted Project Participant shall withdraw from the Project and shall no longer be considered a voting member of the Project Board. Additionally, the substituted Project Participant shall cooperate with the Cooperative in any modifications to the Project Permits necessary to effectuate this substitution.

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20.2 Addition. A new party may only be added to this Agreement by the unanimous decision of all the current Project Participants.

20.2.1 Cost to Become a New Project Participant. The provisions of this section 20.2 are established to provide equity among all Project Participants and to provide an incentive for local governments to subscribe early. Subject to the provisions of Section 2.4 of this Agreement, any new Project Participant that joins this Agreement after it is first executed under the process described in this Section 20 of this Agreement shall pay its proportionate share of the costs incurred by the Project Participants before the new Project Participant joins the Agreement and its proportionate share of the Project Costs expended to date. This amount is in addition to the Water Charge for each upcoming fiscal year as described in Section 13. When this occurs, the percentage collected shall be refunded proportionately to the initial Project Participants who joined this Agreement when it was first executed.

20.2.2 Amendment of Water Charge. When a new Project Participant is added pursuant to this Section 20.2, the existing Project Participants must amend the Agreement to reflect the reassignment of Water Allotments among the existing Project Participants and the new Project Participant. The Project Board will also determine how the new Base Water Charge is allocated among the new group of Project Participants taking into consideration the short and long-term costs and benefits of the new infrastructure to the new and existing Project Participants including any savings realized due to economies of scale.

20.3 Assignment. As a matter of right, an existing Project Participant may assign a portion of its Water Allotment, if any, to a new Project Participant, an existing Project Participant, or a Project Associate if the assignee agrees to fully perform all the obligations of the existing Project Participant. Any new Party assignee must be unanimously approved by the existing Project

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Participants. The complete assignment of an existing Project Participant's Water Allotment, if any, to a new Project Participant, an existing Project Participant, or a Project Associate shall be treated as a substitution under Section 20.1. Prior to the assignment taking effect, the existing Project Participant must notify the other existing Participants in writing of the assignment and offer the assignment on the same terms and conditions to the other existing Project Participants and Project Associates, who shall be provided at least sixty (60) days to exercise the right of first refusal. If one of the existing Project Participants or Project Associates exercises its right of first refusal during this time period, then the portion of the assigning Project Participant's Water Allotment, if any, up for assignment shall be transferred to the existing Project Participant. If two or more existing Project Participants or Project Associates exercise their right of first refusal during this time period, then the portion of the assigning Project Participant's Water Allotment, if any, up for assignment shall be transferred in equal portions to the existing Project Participants and Project Associates. If none of the Project Participants or Project Associates commit to acquire the assigning Project Participant's Water Allotment, if any, up for assignment, then the Parties to this Agreement shall be considered to have waived their right of first refusal. The right of first refusal shall not apply when an existing Project Participant or Project Associate is the assignee. Any assignment under this Section 20.3 must be reviewed and approved by the Cooperative as to technical feasibility. Once the assignment takes place, the assigning Project Participant shall still be a Party to the Agreement, but it shall forfeit or surrender the assigned portion of its Water Allotment to the assignee Project Participant, as well as its voting rights, proportionate to the extent of the assignment. Once assignment takes place, the assigning Project Participant shall cooperate with the Cooperative in any modification to the Project Permits necessary to effectuate this assignment.

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21. PERMITS.

21.1 No Party shall interfere with the existing consumptive use permits or existing water, wastewater, or reclaimed water facilities of a Member Government, except as may otherwise be consented to in writing by the Member Government.

21.2 The Parties shall cooperate with each other and no Project Participant shall interfere with the Cooperative's ability to obtain, maintain and comply with any Project Permits.

21.3 No Project Participant shall purposefully submit information to a regulatory agency that conflicts with information submitted by the Cooperative in support of any application for a Project Permit. In the event that an application for a Project Permit will interfere with the existing consumptive use permits or existing water, wastewater or reclaimed water facilities of that Project Participant the provisions of Section 21.1 shall apply.

21.4 No Party shall legally challenge or support any legal challenge against any proposed or final agency action or any legal instrument with regard to any Project Permit sought by the Cooperative, unless the proposed Project Permit directly threatens an existing legal right of that Party to use the water resources of the state, in existence prior to the date of the application for the Project Permit.

21.5 A Member Government that is not a Party under this Agreement is not responsible, either directly or indirectly, for compliance with the terms and conditions of any Project Permits nor shall it be liable or responsible, either directly or indirectly, for compliance with the terms and conditions of any Project Permits nor shall it be liable or responsible, either directly or indirectly, for any fines, penalties or damages associated with any Project Permits.

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22. DUTY TO COOPERATE. The Parties shall work together in good faith to implement the terms of this Agreement. As part of this cooperation, the Project Participants will at a minimum do the following:

22.1 Acquisition of Real Property. The Project Participants shall cooperate and assist and not interfere with the Cooperative's ability to acquire all interests in real property necessary to construct, manage and operate the Project, provided the acquisition is not inconsistent with the Interlocal Agreement.

22.2 Construction, Management and Operation of the Project. The Project Participants shall cooperate and not interfere with the Cooperative's ability to construct, manage and operate the Project.

22.3 Obligations. The Project Participants shall cooperate with the Cooperative should the Cooperative decide in accordance with the Agreement to issue Obligations to fund any Capital Costs incurred by the Cooperative with regard to the Project. In said event, the Project Participants shall comply with the reasonable request of the Cooperative and will, upon such request, do as follows: (1) make available general material and financial information about itself; (2) consent to publication and distribution of its financial information; (3) certify that any general material and financial information is accurate, does not contain any untrue statements of material fact and does not omit to state a material fact necessary to make the statements contained in the general material and financial information, in light of the circumstances under which they were made not misleading; (4) provide reasonable certifications to be used in a transcript of closing documents; (5) provide and pay for reasonable requested opinions of counsel as to the binding effect of this Agreement, the validity of actions taken as a result of the Agreement, title to real property, as applicable, and pending litigation which could materially affect the Party's

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performance under the Agreement; and, (6) provide guarantee agreements, if required in order to obtain the Obligation. In addition, each Project Participant agrees to take no action which shall adversely affect the exclusion from gross income of interest on the Obligations for purposes of federal income taxation.

22.4 Grants and Other Sources of Funding. The Project Participants shall cooperate with the Cooperative in seeking alternative sources of funding for the Project, including, but not limited to, grants.

