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April 2, 2018

Ms. Carlotta S. Stauffer  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

**Re: NEW FILING – Petition for issuance of an order to the City of Leesburg and South Sumter Gas Company, LLC, to show cause why they should not be regulated by the Commission as a public utility as defined in Section 366.02(1), Florida Statutes, etc.**

Dear Ms. Stauffer:

Attached for electronic filing with the Commission on behalf of Peoples Gas System, please find People's Petition in the above referenced matter.

Your assistance in this matter is greatly appreciated.

Sincerely,

Andrew M. Brown

AB/plb  
Attachment

cc: Parties of Record  
Ms. Kandi M. Floyd  
Ansley Watson, Jr., Esq.

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for issuance of an order to the City )  
of Leesburg and South Sumter Gas Company, )  
LLC, to show cause why they should not be )  
regulated by the Commission as a public utility as )  
defined in Section 366.02(1), *Florida Statutes*, etc. )  
\_\_\_\_\_ )

Docket No. 2018\_\_\_\_\_-GU

Submitted for filing: 4-2-18

**PETITION OF PEOPLES GAS SYSTEM**

Peoples Gas System ("Peoples" or the "Company"), by its undersigned counsel and pursuant to Sections 120.565, 366.02(1) and 366.04(3)(b), *Florida Statutes*, and Rules 28-105.001 and 25-7.0472, *Florida Administrative Code*, petitions the Commission:

A. to issue an order to the City of Leesburg ("Leesburg") and South Sumter Gas Company, LLC ("SSGC"), to:

(1) show cause why the Gas System Construction, Purchase, and Sale Agreement between SSGC and Leesburg (the "Agreement"), does not create a partnership or other legal entity which, in supplying natural gas to or for the public, is, or will be, a public utility subject to the full regulatory jurisdiction of the Commission under Chapter 366, *Florida Statutes*;

(2) show cause why the Agreement is not a lease (as opposed to a purchase and sale) of public utility assets thereby requiring that SSGC, as the owner and lessor of such assets, be deemed a "public utility" as defined in Section 366.02(1), *Florida Statutes*, subject to the full regulatory jurisdiction of the Commission under Chapter 366, *Florida Statutes*; and/or

B. in the alternative, to issue a declaratory statement as to with which utility (Leesburg or SSGC, or a partnership, association or other legal entity created by the Agreement) Peoples should negotiate in an effort to resolve the territorial dispute addressed by Peoples' petition in Docket No. 20180055-GU. In support of its petition, Peoples states:

1. The name of the petitioner and the mailing address of its principal office are:

Peoples Gas System  
P.O. Box 111  
Tampa, Florida 33601-0111

2. The names, mailing addresses and other contact information of the persons authorized to receive notices and communications with respect to this petition are:

Andrew M. Brown, Esquire  
[ab@macfar.com](mailto:ab@macfar.com)  
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Manager – State Regulatory  
Peoples Gas System  
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### **BACKGROUND**

3. Peoples is a natural gas local distribution company ("LDC") providing sales and transportation delivery of natural gas throughout most of the State of Florida to a total of approximately 380,000 customers, and is a "natural gas utility" as defined in Section 366.04(3)(c), *Florida Statutes*, subject to the Commission's statutory jurisdiction to resolve territorial disputes.

4. Leesburg is a Florida municipality which operates a natural gas distribution system in portions of Lake and Sumter Counties which is a "natural gas utility" as defined in Section 366.04(3)(c), *Florida Statutes*, subject to the Commission's statutory jurisdiction to resolve territorial disputes.

5. Upon information and belief, SSGC is a Florida limited liability company formed on or about March 22, 2017. Despite its name, upon information and belief, SSGC currently provides

no natural gas service and has no customers.

6. SSGC and Leesburg have entered into the Agreement which, by its title and certain of its provisions, purports to be an agreement for construction, purchase and sale of certain natural gas distribution facilities, for the purpose of providing natural gas service to customers to be located within the "Service Area" described in the Agreement. A copy of the Agreement is attached hereto and made a part hereof as Exhibit A. (A copy of the Agreement is also included as a part of Composite Exhibit B to Peoples' petition in Docket No. 20180055-GU.) Notwithstanding its title, the Agreement contains provisions that may be inconsistent with a purchase and sale of the natural gas system assets to be constructed. For example, there is no fixed purchase price provided in the Agreement for the natural gas assets. Instead, Leesburg will pay to SSGC each month a portion of the revenues charged to natural gas customers within the Service Area; *i.e.*, they will share the revenues from the provision of natural gas service to customers within the Service Area.

