
GLADES COUNTY, FLORIDA

CITY OF MOORE HAVEN, FLORIDA

SECRETARY OF STATE

MAY 17 1 41 PM '95

FILED

ORDINANCE CREATING AND ESTABLISHING THE
CITY-COUNTY PUBLIC WORKS AUTHORITY

ADOPTED BY THE COUNTY MAY 9, 1995

CONSENTED TO BY THE CITY MAY 16, 1995

TABLE OF CONTENTS

PAGE

ARTICLE I

INTRODUCTION

SECTION 1.01.	SHORT TITLE	1
SECTION 1.02.	DEFINITIONS	2
SECTION 1.03.	FINDINGS	6
SECTION 1.04.	INTERPRETATION	8

ARTICLE II

CREATION AND ESTABLISHMENT

SECTION 2.01.	CITY-COUNTY PUBLIC WORKS AUTHORITY CREATED AND ESTABLISHED; BOUNDARIES	9
SECTION 2.02.	GOVERNING BODY; OFFICERS	10
SECTION 2.03.	OPERATION BY INTERLOCAL AGREEMENT	13

ARTICLE III

POWERS AND DUTIES

SECTION 3.01.	POWERS	14
SECTION 3.02.	BUDGET; REPORTS AND REVIEW	21
SECTION 3.03.	ADOPTION OF RATES, FEES OR OTHER CHARGES	22
SECTION 3.04.	BONDS	25
SECTION 3.05.	TRUST FUNDS; TRUSTEES	27
SECTION 3.06.	COVENANTS OF THE BOARD WITH BONDHOLDERS	27
SECTION 3.07.	BONDS; QUALITIES OF NEGOTIABLE INSTRUMENTS; RIGHTS OF HOLDERS	29
SECTION 3.08.	AUTHORITY BONDS AS SECURITIES FOR PUBLIC BODIES	29
SECTION 3.09.	AD VALOREM TAXATION AUTHORIZED UPON VOTE OF ELECTORS	30
SECTION 3.10.	SYSTEM DEVELOPMENT CHARGES	30

ARTICLE IV

GENERAL PROVISIONS

SECTION 4.01.	UNPAID FEES TO CONSTITUTE A LIEN; FORECLOSURE PROCEDURE	35
SECTION 4.02.	FREE WATER AND SEWER PROHIBITED	36
SECTION 4.03.	COMPULSORY USE OF WATER, SEWER, AND RECLAIMED WATER FACILITIES AND SERVICES	36
SECTION 4.04.	AUTHORITY APPROVAL OF CONSTRUCTION OF WATER AND SEWER FACILITIES	36
SECTION 4.05.	CONVEYANCE OF PROPERTY WITHOUT CONSIDERATION	37
SECTION 4.06.	PLANNING REQUIREMENTS	37
SECTION 4.07.	CHARTER AND AMENDMENT	39
SECTION 4.08.	MERGER; DISSOLUTION	39
SECTION 4.09.	EFFECT OF INCORPORATION, OR THE PRESENCE OF ANOTHER SPECIAL DISTRICT ON AUTHORITY . . .	40
SECTION 4.10.	CONSTRUCTION OF LAW	41
SECTION 4.11.	SEVERABILITY	42
SECTION 4.12.	ALTERNATIVE METHOD	42
SECTION 4.13.	EFFECTIVE DATE	42

ORDINANCE NO. 95- 2

AN ORDINANCE CREATING THE CITY-COUNTY PUBLIC WORKS AUTHORITY; PROVIDING FOR FINDINGS AND INTERPRETATION; PROVIDING DEFINITIONS; ESTABLISHING BOUNDARIES CONSTITUTING ALL OF THE INCORPORATED THE CITY OF MOORE HAVEN AND THE SURROUNDING UNINCORPORATED AREA; PROVIDING THE AUTHORITY WITH THE POWER TO PROVIDE WATER, SEWER AND RECLAIMED WATER FACILITIES AND SERVICES WITHIN ITS BOUNDARIES; PROVIDING FOR THE ORGANIZATION AND MEMBERSHIP OF THE GOVERNING BOARD; GRANTING THE AUTHORITY THE POWER TO EXERCISE THE POWERS OF EMINENT DOMAIN; PROVIDING FOR BUDGETARY, REVIEW AND REPORTING REQUIREMENTS; PROVIDING FOR ADOPTION OF RATES, FEES AND OTHER CHARGES; PROVIDING FOR ISSUANCE OF BONDS; PROVIDING FOR TRUST FUNDS AND TRUSTEES; PROVIDING FOR COVENANTS OF THE GOVERNING BOARD WITH BONDHOLDERS; PROVIDING THAT BONDS SHALL HAVE THE QUALITIES OF NEGOTIABLE INSTRUMENTS AND FOR THE RIGHTS OF HOLDERS; PROVIDING THE LEVY OF AD VALOREM TAXES UPON VOTE OF THE ELECTORS; PROVIDING FOR THE IMPOSITION OF SPECIAL ASSESSMENTS AND SYSTEM DEVELOPMENT CHARGES; PROVIDING THAT UNPAID FEES CONSTITUTE A LIEN AGAINST AFFECTED PROPERTY; PROHIBITING FREE WATER AND SEWER SERVICES; PROVIDING FOR PLANNING REQUIREMENTS; PROVIDING FOR THE METHOD TO AMEND THE CHARTER OF THE AUTHORITY; PROVIDING FOR MERGER AND DISSOLUTION; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF GLADES COUNTY, FLORIDA:

ARTICLE I

INTRODUCTION

SECTION 1.01. SHORT TITLE. This ordinance may be cited as the "City-County Public Works Authority Ordinance."

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SECTION 1.02. DEFINITIONS. As used in this Ordinance, the following words and terms shall have the following meanings, unless the context clearly otherwise requires:

"Assessable Improvements" shall mean that portion or portions of a sewer system or a water system of a local nature and benefiting the premises or lands served thereby or eliminating a burden created by the maintenance or use of property and particularly, without limiting the generality of the foregoing, reference to a sewer system, shall include, without being limited to, laterals and mains for the collection and reception of sewage from premises connected therewith, local or auxiliary pumping or lift stations, treatment plants or disposal plants, reclaimed water facilities and other appurtenant facilities and equipment for the collection, treatment and disposal of sewage; and reference to a water system shall include such mains and laterals and other distribution facilities, pumping stations, and sources of supply as are of benefit to the property or eliminate a burden created by the use and maintenance of property served by such water system together with incidental equipment and appurtenances necessary therefor.