23. SOVEREIGN IMMUNITY AND INDEMNIFICATION. The Parties intend to avail themselves of the benefits of Section 768.28, Florida Statutes, and any other statute and common law governing sovereign immunity to the fullest extent possible and nothing herein shall be construed as a waiver of sovereign immunity by these Parties. Additionally, the Project Participants are not jointly or severally liable for any torts attributable to the Cooperative and only the Cooperative shall be liable for torts attributable to it or for the torts of its officers, agents, attorneys or employees under this Agreement, and then only to the extent of the waiver of sovereign immunity or limitation specified in Section 768.28, Florida Statutes, regardless of whether such claims are grounded in contract, statute, tort, negligence, product liability, strict liability, or otherwise. Finally, the Cooperative agrees to indemnify and hold the Project Participants harmless from any injury that the Project Participants or their officers, agents, attorneys, employees or invitees sustain while carrying out the Cooperative's obligations under this Agreement.

24. APPLICABLE LAW, VENUE AND WAIVER OF JURY TRIAL. This Agreement and the rights and obligations of the Parties are to be governed by, construed and interpreted in accordance with the laws of the State of Florida. In the event of any legal proceeding

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arising under this Agreement, the exclusive venue for such proceeding shall be either in a State court of competent jurisdiction located in Polk County, Florida or the United States District Court in and for the Middle District of Florida, Tampa Division. In any such legal proceeding, the Parties hereby consent to trial by the court and waive the right to a jury trial as to any issues that are triable before a jury.

25. NOTICES.

25.1 All notices provided for in this Agreement must be in writing and shall be sufficient and deemed to be given when sent by certified mail or registered mail, return receipt requested. A copy shall also be sent to the Parties by email. All notices shall be delivered or sent to the Parties and/or Project Associates at their respective addresses shown below or such other addresses as a Party and/or Project Associate may designate by prior notice given in accordance with this provision to the other Parties and/or Project Associates:

City of Auburndale
City Manager
P.O. Box 186
Auburndale, Florida 33823
863-965-5530

City of Bartow
City Manager
P.O. Box 1069
Bartow, Florida 3383
863-534-0100

City of Davenport
City Manager
P.O. Box 125
Davenport, Florida 33836
863-419-3300

City of Eagle Lake
City Manager
P.O. Box 129
Eagle Lake, Florida 33839

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863-293-4141

City of Fort Meade
City Manager
P. O. 856
Fort Meade, Florida 33841
863-285-1100

City of Haines City
City Manager
620 E Main Street
Haines City, Florida 33844
863-421-3600

City of Lake Alfred
City Manager
155 E Pomelo Street
Lake Alfred, Florida 33850
863-291-5270

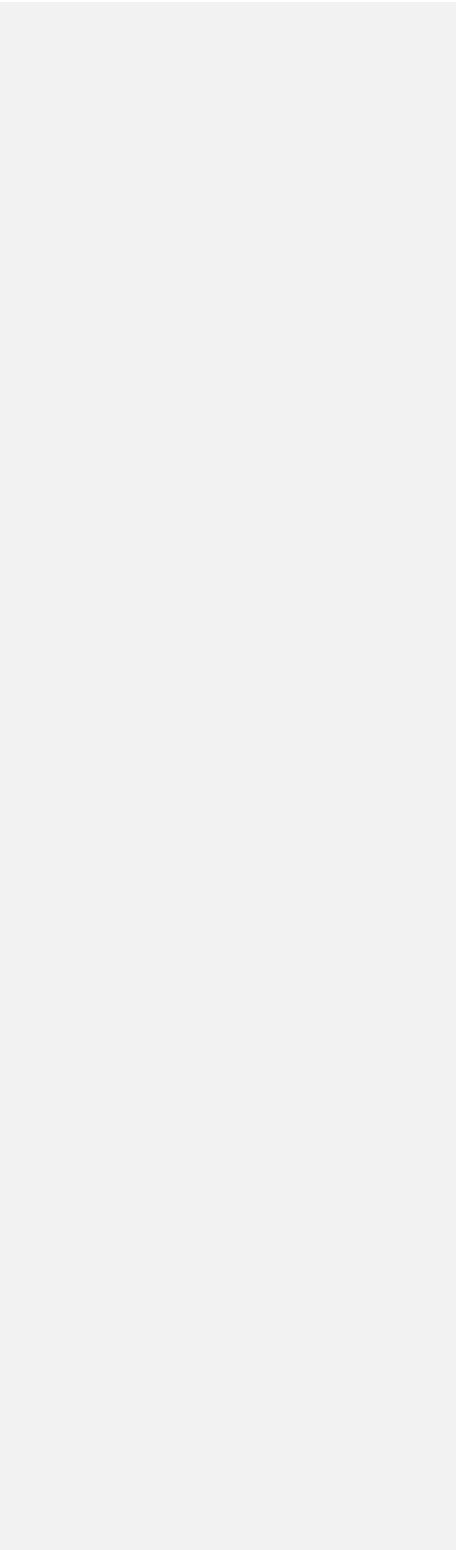
City of Lake Wales
City Manager
P. O. Box 1320
Lake Wales, Florida 33859
863-678-4196

City of Lakeland
City Manager
228 S Massachusetts Ave
Lakeland, Florida 33801
863-834-6000

City of Mulberry
City Manager
P.O. Box 707
Mulberry, Florida 33860
863-425-1125

City of Winter Haven
City Manager
P. O. Box 2277
Winter Haven, Florida 33883
863-291-5600

Town of Dundee
Town Manager



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P.O. Box 1000
Dundee, Florida 33838
863-438-8330

Town of Lake Hamilton
Town Manager
P.O. Box 126
Lake Hamilton, Florida 33851
863-439-1910

Polk City
City Manager
123 Broadway SE
Polk City, Florida 33868
863-984-1375, ext. 237

Polk County
County Manager
Drawer CA01/P.O. Box 9005
Bartow, Florida 33831
Phone: 863-534-6444

Polk Regional Water
Cooperative
Executive Director
Drawer CA01/P.O. Box 9005
Bartow, Florida 33831
Phone: 863-534-6444

25.2 All notices shall also be sent to the Cooperative Executive Director, with separate copies to the Project Administrator.

25.3 Any Party, may, by notice in writing given to the others, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice shall be deemed given on the date such notice is delivered by hand (or facsimile transmission) or three (3) days after the date mailed.

26. TIME EXTENSIONS. The Project Board may extend or change any of the deadlines specified in this Agreement.

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27. DISCLAIMER OF THIRD-PARTY BENEFICIARIES. This Agreement is solely for the benefit of the Parties and no right or cause of action shall accrue to or for the benefit of anyone that is not a Party hereto, except for lenders of Cooperative Obligations, parties to cooperative funding agreements with the Cooperative and providers of grant funding to the Cooperative.

