

5F-2

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: April 20, 2010 Consent [] Regular [X]
Public Hearing []

Submitted By: Water Utilities Department
Submitted For: Water Utilities Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: an Interlocal Agreement (Agreement) with the Seminole Improvement District (SID) for the purchase and sale of bulk reclaimed water, including a credit against future reclaimed water reservation charges in exchange for a permit to cross the M-2 canal, owned by SID.

SUMMARY: On May 20, 2008, Palm Beach County (County) and Florida Power and Light (FPL) entered into a Reclaimed Water Agreement (R2008-0906)(FPL Agreement). The County agreed to provide FPL with an average capacity of 22 million gallons per day (MGD) of reclaimed water to be used as cooling water for electric generators in FPL's West County Energy Center (WCEC). FPL is paying the total capital and operating cost of the treatment facilities needed at the East Central Water Reclamation Facility (ECRWF) and the 19-mile pipeline to the WCEC. The County receives an administrative overhead fee on each gallon of reclaimed water delivered.

Under the FPL Agreement, when FPL's demand for reclaimed water is less than the pipeline's peak design flow of 27 MGD, surplus reclaimed water can be sold by County to other customers, on an interruptible basis, the proceeds of which are to be split by formula between FPL and County. The rates for this additional reclaimed water, were adopted on March 23, 2010 by the Board of County Commissioners (ORD-2010-008). This Agreement advances the reality of a northern regional reclaimed water system as envisioned in a previous agreement with SID (Bulk Service Agreement) (R2006-0732), with SID as the first customer.

In this Agreement, SID is reserving 3.85 MGD of interruptible reclaimed water under the terms established by the BCC, with two (2) exceptions: a waiver of the 13 cents per thousand gallons per day reservation charge and the freezing of the commodity rate for five (5) years. These exceptions have been negotiated in exchange for a permit and access to SID property in order to allow the crossing of the M-2 canal by the County's reclaimed water pipeline. The present value of the negotiated credit to SID, when taken in isolation from other potential future benefits to the County and to FPL, significantly exceeds the \$2500 appraised value of the permitted property. No monetary benefit would accrue to SID unless they actually buy reclaimed water under the Agreement.

FPL has agreed to cover the entire cost of the credit to SID, thus allowing County to continue to accrue its full administration fee on every gallon of capacity reserved by and sold to SID under this agreement. Continue on Page 3 (DISTRICT 6) MS

Attachments:

- 1. Location Map
- 2. Value Evaluation of Proposed Agreement between County and SID
- 3. Comparison of the Cost of Reclaimed Water Pipeline Alternatives
- 4. Two (2) Original Agreements

Recommended By: Bruce Ben 4/6/10
Department Director Date

Approved By: Sharon B. B. 4/13/10
Assistant County Administrator Date

Continue from Page 1:

Background and Justification: The original project initiated through the FPL Agreement will provide an average of 22 MGD of reclaimed water to FPL WCEC for cooling purposes. Such use of reclaimed water results in significant public environmental and economic benefits by reducing the pumping of effluent down the deep wells at the East Central Regional Water Reclamation Facility (ECRWRF) and eliminating the need for FPL to withdraw cooling water from surface water and the Floridan Aquifer, thus conserving these vital resources for public use and consumption.

The FPL Agreement along with the previous Bulk Water Agreement with SID lay the groundwork for a regional reclaimed water system further maximizing public benefit of the FPL project. By making an average of 8 MGD of reclaimed water capacity available to other potential users after FPL's reclaimed water capacity is satisfied, the County will maximize the many public purposes and benefits associated with the use of the reclaimed water. Such capacity will be available to other customers on an interruptible, as-available basis, with the consent of FPL, which has been given in this instance, and which is reasonably contemplated in the future since FPL and the County receive a monetary benefit by providing other users with reclaimed water. This Agreement with SID represents the first such "interruptible user" and will serve as a basis for service to other future users.

SID has built its own reclaimed water system but benefits by reserving, as additional capacity, a portion of interruptible, as-available reclaimed water in accordance with its forecasted reclaimed water requirements. The reclaimed water will be useful to SID for agricultural, residential and/or commercial purposes. This Agreement will provide an incentive to SID to begin to purchase reclaimed water from the new pipeline, which will result in substantial future revenue to the County.

The only two alternatives to this SID Agreement are to re-route (Attachment 1) the pipeline at an approximate cost to FPL customers (including County taxpayers) of \$9.0 million or to condemn an easement and/or sue for a permit. Either alternative would delay the completion of the FPL project and delay the start up of the third generating unit at WCEC at very significant cost to FPL customers (including County taxpayers). FPL would also have to come before the BCC as zoning authority to modify its Development Order for Unit #3 which requires the use of reclaimed water for cooling purposes. Project delay will also delay ability of County to provide reclaimed water to other potential users, as well as delay the additional public benefit and associated cost savings to the entities of the ECRWRF due to continued costs of pumping effluent down the deep injection wells.

Attachment 2 shows the lost revenue to FPL as well as the maximum credit that would accrue to SID based on this Agreement. Attachment 3 is a table that compares the cost in utility funds borne by FPL for completion of the project under this Agreement and the two (2) alternatives: rerouting the pipeline or condemnation/permit litigation.

Continue from Page 1:

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WEST COUNTY
ENERGY FACILITY

ATTACHMENT 1
36 INCH RECLAIMED WATER MAIN
ORIGINAL AND REROUTE LOCATIONS

ORIGINAL ROUTE

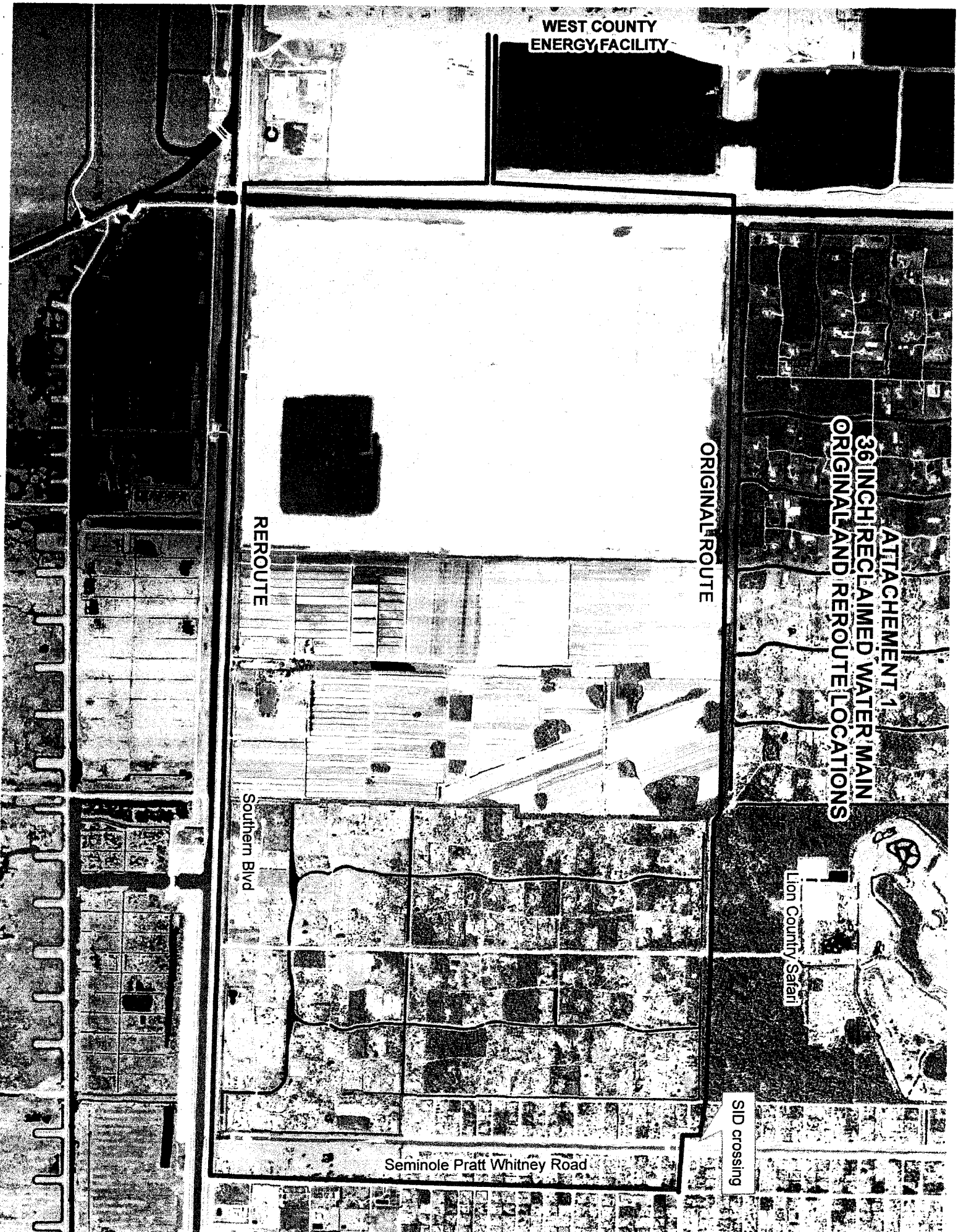
REROUTE

Southern Blvd

Lion County Safari

SID crossing

Seminole Pratt Whitney Road



ATTACHEMENT 2

Present Value Evaluation of Proposed Agreement Between Palm Beach County and Seminole Improvement District (SID)

All present values are presented in thousands of dollars

Long-Term Average Annual SID Sales (MGD) and % of 3.85MGD Reservation	Seminole Reduced Cost	County Reduced Revenue	FPL Reduced Revenue	SID Water Purchase Payments	County Revenue from SID Sales	FPL Revenue from SID Sales
0%	\$0	\$0	\$0	\$0	\$0	\$0
25%	\$463	\$232	\$231	\$3,067	\$405	\$2,662
50%	\$927	\$463	\$463	\$6,135	\$812	\$5,323
75%	\$1,390	\$695	\$695	\$9,202	\$1,217	\$7,985
100%	\$1,854	\$927	\$927	\$12,270	\$1,624	\$10,646

Present value estimates are based on 5 percent discount rate and 40 year agreement period.
 Estimates assume no other customers purchase reclaimed water from the FPL Reclaimed Water Project.
 SID sales estimates adhere to SID planning forecast

**COMPARISON OF THE COST OF RECLAIMED WATER
PIPELINE ALTERNATIVES**

Alternatives	Potential Lost to the County Revenue	Cost/Lost Revenue to FPL Customers
1. SID Agreement		
Lost Revenue based of probable max daily demand of 1.9 MGD (50%) of maximum	\$0	\$1,275,000
2. Reroute of Pipeline to Southern Blvd		
Capital and present worth of additional O&M		\$9,015,000 ⁽¹⁾
Revenue due to loss of Lion Country Safari ⁽²⁾ as potential reclaimed customer	\$210,000	\$1,380,000
3. Litigation ⁽³⁾		
Attorney Cost ⁽⁴⁾		\$250,000
Incremental Fuel Cost ⁽⁵⁾		\$18,200,000 per month
Interest Cost ⁽⁶⁾		\$5,300,000 per month
Estimated loss of Ad valorem tax revenue in FY 2012	\$7,200,000	

Notes:

(1) Capital Cost of \$ 5,334,000, present worth of additional pumping, chemicals and R&R \$ 3,681,000.

(2) Present worth of 0.5 MGD reclaimed water sales over 20 years.

(3) Assumes minimum project delay of 6 months and maximum delay of 2 years
to litigate right to cross M-2 canal.

(4) Estimated County and FPL Attorney fees, Permit Litigation and Condemnation up to \$ 250,000.

Does not include: County cost, SID costs and attorney fees per condemnation statutes, cost of property as negotiated/ordered by the court.

(5) WCEC Unit 3 is 30% more efficient than the average of other FPL power generating facilities.

(6) Cost of interest paid on construction loan for idle Unit 3.

**INTERLOCAL AGREEMENT
FOR PURCHASE AND SALE OF BULK RECLAIMED WATER**

THIS AGREEMENT made and entered into this _____ day of _____, 2010, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida ("County"), and the **SEMINOLE IMPROVEMENT DISTRICT**, a Florida Special Taxing District whose address is 4001 Seminole Pratt-Whitney Road, Loxahatchee, Florida 33470 ("District").

WITNESSETH

WHEREAS, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969" authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, the East Central Regional Wastewater Treatment Facilities ("ECRWTF") is a wastewater treatment facility with a current permitted capacity of 64million gallons per day ("MGD") by the Florida Department of Environmental Protection ("FDEP"), which is jointly owned by five local governments (collectively referred to as "Member Entities"), including the County, and operated by the City of West Palm Beach; and

WHEREAS, pursuant to the 1992 Interlocal Agreement between the Member Entities creating the ECRWTF (County Resolution No. R92-1228D), and the 1999 Participatory Agreement Establishing Duties and Responsibilities Among the City of West Palm Beach, Palm Beach County and the East Central Regional Wastewater Facilities Board for Improvements to the Eastern Central Regional Wastewater Facilities (County Resolution No. R99-1792D), the County has approximately 24.5 MGD of current Wastewater capacity from the ECRWTF; and

WHEREAS, the ECRWTF Operation Board ("ECR Board") entered into an Agreement with the County and the City of West Palm Beach ("ECR Reclaimed Agreement") dated May 20, 2008 (R2008-0907), related to the construction, operation, and maintenance of certain facilities on ECRWTF property for the provision of Reclaimed Water to the Florida Power and Light Company ("FPL") West County Energy Center ("WCEC") and other customers; and

WHEREAS, the County and FPL entered into a Reclaimed Water Agreement ("FPL Reclaimed Agreement") dated May 20, 2008 (County Resolution No. R2008-0906), in which the County agreed to provide the WCEC with Reclaimed Water utilizing certain to-be-constructed facilities, including an expansion to the ECRWTF to produce Reclaimed Water, a reclaimed water pipeline and appurtenant facilities located within and outside of ECRWTF property, and a storage tank and appurtenant facilities located at the WCEC site (said facilities hereinafter collectively referred to as the "Reclaimed Water Project" or "RWP"); and

WHEREAS, under the terms of the ECR Reclaimed Agreement, the ECR Board, and its Member Entities, agreed to allocate certain secondary treated effluent of sufficient quality to the RWP; and

WHEREAS, the ECRWTF is currently generating approximately 40 MGD of secondary treated effluent classified as being available for Reclaimed Water, with approximately 13 MGD reserved for prior contractual commitments of the City of West Palm Beach and Palm Beach County leaving approximately 27 MGD of secondary treated effluent of sufficient quality to be available for the RWP; and

WHEREAS, the total amount of Reclaimed Water that the County is required to make available to FPL as delineated in the FPL Reclaimed Water Agreement is: i) 22.0 MGD annual average daily flow (“ADF”) calculated based on a five (5) year rolling average; ii) 4.0 MGD minimum daily flow; and iii) 27.0 MGD peak usage on any day (“FPL Contracted Capacity”) during the term of such agreement; and

WHEREAS, actual FPL requirements for firm, Reclaimed Water generated by the RWP (“RWP Reclaimed Water”) are expected to vary significantly on an annual cycle with higher cooling water demands occurring at times of higher regional rainfall and consequent lower irrigation needs; and

WHEREAS, the County will make available up to 8 MGD of RWP Reclaimed Water capacity (“Prior Reservation Capacity”) to other customers after FPL’s Reclaimed Water capacity requirements as delineated in the FPL Reclaimed Water Agreement are fully satisfied, subject to changing conditions and RWP operating experience; and

WHEREAS, the County is making such Prior Reservation Capacity available to other customers on an interruptible, as-available basis, with the consent of FPL; and

WHEREAS, the County has not entered into Prior Reservation Capacity agreements with any other entities as of the date of this Agreement; and

WHEREAS, the County is developing a system of rates, fees and charges for Prior Reservation Capacity and related Reclaimed Water sales; and

WHEREAS, the County and the District entered into an Interlocal Agreement between Palm Beach County and the Seminole Improvement District (“2006 Interlocal Agreement”) dated April 18, 2006 (County Resolution No. R2006-0732) that, among other things, anticipated joint planning and operation of a regional reclaimed facility that would be treating District and other wastewater to a reclaimed standard; and

WHEREAS, the District has built its own Reclaimed Water system (“District Reclaimed Water System”) but benefits by reserving, as additional capacity, a portion of interruptible, as-available RWP Reclaimed Water in accordance with its forecasted Reclaimed Water requirements; and

WHEREAS, in order to construct the RWP, the County must cross the M-2 Canal which is owned by the District and, as compensation to allow the County to cross the M-2 Canal pursuant to a District Permit, the County shall make Reclaimed Water available to the District from the RWP Project on a first priority basis after the delivery of Reclaimed Water in accordance with the amount of FPL Contracted Capacity to FPL; and

WHEREAS, RWP Reclaimed Water will be useful to the District for agricultural, residential and/or commercial purposes; and

WHEREAS, other customers may, subsequent to the District, contract with the County for interruptible as available RWP Reclaimed Water that would be second in priority to those demands of the District as outlined in this Agreement.