"Assessment Bonds" means bonds or other obligations secured by and payable from special assessments levied against benefitted lands, and which may be additionally secured by a pledge of other moneys received by the City, the County, the Authority or any combination thereof.

"Authority" means the City-County Public Works Authority as created and established by this Ordinance.

"Board of Supervisors" means the governing body of the City-County Public Works Authority.

"City" means the City of Moore Haven, Florida.

"City Council" means the governing body of the City.

"City Clerk" means the City Clerk and Ex Officio the Clerk to the Board of Supervisors of the Authority.

"Cost" as applied to the acquisition and construction and extensions, additions or improvements to the system includes the cost of construction or reconstruction, acquisition or purchase, the cost of all labor, materials, machinery and equipment, cost of all lands and interest therein, property, rights, easements and franchises of any nature whatsoever, financing charges, interest prior to and during construction or acquisition, extensions, additions or improvements to the system, the creation of initial reserve or debt service funds, bond discount, cost of plans and specifications, surveys and estimates of costs and revenues, cost of engineering, financial and legal services, and all other expenses necessary or incidental in determining the feasibility or practicability of such construction, reconstruction or acquisition, administrative expenses, and such other expenses as may be necessary or incidental to financing authorized by this law, and including reimbursement of the City, the County, or any other person, firm, or corporation for any moneys advanced to the

Authority for any expenses incurred by the Authority, the City, or the County in connection with any of the foregoing items of cost.

"County" means Glades County, Florida.

"County Commission" means the governing body of the County.

"County Coordinator" means the County Coordinator and ex officio the Administrator for the Board of Supervisors of the Authority.

"Extraordinary Vote" means a vote of six or more members of the Board of Supervisors, consisting of the affirmative vote of three members of the City Council and three members of the County Commission, ex officio members of the Board of Supervisors, which effectively assures a majority vote of both the City Council and the County Commission.

"Ordinance" means this Ordinance creating and establishing the City-County Public Works Authority.

"Revenue Bonds" means bonds or other obligations secured by and payable from the revenues derived from rates, fees, charges, and assessments collected by the Authority from the users or future users of the facilities of the system, and which may be additionally secured by a pledge of the proceeds of special assessments levied against benefitted property.

"Sewer system" means and includes any plant, system, facility, or property owned or operated by the City, the County, or the Authority and additions, extensions, and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in

connection with the collection, treatment, purification, or disposal of sewage of any nature or originating from any source, including industrial wastes resulting from any processes of industry, manufacture, trade, or business or from the development of any natural resources; reclaimed water treatment transmission and distribution facilities; and without limiting the generality of the foregoing definition shall embrace treatment plants, pumping stations, lift stations, valves, force mains, intercepting sewers, laterals, pressure lines, mains, and all necessary appurtenances and equipment, all sewer mains and laterals for the reception and collection of sewage from premises connected therewith, and shall include all real and personal property and any interest therein, rights, easements, and franchises of any nature whatsoever relating to any such system and necessary or convenient for the operation thereof.

"System" shall mean any water system or sewer system, including any reclaimed or irrigation water system, now owned or operated or hereafter owned or operated by the City, the County, or the Authority, unless the context otherwise requires.

"System development charges" means fees and charges imposed to acquire, construct, equip, or expand the capacity of the system facilities in excess of that reasonably determined by the Authority to be necessary to provide service to current users of the system for the purpose of paying or reimbursing the equitable share of the capital cost relating to such acquisition, construction, expansion, or equipping of excess and unused capacity of the system or

expansion thereof in order to serve new users of the facilities of the system and new development within the boundaries of the system.

"Water system" means and includes any plant, system, facility, or property owned or operated by the City, the County or the Authority and additions, extensions and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the development of sources, treatment, or purification and distribution of water for domestic or industrial use and, without limiting the generality of the foregoing includes dams, reservoirs, storage tanks, mains, lines, valves, pumping stations, laterals, and pipes for the purpose of carrying water to the premises connected with such system and includes all real and personal property and any interests therein, rights, easements, and franchises of any nature whatsoever relating to any such system and necessary or convenient for the operation thereof.

SECTION 1.03. FINDINGS. It is hereby ascertained and declared that:

(A) The rural location of the County and the developed as well as the relatively undeveloped and developing areas in and around the City require extraordinary attention and foresight by state and local government to encourage and foster the development of a central water, sewer, and reclaimed water utility system that is owned by and operated for the benefit of affected citizens, tax payers, and rate payers of the City and the County.

(B) Although the City provides central water facilities and services, the incorporated area of the City and surrounding unincorporated areas of the County are not served by central sewer facilities normally and generally provided and maintained by governmental agencies and, instead, are served by private septic tanks or privately owned on-site disposal systems or package sewage treatment plants.

(C) The potential proliferation of on-site disposal systems or package sewage treatment plants and the use of septic tanks gives rise to public health and water pollution concerns and poses a risk of contamination of water and water supply resources.

(D) Public water, sewer, and reclaimed water utilities owned, operated, managed, or controlled by local government in the City and the surrounding areas of the County will provide better service to rate payers, better planned and more cost effective delivery of utility facilities, and the best opportunity for present and future citizens and rate payers to benefit from a central water and sewer utility system.

(E) The creation and establishment of the Authority is consistent with and furthers state and local comprehensive plans, offers a focused approach to the provision, development, and management of water and sewer services and facilities in the City and surrounding areas of the County, and provides a cooperative interlocal alternative for the delivery of such services to the area to be served by the Authority.

(F) It is the intent of the County Commission to create a utility authority, with the consent and cooperation of the City Council, which has the capacity to facilitate, coordinate, and maximize the existing abilities of the City and the County to cooperatively provide water, sewer, and reclaimed water services and facilities within its boundaries, and to establish a charter which addresses and fulfills all the essential general law components of an independent special district.

(G) This Ordinance shall be construed as consistent with the "Uniform Special District Accountability Act of 1989," Chapter 189, Florida Statutes.

SECTION 1.04. INTERPRETATION.

(A) Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Ordinance; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Ordinance. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

(B) Nothing in this Ordinance shall be construed to negate or otherwise limit the powers, authority, and jurisdiction of the City Council or the County Commission to provide for water and sewer services under general or special law in any portion of the County.

