

**GATLIN, WOODS & CARLSON**  
*Attorneys at Law*  
a partnership including a professional association

The Mahan Station  
1709-D Mahan Drive  
Tallahassee, Florida 32308

TELEPHONE (904) 877 7191  
TELECOPIER (904) 877 9031

B. KENNETH GATLIN, P.A.  
THOMAS F. WOODS  
JOHN D. CARLSON  
WAYNE L. SCHIEFELBEIN

October 11, 1996

**HAND DELIVERY**

Ms. Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

RE: Application by Florida Cities Water Company for  
Approval of Agreement for Treatment and Disposal  
of Reclaimed Water between Florida Cities Water  
Company and Lee County and Approval of Rate Making  
Treatment of Revenues Received by Florida Cities  
Water Company

961231-WS

Dear Ms. Bayo:

Enclosed for filing are an original and fifteen copies of an Application by Florida Cities Water Company for Approval of Agreement for Treatment and Disposal of Reclaimed Water Between Florida Cities Water Company and Lee County and Approval of Rate Making Treatment of Revenues Received by Florida Cities Water Company.

Please acknowledge receipt of the foregoing by stamping the enclosed extra copy of this letter and returning same to my attention. Thank you for your assistance.

Very truly yours,

B. Kenneth Gatlin

- ACK \_\_\_\_\_
- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAT \_\_\_\_\_
- CMR \_\_\_\_\_
- CTR \_\_\_\_\_
- EA \_\_\_\_\_
- EL \_\_\_\_\_
- EM \_\_\_\_\_
- ES \_\_\_\_\_
- WAS \_\_\_\_\_
- OTH \_\_\_\_\_

BKG/met  
Enclosures

- cc Ms Edie Xanders, Div. of Water and Wastewater
- Mr. A. Glenn Greer, P.E., Department of Lee County Utilities
- Mr. William Sundstrom, Rose, Sundstrom & Bentley

RECEIVED & FILED

*el*  
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE  
10929 OCT 11 1996  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application by Florida Cities Water Company )  
For approval of Agreement for Treatment and )  
Disposal of Reclaimed Water between Florida Cities )  
Water Company and Lee County and approval of )  
rate making treatment of revenues received by )  
Florida Cities Water Company )

Docket No. 961231-WS

Filed: October 11, 1996

**APPLICATION BY FLORIDA CITIES WATER COMPANY FOR APPROVAL  
OF AGREEMENT FOR TREATMENT AND DISPOSAL OF RECLAIMED WATER  
BETWEEN FLORIDA CITIES WATER COMPANY AND LEE COUNTY  
AND APPROVAL OF RATE MAKING TREATMENT OF REVENUES RECEIVED  
BY FLORIDA CITIES WATER COMPANY**

Florida Cities Water Company (FCWC), hereby files this its Application for Approval of Agreement for Treatment and Disposal of Reclaimed Water Between Florida Cities Water Company and Lee County and Approval of Ratemaking Treatment of Revenues Received by Florida Cities Water Company, and states:

1. By this application FCWC requests the Commission to approve an Agreement dated July 10, 1996 and amendment thereto dated August 28, 1996 ("Agreement") entered into between FCWC and Lee County which provides for Lee County to interconnect its reclaimed water distribution facilities with the wastewater transmission facility of FCWC, the transmission of reclaimed water meeting public access reuse standards by FCWC through the facilities of FCWC to its Fiesta Village advance wastewater treatment plant, further treatment of the reclaimed water at the Fiesta Village Advanced Wastewater Plant and disposal of the reclaimed water as permitted by the Florida Department of Environmental Protection. (A copy of the Agreement and Amendment are attached hereto as Appendix A). Also, FCWC seeks Commission approval to treat the revenues received by FCWC pursuant to the Agreement to be non-recurring so that such revenues will not be considered in determining the level of regulated earnings for FCWC and if the revenue from the

Agreement result in overearnings then the Commission will defer such overearnings to subsequent years.