NOW, THEREFORE, for and in consideration of these premises, the mutual undertakings and agreements herein contained and assumed, the County and the District hereby covenant and agree as follows:

1. The foregoing statements are true and correct and are incorporated herein by specific reference.
2. Term. The term of this Agreement shall commence on the Effective Date and shall continue in full force and effect for the same term as the FPL Reclaimed Water Agreement, the initial term of which will expire on December 31, 2041.

If the FPL Reclaimed Agreement is renewed by FPL (the "FPL Renewed Reclaimed Agreement") and such renewal reflects substantially similar or more favorable terms associated with the ability of FPL to receive RWP Reclaimed Water at rates in effect in accordance with this Agreement which is generally consistent to the rates contained in the FPL Reclaimed Agreement, this Agreement shall renew for the same term as contained in the FPL Renewed Reclaimed Agreement. If the FPL Renewed Reclaimed Agreement is substantially modified or substantially different than the current FPL Reclaimed Agreement, the District shall have the option of i) renewing the Agreement for the same term as referenced in the FPL Renewed Reclaimed Agreement at rates that shall not be any higher expressed on a percent increase over the District's most recent rate than FPL's percentage increase over their most recent rate and with the same priority as listed in this Agreement or ii) not renewing this Agreement. The non-renewal of this Agreement shall result in the District losing the priority status for Prior Reservation Capacity as contained in this Agreement, as may be amended or supplemented from time to time.

3. Effective Date. This Agreement shall become effective upon approval by both parties. The Effective Date of this Agreement shall be the date the Agreement is approved by the Palm Beach County Board of County Commissioners.

4. Definitions. The following definitions and references are given for the purpose of interpreting the terms as used in this Agreement and apply unless the context indicates a different meaning:

“2009 Renewal and Replacement (R&R) Account” means the account established by the County in the Renewal and Replacement Fund, previously established by the County pursuant to the adoption of County Resolution No. R-84-1206 in support of the County’s issuance of utility revenue bonds for its water and wastewater system, for which the County will deposit all amounts received from FPL and any Prior Reservation Capacity Customer for that component of RWP Reclaimed Water Fee that is associated with making deposits for the funding of renewals, replacements, repairs, and / or capital improvements with respect only to the RWP which shall be maintained by the County throughout the term of the Agreement. Reference is made to County Resolution No. R-84-1206 as duly adopted by the County, as amended and supplemented and particularly as supplemented by Resolution No. R-2009-0800, providing for the issuance of and determining certain details of the Water and Sewer Revenue Bonds, Series 2009 (FPL Reclaimed Water Project) by the County.

“Agreement” means the Interlocal Agreement for purchase and sale of Bulk Reclaimed Water between the County and the District.

“ADF” has the meaning set forth in the Recitals to this Agreement.

“Carrying Cost Component” has the meaning set forth in Section 11 of this Agreement.

“Change in Law” means any change in Federal or state laws, rules, regulations, or requirements or any change in local laws, rules, regulations directly required due to the imposition of Federal or state laws, rules, regulations, or requirements which occurs after the Effective Date and which has a direct material adverse effect upon the cost to the County to produce the Reclaimed Water in accordance with the standards set forth in this Agreement.

“Change in Law Modification” has the meaning set forth in Section 14 of this Agreement.

“District Change in Law Facilities” has the meaning set forth in Section 14 of this Agreement.

“District Point of Connection” means the downstream location where the RWP is connected with the District’s Reclaimed Water System, as shown in Exhibit “B” to Seminole Improvement District Permit SID 10-01, a copy of said Permit being attached hereto and incorporated herein as **Exhibit “A”**. The RWP shall include the master meters and related appurtenances located at the District Point of Connection, with said master meters being utilized to measure the flow of Reclaimed Water to the District.

“District Point of Connection Facilities” has the meaning set forth in Section 12 of this Agreement.

“District Reclaimed Water System” means the system owned and/or operated by the District for the production, transmission and distribution of Reclaimed Water within the District

Service Area, said system being located on the District's side of the Point of Connection.

"District Service Area" means the legislative boundaries of the District as of the Effective Date of this Agreement, which are described in **Exhibit "B"**, which is attached hereto and incorporated herein.

"ECR Board" has the meaning set forth in the Recitals to this Agreement.

"ECR Reclaimed Agreement" has the meaning set forth in the Recitals to this Agreement.

"ECRWTF" has the meaning set forth in the Recitals to this Agreement.

"Effective Date" has the meaning set forth in Section 3 of this Agreement.

"FDEP" has the meaning set forth in the Recitals to this Agreement.

"Firm Reclaimed Service" means Reclaimed Water capacity resulting from the RWP intended to be available at all times during the period covered in accordance with the capacity requirements and commitments and delivery term as delineated in the FPL Reclaimed Agreement and that such capacity will be available on a first priority basis before providing Interruptible Reclaimed Service from the RWP. The County will have only one customer receiving Firm Reclaimed Service from the RWP during the term of this Agreement which customer is FPL.

"FPL" has the meaning set forth in the Recitals to this Agreement.

"FPL Contracted Capacity" has the meaning set forth in the Recitals to this Agreement.

"FPL Reclaimed Agreement" has the meaning set forth in the Recitals to this Agreement.

"FPL Renewed Reclaimed Agreement" has the meaning set forth in Section 2.

"Full Cost Fee" means the fee designed to recover the full cost of the design, permitting, construction, operation, maintenance, renewal and replacement of the RWP. The Full Cost Fee represents the sum of: i) the Prior Reservation Capacity Fee and ii) the RWP Reclaimed Water Fee.

"Interruptible Reclaimed Service" means Reclaimed Water capacity provided from the RWP which is subject to curtailment or cessation of delivery by the County at any time in order to only provide Firm Reclaimed Service to FPL in accordance with the FPL Reclaimed Water Agreement. To the extent the Reclaimed Water Capacity is not desired to be used by FPL, such capacity shall become available to provide Interruptible Reclaimed Service to any Prior Reservation Capacity Customer, including the District, in accordance with the schedule of priority deliveries developed by the County described in Sections 9 and 10.

“M-2 Crossing Facilities” has the meaning set forth in Section 12.

“Market Discount” has the meaning set forth in Section 13 of this Agreement.

“MGD” has the meaning set forth in the Recitals to this Agreement.

“O&M/R&R Component” has the meaning set forth in Section 11 of this Agreement.

“Point of Connection” means the location where the RWP is connected to a Prior Reservation’s Capacity Customer’s Reclaimed Water System. The Point of Connection shall be immediately downstream of the master meters and related appurtenances with said master meters being utilized to measure the flow of Reclaimed Water to the respective Prior Reservation Capacity Customer.

“Prior Reservation Capacity” is the volume of Reclaimed Water capacity expressed on an ADF basis from the RWP reserved by and allocated to an entity by the County pursuant to an executed Prior Reservation Capacity Agreement.

“Prior Reservation Capacity Customer” means any entity that has entered into a Prior Reservation Capacity Agreement with the County for Prior Reservation Capacity.

“Prior Reservation Capacity Date” is the latest date on which a Prior Reservation Capacity Agreement is signed by both the County and the entity requesting Prior Reservation Capacity.

“Prior Reservation Capacity Fee” means the fee expressed on a dollar per 1,000 gallons basis required to reserve each 1,000 gallon/day increment of Prior Reservation Capacity in the RWP. This fee shall be charged to each Prior Reservation Capacity Customer regardless if Reclaimed Water is delivered to such Prior Reservation Capacity Customer.

“Reclaimed Water” means Wastewater effluent that has been treated and is permitted by the FDEP.

“Reclaimed Water Project” or “RWP” has the meaning set forth in the Recitals to this Agreement.

“RWP Reclaimed Water” means Reclaimed Water that is produced and transmitted to District utilizing the RWP. The RWP Reclaimed Water shall meet all applicable standards for Wastewater effluent treated to meet non-potable needs as required for discharge on to Public Access Use areas, in accordance with Chapter 62-610, Part III, Florida Administrative Code, as may be amended from time to time.

“RWP Reclaimed Water Fee” means the fee expressed on a dollar per 1,000 gallons basis of RWP Reclaimed Water to be charged for the delivery of Reclaimed Water as measured by metering at the Prior Reservation Capacity Customer’s respective Point of Connection. The RWP Reclaimed Water Fee includes the sum of i) O&M/R&R Component and ii) the

Capital Carrying Component. The Prior Reservation Capacity Fee is not included in the RWP Reclaimed Water Fee.

“Service Initiation Date” means the date the County notifies a Prior Reservation Capacity Customer that the County can begin to provide RWP Reclaimed Water service for sale to such customer through the customer’s respective Point of Connection.

“Wastewater” means liquid and water-carried industrial, domestic, medical, food, superfluous solid, gaseous material, holding tank or other wastes from dwelling units, commercial establishments and manufacturing units, whether treated or untreated.

5. County/Member Entities Commitment to Reclaimed Water Plant. As set forth in Exhibit “B” to the ECR Reclaimed Agreement, with the exception of 3 MGD allocated to the County’s Reclaimed Water facilities located at Century Village-West Palm Beach, the County has agreed to allocate 100% of its proportionate share of ECR treated effluent to the RWP. As also set forth in Exhibit “B” to the ECR Reclaimed Agreement, The City of Lake Worth, the City of Riviera Beach, and the Town of Palm Beach have agreed to allocate 100% of their proportionate share of ECR treated effluent to the RWP.

6. Scope of Agreement. The County agrees to furnish, and the District agrees to purchase, RWP Reclaimed Water in accordance with the terms and conditions of this Agreement. The RWP Reclaimed Water service shall be interruptible, in accordance with the protocol set forth in Sections 9 & 10 of this Agreement. The RWP Reclaimed Water shall be delivered by the County to the District Point of Connection at a minimum pressure of 40 pounds per square inch at a minimum 27 MGD flow rate, which is equal to the maximum capacity allocable to FPL.

7. Prior Reservation Capacity. The District is granted, at no cost, a Prior Reservation Capacity of 3.85 MGD RWP Reclaimed Water. Subject to the Section 9 conditions, the County will make available to the District this Prior Reservation Capacity in accordance with the following Prior Reservation Capacity schedule:

Prior Reservation Capacity Schedule	Year (Beginning January 1 st)
0.70 MGD	2013
1.45 MGD	2015
2.85 MGD	2017
3.85 MGD	2025

Recognizing the County’s availability of Reclaimed Water and to assist the County in the long-term scheduling of the deliveries of Reclaimed Water to the District, the District’s Prior Reservation Capacity will be available as set forth in the above table. District shall have the right to add additional Prior Reservation Capacity to the Prior Reservation Capacity commitment as identified in this Agreement at no cost to the District, on an interruptible, as-available basis, for any amount of wastewater delivered to the County by the District solely from the District Service Area for treatment, pursuant to the following conditions: (1) the wastewater is treated at the ECRWTF; (2) the District pays applicable wastewater capacity and volume charges as defined in the 2006 Settlement Agreement between the County and the

District; (3) the RWP is capable of treating the Wastewater and conveying the resultant Reclaimed Water to the District; and (4) the District is willing to accept the additional Reclaimed Water Capacity. The Prior Reservation Capacity of the 3.85 MGD and the amount of Prior Reservation Capacity that is earned pursuant to wastewater deliveries as described above together will be the District's Prior Reservation Capacity of this Agreement and is granted to the District by the County as full payment of all fees associated with the permit described in Section 12 of this Agreement. The Reclaimed Water will be provided on an Interruptible Reclaimed Service basis and will have the highest and first priority as Interruptible Reclaimed Service with respect to any and all Prior Reservation Capacity Customers that may request Interruptible Reclaimed Service from the RWP from the County. The Prior Reservation Capacity Date for the District Prior Reservation Capacity shall be the Effective Date of this Agreement.

8. Additional Prior Reservation Capacity. The District may request additional Prior Reservation Capacity above such amounts as identified in Section 7 of this Agreement at a later date by entering into a new Prior Reservation Capacity Agreement and paying all applicable Prior Reservation Capacity Fees; however, the Prior Reservation Capacity Date of any future requested incremental additional Prior Reservation Capacity shall be the Effective Date of the new Prior Reservation Capacity Agreement. The execution of an additional Prior Reservation Capacity Agreement will not affect the prior status of the Prior Reservation Capacity granted by the County to the District pursuant to this Agreement; any additional Prior Reservation Capacity will be considered as incremental capacity and will have a priority delivery position immediately following the priority schedule for all then available Prior Reservation Capacity Customers that have an effective Prior Reservation Capacity Agreement with the County. If the additional Prior Reservation Capacity is not available on a reasonably reliable basis, the County shall notice the District as to the County's inability to supply the requested incremental Prior Reservation Capacity.

The County may enter into other Prior Reservation Capacity agreements with other customers for Interruptible Reclaimed Service from the RWP. The County will not enter into any future Prior Reservation Capacity agreements that would result in i) additional Firm Reclaimed Service being provided to any future customer, including FPL, above the FPL Contracted Capacity as of date of this Agreement or ii) would result in the inability to provide the District the Prior Reservation Capacity as contracted by the County pursuant to this Agreement.

At the County's sole discretion and based on the availability of Reclaimed Water from the RWP, the County may provide RWP Reclaimed Water to the District in an amount over and above the total of the Prior Reservation Capacity (as determined on an ADF basis). On or after each anniversary date of the Service Initiation Date, the County will calculate the District's ADF for the prior year. If the District's ADF is greater than the District's Prior Reservation Capacity the District shall pay the Prior Reservation Capacity Fee of \$0.13 for each 1,000 gallons of excess capacity used above the total Prior Reservation Capacity.

9. Priority of RWP Reclaimed Water Service.

The County shall be required to provide Reclaimed Water to FPL in an amount equal to the FPL Contracted Capacity, which shall have priority over the Prior Reservation Capacity of the

District. This Agreement is the first agreement entered into by the County for Prior Reservation Capacity with a Prior Reservation Customer and therefore the Prior Reservation Capacity as reserved under this Agreement by the District shall have first priority for Interruptible Reclaimed Service over all future Prior Reservation Capacity Customers and their requested Prior Reservation Capacity commitments that contract for Prior Reservation Capacity after the Effective Date of this Agreement.

