

RESOLUTION 2003- 19

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE PURCHASE AND EXECUTION OF A CONTRACT BY ST. JOHNS COUNTY, FLORIDA, OF A CERTAIN WATER UTILITY CURRENTLY OWNED BY CRESENT COVE WATER, INCORPORATED; AUTHORIZING THE CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS TO EXECUTE THE PURCHASE AND SALE AGREEMENT; AUTHORIZING THE COUNTY ADMININSTRATOR AND OTHER COUNTY STAFF TO TAKE WHATEVER OTHER MEASURES ARE NECESSARY TO COMPLETE THE PURCHASE OF CRESCENT COVE WATER, INCORPORATED.

WHEREAS, Crescent Cove Water, Incorporated owns and operates a potable water production, treatment, storage, transmission, and distribution system, all of which are located in St. Johns County, Florida; and

WHEREAS, the owner of Crescent Cove Water, Incorporated has expressed an interest in selling Crescent Cove Water, Incorporated; and

WHEREAS, the St. Johns County Utility Department believes that the purchase of Crescent Cove Water, Incorporated not only will be beneficial to the current customers of Crescent Cove Water, Incorporated, but also will enhance the interests of St. Johns County, and the St. Johns County Utility Department; and

WHEREAS, the Board of County Commissioners of St. Johns County, Florida, has previously authorized St. Johns County to conduct negotiations with Crescent Cove Water, Incorporated for the purpose of acquiring the water utility assets of Crescent Cove Water, Incorporated; and

WHEREAS, as part of St. Johns County's due diligence under State law, including Section 125.3401, Florida Statutes, the County has considered the following:

- 1) the most recent available income and expense statement for Crescent Cove Water, Incorporated;
- 2) the most recent available balance sheet for Crescent Cove Water, Incorporated, listing assets and liabilities and clearly showing the amount of contributions-in-aid-of-construction and the accumulated depreciation thereon;

- 3) a statement of the existing rate base of the utility for regulatory purposes;
- 4) the physical condition of the utility facilities being purchased, sold, or subject to a wastewater facility privatization contract;
- 5) the reasonableness of the purchase, sales, or wastewater facility contract price, and terms;
- 6) the impacts of the purchase, sale, or wastewater facility contract on utility customers, both positive and negative;
- 7) any additional investment required and the ability and willingness of the purchaser (St. Johns County, or St. Johns County Utility Department), or the private firm under a wastewater facility privatization contract, to make that investment, whether the purchaser is the County, or the entity purchasing the utility from the County;
- 8) the alternatives to the purchase, sale, or wastewater facility privatization contract, and the potential impact on the utility customers if the purchase, sale, or wastewater facility privatization contract is not made; and
- 9) the ability of the purchaser or the private firm under a wastewater facility privatization contract to provide and maintain high-quality and cost-effective utility service, whether the purchaser is the County, or the entity purchasing the utility from the County; and

WHEREAS, after conducting such due diligence, and considering those provisions/items noted in Section 125.3401, Florida Statutes (referenced above), the St. Johns County Utility Department, and the Board of County Commissioners of St. Johns County, Florida, have determined that the acquisition of Crescent Cove Water, Incorporated will serve a public purpose, be in the best interests of both St. Johns County, Florida, and St. Johns County Utility Department; and

WHEREAS, the terms, conditions, provisions, and requirements related to St. Johns County, Florida acquiring Crescent Cove Water, Incorporated are contained in the Agreement For Purchase and Sale of Water Utility Assets, which is attached hereto, and incorporated herein, as Exhibit A to this Resolution; and

WHEREAS, a statement from the St. Johns County Utility Department, is attached hereto, and incorporated herein, as Exhibit B to this Resolution, which sets forth that that the purchase and acquisition by St. Johns County, Florida, of Crescent Cove Water, Incorporated is in the public interest, and includes a summary of St. Johns County Utility Department's experience in water, sewer, and wastewater reuse utility operation, and further shows the financial ability of St. Johns County, Florida to provide the proposed utility service.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. The above recitals are incorporated by reference into the body of this Resolution, and such Recitals are adopted as Findings of Fact.

Section 2. The Chairman of the Board of County Commissioners of St. Johns County is authorized to execute the attached Agreement For Purchase and Sale of Water Utility Assets by and between St. Johns County, Florida, and Crescent Cove Water, Incorporated.

Section 3. The County Administrator for St. Johns County, Florida, and/or the Director for the St. Johns County Utility Department are authorized to take whatever other steps are necessary to effectuate the purchase and acquisition of Crescent Cove Water, Incorporated.

PASSED AND ADOPTED, this 28 day of January 2003.

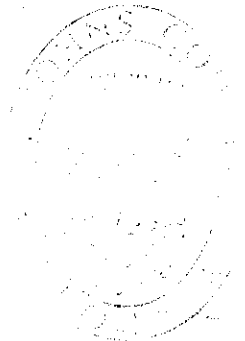
**BOARD OF COUNTY COMMISSIONERS,
ST. JOHNS COUNTY, FLORIDA**

By: James E. Bryant
James E. Bryant, Chairman

ATTEST: Cheryl Strickland, Clerk

Atricia De Grande
Deputy Clerk

RENDITION DATE 01-30-03



AGREEMENT FOR PURCHASE AND SALE OF
WATER UTILITY ASSETS

By and Between

CRESCENT COVE WATER, INC.