28. AMENDMENT. The Agreement may only be amended in writing executed by all the Parties.

29. WAIVER. No failure by a Party to exercise any right, power or privilege under this Agreement is a waiver of that or any other right, power or privilege under this Agreement, except as otherwise expressly set forth in the Agreement.

30. SEVERABILITY. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, it shall be considered deleted, and shall not invalidate the remaining provisions. However, if the deleted language is considered a key provision of the Agreement, the Parties must agree to a substitute provision that will accomplish the original intent of the Parties. If the Parties cannot agree to a substitute provision within ninety (90) days of the determination by the court, then the Agreement shall be deemed terminated.

31. ATTORNEY'S FEES AND COSTS.

31.1 Dispute Resolution or Litigation Under the Agreement. Each Party shall bear its own costs, including attorney's fees, incurred in any litigation arising under this Agreement. Notwithstanding the foregoing, any costs, including attorney's fees incurred by the Cooperative in any dispute resolution or litigation arising under this Agreement may be included in computation of the Water Charge upon approval by the Project Board.

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31.2 Litigation Outside the Agreement Concerning the Project. Any damages or costs, including attorney's fees incurred by the Cooperative in any litigation concerning the Project, excluding litigation described in Section 31.1 of this Agreement, shall be included in computation of the Water Charge. Any damages or costs, including attorney's fees awarded to the Cooperative in any litigation concerning the Project, excluding litigation described in Section 31.1, shall be deemed a credit to be considered in computation of the Water Charge.

32. ENTIRE AGREEMENT. This Agreement, including Exhibits, constitutes the entire contract among the Parties pertaining to the subject matter hereof, and there are no warranties, representations or other agreements in connection with the subject matter hereof, except as specifically set forth herein. This Agreement supersedes and replaces the previously executed Implementation Agreement for the Southeast Wellfield.

33. EXECUTION OF DOCUMENTS. This Agreement shall be executed in multiple duplicate originals, any of which shall be regarded for all purposes as an original and all of which shall constitute one and the same instrument.

34. AMBIGUITY. The Parties agree that each has played an equal part in negotiation and drafting of this Agreement, and in the event ambiguity should be asserted or realized in the interpretation or construction of this Agreement, the result of such ambiguity shall be equally assumed and realized by each Party.

35. RELATIONSHIP OF THE PARTIES. Nothing herein shall make any Party a partner or joint venturer or create any fiduciary relationship among the Parties.

36. GOOD FAITH. The Parties hereto agree to exercise good faith and fair dealings in respect to all matters relating to this Agreement.

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37. FURTHER ASSURANCES. The Parties shall use all reasonable efforts to provide such information, execute such further instruments and documents and take actions as may be reasonably requested by another Party and not inconsistent with the provisions of this Agreement and not involving the assumption of obligations or liabilities different from, in excess of, or in addition to those expressly provided for in this Agreement to carry out the intent of this Agreement.

38. PUBLIC RECORDS. Should any Party assert any exemption to, or inapplicability of, the requirements of Chapter 119 and related statutes, the burden and cost of establishing such an assertion, by way of injunctive or other relief as provided by law, shall be upon that Party. The Parties shall allow public access to all Project documents and materials that are subject to the requirements of Chapter 119, Florida Statutes or claim that a document does not constitute a public record, the burden of establishing such an exemption or excluding a document as a public record, by way of injunctive or other relief as provided by law, shall be upon the Party asserting the exemption or the claim that a document does not constitute a public record. Additionally, nothing in this Agreement shall be construed nor is intended to, expand the scope of Chapter 119, Florida Statutes or make into a public record a document that is not a public record under the applicable law.

39. NON-PARTICIPATING MEMBER GOVERNMENTS. This Agreement is not binding upon and cannot negatively affect a Member Government, who is not a Party to the Agreement either directly or indirectly nor shall a Member Government, who is not a Party to the Agreement, incur any liability under this Agreement solely by virtue of being a Member Government of the Cooperative.

[Signatures begin on the following pages]

ORDINANCE O-22-08

AN ORDINANCE OF THE TOWN OF LAKE HAMILTON, FLORIDA, ADOPTING A PLANNED UNIT DEVELOPMENT (PUD) NAMED “WEIBERG WEST”, LOCATED EAST OF S.R. 17 AND APPROXIMATELY 1300 FEET SOUTH OF HATCHINEHA ROAD ON 31.47 ACRES IN SECTION 21, TOWNSHIP 28 SOUTH, RANGE 27 EAST, POLK COUNTY, FLORIDA AND 34.84 ACRES ADJACENT TO THE NORTHEAST CORNER OF DETOUR ROAD AND WEIBERG ROAD IN SECTION 22, TOWNSHIP 28 SOUTH, RANGE 27 EAST, POLK COUNTY, FLORIDA; SUPERSEDING AND REPLACING THE “OLSON PUD” APPROVED FEBRUARY 4, 2020 VIA ORDINANCE O-20-01; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, there has been a request to rezone properties to and for approval of a Planned Unit Development (PUD) known as Weiberg West, which includes lands rezoned by Ordinance O-20-01 on February 4, 2020, and now included in Weiberg West PUD; and

WHEREAS, Section 163.3167(c), Florida Statutes, empowers the Town to adopt land development regulations to guide the growth and development of the Town, and to amend such regulations from time to time; and

WHEREAS, pursuant to Section 166.041(c) 2, Florida Statutes, the Planning Commission and the Town Council have held Public Hearings to consider the rezoning of lands described below, which will amend the Zoning Map of the Town; and

WHEREAS, the change will further the general health, safety, and welfare and be a benefit to the Town as a whole; and

WHEREAS, the amendment of the Planned Unit Development requested by the applicant is consistent with the Future Land Use Element of the 2030 Lake Hamilton Comprehensive Plan.

NOW THEREFORE BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF LAKE HAMILTON, FLORIDA, AS FOLLOWS:

SECTION 1. PROPERTY IDENTIFICATION: The property identified in the legal description below shall establish a Town of Lake Hamilton Zoning classification of Planned Unit Development (PUD). See the attached Map “A”.

PETITIONER: Heather Wertz of Absolute Engineering on behalf of property owners Cassidy Holdings, LLC, Dayle T, Weinkauf Revocable Trust, PH Citrus, LLC.

LEGAL DESCRIPTIONS: The general location of the parcel is located South of Hatchineha Road and East of Scenic Highway. The land is predominantly citrus groves and undeveloped with a total of approximately 66.31 acres. The Legal descriptions are as follows.

PARCEL NO. 1: 272821 – 000000-032030 – NW ¼ of Se ¼ of NW ¼ East of Railroad in Section 21, Township 28 South, Range 27 East, Polk County, Florida. 01.63 acres

PARCEL NO. 2: 272821 – 000000-014040 – NW ¼ of SW ¼ of NE ¼ in Section 21, Township 28 South, Range 27 East, Polk County, Florida.

