

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water
and wastewater rates in Pasco County
by Labrador Utilities, Inc.

Docket No. 140135-WS
Filed: April 27, 2015

**INTERESTED PARTY FOREST LAKE ESTATES CO-OP, INC.'S MEMORANDUM IN
OPPOSITION TO LABRADOR UTILITIES, INC.'S RATE INCREASE APPLICATION**

Interested Party, Forest Lake Estates Co-Op, Inc. (the “Forest Lake Co-Op”), by and through its undersigned counsel, files this Memorandum in Opposition to Petitioner, Labrador Utilities Florida, Inc.’s, Rate Increase Application (“Memorandum”), and states:

I. Introduction

On June 19, 2014, Labrador informed the Florida Public Service Commission (“PSC”) of its intention to submit an application for general rate relief for its water and wastewater system in Pasco County, Florida. The water and wastewater system operated by Labrador serves only the Forest Lake Estates Mobile Home Park and the Forest Lake Estates R.V. Property (collectively, the “Property”) which are owned and operated by the Forest Lake Co-Op. The Property consists of approximately 894 mobile home and R.V. lots along with various common area elements and facilities.¹ The residents of the Property are overwhelmingly senior citizens and retirees, many of whom are on fixed incomes.

¹ Three separate types of tenancies exist at the Property. First, Forest Lake Co-Op has shareholders who are members of the cooperative and, in effect, owners of the Property (“Shareholders”). Those shareholders’ use of the Property is governed by Chapter 719, *Florida Statutes*. Second, Forest Lake Co-Op rents individual lots at the Property to residents who place their own mobile home on each lot (“Mobile Home Residents”). Those Mobile Home Residents’ tenancies are governed by Chapter 723, *Florida Statutes*. Finally, Forest Lake Co-Op rents lots to residents who place their own recreational vehicle on each lot (“Recreational Residents”). Those Recreational Residents’ tenancies are governed by Chapter 83, *Florida Statutes*. There are currently 343 actual Shareholders and 542 Mobile Home Residents and Recreational Residents. The Forest Lake Co-Op represents the Shareholders while the Mobile Home Residents and Recreational Residents are represented by the Forest Lake Estates Non Shareholders Homeowners Association, Inc. (“Forest Lake Resident Association”).

Forest Lake Co-Op is under a statutory obligation to provide competent water and wastewater service to all three types of tenancies – Shareholders, Mobile Home Residents, and Recreational Residents. Specifically, Section

For the reasons provided herein, Labrador is not entitled to any rate increase at this time, let alone a staggering 37% increase for water services and 71% increase for wastewater service. Labrador has utterly and egregiously failed in its obligation to provide quality, competent water and wastewater service to the Property and the requested rate increase is nothing but an attempt to further gouge the elderly residents of the Property.

II. Background

On June 10, 1999, the Forest Lake Co-Op and Labrador's predecessor in interest, Labrador Services, Inc., entered into a Lease Agreement for Water and Wastewater Treatment Facilities, whereby the Forest Lake Co-Op leased certain real property owned by the Forest Lake Co-Op ("Leased Premises") to Labrador Services, Inc. for purposes of operating a water and wastewater plant serving the Property. In 2002, the Commercial Lease was assigned to Labrador. Unfortunately, since that time, residents of the Property have been forced to receive their water and wastewater service exclusively from Labrador.

This arrangement has been a disaster. Although there are many serious issues and problems with the quality of service provided by Labrador, the most significant issue has always been, and continues to be, the odor. For many years, and continuing to the present day, Labrador has operated the wastewater system at the Property in such a way as to create extreme and noxious odors, which greatly disturb the residents of the Property and detract from quality of life at the Property. Residents of the Property have been and continue to be unable to enjoy and use their property, and continuously experience annoyance, discomfort, and inconvenience resulting

723.022, *Florida Statutes*, requires Forest Lake Co-Op to maintain utility connections and systems in proper operating condition; Section 83.51(2)(a)(5), *Florida Statutes*, requires Forest Lake Co-Op to provide and make reasonable provisions for running water and hot water; and Section 719.504(18), *Florida Statutes*, requires Forest Lake Co-Op to specifically make provisions for water and wastewater within Forest Lake Co-Op's statutory prospectus.

With respect to its obligation to provide water and wastewater service to its residents and the common areas of the Property, Forest Lake Co-Op has contractually outsourced that obligation to Labrador.

from Labrador's wastewater plant. On numerous occasions in the past and present, residents have been unable to stay outdoors or keep windows open due to noxious odors. As a result of the extreme, noxious odors emanating from the wastewater plant, residents have experienced physical health symptoms and in fact have become ill.

This would be a significant problem for any community. This is especially problematic for a retirement community, whose residents choose to live at the Property for some or all of the year in order to enjoy the beautiful Florida weather, socialize with other retirees, and relax. The noxious odors emanating from the wastewater plant have had a dramatic and negative effect on the quality of life at the Property. As a result, Forest Lake Co-Op attempted, on numerous occasions, to obtain voluntary correction and remediation of the problem from Labrador. These attempts fell on deaf ears. For years, Labrador showed nothing but contempt and indifference toward the residents' complaints. Consequently, in 2008, Forest Lake Co-Op had no choice but to file a lawsuit against Labrador for injunctive and monetary relief to stop the ongoing nuisance violations (the "Lawsuit"). *See* Pasco Circuit Case No. 51-08-CA-004033-ES/B. The lawsuit continued for several years, and was vigorously opposed by Labrador.

In 2011, with the Lawsuit pending, Labrador filed PSC Docket No. 11-0264-WS, seeking approval by the PSC for an exorbitant and undeserved rate increase. Labrador's rates have always been extremely expensive and unaffordable, especially compared to the relatively inexpensive and affordable rates offered by the local public utility, the City of Zephyrhills. By requesting approval to charge the Property's retirees even higher rates, Labrador disingenuously and egregiously ignored the sanitary nuisance and quality of service deficiencies at the Property. Labrador attempted to ram through a rate increase with the expectation that the residents would simply roll over and allow it. That is not what happened. Instead, the rate increase was

contested. Residents of the Property testified in opposition to the rate increase at a customer meeting held at the Property, raising numerous complaints against Labrador, including but not limited to the problems involving the extreme and noxious odors emanating from the wastewater system. Dozens of residents appeared at the final agenda conference to protest Labrador and oppose the requested increase. In addition, Forest Lake Co-Op was ably represented by counsel at the final agenda conference. At the conference, after considering the evidence presented by the residents and Forest Lake Co-Op, the PSC, as then-constituted, found that the quality of wastewater service was marginal, and reduce the requested rate increase. The PSC explained its ruling:

With respect to Labrador's wastewater service, the Utility has failed to adequately address customer dissatisfaction with the odors coming from the treatment plant. ...the Utility has not conducted adequate study of the problem and possible solutions to it, and the Utility has failed to engage the customers in the search for a resolution. Therefore, we find that the overall quality of wastewater service provided is marginal.

Order No. PSC-12-0206-PAA-WS at 8.

Despite this finding by the PSC, Labrador remained obstinate. It refused to acknowledge the seriousness of the odor problem or work in good faith with the Forest Lake Co-Op and the residents to resolve it. As a result, the Lawsuit continued. No progress was made until February, 2013, when Forest Lake Co-Op filed a motion for summary judgment in the Lawsuit, which, if granted, would have ejected Labrador from the Property and divested it of possession of its utility plant. Recognizing the grave risk to its revenue stream, and, for the first time admitting that a problem exists, Labrador finally came to the table to attempt to resolve the odor issue with the Forest Lake Co-Op. After many weeks of negotiation, the parties were able to draw up a compromise wherein Labrador acknowledged the sanitary nuisance caused by its wastewater plant, and was to thereafter engage an engineer to develop a remediation plan to address the

problem. Once the plan was agreed upon, Labrador was to promptly file a permit application with the appropriate government entities and complete the improvements within one hundred eighty (180) days. In exchange, the cost of the improvements could be included in Labrador's next rate increase, and the Forest Lake Co-Op would not object to the cost of the improvements as part of the rate increase. A copy of the Settlement Agreement, dated June 19, 2013, is attached hereto as Exhibit "A." The lawsuit was dismissed in consideration for Labrador's obligations under the agreement.

The settlement did not go as planned. From the beginning, Labrador dragged its feet and failed to timely perform its obligations under the agreement. Eventually, after numerous delays, a plan to remediate the plant was proposed by Labrador and ultimately agreed upon by the parties, in or about December, 2013. The problems continued. Labrador was required under the settlement to promptly obtain necessary permits and complete the work within one hundred and eighty (180) days. Labrador responded, in violation of the agreement, that it would take an estimated four hundred and eighty (480) days to complete the work – well over a year. The work slowly crept forward. Communication was inconsistent. Numerous requests for status updates were made. Responses to such requests were sporadic at best. Finally, a follow up meeting between the parties was held in February, 2015. Labrador represented at that meeting that the work was finally completed. However, any upgrades have provided little noticeable difference with respect to the severity of the odor, and it is entirely unclear whether the project was successful.