Seller

and

ST. JOHNS COUNTY, FLORIDA

Purchaser

EXHIBIT A

**AGREEMENT FOR PURCHASE AND SALE OF
WATER UTILITY ASSETS**

THIS AGREEMENT FOR PURCHASE AND SALE OF WATER UTILITY ASSETS ("Agreement") is made as of this 30th day of January, 2003, by and between **Crescent Cove Water, Inc.**, a Florida corporation (hereafter "Seller"), whose address is P.O. Box 2116, St. Augustine FL 32085 and **St. Johns County, Florida**, a political subdivision of the State of Florida (hereinafter "Purchaser"), whose address is P.O. Drawer 349, St. Augustine, Florida 32085-0349.

WHEREAS, Seller owns and operates a potable water production, treatment, storage, transmission, and distribution system ("Water System") all of which are located in St. Johns County, Florida, and commonly known as Crescent Cove Water, Inc.; and

WHEREAS, the acquisition of the Water Utility System by Purchaser has been determined by Purchaser to serve a public purpose and to be in the best interest of the County.

NOW THEREFORE, in consideration of the foregoing recitals and benefits to be derived from the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Seller and Purchaser hereby agree to sell and purchase the Water Utility System upon the following terms and conditions:

1. RECITALS. The foregoing recitals are true and correct and are incorporated herein.
2. COVENANT TO PURCHASE AND SELL; DESCRIPTION OF PURCHASED ASSETS.
 - a. Purchaser shall buy from Seller, and Seller shall sell to Purchaser, the Purchased Assets (as defined below) upon the terms, and subject to the conditions precedent, set forth in this Agreement.
 - b. "Purchased Assets" shall include all assets and rights, both tangible and intangible, that Seller owns, or in which it has an interest, regarding the Water Utility System, including, but not limited to:
 - i. All easements, licenses, prescriptive rights, rights-of-way and rights to use public and private roads, highways, canals, streets and other areas owned or used by Seller for the construction, operation and maintenance of the Water Utility System, as identified in Exhibit "A" to this Agreement, attached hereto, and incorporated herein.
 - ii. All water treatment plants, water supply and distribution facilities, including but not limited to pumps, plants, tanks, transmission mains, distribution mains, supply pipes, and valves, meters, meter boxes, service connections and all other physical facilities, equipment and property installations owned by Seller and used primarily in connection with the

Water Utility System, together with all additions or replacements thereto, as identified in Exhibit "B" to this Agreement, attached hereto, and incorporated herein. However, please note that none of the items referenced above, or in Exhibit "B" include any wells on Seller's private property, as those wells are specifically excluded from this Sale.

- iii. All certificates, immunities, privileges, permits, license rights, consents, grants, ordinances, leaseholds, and all rights to construct, maintain and operate the Water Utility System and its plants and systems for the procuring, treatment, storage and distribution of potable water and every right of every character whatever in connection therewith, and the obligations thereof; all agreements for the supply of water to the Water Utility System or others; all water rights, flowage rights and riparian rights and all renewals, extensions, additions or modifications of any of the foregoing.
 - iv. All items of inventory owned by Seller on the Closing Date, which shall not be unnecessarily depleted prior to that date.
 - v. All supplier lists, customer records, prints, plans, engineering reports, surveys, specifications, shop drawings, equipment manuals, and other information reasonably required by Purchaser to operate the Water Utility System in Seller's possession.
 - vi. All sets of record drawings, including as-built drawings, showing all facilities of the Water Utility System, including all original tracings, sepias or other reproducible materials in Seller's possession.
 - vii. Accounts receivable to the extent noted elsewhere in this Agreement.
- c. The following assets are excluded from the Purchased Assets:
- i. Cash, accounts receivable (except as noted elsewhere in this Agreement), bank accounts, equity and debt securities of any nature, deposits maintained by Seller with any governmental authority, and any prepaid expenses of Seller, which are Seller's sole property as of the Closing Date.
 - ii. Escrow and other Seller provisions for payment of federal and state taxes, and other obligations to governmental entities which shall be Seller's responsibility to pay through the Closing Date.
 - iii. All debts, liabilities, obligations, or other financial or service obligations of Seller, except as are identified herein and expressly assumed by Purchaser in writing. Purchaser does not assume and shall not be liable for any expense, assessment, exposure, fine, penalty, liability, act or omission of any kind whatsoever imposed or required by any third party,

whether known or unknown, whether contingent, liquidated or unliquidated, including any federal, state, or local authority, whether arising or accruing under contract, tort, or pursuant to statute, rule, ordinance, law, regulation or otherwise, and even as to those liabilities and obligations under any lease and license agreement which Purchaser expressly hereby does assume, and governmental permit required by Purchaser pursuant thereto, whether or not based upon, related to, or arising out of any violation of law, breach of permit obligation, a breach of contract, occurrence of any tort or other event arising or accruing before or after the Closing Date when the operative act or omission was that of or attributable to the Seller. Seller shall remain liable for and shall pay, perform or discharge all such liabilities and obligations; provided Seller is not hereby limited in its right to contest in good faith any such liabilities or obligations.

3. PURCHASE PRICE.

- a. Cash Payment: Purchaser shall pay to Seller, subject to the additions, adjustments and pro-rations referenced in this Agreement, a total purchase price in the amount of Sixty Five Thousand Dollars (\$65,000) (“Cash Payment”). Purchaser shall pay Seller at Closing the Cash Payment. Other than as provided for herein, Purchaser shall not assume, and shall not be obligated to pay, perform or discharge any debts, liabilities or obligations of the Seller, whether or not related to the Purchased Assets or any liens or security interests in any revenues generated by the Water Utility System or the Purchased Assets. Seller shall satisfy in full all of its debt and other outstanding liabilities at Closing such that no liens or other security interests of any type shall apply against the Water Utility System, Purchased Assets or revenues derived therefrom such that Purchaser obtain title to the Water Utility System, the Purchased Assets and the revenues derived therefrom free and clear of any such obligations, liens or interests.
- b. In addition to any other remedies afforded to Seller herein, Seller shall have the right to send in its own auditors to examine the books and records of the Purchaser and to perform any reasonable accounting functions required by Seller, in Seller’s sole discretion and expense, in order to satisfy itself that it is receiving proper futures consideration as contemplated hereby. Purchaser shall cooperate in every reasonable way with Seller in this regard. The Purchaser agrees that its books and records pertaining to the operation of the Water Utility System shall be open and available during regular business hours to Seller’s representatives for purposes of inspection in order to verify the matters contained herein.