2. Lee County has requested that FCWC accept reclaimed water from Lee County on an emergency temporary basis for the purpose of further treatment and disposal. The cost of the interconnection was borne by Lee County. FCWC has the ability to accommodate Lee County's request through its Fiesta Village Advanced Wastewater Treatment Plant. At Lee County's request, service pursuant to this Agreement commenced on July 19, 1996. It is anticipated that the need for the interconnection will not extend beyond July, 1998. As provided in the Agreement, and subject to the Commission's approval FCWC will charge Lee County for the rates for this service as follows:

BASE FACILITY CHARGE	\$1,461
CONSUMPTION CHARGE less than or equal to 6,000,000 gal.	\$2.25 per 1,000 gallons
CONSUMPTION CHARGE greater than 6,000,000 gal.	\$2.00 per 1,000 gallons
MINIMUM BILL CHARGE including 1,600,000 gal.	\$3,600

If a different rate is determined by the Commission the parties have agreed to a "true-up" at the time of the Commission's Order. Attached as Appendix B is a document entitled Special Rate Development which shows the determination of the rates set forth in the Agreement and set forth above.

3. On May 8, 1996, the County approached FCWC regarding treatment and disposal of reclaimed water from its Ft. Myers Beach wastewater treatment plant as a short-term response to an emergency situation which had developed at the plant. The County indicated that due to inadequate disposal capacity through the reuse of reclaimed water, storage ponds had overflowed. The County

indicated that it had entered into a consent order with the FDEP mandating that it present a plan for eliminating the pond overflow situation within sixty days. After an internal technical review, consultation with the FDEP and the performance of hydraulic studies by its consulting engineer, FCWC concluded that its wastewater collection system, the Fiesta Village wastewater treatment plant and associated effluent transmission facilities were capable of transporting, further treating and disposing of varying quantities of reclaimed water depending upon the loading from FCWC's service area. However, this conclusion was subject to FCWC having full control of the quantities and flow rates of reclaimed water transferred to its system and the periods during which the transfers would take place and the reclaimed water continuously meeting "public access" water quality standards as prescribed by Florida regulations.

4. Lee County supports this application for approval of the Agreement. A letter from Mr. Glenn Greer, P.E., Director of Department of Lee County Utilities expressing support is attached hereto as Appendix C.

WHEREFORE, FCWC requests that the Commission:

1. Approve the Agreement dated July 10, 1996 and amendment thereto dated August 8, 1996 between FCWC and Lee County;
2. Provide in its order that revenues received by FCWC pursuant to the Agreement not be considered in determining FCWC's level of earnings in those years received and that any overearnings, if such exists, be deferred to subsequent years.

DATED this 11<sup>th</sup> day of October, 1996.

Respectfully submitted,



B. Kenneth Gatlin  
Fla. Bar #0027966  
Gatlin, Woods & Carlson  
1709-D Mahan Drive  
Tallahassee, Florida 32308  
(904) 877-7191

Attorneys for  
FLORIDA CITIES WATER COMPANY

C960713

**AGREEMENT FOR TREATMENT AND DISPOSAL OF RECLAIMED WATER**  
**between**  
**FLORIDA CITIES WATER COMPANY AND LEE COUNTY, FLORIDA**

This Agreement is made and entered into this 10th day of July, 1996, by and between the Lee County, Florida (hereinafter called the "County"); and Florida Cities Water Company, a Florida corporation (hereinafter called "FCWC").

**WITNESSETH:**

**WHEREAS**, the County has a need for additional capacity to dispose of reclaimed water from its Ft. Myers Beach Wastewater Treatment Plant (hereinafter call the "Beach WWTP") which produces reclaimed water meeting public access reuse water quality standards, and is developing long-term disposal options therefor; and

**WHEREAS**, implementation of a long-term disposal option is likely to require approximately two years for implementation and, because of environmental necessity, the County desires to implement an interim option for the said disposal as soon as feasible; and

**WHEREAS**, FCWC owns, operates and maintains the Fiesta Village Advanced Wastewater Treatment Facilities (hereinafter called "FCWC Plant") which serves wastewater customers within the FCWC certificated service area located within South Lee County and disposes of reclaimed water produced at said plant through a combination of public access reuse and discharge to surface waters; and

**WHEREAS**, FCWC's discharge permit requires meeting advanced wastewater treatment water quality standards; and

**WHEREAS**, pollutants have substantially been removed from reclaimed water meeting public access reuse water quality standards and little additional treatment is required to meet advanced wastewater treatment water quality standards; and