As noted, this current case was filed in June, 2014. The work was apparently nowhere near finished when the rate case was filed. There is no lawful basis for Labrador to receive any rate increase now. It is disingenuous for Labrador to even file this Rate Case when the work was

not completed at the time of filing and there is little noticeable benefit from the work today. The agreement between Forest Lake and Labrador was that Labrador could come back for a rate increase when its work was completed. That has not occurred because the odor issue has not materially improved. The quality of wastewater service provided by Labrador to the Property is still marginal, just like it was three (3) years ago when the PSC ruled on Labrador's last rate increase request. Substantial resident complaints continue to this day regarding noxious odors emanating from the wastewater plant. As will be stated herein, there is significant corroborating evidence demonstrating the failure of Labrador to provide satisfactory water and wastewater service. This includes customer testimony given at a customer meeting held in this docket on February 11, 2015, and the results of an exhaustive survey completed by hundreds of residents at the Property and filed in this docket. The additional rate increase is unconscionable and egregious in light of the already-high rates imposed upon the elderly retirees at the Property, the excessiveness of the requested increase (37% increase for water services and 71% increase for wastewater), and the poor quality of the water and wastewater service provided.

III. Legal Standard for Rate Increases

Florida law provides for procedures for changing utility rates. These procedures include accounting issues such as the costs to provide the services² and issues of the reasonableness of rates and the value and quality of the service provided. The guidelines for approval of rate increases are provided in Section 367.081, *Fla.Stat.*, which states in pertinent part:

367.081 Rates; procedure for fixing and changing.--

(1) Except as provided in subsection (4) or subsection (6), a utility may only charge rates and charges that have been approved by the commission.

² On most accounting issues, unless otherwise specified, the Forest Lake Co-Op will repeat the objections to the rate increase based upon OPC's findings and conclusions. However, the Forest Lake Co-Op also maintains the right to specifically address any accounting issues directly related to its Property.

(2)(a)1. The commission shall, either upon request or upon its own motion, fix rates which are ***just, reasonable, compensatory, and not unfairly discriminatory***. In every such proceeding, ***the commission shall consider the value and quality of the service*** and the cost of providing the service.... [emphasis added].

In fact, Florida courts have consistently recognized the broad legislative grant of authority that these statutes confer and the considerable license the PSC enjoys as a result of this delegation. *Citizens of the State of Florida v. PSC*, 425 So.2d 534, 540 (Fla. 1982). Moreover, Chapter 25 of the Florida Administrative Code also elaborates upon the PSC's authority in evaluating the value and quality of service by holding:

25-30.433 Rate Case Proceedings. (1) ***The Commission in every rate case shall make a determination of the quality of service provided by the utility. This shall be derived from an evaluation of three separate components of water and wastewater utility operations: quality of utility's product (water and wastewater); operational conditions of utility's plant and facilities; and the utility's attempt to address customer satisfaction.*** Sanitary surveys, outstanding citations, violations and consent orders on file with the Department of Environmental Protection (DEP) and county health departments or lack thereof over the preceding 3-year period shall also be considered. DEP and county health department officials' testimony concerning quality of service as well as the testimony of utility's customers shall be considered. [Emphasis added].

Therefore, in order to award a rate increase, the PSC must take into consideration not only the reasonableness of an increase, but also the value and quality of the service provided. If the value or quality is deemed insufficient, the increase can be denied or reduced. *See United Tel. Co. v. Mayo*, 215 So.2d 609 (Fla. 1968)(PSC may decrease rate for poor service); *Gulf Power Co. v. Wilson*, 597 So.2d 270 (Fla. 1992) (PSC may decrease rate due to inefficiency in management; *North Fla. Water Co. v. Bevis*, 302 So.2d 129, 130 (Fla. 1974)(fixing of rates involves a balancing of the public's interest in withholding rate relief due to inadequate service and utility's interest in obtaining rate increases to finance necessary improvement programs).

Consequently, if justice or the reasonableness of the increase requested weighs against granting the increase or the value or quality of the service provided is unsatisfactory, the PSC is empowered to deny or at a minimum substantially reduce the increase.

IV. The Value and Quality of Labrador's Water and Wastewater Service is Substandard and Labrador's Proposed Rate Increase is Unjust and Unreasonable

The value and quality of service provided by Labrador to the Property is marginal, if not unsatisfactory, and not consistent with the standards and norms of the local community, including service provided by the City of Zephyrhills. Therefore, the rate increase should be denied outright, or at least substantially reduced. The quality of Labrador's water and wastewater service, and Labrador's attempt to address customer grievances all demonstrate that Labrador has failed to meet its statutory obligations. Further, Labrador's current requested rate increase is unjust and unreasonable, especially in light of the elderly and fixed-income population served by Labrador.

At the customer hearing on February 11, 2015, hundreds of residents of the Property came out to show their displeasure toward Labrador's requested rate increase. Numerous residents gave testimony. The testimony was damning. The testimony established many key facts which should be relied upon by the PSC to deny or reduce the requested rate increase as stated in more detail herein. Following the meeting, the residents of the Property asked if they could submit written questionnaires in order to demonstrate, for the record, that the quality of the service provided by Labrador is unsatisfactory. The PSC staff members on site encouraged the residents to do this. Over the following weeks, 437 separate residents completed an exhaustive and comprehensive survey on numerous issues detailing the poor quality of service provided by Labrador. The results of the surveys, all of which were filed in this docket, were absolutely staggering and should give the PSC great pause before ordering any rate increase.

A. Poor and Unsatisfactory Wastewater Quality – Extreme and Noxious Odor

The resident testimony at the customer meeting and the survey results show that the odor problems which gave rise to a finding of “marginal” wastewater service as part of Labrador’s last rate case have not improved. In fact, of the 437 residents surveyed, 73.2% stated that even after Labrador has made improvements to its wastewater facility, they have still experienced foul odors emanating from the plant.

For example, resident Kurt Deaner, at 5714 Viau Way on the Property, testified that the odor problem is not resolved. He stated that “this morning the smell was there...[and]...day before yesterday the smell was there.” Resident Neil Wright, at 6065 Utopia Drive, reiterated and adopted these comments. Mr. Wright testified that the poor quality of service from Labrador is causing him to reconsider whether he even wishes to live at the Property. This is a common sentiment. Of the 437 residents surveyed, nearly half have considered moving from the Property due to the poor level of service provided by Labrador. The odor is a major reason why that is the case. At the customer meeting, Brett Schroder, the manager for the Forest Lake Co-Op, asked for a show of hands from the Residents who still smell bad odor from the wastewater plant. Almost all hands in the room were raised. The video taken by PSC staff shows this. The Commission should watch it before deciding on this rate increase. The problems only continue. Customer testimony at the agenda conference will echo what was testified to at the customer meeting. It will show that residents continue to be unable to stay outdoors or keep windows open at times due to the noxious odor emanating from Labrador’s wastewater facility. It will show that residents are still greatly bothered by the odor, and the odor negatively affects their quality of life.

Labrador has not corrected this problem, and it has not done what it agreed to as part of its settlement with the Forest Lake Co-Op. The odor remains. The Forest Lake Co-Op is entitled to the benefit of its bargain, and Labrador is putting the cart before the horse by moving for this rate increase when the “improvements” have not been shown to work. As a result, Labrador’s rate increase should be denied or at least substantially reduced.

B. Poor and Unsatisfactory Potable Water Quality

The testimony from the customer meeting shows that Labrador’s potable water is not only substandard and produces a product with a bad appearance, odor, and taste, but also produces a product which tends to degrade plumbing fixtures and appliances as a result of the high sediment concentrations in the water. Numerous residents testified that they are required to purchase expensive water softening equipment in order to make the water usable. Residents testified that the water calcifies on plumbing lines and damages and destroys appliances. Resident Dianne Hawryskzko, at 6309 Forest Lake Drive, testified that in approximately 4 or 5 days, a new water kettle was completely covered with scaling due to particles in the water provided by Labrador. Beverley Culliford, President of Forest Lake Co-Op, testified that sand in the water has caused clogs to plumbing systems throughout the community. In fact, of the 437 respondents who participated in the survey, 71.16% stated that they have experienced scaling or clogging of appliances, water heaters, pipes or other appliances due to the poor quality of the water provided by Labrador. Customer testimony at the agenda conference will further substantiate this problem.