PARCEL NO. 3: 272821 – 000000-014020 – The Northeast 1.4 of the Northwest ¼ of the Southeast ¼ of Section 21, Township 28 South, Range 27 East, Polk County, Florida.

PARCEL NO. 4: 272821 – 000000-014030 – NW ¼ of SW ¼ of NE ¼ in Section 21, Township 28 South, Range 27 East, Polk County, Florida.

PARCEL NO. 5: 272822 – 000000-034020 – Begin at the Southwest corner of the Southeast ¼ of the Southwest ¼ of the Northwest ¼ of Section 22, Township 28 South, Range 27 East, Polk County, Florida; thence East 140 feet; thence North 209 feet; thence East 520 feet; thence North to the Northeast corner of tract; thence West to the Northwest corner of tract; Thence South to the point of beginning, less the South 20 feet of the West 1440 feet for road, and less the West 75 feet of the North 150 feet thereof.

PARCEL NO. 6: 272822 – 000000-034030 - The Northwest ¼ of the Southwest ¼ of the Northwest ¼ of Section 22, Township 28 South, Range 27 East, Polk County, Florida less the East 223 feet thereof and less the South 20 feet thereof for road.

PARCEL NO. 7: 272822 – 000000-034040 – The Southwest ¼ of the Southwest ¼ of the Northwest ¼ of Section 22, Township 28 South, Range 27 East, Polk County, Florida, less the East 223 feet thereof and less the South 20 feet thereof for road.

PARCEL NO. 8: 272822 – 000000-034050 – Begin 160 feet North of the Southwest corner of the Northwest ¼ of the Southwest ¼ of the Northwest ¼ of Section 22, Township 28 South, Range 27 East, Polk County, Florida, thence North 210 fee; thence East 210 feet; thence South 210 feet; thence West 210 feet to the point of beginning.

PARCEL NO. 9: 272822 – 000000-034090 – The Northeast ¼ of the Southwest ¼ of the Northwest ¼ of Section 22, Township 28 South, Range 27 East, Polk County, Florida

PARCEL NO. 10: 272822 – 000000-034100 – begin at the Southwest corner of the Southeast ¼ of the Southwest ¼ of the Northwest ¼ of Section 22, Township 28 South, Range 27 East, Polk County, Florida; thence East 140 feet; thence North 209 feet; thence East 520 feet; thence North to the Northeast corner of tract; thence West to the Northwest corner of tract; thence South to the point of beginning, less the South 20 feet of the West 140 feet for Road, and less the West 75 feet of the North 150 feet thereof.

PARCEL NO. 11: 272822 – 000000-034110 – Begin 140 feet East of the Southwest corner of the Southeast ¼ of the Southwest ¼ of the Northwest ¼ of Section 22, Township 28 South, Range 27 East, Polk County, Florida; thence East 117 feet; thence North 209 feet; thence West 117 feet; thence South to the point of Beginning, less the South 20 feet for road.

PARCEL NO. 12: 272822 – 000000-034160 – The North 350 feet of the East 132 feet of the Southwest ¼ of the Southwest ¼ of the Northwest ¼ of Section 22, Township 28 South, Range 27 East, Polk County, Florida; less the West 7 feet thereof and less the North 325 feet thereof.

PARCEL NO. 13: 272822 – 000000-034180 – The West 75 feet of the North 150 feet of the Southeast ¼ of the Southwest ¼ of the Northwest ¼ and the North 155 feet of the East 132 feet of the Southwest ¼ of the Southwest ¼ of the Northwest ¼; less the West 7 feet thereof for right-of-way, all lying and being in Section 22, Township 28 South, Range 27 East, Polk County, Florida.

The parcels described above, constitute less than five percent (5%) of the zoned area of the Town.

SECTION 2. LOCATION. The property is zoned Planned Unit Development and is hereby amended as shown in Map “A” attached hereto and made a part of this Ordinance. The regulations of that District contained in the Land Development Code and the conditions stated in this Ordinance shall govern further public review and development of the property within this District with the following specific conditions.

SECTION 3. CONDITIONS. The rezoning to Planned Unit Development (PUD) zoning district and the assignment of Planned Unit Development (PUD) zoning shall be subject to the following conditions:

- A. Uses shall be limited to a maximum of 295 single-family residential units. Other permitted uses include home occupations, recreation areas, and ancillary accessory uses. Detached accessory residential units may be permitted in conjunction with an owner-occupied principal single-family residence.
- B. The minimum lot area shall be 4,400 square feet and the minimum lot width shall be 40 feet, provided the maximum number of lots to be less than 50 feet in width and/or less than 5,500 square feet in area shall be 50% of the total lots.
- C. Prior to site plan approval, a traffic study shall be submitted for review. At a minimum, the traffic study shall evaluate the proposed development’s impact on adjacent roads, as well as any intersection located within five (5) miles where projected trips from the subdivision exceed 5 percent.
- D. Enter a developer agreement to financially aid the Town of Lake Hamilton constructing a Wastewater Treatment Facility (WWTF) to produce capacity to meet the projected demand of the proposed PUD.
- E. Enter a developer agreement to financially aid the Town of Lake Hamilton in increasing Water Use Permit (WUP) capacity to meet the projected demand of the proposed PUD.
- F. All development shall be consistent with the conceptual plan as further described in Exhibit “B” attached hereto and made a part of this ordinance; however, deviation from the conceptual site plan, including changes which may impact specific interior lot configuration, to address safety, design, technical, wetland, or permitting issues identified during formal site plan review may be permitted. The shown layout of residential lots and infrastructure is for illustrative purposes.

- G. All other code requirements not specifically addressed by this Planned Unit Development shall apply.

SECTION 3. SEVERABILITY. That any section, paragraph, or portion which may be deemed illegal or unconstitutional shall not affect any other section of this ordinance.

SECTION 4. COPY OF ORDINANCE ON FILE. A copy of this Ordinance shall be kept on file in the office of the Lake Hamilton Town Clerk.

SECTION 5. CONFLICTS WITH OTHER ORDINANCES. That all other ordinances or part of ordinances in conflict herewith are hereby repealed with the adoption of this Ordinance.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect immediately upon adoption after second reading.

INTRODUCED and PASSED on first reading this 15th day of February 2022.

PASSED and ADOPTED on second reading this ____ day of March 2022.

