

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for certificate to )  
provide water & wastewater service )  
in Orange County by Zellwood Station )  
Co-Op, Inc. )  
\_\_\_\_\_ )

DOCKET NO. 980307-WS

NOTICE OF WITHDRAWAL OF PROTEST

COMES NOW, Banbury Village Association, Inc. (hereinafter the "Association"), by and through its undersigned counsel, and files this Notice of Withdrawal of Protest (this "Notice") in Florida Public Service Commission Docket No. 98-0307-WS. This withdrawal is based upon execution of the Stipulated Agreement dated September 2, 1998. This Stipulated Agreement is attached to and incorporated in this Notice as Exhibit "A."

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on the following: Original and 7 copies, together with document on diskette, via overnight delivery to:

Blanca S. Bayo, Director  
Division of Records and Reporting  
Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
(904) 413-6770

ACK \_\_\_\_\_  
AFA 1 \_\_\_\_\_  
APP \_\_\_\_\_  
CAF \_\_\_\_\_  
CMU \_\_\_\_\_  
CTR \_\_\_\_\_  
EAG \_\_\_\_\_  
LEG 3 \_\_\_\_\_  
LIN 3 \_\_\_\_\_  
OPC \_\_\_\_\_  
RCH \_\_\_\_\_  
SEC 1 \_\_\_\_\_  
WAS Walker \_\_\_\_\_  
OTH \_\_\_\_\_

With a copy via overnight delivery, to:

Cleveland Ferguson, Esquire  
FSPC Legal Division  
Capital Circle Office Center  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

RECEIVED  
SEP 17 10 32 AM '98  
ADMINISTRATION  
MAIL ROOM


DOCUMENT NUMBER-DATE

10245 SEP 17 98

With a copy via Hand Delivery, to:

Thomas A. Cloud, Esquire  
Gray, Harris & Robinson PA  
Post Office Box 3068  
Orlando, Florida 32802-3068  
(407) 843-8880

this 16<sup>th</sup> day of September, 1998.



James E. Olsen, Esquire  
Florida Bar No.: 607703  
Clayton & McCulloh  
1065 Maitland Center Commons Blvd.  
Maitland, Florida 32751  
(407) 875-2655

## STIPULATED AGREEMENT

THIS AGREEMENT made and entered into this 2<sup>ND</sup> day of SEPTEMBER, 1998, by and between ZELLWOOD STATION CO-OP, INC., a not-for-profit Florida corporation (hereafter "ZELLWOOD"), and BANBURY VILLAGE ASSOCIATION, INC., a Florida not-for-profit corporation (hereafter "BANBURY").

### RECITALS

1. On March 2, 1998, ZELLWOOD filed an application for a certificate for an existing system to provide water and wastewater service in Orange County, ("ORIGINAL CERTIFICATE"), and requesting initial rates and charges in accordance with Chapter, 367, Florida Statutes.

2. ZELLWOOD has proposed initial rates for water service of \$15.10 per month for the first 10,000 gallons of usage and a conservation rate charge of \$5.27 ("CONSERVATION RATE") for residential customer water usage in excess of 10,000 gallons per month but less than 20,000 gallons per month. ZELLWOOD has also proposed a flat rate wastewater charge of \$20.43 per month. Therefore, the total proposed rate ("PROPOSED RATE") per residential household requested by ZELLWOOD is \$35.53 per month for 10,000 gallons usage.

3. BANBURY filed a protest in Florida Public Service Commission ("FPSC") Docket No. 980307-WS, dated March 31, 1998.

4. A hearing was established for March 8 and 9 of 1999, by FPSC Order Establishing Procedure No. PSC-98-0707-P.O.-WS, as modified by FPSC Order No. PSC-

98-1004-P.O.-WS, dated July 24, 1998.

5. Representatives of the parties have been working together in good faith since early May of 1998 to resolve their differences, and have agreed to resolve these differences through stipulations and agreements as set forth below.