Testimony at the customer meeting also showed that numerous residents have purchased water filtration systems and relied upon bottled water for their cooking. This is due to the water’s bad appearance, odor, and taste. For example, resident Wendy Coache, at 6214 Forest Lake

Drive, testified that the water is so bad that it makes her dog sick. As a result, she is required to buy bottled water for home use, at a cost of \$35.00 per month. Ms. Coache fills four (4) giant water jugs each month just so she has water available for making coffee and doing the dishes. Resident Marion LaPanne, at 6033 Presidential Circle, testified that she can't drink the water without a filter and must buy bottled water each month at great cost to her. Of the 437 residents who completed the survey:

- 93.59% stated that the water provided by Labrador has a bad taste;
- 82.60% stated that they do not drink the water provided by Labrador;
- 87.64% stated that they buy bottled water or use a water cooler instead of drinking water provided by Labrador;
- 78.71% stated that they have, at their own cost, purchased water filters or other water filtration systems due to the bad quality of the water provided by Labrador;
- 79.86% stated that the water has a bad color at times;
- 91.99% stated that the water has a bad odor at times; and
- Nearly half stated that they have considered moving from the Property due to the poor level of quality and service provided by Labrador.

This Commission cannot ignore these numbers and rubberstamp an excessive rate increase for Labrador when they have done absolutely nothing to deserve it. The poor water quality is self-evident by these survey results and the testimony given at the customer meeting. It will be further buttressed by customer testimony at the agenda conference. Moreover, Labrador's water quality is inconsistent with the water quality provided to residents who live outside of the Property in the local community. At the customer service meeting, numerous residents testified in very positive terms about the quality of water provided by the local public

utility, the City of Zephyrhills. The City of Zephyrhills is famous for its local water and even bottles and distributes it commercially. Customer testimony highlighted this. The testimony showed that the quality of service provided by Labrador is inconsistent with and far below the quality of water provided to other residents of the local community, such as those who receive water service from the City of Zephyrhills. The customer testimony and survey results conclusively demonstrate that Labrador is egregiously failing to meet its statutory obligation to provide satisfactory water service and justify a denial or at least substantial reduction of Labrador's requested rate increase.

C. Poor Quality Service – General Items

The testimony from the customer meeting, along with the survey results, show that Labrador's service is woefully inadequate. Labrador fails to timely and courteously respond to residents' concerns and issues. Residents of the Property who have billing issues, leaks, or other problems often attempt to contact Labrador by telephone. Testimony showed that calls to Labrador have been met with indifference and lack of proper response from the utility.

For example, resident Wendy Coache, at 6214 Forest Lake Drive, testified at the customer meeting that her water will be periodically shut off without any advance notice to her. No call; no notice. Similarly, resident Jim Dill also testified regarding a recent and unpleasant incident involving leaks on Jessup Drive on the Property. Mr. Dill called Labrador at 6 a.m. regarding the problem. Despite that, it was not repaired until 11 a.m. the next day. This resulted in a gigantic mess in the community with mud caked on the roadway. Labrador did not clean the mess.

Customer testimony also raised issues involving excessive leaks involving Labrador's lines and infrastructure. In some instances, Labrador refuses to take responsibility for these

leaks, responding that the leaks are on “the resident’s side of the line.” Resident Marion LaPanne, at 6033 Presidential Circle, testified that she once suffered a bad leak in her home. The first Labrador technician who came out told her not to worry; Labrador would fix the issue. However, the second technician sent by Labrador told her just the opposite: the leak was on her side, and Labrador was not responsible. This is evidence of bad customer service, and it is consistent with the survey results. As to leaks that are on Labrador’s “side of the line, the resident survey conducted by the Forest Lake Co-Op identified no less than 79 residents who reported that they that they have experienced a lack of timely response by Labrador to service calls, such as the failure to timely respond to leaks.

Labrador’s service is also inadequate in that Labrador often submits incorrect bills to residents. In the resident survey, at least 57 separate residents identified billing disputes and errors with Labrador that were either unresolved or not timely resolved by Labrador. This should not be ignored by the Commission.

As a result, Labrador’s rate increase should be denied or at least substantially reduced.

D. Labrador’s Rates are Unjust, Unreasonable, and Unaffordable

In 2012, as part of Labrador’s last rate increase application, residents of the Property saw an extraordinary and exorbitant increase in their rates. By the Office of Public Counsel’s calculations, the rate increase sought by Labrador in this Rate Case will result in an additional 37% increase for water services, and 71% increase for wastewater. This is outrageous and not commensurate with the level of service provided. Contributing to this excessive increase, Labrador is seeking test year legal fees which far exceed the prior five (5) year average. This alone creates an annual impact of \$28,856.00 toward increased water rates and \$28,378.00 toward increased wastewater rates. Moreover, Labrador is seeking a 22% increase in its

employees' and officers' salaries and benefits since the last rate case in 2012. This too is excessive, especially when it is given on the backs of senior citizens whom have had little to no increase in their Social Security payments during the same time frame.

As testified to by resident Jim Dill at the February 11, 2015 customer meeting, the rates charged by the City of Zephyrhills are considerably lower than those currently charged by Labrador, for a far better product. Mr. Dill testified that under the proposed increase from Labrador, he estimates that he will pay \$166.49 per month for water and wastewater service – a 62.7% increase from his previous rates. In contrast, the same water and wastewater service would only cost \$42.39 if provided by the City of Zephyrhills. By his calculation, this makes Labrador's proposed rate 292% more expensive than a superior service provided by the local public utility. The high cost and unaffordability of Labrador's rates coupled with the low water and wastewater quality and inferior service makes Labrador's requested rate increase unjust and unreasonable. As a result, Labrador's rate increase should be denied or at least substantially reduced.

V. The Application of the Law to the Facts Supports a Denial or Substantial Reduction of Labrador's Requested Rate Increase

Forest Lake Co-Op has demonstrated through customer testimony and survey results that the quality of Labrador's water and wastewater service and customer service are egregious and unsatisfactory. Labrador's requested 37% increase for water services and 71% increase for wastewater service is excessive and wildly inappropriate in light of the poor service provided. Simply put, this is an attempt to gouge the Property's elderly, retiree residents. Labrador has also failed to honor the terms of its settlement agreement with the Forest Lake Co-Op by failing to properly remediate the odor and nuisance issues caused by its wastewater plant. Forest Lake Co-Op is entitled to the benefit of its bargain with Labrador, which means that Labrador should

actually remediate the odor issues before seeking a rate increase. As a result, Labrador should be denied any rate increase, let alone the substantial increase sought in this Rate Case, until it performs its obligations under the settlement agreement. At a minimum, the requested increase should be substantially reduced.

The PSC previously considered an analogous case involving another troubled Pasco County utility, Aloha Utilities, Inc. (“Aloha”). *See* Order No. 06-0270-AS-WS, issued April 5, 2006, in Docket No. 050018-WU and 050183-WU. Aloha provided bad service and poor water quality to its mobile home park customers. *Id.* at 2. As a result, numerous lawsuits and PSC proceedings were initiated by and against Aloha involving the OPC and the customers. *Id.* Ultimately, the parties reached a global settlement wherein Aloha would implement significant modifications and improvements to its system to remediate the poor water quality. An express timetable to complete the improvements was agreed upon. *Id.* The settlement was approved by then-constituted Commission. *Id.* at 6. Voluntary settlements are favored by the PSC as they serve the interests of the customers when they are honored by the utility. As the Commission explained, the settlement was favored because “it put a stop to lengthy and expensive litigation, resolved all outstanding dockets and court proceedings between [the parties], and because it was believed to be the quickest solution to solving the customers’ ... water problems.” *See* Order No. 08-0266-SC-WS, issued April 30, 2008, in Docket No. 060606-WS.

However, in the *Aloha* case, just like in the instant case, the settlement was not properly honored by the utility. As in our case, Aloha did not take the necessary actions to actually remediate the issues and address the problems suffered by the residents. *Id.* Ultimately, the PSC was required to issue a show cause order against the utility, requiring the utility to provide evidence for why it should not be assessed monetary fines and sanctions as a result of its failure

to perform under the settlement. *Id.* at 6. It goes without saying that a utility which has failed to fully perform under a settlement agreement—like Labrador—is not eligible for a rate increase. Rather, the issue is whether fines should be assessed against it. Settlement agreements and the obligations imposed by those agreements should be enforced by the Commission. Not ignored.

Aside from its failure to timely and properly perform under the settlement agreement, as stated in more detail herein, Labrador has also egregiously and utterly failed in its duty to provide quality water and wastewater service to the Property. In determining the quality of the water and wastewater product, the PSC must not only consider whether any consent orders or infractions are pending, but must also consider the input of customers regarding the water quality. *See* Order No. 09-0385-FOF-WS, issued May 9, 2009, in Docket No. 080121-WS. Customer complaints regarding odor, sediment, unpleasant taste, excessive amounts of foreign substances, corrosion of piping, and non-potability of the water must be considered. *Id.* at 10. These issues may partially form the basis for a denial or reduction of rate increase. *Id.* at 21-22.