4. REPRESENTATIONS AND WARRANTIES OF SELLER. As a material inducement to Purchaser to execute this Agreement and perform its obligations hereunder, Seller represents and warrants to Purchaser as follows:

- a. Seller is a duly organized, validly existing corporation, and its status is active under the laws of the State of Florida. Seller has all requisite corporate power and authority to (i) enter into this Agreement, and (ii) perform all of the terms and conditions of this Agreement.
- b. The Board of Directors of Seller and/or authorized representative of Seller has approved Seller entering into this Agreement.
- c. This Agreement constitutes, and all other agreements to be executed by Seller with respect to this Agreement, will constitute when executed and delivered, valid and binding obligations of Seller, enforceable in accordance with their terms.
- d. The execution, delivery and performance of this Agreement will not violate any provision of law, order of any court or agency of government applicable to Seller, the Articles of Incorporation or By-Laws of Seller, nor any indenture, agreement, or other instrument to which Seller is a party, or by which it is bound.
- g. Environmental Law Compliance.
 - i. Definitions.
 - (1) "Environmental Law" means any federal, state, or local statute, order, regulation, or ordinance, or common law or equitable doctrine relating to the protection of human health or the environment in effect as of the Closing Date and includes, but is not limited to, The Florida Air and water Pollution Control Act (Chapter 403, Florida Statutes), the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Clean Water Act (33 U.S.C. § 1251 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), and the Safe Drinking Water Act, (42 U.S.C. § 300f et seq.), as such have been amended or supplemented as of the Closing Date, the regulations promulgated pursuant thereto, and in effect as of the Closing Date and any conditions and requirements contained in any permits possessed by Seller from any federal, state or local agencies necessary to operation of the Utility System.
 - (2) "Hazardous Material" means petroleum or any substance, material, or waste which is regulated under any Environmental Law in the jurisdictions in which Seller conducts its business including, without limitation, any material or substance that is defined as or considered to be a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "restricted hazardous waste," "pollutant," "toxic waste," or "toxic substance" under any provision of Environmental Law.

- (3) "Release" means any release, emission, leaking, pumping, injection, deposit, disposal, discharge, or dispersal into the environment, at or from any property owned or operated by Seller or related to Hazardous Materials generated by Seller.
- (4) "Remedial Action" means all actions required to (i) clean up, remove, or treat any Hazardous Material; (ii) prevent the Release or threat of Release, or minimize the further Release of any Hazardous Material so it does not endanger or threaten to endanger public health or welfare or the environment; or (iii) perform pre-remedial studies and investigations or post-remedial monitoring and care directly related to or in connection with any such remedial action.

ii. Representations. To Seller's knowledge:

- (1) Seller is in material compliance with all applicable Environmental Laws and has no material liability thereunder, and there is no reasonable basis for any such liability.
- (2) Seller has obtained all permits required, or has submitted applications for such permits in a timely manner, under applicable Environmental Laws necessary for the operation of its business as presently conducted as of the date of this Agreement.
- (3) Seller has not received within the last three years and is not aware of any pending communication from any governmental authority or other party with respect to (i) the actual or alleged violation of any Environmental Laws; (ii) any actual or proposed Remedial Action; or (iii) any Release or threatened Release of a Hazardous Material.
- (4) No polychlorinated biphenyl or asbestos containing materials, in material violation of Environmental Law are, or have been, present at any property when owned, operated, or leased by Seller, nor are there any underground storage tanks, active or abandoned, at any property owned, operated, or leased by Seller.
- (5) There is no Hazardous Material in violation of Environmental Law located at any site that is owned, leased, operated, or managed by Seller other than chemicals used for treatment (such as chlorine); no site that is owned, leased, operated, or managed by Seller is listed or formally proposed for listing under CERCLA, the Comprehensive Environmental Response, Compensation Liability Information System ("CERCLIS") or on any similar state list that

is the subject of federal, state, or local enforcement actions or other investigations that may lead to claims against Seller for clean-up costs, remedial work, damages to natural resources, or for personal injury claims, including, but not limited to, claims under CERCLA; and there is no reasonable basis for Seller to be named in such claims or for any similar action to be brought against Seller.

- (6) No written or verbal notification of a Release of a Hazardous Material has been filed by or on behalf of Seller or any third party with respect to any property when owned, operated, or leased by Seller. No such property is listed or proposed for listing on the National Priority List promulgated pursuant to CERCLA, or CERCLIS, or any similar state list of sites requiring investigation or clean up.
 - (7) No Hazardous Material has been released in violation of Environmental Law at, on, or under any property now owned, operated, or leased by Seller.
- h. There are no actions, suits or proceedings at law or in equity pending or, to Seller's knowledge, threatened against the Seller before any federal, state, municipal or other court, administrative or governmental agency or instrumentality, domestic or foreign, which affect the Water Utility System or any of the Purchased Assets or the Seller's right and ability to make and perform this Agreement; nor is the Seller aware of any facts which to its knowledge are likely to result in any such action, suit or proceeding. Seller is not in default with respect to any permit, order or decree of any court or of any administrative or governmental agency or instrumentality affecting the Water Utility System or any of the Purchased Assets. Seller agrees and warrants that it shall have a continuing duty to disclose up to and including the Closing Date the existence and nature of all pending judicial or administrative suits, actions, proceedings and orders which in any way relate to the operation of the Water Utility System.
- i. There are no facts known to management, officers or directors of Seller which have or would have a material adverse effect upon the physical condition of the Water Utility System or the Purchased Assets which are not readily observable or which have not been disclosed or provided to Purchaser in connection with this transaction.
- j. No representation or warranty made by the Seller in this Agreement contains any untrue statement of material facts or omits to state any material fact required to make the statements herein contained not misleading.