**WHEREAS**, it is technologically feasible, but subject to the modification of operating and discharge permits pertaining to the FCWC Plant, to transfer a portion of the reclaimed water produced at the Beach WWTP through the County's reclaimed water distribution system to FCWC's wastewater collection system for transmission to the FCWC Plant, provide further

treatment to meet advanced wastewater water quality standards, and disposal through surface water discharge and reuse; and

**WHEREAS**, FCWC has obtained or is in the process of obtaining the necessary permits or modifications to existing permits to allow it to treat and dispose of the County's reclaimed water as contemplated hereunder; and

**WHEREAS**, FCWC is bound by its tariff as approved by the Florida Public Service Commission (hereinafter called the "FPSC"), which includes wastewater rates applicable to wastewater service in Lee County, and any deviation therefrom is subject to FPSC approval; and

**WHEREAS**, the County has obtained or shall be responsible for obtaining the necessary permits to enable it to dispose of reclaimed water as contemplated hereunder; and

**WHEREAS**, the County represents that it has taken all action(s) and has followed all procedures reasonably necessary and required so as to bind the County to the duties and responsibilities memorialized herein.

**NOW, THEREFORE**, in consideration of the above premises and other valuable consideration given one party to the other, the County and FCWC hereby agree as follows:

1. **General**

a. This terms and conditions set forth in this Agreement, including rates for the services to be provided hereunder, are subject to the approval of the FPSC to the extent of its statutory authority. Subject to the limitations set forth elsewhere herein, either party may terminate this agreement if the FPSC's approval is conditioned on modifications which are material to this Agreement upon ten (10) day written notice to the other party.

b. FCWC agrees to accept, transport, treat and dispose of a portion of the reclaimed water produced at the County's Beach WWTP and the County agrees to pay FCWC therefor at its approved rates as specified herein. Notwithstanding, in the event changes in state or federal law or FCWC's permits subsequently prohibit the treatment and disposal of effluent in the manner currently practiced by FCWC, this Agreement shall be terminated and shall no longer be of any force and effect as a matter of law and equity. It is acknowledged by the County that acceptance of the County's reclaimed water by FCWC is subordinate to transporting, treating and disposing of wastewater produced by FCWC's current and future customers within its authorized service

territory and served under its tariffs, and FCWC has the right to limit or cease acceptance of the County's reclaimed water from time to time to the extent necessary, in its reasonable opinion, to assure that such service is not adversely affected in any manner. Furthermore, the County acknowledges that the amount of reclaimed water that FCWC can accept is also subject to the limitations of the discharge and operating permits applicable to FCWC's Plant.

c. The rates of flow and quantities of wastewater produced by said FCWC's current and future customers will vary from day to day and from hour to hour during the day; likewise, the quantities of reclaimed water FCWC can accept from the County will vary and shall be determined solely by FCWC. The County agrees to give reasonable notice to FCWC by telephone or in writing of the expected effluent quantities to be delivered. FCWC shall give reasonable notice, where and as appropriate, to the County when it cannot accept the County's reclaimed water. Notwithstanding the aforesaid, the County understands and agrees that FCWC is not providing any guarantees or warranties during the term of this Agreement with regard to the amount or timing of FCWC's acceptance of reclaimed water from the County and FCWC will not incur any liability for ceasing or limiting the acceptance of reclaimed water from the County in its reasonable discretion.

d. The County agrees to notify FCWC at least 15 days prior to the date it expects to begin delivering reclaimed water to FCWC's system pursuant to this agreement.

## 2. Point of Interconnection and Facilities

a. The County shall connect its reclaimed water system to FCWC's wastewater collection system at or near the intersection of Bass and Summerlin Roads in Lee County (hereinafter called Point of Interconnection). The County shall be responsible for constructing and maintaining all facilities and improvements at the Point of Interconnection, at the FCWC Plant and elsewhere as necessary to (1) transfer the County's reclaimed water to the FCWC wastewater system, (2) regulate the pressure and flow rate of the reclaimed water transferred, (3) meter the reclaimed water at the Point of Interconnection, (4) monitor pressure, flow rate and totalized flow from the FCWC Plant (5) prevent backflow from the FCWC wastewater collection system into the County's reclaimed water distribution system and (6) collect samples for laboratory analysis (hereinafter collectively called "New Facilities"), and shall bear all expenses in