In the instant case, this Commission has before it substantial and overwhelming evidence that Labrador has not provided satisfactory water and wastewater service. This includes poor water quality, service deficiencies, and noxious odors which continue to this day. This evidence cannot be ignored by this Commission and support a denial or reduction of the requested rate increase. *Id.*

The quality of the water itself is particularly relevant. In *Island Services, Inc. v. PSC*, DOAH Case No. 80-1176, issued August 6, 1980, in Docket No. 790857-W, under facts similar to the instant Rate Case, the Florida Division of Administrative Hearings held that a utility was not even permitted a return on its equity, let alone a rate increase and reasoned that:

The utility has not properly maintained this system and water (sic) taste, smell and clarity are generally poor. The customers also experience frequent periods of very

low water pressure....Thus, overall service is unsatisfactory and must be improved before the Petitioner is allowed to receive a return on its investment. See Section 367.081(2), Florida Statutes, which requires the Commission to consider service in setting rates.

Id. at para. 5.

Additionally, in Order No. PSC-96-1320-FOF-WS, issued October 30, 1996, in Docket No. 950495-WS, the PSC reduced a utility's requested increase when it determined that the utility was dispensing water of inadequate and inferior quality and held:

Customers from several regions in the state complained that the water is not potable. Others shared physical or medical problems that apparently occurred from the water. Customers from numerous service areas complained about the strength or odor from chlorine disinfection. Customers also reported a sulfur or rotten egg odor. Some customers have purchased home purifying systems or filters because of odor, taste, or other reasons. Others stated that they purchase bottled water to drink.

A number of customers in numerous service areas complained of water that stained tile and fixtures, and clogged pipes. Others spoke of corrosion and premature replacement of plumbing fixtures, and in some cases complete repiping of homes due to leaks caused by corrosive water. Some customers found the water pressure to be unacceptably low, while others stated that it was too high. A few customers complained of sewage odors, overflows, or backups.

Id. at 31. *See also* Order No. 11760, issued June 29, 1987, in Docket No. 850646-SU (where the PSC found that utility's service was only marginally satisfactory and reduced the utility's requested increase).

In the instant Rate Case, the quality of the water provided by Labrador is extremely poor. This is substantiated by testimony given at the customer meeting, and testimony which will be given at the agenda conference. In addition, as stated herein, of the 437 residents who completed the survey:

- 93.59% stated that the water provided by Labrador has a bad taste;
- 82.60% stated that they do not drink the water provided by Labrador;

- 87.64% stated that they buy bottled water or use a water cooler instead of drinking water provided by Labrador;
- 78.71% stated that they have, at their own cost, purchased water filters or other water filtration systems due to the bad quality of the water provided by Labrador;
- 79.86% stated that the water has a bad color at times;
- 91.99% stated that the water has a bad odor at times; and
- Nearly half stated that they have considered moving from the Property due to the poor level of quality and service provided by Labrador.

It would be wildly inappropriate and improper for this Commission to grant the substantial rate increase sought by Labrador in light of this evidence of egregiously poor service.

The PSC must also evaluate a utility's attempts to address customer grievances and satisfaction generally when determining whether an increase is justified. The PSC should consider customer testimony, such as what is contained in this Memorandum, as well as the results of customer service hearings in deciding Labrador's requested rate increase. *See* Order No. 09-0385-FOF-WS, issued May 9, 2009, in Docket No. 080121-WS. Complaints pertaining to billing issues and incorrect charges are relevant. *Id.* at 17. Again, these issues can contribute to a decision to reduce or deny a rate increase. *Id.* at 21. For example, in Order No. PSC-96-1320-FOF-WS, issued October 30, 1996, in Docket No. 950495-WS, *supra*, the PSC again gave credence to customer service issues when reducing the amount of an increase. In fact, the PSC noted:

Customers expressed concern over the utility's failure to notify its customers of outages, or to notify them of the potential health or safety problems that might result from the outages. There was also general dissatisfaction with the utility's response to service calls or questions. Customers reported that the utility was slow to respond, or did not properly respond to water quality problems such as sedimentation, discoloration, or excessive lead levels. Incidents were reported where the company

damaged customers' property and would not repair the damage. The utility took a long time to answer requests to have tests conducted.

Customers presented a variety of complaints with billing. Two customers had problems with their meter readings. They either had not seen anyone read their meter, or could not obtain meter reading data from the utility. Others cited billing problems where SSU was not responsive, or gave an answer that did not aid in resolving the problem.

Additionally, in *Island Services, Inc. v. PSC*, DOAH Case No. 80-1176, issued August 6, 1980, in Docket 790857-W, *supra*, the Florida Division of Administrative Hearings relied not only on water quality issues in restricting the utility's rate increase, but also on the presence of customer service issues. *Id.* at para. 5.

Labrador is unable to rebut the overwhelming testimony of the residents regarding its poor and egregious customer service. This Commission should carefully review and rely upon the testimony and evidence presented by the Forest Lake Co-Op and the Property's residents and deny, or at least substantially reduce, the requested rate increase.

VI. Conclusion

In conclusion, Section 367.081, Fla.Stat. and Rule 25-30.433, Fla.Admin.C., require this Commission to make a determination regarding the value and quality of the service provided and to only award rates which are just and reasonable given the totality of the circumstances. In Labrador's last rate increase application, the PSC found that the quality of wastewater service provided by Labrador was marginal, necessitating a reduction in Labrador's rate of return. Since that time, Labrador has failed as to improve its product or service and has now moved for yet another rate increase. Based on the foregoing, Labrador's rate increase should be denied or, at a minimum, substantially reduced.

Respectfully submitted,

/s/ Andrew J. McBride

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150 Second Avenue N., Suite 1700

St. Petersburg, Florida 33701

Telephone: (727) 502-8200

Facsimile: (727) 502-8282

Attorneys for Forest Lake

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished via email (where provided below) and U.S. Mail on April 27, 2015 to: Labrador Utilities, Inc., c/o Patrick C. Flynn, 200 Weathersfield Ave, Altamonte Springs, Florida 32714-4027 (pcflyn@uiwater.com); Martin Friedman, Esq., 766 N. Sun Drive, Suite 4030, Lake Mary, Florida 32746 (mfriedman@SFFlaw.com); and Stephen C. Reilly, Esq., Office of Public Counsel, c/o the Florida Legislature, 111 W. Madison Street, Room 812, Tallahassee, Florida 32393-1400 (reilly.steve@leg.state.fl.us).

/s/ Andrew J. McBride

Andrew J. McBride

SETTLEMENT AGREEMENT

This agreement, made this 19th day of June, 2013 by and between FOREST LAKE ESTATES CO-OP, INC, a Florida not-for-profit corporation (Hereinafter referred to as "FOREST LAKE") and LABRADOR UTILITIES, INC, a Florida Corporation (Hereinafter referred to as "UTILITIES") as follows:

WHEREAS, on June 10, 1999 FOREST LAKE and LABRADOR SERVICES, INC, a Florida corporation (Hereinafter referred to as "SERVICES") entered into a Lease Agreement for Water and Wastewater Treatment Facilities (Hereinafter referred to as "The Lease") whereby SERVICES would lease certain parcels of land from FOREST LAKE; and

WHEREAS, SERVICES was to operate a Water Plant and Wastewater Treatment Plant (Hereinafter referred to as the "PLANT"), including a spray field on said parcels; and

WHEREAS, on May 13, 2002, SERVICES entered into an Assignment and Assumption of Contracts and Leases (Hereinafter referred to as the "ASSIGNMENT") with UTILITIES whereby UTILITIES would assumed the terms of The Lease; and operate the PLANT; and

WHEREAS, The Lease called for a schedule of monthly payments, including certain scheduled increases for the rental of the subject land; and

WHEREAS, FOREST LAKE has made allegations that UTILITIES has failed to properly maintain and operate said PLANT resulting in odors emanating from The PLANT and into the community of FOREST LAKE; and

WHEREAS, FOREST LAKE has made allegations that UTILITIES has failed to remit or properly remit certain payments or the proper amounts due under the LEASE; and

WHEREAS, as a result of the above, FOREST LAKE has commenced suit against UTILITIES, in the Circuit Court in and for the Sixth Judicial Circuit, In and for Pasco County, Florida, Civil Division, in the case styled FOREST LAKE ESTATES CO-OP, INC., a Florida non-profit corporation, Plaintiff, vs. LABRADOR UTILITIES, INC., a Florida corporation, Defendant, CASE NO.: 51-08-CA-004033-ES/B; and

WHEREAS, FOREST LAKE and UTILITIES wish to resolve the matter, the claims and all other issues between them;

NOW, THEREFORE, in consideration of the foregoing and upon the terms and conditions hereinafter set forth, FOREST LAKE and UTILITIES have agreed as follows:

1. FOREST LAKE and UTILITIES agree to the terms and conditions of the Amended and

Restated Lease Agreement For Water and Wastewater Treatment Facilities, which is attached as Exhibit "A" to this agreement and incorporated herein and to execute it;

2. FOREST LAKE and UTILITIES agree to execute a Stipulation for Order of Dismissal with prejudice, providing that the court will retain jurisdiction to enforce the terms of the Settlement Agreement, a copy which is attached as Exhibit "B";
3. UTILITIES will within Ninety (90) days after the execution of this agreement, undertake at its expense, an engineering study conducted by a bona fide, independent, third party engineering firm, to determine what improvements can be undertaken in an effort to further reduce odors from the treatment process and outlining the costs of said improvements, and provide a copy of said engineering study to FOREST LAKE. After the initial Ninety (90) day period is completed, but no later than Sixty (60) days thereafter, representatives of FOREST LAKE and UTILITIES, and any legal representatives, if desired, will meet to discuss the various proposals and their corresponding costs, and reach an agreement on the improvements to be performed as well as the costs to be incurred as a result of said work. Once both the improvements and costs are agreed to, UTILITIES will promptly file a permit application with the appropriate government entities for said agreed upon improvements. If FOREST LAKE and UTILITIES are unable to reach an agreement at this meeting, they will reconvene within Thirty (30) days before a mutually agreed upon mediator to assist the parties in reaching such an agreement. The cost of the mediator will be split equally between the parties. This may result in an extension of this Sixty (60) day period. Once the permit is approved, UTILITIES will have One Hundred Eighty (180) days to complete said improvements. UTILITIES will use reasonably prudent commercial efforts to perform this work and complete it;
4. With respect to the improvements performed under paragraph 3, above, FOREST LAKE agrees that UTILITIES can submit as part of its next rate increase request, the agreed costs of the agreed upon improvements, and FOREST LAKE will not object to these costs as part of the rate increase and will also indicate FOREST LAKE requested these improvements be made, was consulted about the improvements, knew the amount of the total costs in advance of undertaking said improvements and knew it would be part of the rate increase;
5. FOREST LAKE and UTILITIES agree that the Court can release the funds currently held within the Registry of the Court to FOREST LAKE. FOREST LAKE and UTILITIES agree that the funds in the Registry of the Court cover rental payments thru June 30, 2013 and all future rental payments beginning July 1, 2013 shall be sent to FOREST LAKE CO-OP, , INC, 6429 Forest Lake Drive, Zephyrhills, Florida 33540; and
6. This Settlement is contingent upon FOREST LAKE, UTILITIES and FOREST LAKE's lender agreeing to a form and language of an Estoppel and Agreement, and all parties executing the agreed upon Estoppel and Agreement.

UTILITIES agrees as follows:

1. To pay all amounts under the Amended and Restated Lease in a timely and correct manner;
2. To conduct an initial meeting with the sitting Board of Directors of FOREST LAKE within Sixty (60) days of the execution of this SETTLEMENT AGREEMENT, and to conduct additional meetings with the sitting Board of Directors of FOREST LAKE every Six (6) months. UTILITIES agrees to have their Regional Manager attend these meetings;
3. To continue to treat odorous compounds within the liquid phase;
4. To replace broken pumps in a timely manner and to keep pumps in working order; and
5. To maintain chemical levels correctly;

FOREST LAKE agrees as follows:

1. That it will not object to the agreed costs of the agreed upon improvements to the Waste Water Treatment Plant as part of any rate increase and will also indicate Forest Lake asked for these improvements to be made, was consulted about the improvements, knew the amount of the total costs in advance of undertaking said improvements and knew it would be part of the rate increase;
2. Will dismiss all claims made in the above styled action (including any claims for damages and attorneys' fees) with prejudice, with each party to bear its own attorneys' fees and costs, and the court retaining jurisdiction to enforce the terms of the Settlement Agreement; and
3. Other than FOREST LAKE retaining its right to enforce the terms of this Settlement Agreement, if necessary, by proceeding to the Court which will retain jurisdiction under the Settlement Agreement, FOREST LAKE agrees to not bring any other claim against UTILITIES during the term of this Settlement Agreement which includes up thru the completion of the Improvements as contemplated by the Settlement Agreement.

SIGNATURES ARE CONTAINED ON THE FOLLOWING PAGE

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

By: _____
Daniel J. Ward, Vice President

STATE OF Florida
COUNTY OF Pasco

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgment, Daniel J. Ward, to me well known to be the person described in and who executed the foregoing, and they acknowledged before me that he/she executed the same for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____, said County and State, this _____ day of _____, 2013.

My commission expires:

Notary Public

LABRADOR UTILITIES, INC, a Florida Corporation

By: *Lisa Sparrow*
Lisa Sparrow, President

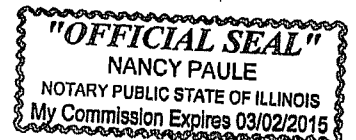
STATE OF Illinois
COUNTY OF COOK

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgment, Lisa Sparrow, to me well known to be the person described in and who executed the foregoing, and they acknowledged before me that he/she executed the same for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Northbrook, said County and State, this 19th day of June, 2013.

My commission expires: 03/02/2015

Nancy Paule
Notary Public



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

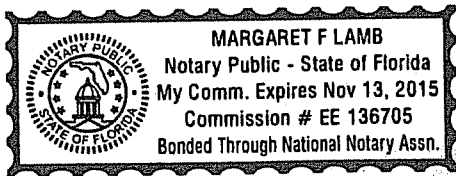
By: Daniel J. Ward
Daniel J. Ward, Vice President

STATE OF Florida
COUNTY OF Pasco

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgment, Daniel J. Ward, to me well known to be the person described in and who executed the foregoing, and they acknowledged before me that he/she executed the same for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Pasco, said County and State, this 19 day of June, 2013.

My commission expires: Nov 13 2015 Margaret F Lamb
Notary Public



LABRADOR UTILITIES, INC, a Florida Corporation

By: _____
Lisa Sparrow, President

STATE OF _____
COUNTY OF _____

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgment, _____, to me well known to be the person described in and who executed the foregoing, and they acknowledged before me that he/she executed the same for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____, said County and State, this _____ day of _____, 2013.

My commission expires: _____
Notary Public

**AMENDED AND RESTATED
LEASE AGREEMENT FOR
WATER AND WASTEWATER TREATMENT FACILITIES**

THIS AMENDED AND RESTATED LEASE AGREEMENT (hereafter, the "Agreement") is made and entered into this ___ day of June, 2013, by and between **FOREST LAKE ESTATES CO-OP., INC.**, a Florida not-for-profit corporation ("Lessor"), and **LABRADOR UTILITIES, INC.**, a Florida corporation ("Lessee").

RECITALS

1. Lessor is the owner of the real property in Pasco County, Florida operated as Forest Lake Estates Mobile Home Park and Forest Lake Village R.V. Park located at 6429 Forest Lake Drive, Zephyrhills, Florida 33540 (collectively the "Parks").

2. Lessee is the owner of a water production, storage, treatment, transmission, and distribution system (the "Water Plant"), and a wastewater collection, transmission, treatment and disposal system (the "Wastewater Treatment Plant") (the Water Plant and the Wastewater Treatment Plant are sometimes hereafter collectively referred to as the "Systems"). The Systems are located within the boundaries of and service, the Parks.

3. Lessor is the owner of lands in Pasco County, Florida lying under the Systems, said lands being more particularly described in Exhibit "A" attached hereto, with parcel 1 therein being the site of the Water Plant, parcel 2 therein being the site of the Wastewater Treatment Plant, and parcel 3 being the site of the waste water irrigation site, a component of the Waste Water Treatment Plant, said lands being hereinafter collectively referred to as the "Leased Premises."

4. Lessor leased the Leased Premises to Labrador Services, Inc. ("LSI") pursuant to that certain Lease Agreement for Water and Wastewater Treatment Facilities dated June 10, 1999 (the "Utilities Agreement").

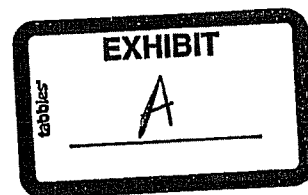
5. Lessor also granted to Lessee that certain Utility Easement (the "Utility Easement") dated June 10, 1999 as recorded in the Official Records of Pasco County, Florida at O.R. Book 4170, Page 849 therein.

6. The Utilities Agreement was assigned to and assumed by Labrador Utilities, Inc. ("LUI" or "Lessee") by Assignment and Assumption of Contracts and Leases dated May 13, 2002, as recorded in the Official Records of Pasco County, Florida at O.R. Book 4970, Page 1707 therein.