ARTICLE II

CREATION AND ESTABLISHMENT

SECTION 2.01. CITY-COUNTY PUBLIC WORKS AUTHORITY CREATED AND -ESTABLISHED; BOUNDARIES.

(A) The City-County Public Works Authority is hereby created and established for the purpose of (1) planning, designing, acquiring, constructing, financing, operating, and maintaining central water, sewer, and reclaimed water infrastructure, facilities, and services within the bounds of the Authority; (2) developing plans and recommendations to federal, state, and local governments for programs and projects to provide central water, sewer, and reclaimed water facilities and services within the bounds of the Authority; (3) developing plans and recommendations to federal, state, and local governments for other physical improvements and programs needed to foster the environmentally responsible, financially sound, and operationally efficient provision of such facilities and services within the bounds of the Authority; and (4) implementing a cooperative program between the City and the County to attract quality and stable economic development and to benefit the residents, businesses, and civic enterprises, of the community as a whole, as well as the landowners, tenants, and occupants of lands within the bounds of the Authority.

(B) It is the intent of this Ordinance that the Authority is an independent special district created pursuant to the authority ~~of the first sentence of Section 9(b), Article VII, of the Florida~~

Constitution, and Sections 189.404(3)(b) and 125.01(5), Florida Statutes.

(C) The boundaries of the Authority are initially established as follows: all of the incorporated areas of the City on the effective date of this Ordinance and a portion of the unincorporated area of the County, said area more particularly described as all of Sections 2, 3, 4, 8, 9, 10, 11, 12, 13, 14, 15, 22, 23, 26 and 27, in Township 42 South, Range 32 East, Glades County, Florida.

SECTION 2.02. GOVERNING BODY; OFFICERS.

(A) The governing body of the Authority shall consist of ten members acting as the Board of Supervisors, comprised ex officio of all of the members of the City Council and of all the members of the County Commission.

(B) Members of the governing body of the Authority shall be known as supervisors and shall hold office for the terms for which they were appointed by law or elected by their respective City or County constituents and until their successors are appointed or elected as provided by law.

(C) A Chairman and Vice Chairman shall be selected each year at the Board of Supervisor's first meeting after the first week in November; provided however, that if the Chairman is a member of the City Council then the Vice Chairman shall be a member of the County Commission or vice versa.

(D) The supervisors shall serve without compensation, except that they may be reimbursed for reasonable travel and per diem

expenses incurred in the course of their duties and responsibilities as members of the Board of Supervisors. Any such reimbursement for travel or per diem expenses shall be in amounts authorized pursuant to Chapter 112, Florida Statutes.

(E) A quorum shall consist of five members of the Board of Supervisors, and official action shall be taken only upon the affirmative vote of a majority of the members; provided however, it shall take an affirmative vote of one-half of the members present and voting plus one whenever an even number of members of the Board of Supervisors are present and voting. The Board of Supervisors may adopt bylaws for election of other officers and orderly proceedings.

(F) The City Clerk shall serve ex officio as clerk to the Authority. The County Coordinator shall serve ex officio as the executive administrator for the Authority. The Authority shall annually budget and reimburse the City and County, as necessary, for the cost of all services and materials supplied to the Authority by the City Clerk and the County Coordinator while acting as ex officio clerk to the Authority. In such capacity, the City Clerk shall serve as the internal auditor, recorder, and custodian of all Authority funds and shall keep such records and file all reports as required by law pertaining thereto. In such capacity, the County Coordinator shall serve as the executive administrator of the Authority. To that end, the County Coordinator may, by way of enumeration and not by way of limitation, have the following specific powers and duties to: (1) administer and carry out the

directives and policies of the Board of Supervisors, (2) report to the Board of Supervisors on the action taken pursuant to any directive or policy, (3) assist the City Clerk in preparing and submitting to the Board of Supervisors for its consideration and adoption an annual budget, (4) supervise the care and custody of all Authority property, and (5) coordinate and work with the City Clerk in advancing the affairs of the Authority in complying with its charter.

(G) To the extent that the provisions of this Ordinance create or otherwise give rise to responsibilities on the part of the City Clerk or the County Administrator, respectively, which exceed or are in addition to those created or arising under the City charter, the Constitution of the State of Florida, or general or special law, and provided that the City Clerk or the County Administrator have respectively complied in good faith with said responsibilities and have respectively incurred personal liability therefor, the City and the County shall indemnify, defend, and respectively hold the City Clerk and County Coordinator harmless against such personal liability to the extent thereof, subject to any limitations thereon provided by law.

(H) An auditor selected by the Board of Supervisors in conformance with the procedures provided in Section 11.45, Florida Statutes, shall serve as the auditor to the Authority.

(I) Either the City Attorney or County Attorney may provide legal services to the Authority as general counsel. The Authority shall annually budget and reimburse the City or County as necessary

for the cost of services and materials authorized by the Board of Supervisors to be supplied by the City Attorney or the County Attorney to the Authority for legal services.

SECTION 2.03. OPERATION BY INTERLOCAL AGREEMENT. Until determined otherwise by an Extraordinary Vote, the Authority shall act and otherwise implement its power and responsibilities by interlocal agreement between the City, the County and the Authority. Operation by interlocal agreement is intended to maximize the existing resources and staff of the City and County, avoid duplication of effort, and focus the efforts of the City and the County to develop and expand central water and sewer service within the boundaries of the Authority.

ARTICLE III

POWERS AND DUTIES

SECTION 3.01. POWERS.

(A) The Authority shall have the following powers in addition to and supplementing any other powers granted in this Ordinance and powers granted to special districts by general law:

(1) To construct, install, erect, acquire and to operate, maintain, improve, extend or enlarge or reconstruct a water system, a sewer system, or a reclaimed water system or any combination thereof within the boundaries of the Authority and to exercise control and jurisdiction thereof.

(2) To prohibit the use and maintenance of outhouses, privies, septic tanks, on-site disposal systems, package sewage treatment plants, or other like or similar structures or appliances which are either unsanitary or otherwise duplicate the purpose, services, or facilities of the City, the County, or the Authority.

(3) To fix and collect rates, fees, and other charges to persons or property, or both, for the use of the services, facilities and the system; to fix and collect charges for making connections with the system and to provide for reasonable penalties to be imposed on any users or property for any such rates, fees, or charges that are delinquent.