connection therewith. The New Facilities shall include a motorized throttling valve at the Point of Interconnection operable from the FCWC Plant; a pressure indicator, rate of flow indicator and flow totalizer located at the FCWC Plant; and the appropriate electronic transmitters, receivers, controllers and ancillary facilities necessary to provide these functions. The County shall retain ownership the New Facilities after termination of this agreement. To the extent provided under Florida Law in particular Section 768.28, Florida Statutes, the County shall be responsible for all damages associated with the loss of use, damage to and destruction of FCWC's collection system resulting from the County's construction of the New Facilities.

b. The County agrees to retain a professional engineer licensed to practice in the State of Florida and a contractor, likewise licensed in Florida, both of whom must be reasonably acceptable to FCWC and experienced in designing and constructing facilities similar to the New Facilities, to design and construct New Facilities. The County shall submit plans, specifications and construction procedures for the construction of the New Facilities to FCWC for review and approval. FCWC shall review and respond within fifteen (15) days of receipt from the County. Approval shall not unreasonably withheld.

c. The County agrees to obtain all permits required for the New Facilities and to notify FCWC at least fifteen (15) days prior to the start of construction.

d. The meter required hereunder shall be easily accessible for reading, testing and maintenance. The County shall be responsible for maintaining the New Facilities in good working condition at all times and testing the meter. The meter shall be tested at least annually in accordance with American Water Works Association Standards for Meter Testing or other mutually agreeable standards.

### 3. Reclaimed Water Quality.

a. All reclaimed water delivered to FCWC by the County under this Agreement shall have been treated in accordance with the requirements of applicable permits issued to the County by state and federal regulatory agencies. The quality of the reclaimed water delivered to FCWC's system shall meet the public access reuse water quality standards as defined in Florida Department of Environmental Protection (FDEP) Rule 62-610, Florida Administrative Code. The County shall furnish FCWC laboratory reports of all analyses performed on both raw wastewater

and reclaimed water at the Beach Plant during the most recent 12-month period preceding the effective date of this Agreement. The County agrees to provide FCWC copies of its monthly operating reports which are required to be filed with the FDEP simultaneously with filing said reports with the FDEP. In addition, the County shall collect and analyze weekly samples of its reclaimed water, at the Point of Interconnection to the FCWC wastewater collection system, for total nitrogen, total phosphorus, total CBOD and total suspended solids. Should the reclaimed water produced at FCWC's Plant be determined to be toxic in accordance with the aforesaid rule or should other conditions warrant, in FCWC's reasonable opinion, the County shall perform additional laboratory analyses at FCWC's request. All analyses shall be performed in a laboratory certified by the FDEP to perform these analyses and the reports therefor shall be submitted to FCWC within fifteen (15) calendar days of collection of said samples.

b. Upon discovery by the County of any reclaimed water discharged to FCWC's collection system, as monitored at the Point of Interconnection, which does not meet the standards or requirements of the County's FDEP permit, the County will immediately notify FCWC. In addition to the notice specified in Paragraph 8 hereof, notification will also be made by telephone to the Manager, Lee County Division, FCWC, telephone number (941)936-0247 or such other number as FCWC may designate in writing, from time to time.

4. **Inspection**

FCWC shall have the right, upon reasonable notice to the County and when reasonably necessary, to enter upon the County's land and improvements thereon to review and inspect the County's operating practices as they relate to this Agreement.

5. **Rates**

a. Subject to FPSC approval, the rate for the service described herein shall be Two Dollars and Twenty-Five Cents (\$2.25) per one thousand (1,000) gallons of reclaimed water delivered to FCWC's system with a monthly minimum charge based on the delivery of one million, six hundred thousand gallons (1,600,000) per month plus a base facility charge of One Thousand, Four Hundred Sixty-one Dollars (\$1,461.00) per month (hereinafter called the "Proposed Rate"). If the delivery of reclaimed water commences prior to FPSC approval of the Proposed Rate, the rate shall be the "general service" rate as specified FCWC's tariff for the