7. LUI is now Lessee under the Utilities Agreement and the beneficiary under the Utilities Easement.

8. Lessor and Lessee desire to amend, restate and ratify the Utilities Agreement to:

- a. Correct the legal description of the real property to which it relates;
- b. Make the term of the Utilities Lease co-terminus for all of the parcels therein;
- c. Update and correct the parties to the notice provision therein.



d. Update and correct the parties to the Subordination, Non-Disturbance and Attornment provision therein.

9. Except for the changes set forth above, Lessor and Lessee intend to hereby ratify the Utilities Agreement and all provisions contained therein.

10. Lessor and Lessee have negotiated in good faith and are empowered to be bound by the terms and conditions set forth in this Agreement by the persons signing on their respective behalf.

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

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

SECTION 2. TERM. To have and to hold for a term of ninety-nine (99) years for parcel 1, parcel 2 and parcel 3, unless sooner terminated, as provided hereinbelow, which term shall run from the date of June 10, 1999 (the "Original Lease Commencement Date"). The term of this lease shall expire ninety-nine (99) years from the Original Lease Commencement Date for parcels 1 and parcel 2 and parcel 3.

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

1. Annual rental of \$16,286.40 per year for parcels 1 and 2, payable in equal monthly installments of \$1,357.20 per month, payable the first day of each month.
2. Annual Rental for parcel 3 shall be \$40,716.00 per year payable in 12 equal monthly installments of \$3,393.00 per month, payable on the first day of each month.
3. The annual rental amounts in subparagraphs 1. and 2. above shall increase based upon the Consumer Price Index (as hereinafter defined) commencing on June 1, 2017. Every six (6) years thereafter, rental amounts shall be increased to an amount equal to the increase in the Consumer Price Index which shall be determined every six (6) years and paid at the new rental rate adjusted by the cumulative increase over the prior six (6) years. "Consumer Price Index" shall mean the Consumer price Index which is presently designated as the United States City Average for All Urban Consumers, All Items, with a base period equaling 100 in 1982-1984. In the event the statistics are not available or in the event that publication of the Consumer Price index is modified or discontinued in its entirety, the adjustment provided for herein shall be made on the basis of an index chosen by Lessor as a comparable and recognized index of the purchasing power of the United States consumer dollar published by the United States Department of Labor or other governmental agency.
4. Real estate taxes (both ad valorem taxes and non ad valorem taxes) and special assessments, if any, for parcels one and two shall be paid by Lessee.
5. Real estate taxes (both ad valorem taxes and non ad valorem taxes) and special assessments, if any, for parcel 3 shall be paid by Lessor.

6. Personal property taxes on the Systems, and necessary license and occupational fees, insurance, repair, maintenance and compliance costs for the Systems shall be paid by Lessee.

SECTION 4. USE OF LEASED PREMISES: LESSEE EXCLUSIVE PROVIDER OF UTILITY SERVICES. Lessee agrees that, throughout the term of this Agreement, it shall utilize the Leased Premises for water production, storage, treatment, transmission, distribution, and for wastewater collection, transmission, treatment and disposal, and for no other purpose, except upon the express written consent of the Lessor. Lessee further agrees that it shall maintain, operate and administer the Leased Premises and Systems in a manner consistent with customary standards. Lessor agrees that, throughout the term of this Agreement, Lessee shall be the sole and exclusive provider of water and wastewater utility services for the residents of the Parks.

SECTION 5. SERVICES TO THE PARKS. Lessee shall provide water and wastewater services to each occupied homesite and the common areas within the Parks.

SECTION 6. CUSTOMER RATES. Lessee shall charge each lot occupied by a mobile home (the "Occupied Homesite") of Forest Lake Estates Mobile Home Park the rates as set forth by the Florida Public Service Commission. Lessor shall have no obligation or liability to Lessee for any uncollected charges for water and sewer services for Occupied Homesites.

SECTION 7. LIMITED OPTION TO PURCHASE SYSTEMS.

INTENTIONALLY DELETED

- A. **Term.** INTENTIONALLY DELETED
- B. **Exercise of option.** . INTENTIONALLY DELETED
- C. **Purchase Price.** INTENTIONALLY DELETED
- D. **Physical Condition of Systems.** INTENTIONALLY DELETED
- E. **Adjustments; Prorations.** INTENTIONALLY DELETED.
- F. **Default; Remedy.** INTENTIONALLY DELETED.
- G. **Lessor's Indemnification of Lessee.** INTENTIONALLY DELETED.
- H. **Assignability.** . INTENTIONALLY DELETED.
- I. **Deposit.** INTENTIONALLY DELETED.
- J. **Closing.** INTENTIONALLY DELETED.
- K. **Lessor's Right of First Refusal.** Lessor shall have the right to purchase the Systems by meeting the exact terms and conditions of any bona fide offer to purchase the Systems that Lessee receives. Lessee shall have 20 days from notification of the bona fide offer to accept and exercise its right of first refusal, which acceptance must be in writing and delivered to Lessee as provided in the Notice provision in Section 11 of this Agreement. This right of first refusal is personal to Lessee's sale of its interest in the Systems and the Leased Premises and in the event that Lessee sells the property to a third party and Lessor fails to exercise its right of first refusal, then Lessor's right of first refusal shall expire without notice and be of no further effect. This right of first refusal is not assignable. Any

attempt to assign this right of first refusal shall be void.

SECTION 8. TERMINATION OF LEASE. Lessor and Lessee agree that this Agreement may be terminated during the ninety-nine (99) year term as follows:

This Agreement may be terminated by Lessee as to either parcel 1, parcel 2, or parcel 3, or all of them, solely, at Lessee's discretion, with termination to be effective 180 days after written notice to Lessor (the "Termination Date"). Upon the Termination Date, Lessee and Lessor shall prorate revenues and expenses for the Systems through the Termination Date, with Lessee retaining its rights to collect revenues earned prior to the Termination Date and Lessee and Lessor shall be released and discharged from their respective obligations under this Agreement.

In the event that this Agreement is terminated, as aforesaid, then Lessee agrees that it shall deliver up possession of the Leased Premises and the Systems to the Lessor as of the Termination Date.

SECTION 9. UTILITIES, REPAIRS AND OTHER EXPENSES. During the term of this Agreement, the Lessee shall provide potable water service to Lessor for service area of the existing water service to the service area. Such potable water service shall be provided by Lessee at the rates set forth in Section 6 of this Agreement with no additional charges or costs for the common areas of the Parks. The Lessee agrees that it shall pay for the operating costs necessary to operate and maintain the Systems. Lessee shall be responsible for the payment of all maintenance and repairs that may, from time to time, be required in order to keep the Systems in good operating condition and repair.

SECTION 10. LIABILITY OF THE PARTIES. Lessee shall indemnify and hold Lessor harmless for any claims, actions, expenses or damages, including Costs and attorney's fees, at trial and appeal, which Lessor incurs for personal injury, or property damage that occurs as a direct result of the negligent act or omission of Lessee, its agents, contractors, representatives and/or employees in the operation or maintenance of the Systems, under the following terms and conditions:

(a) A party seeking indemnification (the "Claimant") shall promptly notify the party from whom indemnification is sought (the "Indemnitor") of any liabilities for which the Indemnitor may be liable hereunder. A Claimant seeking indemnification for any claims brought by third parties shall endeavor to notify the Indemnitor in writing within fifteen (15) days after receipt of written notice of the third party claim (which notice of claim from a third party shall be of a nature which will reasonably advise the recipient of the fact that such a claim is being made). The notice will, to the extent possible, be sufficiently detailed so the Indemnitor is or will be able to reasonably understand the nature of the claim. The right of indemnification under the Agreement shall not be affected by any failure to give or any delay in giving any notice required herein, unless, and then only to the extent that, the rights and remedies of the Indemnitor shall have been prejudiced thereby.

(b) The Indemnitor shall have the right to negotiate with the third party relative to a claim, to control all settlements and to select lead counsel to defend any and all claims. The Claimant may select counsel to participate in any defense at the Claimant's sole cost and expense.

(c) In connection with any claim, all parties shall cooperate with each other and provide each other with access to relevant books and records in their possession or under their control, all at the cost of the Indemnitor.

(d) Lessor shall only be liable hereunder for actual claims, losses, damages, costs and expenses arising from matters covered under this indemnity. In no event shall Indemnitor be liable to Claimant for consequential, special, incidental or punitive damages, which are expressly excluded from

this indemnity.

SECTION 11. NOTICES. Any notices which are required um permitted hereunder shall be delivered' by United States mail, return receipt requested, postage prepaid or by hand delivery, to the parties at the following addresses:

LESSEE: Labrador Utilities, Inc.
Attention: Regional Director
200 Weathersfield Avenue
Altamonte Springs, FL 32714

with copy to: Utilities, Inc.
Attention: General Counsel.
2335 Sanders Road
Northbrook, IL 60062

LESSOR: Forest Lake Estates Co-Op, Inc.
6429 Forest Lake Drive
Zephyrhills, Florida 33540

with copy to: David Bernstein, Esq.
Adams and Reese LLP
150 Second Avenue North, 17th Flour
St. Petersburg, Florida 33701

Notice of an address change shall be given in writing by the appropriate party to the other prior to the change. All notices shall be deemed delivered three (3) days after deposit in the United States mail, err at the time of hand delivery. Facsimile transmissions shall be treated as originals for purposes of giving notice under this Agreement.