TOWN OF LAKE HAMILTON, FLORIDA

MICHAEL KEHOE, MAYOR

ATTEST:

BRITTNEY SANDOVALSOTO, TOWN CLERK

Approved as to form:

HEATHER R. MAXWELL, ESQ., TOWN ATTORNEY

Record of Vote	Yes	No
Wagner	_____	_____
Roberson	_____	_____
Tomlinson	_____	_____
O'Neill	_____	_____
Kehoe	_____	_____

MAP A

Weiberg West Proposed Planned Unit Development

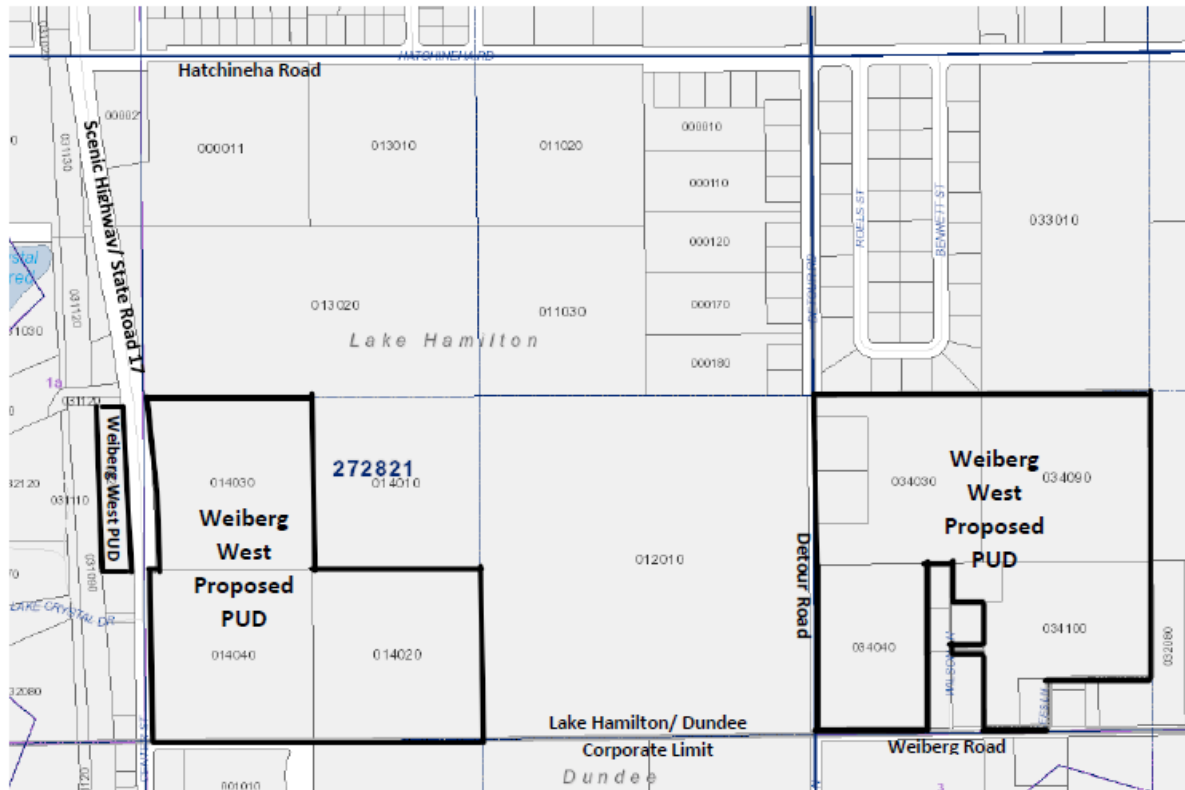


EXHIBIT B

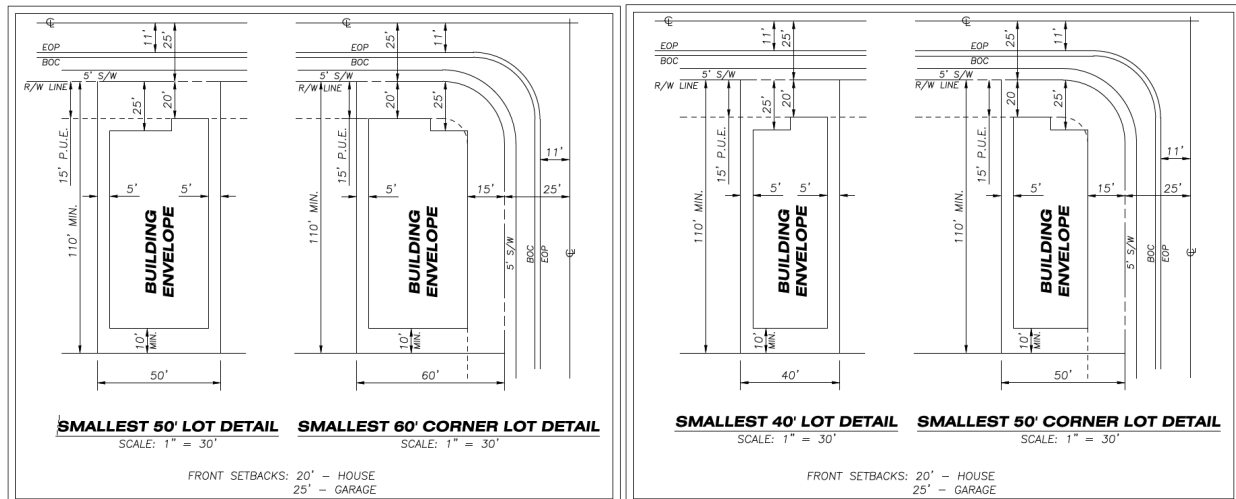
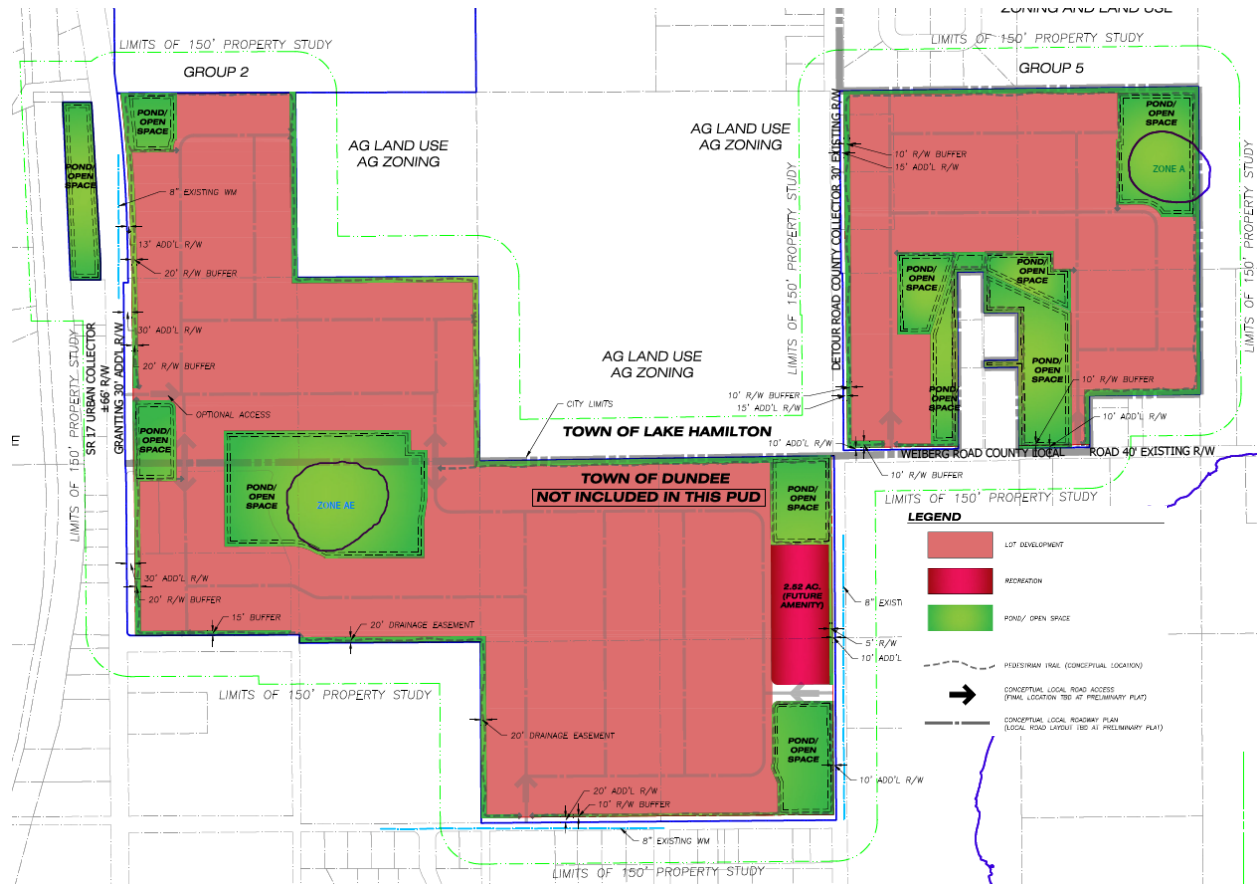