South Ft. Myers Division which shall remain in effect until said approval is granted. FCWC agrees to apply the rate approved by the FPSC (hereinafter called the "Approved Rate") retroactively to the commencement of delivery of reclaimed water and grant the County credit, without interest, in an amount representing the difference between the "general service" rate and the Approved Rate, if any. In the event the Approved Rate is materially greater than the Proposed Rate, the County may terminate this Agreement upon thirty (30) days written notice.

b. Notwithstanding the foregoing, if reclaimed water, on a monthly average basis, exceeds the water quality standards set forth herein is discharged into FCWC's collection system, the said "general service" rate shall apply to such volume of water.

c. FCWC and the County shall jointly read the meter recording the volume of reclaimed water delivered by the County on the last day of each month unless said last day occurs on a weekend or holiday observed by either party, in which cases the reading shall be taken on the work day preceding the end of the month. In addition, FCWC will record the meter totalizer reading located at the FCWC Plant daily. FCWC will send an invoice to the County as soon as practical thereafter and the County shall make payment to FCWC within thirty (30) days of receipt of the invoice. FCWC may cease accepting the County's reclaimed water should the County fail to tender timely payment therefor.

6. **Term**

This Agreement shall be effective when signed by the parties and shall be in effect for a term of two (2) years thereafter. It may be extended for such additional period as agreed upon by the parties in writing. The party wishing to extend the term shall give the other party at least six (6) months written notice prior to the expiration of said two year term.

7. **Insurance**

At its expense, the County shall maintain in effect during the term of this Agreement general liability insurance, in a form reasonably acceptable to FCWC and naming FCWC as an "additional insured", specifically applicable to this Agreement and having a combined single limit of \$3,000,000. Insurance coverage shall be provided by a reputable insurance carrier, licensed to conduct business in the State of Florida and such carrier shall have a Best's Rating of at least A VI. The County shall promptly provide FCWC copies of certificates of insurance evidencing the

aforesaid insurance coverage. Such certificates shall provide for FCWC's 30-day prior notice of any cancellation or expiration.

8. **Notices**

Notices provided by this Agreement to be served in writing upon either of the parties shall be deemed sufficient if delivered to an authorized representative of either of the parties, or if mailed by registered or certified mail, return receipt requested, to the address of the party below written or such other addresses as the parties may designate in writing. Such notices shall be effective from the date the same is deposited in the mails, registered, first class postage prepaid and addressed, whether or not received.

FCWC: Florida Cities Water Company  
4837 Swift Road, Suite 100  
Sarasota, Florida 34231

Copy to:  
Florida Cities Water Company  
Attn: General Counsel  
255 Alhambra Circle  
Coral Gables, FL 33134

County: Glenn Greer, P.E., Director  
Department of Lee County Utilities  
P.O. Box 398  
Fort Myers, FL 33902-0398

Copy to:  
Office of Lee County Attorney  
P.O. Box 398  
Fort Myers, FL 33902-0398

9. **Excuse from Performance by Governmental Act**

If for any reason during the term of this Agreement any local, state or federal governments or agency shall fail to issue necessary permits, grant necessary approvals, or require any change in the operation of the treatment, transmission and distribution systems or the disposal of the reclaimed water by FCWC, then, to the extent that such requirements shall affect the ability of either party to perform any of the terms and conditions of this Agreement, the affected party shall be excused from the performance thereof and the other party may terminate this Agreement as provided for herein.

10. **Indemnification**

a. Lee County, pursuant to Florida law, in particular Section 768.28, Florida Statutes, hereby assumes all responsibility and liability for injury or death of any person, or loss or damage to any property, contributed to or caused by its negligence, or the negligence of its agents, servants, employees, contractors or subcontractors in the performance of its obligations

hereunder. Accordingly, Lee County, to the extent provided for under Florida law, in particular Section 768.28, Florida Statutes, from and against claims and expenses, including penalties and assessments, attorney's fees and court costs at all judicial levels, to which FCWC may be subjected by reason of such injury, death, loss, claim penalty, assessment or damage; and in case of any suit or other proceeding shall be brought on account thereof.

b. Pursuant to Florida Law, FCWC assumes the entire responsibility and liability for injury or death of any person, or loss or damage to any property, contributed to or caused by its negligence, or the negligence of its agents, servants, employees, contractors or subcontractors in the performance of its obligations hereunder. Accordingly, FCWC indemnifies and holds harmless Lee County, its officers, directors, agents and employees, from and against claims or expenses, including penalties and assessments and attorney's fees and court costs, at all judicial levels, to which Lee County may be subjected by reason of such injury, death, loss, claim, penalty, assessment or damage; and in case of any suit or other proceeding shall be brought on account thereof.