SECTION 12. INSURANCE. Lessee agrees to provide and maintain hazard and liability insurance upon the Systems and Leased Premises throughout the term of this Agreement. Lessor shall be named as an additional insured.

SECTION 13. ASSIGNABILITY AND SUBLEASES. Lessee. may assign or sublease all or any part of the Systems and Leased Premises without the prior written consent of the Lessor.

SECTION 14. COVENANTS RUNNING WITH THE LAND; SUCCESSORS AND ASSIGNS. All covenants and agreements herein contained shall run with the lands described in Exhibit "A" and shall be binding on the parties, and shall inure to the benefit of the successors and assigns of the parties hereto.

SECTION 15. QUITE ENJOYMENT. Lessee, upon paying the rent reserved hereunder and performing all the other covenants and conditions required to be performed under this Agreement, shall and may peaceably and quietly have, hold and enjoy the Systems and the Leased Premises hereby demised for the term aforesaid, free from disturbance by the Lessor or anyone claiming by, through or under the Lessor.

SECTION 16. ENVIRONMENTAL INDEMNITY. Lessee, subject to the procedures and the limitations set forth in Section 10 of this Agreement, hereby agrees to indemnify, reimburse, defend and hold harmless Lessor, Merrill Lynch Mortgage Lending, Inc. and their officers, directors, employees, successors and assigns from and against all demands, claims, civil or criminal actions or causes of action, liens, assessments, civil or criminal penalties or fines, losses, damages, liability, obligations, costs, disbursements, expenses or fees of any kind or of any nature (including, without limitation, cleanup costs, attorneys', paralegals', consultants' or experts' fees and disbursements and costs of litigation) which may at any time be imposed upon, incurred by or asserted or awarded against, Lessor directly or indirectly, related to or resulting from: (a) any acts or omissions of Lessee at, on or about the Leased Premises which contaminate air, soils, surface waters or ground waters over, on or under the Leased Premises; (b) the breach of any representation, or warranty under this Agreement; (c) pursuant to or in connection with the application of any Environmental Law, the acts or omissions of Lessee or its affiliates which result in any environmental damage alleged to have been caused, in whole or in part, by the manufacture, processing, distribution, use, handling, transportation, treatment, storage, or disposal of any Hazardous Substance on, in or about the Leased Premises; or (d) the presence, whether past present or future, of any Hazardous Substances introduced by Lessee or its agents, successors, assigns, contractors or employees, on, in or about the Leased Premises.

(a) Lessee's indemnification obligation under this section shall be subject to and limited by the procedures and the limitations set forth in Section 10 of this Agreement and shall continue, survive and remain in full force and effect notwithstanding termination of this Agreement.

(b) Those liabilities, losses, claims, damages and expenses for which a lender is indemnified under this section shall be reimbursable to Lessor at Lessor's option to make payments with respect thereto, without any requirement of Waiting for ultimate outcome of any litigation, claim or other proceeding, and Lessee shall pay such liability, losses, claims, damages and expenses to Lessor as so incurred within thirty (30) days after notice from Lessor itemizing the amounts incurred to the date of such notice.

(c) Lessee waives any acceptance of this indemnity by Lessor. The failure of Lessor to enforce any right or remedy hereunder, or to promptly enforce any such right or remedy, shall not constitute a waiver thereof nor give rise to any estoppel against Lessor, nor excuse Lessee from its obligations hereunder. Any waiver of such right or remedy must be in writing and signed by Lessor. This indemnity is subject to enforcement at law and/or equity, including actions for actual damages and/or specific performance; provided, however, any provision in this Section 16 to the contrary notwithstanding, Lessee shall in no event be liable for consequential, special, incidental or punitive damages.

(d) For purposes of this Agreement, "Environmental Law" shall mean any applicable federal, state, or local statutory or common law, ordinance, rule or regulation, relating to pollution or protection of the environment, including without limitation, any common law of nuisance or trespass, and any law, rule or regulation relating to emissions, discharges, releases or threatened releases of pollutants, contaminants or chemicals, or industrial, toxic or hazardous substances or waste into the environment (including without limitation, ambient air, surface water, groundwater, land surface or subsurface strats) or otherwise relating to the manufacture, processing distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants or chemicals or industrial, toxic or hazardous substances or wastes.

(e) For the purposes of this Agreement, the term "Hazardous Substance" means any substance or material (i) identified in Section 101(14) of CERCLA, 42 U.S.C. Statute 9601(14) and as set forth in Title 40, Code of Federal Regulations, part 302, as the same may be amended from time to time, or (ii) determined to be toxic, a pollutant or contaminant, under Federal, state or local statute, law, ordinance, rule, or regulation or judicial or administrative order or decision, as same may be amended from time to time, (iii) asbestos, (iv) radon, (v) polychlorinated biphenyls and (vi) such other materials,

substances or waste which are otherwise dangerous, hazardous, harmful or deleterious to human health or the environment.

SECTION 17. SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT.

(a) This Agreement is and shall be subject and subordinate to that certain Mortgage and Security Agreement between Lessor and Merrill Lynch Mortgage Lending, Inc. (the "Mortgage") encumbering the Parks and the Leased Premises and to all renewals, modifications, consolidations, replacements and extensions of the Mortgage.

(b) In the event of a foreclosure of the Mortgage or should a mortgagee obtain title by deed in lieu thereof, or otherwise, Lessee may continue its occupancy of the, Leased Premises accordance with the terms and provisions of this Agreement, so long as Lessee continues to pay rent and otherwise to perform its obligations thereunder.

(c) Lessee agrees to attorn to (i) said mortgagee when in possession of the Leased Premises; (ii) a receiver appointed in an action or proceeding to foreclose the Mortgage or otherwise; or (iii) to any party acquiring title to the Leased Premises as a result of foreclosure of the Mortgage or deed in lieu thereof. Lessee further covenants and agrees to execute and deliver, upon request of a mortgagee, or its assigns, an appropriate agreement of attornment with any subsequent titleholder of the Leased Premises.

(d) This Section 17 is to be effective and self-operative without the execution of any other instrument.

SECTION 18. RADON GAS. RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME, LEVELS OF RADON THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY PUBLIC HEALTH UNIT.

SECTION 19. WAIVER AND AMENDMENT. No provision of this Agreement shall be deemed waived or amended except by a written instrument unambiguously setting forth the matter waived or amended and signed by both parties. Waiver of any matter shall not be deemed a waiver of the same or any other matter on any future occasion. No acceptance by Lessor of an amount less than the annual rent set forth in Section 3 shall be deemed to be other than a payment on account of the earliest such rent or other payments then due or in arrears nor shall any endorsement or statement on any check or letter accompanying any such payment be deemed a waiver of Lessor's right to collect any unpaid amounts or an accord and satisfaction.

SECTION 20. SUCCESSORS BOUND. Except as otherwise specifically provided herein, the terms, covenants and conditions contained in this Agreement shall bind and inure to the benefit of the respective heirs, successors, executors, administrators and assigns of each of the parties hereto.

SECTION 21. NO MERGER. The voluntary or other surrender of this Agreement by Lessee, or a mutual cancellation thereof, shall not result in a merger of Lessor's and Lessee's estates, and shall, at the option of Lessor, either terminate any or all existing subleases or subtenancies, or operate as an assignment to Lessor of any or all of such subleases or subtenancies.

SECTION 22. CAPTIONS. Captions are used throughout this Agreement for convenience of reference only and shall not be considered in' any manner in the construction or interpretation hereof.

SECTION 23. SEVERABILITY. The provisions of this Agreement shall be deemed severable. If any part of this Agreement shall be held unenforceable by any court of competent jurisdiction, the remainder shall remain in full force and effect, and such unenforceable provision shall be reformed by such court so as to give maximum legal effect to the intention of the parties as expressed therein.

SECTION 24. CHARACTERIZATION. It is the intent of the parties hereto that the business relationship created by this Agreement and any related documents is solely that of a long-term commercial lease between Lessor and Lessee and has been entered into by both parties in reliance upon the economic and legal bargains contained herein. None of the agreements contained herein are intended, nor shall the same be deemed or construed, to create a partnership between Lessor and Lessee, to make them joint venturers, to make Lessee an agent, legal representative, partner, subsidiary or employee of Lessor, nor to make Lessor in any way responsible for the debts, obligations or losses of Lessee.