* 10. RWP Reclaimed Water Delivery. Subject to the Section 9 conditions, the District shall be entitled to receive the daily RWP Reclaimed Water volume not to exceed the Prior Reservation Capacity, as calculated on a rolling twelve-month average annual flow basis. Following the Service Initiation Date, District shall provide a weekly, or at such intervals as may be mutually agreed, report to the County forecasting their estimated RWP Reclaimed Water needs for the upcoming week. District shall coordinate the timing of these weekly reports with County staff. Delivery of RWP Reclaimed Water shall be ranked by the County among all holders of Prior Reservation Capacity based on the priority schedule based on the effective date of each Prior Reservation Agreement executed with the County. The ranking schedule shall include the weekly estimate of RWP Reclaimed Water needs (expressed on a volumetric per thousand gallons basis) as provided by each Prior Reservation Capacity Customer and estimated delivery schedules for each 24-hour period in the week. To the extent that a Prior Reservation Capacity Customer does not provide a weekly estimate of RWP Reclaimed Water to the County, then the amount subject to delivery will be set at the prior week's delivery amount. At the sole discretion and expense of the District, District may construct and utilize Reclaimed Water storage, pumping, or holding facilities to optimize the deliveries of Reclaimed Water.

11. RWP Reclaimed Water Fee – The RWP Reclaimed Water Fee shall be \$0.51 per 1,000 gallons delivered by the County to the District Point of Connection. The RWP Reclaimed Water Fee is composed of the following fees: (1) a fixed and variable ECRWTF operations and maintenance fee of \$0.28 per 1,000 gallons (the “O&M Component”); (2) a fixed renewal and replacement fee of \$0.10 per 1,000 gallons (the “R&R Component” and collectively with the O&M Component, the “O&M/R&R Component”); and (3) a fee for the carrying cost of the construction debt of the RWP (the “Carrying Cost Component”) of \$0.13 per 1,000 gallons. The initial RWP Reclaimed Water Fee shall be fixed at \$0.51 through December 31, 2015. Beginning on January 1, 2016, the O&M/R&R Component of the RWP Reclaimed Water Fee may be increased annually by the County by no more than the lesser of: (a) seventy-five percent (75%) of the Water and Sewer Maintenance Consumer Price Index (measured from July to July) published by the U.S. Bureau of Labor Statistics or (b) three and one-half percent (3.5%), rounded to the nearest cent. The Carrying Cost Component of the RWP Reclaimed Water Fee shall remain fixed for the term of the Agreement, except as may be modified in accordance with this Section 11, Section 13, and Section 14 of this Agreement.

To the extent that the County has prompted, after the Effective Date, an extraordinary call or refinances any bonds, loans, or other debt outstanding on which the then current Carrying Cost Component is based, the District shall receive a reduction in the Carrying Cost Component of the rate based on the net change in the average carrying cost of the construction debt, which will be prospectively applied by the County.

12. District Approval of County's Use of M-2 Canal Property. Attached hereto and incorporated herein as **Exhibit "A"** is a permit issued by the District to the County granting the County's use of the right-of-way to cross the M-2 Canal and approving the construction and operation, and maintenance of 1) a portion of the RWP crossing the M-2 Canal right-of-way ("M-2 Crossing Facilities") and 2) the County improvements required to connect the RWP to the District's Reclaimed Water System, as shown in Exhibit B to the permit ("District Point of Connection Facilities"). This permit shall become effective on the Effective Date of this Agreement and, contingent upon the County's continued compliance with the terms of the permit, shall remain in effect until such time that the M-2 Crossing Facilities and/or the District Point of Connection Facilities are no longer operating and are removed or abandoned in place.

13. Market Discount. The County retains the authority to set the Full Cost Fee for any other Prior Reservation Capacity Agreement for Interruptible Reclaimed Service from the County from the RWP. The Full Cost Fee shall be uniform, non-discriminatory and established by the County. The County reserves the right to apply a discount to the Full Cost Fee to maximize usage of RWP Reclaimed Water ("Market Discount"). To the extent that any Market Discount results in a net rate billed by the County to another Prior Reservation Capacity Customer for RWP Reclaimed Water at a lower RWP Reclaimed Water Fee than that provided for in this Agreement, the District shall be entitled to receive an adjustment to the RWP Reclaimed Water Fee in order to produce the same RWP Reclaimed Water Fee, subject to any terms, conditions, or restrictions attached to the Market Discount.

14. Change in Law Procedure.

A. Upon the occurrence of a Change in Law, the County shall assess the technical feasibility of continuing to provide Reclaimed Water from the RWP. If the County determines that it is technically feasible to continue to provide Reclaimed Water in accordance with the Change in Law, the following procedure shall apply. Either prior to or following the occurrence of a Change in Law, the County will notify the District of the Change in Law, any associated modifications to the RWP required as a result of the Change in Law, the modified Full Cost Fee resulting from the modifications to the RWP, the proposed specific change to the District's RWP Reclaimed Water Fee ("Change in Law Modification"), and the schedule for imposition of the Change in Law Modification. Any change in the RWP Reclaimed Water Fee resulting from a Change in Law Modification shall be applied prospectively by the County. All fees billed to the District will be based on the Interruptible Reclaimed Service as metered at the District Point of Connection; in no event will the Prior Reservation Capacity Fee increase as a result of the Change in Law Modification.

B. A modification associated with a Change in Law may be required for the provision of Firm Reclaimed Service only, for the provision of Interruptible Reclaimed Service only, or for the provision of both Firm Reclaimed Service and Interruptible Reclaimed Service. The following provisions shall govern these various scenarios:

1. For any modification that is required solely for the provision of Firm Reclaimed Service and which does not change the ability to supply Interruptible Reclaimed Service, the Full Cost Fee charged to the District shall be determined

in accordance with the cost recovery and rate provisions contained in the FPL Reclaimed Agreement which has been relied upon in the determination of the Full Cost Fee for Interruptible Reclaimed Service in this Agreement.

2. Any modification that is required solely for the provision of Interruptible Reclaimed Service will result in the addition of a Capital Cost Component to be added to the Full Cost Fee. The Capital Cost Component will represent a rate expressed on a \$/1,000 gallons basis equal to the allocable cost of the modification divided by i) the total Prior Reservation Capacity for all Interruptible Reclaimed Service customers served by the RWP expressed on an annual average daily flow (MGD) basis multiplied by ii) the number of days in the year. The modification to the Full Cost Fee components (Carrying Cost Component, O&M Component, and R&R Component) shall be in accordance with Section C below.

3. To the extent that a modification is required to meet the Reclaimed Water service requirements for both Firm Reclaimed Service and Interruptible Reclaimed Service, the County will first allocate the cost of the modification between the Firm Reclaimed Service and Interruptible Reclaimed Service requirements. A Capital Cost Component, based on the allocation between Firm Reclaimed Service and Interruptible Reclaimed Service, shall be added to the Full Cost Fee. The Capital Cost Component will represent a rate expressed on a \$/1,000 gallons basis equal to the allocable cost of the modification divided by i) the total Prior Reservation Capacity for all Interruptible Reclaimed Service customers served by the RWP expressed on an annual average daily flow (MGD) basis multiplied by ii) the number of days in the year. The modification to the Full Cost Fee components (Carrying Cost Component, O&M Component, and R&R Component) shall be in accordance with Section C below, and shall be based on the allocation of the cost of the modification between the Firm Reclaimed Service and Interruptible Reclaimed Service requirements.

C. With consideration of the specific scenarios in the above Section B, the change in the Full Cost Fee charged to the District for the use of the RWP and for the delivery of Interruptible Reclaimed Service shall be determined as follows:

1. The net change in the Carrying Cost Component, which will be based on the net change in the average carrying cost of construction debt for the required modification based on i) a minimum 30-year amortization or repayment period; ii) the actual average interest rate incurred by the County associated with the financing of the construction of any additional utility plant solely as required by the modifications; and iii) a denominator equal to the annual RWP Reclaimed Water sales assuming the greater of a) 22.0 MGD multiplied by the days in a year or b) the sum of the actual RWP Reclaimed Water sales for Firm Reclaimed Service expressed on an MGD basis for the most recent twelve months and the total Prior Reservation Capacity allocated to all Customers securing Interruptible Reclaimed Service.

2. The net change in the O&M Component associated with the modifications expressed on a \$/1,000 gallons basis identified for the first full fiscal year of operation of the modifications.

3. The R&R Component of the Full Cost Rate will be adjusted to reflect any required modifications and shall be expressed on a \$/1,000 gallons basis and determined based on the application of a cost recovery rate in accordance with the design life of the required modification divided by the annual RWP Reclaimed Water sales.

D. To the extent that a modification is required to provide Interruptible Reclaimed Service, the District shall have the right to provide treatment facilities within the District's Reclaimed System ("District Change in Law Facilities") that would be able to provide the required increased standard of treatment for the continued purchase of Interruptible Reclaimed Service through the RWP in lieu of paying the County the Change in Law Modification. If the District chooses this alternative, the RWP Reclaimed Water Fee as delineated in the Agreement shall remain in effect, the District shall construct and operate said District Change in Law Facilities, and no Change in Law Modification will be allocated to the District.

E. The County and District may mutually determine that a combination of a modification to the RWP and the creation of District Change in Law Facilities is the best option to comply with a Change in Law. In such a scenario, the County and District shall use the above stated principles to mutually determine the appropriate Change in Law Modification.

F. Any initial change to the RWP Reclaimed Water Fee caused by a Change in Law Modification shall not be limited based on the indexes set forth in Section 11.

G. Upon notice of a Change in Law Modification from the County, District may: (1) agree to the imposition of the Change in Law Modification; (2) elect to provide and operate District Change in Law Facilities as stated in Section D above; (3) elect, with County agreement, to a combination as stated in Section E above; or (4) elect to terminate this Agreement upon written notice to the County. The County shall have no obligation to provide Reclaimed Water to the District following a Change in Law unless the District agrees to the imposition of the Change in Law Modification, the District provides and operates the District Change in Law Facilities as set forth in Section D above, or the County and District agree to a combination as set forth in Section E above. Termination of the Agreement under this Section 14 shall not terminate the permit set forth in **Exhibit "A"**.

15. Termination by County upon Permanent Cessation of Operations of ECRWTF/RWP. The parties agree that this Agreement is intended to coincide with the term of the operation of the ECRWTF and the RWP. The parties further agree that the County shall have no obligation to continue the provision of RWP Reclaimed Water under this Agreement following the permanent cessation of the operation of the ECRWTF or the RWP. Therefore, if, at any time during the term of this Agreement, and for any reason whatsoever, the ECRWTF and/or the RWP permanently cease operation, then the County shall have the right

to immediately terminate this Agreement upon written notice to District. District and County hereby release and hold each other harmless from any claims and damages based upon termination under this Section 15 of the Agreement.

16. Additional Responsibilities of the District. The District shall provide for the design and construction of the District Reclaimed Water System up to the District Point of Connection. The District shall be responsible for the securing of any permits or other approvals required for the design and construction of the District Reclaimed Water System. The District shall be responsible for the continuing operation, maintenance, renewal and replacement of the District Reclaimed Water System. In addition, and for the term of this Agreement, to the extent that the District Point of Connection is located on District Property, the District will provide the County with the necessary permit as detailed in Section 12 of this Agreement to construct, operate and maintain the County facilities located at the District Point of Connection., In addition, and for the term of this Agreement, District shall provide the County with access to the District water treatment plant or other mutually agreed location for the purpose of installing, operating, and maintaining a read-only SCADA node. In the event of a Change of Law Modification that results in the District providing additionally required treatment, the District shall provide assurance to the County of compliance with those applicable laws, regulations, and rules applicable to the County as the seller of the Reclaimed Water by the Change in Law.

17. Additional Responsibilities of the County. County shall be responsible for the design, construction, operation, maintenance, renewal, and replacement of all necessary facilities to deliver RWP Reclaimed Water to the District, including the design and construction of the facilities located at the District Point of Connection, which will include, but not be limited to, piping, meter vault and meter, SCADA facilities, and other related facilities that will be adequate to meet the Prior Reservation Capacity requirements as delineated in this Agreement, including the recognition of peak day and peak hour delivery conditions assuming prudent utility planning parameters. Such facilities will be owned and maintained by the County and will be a component of those facilities that shall be replaced by use of the 2009 R&R Account funded from the annual Firm Reclaimed Service fees billed by the County to FPL and annual Interruptible Reclaimed Service fees billed by the County to Prior Reservation Capacity Customers, including the District, for use of the RWP as provided in this Agreement and as contemplated in the FPL Reclaimed Agreement.

18. Service Areas. The RWP Reclaimed Water provided to the District under this Agreement shall be utilized only within the District Service Area. The District shall not use the RWP Reclaimed Water provided under this Agreement outside the District Service Area, nor shall the District sell, assign, or otherwise transfer the RWP Reclaimed Water provided under this Agreement to any other party for use outside of the District Service Area, without the prior written consent of the County.

19. Payment of Bills. The County will bill the RWP Reclaimed Water Fee, including the application of any applicable Market Discount, to the District on a monthly basis. The District agrees to pay the monthly RWP Reclaimed Water Fee to the County within thirty (30) days from the date the bill is rendered by the County. A past due notice will be mailed by the County

to the District after thirty (30) days. If payment has not been received by the County from the District after sixty (60) days from the date of the original bill, service may be suspended until payment is made and a one percent (1%) per month interest charge may be assessed by the County on the outstanding unpaid balance.

20. County to Maintain Master Meter. The County agrees to pay to have an annual inspection and report prepared regarding the condition and accuracy of the master Reclaimed Water meter located at the District Point of Connection. A copy of the annual meter inspection report shall be furnished to the District. The District shall have the right to make its own meter inspection, or to have an independent company inspect the metering equipment at any time; provided, however, no such inspection shall be made unless the District shall first give County written notice of the date and time of its intent to have the inspection made, nor shall any such inspection be made prior to twenty-four (24) hours, excluding Saturdays, Sundays, and holidays, subsequent to the receipt of said notice by County. All costs and expenses of the District's interim inspection shall be borne by the District. If the meter is found not to be in good working order as a result of the District interim inspection, the County shall reimburse the District the cost incurred by the District for the interim inspection, correct the working order of the meter within two (2) business days, and proportionately adjust any prior Reclaimed Water bills rendered by the County to the District during the time the Reclaimed Water meter was determined to not be in good working order. Normal maintenance and the replacement of the Reclaimed Water meter shall be performed by the County at its sole cost.

21. Time Period Limitation In Case of Master Meter Inaccuracy. Both parties agree that, should the Reclaimed Water meter at the District Point of Connection be found to be inaccurate beyond American Water Works Association (AWWA) Standard C-701, Sec 4.2.7.2, Class 2, the meter will be assumed to have been inaccurate since the time of the event failure or since the last meter inspection or for a period of three months, whichever time should be less, and that the following month's billing will be adjusted to show a credit or additional charge to the District for that period, based upon the method established in Section 22 of this Agreement.

22. Presumed Consumption and Required Payment In Case of Master Meter Inaccuracy. Both parties agree, that if at any time the Reclaimed Water meter located at the District Point of Connection shall be inaccurate with respect to the quantity of consumption by the District as provided in Section 21 of this Agreement, the District will pay to the County or be credited by the County an amount equal to the estimated amount of Reclaimed Water that was assumed to be billed in error by the County. If the Reclaimed Water meter was registering flow but not within the accuracy limits as defined in Section 21 of this Agreement, the County will adjust the billed Reclaimed Water use by a percentage difference equal to the measured inaccuracy of the meter less the meter register limit as defined in Section 21. By way of example, if the Reclaimed Water meter at the District Point of Connection is determined to be measuring at a 95% accuracy rate and the required accuracy rate for the meter is 98%, the County would adjust the metered Reclaimed Water use by 3% and bill the District accordingly. If the respective Reclaimed Water meter is considered inoperable or is materially in error with respect to measuring Reclaimed Water use, the estimated Reclaimed Water to be billed to the District will be equal to product of i) the average metered reclaimed water billed the previous year for the corresponding period that the Reclaimed Water meter was assumed to be inaccurate during the

current year, as adjusted by the number of new connections within the District Service Area during the last twelve months multiplied by ii) the respective Reclaimed Water Fee, less the Market Discount in effect during each month that the Reclaimed Water use was assumed to be in error.