11. **Disclaimer of Third Party Beneficiaries**

This Agreement is solely for the benefit of the parties signing hereto, their successors and assigns, and no right nor cause of action shall accrue upon or by reason hereof to or for the benefit of any third party not a signatory hereof.

12. **Successors and Assigns**

This Agreement shall be binding upon the heirs, executors, administrators, successors, and assigns of the parties hereto, except as expressly limited herein.

13. **Assignment**

The County may not designate, assign, sublet, or transfer its duties or interest in this Agreement without the written approval of FCWC.

14. **Rights and Remedies Cumulative**

All rights, remedies, and powers granted to FCWC or the County herein shall be cumulative and may be exercised singly or concurrently.

15. **Prevailing Party**

In the event that a dispute arises between FCWC and the County relating to the performance of the respective obligations under this Agreement and such dispute results in litigation, it is agreed that the prevailing party shall be entitled to recover all reasonable costs incurred in the prosecution or defense of the claim at all judicial levels, including staff time, court costs, attorney fees, and other claim-related expenses.

**16. Compliance with Law**

Each party hereto shall keep, observe, and perform all requirements of local, state, and federal laws, rules, regulations, or ordinances applicable to this Agreement while it is in force and effect.

**17. Interpretation**

This agreement and all of the terms and provisions shall be interpreted and construed according to the laws of the State of Florida. Should any clause, paragraph, or other part of this Agreement be held or declared to be void or illegal, for any reason, by any Court having competent jurisdiction, all other clauses, paragraphs, or part of this Agreement, shall nevertheless remain in full force and effect.

**18. Waiver**

The failure of either party hereto to enforce any of the provisions of this Agreement or the waiver thereof, in any instance, shall not be construed as a general waiver or relinquishment on its part of any such provision but the same shall, nevertheless, be and remain in full force and effect.

**19. Reasonableness Standard**

Where any consent, approval or standard is required by the parties hereto pursuant to the terms of this Agreement, then the applicable standard for determination shall be on a reasonable basis.

**20. Headings**

The headings used in this Agreement are for reference only, and will not be relied upon nor used in the interpretation of same.

**21. Entire Agreement**

This Agreement and any addendum pertaining hereto, as may be executed by the parties, represents the entire understanding between the parties with respect to the undertakings covered

hereunder and there are no oral or collateral agreements with respect thereto between the parties. Any prior agreements or understandings dealing basically with the same subject matter of this Agreement shall be superseded by this Agreement and no longer of force and effect. Neither party hereto shall be bound by any supplement hereto unless it is signed by an authorized representative of each of the parties.

IN WITNESS WHEREOF, the undersigned have executed this Agreement in four (4) counterparts each which shall be deemed an original on the day and year first above written.

ATTEST: Charlie Green  
Clerk of the Courts

By: *Risa D. Pince*  
Deputy Clerk

LEE COUNTY

*[Signature]*  
Chairman, Lee County Board  
of County Commissioners

Approved as to form:

*[Signature]*  
County Attorney

WITNESSES:

*[Signature]*  
*[Signature]*  
(Seal)

FLORIDA CITIES WATER COMPANY

By: *[Signature]*  
Its: *President*



C960713

**AMENDMENT TO THE  
AGREEMENT FOR TREATMENT AND DISPOSAL OF RECLAIMED WATER  
between  
FLORIDA CITIES WATER COMPANY AND LEE COUNTY, FLORIDA**

This Amendment is made and entered into this 28th day of August, 1996, by and between the Lee County, Florida (hereinafter called the "County"); and Florida Cities Water Company, a Florida corporation (hereinafter called "FCWC") to amend the Agreement For Treatment and Disposal of Reclaimed Water entered into on July 10, 1996 hereinafter referred to as the "Agreement".