5. REPRESENTATIONS AND WARRANTIES OF PURCHASER. As a material inducement to Seller to execute this Agreement and to perform its obligations hereunder, Purchaser represents and warrants to Seller as follows:
- a. Purchaser has been duly organized, and is a validly existing political subdivision under the laws of the State of Florida. Purchaser has all requisite power and authority to (i) enter into this Agreement, and (ii) carry out and perform the terms and conditions of this Agreement.
 - b. The Board of County Commissioners of Purchaser has approved Purchaser entering into this Agreement.
 - c. This Agreement constitutes, and all other agreements to be executed by Purchaser with respect to this Agreement, will constitute, when executed and delivered, valid and binding obligations of Purchaser, enforceable in accordance with their terms.
 - d. The execution, delivery and performance of this Agreement will not violate any provision of law, order of any court or agency of government applicable to Purchaser, nor any indenture, agreement, or other instrument to which Purchaser is a party, or by which it is bound.
 - e. All necessary public hearings required to authorize Purchaser's purchase of the Water Utility System and Purchaser entering into this Agreement will have been duly held prior to the Closing Date and all appropriate governmental actions required to be taken by Purchaser will have been duly taken prior to the Closing Date.
 - f. Purchaser shall, subsequent to Closing, and consistent with prudent industry standards applicable thereto, and the requirements of the appropriate governmental agencies having jurisdiction over the assets and businesses of the Water Utility System, provide water service to all properties, improvements thereon and the occupants thereof, in a uniform and nondiscriminatory manner with other property and property owners served by Purchaser.
6. CONDITIONS PRECEDENT TO CLOSING. The obligations of each party to close the transaction contemplated by this Agreement are subject to the conditions that, at or before the Closing Date:
- a. Neither Party is prohibited by decree or law from consummating the transaction.
 - b. There is not pending on the Closing Date any legal action or proceeding that prohibits the acquisition or sale of the Purchased Assets or prohibits Purchaser or Seller from closing the transaction or Purchaser from paying the Purchase Price, or that inhibits or restricts in any material manner Purchaser's use, title, or enjoyment of the Purchased Assets.

- c. Each of the other parties hereto has performed all of the undertakings required to be performed by them under the terms of this Agreement.
 - d. There is no material adverse change in the applicable law, or in the condition or value of the Purchased Assets or the Water Utility System. For purposes of this Agreement, a "Material Adverse Change" shall mean, any event, condition, development or effect that, either individually or in the aggregate, shall have been, or insofar as can reasonably be foreseen will be, materially adverse to the business operations, assets, value or conditions (financial or otherwise) of the Water Utility System or the Purchased Assets.
 - e. All warranties and representations of the other party are true in all material respects as of the Closing Date, except to the extent they specifically refer to another date.
 - f. In addition to Purchaser's rights to terminate this Agreement as otherwise provided herein, Purchaser shall have the right to terminate this Agreement if, in the course of conducting its due diligence, Purchaser determines that the purchase contemplated hereunder is not in the best interest of Purchaser. Purchaser's right to terminate this Agreement as provided in this Article shall expire if Purchaser does not provide written notice of such election to terminate in accordance with this Agreement. In consideration of Seller's grant to Purchaser of permission to inspect the Water Utility System prior to the execution hereof, the parties agree that they shall simultaneously execute this Agreement on a date to be determined between them.
 - g. Purchaser shall have received confirmation from Purchaser's Counsel confirming that the Purchaser has performed each of the requirements and duties and has considered each of the criteria that are required by Section 125.3401, Florida Statutes, to be performed and considered by St. Johns County in connection with the Purchaser's purchase of the Water Utility System prior to Closing this transaction.
7. PRE-CLOSING CONDUCT; COVENANTS. Prior to the Closing Date, the parties covenant to each other, and shall conduct themselves, as follows:
- a. Within five (5) days after the execution of this Agreement, Seller shall either furnish to Purchaser, or provide Purchaser with ready access to the following, to the extent they are in the possession of Seller, its employees, representatives, or agents (including engineers, surveyors and other contractors utilized by Seller):
 - i. Copies of all plans and specifications showing the Water Utility System as now constructed (as-built), including any under construction, together with a detailed engineering map showing the appurtenances as now constructed, and all other facilities constituting the Water Utility System.

- ii. Depreciation and amortization and other Financial Records as noted in Exhibit "C", which is attached hereto and incorporated herein, identifying substantially all equipment, computers, software, vehicles, tools, parts, laboratory equipment, office equipment, and all other personal property owned or used by Seller in connection with the operation of the Water Utility System.
 - iii. A Schedule and copies of documents reflecting the rates, fees, and charges of Seller.
 - iv. A list of receivables by name and account number, setting forth the amount of totals.
 - v. Copies of any, and all, effective insurance policies with respect to the Purchased Assets and Water Utility System.
 - vi. Copies of the easements, licenses, prescriptive rights and rights-of-way owned and used by Seller for the construction, operation and maintenance of the Water Utility System, as identified in **Exhibit "A."**
- b. During the period between the date of this Agreement and the Closing Date, Seller shall:
- i. Operate and maintain the Water Utility System and Purchased Assets in a normal and ordinary manner to ensure that the condition of the Water Utility System and the Purchased Assets and the inventory on hand shall not be materially diminished or depleted, normal wear and tear excepted;
 - ii. Promptly notify Purchaser of any notification received by Seller from any person, business, or agency of any existing, or potential, Environmental Law violation;
 - iii. Make no unbudgeted capital expenditures in excess of \$1,000 without the prior written consent of Purchaser;
 - iv. Provide Purchaser, or its designated agent (s), with unrestricted access to the business premises, Water Utility System, Purchased Assets, Seller's books and records, employees, agents, or representatives, on reasonable advance notice and during business hours.
 - v. Promptly notify Purchaser of any event, activity or occurrence that has, or may have, a material adverse effect upon the Purchased Assets or this transaction.