EXHIBIT B continued**SITE PLAN STANDARDS NOTES:**

1. PROJECT IS PROPOSED TO BE DEVELOPED IN MULTIPLE PHASES.
2. DEVELOPMENT IS FOR SINGLE FAMILY DETACHED RESIDENTIAL.
3. TOTAL DEVELOPMENT ACREAGE: 66.31 ACRES
4. MAXIMUM DENSITY ALLOWED: 5.00 UNITS PER ACRE
5. DENSITY PROVIDED: 4.45 (295 LOTS/66.31 ACRES=4.45 UNITS PER ACRE.)
6. FLOOD ZONES ON SITE AND WITHIN 150' OF SITE BOUNDARIES ARE X, AE, AND A AS SHOWN ON FEMA F.I.R.M. COMMUNITY PANEL 12105C 0390G, DATED 12/21/2016
7. FLU/ZONING DESIGNATION AND USES ARE DEPICTED WITHIN 150' OF SITE BOUNDARY.
8. PROPOSED LOT LINES AND DIMENSIONS ARE DEPICTED ON THE PLAN.
9. SMALLEST LOT DETAILS AND DIMENSIONS ARE DEPICTED ON THE PLAN.
10. FLOOR AREA RATIO: NOT APPLICABLE.
11. IMPERVIOUS AREA SHALL NOT EXCEED 50%.
12. MAXIMUM BUILDING HEIGHT: 2 STORIES
13. ROADWAYS AND STORMWATER MANAGEMENT SYSTEM TO BE PUBLIC AND WILL BE OWNED AND MAINTAINED BY THE CDD.
14. SETBACKS

FRONT (HOUSE):	15'
FRONT (GARAGE):	20'
SIDE:	5'
REAR:	10'
CORNER LOT SIDE:	15'
ACCESSORY UNIT:	5'
POOL SCREEN ENCLOSURE:	5'
15. ACCESS STANDARDS

20' WIDE PAVEMENT WITH 2' MIAMI CURB AND GUTTER, ACCESS TO SITE WILL BE VIA DETOUR ROAD, WEIBERG ROAD, S.R. 17 AND RIDGEWOOD AVE.
16. "NO PARKING ON STREETS" SIGNS WILL BE POSTED AT PROJECT ENTRANCES.
17. MINIMUM GARAGE SIZE 400 SF TO BE PROVIDED FOR 2 CAR GARAGE WITH MINIMUM 16' WIDE DRIVEWAY.
18. UTILITIES

POTABLE WATER AND SEWER SERVICES WILL BE PROVIDED BY THE TOWN OF LAKE HAMILTON. ELECTRIC POWER, TELEPHONE AND CABLE WILL BE PROVIDED VIA EXISTING SYSTEMS
19. WATER AND SEWER INFRASTRUCTURE WILL BE DEDICATED TO THE TOWN OF LAKE HAMILTON FOR OWNERSHIP AND MAINTENANCE. A 80' PUBLIC UTILITY EASEMENT WILL BE PROVIDED OVER THE RIGHT OF WAY EXTENDING BEYOND THE RIGHT OF WAY 15' ON BOTH SIDES.
20. REQUIRED OPEN SPACE: 5%
OPEN SPACE PROVIDED: 18.3 ACRES = 7.6%
21. NO CONSTRUCTION ACTIVITY IS ALLOWED BEFORE 7AM OR AFTER 9PM.

RESOLUTION R-2022-03

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LAKE HAMILTON, FLORIDA; REQUESTING THE TOWN STAFF TO PROCEED WITH SEEKING FEDERAL, STATE, COUNTY, LOCAL, INTERJURISDICTIONAL FUNDING APPROPRIATIONS FOR TOWN CAPITAL IMPROVEMENT PROJECTS.

WHEREAS, the Town of Lake Hamilton has adopted the attached five-year capital improvement projects budget; and

WHEREAS, town staff has projected the residential growth in the Town of Lake Hamilton to reach 7,182 new residents by 2027;

WHEREAS, the above growth would bring an estimated 500 new homes per year for an estimated population of 8,727;

WHEREAS, the Town Council has authorized certain capital improvements projects to move forward as expeditiously as possible; and

WHEREAS, the Town has shovel ready plans for Road Improvement project; and has authorized the design and building of a Wastewater Treatment Plant for 200,000 GPD; and has authorized the town engineer to move forward with the feasibility study of a LFA well based on SWFMD review of the town's application for water use permit renewal; and

WHEREAS, the Town Council is dedicated to managing the infrastructure needs of the new growth without putting an undue burden on the current property owners, citizens and businesses in the Town of Lake Hamilton; and

WHEREAS, the Town of Lake Hamilton is in need of funding assistance in order to proceed with infrastructure needs due to the growth.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LAKE HAMILTON, FLORIDA:

SECTION 1. That the Town Mayor and Town Administrator are each hereby authorized, acting singly or jointly, to enter into agreements and submitting applications in order to secure grants and/or low interest loans.