(4) To contract for the service of engineers, accountants, financial or other professionals, and such other

agents and employees as the Board of Supervisors may require or deem necessary.

(5) To request the City Council or the County Commission to exercise, on behalf of the Authority, the right of eminent domain, or to the extent such power of eminent domain is available to the Authority exercise such right, pursuant to Chapters 73 and 74, Florida Statutes, to acquire such lands and rights and interests therein, including lands under water and riparian rights and to acquire such personal property as it may deem necessary in connection with the acquisition, creation, development, construction, reconstruction, improvement, extension, installation, erection, or operation and maintenance of the system and to hold and dispose of all real and personal property under its control. To the extent the power of eminent domain is available to the Authority, such power may be exercised both within and outside the boundaries of the Authority.

(6) To exercise jurisdiction, control, and supervision over the system, or any part thereof owned, operated, or maintained by the Authority and to make and enforce such rules and regulations for the maintenance and operation of the system as may be, in the judgment of the Board of Supervisors, necessary or desirable for the efficient operation of the system or improvements in accomplishing the purposes of this Ordinance.

(7) To restrain, enjoin, or otherwise prevent the violation of this Ordinance or of any resolution, rule, or regulation adopted pursuant to the powers granted by this Ordinance.

(8) To enter into interlocal agreements or join with any other special purpose or general purpose local governments, or other political subdivisions, public agencies, or authorities in the exercise of common powers.

(9) To contract with other private or public entities or persons to provide or receive a water supply, either reclaimed or potable, or for sewage disposal, collection, or treatment or to operate the water or sewer system of such entity or person.

(10) To prescribe methods of pretreatment of industrial wastes not amenable to treatment with domestic sewage before accepting such wastes for treatment and to refuse to accept such industrial wastes when not sufficiently pretreated as may be prescribed, and by proper resolution to prescribe penalties for the refusal of any person or corporation to so pretreat such industrial wastes.

(11) To require and enforce the use of services and facilities of the City, the County, or the Authority whenever and wherever they are accessible, and to require and enforce the installation and dedication to the City, the County, or the Authority of water and sewer facilities or easements as a

condition precedent to the provision of service by the City, the County or the Authority.

(12) To sell or otherwise dispose of the effluent, sludge, or other by-products as a result of sewage treatment.

(13) To accomplish construction directly or by holding hearings, advertising for construction bids, and letting contracts for all or any part or parts of the construction of the system to the lowest responsible bidder or rejecting any and all bids at its discretion; provided that the Authority may purchase supplies, materials, and equipment only in a manner that is not inconsistent with the policies adopted by the City, unless the application thereof is waived by the Board of Supervisors.

(14) To construct and operate connecting, intercepting, or outlet sewers and sewer mains and pipes and water mains, conduits or pipelines in, along or under any streets, alleys, highways, or other public places or ways regulated by or under the jurisdiction of the state or any political subdivision when necessary or convenient for the purposes of the Authority.

(15) Subject to applicable provisions and restrictions as may be set forth in any resolution authorizing or securing any bonds or other obligations issued by the City or the County to enter into contracts with the government of the United States or any agency or instrumentality thereof, or with any municipality, county, district, authority or political

subdivision, private corporation, partnership, association, or individual providing for or relating to the treatment, collection, and disposal of sewage, or the treatment, supply, and distribution of water and any other matters relevant thereto or otherwise necessary to effect the purposes of this Ordinance, and to receive and accept from any federal or state agency, grants or loans for or in aid of the planning, construction, reconstruction, or financing of improvements, additions, or extensions to the system and to receive and accept aid or contributions or loans from any other source of either money, labor, or other things of value, to be held, used, and applied only for the purpose for which such grants, contributions, or loans may be made.

(16) To assume ownership, operation, or control of any municipality, county, district, or authority owned water or sewer system, including the assumption of the financial liabilities associated with such water or sewer systems.

(17) To divide the system into separate units, benefit areas, subsystems or subdistricts for purposes of imposing assessments, setting rates, accounting or financing improvements or additions thereto.

(18) To appoint advisory boards and committees to assist the Board of Supervisors in the exercise and performance of the powers and duties provided in this Ordinance; however, such boards or committees shall serve without compensation.

(19) To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the rate payers, both present and future, in order to carry out the powers and duties provided in this Ordinance or provided in any other law applicable to special districts.

(20) To sue and be sued in the name of the Authority.

(21) To adopt and use a seal and authorize the use of facsimile thereof.

(22) To acquire, by purchase, gift, devise, or otherwise, and to dispose of real or personal property, or any estate therein.

(23) To make and execute contracts or other instruments necessary or convenient to the exercise of its power.

(24) To maintain an office at such place or places as the Board of Supervisors may designate within the County, which office must be reasonably accessible to Authority rate payers.

(25) To hold, control, and acquire by donation, purchase, or condemnation, or dispose of, any public easements, dedications to public use, platted reservations for public purposes, or any reservations for those purposes authorized by this Ordinance and to make use of such easements, dedications, or reservations for any of the purposes authorized by this Ordinance.

(26) To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the Authority is authorized to

undertake and the facilities or property of any nature for the use of the City, the County, or the Authority to carry out any of the purposes authorized by this Ordinance.

(27) To borrow money and issue bonds, certificates, warrants, notes, obligations, or other evidence of indebtedness; to levy such special assessments as may be authorized; and to charge, collect, and enforce fees or any other user charges.

(28) To raise, by user charges, or fees authorized by resolution of the Board of Supervisors, amounts of money which are necessary for the conduct of Authority activities and services or for use of the system and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law.

(29) To assess, levy, impose, collect, and enforce special assessments to provide Assessable Improvements upon or serving all or any portion of the lands located within the geographic boundaries of the Authority. The cost of such special assessments may be apportioned among benefitted property or, commensurate with the burdens created by the maintenance and use of property, based upon such factors or, combination of factors as determined the resolution of the Board of Supervisors. Such special assessments may, in the discretion of the Board of Supervisors, be imposed, collected, and enforced using any methods and procedures authorized by law or any combination thereof, including Section 197.3632,

Florida Statutes; or the Board of Supervisors may adopt by resolution its own method or procedures or use any other method or means not inconsistent with general or special law upon compliance with the notice and hearing requirements set forth for the adoption of rates, fees, and other charges.

(30) To exercise all of the powers necessary, convenient, incidental, implied, or proper in connection with any of the powers, duties or purposes authorized by this Ordinance or provided in any other law applicable to special districts.