- c. During the period of time between the date of this Agreement and the Closing Date, Seller shall maintain its existing levels of insurance on the Purchased Assets and Water Utility System and the risk of any loss shall remain with Seller.
- d. From the date of execution of this Agreement until Closing, Seller shall not, without the prior written consent of Purchaser, enter into any new developer agreements or modify existing developer agreements other than in the ordinary course of business. Copies of any such developer agreements shall be promptly delivered to Purchaser.
- e. Seller shall not accept payment for Connection Charges at a rate lower than designated in its Service Availability Policy in order to receive early payment of those Connection Charges. If Seller violates this covenant, the Purchase Price shall be reduced accordingly by the amount of any such Connection Charges that are paid in advance as the result of offering a discount.

8. TERMINATION OF AGREEMENT.

- a. This Agreement may be terminated (i) by mutual written consent of the parties, or (ii) by either party if the transactions contemplated hereby have not closed by April 20, 2003.
- b. Purchaser may terminate this Agreement, in its sole discretion, upon the occurrence of any of the following:
 - i. The failure, in any material respect prior to Closing, of any conditions precedent to closing set forth in this Agreement.
 - ii. Any material breach of this Agreement by Seller, including, but not limited to, a material breach of any representation or warranty, if Seller has not cured such breach within 30 days after notice from Purchaser; provided, however, such breach must in any event be cured ten days prior to the Closing Date unless the date for cure has been extended by Purchaser.
 - iii. Any other basis for termination on behalf of Purchaser otherwise set forth in this Agreement.
- c. Seller may terminate this Agreement, in its sole discretion, upon the occurrence of any of the following:
 - i. The failure, in any material respect prior to Closing, of any of the conditions precedent to closing set forth in this Agreement.
 - ii. Any material breach of this Agreement by Purchaser, including, but not limited to, a material breach of any representation or warranty, if

Purchaser has not cured such breach within 30 days after notice from Seller, provided, however, such breach must in any event be cured prior to the Closing Date unless the date for cure has been extended by Seller.

- iii. Any other basis for termination on behalf of Seller otherwise set forth in this Agreement.
- d. Upon the occurrence of any of the bases for termination of this Agreement, the party seeking to terminate this Agreement shall provide written notice of its termination of this Agreement to the other by delivering the same as provided in this Agreement.
- e. Upon the termination of this Agreement, the following shall occur:
 - i. To the extent permitted by Florida law, each party shall return all documents, including copies, in its possession, or in the possession of its agents and consultants to the other, as the case may be. Each party, its agents and consultants, shall treat any information previously received as confidential, and shall not disclose or use such information, unless required by law.
 - ii. Except as otherwise set forth in this Agreement, each party shall be responsible for payment of its own attorney and other professional fees and other costs of any nature whatsoever incurred prior to the termination of this Agreement.
 - iii. This Agreement shall forthwith become void and (except for the willful breach of this Agreement by any party hereto) there shall be no liability on the part of Purchaser or Seller, or their respective officers or directors, other than as provided for herein.

10. CLOSING DATE AND CLOSING.

- a. This transaction shall be closed on or before April 20, 2003 at a location mutually acceptable to both parties. As used in this Agreement, the term "Closing Date" shall mean the date that this transaction is closed, but in no event shall the Closing Date extend beyond April 20, 2003 unless extended by mutual agreement of Purchaser and Seller.
- b. At Closing:
 - i. Purchaser shall pay the Cash Payment, subject to any adjustment as provided for in this Agreement.
 - ii. Seller shall assign its right, title and interest in those easements, licenses, etc. identified in **Exhibit "A."**

- iii. As an adjustment to the Cash Payment, Seller shall receive credit for its accounts receivable (less than 60 days old) for monthly water commodity service revenues, net of any credit balances, due Seller for unpaid water service as of the Closing Date to the extent provided in this Agreement. On or about the Closing Date, Seller and Purchaser shall jointly read all customer meters, and Seller shall promptly bill each customer based upon that final meter reading and credit each customer any advance base charge remaining or other credit remaining as of the Closing Date. The final billing will cause each customer to have either a balance due or a refund due. Seller shall then either, at Purchaser's option, issue checks to those customers who have a credit balance, or credit Purchaser therefore. Seller shall furnish to Purchaser, at Closing, a listing of its accounts receivable, by customer and individual [balance] due. Purchaser shall then credit Seller, as an adjustment to the Purchase Price, in an amount equal to 95% of Seller's then total accounts receivable. Thus, Purchaser shall be entitled to all Water Utility System revenue earned from the Closing Date forward, and Seller shall promptly remit any monies or checks received after Closing to Purchaser.
- iv. Connection Charges (defined as connection, plant capacity, main extension, capital or other unit connection fees paid for the availability of water utility capacity) received by Seller prior to the Closing Date shall be retained by Seller. The parties agree that Purchaser shall not be obligated to make Futures Payments (as noted elsewhere in this Agreement) for any connections to the Water Utility System for which connection charges were previously paid to Seller. Connection charges paid after the Closing Date shall be apportioned in accordance with provisions noted elsewhere in this Agreement.
- v. All transfers required or necessary to carry out the intent and purpose of this Agreement shall take place, unless waived or extended by mutual consent.
- vi. Each of the parties shall pay the fees of its own attorneys, bankers, engineers, accountants, and other professional advisers or consultants in connection with the negotiation, preparation and execution of this Agreement, and any documents associated with the Closing.
- vii. All bills for services, materials and supplies rendered in connection with the operation of the Water Utility System prior to Closing, including but not limited to electricity for a period up to and including the Closing Date, shall be paid by Seller, and thereafter, paid by Purchaser.