7. The City of Leesburg has adopted an ordinance creating Section 22-250 of the City's Code of Ordinances, which establishes the rates to be charged to Leesburg customers within the Service Area. The rates established are the rates agreed to between the parties to the Agreement – SSGC and Leesburg. Section 22-250 also incorporates the Agreement's provision that Leesburg shall not offer transportation service to any customer located in the Service Area.

8. On February 23, 2018, Peoples filed with the Commission its petition to resolve a territorial dispute between the Company and Leesburg, SSGC and/or another entity consisting of the combination of SSGC and Leesburg that may be created by the Agreement. See Peoples' petition in Commission Docket No. 20180055-GU.

#### **ORDER TO SHOW CAUSE**

9. Chapter 366 confers on the Commission broad authority over the rates and services of natural gas public utilities and also creates a duty on the part of the Commission to

regulate such entities in the public interest. Peoples submits that in order to fulfill that duty the Commission must determine whether a separate legal entity, over which the Commission's powers must be exercised, is created by the Agreement between SSGC and Leesburg. In short, does the Agreement create a separate entity that is a "public utility" under Section 366.02(1), *Florida Statutes*? Alternatively, is the Agreement in fact a lease (as opposed to a purchase and sale agreement) requiring that SSGC, the owner/lessor of the leased assets, be regulated as a public utility? By this petition, Peoples requests that the Commission issue an order to SSGC and Leesburg requiring them to show cause why the Agreement (i) does not create a partnership, association or other legal entity comprised of both SSGC and Leesburg, which entity, in supplying natural gas to or for the public, is, or will be, a "public utility" as defined in Section 366.02(1), *Florida Statutes*, subject to the full regulatory jurisdiction of the Commission under Chapter 366, *Florida Statutes*, and additionally or alternatively why the Agreement is not a lease of public utility assets thereby requiring that SSGC, as the owner and lessor of such assets, be deemed a "public utility" as defined in Section 366.02(1), *Florida Statutes*, subject to the full regulatory jurisdiction of the Commission under Chapter 366, *Florida Statutes*.

10. If the Commission determines it has jurisdiction over SSGC or a new entity created by the Agreement, SSGC or the new entity would be required to file a tariff containing rates, rules and regulations, and seek the Commission's approval of the same. The rates established by the Agreement may or may not be just and reasonable, notwithstanding they are stated in the Agreement to be designed to "mirror" Peoples' rates for the same rate classes.<sup>1</sup>

11. Peoples submits that the Agreement is, or creates, a "partnership, association or

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<sup>1</sup> SSGC or the entity would also be required to comply with the Commission's policy, expressed in Rule 25-7.0335, requiring each natural gas public utility to offer the transportation of natural gas to all non-residential customers. As previously noted, the Agreement provides that Leesburg shall not offer transportation service to any customer, contrary to the Commission's policy that promotes customer choice for supply of gas commodities.

other legal entity” as those terms are commonly understood in Section 366.02, *Florida Statutes*.

Section 366.02(1) defines a public utility as:

. . . every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying . . . gas . . . to or for the public within this state.

Chapter 366 does not define any of those terms, but Section 366.02 does state that “public utility” does not include a municipality. So, the plain meaning of the statute is that a municipality such as Leesburg is not a public utility, but a partnership, association or other legal entity which supplies natural gas to the public is a public utility. Section 366.02 does not define the terms partnership, association, or other legal entity, but Peoples submits that by any plain and reasonable reading of those words, the Agreement between SSGC and Leesburg meets that description.

12. The nature of the Agreement is such that SSGC and Leesburg are partnering or associating to supply gas to the public. There is no purchase price or closing date in the contract and, unlike a typical purchase and sale agreement, this unusual Agreement contemplates a continuing association between the parties for an initial term of up to 30 years for the supply of natural gas to the public, thereby usurping or circumventing the regulatory powers of either the Commission or the Leesburg City Commission.

13. For example, in Section 4, the Agreement contemplates additional distribution lines being installed beyond those that are initially to be constructed by SSGC and delivered to Leesburg. In Section 6, the Agreement states that the parties anticipate that the Service Area will expand and that “the parties shall expand the Service Area from time to time by written amendment to this Agreement” (emphasis added). By the clear terms of the Agreement, SSGC will decide where Leesburg will expand service and then both parties shall expand the Service Area by amending the Agreement. SSGC and Leesburg are clearly associating or partnering to determine where Leesburg shall expand the Service Area and the Agreement gives SSGC

tremendous control to determine where the System (as defined in the Agreement) will be expanded.