ACCORDINGLY, for and in consideration of the Recitals, the mutual undertakings and agreements herein contained and assumed, and other good and valuable considerations received by each party from the other, the receipt and sufficiency of which are acknowledged, the parties do hereby agree as follows:

**SECTION 1. RECITALS.** The above Recitals are true and correct, and form a material part of this Agreement.

**SECTION 2. RESOLUTION OF DISPUTE.** It is in the best interest of both parties to resolve their dispute concerning the pending application in FPSC Docket No. 980307-WS. To resolve their dispute, the parties agree as follows:

**2.1** ZELLWOOD and BANBURY hereby stipulate to the issuance of the ORIGINAL CERTIFICATE for the territory depicted and described in Exhibit "a" attached to and incorporated herein.

**2.2** ZELLWOOD agrees not to request or apply for any increase in the monthly PROPOSED RATE or CONSERVATION RATE for water and/or wastewater service that would take effect at any time prior to three (3) years from the date of execution of this Stipulated Agreement: provided, however, BANBURY will not object to and ZELLWOOD may seek to utilize, if appropriate and reasonable, the indexing provisions contained in applicable FPSC statute and rules.

**2.3** ZELLWOOD agrees that it shall not seek to implement the charging or collection of any CONSERVATION RATE for monthly water or wastewater until all meters for currently occupied residences have been installed within Zellwood Station, and

**2.4** ZELLWOOD agrees that prior to the end of the third year of the 3-year period referenced in paragraph 2.2 above, it shall file a new rate case for appropriate, just, fair and equitable rates with the FPSC and thereby provide an opportunity for all interested parties to participate in the investigating the appropriateness of any new rates which may be proposed at the conclusion of the 3-year period.

In return for these commitments, BANBURY hereby agrees and stipulates to the appropriateness of charging the PROPOSED RATE and the CONSERVATION RATE during a period of three (3) years from the date of execution of this Stipulated Agreement, and likewise agrees to file a notice of withdrawal of protest in FPSC Docket No. 980307-WS and not object to issuance of the ORIGINAL CERTIFICATE for water and wastewater service for ZELLWOOD or the implementation of PROPOSED RATE and/or CONSERVATION RATE as outlined herein. BANBURY will file the appropriate pleading to the FPSC acknowledging this Stipulated Agreement and withdrawing its objection and protest. Nothing herein shall be construed to prevent, prohibit, or otherwise act as a waiver of BANBURY's ability to intervene, object, or protest in any future proceedings before the FPSC.

**SECTION 3. SPECIFIC PERFORMANCE** The Stipulated Agreement shall be specifically enforceable in accordance with its terms by either party against the other by filing an appropriate legal action in the Ninth Judicial Circuit Court in and for Orange County, Florida. All provisions of this Agreement will survive any action by the FPSC to approve or

modify ZELLWOOD's pending application for certificate and approval of initial rates.

**IN WITNESS WHEREOF**, the parties hereto have hereunder executed this Agreement

on the date and year first above written.

Signed, sealed and delivered  
in the presence of:

**ZELLWOOD STATION CO-OP, INC.**

Attest: Jane L. Mercer  
Print Name: JANE L. MERCER  
Title: NOTARY

By: Irving H. Perkins  
Print Name: I. IRVING H. PERKINS  
Title: As PRESIDENT

DATE: Sept. 2, 1998

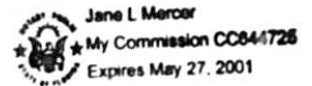
(CORPORATE SEAL)

STATE OF FLORIDA  
COUNTY OF ORANGE

Sworn to and subscribed before me this 2<sup>ND</sup> day of Sept, 1998 by IRVING H. PERKINS of **ZELLWOOD STATION CO-OP, INC.**, who is personally known to me or who has produced \_\_\_\_\_ as identification and acknowledged before me that he/she executed the foregoing instrument on behalf of ZELLWOOD

**NOTARY PUBLIC**

(Sign) Jane L. Mercer  
(Print) JANE L. MERCER  
State of Florida at Large (Seal)  
My Commission Expires on:



Signed, sealed and delivered  
in the presence of:

**BANBURY VILLAGE ASSOCIATION,  
INC.**

Attest: Betty Goeckel  
Print Name: BETTY GOECKEL  
Title: Secretary

By: Jean S. Abboud  
Print Name: Jean S. Abboud  
Title: President

DATE: September 1, 1998

(CORPORATE SEAL)

STATE OF FLORIDA  
COUNTY OF ORANGE

Sworn to and subscribed before me this 1<sup>st</sup> day of Sept., 1998 by  
Jean S. Abboud of **BANBURY VILLAGE ASSOCIATION, INC.**, who is  
personally known to me or who has produced \_\_\_\_\_  
as identification and acknowledged before me that he/she executed the foregoing instrument  
on behalf of BANBURY.