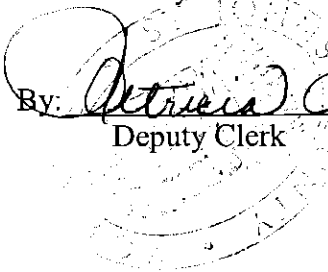
- viii. Purchaser shall assume the liability for customer deposits, and credit at Closing shall be given to Purchaser for customer deposits including any interest due thereon through the Closing Date.
- ix. Purchaser, at Closing, shall reimburse or credit Seller for the cost of any additional capital improvements made to the Water Utility System by or on behalf of Purchaser prior to the Closing Date, provided Purchaser has specifically requested in writing that such improvements be made. (This provision shall not be construed to include those improvements referenced elsewhere in this Agreement.)
- x. Each party shall deliver to the other party a certificate stating that:
 - (1) The party is not prohibited by decree or law from consummating the transaction contemplated hereby.
 - (2) There is not pending on the Closing Date any legal action or proceeding that hinders the ability of either party to close the transaction.
 - (3) All warranties and representations of such party contained in this Agreement are true and correct as of the Closing Date.
- xi. Seller shall deliver to Purchaser, in a form reasonably acceptable to Purchaser, an opinion of Seller's counsel substantially to the effect that:
 - (1) Seller is validly organized, existing and its status is active under the laws of the State of Florida.
 - (2) This Agreement has been duly and validly executed and approved by Seller and is a valid and binding agreement upon Seller.
 - (3) To Seller's counsel's knowledge, the execution, delivery and performance of this Agreement will not violate any agreement of, or binding on, or any law applicable to, Seller.
- c. Within 90 days after Closing, upon written request by Purchaser, Seller shall reconcile any accounts receivable, unbilled revenues, customer deposits or other charges not otherwise considered or accounted for at the time of the Closing. Within 90 days after Closing, upon written request by Seller, Purchaser shall reconcile any accounts receivables, unbilled revenue, customer deposits or other charges not otherwise considered or accounted for at the time of the closing. Any amounts determined due from a party as a result of the reconciliation process shall be paid within 120 days after the Closing.

ST. JOHNS COUNTY, FLORIDA

By: James E. Bryant
James E. Bryant, Chairman

Attest: Cheryl Strickland, Clerk of Court

By: Atreia A. Grande
Deputy Clerk



CRESCENT COVE WATER, INC.

By: Bobby L. Jones
Bobby L. Jones
Print Name
Its President

C. F. Kenton
Witness Signature

C. F. Kenton
Witness Typed or Printed Name

Paula L. Delaney
Witness Signature

Paula L. Delaney
Witness Typed or Printed Name

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 16th day of January, 2003 by Bobby L. Jones, as President of Crescent Cove Water, Inc., a Florida corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification.

Paula L. Delaney
Notary Public, State of Florida

My Commission Expires _____



Paula L. Delaney
My Commission CC886729
Expires December 1 2003

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 30th day of January, 2003, by James E. Bryant, as Chairman of the Board of County Commissioners of St. Johns County, Florida, a political subdivision of the State of Florida, on behalf of the Board. He is personally known to me or has produced _____ as identification.



Yvonne Carter King
Commission # CC 912453
Expires Feb. 21, 2004
Bonded Thru
Atlantic Bonding Co., Inc.

Yvonne Carter King
Notary Public, State of Florida
My Commission Expires Feb. 21, 2004

EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT

THIS EASEMENT made this 20th day of August, 2002, by and between CRESCENT COVE WATER INC., whose address is P.O. BOX 2116, ST. AUGUSTINE FL 32085, grantor and ST. JOHNS COUNTY, FLORIDA a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32084 grantee.

WITNESSETH that for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, the grantor hereby gives, grants, bargains and releases to the grantee, a Temporary Utility Easement to enter upon and use the grantor's property as described below for such purposes as a staging area for equipment and materials required for the utility improvements and other uses as is reasonably necessary to enable the grantee to construct the utility, in Crescent Cove Subdivision. This Easement is over the land in St. Johns County, Florida, described as follows:

Reserve Parcel "A" of CRESCENT COVE SUBDIVISION, Unit No. 1, as per plat thereof recorded in Map Book 13, Pages 55 through 56, inclusive, of the Public Records of St. Johns County, Florida.

It is understood and agreed by the parties hereto that the rights granted herein should terminate 8 months from the time this document is executed.

IN WITNESS WHEREOF, grantor has hereunto set hand and seal the day and year first above written.

Signed, sealed and delivered in
Our presence as Witnesses:

Nanette Bradbury
Print Name: Nanette Bradbury
Debbie Taylor
Print Name: Debbie Taylor

BY: Bobby L. Jones
Bobby L. Jones

State of Florida
County St. Johns

The foregoing instrument was acknowledged before me this 20th day of August, 2002
by Bobby L. Jones who ~~has produced~~
is personally known ~~as~~ identification.