(B) In exercising the powers conferred by this Ordinance, the Board of Supervisors shall act by resolution at publicly held meetings scheduled and noticed in conformance with Section 189.417, Florida Statutes.

(C) To the extent that any act or power of the Authority is questioned or otherwise limited or inconsistent with law, the City Council, the County Commission, or both in concert, shall have the authority, in the sole discretion of each, to act in conjunction with or on behalf of the Authority, or otherwise assist the Authority, to accomplish the purposes of this Ordinance.

SECTION 3.02. BUDGET; REPORTS AND REVIEW.

(A) The Authority shall provide financial and other reports in such form and in such manner as prescribed pursuant to this Ordinance and Chapters 189 and 218, Florida Statutes.

(B) As soon as possible after the creation and establishment of the Authority, and thereafter on or before June 1, the City Clerk shall prepare a proposed budget for the ensuing fiscal year

to be submitted to the Board of Supervisors for consideration and approval. The proposed budget shall include, at the direction of the Board of Supervisors, an estimate of all necessary expenditures of the Authority for the ensuing fiscal year and an estimate of income to the Authority from all sources of revenue provided in this Ordinance. The Board of Supervisors shall consider the proposed budget item by item and may either approve the budget as proposed by the City Clerk or modify the same in part or in whole. The budget of the Authority shall be adopted in the same manner provided, and at the times established, by law for the adoption of a budget by the County Commission.

(C) The Board shall cause to be made at least once a year, within 180 days of the end of the Authority's fiscal year, a comprehensive report of its system, including all matters relating to expansions, acquisitions, rates, revenues, expenses of maintenance, repair and operation of the renewals and capital replacements, principal, and interest requirements and the status of all funds and accounts. Copies of such reports shall be filed with the City Clerk and shall be open to public inspection. The report shall be known as the annual system report. The annual system report may be included as a part of any other report required by law or may be issued separately.

SECTION 3.03. ADOPTION OF RATES, FEES OR OTHER CHARGES.

(A) If authorized by the City and the County pursuant to interlocal agreement or by Extraordinary Vote of the Board of Supervisors, the Authority shall adopt by resolution a schedule of

rates, fees, or other charges for the use of the services, facilities, and system of the Authority's to be paid by the owner, tenant, or occupant of each lot or parcel of land which may be connected with or provided service by such system. The initial schedule of such rates, fees, and other charges shall be those already in affect within the boundaries of the Authority as of the effective date of authorization by the City Council of the County Commission or Extraordinary Vote of the Board of Supervisors. The Board of Supervisors may thereafter revise the schedule of rates, fees, and charges from time to time. However, such rates, fees, and charges shall be adopted and revised so as to provide monies, which, with other funds available for such purposes, shall be sufficient at all times to pay the expenses of operating and maintaining the system, including reserves for such system and the principal and interest on revenue bonds as the same shall become due and reserves therefore, and provide a margin of safety over and above the total amount of such payments, to comply fully with any covenants contained in the resolution authorizing the issuance of any bonds or other obligations of the Authority or assumed by the Authority. The Authority shall charge and collect such rates, fees, and charges so adopted and revised, and such rates, fees, and charges shall not be subject to the supervision or regulation by any other commission, board, bureau, agency, or other political subdivision of the state.

(B) Such rates, fees, and charges shall be just and equitable and uniform for the users in the same class and may be based upon

or computed upon any factor or combination of factors affecting the use of the services or facilities furnished, as may be determined by the Board of Supervisors from time to time. No rates, fees, or charges shall be fixed, adopted, or revised under the foregoing provisions of this section until after a public hearing at which all of the users of the system affected thereby, or owners, tenants, or occupants served or to be served thereby and all other interested persons shall have an opportunity to be heard concerning the proposed rates, fees, or charges. Notice of such public hearing setting forth the proposed schedule or schedules of rates, fees, or charges, shall be given by one publication in a newspaper circulating in the County at least 20 days before the date fixed in such notice for the public hearing, which may be adjourned from time to time. Alternatively, notice of such public hearing setting forth the proposed schedule or schedules of rates, fees, or charges, shall be given by written notice by U. S. Postal Service express mail, return receipt requested, to each affected customer at least 7 days before the date fixed in such notice for the public hearing, which may be adjourned from time to time. Mailed notice may be supplied by either the County, the City or the Authority. After such hearing, the proposed schedule or schedules, either as initially adopted, or as modified or amended, may be finally adopted.

(C) The rates, fees, or charges adopted for any class of users or properties served shall be extended to cover any additional users of properties thereafter served which shall fall

within the same class, without the necessity of any further hearing or notice.

SECTION 3.04. BONDS.

(A) The Authority may, from time to time and to the extent allowed by law, issue bonds or other obligations to pay the costs and expenses, other than operating expenses, incurred in carrying out the purposes of this Ordinance or to refund Revenue Bonds of the Authority issued or assumed pursuant to this Ordinance or Revenue Bonds of the City or the County issued to provide water or sewer infrastructure. In anticipation of the sale of bonds, the Authority may issue bond anticipation notes and may renew the same from time to time. Such notes may be paid from, among other sources, the revenues derived by the Authority from the proceeds of sale of the bonds of the Authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds. Bonds and notes shall be, and shall be deemed to be, for all purposes, negotiable instruments, subject only to the provisions of the bonds and notes for registration.

(B) The bonds may be issued as serial bonds or as term bonds; or the Authority, in its discretion, may issue bonds of both types. The Authority may issue capital appreciation bonds or variable rate bonds. The bonds shall be authorized by resolution of the Board of Supervisors and shall bear such date or dates; mature at such time or times, not exceeding 40 years from their respective dates; bear interest at such rate or rates; be payable at such time or times; be in such denomination; be in such form; carry such registration

privileges; be executed in such manner; be payable from such sources and in such medium of payment and at such place or places; and be subject to such terms of redemption, including redemption prior to maturity, as such resolution or resolutions may provide. If any officer whose signature, or a facsimile of whose signature, appears on any bonds or coupons ceases to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes as if he had remained in office until the delivery. The bonds or notes may be sold at public or private sale for such price or prices as the Board of Supervisors shall determine. Pending preparation of the definitive bonds, the Authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds. The bonds may be secured by such form of credit enhancement, if any, as the Board of Supervisors deems appropriate. The bonds may be secured by an indenture of trust or trust agreement.