14. The partnership or association between SSGC and Leesburg is perhaps seen most clearly in the treatment of natural gas rates. The Agreement requires that the total aggregate charges per therm and the monthly customer charges for the Villages' customers are to be equal to similar charges for Peoples' customers. It should be noted that if Peoples' monthly customer charges decrease, there is no requirement that Leesburg reduce its charges to the customers in the Service Area in order to pass the savings on to them. The same holds true for turn on-and turn off-charges. Those are to be equal to Peoples' similar charges unless Peoples' charges are less than the those charged to other Leesburg customers ("native customers") in which case the higher charges for the Leesburg native customers would apply. It is therefore clear that by entering into the Agreement, SSGC and Leesburg are jointly determining service charges for customers.

15. A perhaps more obvious partnership or association is found in Section 7.C. of the Agreement, which states that a "Native Rate" shall be determined with a fixed distribution charge of \$0.56348. The Agreement then states that if at any time the difference between the Villages Aggregate Charge and the Native Rates becomes less than the stated amount for each customer class, then Leesburg may request "in writing, for SSGC to approve a temporary increase in the Villages Aggregate Charge" to maintain the charge differential at the minimum levels set forth in the Agreement. The Agreement then provides that "SSGC may approve or deny, in its sole and absolute discretion, the City maintaining the minimum difference (through an increase to the Villages Aggregate Charge for such customers) from time to time," and that SSGC may subsequently withdraw its approval at any time. The dominant role that SSGC has in this process is demonstrated by the fact that if SSGC denies Leesburg's request to change the Villages Aggregate Charge, Leesburg's only recourse is to terminate the Agreement and to convey the

system back to SSGC upon its demand.

16. For federal income tax purposes, a "partnership" includes "a . . . joint venture, or unincorporated organization through or by means of which. . . any business, financial operation, or venture is carried on, and which is not, for federal income tax purposes, a corporation, trust, or estate." Internal Revenue Code ("I.R.C.") § 761(a). Additionally, under Treas. Reg. § 301.7701-1(a)(2), a joint venture or other contractual arrangement may create a separate entity for federal tax purposes if the participants carry on a trade, business, financial operation, or venture and divide the profits therefrom. Pursuant to *Azimzadeh v. Comm'r*, T.C. Memo. 2013-169, when determining whether a partnership has been formed, a court must apply a balancing test that focuses on the following factors:

- (a) The agreement of the parties and their conduct in executing its terms;
- (b) The contributions, if any, which each party has made to the venture;
- (c) The parties' control over income and capital and the right of each to make withdrawals;
- (d) Whether each party was a principal and coproprietor, sharing a mutual proprietary interest in the net profits and having an obligation to share losses;
- (e) Whether business was conducted in the joint names of the parties;
- (f) Whether the parties filed federal partnership returns or otherwise represented to the Commissioner or to persons with whom they dealt that they were joint ventures;
- (g) Whether separate books of account were maintained for the venture; and
- (h) Whether the parties exercised mutual control over and assumed mutual responsibilities for the enterprise.

17. To determine whether a partnership exists, at least for federal income tax purposes, one must apply I.R.C. § 761(a), Treas. Reg. § 301.7701-1(a)(2), and the applicable case law discussed above, which gives substance to the general rule provided in the federal

statute and regulation. An analysis of the Agreement yields the following:

- (a) First, there is a formal written Agreement between SSGC and Leesburg. The Agreement is not, or at least does not appear to be, simply for the sale and purchase of assets. Rather, the Agreement lays out in detail a relationship that is expected to last for a significant period, beginning with the construction of the gas system. Additionally, under Sections 5 and 6, the Agreement contemplates future expansion of the assets and services contemplated in the Agreement. These facts are indicative of a long-term relationship and the sharing of profits related thereto, which is a factor that weighs in favor of partnership status.
- (b) Second, both SSGC and Leesburg are contributing valuable assets to the venture. Leesburg has agreed to operate and maintain the "System" (as defined in the Agreement) to generate the revenue that will be shared (*i.e.*, contributed services). Also, it appears that SSGC will contribute the gas system ("System") to the venture. SSGC will not receive a fixed amount purchase price for the System. Rather, in exchange for the System, SSGC is entitled under the Agreement to a share of the venture's revenue going forward. This arrangement is representative of a typical partnership. Furthermore, there is no evidence that SSGC and Leesburg have attempted to value the System and to structure the revenue sharing so as to approximate a fair purchase price for the System. This type of valuation analysis would indicate an asset sale, but there is no evidence of such an analysis having been conducted.
- (c) Third, a court looks to the parties' control over the income and capital

of the venture. Based on the facts gleaned from the Agreement, Leesburg likely controls the capital of the venture as it operates and maintains the system. However, SSGC has some control over the venture's income due to the fact it controls the service rates which can be charged by Leesburg in the Service Area.<sup>2</sup> This factor also weighs in favor of partnership status.