Debbie Taylor

Notary Public



Debbie Taylor
Commission # CC 913963
Expires April 14, 2004
Bonded Thru
Atlantic Bonding Co., Inc

**ST. JOHNS COUNTY
WATER AND SEWER AUTHORITY**

Annual Report for:

Crescent Cove Water Inc

Utility

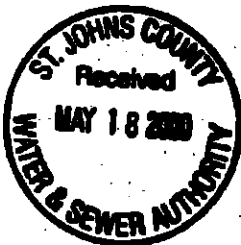
For Calendar Year:

1999

Filing Date:

Bobby Jones

EXHIBIT C



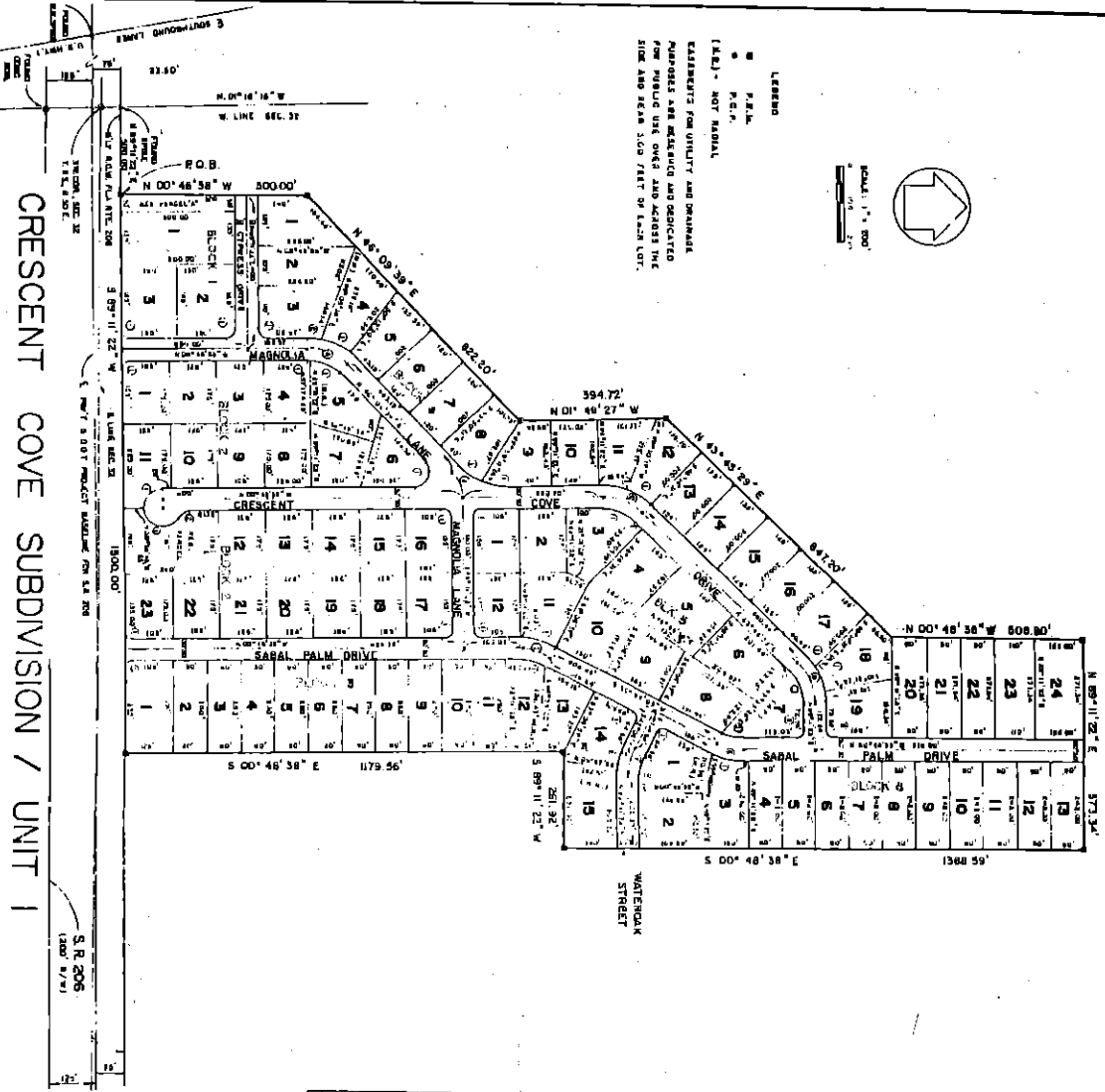
CRESCENT COVE SUBDIVISION / UNIT 1

1038

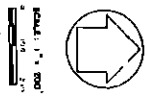
S.R. 206
(200' R/W)

Troada Landfilling / JORDAN RANCH, P.A. / (2001) 27-1200

13/56



LEGEND
 P.E.M.
 P.E.P.
 (E.E.) - NOT HAZARDOUS
 EASEMENTS FOR UTILITY AND DRAINAGE
 PURPOSES ARE EXTENDING AND DEDICATED
 FOR PUBLIC USE OVER AND ACROSS THE
 SIDE AND REAR 3.00 FEET OF EACH LOT.