(C) The bonds may be validated, at the discretion of the Board of Supervisors, pursuant to Chapter 75, Florida Statutes.

(D) All of the purposes for which bonds or other obligations authorized to be issued by the Authority constitute essential governmental purposes, and interest paid thereon and all assets and property of the Authority and all fees, charges, and other revenues derived by the Authority from the projects provided by this Ordinance are intended to be exempt from all taxes by the state or any political subdivision, agency, or instrumentality thereof.

SECTION 3.05. TRUST FUNDS; TRUSTEES. The proceeds of all bonds or other obligations issued under this Ordinance and all revenues derived from the operation of the system for the payment of all or part of the cost of which any bonds or other obligations authorized by this Ordinance have been issued shall be and constitute trust funds, and shall be used and applied only in accordance with the proceedings authorizing the issuance of any bonds, or other obligations issued pursuant to this Ordinance, and the Authority may appoint trustees, within or outside the state, under trust agreements or indentures to hold and administer the proceeds of any such bonds or other obligations or any such revenues. The Authority may provide that the moneys or the funds and accounts established by the proceedings authorizing the issuance of any bonds shall be subject to the lien of the pledge established by the proceedings without any physical delivery thereof and the lien of the pledge is intended to be valid and binding as against all parties bringing claims of any kind in tort, contract, or otherwise against the Authority.

SECTION 3.06. COVENANTS OF THE BOARD WITH BONDHOLDERS.

(A) In addition to the other provisions and requirements of this Ordinance, any resolution or indenture of trust authorizing the issuance of bonds or any other obligations issued hereunder may contain provisions and the Board of Supervisors is authorized to provide and may covenant and agree with the several holders of such bonds or other obligations as to:

(1) Reasonable deposits with the Authority in advance to ensure the payment of rates, fees, or charges for the facilities of the system.

(2) The discontinuance of the services and facilities of the system, or both, for delinquent payments for either water or sewer services, and the terms and conditions of the restoration of such service.

(3) Limitations on the powers of the Authority to approve, construct, acquire or operate, or permit the construction, acquisition, or operation of any plants, structures, facilities, or properties which may compete or tend to compete with the system.

(4) The manner and method of paying service charges and fees and the levying of penalties for delinquent payments.

(5) Subject to law, the manner and order of priority of the disposition of revenues or redemption of any bonds or other obligations.

(6) Terms and conditions for modification or amendment of the resolution authorizing the issuance of bonds or other obligations.

(7) Provisions for and limitations on the appointment of a trustee for bondholders for the system.

(8) Provisions as to the appointment of a receiver of the system on default of principal or interest on any such bonds or other obligations or the breach of any covenant or

condition of the resolution authorizing such bonds or other obligations.

(9) Provisions as to the execution and entering into of trust agreements regarding the holding and disposition of revenues derived from the system or bonds.

(10) Provisions as to the maintenance of the System and reasonable insurance thereof.

(11) Any other matters necessary to secure the bonds and the payment of the principal and interest thereof.

(B) All such provisions of the resolution shall constitute valid and legally binding contracts between the Authority and the several holders of any such bonds and shall be enforceable by any such holder or holders by mandamus or other appropriate action, suit or proceeding in law or in equity in any court of competent jurisdiction.

SECTION 3.07. BONDS; QUALITIES OF NEGOTIABLE INSTRUMENTS; RIGHTS OF HOLDERS. All bonds issued hereunder shall not be invalid for any irregularity or defect in the proceedings for the issuance and sale thereof and shall be incontestable in the hands of bona fide purchasers for value. No proceedings in respect to the issuance of such bonds shall be necessary except such as are required by this Ordinance and general law. The provisions of this Ordinance shall constitute an irrevocable contract between the Authority and the holders of any such bonds or coupons issued thereof pursuant to the provisions hereof. Any holder of such bonds may either at law or in equity, by suit, action, or mandamus,

enforce and compel the performance of the duties required by this Ordinance or of any of the officers or persons herein mentioned in relation to said bonds, or the levy, assessment, collection, and enforcement and application of the revenues, assessments, or other funds pledged for the payment of the principal and interest thereof.

SECTION 3.08. AUTHORITY BONDS AS SECURITIES FOR PUBLIC BODIES. All bonds issued pursuant to this Ordinance shall be and constitute legal investments for state, county, municipal, and all other public funds and for banks, savings banks, insurance companies, executors, administrators, trustees, and all other fiduciaries and shall also be and constitute securities eligible as collateral security for all state, county, municipal, or other public funds, subject to the restrictions and limitations of Chapters 18, 136, 237, 518, 655, 657, 658, and 660 through 665, Florida Statutes.

SECTION 3.09. AD VALOREM TAXATION AUTHORIZED UPON VOTE OF ELECTORS. The Authority shall have the power to levy and assess an ad valorem tax on property not wholly exempt from taxation and within its boundaries only upon vote of the electors in conformance with Section 9(b), Article VII, of the Florida Constitution.

SECTION 3.10. SYSTEM DEVELOPMENT CHARGES.

(A) The Authority is hereby empowered to levy and collect system development charges for the water system and the sewer system, or both, for capital improvements and debt service on such

capital improvements as hereinafter specified, within the boundaries of the Authority, under all of the following conditions:

(1) Whenever a property owner or his authorized representative connects an existing structure to a system or portion thereof owned or operated by the Authority;

(2) Whenever a property owner or his authorized representative applies for a building permit to alter an existing structure previously connected to a water system or sewer system owned or operated by the Authority, where such alteration increases the potential demand on the Authority's systems;

(3) Whenever a property owner or his authorized representative applies for a building permit to construct a structure or alter a structure on property which according to an adopted plan is scheduled in the future to be connected to a system owned or operated by the Authority even though the property owner or his representative may receive interim water or interim sewer service from a source other than the Authority.

(B) If the structure on the property for which a system development charge has been paid is not authorized to connect to the Authority's systems within 10 years of the date of such payment, the property owner holding legal title at the end of the 10-year period shall be eligible for a refund of the system development charge without interest. The Authority shall notify the property owner of his eligibility for a refund by mailing

notice and an application for refund to the property owner. Such notice shall be sent by certified or registered mail with return receipt requested to the then owner of record as shown on the most recent ad valorem tax roll. Any property owner eligible for a refund shall file written application with the Board of Supervisors for a refund within 90 days of the date of mailing of the notice by the Authority or such property owner shall be deemed to have waived any right to a refund, and the Authority shall be entitled to retain and apply the system development charge for capital water and sewer improvements. Failure to construct the structure for which a system development charge has been paid shall not constitute grounds for a refund, nor shall delay or failure to receive the mailed notice of eligibility for a refund toll the 90-day time limit within which an application for refund must be filed.