- (d) Fourth, a court looks to distributions out of the partnership to the alleged partners. SSGC will receive monthly payment amounts from Leesburg based on revenue generated by gas sales to residential and commercial customers. If the distributions are truly from revenue generation, exclusive of costs incurred to generate such revenue, this factor likely weighs against partnership status. However, if the revenue distributions can be shown to factor in expenses incurred to generate such revenue, this would support a finding of partnership status as partners in a partnership generally share expenses. Based on the facts gleaned from the Agreement, this factor could weigh against a finding of partnership status for federal income tax purposes.
- (e) Fifth, a court looks to whether the business is or was conducted in the name of both alleged partners. Based on the provisions of the Agreement, Leesburg will not conduct business in the name of both

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<sup>2</sup> The parties to the Agreement have agreed on the rates that will apply to residential and commercial customers within the Service Area. Under the Agreement, if the difference between the rates applicable to customers in the Service Area and customers served by Leesburg in other areas do not maintain certain minimum levels specified in the Agreement, Leesburg can request that SSGC approve a temporary increase in the rates applicable to customers in the Service Area. If SSGC denies Leesburg's request, or approves, but then subsequently withdraws its approval at any time when the differential in rates is less than that required by the Agreement, Leesburg may terminate the Agreement. If Leesburg exercises its right to terminate under these circumstances, it must convey ownership and title to the System to SSGC upon demand, without consideration. See Section 7 of the Agreement.

itself and SSGC, nor hold itself out as being in a joint venture with SSGC. Therefore, this factor weighs against a finding of partnership status.

- (f) Sixth, a court will look to whether the venture will file partnership returns or otherwise hold itself out to be operated jointly by both alleged partners. SSGC and Leesburg will not likely file a partnership return and, as discussed above, Leesburg is unlikely to represent to customers that it is providing services in conjunction with SSGC. Thus, this factor weighs against a finding of partnership status.
- (g) Seventh, a court will look to whether formal books and records are kept of each alleged partner's interest in the venture. Under Section 10.B. of the Agreement, SSGC possesses the right to audit the books of Leesburg related to the sale of natural gas. Such formal books and records of SSGC's interest in the venture likely exist (or will exist) and reflect SSGC's separate interest in the venture. Furthermore, the right to audit the books and records of the venture is a right typically provided to a partner in a partnership. As such, the presence of separate books and records for SSGC's interest would weigh in favor of partnership status.
- (h) Finally, a court will look to whether the alleged partners possess mutual control and responsibilities for the enterprise. As discussed above, SSGC does control the rates which Leesburg can charge in the covered area. Furthermore, pursuant to Section 2 of the Agreement, SSGC is responsible for constructing the System as it sees fit. Leesburg may provide input and instructions on a limited basis, but the authority for

construction and design ultimately lies with SSGC. As such, SSGC possesses substantial control over the sole assets covered by the Agreement. Therefore, SSGC possesses ultimate authority over construction of the only assets and the service rates to be charged, which provides SSGC with substantial control over the enterprise. In contrast, Leesburg possesses full control over operations and the conduct of the business. However, SSGC's control over the System's construction and the service rates could be deemed more determinative than Leesburg's authority over the operations and conduct of the business. If that is the case, this factor weighs in favor of partnership status.