SECTION 2. This Resolution shall take effect immediately upon its adoption.

INTRODUCED AND PASSED at the special meeting of the Town Council of Lake Hamilton, Florida, held this 15th day of February 2022.

TOWN OF LAKE HAMILTON, FLORIDA

MICHAEL KEHOE, MAYOR

ATTEST:

BRITTNEY SANDOVALSOTO, TOWN CLERK

Approved as to form:

HEATHER R MAXWELL, ESQ., TOWN ATTORNEY

Record of Vote	Yes	No
Roberson	_____	_____
Tomlinson	_____	_____
O'Neill	_____	_____
Wagner	_____	_____
Kehoe	_____	_____

	A	B	C	D	E	F	G	H	I	J	K	L
1	<div> <div>R 2022-03 Exhibit</div> <div> TOWN OF LAKE HAMILTON, FLORIDA CAPITAL IMPROVEMENTS PROGRAM </div> </div>											
2												
3												
4												
5												
6	<i>Adopted October 5, 2021</i>											<i>Page 1</i>
7	General Project Description With Phase Descriptions	FY 21/22	Source	FY 22/23	Source	FY 23/24	Source	FY 24/25	Source	FY 25/26	Source	Beyond Current Budget
8												
9	WATER PROJECTS											
10	System-wide Water Mains Improvments											
11												
12	Alternative Water Supply	\$500,000	Res/capacity fees/ Grants	\$4,000,000	capacity fees/grants							
13	Sub-Total	\$500,000		\$4,000,000		\$0		\$0		\$0		\$0
14	WATER SYSTEM MAINTENANCE											
15	Staff implemented water system projects	\$25,000	Water Ent.	\$25,000	Water Ent.	\$25,000	Water Ent.	\$25,000	Water Ent.	\$25,000	Water Ent.	
16	Sub-Total	\$25,000		\$25,000		\$25,000		\$25,000		\$25,000		
17	TOTAL WATER PROJECTS	\$525,000		\$4,025,000		\$25,000		\$25,000	\$25,000			
18	PARKS PROJECTS											
19	Park Infrastructure Fund	\$5,000	GF	\$5,000	GF	\$5,000	GF	\$5,000	GF	\$5,000	GF	
20	Rails to Trails land purchases			\$325,000	Grants							
21	Sample Park											
22	Phase II Improvements			\$50,000	FRDAP							
23	Boat Ramp Replacement			\$150,000	FBIP							
24	Gunter Park											
25	Phase II Improvements	\$50,000	FRDAP									
26	Phase III Improvement									\$50,000	FRDAP	
27	Bruce Martin Park											
28	Phase II Improvements			\$50,000	FRDAP							
29	Detour Road Ball Park											
30	Phase I Improvements	\$50,000	FRDAP									
31	Phase II Improvements							\$50,000	FRDAP			
32	Veterans Park											
33	Phase I Project - Gazebo/Picnic Shelter											
34	Landscaping			\$10,000	GF							
35	Total	\$105,000		\$590,000		\$5,000		\$55,000		\$55,000		
36	PUBLIC WORKS											
37	Vehicle Pick up Replacement Purchases	\$32,500	GF	\$32,500	GF			\$32,500		\$32,500		\$32,500
38	New Utility System Billing Software											
39	Walk Behind Brush Cutter											
40	Sub-Total	\$32,500		\$32,500		\$0		\$32,500		\$32,500		\$32,500
41	Street Resurfacing Program											
42	Roads Resurfacing/Paving	\$550,000	Res/GT									
43		\$2,500,000	Ln/Grant/?									
44	Sub-Total	\$3,050,000		\$0		\$0		\$0		\$0		
45	Wastewater System											
46	S.R.17 Scenic Hwy. Sewer Poject - Re-design											
47	All Sewer - Construction (80%)	\$4,000,000	Grant		SRF							

TOWN OF LAKE HAMILTON MUNICIPAL ELECTION ADMINISTRATION AGREEMENT

This agreement made and entered into this _____ day of _____, 2022, by and between LORI EDWARDS, SUPERVISOR OF ELECTIONS OF POLK COUNTY, FLORIDA, a constitutional officer of the State of Florida, (hereafter "Elections Supervisor"), and the TOWN OF LAKE HAMILTON, FLORIDA, a Florida municipal corporation, (hereafter "Town").

ARTICLE I. PURPOSE.

The purpose of this Agreement is to provide for the administration of the Town's Election to be held on the 5th day of April, 2022, for the purpose of electing a Mayor and two (2) Council Members. The parties have determined it to be in their best interest and that of the public that the duties and responsibilities of each party concerning this election are agreed upon and set forth in a formal agreement.

ARTICLE II. DATE OF ELECTION.

The Election shall be held and conducted on Tuesday, April 5, 2022.

ARTICLE III. ELECTIONS SUPERVISOR'S RESPONSIBILITIES.

1. The Elections Supervisor shall prepare a file for ballot printing and audio ballots, based on information received from the Town Clerk, and the Elections Supervisor shall arrange for the printing, preparation, receipt and testing of the ballots to be used in the Town's election.
2. The Elections Supervisor shall provide the Town Clerk with a list of election workers who may be available for hire.
3. The Elections Supervisor shall schedule the training and arrange the placement of election workers and alternates for each polling location.
4. The Elections Supervisor shall train election workers in accordance with Section 102.014, Florida Statutes.
5. The Elections Supervisor shall prepare poll lists, automatic tabulating equipment and other polling place supplies and issue them to the precinct clerk.
6. The Elections Supervisor shall prepare audio ballots to accommodate voters with disabilities.
7. The Elections Supervisor shall prepare and cause to be timely published the notice required by Section 101.5612(2), Florida Statutes, of the time and place of the test of the automatic tabulating equipment used by the Elections Supervisor to ascertain that the equipment will correctly count the votes cast in the election.
8. The Elections Supervisor shall conduct the testing of the automatic tabulating equipment as required by Section 101.5612(1), Florida Statutes, at the Election Operations Center in Winter Haven, in the presence of the Town Canvassing Board, or its authorized designee, candidate(s) and other parties.
9. The Elections Supervisor shall mail and receive mail ballots for the Town's election.