23. Security. The parties shall be responsible jointly and severally for security of the District Point of Connection, including provision of access locking features so that each party can have keyed access to the vaults. The District Point of Connection will be controlled by valves which can be operated by authorized representatives of either the County or the District. Only authorized employees of either the County or the District will operate the valves controlling the District Point of Connection. The County and the District shall provide prior notice to each other prior to operating the valves at the District Point of Connection.

24. Default And Cure Provisions. The parties hereto expressly covenant and agree that in the event either party is in default of its obligations herein, the party not in default shall provide to the party in default ninety (90) days written notice to cure said default before exercising any of its rights as provided for in this Agreement. Each party shall be entitled to seek specific performance and injunctive relief to cure a Default. Failure to cure a payment default by the District within ninety (90) days following notice may be grounds for termination of this Agreement. Upon failure to cure a County default and until specific performance or injunctive relief is granted to the District, District shall be entitled to use County potable water to make up for the defaulted amounts, pressures, or qualities at no additional cost to the District. The parties agree that the construction cost of this default connection facility shall be shared evenly. The parties may mutually agree to extend the time for cure.

25. Termination. Except as set forth in Section 14, 15, and 24, this Agreement cannot be terminated before its anticipated term without mutual consent.

26. No Transfer of Powers. Nothing contained in this Agreement shall be construed to constitute a transfer of powers in any way whatsoever. This Agreement is solely an Agreement to provide services as authorized in Florida Statutes, Chapter 163. The governing bodies for the County and the District shall each maintain all legislative authority with regard to their respective political subdivision. All of the privileges and immunities from liability, exemption from laws, ordinances, and rules, and pensions and relief, disability, workers compensation and other benefits which apply to the activity of officers, agents or employees of any public agents or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, or employees extra-territorially under the provisions of this Agreement.

27. Indemnification. The County and the District acknowledge the waiver of sovereign immunity for liability in tort contained in Florida Statutes 768.28, the State of Florida's partial waiver of sovereign immunity, and acknowledge that such statute permits actions at law to recover damages in tort for money damages up to the limits set forth in such statute for death, personal injury or damage to property caused by the negligent or wrongful acts or omissions of

an employee acting within the scope of the employee's office or employment. The County and the District agree to be responsible for all such claims and damages, to the extent and limits provided in Florida Statutes Section 768.28, arising from the actions of their respective employees. The parties acknowledge that the foregoing shall not constitute an agreement by either party to indemnify the other, nor a waiver of sovereign immunity, nor a waiver of any defense the parties may have under such statute, nor as consent to be sued by third parties.

28. Force Majeure. In the event that the performance of this Agreement by either party to this Agreement is prevented or interrupted in consequence of any cause beyond the control of either party, including, but not limited to, Acts of God or of the public enemy, war, national emergency, allocation of or other governmental restrictions upon the use or availability of labor or materials, rationing, civil insurrection, riot, disorder or demonstration, terrorism, strike, embargo, flood, tidal wave, fire, explosion, bomb detonation, nuclear fallout, windstorm, hurricane, earthquake, or other casualty or disaster or catastrophe or Reclaimed Water Plant failures and Reclaimed Water main breaks, neither party shall be liable for such non-performance.

29. Remedies. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter.

30. Successors and Assigns. The County and the District each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither the County nor the District shall assign, sublet, convey, or transfer its interest in this Agreement without prior written consent of the other.

31. Waiver. The failure of either party to insist on the strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that said party may have for any subsequent breach, default, or non-performance, and said party's right to insist on strict performance of this Agreement shall not be affected by any previous waiver of course or dealing.

32. Severability. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable by any court of competent jurisdiction, then the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

33. Notice. All notices or requests provided for herein shall be in writing and transmitted by certified mail or by courier with a signature receipt, and, if to the District, shall be mailed or delivered to the District at:

Seminole Improvement District
4001 Seminole Pratt Whitney Road
Loxahatchee, FL 33470
Attn: District Manager

With a copy to
Lewis Longman Walker
515 North Flagler Drive
Suite 1500
West Palm Beach, FL 33401
Attn: Seminole Improvement District Counsel

and if to County, shall be mailed or delivered at:

Palm Beach County Water Utilities Department
8100 Forest Hill Boulevard
P.O. Box 16097
West Palm Beach, FL 33416-6097
Attn: Department Director

and to:

County Attorney's Office
301 N. Olive Ave, Suite 601
West Palm Beach, FL 33401

The use of electronic means of notification (e-mail) will not be considered as a method of providing notice for the purposes of this Agreement. Any party may, by notice in writing given to the other, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice shall be deemed given on the date such notice is delivered by hand or three days after the date mailed. Each party to this Agreement shall have a continuing duty to promptly notify the other party of any change to any of this information.

34. Filing. This Agreement shall be filed with the Clerk of the Circuit Court for Palm Beach County.

35. Amendment and Modification. This Agreement may only be amended, modified, changed, supplemented or discharged by an instrument in writing signed by the parties hereto.

36. Entirety of Agreement. The County and the District agree that this Agreement and any Exhibits hereto set forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, County and District have executed or have caused this Agreement, with the named Exhibits attached, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement.

ATTEST:
SHARON R. BOCK
CLERK AND COMPTROLLER

PALM BEACH COUNTY, BY ITS
BOARD OF COUNTY
COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Burt Aaronson, Chair

Date: _____

(SEAL)

APPROVED AS TO FORM AND TO
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: _____
County Attorney

By: *Burt Aaronson*
Director of Water Utilities

ATTEST:

SEMINOLE **IMPROVEMENT**
DISTRICT

By: *Sharon Doucetto*
Clerk

By: *Thomas G. O'Brien III*
Thomas G. O'Brien, III
President, Board of Supervisors

Date: *March 5, 2010*

APPROVED AS TO FORM AND TO
LEGAL SUFFICIENCY

By: *[Signature]*
District Attorney

EXHIBITS

SEMINOLE IMPROVEMENT DISTRICT
PERMIT

Permit No. SID 10-01

Date of Issuance: MARCH 5, 2010

Permittee: Palm Beach County Water
Utilities Department
P. O. Box 24740
West Palm Beach, FL
33416

**Project Name: Central Regional Reclaimed Water Pipeline
36" RCWM Canal Crossing and Meter Installation**

This Permit is issued under the provisions of Chapter 298, Florida Statutes. It includes authorization for installation and operation of certain County owned facilities (the "Work") within and on the District's M2 Canal property according to the construction drawings attached hereto, including generally:

- (1) A 36-inch DR 11 HDPE Reclaimed Water Main using a horizontal directional drill underneath the M-2 Canal at Okeechobee Boulevard, and
- (2) Reclaimed Water Distribution piping, meters and other appurtenances related to the provision of Reclaimed Water Main to be installed on the M2 Canal property along Okeechobee Boulevard.

The above-named Permittee is hereby authorized to install the following described facilities:

- (1) The installation of a 36" diameter DR 11 HDPE Reclaimed Water Main going from east to west along Okeechobee Boulevard which will be approximately 1,000 LF with a minimum clearance under the M2 Canal bottom of 45 feet, as detailed in Specific Condition 2.
- (2) The installation of distribution piping, meters, and related appurtenances sufficient to meet the requirements of the Interlocal Agreement For Purchase and Sale of Bulk Reclaimed Water between Palm Beach County and Seminole Improvement District (the "Interlocal Agreement"), as detailed in Specific Condition 2C and attached as **Exhibit "C"**.

The work shall be constructed pursuant to Seminole Improvement District's Policies, Procedures and Minimum Requirements (which are incorporated herein by this reference) and the following General and Specific Conditions.

GENERAL CONDITIONS

- GC-1. This Permit is only subject to revocation or alteration by the District for violation of any Permit condition.
- GC-2. The issuance of this Permit does not relieve the Permittee of any responsibility to obtain any other federal, state, local or special district permit, which may be required.
- GC-3. The Permittee grants the District the right of access onto any and all property in the Permittee's possession or control for the purpose of inspection of all facilities or equipment involved in the transmission or discharge of water, wastewater or reclaimed water to or otherwise affecting District works.
- GC-4. The District retains the right to remove, at Permittee's sole expense, any and all of the Permittee's equipment located in the District rights-of-ways or connected to District works at the revocation of this Permit.
- GC-5. The District retains the right to require the Permittee to modify, at Permittee's sole expense, the structures authorized above as needed to manage the District's surface water management or transportation system.
- GC-6. The District does not assume and hereby disclaims any and all liability for any damage to any of Permittee's property located in any District right-of-way.
- GC-7. The District does not assume and hereby disclaims any and all liability to the Permittee or any third party, for any damage to person or property, which may be attributable to any activity facilitated by this Permit. To the extent permitted by law, and subject to the monetary limitations set forth in Section 768.28, Florida Statutes,, Permittee does hereby and indemnify and hold harmless the District, its Board of Supervisors, all officers, professionals and personnel against any claims, losses, damages (including consequential), expenses, or legal fees that might arise out of or result from the issuance and use of this Permit.
- GC-8. If it is necessary for the District to take legal action to enforce any or all of its rights under this Permit the Permittee will be responsible, to the extent

permitted by law, for any and all costs, including attorney fees, which are reasonably and necessarily incurred by the District.

GC-9. The Permittee is further subject to any and all requirements contained in an adopted District Water Control Plan, policy or procedure as they may be amended from time to time.

GC-10 Activities shall be conducted in a manner that does not cause violations of State of Federal Water Quality Standards. The Contractor shall implement best management practices for erosion and pollution control to prevent violation of State Water Quality Standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within seven (7) days of completion of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into District canals or laterals exists due to the proposed work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. Thereafter the Contractor shall be responsible for the removal of the barriers. The Contractor shall correct any erosion or shoaling that causes adverse impacts to the water resources.

GC-11 Upon completion of construction, and after the District's approval of permit compliance, the Permittee shall be entitled to operate the facilities subject to the conditions enumerated within this permit.

GC-12 Permittee may apply to the District at any time for consideration of a modification to correct or amend the conditions of this Permit.

GC-13 The Permittee shall pay all permit application, review, and inspections fees due to the District.

GC-14 The Permittee and its contractors shall be obligated throughout the construction term of this Permit to provide insurance coverage in accordance with the attached **Exhibit "D"**, entitled "Insurance Coverage".

SPECIFIC CONDITIONS

SC-1 This Permit is Effective on the Date the Interlocal Agreement For Purchase and Sale of Bulk Reclaimed Water between Seminole Improvement District and Palm Beach County has been approved and signed by the Palm Beach County Board of County Commissioners.

SC-2 The following attached exhibits are made part of this Permit. Failure of Permittee to comply with the requirements and commitments contained therein shall be grounds to revoke this Permit:

A.(1) Construction drawings dated July 7, 2009 as most currently amended and by reference made a part hereof as **Exhibit "A-1"**, prepared by Palm Beach County Water Utilities Project No. 08-031-B for installation of a 36-inch DR 11 HDPE Reclaimed Water Main using a horizontal directional drill underneath the M-2 Canal at Okeechobee Blvd.

(2) Construction drawings dated 9/26/09 and attached hereto as **Exhibit "A-2"**, prepared by Environmental Crossings Inc.

B. Conceptional construction drawings dated February 10, 2010 and attached hereto as **Exhibit "B"**, prepared by Palm Beach County Water Utilities for installation of distribution piping, meters, and related appurtenances sufficient to meet the requirements of the Interlocal Agreement.

C. Interlocal Agreement for Purchase and Sale of Bulk Reclaimed Water between Palm Beach County and Seminole Improvement District, dated attached hereto as **Exhibit "C"**.

SC-3 Permittee acknowledges that the construction drawings referenced hereto as **Exhibits "A-1" and "A-2"** are detailed construction drawings and that issuance by the District of this Permit and its continued effectiveness are expressly conditioned on the prompt submission and approval of final construction drawings for Exhibit B Work. Said approval shall not be unreasonably withheld. Within ten (10) weeks of the Effective Date of this Permit, Permittee shall submit to District detailed Exhibit B construction drawings that will identify the exact location and design of the connection facilities tying the permitted improvements to the District's facilities. These detailed construction drawings shall be submitted to the District Engineer for final review and approval prior to commencement of any permitted Exhibit B Work. Copies of the final approved construction drawings shall be attached to and replace the conceptual construction drawings attached hereto.

SC-4 Unless revoked or otherwise modified, the duration for construction under this Permit is 18 months from Effective Date. Failure to complete construction within the permitted construction duration shall require a new permit authorization in order to continue construction.

SC-5 The permitted Exhibit B Work shall be completed within one (1) year of the final plan approval by the District Engineer.

- SC-6 The Work authorized herein shall be completed in accordance with the final, approved construction drawings referenced in Specific Condition 1, Exhibits "A-1", "A-2" and "B" and in Specific Condition 3. Before the DR 11 HDPE Reclaimed Water Main is installed, the Permittee shall provide pilot boring logs to the District and shall not install the DR 11 HDPE Reclaimed Water Main until those pilot boring logs are deemed reasonably satisfactory to the District.
- SC-7 If the construction drawings referenced in Specific Condition 3 are revised as a result of comments by SFWMD or any other regulatory agency, or for any other reason, the revised drawings shall be submitted to Seminole Improvement District with an application to amend this Permit. Approval of the amendment shall not be unreasonably withheld.
- SC-8 The Operations Manager for the District shall be notified, by mail, at least 48 hours prior to construction or maintenance .
- SC-9 Within 30 days after completion of construction of the permitted activity, the Permittee shall submit a written statement of completion and certification, signed and sealed, by a registered Professional Engineer or other appropriate individual as authorized by law. The statement of completion and certification shall be based on on-site observation of construction or review of record drawings for the purpose of determining if the work was completed in compliance with permitted construction drawings and specifications. A copy of the construction drawings in a CD or other appropriate electronic media acceptable to the District shall accompany the Final Certification and two (2) hard copies of the boring logs, other associated logs, and as-built drawings with any deviations from the approved permit drawings noted. The construction drawings must be clearly labeled as "record" drawing. A professional surveyor registered in the State of Florida shall certify, sign and seal all surveyed dimensions and elevations.
- SC-10 This Permit only authorizes the construction, operation, and maintenance of the facilities for the duration of the Interlocal Agreement, as it may be subsequently revised or renewed. This Permit shall terminate upon the termination of the Interlocal Agreement unless the Interlocal Agreement was terminated pursuant to its Sections 14 or 24.
- SC-11 Upon completion and acceptance by the District, the permitted facilities shall be the exclusive operational and maintenance responsibility of Palm Beach County Water Utilities Department, without recourse to the District.