**NOTARY PUBLIC**

(Sign) Ellen R. Womack

(Print) Ellen R. Womack

State of Florida at Large (Seal)

My Commission Expires on:

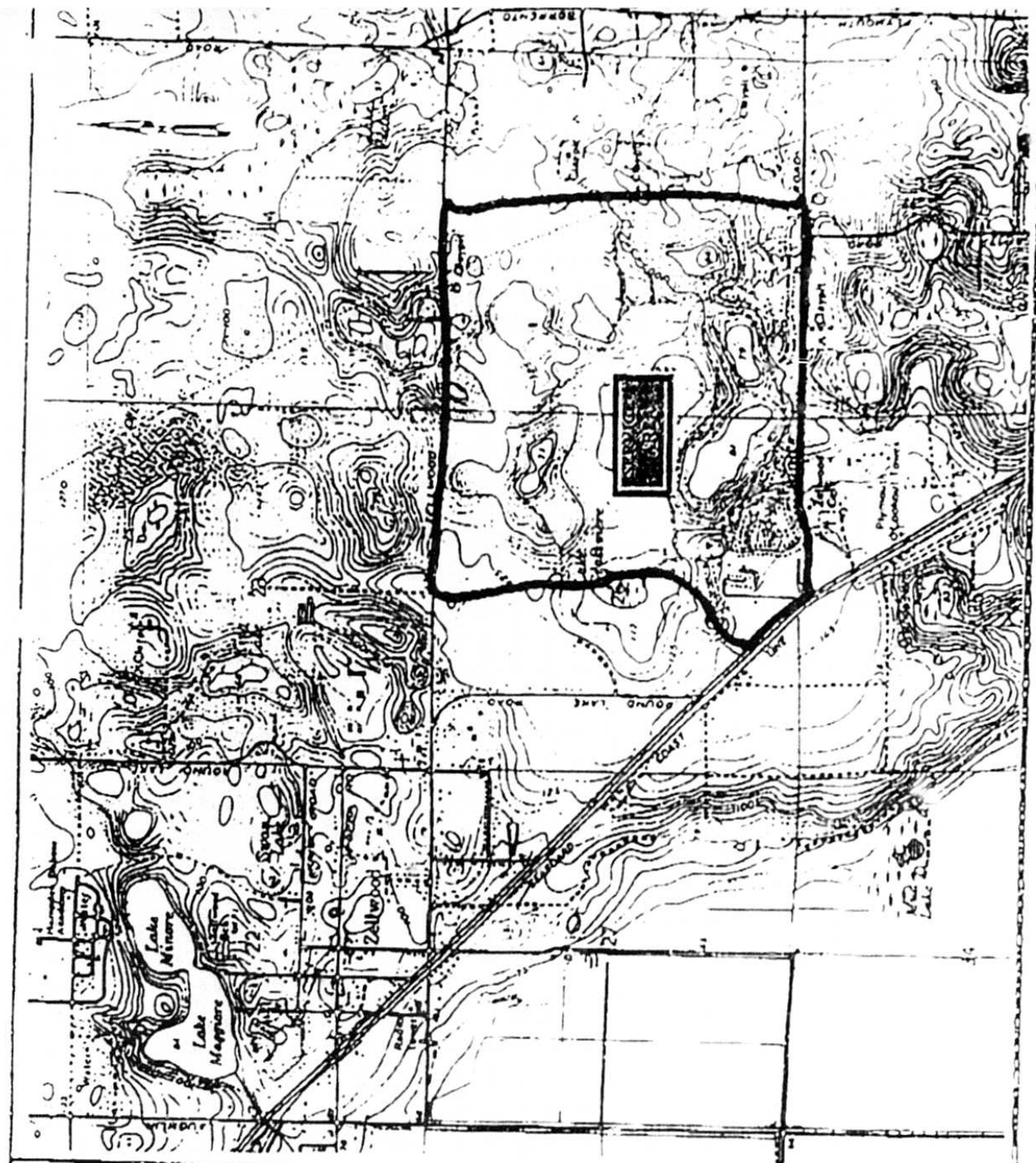
[Signature]  
[Signature]