SECTION 25. EASEMENTS. During the Lease Term, Lessor shall have the right to grant non-exclusive electric or cable utility easements on, over, under and above the Leased Premises without the prior consent of Lessee, provided that such non-exclusive electric or cable utility easements will not materially interfere with Lessee's long-term use of the Premises,

SECTION 26. FURTHER ASSURANCES. Each of the parties agrees to sign such other and further documents and otherwise cooperate with each other as may be necessary or appropriate to carry out the intentions expressed in this Agreement.

SECTION 27 ENTIRE AGREEMENT. This Agreement, and any other instruments or agreements referred to herein, constitute the entire agreement between the parties with respect to the subject matter hereof, and there are no other representations, warranties or agreements except as herein provided.

SECTION 28. CHOICE OF LAW: VENUE. The creation of this Agreement and the rights and remedies of Lessor with respect to the Premises shall be governed by and construed in accordance with the internal laws of the State of Florida. Venue for the resolution of any dispute between the Lessor and Lessee shall be in Pasco County, Florida and those Florida and federal courts whose jurisdiction includes Pasco County, Florida.

SECTION 29. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all such counterparts shall constitute but one agreement.

SECTION 30. RECORDING OF LEASE. After execution of this Agreement, the parties shall execute and record in Pasco County, Florida, a short form memorandum describing the Land and the stating the Lease Term and other information the parties agree to include. The Memorandum of Lease to be executed and recorded is attached as Exhibit "B."

SECTION 31. NO BROKERAGE. Lessor and Lessee represent and warrant to each other that they have not contracted with any broker for compensation for real estate services in connection with this Agreement. Each of Lessor and Lessee agrees to protect, indemnify, save and keep harmless the other, against and from all liabilities, claims, losses, costs, damages and expenses, including attorneys' fees, arising out of, resulting from or in connection with their breach of the foregoing warranty and representation.

SECTION 32. NO ASSUMPTION OF LIABILITY BY LESSOR. The parties acknowledge that Lessor shall not incur any liabilities with respect to Lessee. Accordingly, in addition to the other terms and conditions of this Agreement, Lessor shall neither assume nor be liable for any payments and benefits to past and/or present employees of Lessee in connection with the business it conducts on or from the Premises except as otherwise agreed to in writing by Lessor, including, but not limited to, salaries, wages, commission, bonuses, vacation pay, health and welfare contributions, pensions, profit sharing, severance or termination pay, or any other form of compensation or fringe benefit.

SECTION 33. NO JOINT VENTURE. Lessee acknowledges that Lessor shall not be deemed a partner or joint venturer with Lessee or any contractor, agent, representative, management company or broker affiliated with Lessee. Lessee shall indemnify and hold Lessor harmless from and against any and all liabilities, damages, claims of losses, demands, costs or fees (including attorney's fees) incurred based on any such assertion under the procedures and subject to the limitations set forth in Section 10 of this Agreement.

SECTION 34. NO CONSTRUCTION. No construction shall be commenced on any portion of parcel 3 without the prior written consent of Lessor.

SECTION 35. NO IMPACT FEES. All impact fees relating to the Systems shall be paid by Lessee. In no event shall Lessor or any resident of the Parks be responsible for any impact fees relating to the Systems, including but not limited to hook-up fees for individual mobile homes located in the Parks.

SECTION 36. TIME IS OF THE ESSENCE. Time is of the essence with respect to each and every provision of this Agreement in which time is a factor.

SECTION 37. COMPLIANCE LAWS. The use, operation and occupation of the Leased Premises, and the condition thereof, shall, be at the sole cost and expense of Lessee and Lessee shall fully comply with all applicable statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals or any governmental agencies, departments, commissions, bureaus, hoards or instrumentalities of the United States, the state in which the Leased Premises are located and all political subdivisions thereof, including, without limitation, all health, building, fire, safety, and other codes, ordinances and requirements.

SECTION 38. DEFAULT. If a monetary default shall occur hereunder which is not cured within fifteen (15) days following receipt of written notice to Lessee from Lessor or if a non-monetary default shall occur hereunder and remains uncured for thirty (30) days or more following receipt of written notice to Lessee from Lessor or the Department of Environmental Protection, unless steps have, in good faith, been commenced promptly by Lessee to rectify the non-monetary default during the thirty (30) day period (or shorter time period if required by applicable law) and Lessee thereafter prosecutes the rectification to completion with diligence and continuity, Lessee shall be deemed in default under this Agreement. In the event that Lessee shall be deemed in default under this Agreement, Lessor shall then be entitled to terminate this Agreement prior to the natural expiration thereof. Upon the exercise of Lessor's right to terminate this Agreement, Lessor or its agents may immediately or any time thereafter, re-enter and resume possession of the Leased Premises and remove all persons and property therefrom, by a suitable action or proceeding at law. In addition to any insurance and indemnity provision contained in this Agreement, upon the default of Lessee under this Agreement, Lessor shall be entitled to recover any and all actual damages incurred by Lessor as a result of Lessee's default, but not consequential, special, incidental or punitive damages. No remedy herein, conferred upon or reserved to Lessee or Lessor shall exclude any other remedy herein or by law provided, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or

in equity or by statute and shall survive termination of this Agreement.

SECTION 39. MECHANIC'S LIENS. Lessee shall not do or suffer anything to be done whereby the Leased Premises may be encumbered by a mechanic's lien, and shall, whenever a mechanic's lien is filed against the Leased Premises purporting to be for labor, materials or services furnished or to be furnished to or on behalf of Lessee, discharge or remove the same of record. Notice is hereby given that Lessor's interest in the Leased Premises shall not be subject to mechanic's liens; that Lessor shall not be liable for any labor, materials or services furnished or to be furnished to or on behalf of Lessee upon credit; and that no mechanic's or other liens for such labor, materials or services shall be attached to or effect any interest of Lessor in the Leased Premises. Pursuant to this notice, Lessee shall notify all its contractors and subcontractors that liens shall not attach to the Leased Premises, pursuant to Chapter 713.10, Florida Statutes.

SECTION 40. MISCELLANEOUS.

(1) All of the parties to this Agreement have participated fully in the negotiation and preparation hereof, and accordingly, this Agreement shall not be more strictly construed against any one of the parties hereto.

(2) In the event of any litigation between the parties under this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs at all trial and appellate levels.

Signed, sealed and delivered in the presence of

LESSOR:

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

Print Name: _____

By: _____
Daniel J. Ward, Vice President

Print Name: _____

LESSEE:

LABRADOR UTILITIES, INC., a Florida
corporation

Print Name: _____

By: _____
Lisa Sparrow, President

Print Name: _____

IN THE CIRCUIT COURT IN AND FOR
THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, FLORIDA
CIVIL DIVISION

CASE NO.: 51-08-CA-004033-ES/B

FOREST LAKE ESTATES CO-OP, INC.,
a Florida non-profit corporation,

Plaintiff,

vs.

LABRADOR UTILITIES, INC., a Florida
corporation, and UTILITIES, INC., an Illinois
corporation,

Defendants.
_____ /

STIPULATION FOR ORDER OF DISMISSAL

An amicable settlement of all matters and things in dispute between the parties hereto having
been made, it is

STIPULATED AND AGREED by and between the parties hereto, that the above cause may
be dismissed with prejudice, each party to bear its own costs and attorneys' fees. The Court will
retain jurisdiction to enforce the terms of the Settlement Agreement, which is attached as Exhibit
"A" and incorporated herein.

Dated: _____

Dated: _____

DAVID BERNSTEIN, ESQ.
Adams and Reese, LLP
150 Second Avenue North, Suite 1700
St. Petersburg, FL 33701
Attorney for Plaintiff
FBN:454400

HAROLD A. SAUL, ESQ.
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Attorney for Defendants
FBN: 765929



IN THE CIRCUIT COURT IN AND FOR
THE SIXTH JUDICIAL CIRCUIT
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CASE NO.: 51-08-CA-004033-ES/B

FOREST LAKE ESTATES CO-OP, INC.,
a Florida non-profit corporation,

Plaintiff,

vs.

LABRADOR UTILITIES, INC., a Florida
corporation, and UTILITIES, INC., an Illinois
corporation,

Defendants.

_____ /

ORDER OF DISMISSAL

In consideration of the Stipulation of Settlement entered into by the parties, it is hereby
ORDERED and ADJUDGED that the above case be and the same is hereby dismissed with
prejudice, each party to bear its own costs and attorneys' fees. The Court will retain jurisdiction to
enforce the terms of the Settlement Agreement, which is attached to the Stipulation for Order of
Dismissal as Exhibit "A".

DONE and ORDERED in Chambers at Pasco County, Florida, this _____ day of
_____, 2013.

HONORABLE LINDA H. BABB

COPIES TO:

Harold A. Saul, Esq.
David Bernstein, Esq.