PERMITTEE:

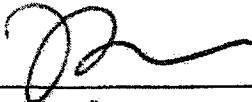
**PALM BEACH COUNTY WATER
UTILITIES DEPARTMENT**

SEMINOLE IMPROVEMENT DISTRICT

Accepted this date by:

Signature:

Signature:



(Name Signed)



Nathaniel Roberts, District Manager

Brian A. Shields, P.E.
(Name Printed)

Date: 3-5-2010

Deputy Director
(Title)

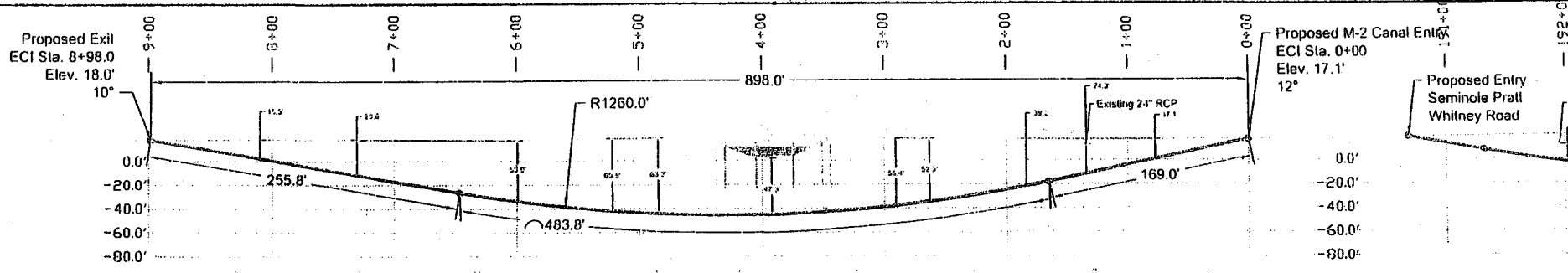
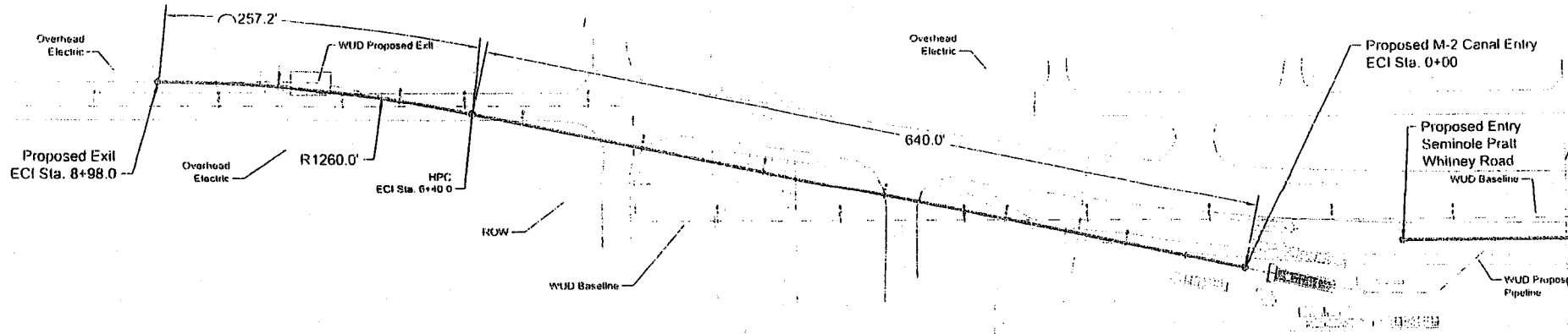
Date: 3/5/10

EXHIBIT A-1

Construction drawings prepared by Palm Beach County Water Utilities, its Project 08-031-B, for installation of a 36-inch DR 11 HDPE Reclaimed Water Main.

Made a part hereof by reference.

Palm Beach County Water Utilities Department
 Central Regional Reclaimed Water Pipeline
 M-2 Canal HDD Proposal - Revision 1



Scale: 1" = 80'

Notes:

1. Plan & Profile Information obtained from "PBC - WUD Sheet 21-C & 22-C Revision 4" dated 09-02-09, field verification is required.
2. ECI might need to adjust drill proposals once utility locates have been performed.

Horizontal Distance = 898.0'
 Measured Distance = 908.6'

868 ROSINWOOD CT. TRAVERSE CITY, MI 49686 PH: (251) 929-1242 FAX: (251) 941-7412		
DATE: 09-28-09	DRAWN BY: BR-91042	PLANNED BY: GJH
CLIENT: Palm Beach County Water Utilities Dept.		PROJECT: C to W
PROJECT: M-2 Canal Palm Beach County, Florida		PLANNING: Proposal

EXHIBIT B
LEGAL DESCRIPTION OF
DISTRICT SERVICE AREA BOUNDARY

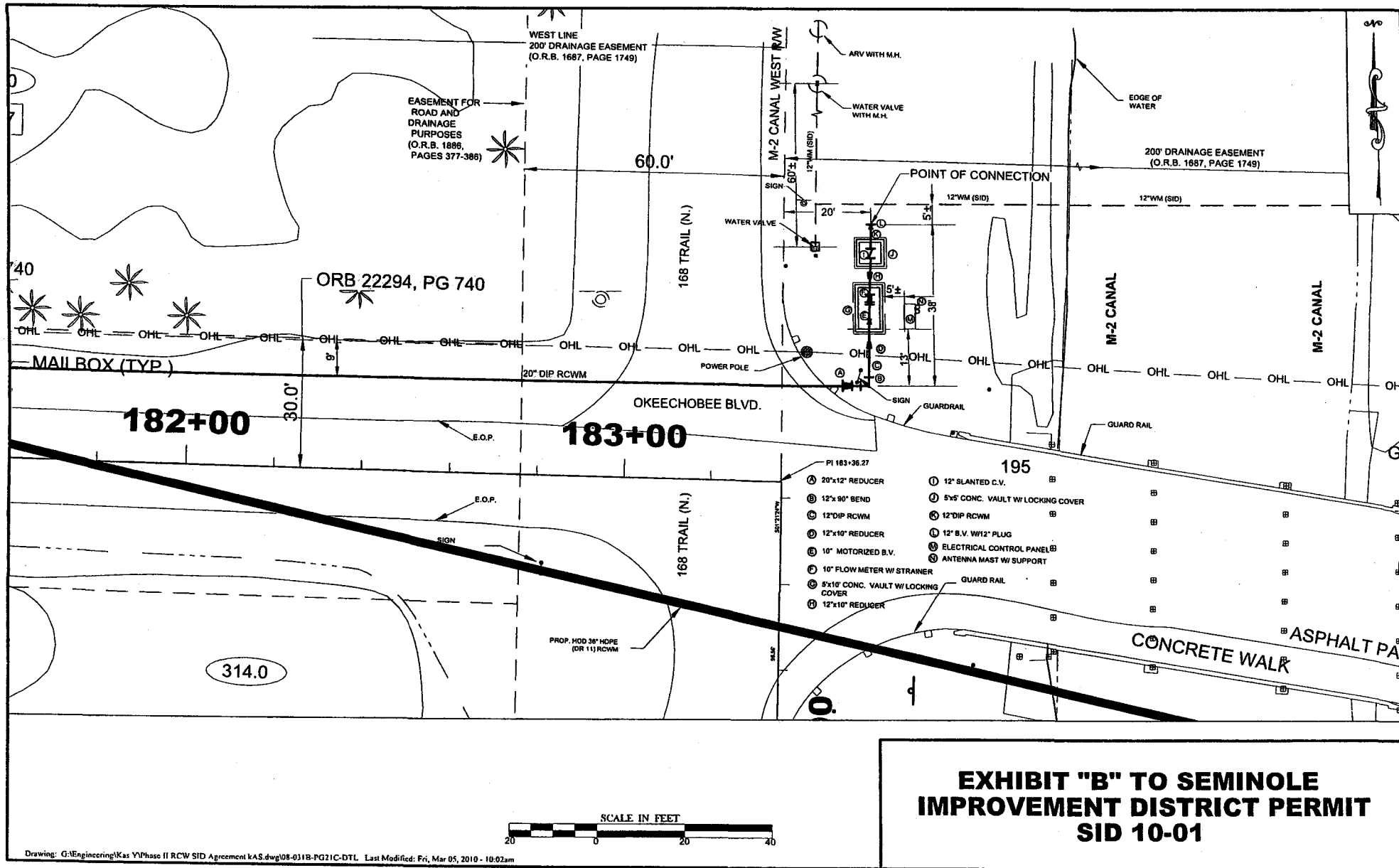
Source: 2000 Florida Legislature, HB 1559 First Engrossed

"District created and boundaries thereof. For the purposes of providing public infrastructure, services, the assessment, levy, and collection of taxes, non-ad valorem assessments and fees, the operation of District facilities and services, and all other purposes stated in this act consistent with chapters 189 and 298, Florida Statutes, and other applicable general law, an independent improvement district is hereby created and established in Palm Beach County, Florida, to be known as the Seminole Improvement District, the territorial boundaries of which shall be as follows, to-wit:

All of Sections 1 and 2, that part of Section 3 situated Southerly and Eastwardly of the Canal "M" right of way, and Section 12 except the East Half (E 1/2) of the Southeast Quarter (SE 1/4) thereof, all in Township 43 South, Range 40 East.

All of Sections 5 and 6, the North Half (N 1/2) of Section 7 and the North Half (N 1/2) of Section 8, Township 43 South, Range 41 East.

All in the County of Palm Beach, State of Florida, consisting of 4,032 acres, more or less."



**INTERLOCAL AGREEMENT
FOR PURCHASE AND SALE OF BULK RECLAIMED WATER**

THIS AGREEMENT made and entered into this _____ day of _____, 2010, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida ("County"), and the **SEMINOLE IMPROVEMENT DISTRICT**, a Florida Special Taxing District whose address is 4001 Seminole Pratt-Whitney Road, Loxahatchee, Florida 33470 ("District").

WITNESSETH

WHEREAS, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969" authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, the East Central Regional Wastewater Treatment Facilities ("ECRWTF") is a wastewater treatment facility with a current permitted capacity of 64million gallons per day ("MGD") by the Florida Department of Environmental Protection ("FDEP"), which is jointly owned by five local governments (collectively referred to as "Member Entities"), including the County, and operated by the City of West Palm Beach; and

WHEREAS, pursuant to the 1992 Interlocal Agreement between the Member Entities creating the ECRWTF (County Resolution No. R92-1228D), and the 1999 Participatory Agreement Establishing Duties and Responsibilities Among the City of West Palm Beach, Palm Beach County and the East Central Regional Wastewater Facilities Board for Improvements to the Eastern Central Regional Wastewater Facilities (County Resolution No. R99-1792D), the County has approximately 24.5 MGD of current Wastewater capacity from the ECRWTF; and

WHEREAS, the ECRWTF Operation Board ("ECR Board") entered into an Agreement with the County and the City of West Palm Beach ("ECR Reclaimed Agreement") dated May 20, 2008 (R2008-0907), related to the construction, operation, and maintenance of certain facilities on ECRWTF property for the provision of Reclaimed Water to the Florida Power and Light Company ("FPL") West County Energy Center ("WCEC") and other customers; and

WHEREAS, the County and FPL entered into a Reclaimed Water Agreement ("FPL Reclaimed Agreement") dated May 20, 2008 (County Resolution No. R2008-0906), in which the County agreed to provide the WCEC with Reclaimed Water utilizing certain to-be-constructed facilities, including an expansion to the ECRWTF to produce Reclaimed Water, a reclaimed water pipeline and appurtenant facilities located within and outside of ECRWTF property, and a storage tank and appurtenant facilities located at the WCEC site (said facilities hereinafter collectively referred to as the "Reclaimed Water Project" or "RWP"); and

WHEREAS, under the terms of the ECR Reclaimed Agreement, the ECR Board, and its Member Entities, agreed to allocate certain secondary treated effluent of sufficient quality to the RWP; and

WHEREAS, the ECRWTF is currently generating approximately 40 MGD of secondary treated effluent classified as being available for Reclaimed Water, with approximately 13 MGD reserved for prior contractual commitments of the City of West Palm Beach and Palm Beach County leaving approximately 27 MGD of secondary treated effluent of sufficient quality to be available for the RWP; and

WHEREAS, the total amount of Reclaimed Water that the County is required to make available to FPL as delineated in the FPL Reclaimed Water Agreement is: i) 22.0 MGD annual average daily flow (“ADF”) calculated based on a five (5) year rolling average; ii) 4.0 MGD minimum daily flow; and iii) 27.0 MGD peak usage on any day (“FPL Contracted Capacity”) during the term of such agreement; and

WHEREAS, actual FPL requirements for firm, Reclaimed Water generated by the RWP (“RWP Reclaimed Water”) are expected to vary significantly on an annual cycle with higher cooling water demands occurring at times of higher regional rainfall and consequent lower irrigation needs; and

WHEREAS, the County will make available up to 8 MGD of RWP Reclaimed Water capacity (“Prior Reservation Capacity”) to other customers after FPL’s Reclaimed Water capacity requirements as delineated in the FPL Reclaimed Water Agreement are fully satisfied, subject to changing conditions and RWP operating experience; and

WHEREAS, the County is making such Prior Reservation Capacity available to other customers on an interruptible, as-available basis, with the consent of FPL; and

WHEREAS, the County has not entered into Prior Reservation Capacity agreements with any other entities as of the date of this Agreement; and

WHEREAS, the County is developing a system of rates, fees and charges for Prior Reservation Capacity and related Reclaimed Water sales; and

WHEREAS, the County and the District entered into an Interlocal Agreement between Palm Beach County and the Seminole Improvement District (“2006 Interlocal Agreement”) dated April 18, 2006 (County Resolution No. R2006-0732) that, among other things, anticipated joint planning and operation of a regional reclaimed facility that would be treating District and other wastewater to a reclaimed standard; and

WHEREAS, the District has built its own Reclaimed Water system (“District Reclaimed Water System”) but benefits by reserving, as additional capacity, a portion of interruptible, as-available RWP Reclaimed Water in accordance with its forecasted Reclaimed Water requirements; and

WHEREAS, in order to construct the RWP, the County must cross the M-2 Canal which is owned by the District and, as compensation to allow the County to cross the M-2 Canal pursuant to a District Permit, the County shall make Reclaimed Water available to the District from the RWP Project on a first priority basis after the delivery of Reclaimed Water in accordance with the amount of FPL Contracted Capacity to FPL; and

WHEREAS, RWP Reclaimed Water will be useful to the District for agricultural, residential and/or commercial purposes; and

WHEREAS, other customers may, subsequent to the District, contract with the County for interruptible as available RWP Reclaimed Water that would be second in priority to those demands of the District as outlined in this Agreement.

NOW, THEREFORE, for and in consideration of these premises, the mutual undertakings and agreements herein contained and assumed, the County and the District hereby covenant and agree as follows:

1. The foregoing statements are true and correct and are incorporated herein by specific reference.
2. Term. The term of this Agreement shall commence on the Effective Date and shall continue in full force and effect for the same term as the FPL Reclaimed Water Agreement, the initial term of which will expire on December 31, 2041.

If the FPL Reclaimed Agreement is renewed by FPL (the "FPL Renewed Reclaimed Agreement") and such renewal reflects substantially similar or more favorable terms associated with the ability of FPL to receive RWP Reclaimed Water at rates in effect in accordance with this Agreement which is generally consistent to the rates contained in the FPL Reclaimed Agreement, this Agreement shall renew for the same term as contained in the FPL Renewed Reclaimed Agreement. If the FPL Renewed Reclaimed Agreement is substantially modified or substantially different than the current FPL Reclaimed Agreement, the District shall have the option of i) renewing the Agreement for the same term as referenced in the FPL Renewed Reclaimed Agreement at rates that shall not be any higher expressed on a percent increase over the District's most recent rate than FPL's percentage increase over their most recent rate and with the same priority as listed in this Agreement or ii) not renewing this Agreement. The non-renewal of this Agreement shall result in the District losing the priority status for Prior Reservation Capacity as contained in this Agreement, as may be amended or supplemented from time to time.