Thomas A. Cloud, Esquire  
Florida Bar Number 293326  
Gray, Harris & Robinson, P.A.  
201 East Pine Street  
Suite 1200  
Orlando, Florida 32801  
Phone: (407) 843-8880  
Attorneys for Zellwood Co-Op

[Signature]

James E. Olsen, Esquire  
Florida Bar Number 607703  
Clayton & McCulloh  
1065 Maitland Center Commons Blvd.  
Maitland, Florida 32751  
Phone: (407) 875-2655  
Attorneys for Banbury





PROJECT:  
 ZELWOOD  
 SCALE: AS SHOWN  
 DRAWN: LCF  
 CHECKED: JRC  
 DATE: 8/19/80  
 SHEET 1 OF 1

**EXCEL ENGINEERING  
 CONSULTANTS, INC.**  
 ENVIRONMENTAL & CIVIL ENG.  
 FERN PARK, FLORIDA  
 TELEPHONE: (407) 260-2292  
 FACSIMILE: (407) 260-1193

**ZELLWOOD STATION  
 CO-OP, INC.**  
**ZELLWOOD, FLORIDA**  
 ORANGE COUNTY, FLORIDA

**APQPKA  
 USGS QUAD**  
 S26, 20, 36, & T27S, R27E  
 DATE: 1980  
 SCALE: 1"=2,000'

EXHIBIT "1"



EXHIBIT T-2

PARCEL 1:

Begin at a point on the West line of Section 25, Township 20, South, Range 27 East, Orange County, Florida, said point being 30.00 feet South of the Northwest corner of said Section 25; thence run North  $85^{\circ}44'53''$  East, along the South line of the North 30.00 feet of the West half of said Section 25, 2645.959 feet to a point on the North-South quarter section line, said point being 30.00 feet South of the North quarter corner of said Section 25, thence run North  $87^{\circ}35'27''$  East, along the South line of the North 30.00 feet of the East half of said Section 25; 1349.217 feet to a point on the East line of the West three quarters of said Section 25; thence run South  $02^{\circ}46'51''$  East, along the East line of the West three-quarters of said Section 25, 5283.769 feet to a point 30.00 feet North of the South line of said Section 25; thence run South  $80^{\circ}50'37''$  West, along the North line of the South 30.00 feet of said Section 25, 1322.303 feet to a point on the North-South Quarter section line of said Section 25, said point being 30.00 feet North of the South quarter corner of said Section 25; thence run South  $80^{\circ}50'37''$  West along the north line of the South 30.00 feet of said Section 25, 2229.402 feet to a point 430.00 feet East of the West line of said Section 25; thence run North  $02^{\circ}58'42''$  West, parallel to the West line of said Section 25, 95.00 feet; thence run South  $80^{\circ}50'37''$  West, parallel to the South line of said Section 25, 430.00 feet to a point on the West line of said Section 25; thence run South  $02^{\circ}58'42''$  East, along the West line of said Section 25, 95.00 feet to a point 30.00 feet North of the Southwest corner of said Section 25; thence run South  $87^{\circ}09'16''$  West, along the north line of the South 30.00 feet of Section 26, Township 20 South, Range 27 East, 2629.027 feet to a point on the North-South quarter Section line of said Section 26, said point being 30.00 feet north of the South Quarter corner of said Section 26; thence run South  $80^{\circ}45'34''$  West, along the North line of the South 30.00 feet of said Section 26, 16.523 feet to a point of intersection with the northerly right of way of State Road 441, said point being on a curve concave southwesterly and having a radius of 5859.65 feet and tangent bearing at said point of North  $42^{\circ}14'25''$  West, thence run northwesterly, along said curve and northerly right of way, 588 174 feet through a central angle of  $06^{\circ}45'04''$  to the point of tangency of said curve; thence run North  $47^{\circ}59'29''$  West, continuing along said northerly right of way, 850.808 feet to a point of intersection with the East line of the West 330.00 feet of the East half of the southwest quarter of said section 26, thence run North  $03^{\circ}22'34''$  West along said East line of the West 330.00 feet, 371.027 feet to a point 93.00 feet North of the North line of the southeast quarter of the southwest quarter of said Section 26; thence run North  $87^{\circ}07'09''$  East, parallel to the North line of said southeast quarter of the southwest quarter 1003.524 feet to a point of intersection with the North-South quarter section line of said Section 26, thence run North  $03^{\circ}27'28''$  West, along the North-South Quarter section line of said Section 26, 3300.103 feet to a point 699.00 feet South of the North quarter corner of said Section 26, thence run North  $89^{\circ}49'16''$  East, parallel to the North line of the East half of said Section 26, 788.00 feet, thence run North  $03^{\circ}27'28''$  West parallel to the North-South quarter section line of said Section 26, 669.00 feet to a point 30.00 feet South of the North line of the East half of said Section 26, thence run North  $89^{\circ}49'16''$  East, along the South line of the North 30.00 feet of the East half of said Section 26, 1894.646 feet to the Point of Beginning.