WITNESSETH:

WHEREAS, an "Agreement" was entered into on July 10, 1996, between "FCWC" and "County" for the purpose of accepting, transporting, treating and disposing of a portion of the reclaimed water produced at the County's Fort Myers Beach WWTP; and,

WHEREAS, further review of reclaimed water calculations has determined the excess reclaimed water may be greater than anticipated; and,

WHEREAS, "FCWC" is willing to add a rate block that reduces the rate to \$2.00 per 1,000 gallons in excess of six million gallons per month.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

Paragraph 5.a of the "Agreement" shall be amended by deleting and inserting therein the following as Paragraph 5.a: Subject to FPSC approval, the rate for the service described herein shall be Two Dollars and Twenty-Five Cents (\$2.25) per one thousand (1,000) gallons for the first six million (6,000,000) gallons and Two Dollars (\$2.00) per one thousand (1,000) gallons in excess of six million (6,000,000) gallons of reclaimed water delivered to FCWC's system per month with a monthly minimum charge based on the delivery of one million, six hundred thousand (1,600,000) gallons per month plus a base facility charge of One Thousand, Four Hundred Sixty-one Dollars (\$1,461.00) per month (hereinafter called the "Proposed Rate"). If the delivery of reclaimed water commences prior to FPSC approval of the Proposed Rate, the rate shall be the "general service" rate as specified FCWC's tariff for the South Ft. Myers Division which shall remain in effect until said approval is granted. FCWC agrees to apply the rate approved by the FPSC (hereinafter called the "Approved Rate") retroactively to the commencement of delivery of reclaimed water and grant the County credit, without interest, in an amount representing the difference between the "general



service" rate and the Approved Rate, if any. In the event the Approved Rate is materially greater than the Proposed Rate, the County may terminate this Agreement upon thirty (30 ) days written notice.

All other terms and conditions of the "Agreement" shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have executed this Amendment to the Agreement on the day and year first above written.

ATTEST: CHARLIE GREEN  
CLERK OF COURTS

By: *Isa G. Pierce*  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY

*[Signature]*  
Chairman

APPROVED AS TO FORM:

*[Signature]*  
County Attorney

WITNESSES:

*Roxanne Brown*  
*[Signature]*

FLORIDA CITIES WATER COMPANY

By: *[Signature]*  
Gerald S. Allen  
Its President

**SPECIAL RATE DEVELOPMENT**  
Agreement for Treatment & Disposal of Reclaimed Water  
between  
Florida Cities Water Company and Lee County, Florida

Hydraulic Loading

Estimated range (from information provided by County's consulting engineer) - 110,000 to 200,000 gpd. FCWC controls from the Fiesta Village Wastewater Treatment Plant the rate of flow and time of day flow accepted.

Process Loading

Reclaimed water to meet "public access" reclaimed water standards; therefore, treatment consists of nutrient removal to advanced wastewater treatment standards and final disinfection.

Rate Structure Considerations and Calculations

The attached schedule, "Rate Alternatives For Lee County", reflects these proposed rates and related revenues to be collected under the range of annual flows as determined by Lee County, 110,000 gpd and 200,000 gpd, on a constant monthly flows basis.

The attached analysis "Computation of Utility Rates" (two pages) shows calculations for both 110,000 gpd and 200,000 gpd flow rates. This analysis is a very abbreviated cost of service study for a high volume user requiring less treatment. The proposed base facility charge (BFC) of \$1,461 in both instances is based upon the current tariff with a conversion for the expected 8 inch connection size. The current residential BFC is \$14.61 and an 8 inch equivalent is 100 times. The proposed volume charge of \$2.25 is an attempt to split the calculated volume charges for the annual flows of 110,000 gpd at \$2.33 and the annual flows of 200,000 gpd at \$2.20. The proposed volume charge of \$2.00 for flows over 200,000 gpd on a monthly basis reflects the lower volume charge at the higher flows. A minimum monthly take of 1,600,000 gallons per month is proposed to reflect readiness to serve and to encourage stabilization of flows.