3. Effective Date. This Agreement shall become effective upon approval by both parties. The Effective Date of this Agreement shall be the date the Agreement is approved by the Palm Beach County Board of County Commissioners.

4. Definitions. The following definitions and references are given for the purpose of interpreting the terms as used in this Agreement and apply unless the context indicates a different meaning:

“2009 Renewal and Replacement (R&R) Account” means the account established by the County in the Renewal and Replacement Fund, previously established by the County pursuant to the adoption of County Resolution No. R-84-1206 in support of the County’s issuance of utility revenue bonds for its water and wastewater system, for which the County will deposit all amounts received from FPL and any Prior Reservation Capacity Customer for that component of RWP Reclaimed Water Fee that is associated with making deposits for the funding of renewals, replacements, repairs, and / or capital improvements with respect only to the RWP which shall be maintained by the County throughout the term of the Agreement. Reference is made to County Resolution No. R-84-1206 as duly adopted by the County, as amended and supplemented and particularly as supplemented by Resolution No. R-2009-0800, providing for the issuance of and determining certain details of the Water and Sewer Revenue Bonds, Series 2009 (FPL Reclaimed Water Project) by the County.

“Agreement” means the Interlocal Agreement for purchase and sale of Bulk Reclaimed Water between the County and the District.

“ADF” has the meaning set forth in the Recitals to this Agreement.

“Carrying Cost Component” has the meaning set forth in Section 11 of this Agreement.

“Change in Law” means any change in Federal or state laws, rules, regulations, or requirements or any change in local laws, rules, regulations directly required due to the imposition of Federal or state laws, rules, regulations, or requirements which occurs after the Effective Date and which has a direct material adverse effect upon the cost to the County to produce the Reclaimed Water in accordance with the standards set forth in this Agreement.

“Change in Law Modification” has the meaning set forth in Section 14 of this Agreement.

“District Change in Law Facilities” has the meaning set forth in Section 14 of this Agreement.

“District Point of Connection” means the downstream location where the RWP is connected with the District’s Reclaimed Water System, as shown in Exhibit “B” to Seminole Improvement District Permit SID 10-01, a copy of said Permit being attached hereto and incorporated herein as **Exhibit “A”**. The RWP shall include the master meters and related appurtenances located at the District Point of Connection, with said master meters being utilized to measure the flow of Reclaimed Water to the District.

“District Point of Connection Facilities” has the meaning set forth in Section 12 of this Agreement.

“District Reclaimed Water System” means the system owned and/or operated by the District for the production, transmission and distribution of Reclaimed Water within the District

Service Area, said system being located on the District's side of the Point of Connection.

"District Service Area" means the legislative boundaries of the District as of the Effective Date of this Agreement, which are described in **Exhibit "B"**, which is attached hereto and incorporated herein.

"ECR Board" has the meaning set forth in the Recitals to this Agreement.

"ECR Reclaimed Agreement" has the meaning set forth in the Recitals to this Agreement.

"ECRWTF" has the meaning set forth in the Recitals to this Agreement.

"Effective Date" has the meaning set forth in Section 3 of this Agreement.

"FDEP" has the meaning set forth in the Recitals to this Agreement.

"Firm Reclaimed Service" means Reclaimed Water capacity resulting from the RWP intended to be available at all times during the period covered in accordance with the capacity requirements and commitments and delivery term as delineated in the FPL Reclaimed Agreement and that such capacity will be available on a first priority basis before providing Interruptible Reclaimed Service from the RWP. The County will have only one customer receiving Firm Reclaimed Service from the RWP during the term of this Agreement which customer is FPL.

"FPL" has the meaning set forth in the Recitals to this Agreement.

"FPL Contracted Capacity" has the meaning set forth in the Recitals to this Agreement.

"FPL Reclaimed Agreement" has the meaning set forth in the Recitals to this Agreement.

"FPL Renewed Reclaimed Agreement" has the meaning set forth in Section 2.

"Full Cost Fee" means the fee designed to recover the full cost of the design, permitting, construction, operation, maintenance, renewal and replacement of the RWP. The Full Cost Fee represents the sum of: i) the Prior Reservation Capacity Fee and ii) the RWP Reclaimed Water Fee.

"Interruptible Reclaimed Service" means Reclaimed Water capacity provided from the RWP which is subject to curtailment or cessation of delivery by the County at any time in order to only provide Firm Reclaimed Service to FPL in accordance with the FPL Reclaimed Water Agreement. To the extent the Reclaimed Water Capacity is not desired to be used by FPL, such capacity shall become available to provide Interruptible Reclaimed Service to any Prior Reservation Capacity Customer, including the District, in accordance with the schedule of priority deliveries developed by the County described in Sections 9 and 10.

“M-2 Crossing Facilities” has the meaning set forth in Section 12.

“Market Discount” has the meaning set forth in Section 13 of this Agreement.

“MGD” has the meaning set forth in the Recitals to this Agreement.

“O&M/R&R Component” has the meaning set forth in Section 11 of this Agreement.

“Point of Connection” means the location where the RWP is connected to a Prior Reservation’s Capacity Customer’s Reclaimed Water System. The Point of Connection shall be immediately downstream of the master meters and related appurtenances with said master meters being utilized to measure the flow of Reclaimed Water to the respective Prior Reservation Capacity Customer.

“Prior Reservation Capacity” is the volume of Reclaimed Water capacity expressed on an ADF basis from the RWP reserved by and allocated to an entity by the County pursuant to an executed Prior Reservation Capacity Agreement.

“Prior Reservation Capacity Customer” means any entity that has entered into a Prior Reservation Capacity Agreement with the County for Prior Reservation Capacity.

“Prior Reservation Capacity Date” is the latest date on which a Prior Reservation Capacity Agreement is signed by both the County and the entity requesting Prior Reservation Capacity.

“Prior Reservation Capacity Fee” means the fee expressed on a dollar per 1,000 gallons basis required to reserve each 1,000 gallon/day increment of Prior Reservation Capacity in the RWP. This fee shall be charged to each Prior Reservation Capacity Customer regardless if Reclaimed Water is delivered to such Prior Reservation Capacity Customer.

“Reclaimed Water” means Wastewater effluent that has been treated and is permitted by the FDEP.

“Reclaimed Water Project” or “RWP” has the meaning set forth in the Recitals to this Agreement.

“RWP Reclaimed Water” means Reclaimed Water that is produced and transmitted to District utilizing the RWP. The RWP Reclaimed Water shall meet all applicable standards for Wastewater effluent treated to meet non-potable needs as required for discharge on to Public Access Use areas, in accordance with Chapter 62-610, Part III, Florida Administrative Code, as may be amended from time to time.

“RWP Reclaimed Water Fee” means the fee expressed on a dollar per 1,000 gallons basis of RWP Reclaimed Water to be charged for the delivery of Reclaimed Water as measured by metering at the Prior Reservation Capacity Customer’s respective Point of Connection. The RWP Reclaimed Water Fee includes the sum of i) O&M/R&R Component and ii) the

Capital Carrying Component. The Prior Reservation Capacity Fee is not included in the RWP Reclaimed Water Fee.

“Service Initiation Date” means the date the County notifies a Prior Reservation Capacity Customer that the County can begin to provide RWP Reclaimed Water service for sale to such customer through the customer’s respective Point of Connection.

“Wastewater” means liquid and water-carried industrial, domestic, medical, food, superfluous solid, gaseous material, holding tank or other wastes from dwelling units, commercial establishments and manufacturing units, whether treated or untreated.

5. County/Member Entities Commitment to Reclaimed Water Plant. As set forth in Exhibit “B” to the ECR Reclaimed Agreement, with the exception of 3 MGD allocated to the County’s Reclaimed Water facilities located at Century Village-West Palm Beach, the County has agreed to allocate 100% of its proportionate share of ECR treated effluent to the RWP. As also set forth in Exhibit “B” to the ECR Reclaimed Agreement, The City of Lake Worth, the City of Riviera Beach, and the Town of Palm Beach have agreed to allocate 100% of their proportionate share of ECR treated effluent to the RWP.

6. Scope of Agreement. The County agrees to furnish, and the District agrees to purchase, RWP Reclaimed Water in accordance with the terms and conditions of this Agreement. The RWP Reclaimed Water service shall be interruptible, in accordance with the protocol set forth in Sections 9 & 10 of this Agreement. The RWP Reclaimed Water shall be delivered by the County to the District Point of Connection at a minimum pressure of 40 pounds per square inch at a minimum 27 MGD flow rate, which is equal to the maximum capacity allocable to FPL.

7. Prior Reservation Capacity. The District is granted, at no cost, a Prior Reservation Capacity of 3.85 MGD RWP Reclaimed Water. Subject to the Section 9 conditions, the County will make available to the District this Prior Reservation Capacity in accordance with the following Prior Reservation Capacity schedule:

Prior Reservation Capacity Schedule	Year (Beginning January 1 st)
0.70 MGD	2013
1.45 MGD	2015
2.85 MGD	2017
3.85 MGD	2025

Recognizing the County’s availability of Reclaimed Water and to assist the County in the long-term scheduling of the deliveries of Reclaimed Water to the District, the District’s Prior Reservation Capacity will be available as set forth in the above table. District shall have the right to add additional Prior Reservation Capacity to the Prior Reservation Capacity commitment as identified in this Agreement at no cost to the District, on an interruptible, as-available basis, for any amount of wastewater delivered to the County by the District solely from the District Service Area for treatment, pursuant to the following conditions: (1) the wastewater is treated at the ECRWTF; (2) the District pays applicable wastewater capacity and volume charges as defined in the 2006 Settlement Agreement between the County and the

District; (3) the RWP is capable of treating the Wastewater and conveying the resultant Reclaimed Water to the District; and (4) the District is willing to accept the additional Reclaimed Water Capacity. The Prior Reservation Capacity of the 3.85 MGD and the amount of Prior Reservation Capacity that is earned pursuant to wastewater deliveries as described above together will be the District's Prior Reservation Capacity of this Agreement and is granted to the District by the County as full payment of all fees associated with the permit described in Section 12 of this Agreement. The Reclaimed Water will be provided on an Interruptible Reclaimed Service basis and will have the highest and first priority as Interruptible Reclaimed Service with respect to any and all Prior Reservation Capacity Customers that may request Interruptible Reclaimed Service from the RWP from the County. The Prior Reservation Capacity Date for the District Prior Reservation Capacity shall be the Effective Date of this Agreement.

8. Additional Prior Reservation Capacity. The District may request additional Prior Reservation Capacity above such amounts as identified in Section 7 of this Agreement at a later date by entering into a new Prior Reservation Capacity Agreement and paying all applicable Prior Reservation Capacity Fees; however, the Prior Reservation Capacity Date of any future requested incremental additional Prior Reservation Capacity shall be the Effective Date of the new Prior Reservation Capacity Agreement. The execution of an additional Prior Reservation Capacity Agreement will not affect the prior status of the Prior Reservation Capacity granted by the County to the District pursuant to this Agreement; any additional Prior Reservation Capacity will be considered as incremental capacity and will have a priority delivery position immediately following the priority schedule for all then available Prior Reservation Capacity Customers that have an effective Prior Reservation Capacity Agreement with the County. If the additional Prior Reservation Capacity is not available on a reasonably reliable basis, the County shall notice the District as to the County's inability to supply the requested incremental Prior Reservation Capacity.

The County may enter into other Prior Reservation Capacity agreements with other customers for Interruptible Reclaimed Service from the RWP. The County will not enter into any future Prior Reservation Capacity agreements that would result in i) additional Firm Reclaimed Service being provided to any future customer, including FPL, above the FPL Contracted Capacity as of date of this Agreement or ii) would result in the inability to provide the District the Prior Reservation Capacity as contracted by the County pursuant to this Agreement.

At the County's sole discretion and based on the availability of Reclaimed Water from the RWP, the County may provide RWP Reclaimed Water to the District in an amount over and above the total of the Prior Reservation Capacity (as determined on an ADF basis). On or after each anniversary date of the Service Initiation Date, the County will calculate the District's ADF for the prior year. If the District's ADF is greater than the District's Prior Reservation Capacity the District shall pay the Prior Reservation Capacity Fee of \$0.13 for each 1,000 gallons of excess capacity used above the total Prior Reservation Capacity.

9. Priority of RWP Reclaimed Water Service.

The County shall be required to provide Reclaimed Water to FPL in an amount equal to the FPL Contracted Capacity, which shall have priority over the Prior Reservation Capacity of the

District. This Agreement is the first agreement entered into by the County for Prior Reservation Capacity with a Prior Reservation Customer and therefore the Prior Reservation Capacity as reserved under this Agreement by the District shall have first priority for Interruptible Reclaimed Service over all future Prior Reservation Capacity Customers and their requested Prior Reservation Capacity commitments that contract for Prior Reservation Capacity after the Effective Date of this Agreement.

10. RWP Reclaimed Water Delivery. Subject to the Section 9 conditions, the District shall be entitled to receive the daily RWP Reclaimed Water volume not to exceed the Prior Reservation Capacity, as calculated on a rolling twelve-month average annual flow basis. Following the Service Initiation Date, District shall provide a weekly, or at such intervals as may be mutually agreed, report to the County forecasting their estimated RWP Reclaimed Water needs for the upcoming week. District shall coordinate the timing of these weekly reports with County staff. Delivery of RWP Reclaimed Water shall be ranked by the County among all holders of Prior Reservation Capacity based on the priority schedule based on the effective date of each Prior Reservation Agreement executed with the County. The ranking schedule shall include the weekly estimate of RWP Reclaimed Water needs (expressed on a volumetric per thousand gallons basis) as provided by each Prior Reservation Capacity Customer and estimated delivery schedules for each 24-hour period in the week. To the extent that a Prior Reservation Capacity Customer does not provide a weekly estimate of RWP Reclaimed Water to the County, then the amount subject to delivery will be set at the prior week's delivery amount. At the sole discretion and expense of the District, District may construct and utilize Reclaimed Water storage, pumping, or holding facilities to optimize the deliveries of Reclaimed Water.

11. RWP Reclaimed Water Fee – The RWP Reclaimed Water Fee shall be \$0.51 per 1,000 gallons delivered by the County to the District Point of Connection. The RWP Reclaimed Water Fee is composed of the following fees: (1) a fixed and variable ECRWTF operations and maintenance fee of \$0.28 per 1,000 gallons (the “O&M Component”); (2) a fixed renewal and replacement fee of \$0.10 per 1,000 gallons (the “R&R Component” and collectively with the O&M Component, the “O&M/R&R Component”); and (3) a fee for the carrying cost of the construction debt of the RWP (the “Carrying Cost Component”) of \$0.13 per 1,000 gallons. The initial RWP Reclaimed Water Fee shall be fixed at \$0.51 through December 31, 2015. Beginning on January 1, 2016, the O&M/R&R Component of the RWP Reclaimed Water Fee may be increased annually by the County by no more than the lesser of: (a) seventy-five percent (75%) of the Water and Sewer Maintenance Consumer Price Index (measured from July to July) published by the U.S. Bureau of Labor Statistics or (b) three and one-half percent (3.5%), rounded to the nearest cent. The Carrying Cost Component of the RWP Reclaimed Water Fee shall remain fixed for the term of the Agreement, except as may be modified in accordance with this Section 11, Section 13, and Section 14 of this Agreement.

To the extent that the County has prompted, after the Effective Date, an extraordinary call or refinances any bonds, loans, or other debt outstanding on which the then current Carrying Cost Component is based, the District shall receive a reduction in the Carrying Cost Component of the rate based on the net change in the average carrying cost of the construction debt, which will be prospectively applied by the County.