EXHIBIT "1"

EXHIBIT T-2

PARCEL 2

A parcel of land lying in the northwest quarter of the northeast quarter of Section 35, Township 20 South, Range 27 East, Orange County, Florida, said parcel being more particularly described as follows: From the northwest corner of the northwest quarter of the northeast quarter of Section 35, Township 20 South, Range 27 East, thence run North  $87^{\circ}09'16''$  East, along the North line of the northeast quarter of said Section 35, 7.536 feet to a point on the northerly right of way line of State Road No. 441, said point being on a curve concave Southwesterly and having a radius of 5859.65 feet; and a tangent bearing at said point of South  $41^{\circ}51'47''$  East, thence run Southeasterly, along said curve and Northerly right of way line, 38.610 feet through a central angle of  $00^{\circ}22'36''$  to a point, said point being on the Southerly right of way line of Yother Road and having a tangent bearing of South  $41^{\circ}29'12''$  East, said point also being the Point of Beginning, thence run North  $87^{\circ}09'16''$  East, along said southerly right of way line of Yother Road, 160.332 feet to an intersection with the Northerly right of way line of Merrimac Drive, thence run South  $48^{\circ}51'14''$  West, along said northerly right of way line of Merrimac Drive, 126.076 feet to a point, said point being on the northerly right of way line of said State Road No. 441 and on a curve with a tangent bearing at said point of North  $40^{\circ}30'54''$  West, thence run northwesterly, along said curve and northerly right of way line of said State Road No. 441, 99.373 feet through a central angle of  $00^{\circ}58'18''$  to the Point of Beginning.

PARCEL 3:

From the Northwest Corner of the Northeast 1/4 of Section 35, Township 20 South, Range 27 East, Orange County, Florida, run North  $87^{\circ}09'16''$  East along the north line of said Northeast 1/4 of Section 35 a distance of 780.52 feet for the Point of Beginning; thence continue North  $87^{\circ}09'16''$  East along said North line 348.97 feet to a point on a curve concave Southeasterly and having a radius of 585.60 feet; said point also being on the Northwesterly right of way line of Yothers Road, as recorded in O.R. Book 2658, Page 1318, of the Public Records of Orange County, Florida, thence from a tangent bearing of South  $55^{\circ}53'46''$  West, run Southwesterly along the arc of said curve and said northwesterly right of way line 43.28 feet through a central angle of  $04^{\circ}14'05''$  to a point of compound curvature of a curve concave southeasterly and having a radius of 526.37 feet; thence run Southerly along the arc of said curve 115.87 feet through a central angle of  $12^{\circ}38'45''$ ; thence leaving said Northwesterly right of way line run North  $50^{\circ}57'04''$  West 37.04 feet to a point on a curve concave northerly and having a radius of 243.00 feet; thence from a tangent bearing of South  $82^{\circ}04'38''$  West run Westerly along the arc of said curve 220.63 feet through a central angle of  $52^{\circ}01'15''$  to a Point of Beginning.

EXHIBIT "1"