(C) All system development charges imposed for the water system shall be segregated from all other funds held by the Authority and placed in a special fund. Except as otherwise provided by the resolution authorizing the issuance of bonds or other obligations of the Authority, monies from this fund shall not be transferred or used for any purpose other than capital improvements for raw water supplies, water treatment facilities, water transmission mains, storage facilities, pumping facilities, distribution lines, and related facilities required to provide new connections by new customers and for payment of debt service on public obligations issued to finance any such capital improvements.

Capital improvements which are designed to benefit existing customers of the Authority shall not be paid for with monies from this fund.

(D) All system development charges imposed for the sewer system shall be segregated from all other funds held by the Authority and placed into a special fund. Except as otherwise provided by the resolution authorizing the issuance of bonds or other obligations of the Authority, monies from this fund shall not be transferred or used for any purpose other than capital improvements for sewage treatment and disposal facilities, sewage transmission facilities, reclaimed water treatment facilities, reclaimed water distribution facilities, and related facilities required to provide new connections by new customers and for payment of debt service on public obligations issued to finance any such capital improvements. Capital improvements which are designed to benefit existing customers of the Authority shall not be paid for with monies from this fund.

(E) All system development charges shall be reviewed no later than five years after enactment by resolution, and at least every five years thereafter, by the Board of Supervisors to determine that the charges are equitable and proportionate to the current estimate of costs for providing the capital improvements for which the charges are imposed. The Board may change or revise the schedule of system development charges upon compliance with the notice and hearing requirements set forth for the adoption of rates, fees, and other charges.

(F) The Board of Supervisors, in its discretion, may permit the owners of existing structures which connect to the Authority's system to pay system development charges on an installment basis with interest over a period of years. In the event that system development charges shall not be paid as and when due, any unpaid balance thereof and all interest accruing thereon shall be a lien on any parcel of property affected thereby. Such liens shall be superior and paramount to the interest on such parcel or property of any owner, lessee, tenant, mortgagee, or other person except the lien of county taxes and shall be on a parity with the lien of any such county taxes. In the event that any such system development charge shall not be paid as and when due and shall be delinquent for 30 days or more, the Authority may file a notice of lis pendens and the unpaid balance thereof and all interest accrued thereon at the legal rate, together with attorney's fees and costs, may be recovered by the Authority in a civil action, and any such lien and accrued interest may be foreclosed or otherwise enforced by the Authority by action or suit in equity as for the foreclosure of a mortgage on real property.

(G) System development charges may be pledged to the payment of bonds or other obligations of the Authority, provided that the Authority has agreed in the resolution authorizing such bonds or other obligations that it maintain net revenues, together with special assessment proceeds and other revenues derived by the Authority, exclusive of system development charges, equal to at least 100 percent of the debt service on such bonds or obligations.

ARTICLE IV

GENERAL PROVISIONS

SECTION 4.01. UNPAID FEES TO CONSTITUTE A LIEN; FORECLOSURE PROCEDURE.

(A) In the event that the rates, fees, or charges for the services and facilities of the system shall not be paid as and when due, any unpaid balance thereof and all interest accruing thereon shall be a lien on any parcel or property affected thereby. Such liens shall be superior and paramount to the interest on such parcel or property of any owner, lessee, tenant, mortgagee, or other person except the lien of county taxes and shall be on a parity with the lien of any such county taxes. In the event that any rates, fees, or charges for the services and facilities of the system shall not be paid as and when due and shall be delinquent for 30 days or more, the Authority may file a notice of lis pendens and the unpaid balance thereof, any additional balance which accrues during foreclosure proceedings and all interest accrued thereon at the legal rate, together with attorney's fees and costs, may be recovered by the Authority in a civil action, and any such lien and accrued interest may be foreclosed or otherwise enforced by the Authority by action or suit in equity as for the foreclosure of a mortgage on real property.

(B) The Board of Supervisors shall also have the power, under such reasonable procedures as the Board of Supervisors may adopt from time to time, to discontinue and shut off either or both water and sewer services until delinquent rates, fees, or charges,

including interest at the legal rate, and charges for the discontinuance and the cost of restoration of such water and sewer services or both, are fully paid; and, for such purposes, the Board of Supervisors may enter onto any lands, waters, or premises of any person, firm, corporation, or body, public or private, within the Authority.

SECTION 4.02. FREE WATER AND SEWER PROHIBITED. Except as expressly provided by law, no free water or sewer services shall be rendered by the Authority and no discrimination shall exist in the rates, fees, and charges for users of the same class.

SECTION 4.03. COMPULSORY USE OF WATER, SEWER, AND RECLAIMED WATER FACILITIES AND SERVICES. The Authority shall implement to the fullest extent practicable the powers provided in this Ordinance, and comply with all requirements of Florida law, with respect to compulsory water, sewer, or reclaimed water connections.

SECTION 4.04. AUTHORITY APPROVAL OF CONSTRUCTION OF WATER AND SEWER FACILITIES.

(A) The Authority may adopt all necessary regulations by resolution that provide uniform design and construction specifications and procedures for the dedication of facilities to the City, the County, and the Authority. The Authority shall have the power and authority to promulgate, approve, and enforce design and construction standards for all water and sewer facilities constructed, installed, erected, or replaced by any person or entity within the boundaries of the Authority.

(B) The Authority may require, as a condition precedent to the approval of any construction of water or sewer facilities, (1) that all subdivision-type infrastructure, or other contributed transmission or distribution infrastructure necessary to serve a particular project or customer, and necessary easements be dedicated to the City, the County, the Authority, or a combination thereof (2) that the developer make available interim treatment facilities or services or contract for same on an interim basis from an authorized service provider, and (3) that the developer, or the person or entity the developer has contracted with to provide interim treatment service, lease back for nominal consideration and maintain such dedicated or contributed facilities until such time as the City, the County, or the Authority provides services.

SECTION 4.05. CONVEYANCE OF PROPERTY WITHOUT CONSIDERATION.