BLK.	LOT	CURVE	ANG.	Δ	PI
1	1		31.42°	30'	20.00'
1	2		3.00°	120.00'	20.00'
1	3		82.81°	49.72'	16.00'
1	4		123.76°	43'	16.00'
1	5		79.24°	36.00'	16.00'
1	6		124.72°	36.00'	16.00'
1	7		31.42°	30'	16.00'
1	8		31.42°	30'	16.00'
1	9		31.42°	30'	16.00'
1	10		31.42°	30'	16.00'
1	11		31.42°	30'	16.00'
1	12		31.42°	30'	16.00'
1	13		31.42°	30'	16.00'
1	14		31.42°	30'	16.00'
1	15		31.42°	30'	16.00'
1	16		31.42°	30'	16.00'
1	17		31.42°	30'	16.00'
1	18		31.42°	30'	16.00'
1	19		31.42°	30'	16.00'
1	20		31.42°	30'	16.00'
1	21		31.42°	30'	16.00'
1	22		31.42°	30'	16.00'
1	23		31.42°	30'	16.00'
1	24		31.42°	30'	16.00'
2	1		31.42°	30'	16.00'
2	2		31.42°	30'	16.00'
2	3		31.42°	30'	16.00'
2	4		31.42°	30'	16.00'
2	5		31.42°	30'	16.00'
2	6		31.42°	30'	16.00'
2	7		31.42°	30'	16.00'
2	8		31.42°	30'	16.00'
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2	15		31.42°	30'	16.00'
2	16		31.42°	30'	16.00'
2	17		31.42°	30'	16.00'
2	18		31.42°	30'	16.00'
2	19		31.42°	30'	16.00'
2	20		31.42°	30'	16.00'
2	21		31.42°	30'	16.00'
2	22		31.42°	30'	16.00'
2	23		31.42°	30'	16.00'
2	24		31.42°	30'	16.00'

ROAD CENTRAL LINES:

LINE	START	END	LENGTH
A	72+37	487+31	414.94
B	74+42	470+42	70.00
C	108+30	487+31	379.01
D	108+30	487+31	379.01
E	72+30	37+41	34.89
F	72+30	37+41	34.89
G	72+30	37+41	34.89

Map B-115 rev 02



ST. JOHNS COUNTY
UTILITY DEPARTMENT
2175 Mizell Road
P.O. Drawer 3006
St. Augustine, Florida 32085-3006

Statement of Public Interest

After careful review and analysis it has been determined that the purchase of Crescent Cove Water, Incorporated by the St. Johns County Utility Department is in the public interest. The St. Johns County Utility Department has been providing water and wastewater service for over 20 years and has also provided reuse water for 15 years. There will be an increased level of service through better water pressure, improved water quality and installation of additional fire hydrants. Emergency generators will provide for uninterrupted service with twenty-four hour staffing and system monitoring to ensure fast response in emergency situations. Furthermore, the growth and size of the St. Johns County Utility Department system has enabled us to reward conservation and improve rate stability.

The purchase price has been established at \$65,000 with an additional \$40,000 for system connection, installation of fire hydrants, abandonment of the existing package plant and to cover accounts receivable. The St. Johns County Utility Department has the necessary funds to purchase Crescent Cove Water, Incorporated without negatively affecting the Utility Department or St. Johns County's budget.

EXHIBIT B
Of Resolution

THE ST. AUGUSTINE RECORD

SPUBLISHED EVERY MORNING MONDAY THROUGH FRIDAY, SATURDAY AND SUNDAY MORNING
ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA

STATE OF FLORIDA,
COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared **PATRICIA BERGQUIST**

who on oath says that she is an Accounting Clerk of the St. Augustine Record,

a daily newspaper published at St. Augustine in St. Johns County, Florida:

that the attached copy of advertisement, being a **NOTICE OF HEARING**

In the matter of **PURCHASE WATER UTILITY**

in the Court, was published in said newspaper in the issues of

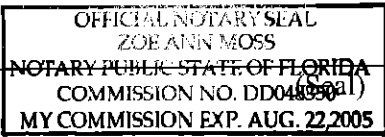
JANUARY 18th, 2003

Affiant further says that the St. Augustine Record is a newspaper published at St. Augustine, in said St. Johns County, Florida, and that the said newspaper heretofore been continuously published in said St. Johns County, Florida, each day and has been entered as second class mail matter at the post office in the City of St. Augustine, in said St. Johns County, for a period of one year preceding the first publication of the copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing the advertisement for publication in the said newspaper.

Sworn to and subscribed before me this **21st** day of **JANUARY** **2003**

by Patricia Bergquist who is personally known to me
or who has produced **PERSONALLY KNOWN** as identification.

Zoe Ann Moss
(Signature of Notary Public)



Zoe Ann Moss

NOTICE OF A CONTINUED PUBLIC HEARING OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY
NOTICE IS HEREBY GIVEN that the Board of County Commissioners of St. Johns County, Florida has continued a public hearing from Tuesday, January 14, 2003 at 1:30 p.m. until Tuesday, January 28, 2003 at 1:30 p.m. in the County Auditorium at the County Administration Building, 4020 Lewis Speedway, (CR 16A and U.S. #1 North), St. Augustine, Florida. The purpose of the public hearing is to consider the purchase by St. Johns County of a certain water utility currently owned by Crescent Cove Water, Incorporated, which is located in St. Johns County. This public hearing is in accordance with Florida Statute 125.3401. If the Board of County Commissioners of St. Johns County, Florida determines such a purchase is in the public interest, then the Board of County Commissioners of St. Johns County, Florida may authorize the execution of a contract to purchase Crescent Cove Water, Incorporated.
If a person decides to appeal any decision made with respect to any matter considered at the meetings/hearings he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
NOTICE TO PERSONS NEEDING SPECIAL ACCOMMODATIONS AND TO ALL HEARING IMPAIRED PERSONS: In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in the proceedings should contact ADA Coordinator, at (904) 823-2505 at the County Administration Building, 4020 Lewis Speedway, St. Augustine, FL 32084. For hearing impaired individuals: Telecommunication Device for the Deaf (TDD): Florida Relay Service: 1-800-955-8776, no later than 5 days prior to the date of the meeting/hearing.
BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA
CHERYL STRICKLAND, ITS CLERK
By: Patricia DeGrande, Deputy Clerk
L160-3 Jan 18, 2002