12. District Approval of County's Use of M-2 Canal Property. Attached hereto and incorporated herein as **Exhibit "A"** is a permit issued by the District to the County granting the County's use of the right-of-way to cross the M-2 Canal and approving the construction and operation, and maintenance of 1) a portion of the RWP crossing the M-2 Canal right-of-way ("M-2 Crossing Facilities") and 2) the County improvements required to connect the RWP to the District's Reclaimed Water System, as shown in Exhibit B to the permit ("District Point of Connection Facilities"). This permit shall become effective on the Effective Date of this Agreement and, contingent upon the County's continued compliance with the terms of the permit, shall remain in effect until such time that the M-2 Crossing Facilities and/or the District Point of Connection Facilities are no longer operating and are removed or abandoned in place.

13. Market Discount. The County retains the authority to set the Full Cost Fee for any other Prior Reservation Capacity Agreement for Interruptible Reclaimed Service from the County from the RWP. The Full Cost Fee shall be uniform, non-discriminatory and established by the County. The County reserves the right to apply a discount to the Full Cost Fee to maximize usage of RWP Reclaimed Water ("Market Discount"). To the extent that any Market Discount results in a net rate billed by the County to another Prior Reservation Capacity Customer for RWP Reclaimed Water at a lower RWP Reclaimed Water Fee than that provided for in this Agreement, the District shall be entitled to receive an adjustment to the RWP Reclaimed Water Fee in order to produce the same RWP Reclaimed Water Fee, subject to any terms, conditions, or restrictions attached to the Market Discount.

14. Change in Law Procedure.

A. Upon the occurrence of a Change in Law, the County shall assess the technical feasibility of continuing to provide Reclaimed Water from the RWP. If the County determines that it is technically feasible to continue to provide Reclaimed Water in accordance with the Change in Law, the following procedure shall apply. Either prior to or following the occurrence of a Change in Law, the County will notify the District of the Change in Law, any associated modifications to the RWP required as a result of the Change in Law, the modified Full Cost Fee resulting from the modifications to the RWP, the proposed specific change to the District's RWP Reclaimed Water Fee ("Change in Law Modification"), and the schedule for imposition of the Change in Law Modification. Any change in the RWP Reclaimed Water Fee resulting from a Change in Law Modification shall be applied prospectively by the County. All fees billed to the District will be based on the Interruptible Reclaimed Service as metered at the District Point of Connection; in no event will the Prior Reservation Capacity Fee increase as a result of the Change in Law Modification.

B. A modification associated with a Change in Law may be required for the provision of Firm Reclaimed Service only, for the provision of Interruptible Reclaimed Service only, or for the provision of both Firm Reclaimed Service and Interruptible Reclaimed Service. The following provisions shall govern these various scenarios:

1. For any modification that is required solely for the provision of Firm Reclaimed Service and which does not change the ability to supply Interruptible Reclaimed Service, the Full Cost Fee charged to the District shall be determined

in accordance with the cost recovery and rate provisions contained in the FPL Reclaimed Agreement which has been relied upon in the determination of the Full Cost Fee for Interruptible Reclaimed Service in this Agreement.

2. Any modification that is required solely for the provision of Interruptible Reclaimed Service will result in the addition of a Capital Cost Component to be added to the Full Cost Fee. The Capital Cost Component will represent a rate expressed on a \$/1,000 gallons basis equal to the allocable cost of the modification divided by i) the total Prior Reservation Capacity for all Interruptible Reclaimed Service customers served by the RWP expressed on an annual average daily flow (MGD) basis multiplied by ii) the number of days in the year. The modification to the Full Cost Fee components (Carrying Cost Component, O&M Component, and R&R Component) shall be in accordance with Section C below.

3. To the extent that a modification is required to meet the Reclaimed Water service requirements for both Firm Reclaimed Service and Interruptible Reclaimed Service, the County will first allocate the cost of the modification between the Firm Reclaimed Service and Interruptible Reclaimed Service requirements. A Capital Cost Component, based on the allocation between Firm Reclaimed Service and Interruptible Reclaimed Service, shall be added to the Full Cost Fee. The Capital Cost Component will represent a rate expressed on a \$/1,000 gallons basis equal to the allocable cost of the modification divided by i) the total Prior Reservation Capacity for all Interruptible Reclaimed Service customers served by the RWP expressed on an annual average daily flow (MGD) basis multiplied by ii) the number of days in the year. The modification to the Full Cost Fee components (Carrying Cost Component, O&M Component, and R&R Component) shall be in accordance with Section C below, and shall be based on the allocation of the cost of the modification between the Firm Reclaimed Service and Interruptible Reclaimed Service requirements.

C. With consideration of the specific scenarios in the above Section B, the change in the Full Cost Fee charged to the District for the use of the RWP and for the delivery of Interruptible Reclaimed Service shall be determined as follows:

1. The net change in the Carrying Cost Component, which will be based on the net change in the average carrying cost of construction debt for the required modification based on i) a minimum 30-year amortization or repayment period; ii) the actual average interest rate incurred by the County associated with the financing of the construction of any additional utility plant solely as required by the modifications; and iii) a denominator equal to the annual RWP Reclaimed Water sales assuming the greater of a) 22.0 MGD multiplied by the days in a year or b) the sum of the actual RWP Reclaimed Water sales for Firm Reclaimed Service expressed on an MGD basis for the most recent twelve months and the total Prior Reservation Capacity allocated to all Customers securing Interruptible Reclaimed Service.

2. The net change in the O&M Component associated with the modifications expressed on a \$/1,000 gallons basis identified for the first full fiscal year of operation of the modifications.

3. The R&R Component of the Full Cost Rate will be adjusted to reflect any required modifications and shall be expressed on a \$/1,000 gallons basis and determined based on the application of a cost recovery rate in accordance with the design life of the required modification divided by the annual RWP Reclaimed Water sales.

D. To the extent that a modification is required to provide Interruptible Reclaimed Service, the District shall have the right to provide treatment facilities within the District's Reclaimed System ("District Change in Law Facilities") that would be able to provide the required increased standard of treatment for the continued purchase of Interruptible Reclaimed Service through the RWP in lieu of paying the County the Change in Law Modification. If the District chooses this alternative, the RWP Reclaimed Water Fee as delineated in the Agreement shall remain in effect, the District shall construct and operate said District Change in Law Facilities, and no Change in Law Modification will be allocated to the District.

E. The County and District may mutually determine that a combination of a modification to the RWP and the creation of District Change in Law Facilities is the best option to comply with a Change in Law. In such a scenario, the County and District shall use the above stated principles to mutually determine the appropriate Change in Law Modification.

F. Any initial change to the RWP Reclaimed Water Fee caused by a Change in Law Modification shall not be limited based on the indexes set forth in Section 11.

G. Upon notice of a Change in Law Modification from the County, District may: (1) agree to the imposition of the Change in Law Modification; (2) elect to provide and operate District Change in Law Facilities as stated in Section D above; (3) elect, with County agreement, to a combination as stated in Section E above; or (4) elect to terminate this Agreement upon written notice to the County. The County shall have no obligation to provide Reclaimed Water to the District following a Change in Law unless the District agrees to the imposition of the Change in Law Modification, the District provides and operates the District Change in Law Facilities as set forth in Section D above, or the County and District agree to a combination as set forth in Section E above. Termination of the Agreement under this Section 14 shall not terminate the permit set forth in **Exhibit "A"**.

15. Termination by County upon Permanent Cessation of Operations of ECRWTF/RWP. The parties agree that this Agreement is intended to coincide with the term of the operation of the ECRWTF and the RWP. The parties further agree that the County shall have no obligation to continue the provision of RWP Reclaimed Water under this Agreement following the permanent cessation of the operation of the ECRWTF or the RWP. Therefore, if, at any time during the term of this Agreement, and for any reason whatsoever, the ECRWTF and/or the RWP permanently cease operation, then the County shall have the right

to immediately terminate this Agreement upon written notice to District. District and County hereby release and hold each other harmless from any claims and damages based upon termination under this Section 15 of the Agreement.

16. Additional Responsibilities of the District. The District shall provide for the design and construction of the District Reclaimed Water System up to the District Point of Connection. The District shall be responsible for the securing of any permits or other approvals required for the design and construction of the District Reclaimed Water System. The District shall be responsible for the continuing operation, maintenance, renewal and replacement of the District Reclaimed Water System. In addition, and for the term of this Agreement, to the extent that the District Point of Connection is located on District Property, the District will provide the County with the necessary permit as detailed in Section 12 of this Agreement to construct, operate and maintain the County facilities located at the District Point of Connection., In addition, and for the term of this Agreement, District shall provide the County with access to the District water treatment plant or other mutually agreed location for the purpose of installing, operating, and maintaining a read-only SCADA node. In the event of a Change of Law Modification that results in the District providing additionally required treatment, the District shall provide assurance to the County of compliance with those applicable laws, regulations, and rules applicable to the County as the seller of the Reclaimed Water by the Change in Law.

17. Additional Responsibilities of the County. County shall be responsible for the design, construction, operation, maintenance, renewal, and replacement of all necessary facilities to deliver RWP Reclaimed Water to the District, including the design and construction of the facilities located at the District Point of Connection, which will include, but not be limited to, piping, meter vault and meter, SCADA facilities, and other related facilities that will be adequate to meet the Prior Reservation Capacity requirements as delineated in this Agreement, including the recognition of peak day and peak hour delivery conditions assuming prudent utility planning parameters. Such facilities will be owned and maintained by the County and will be a component of those facilities that shall be replaced by use of the 2009 R&R Account funded from the annual Firm Reclaimed Service fees billed by the County to FPL and annual Interruptible Reclaimed Service fees billed by the County to Prior Reservation Capacity Customers, including the District, for use of the RWP as provided in this Agreement and as contemplated in the FPL Reclaimed Agreement.

18. Service Areas. The RWP Reclaimed Water provided to the District under this Agreement shall be utilized only within the District Service Area. The District shall not use the RWP Reclaimed Water provided under this Agreement outside the District Service Area, nor shall the District sell, assign, or otherwise transfer the RWP Reclaimed Water provided under this Agreement to any other party for use outside of the District Service Area, without the prior written consent of the County.

19. Payment of Bills. The County will bill the RWP Reclaimed Water Fee, including the application of any applicable Market Discount, to the District on a monthly basis. The District agrees to pay the monthly RWP Reclaimed Water Fee to the County within thirty (30) days from the date the bill is rendered by the County. A past due notice will be mailed by the County

to the District after thirty (30) days. If payment has not been received by the County from the District after sixty (60) days from the date of the original bill, service may be suspended until payment is made and a one percent (1%) per month interest charge may be assessed by the County on the outstanding unpaid balance.

20. County to Maintain Master Meter. The County agrees to pay to have an annual inspection and report prepared regarding the condition and accuracy of the master Reclaimed Water meter located at the District Point of Connection. A copy of the annual meter inspection report shall be furnished to the District. The District shall have the right to make its own meter inspection, or to have an independent company inspect the metering equipment at any time; provided, however, no such inspection shall be made unless the District shall first give County written notice of the date and time of its intent to have the inspection made, nor shall any such inspection be made prior to twenty-four (24) hours, excluding Saturdays, Sundays, and holidays, subsequent to the receipt of said notice by County. All costs and expenses of the District's interim inspection shall be borne by the District. If the meter is found not to be in good working order as a result of the District interim inspection, the County shall reimburse the District the cost incurred by the District for the interim inspection, correct the working order of the meter within two (2) business days, and proportionately adjust any prior Reclaimed Water bills rendered by the County to the District during the time the Reclaimed Water meter was determined to not be in good working order. Normal maintenance and the replacement of the Reclaimed Water meter shall be performed by the County at its sole cost.

21. Time Period Limitation In Case of Master Meter Inaccuracy. Both parties agree that, should the Reclaimed Water meter at the District Point of Connection be found to be inaccurate beyond American Water Works Association (AWWA) Standard C-701, Sec 4.2.7.2, Class 2, the meter will be assumed to have been inaccurate since the time of the event failure or since the last meter inspection or for a period of three months, whichever time should be less, and that the following month's billing will be adjusted to show a credit or additional charge to the District for that period, based upon the method established in Section 22 of this Agreement.

22. Presumed Consumption and Required Payment In Case of Master Meter Inaccuracy. Both parties agree, that if at any time the Reclaimed Water meter located at the District Point of Connection shall be inaccurate with respect to the quantity of consumption by the District as provided in Section 21 of this Agreement, the District will pay to the County or be credited by the County an amount equal to the estimated amount of Reclaimed Water that was assumed to be billed in error by the County. If the Reclaimed Water meter was registering flow but not within the accuracy limits as defined in Section 21 of this Agreement, the County will adjust the billed Reclaimed Water use by a percentage difference equal to the measured inaccuracy of the meter less the meter register limit as defined in Section 21. By way of example, if the Reclaimed Water meter at the District Point of Connection is determined to be measuring at a 95% accuracy rate and the required accuracy rate for the meter is 98%, the County would adjust the metered Reclaimed Water use by 3% and bill the District accordingly. If the respective Reclaimed Water meter is considered inoperable or is materially in error with respect to measuring Reclaimed Water use, the estimated Reclaimed Water to be billed to the District will be equal to product of i) the average metered reclaimed water billed the previous year for the corresponding period that the Reclaimed Water meter was assumed to be inaccurate during the

current year, as adjusted by the number of new connections within the District Service Area during the last twelve months multiplied by ii) the respective Reclaimed Water Fee, less the Market Discount in effect during each month that the Reclaimed Water use was assumed to be in error.

23. Security. The parties shall be responsible jointly and severally for security of the District Point of Connection, including provision of access locking features so that each party can have keyed access to the vaults. The District Point of Connection will be controlled by valves which can be operated by authorized representatives of either the County or the District. Only authorized employees of either the County or the District will operate the valves controlling the District Point of Connection. The County and the District shall provide prior notice to each other prior to operating the valves at the District Point of Connection.

24. Default And Cure Provisions. The parties hereto expressly covenant and agree that in the event either party is in default of its obligations herein, the party not in default shall provide to the party in default ninety (90) days written notice to cure said default before exercising any of its rights as provided for in this Agreement. Each party shall be entitled to seek specific performance and injunctive relief to cure a Default. Failure to cure a payment default by the District within ninety (90) days following notice may be grounds for termination of this Agreement. Upon failure to cure a County default and until specific performance or injunctive relief is granted to the District, District shall be entitled to use County potable water to make up for the defaulted amounts, pressures, or qualities at no additional cost to the District. The parties agree that the construction cost of this default connection facility shall be shared evenly. The parties may mutually agree to extend the time for cure.

25. Termination. Except as set forth in Section 14, 15, and 24, this Agreement cannot be terminated before its anticipated term without mutual consent.

26. No Transfer of Powers. Nothing contained in this Agreement shall be construed to constitute a transfer of powers in any way whatsoever. This Agreement is solely an Agreement to provide services as authorized in Florida Statutes, Chapter 163. The governing bodies for the County and the District shall each maintain all legislative authority with regard to their respective political subdivision. All of the privileges and immunities from liability, exemption from laws, ordinances, and rules, and pensions and relief, disability, workers compensation and other benefits which apply to the activity of officers, agents or employees of any public agents or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, or employees extra-territorially under the provisions of this Agreement.

27. Indemnification. The County and the District acknowledge the waiver of sovereign immunity for liability in tort contained in Florida Statutes 768.28, the State of Florida's partial waiver of sovereign immunity, and acknowledge that such statute permits actions at law to recover damages in tort for money damages up to the limits set forth in such statute for death, personal injury or damage to property caused by the negligent or wrongful acts or omissions of

an employee acting within the scope of the employee's office or employment. The County and the District agree to be responsible for all such claims and damages, to the extent and limits provided in Florida Statutes Section 768.28, arising from the actions of their respective employees. The parties acknowledge that the foregoing shall not constitute an agreement by either party to indemnify the other, nor a waiver of sovereign immunity, nor a waiver of any defense the parties may have under such statute, nor as consent to be sued by third parties.