In a manner consistent with law, any municipality, county, district, authority, or other political subdivision of the state shall be authorized to sell, lease, grant, or convey any real or personal property to the Authority and any such sale, grant, lease, or conveyance may be for nominal consideration.

SECTION 4.06. PLANNING REQUIREMENTS.

(A) Within one year after the effective date of this Ordinance, the Board of Supervisors shall adopt a master plan which identifies current customers, projects, and future customers; profiles customers (residential, commercial, industrial); reviews and generally inventories all existing infrastructure and treatment facilities within the boundaries of the Authority; identifies a

capital improvement program for the Authority; reviews all current permits and compares existing regulations to projected regulations; identifies and evaluates potential acquisitions or service expansions; evaluates necessary administrative and operational staffing; provides for detailed mapping of system facilities; provides for hydraulic analysis of system facilities, both existing and proposed; evaluates present and future sources of raw water and the treatment requirements for those sources in terms of capacity, reliability and economy; provides for an analysis of all available wastewater alternatives, including surface water discharge, wetlands discharge, percolation facilities, spray irrigation and deep well injection; identifies reclaimed water storage alternatives and wet weather back-up alternatives; and identifies current and potential high volume users of reclaimed water. Thereafter, the Board of Supervisors shall review, and, if necessary, amend the master plan periodically, but not less often than every three years.

(B) Treatment facility construction, expansion, or line extension policies adopted by the Authority shall be in furtherance of land development regulations adopted by both the City and the County and their respective local government comprehensive plans.

(C) The construction or expansion of any water, sewer, or reclaimed water utility facilities, or major alterations which affect the quantity or quality of the level of service of the system, which is undertaken or initiated by the Authority shall be consistent with the applicable local government comprehensive plans

adopted pursuant to Chapter 163, Part II, Florida Statutes; provided, however, no local government comprehensive plan shall require the Authority to construct, expand, or perform a major alteration of any public facility which would result in the impairment of covenants and agreements relating to bonds validated, issued by the Authority, or assumed by the City or the County.

(D) The Authority shall take no action which is inconsistent with applicable comprehensive plans, land development ordinances, development agreements, or regulations adopted by either the City Council or the County Commission and in existence prior to the effective date of this Ordinance.

SECTION 4.07. CHARTER AND AMENDMENT. Upon the adoption of an ordinance by the City Council consenting to the creation of the Authority and agreeing to implement and be bound by the provisions hereof, this Ordinance shall be construed as the charter for the Authority and the County shall implement and be bound by the provisions hereof. The method for amending this Ordinance shall be by the adoption of an ordinance by the County Commission, consented to by the City Council, in conformance with the provisions of general law.

SECTION 4.08. MERGER; DISSOLUTION.

(A) In no event shall a merger involving the Authority and another unit of local government occur without prior consent of the City Council and County Commission.

(B) The charter of the Authority may only be revoked and the Authority dissolved by an Extraordinary Vote of the Board of

Supervisors after 150 days advance written notice in resolution form from the Board of Supervisors to the City Council and the County Commission.

(C) The charter of the Authority may alternatively be revoked and the Authority unilaterally dissolved by an ordinance adopted by the County Commission, consented to by the City Council.

(D) Unless otherwise provided by law, the dissolution of the Authority shall occur only at such time as (1) the legal and equitable rights, powers and interest of each and every bondholder are maintained inviolate and are reasonably expected to remain inviolate so long as they exist in law and equity, and (2) a dissolution plan is adopted by (a) an Extraordinary Vote of the Board of Supervisors, or (b) the City Council and the County Commission.

(E) Unless agreed to otherwise by the City Council and the County Commission, the dissolution of the Authority shall transfer the title to all water, sewer and reclaimed water facilities and all associated property and property rights owned by the County or the Authority to the City, which shall also assume all indebtedness and obligations associated therewith. Unless agreed to otherwise by the City Council and the County Commission, the dissolution plan shall require that the City perpetually covenant to not discriminate in any way or manner between users or landowners in the incorporated and unincorporated areas.

SECTION 4.09. EFFECT OF INCORPORATION, OR THE PRESENCE OF ANOTHER SPECIAL DISTRICT ON AUTHORITY. The subsequent annexation

of any area initially included within the boundaries of the Authority, or the presence or creation of any special district within the boundaries of the Authority, shall not impair or alter the authority, power and purpose of the Authority, or its successor, in providing water and sewer services and facilities within any portion of the Authority's boundaries now included within any municipality or special district or subsequently included within any municipality or special district.

SECTION 4.10. CONSTRUCTION OF LAW.

(A) Nothing in this Ordinance shall be construed to affect any actions taken or any contracts previously entered into by the City Council or the County Commission for the provision of water or sewer services within the boundaries of the Authority identified in this Ordinance. Nothing herein shall be construed to conflict with the authority and responsibility of the Florida Public Service Commission to regulate any utility or otherwise authorize a utility, other than the Authority, to provide service in a specific service area within the boundaries of the Authority as provided in Chapter 367, Florida Statutes.

(B) The provisions of this Ordinance shall be liberally construed to effect its purpose.

(C) All provisions of this Ordinance and all powers and discretion granted to the Authority and the Board of Supervisors shall be construed and performed and exercised in a manner not inconsistent with general or special law.

(D) Nothing contained in this Ordinance shall be construed or interpreted to include the Authority, the Board of Supervisors or any advisory board in the definition of agency contained in Section 120.52, Florida Statutes, or to otherwise subject the City, the County, the Authority, the Board of Supervisors or any advisory board to the application of the Administrative Procedures Act, Chapter 120, Florida Statutes. This declaration of intent and exclusion shall apply to all proceedings taken as a result of or pursuant to this Ordinance.

SECTION 4.11. SEVERABILITY. The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

SECTION 4.12. ALTERNATIVE METHOD. This Ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This Ordinance, being necessary for the welfare of the inhabitants of the City and the County, shall be liberally construed to effect the purposes hereof.

SECTION 4.13. EFFECTIVE DATE. A certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten days after enactment by the County Commission, and consent by the City

Council, and shall take effect upon receipt of official acknowledgment of filing as provided in Section 125.66(2), Florida Statutes.

DULY ENACTED this 9TH day of May, 1995.

BOARD OF COUNTY COMMISSIONERS
OF GLADES COUNTY, FLORIDA

(SEAL)

By: Robert Guiter

Chairman

ATTEST:

Amy T. Seal
Clerk