The analysis uses the following major assumptions:

- (1) Only 60% of the net UPIS would be used in processing of these additional flows. This is due to the fact that the collection system utilized is much less than for the entire system.
- (2) Only 55% to 60% of the treatment process is required because the flows are of an effluent quality and do not require the chemicals and other processing that raw wastewater from the entire system requires.
- (3) 100% of general and administrative costs and return on rate base are required, even though not all of the plant or processing is required.

Proposed Rates

\$2.25 per 1,000 gallons for the first 6,000,000 gallons and \$2.00 per 1,000 gallons in excess of 6,000,000 gallons of reclaimed water delivered to FCWC's system per month with a monthly minimum charge based on the delivery of 1,600,000 gallons per month plus a base facility charge of \$1,461 per month.



*K. Gatlin*

P.O. Box 398  
Fort Myers, Florida 33902-0398  
(941) 335-2111

(941) 338-3550

Writer's Direct Dial Number  
L-379-96

**BOARD OF COUNTY COMMISSIONERS**

(VIA FAX AND MAIL)

October 8, 1996

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: Lee County Agreement with Florida Cities Water Company  
Treatment and Disposal of Reclaimed Water

Dear Sir:

I understand that Florida Cities Water Company (FCWC) is in the process of seeking Florida Public Service Commission approval for a rate revision to recover appropriate costs for treatment and disposal of reclaimed water from Lee County's Ft. Myers Beach Wastewater Treatment Plant. Please consider the following information which is provided in support of FCWC's request.

As a result of heavy rainfall beginning the summer of 1995, a deficiency in the effluent disposal system at Lee County's 6.0 MGD Ft. Myers Beach Wastewater Treatment Plant became apparent. This Plant is permitted as a zero discharge facility with effluent reuse serving reclaimed water customers, and a 60+ acre percolation pond system which serves as backup to the reuse system. This system has functioned satisfactorily during normal rainfall years, however, the ponds were not able to store all of the treated effluent during 1995; and discharges to local drainage ways occurred. Rainfall not only added to the water stored in the pond system, but also limited the amount of reclaimed water that could be reused. Ground conditions were so wet, reuse customers could not apply the reclaimed water from the plant.

As a result of the discharges, FDEP proposed a consent order for the facility requiring Lee County to address this deficiency. This consent order has been approved by the County and has required an evaluation of the effluent problem. Many options were identified by Lee County's consultant and considered by Lee County. The Deep Well Injection option has been selected to serve as an additional backup for the existing reuse and pond system, and Lee County has approved an engineering contract for the design of the injection well system. The design, permitting and construction of the required injection well system will require some time, and we expect the system to be operational prior to the beginning of the rainy season for 1998.

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APPENDIX C

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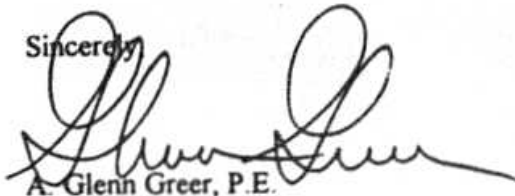
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Lee County's consultant also investigated options to provide for an interim means of disposal for the period prior to the completion of the injection well system. The interim use of capacity available at the FCWC's Fiesta Village Wastewater Plant was selected as one of the primary means for addressing the problem. An agreement and an amendment with FCWC have been approved by Lee County to provide interim backup through the FCWC Plant. Highly treated effluent (reclaimed water) is being discharged into the FCWC collection system. Additional treatment to reduce nutrients is provided at the Fiesta Village Plant, and the water is discharged to the Caloosahatchee River. This interim method has been approved by FDEP, and has worked to prevent any unauthorized discharge from the County's Ft. Myers Beach Plant over this past summer. Without this interim arrangement, it is likely that some discharge would have occurred due to higher than normal rainfalls experienced again this year.

Lee County supports FCWC's efforts to establish a new rate through the PSC that recognizes the level of treatment provided prior to discharge of this water into the Fiesta Village Plant collection system, and requests the opportunity to participate as this matter is considered by the PSC.

Please provide notice of any meetings that may occur to consider this matter, and feel free to contact me (941-338-3550) if additional information is needed from Lee County in support of this FCWC request.

Sincerely,



A. Glenn Greer, P.E.  
Director,  
Department of Lee County Utilities

AGG/

cc: J. W. French  
David Owen  
Gerald Allen (FCWC)

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