28. Force Majeure. In the event that the performance of this Agreement by either party to this Agreement is prevented or interrupted in consequence of any cause beyond the control of either party, including, but not limited to, Acts of God or of the public enemy, war, national emergency, allocation of or other governmental restrictions upon the use or availability of labor or materials, rationing, civil insurrection, riot, disorder or demonstration, terrorism, strike, embargo, flood, tidal wave, fire, explosion, bomb detonation, nuclear fallout, windstorm, hurricane, earthquake, or other casualty or disaster or catastrophe or Reclaimed Water Plant failures and Reclaimed Water main breaks, neither party shall be liable for such non-performance.

29. Remedies. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter.

30. Successors and Assigns. The County and the District each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither the County nor the District shall assign, sublet, convey, or transfer its interest in this Agreement without prior written consent of the other.

31. Waiver. The failure of either party to insist on the strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that said party may have for any subsequent breach, default, or non-performance, and said party's right to insist on strict performance of this Agreement shall not be affected by any previous waiver of course or dealing.

32. Severability. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable by any court of competent jurisdiction, then the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

33. Notice. All notices or requests provided for herein shall be in writing and transmitted by certified mail or by courier with a signature receipt, and, if to the District, shall be mailed or delivered to the District at:

Seminole Improvement District
4001 Seminole Pratt Whitney Road
Loxahatchee, FL 33470
Attn: District Manager

With a copy to
Lewis Longman Walker
515 North Flagler Drive
Suite 1500
West Palm Beach, FL 33401
Attn: Seminole Improvement District Counsel

and if to County, shall be mailed or delivered at:

Palm Beach County Water Utilities Department
8100 Forest Hill Boulevard
P.O. Box 16097
West Palm Beach, FL 33416-6097
Attn: Department Director

and to:

County Attorney's Office
301 N. Olive Ave, Suite 601
West Palm Beach, FL 33401

The use of electronic means of notification (e-mail) will not be considered as a method of providing notice for the purposes of this Agreement. Any party may, by notice in writing given to the other, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice shall be deemed given on the date such notice is delivered by hand or three days after the date mailed. Each party to this Agreement shall have a continuing duty to promptly notify the other party of any change to any of this information.

34. Filing. This Agreement shall be filed with the Clerk of the Circuit Court for Palm Beach County.

35. Amendment and Modification. This Agreement may only be amended, modified, changed, supplemented or discharged by an instrument in writing signed by the parties hereto.

36. Entirety of Agreement. The County and the District agree that this Agreement and any Exhibits hereto set forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, County and District have executed or have caused this Agreement, with the named Exhibits attached, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement.

ATTEST:
SHARON R. BOCK
CLERK AND COMPTROLLER

PALM BEACH COUNTY, BY ITS
BOARD OF COUNTY
COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Burt Aaronson, Chair

Date: _____

(SEAL)

APPROVED AS TO FORM AND TO
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: _____
County Attorney

By: _____
Director of Water Utilities

ATTEST:

SEMINOLE **IMPROVEMENT**
DISTRICT

By: Sharon Doucette
Clerk

By: Thomas G. O'Brien, III
Thomas G. O'Brien, III
President, Board of Supervisors

Date: March 5, 2010

APPROVED AS TO FORM AND TO
LEGAL SUFFICIENCY

By: _____
District Attorney

Schedule of Exhibits

- Exhibit A Seminole Improvement District Permit SID 10-01 – “Central Regional Reclaimed Water Pipeline, 36” RCWM Canal Crossing and Meter Installation.”
- Exhibit B Legal Description of Seminole Improvement District Service Area Boundary.

SEMINOLE IMPROVEMENT DISTRICT
PERMIT

Permit No. SID 10-01

Date of Issuance: MARCH 5, 2010

Permittee: Palm Beach County Water
Utilities Department
P. O. Box 24740
West Palm Beach, FL
33416

**Project Name: Central Regional Reclaimed Water Pipeline
36" RCWM Canal Crossing and Meter Installation**

This Permit is issued under the provisions of Chapter 298, Florida Statutes. It includes authorization for installation and operation of certain County owned facilities (the "Work") within and on the District's M2 Canal property according to the construction drawings attached hereto, including generally:

- (1) A 36-inch DR 11 HDPE Reclaimed Water Main using a horizontal directional drill underneath the M-2 Canal at Okeechobee Boulevard, and
- (2) Reclaimed Water Distribution piping, meters and other appurtenances related to the provision of Reclaimed Water Main to be installed on the M2 Canal property along Okeechobee Boulevard.

The above-named Permittee is hereby authorized to install the following described facilities:

- (1) The installation of a 36" diameter DR 11 HDPE Reclaimed Water Main going from east to west along Okeechobee Boulevard which will be approximately 1,000 LF with a minimum clearance under the M2 Canal bottom of 45 feet, as detailed in Specific Condition 2.
- (2) The installation of distribution piping, meters, and related appurtenances sufficient to meet the requirements of the Interlocal Agreement For Purchase and Sale of Bulk Reclaimed Water between Palm Beach County and Seminole Improvement District (the "Interlocal Agreement"), as detailed in Specific Condition 2C and attached as Exhibit "C".

The work shall be constructed pursuant to Seminole Improvement District's Policies, Procedures and Minimum Requirements (which are incorporated herein by this reference) and the following General and Specific Conditions.

GENERAL CONDITIONS

- GC-1. This Permit is only subject to revocation or alteration by the District for violation of any Permit condition.
- GC-2. The issuance of this Permit does not relieve the Permittee of any responsibility to obtain any other federal, state, local or special district permit, which may be required.
- GC-3. The Permittee grants the District the right of access onto any and all property in the Permittee's possession or control for the purpose of inspection of all facilities or equipment involved in the transmission or discharge of water, wastewater or reclaimed water to or otherwise affecting District works.
- GC-4. The District retains the right to remove, at Permittee's sole expense, any and all of the Permittee's equipment located in the District rights-of-ways or connected to District works at the revocation of this Permit.
- GC-5. The District retains the right to require the Permittee to modify, at Permittee's sole expense, the structures authorized above as needed to manage the District's surface water management or transportation system.
- GC-6. The District does not assume and hereby disclaims any and all liability for any damage to any of Permittee's property located in any District right-of-way.
- GC-7. The District does not assume and hereby disclaims any and all liability to the Permittee or any third party, for any damage to person or property, which may be attributable to any activity facilitated by this Permit. To the extent permitted by law, and subject to the monetary limitations set forth in Section 768.28, Florida Statutes,, Permittee does hereby and indemnify and hold harmless the District, its Board of Supervisors, all officers, professionals and personnel against any claims, losses, damages (including consequential), expenses, or legal fees that might arise out of or result from the issuance and use of this Permit.
- GC-8. If it is necessary for the District to take legal action to enforce any or all of its rights under this Permit the Permittee will be responsible, to the extent

permitted by law, for any and all costs, including attorney fees, which are reasonably and necessarily incurred by the District.

GC-9. The Permittee is further subject to any and all requirements contained in an adopted District Water Control Plan, policy or procedure as they may be amended from time to time.

GC-10 Activities shall be conducted in a manner that does not cause violations of State of Federal Water Quality Standards. The Contractor shall implement best management practices for erosion and pollution control to prevent violation of State Water Quality Standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within seven (7) days of completion of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into District canals or laterals exists due to the proposed work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. Thereafter the Contractor shall be responsible for the removal of the barriers. The Contractor shall correct any erosion or shoaling that causes adverse impacts to the water resources.

GC-11 Upon completion of construction, and after the District's approval of permit compliance, the Permittee shall be entitled to operate the facilities subject to the conditions enumerated within this permit.

GC-12 Permittee may apply to the District at any time for consideration of a modification to correct or amend the conditions of this Permit.

GC-13 The Permittee shall pay all permit application, review, and inspections fees due to the District.

GC-14 The Permittee and its contractors shall be obligated throughout the construction term of this Permit to provide insurance coverage in accordance with the attached **Exhibit "D"**, entitled "Insurance Coverage".

SPECIFIC CONDITIONS

SC-1 This Permit is Effective on the Date the Interlocal Agreement For Purchase and Sale of Bulk Reclaimed Water between Seminole Improvement District and Palm Beach County has been approved and signed by the Palm Beach County Board of County Commissioners.

- SC-2 The following attached exhibits are made part of this Permit. Failure of Permittee to comply with the requirements and commitments contained therein shall be grounds to revoke this Permit:
- A.(1) Construction drawings dated July 7, 2009 as most currently amended and by reference made a part hereof as **Exhibit "A-1"**, prepared by Palm Beach County Water Utilities Project No. 08-031-B for installation of a 36-inch DR 11 HDPE Reclaimed Water Main using a horizontal directional drill underneath the M-2 Canal at Okeechobee Blvd.
- (2) Construction drawings dated 9/26/09 and attached hereto as **Exhibit "A-2"**, prepared by Environmental Crossings Inc.
- B. Conceptual construction drawings dated February 10, 2010 and attached hereto as **Exhibit "B"**, prepared by Palm Beach County Water Utilities for installation of distribution piping, meters, and related appurtenances sufficient to meet the requirements of the Interlocal Agreement.
- C. Interlocal Agreement for Purchase and Sale of Bulk Reclaimed Water between Palm Beach County and Seminole Improvement District, dated attached hereto as **Exhibit "C"**.
- SC-3 Permittee acknowledges that the construction drawings referenced hereto as **Exhibits "A-1" and "A-2"** are detailed construction drawings and that issuance by the District of this Permit and its continued effectiveness are expressly conditioned on the prompt submission and approval of final construction drawings for Exhibit B Work. Said approval shall not be unreasonably withheld. Within ten (10) weeks of the Effective Date of this Permit, Permittee shall submit to District detailed Exhibit B construction drawings that will identify the exact location and design of the connection facilities tying the permitted improvements to the District's facilities. These detailed construction drawings shall be submitted to the District Engineer for final review and approval prior to commencement of any permitted Exhibit B Work. Copies of the final approved construction drawings shall be attached to and replace the conceptual construction drawings attached hereto.
- SC-4 Unless revoked or otherwise modified, the duration for construction under this Permit is 18 months from Effective Date. Failure to complete construction within the permitted construction duration shall require a new permit authorization in order to continue construction.
- SC-5 The permitted Exhibit B Work shall be completed within one (1) year of the final plan approval by the District Engineer.

- SC-6 The Work authorized herein shall be completed in accordance with the final, approved construction drawings referenced in Specific Condition 1, Exhibits "A-1", "A-2" and "B" and in Specific Condition 3. Before the DR 11 HDPE Reclaimed Water Main is installed, the Permittee shall provide pilot boring logs to the District and shall not install the DR 11 HDPE Reclaimed Water Main until those pilot boring logs are deemed reasonably satisfactory to the District.
- SC-7 If the construction drawings referenced in Specific Condition 3 are revised as a result of comments by SFWMD or any other regulatory agency, or for any other reason, the revised drawings shall be submitted to Seminole Improvement District with an application to amend this Permit. Approval of the amendment shall not be unreasonably withheld.
- SC-8 The Operations Manager for the District shall be notified, by mail, at least 48 hours prior to construction or maintenance .
- SC-9 Within 30 days after completion of construction of the permitted activity, the Permittee shall submit a written statement of completion and certification, signed and sealed, by a registered Professional Engineer or other appropriate individual as authorized by law. The statement of completion and certification shall be based on on-site observation of construction or review of record drawings for the purpose of determining if the work was completed in compliance with permitted construction drawings and specifications. A copy of the construction drawings in a CD or other appropriate electronic media acceptable to the District shall accompany the Final Certification and two (2) hard copies of the boring logs, other associated logs, and as-built drawings with any deviations from the approved permit drawings noted. The construction drawings must be clearly labeled as "record" drawing. A professional surveyor registered in the State of Florida shall certify, sign and seal all surveyed dimensions and elevations.
- SC-10 This Permit only authorizes the construction, operation, and maintenance of the facilities for the duration of the Interlocal Agreement, as it may be subsequently revised or renewed. This Permit shall terminate upon the termination of the Interlocal Agreement unless the Interlocal Agreement was terminated pursuant to its Sections 14 or 24.
- SC-11 Upon completion and acceptance by the District, the permitted facilities shall be the exclusive operational and maintenance responsibility of Palm Beach County Water Utilities Department, without recourse to the District.

PERMITTEE:

**PALM BEACH COUNTY WATER
UTILITIES DEPARTMENT**

SEMINOLE IMPROVEMENT DISTRICT

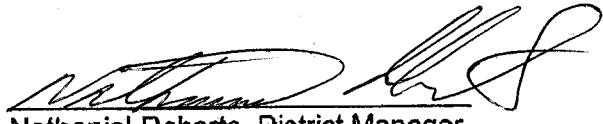
Accepted this date by:

Signature:

Signature:



(Name Signed)



Nathaniel Roberts, District Manager

Brian Shreder, P.E.

(Name Printed)

Date: MARCH 5, 2010

Deputy Director

(Title)

Date: 3/5/10

EXHIBIT "D"

INSURANCE COVERAGE

GENERAL

Seminole Improvement District shall be named as "Additional Named Insured" and certificate holder on both the general liability and auto liability policies.

Cancellation clause must read "should any of the above described policies be canceled before the expiration date thereof, the issuing company shall mail thirty (30) days written notice to the certificate holder name."

INSURANCE REQUIREMENTS

The limits of liability for the insurance required shall provide coverage for not less than the following amounts or greater when required by law and regulations:

Workers' Compensation:

- | | |
|--|------------|
| 1. State: | Statutory |
| 2. Applicable Federal (e.g. Longshoreman's and Harbour Workers' Compensation, Maritime, Jones Act., etc.): | Statutory |
| 3. Employer's Liability: | \$ 500,000 |

Comprehensive General Liability:

- | | |
|---|--|
| 1. Bodily Injury (including completed operations and Products Liability):
\$1,000,000
\$1,000,000 | Each Occurrence
Annual Aggregate |
| Property Damage:
\$1,000,000
\$1,000,000
or a combined single limit of | Each Occurrence
Annual Aggregate
\$1,000,000 |
| 2. Property Damage liability insurance will provide Exposition, Collapse and Underground coverage where applicable. | |
| 3. Personal Injury, with employee exclusion deleted
\$1,000,000 | Annual Aggregate |

Comprehensive Automobile Liability:

- | | |
|--|--------------------------------|
| 1. Bodily Injury:
\$ 500,000
\$1,000,00 | Each Person
Each Occurrence |
| 2. Property Damage:
\$ 500,000
or a combined single limit of | Each Occurrence
\$1,000,000 |

Umbrella Excess Liability Insurance:

1. \$1,000,000 Each Occurrence
\$1,000,000 Annual Aggregate
2. The umbrella coverage shall be Following-Form being no more restrictive than coverage required for the underlying policies.

The comprehensive general liability insurance and umbrella insurance required herein shall include Owner and Engineer as additional insured.

Contractual Liability Insurance: The Contractual Liability Insurance required shall provide coverage for not less than the following amounts.

1. Bodily Injury: Each Occurrence
\$1,000,000
2. Property Damage: Each Occurrence
\$1,000,000 Annual Aggregate
\$1,000,000

Builder's Risk: This coverage will be provided by all contractors involved in the construction of a new building or improvement, alteration or revision of an existing structure. Builder's Risk coverage shall be "All Risk" with limits equal to one hundred percent (100%) of the completed value of the structure(s), building(s) or addition(s).