TOWN OF LAKE HAMILTON MUNICIPAL ELECTION ADMINISTRATION AGREEMENT

10. The Elections Supervisor shall notify voters with information regarding the opportunity to "cure" their vote-by-mail envelopes or provisional ballots, as determined by the Town.
11. The Elections Supervisor shall provide walk-in voting at Election Headquarters, 250 S. Broadway Ave., Bartow, Florida and the Election Operations Center, 70 Florida Citrus Blvd., Winter Haven, Florida beginning Monday, March 21, 2022 and ending Monday, April 4, 2022. Hours of operation will be from 8:30 AM to 4:30 PM weekdays.
12. The Elections Supervisor shall provide staff support (on site or by phone) to assist election workers at the polling locations on Election Day.
13. The Elections Supervisor shall provide a cellular phone to the precinct clerk.
14. The Elections Supervisor shall not charge the Town for any services, staff time, equipment rental or supply usage.

ARTICLE IV. TOWN RESPONSIBILITIES.

1. The Town Clerk is responsible for the conduct of this election and shall act as the sole qualifying official. Upon completion of qualifying of the candidates, the Town Clerk will, no later than 5:00 PM on Friday, February 11, 2022, provide to the Elections Supervisor the list of qualified candidates for the Town offices to be voted upon in the election, as well as the official title and language for the referendums (if applicable) and the official election title. Title and full text of referendums must also be supplied in Spanish.
2. Within 24 hours of receipt, the Town shall review, sign and return the ballot proof sheet, signifying correctness, before printing will commence.
3. The Town shall determine how many ballots will be ordered and will provide payment for printing costs directly to the ballot printer.
4. The Town shall provide pronunciation guidelines of the qualified candidates to be used with the audio ballot for the visually impaired.
5. The Town shall publish a Sample Ballot in a newspaper of general circulation and mail a Sample Ballot to all registered voters or households containing a registered voter.
6. The Town shall mail a notice of change of polling place to each registered voter or household containing a registered voter as required by Section 101.71, Florida Statutes.
7. The Town shall reimburse the Elections Supervisor for the cost of postage, envelopes, secrecy sleeves and inserts for the Town election vote-by-mail ballots at a rate of \$2.00 for each ballot mailed and \$0.60 for each ballot returned.
8. The Town Clerk or Canvassing Board shall be responsible for reviewing all returned mail ballot envelopes and verifying voter's signatures. The Town Clerk or Canvassing Board shall determine which mail ballot envelopes have not been signed, and which have signatures that may not match, requiring a cure opportunity letter to be sent to said voters.
9. The Town shall cause to be timely published all public notices required by Florida Statutes, with the exception of the Notice of Testing of Automatic Tabulating Equipment.

TOWN OF LAKE HAMILTON MUNICIPAL ELECTION ADMINISTRATION AGREEMENT

10. The Town shall notify candidates of the time and place of Logic and Accuracy testing as per Florida Statutes 101.5612(2).
11. The Town shall arrange for the use of polling location(s) on Election Day and is responsible for site agreements, if necessary.
12. The Town shall inform the Elections Supervisor of polling locations no later than Tuesday, February 1, 2022.
13. The Town shall deliver to the Elections Supervisor, no later than 5:00 PM on Friday, February 11, 2022, a final list of addresses that are included inside the Town limits, which have been certified as correct by Town Clerk or governing board of the Town.
14. The Town shall have all election workers and alternates hired for the Town election no later than Wednesday, March 16, 2022 in accordance with Section 102.012, Florida Statutes.
15. The Town shall be responsible for collecting employee paperwork and creating copies of all necessary documentation with regard to election workers' employment.
16. The Town shall compensate election workers for training and working on Election Day, based on a rate agreed between the Town and the election workers.
17. The Town shall pick up voting booths and other large supply items from the Election Operations Center; 70 Florida Citrus Blvd., Winter Haven, on Monday, April 5, 2022, and return them on Wednesday, April 7, 2022. The Town shall assume financial responsibility for the repair or replacement of any voting booths, voting equipment or other electronics lost or damaged either in transit or while in the Town's custody.
18. The Town shall designate two authorized employees, agents or designees to pick up all mail ballots received at Election Operations Center for Canvassing Board review and tally, on Tuesday, April 5, 2022.
19. The Town Commission or its assigned committee shall be designated and shall act as the Canvassing Board for the Town's election, which shall convene in a publicly noticed meeting open to the public in accordance with Section 286.011, Florida Statutes, and Section 102.141 (2), Florida Statutes.
20. The Town Canvassing Board shall meet on April 5, 2022 to canvass mail ballot envelopes and precinct returns. The Canvassing Board shall remain until unofficial results are documented and have been transmitted successfully to the Election Operations Center.
21. The Town Clerk is responsible for making arrangements with the precinct clerk to take custody of the ballots, equipment and supplies after the polls close on election night, and for keeping those items secure overnight. The voting equipment, supplies, and containers received from the precinct clerk must be returned to the Election Operations Center before 4:00 PM the next day.
22. The Town Canvassing Board shall meet on April 8, 2022 at Lake Hamilton Town Hall to canvass the results of the Election, executing or causing the execution of the Certification of the Election.

TOWN OF LAKE HAMILTON MUNICIPAL ELECTION ADMINISTRATION AGREEMENT

23. Following Certification of the Election, the Town will conduct a manual audit of the voting system as specified in Section 101.591, Florida Statutes.

ARTICLE V.

1. In accordance with Florida Statutes, in its capacity as the Canvassing Board for the Town's election, the governing body of the Town shall receive and dispose of any protest, challenge or contest and shall be responsible for any responses to any legal actions brought before a court or administrative agency of any level of government challenging the results of the election and defend the results of the election.
2. The Town shall hold harmless and defend the Elections Supervisor against all claims upon the Town's or its employees' negligent, unconstitutional, or criminal conduct or conduct of the Town's or its employees that violate elections laws that may be brought or filed against the Elections Supervisor's participation or assistance with the Town of Lake Hamilton Elections.
3. Any duty or responsibility of the Elections Supervisor as provided for in this Agreement, or as may be required by the Florida Election Code may, to the extent not prohibited by this Agreement or Florida Law, be carried out by any duly authorized employee, agent, or designee of the Elections Supervisor.

WHEREFORE, the parties hereto have agreed and set their hands as of the date set forth above.

APPROVED:

NAME_____
TITLE

DATED: _____

APPROVED:

LORI EDWARDS_____
SUPERVISOR OF ELECTIONS
POLK COUNTY, FLORIDA

DATED: _____

WITNESSED:

NAME_____
TITLE

DATED: _____

WITNESSED:

NAME_____
TITLE

DATED: _____