18. Based on the analysis set forth in paragraph 17 above, applying the multi-factor test provided in *Azimzadeh v. Comm'r*, a compelling argument can be made, and Peoples urges the Commission to find, that the Agreement between SSGC and Leesburg results in their constituting a partnership for federal income tax purposes. Five of the eight factors in *Azimzadeh v. Comm'r* would support such a conclusion. A determination of the status of the venture between SSGC and Leesburg is within the province of the Commission to make in order that it might exercise its regulatory jurisdiction if it determines an entity is created that constitutes a public utility. *PW Ventures, Inc. v. Nichols*, 533 So.2d 281 (Fla. 1988).<sup>3</sup>

19. Alternatively, the Agreement creates a joint venture between SSGC and Leesburg. Under Florida law, a joint venture "is created when two or more persons combine their property

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<sup>3</sup> Note also that Article VII, Section 10 of the Florida Constitution provides that "[n]either the state nor any . . . municipality . . . , or agency of any of them, shall become a joint owner with, or stockholder of, or give, lend or use its taxing power or credit to aid any corporation, association, partnership or person; . . . " Cf. [2002 Fla. Op. Att'y Gen. 07, 2002 WL 76762 \(2002\)](#).

or time or a combination thereof in conducting some particular line of trade or for some particular business deal". *Jackson-Shaw Co. v. Jacksonville Aviation Authority*, 8 So. 3d 1076 (Fla. 2008) at 1089; citing *Kislack v. Kreedian*, 95 So. 2d 510 (Fla. 1957). The court noted that the relationship must arise out of a contract and that the contract must contain the following elements:

- (1) A community of interest in the performance of the common purpose;
- (2) Joint control or right of control;
- (3) A joint proprietary interest in the subject matter,
- (4) A right to share in the profits; and
- (5) A duty to share in any losses which may be sustained. *Jackson-Shaw* at 1089.

20. Peoples submits that the Agreement clearly has the foregoing characteristics of a joint venture. There is a community of interest in the performance of providing gas service to customers within the Service Area of The Villages covered by the Agreement.<sup>4</sup> Both SSGC and Leesburg have joint control or a right of control. SSGC is installing distribution lines and also has a right of control over the pricing mechanism and any changes to the price in the future. Both the City of Leesburg and SSGC have a proprietary interest in that they both stand to make money from the extension of the Leesburg gas system into areas that are being developed by The Villages. They are sharing in the rights to profits in the venture, as evidenced by the fact that the payments being made to SSGC are from the profits made by the City of Leesburg on the gas business.

21. Peoples submits that Leesburg cannot reasonably argue it has not entered into a joint venture with SSGC, or that the joint venture thus created should not be regulated as a public utility. It has by contract given SSGC the right to approve or disapprove rate increase requests

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<sup>4</sup> It is also likely that the "Developer" of the Service Area – The Villages Land Company, LLC – is an affiliate of SSGC and, in effect, will be deciding where the Service Area will expand and, with its affiliate SSGC, deciding the rates to be charged to customers in the Service Area.

by Leesburg. In so doing, it has either given away its legislative authority to set customer rate levels (and perhaps forfeited its right to be regulated as a municipal utility excluded from the Section 366.02 definition of "public utility") or, alternatively, entered into a public utility joint venture where the decision to increase customer rates is shared by Leesburg and SSGC, as opposed to being properly determined by the Commission. This impermissibly allows SSGC, or another entity created by the Agreement, to usurp the rate setting jurisdiction of the Commission or of the Leesburg City Commission.

22. As a final alternative, Peoples submits that the Agreement has many characteristics of a lease (as opposed to a purchase and sale agreement), and requests that the Commission issue an order to SSGC to show cause why, as the owner/lessor of the System (as defined in the Agreement) it should not be deemed a public utility subject to the Commission's full regulatory authority under Chapter 366, *Florida Statutes*.

23. A "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration", Section 680.1031(j), *Florida Statutes*. A Lease has also been defined as:

An agreement for the delivery of property to another under certain limitations for a specified period of time after which the property is to be returned to the owner. *Kraemer v. General Motors Acceptance Corporation*, 572 So. 2d 1363 (Fla. 1990) at 1366.

24. Although the Agreement is styled as one for purchase and sale, in reality under every scenario of the Agreement's termination or expiration, the utility infrastructure being "sold" by SSGC to Leesburg is returned to SSGC for no additional consideration. In Section 5 entitled City's Obligations, the Agreement provides that if Leesburg cannot utilize the system (which is defined as the infrastructure installed by SSGC), due to any regulatory ruling that would prevent the City from providing service within the service area, Leesburg is to convey title and ownership of all portions "of the System previously conveyed from SSGC to the City (Leesburg), back to

SSGC, free and clear of all liens and encumbrances for no consideration.”

25. In Section 7, if Leesburg requests a temporary increase in the Villages’ Aggregate Charge and such request is not approved by SSGC, and as a result Leesburg terminates the Agreement, Leesburg shall convey ownership and title to the System to SSGC upon demand “without consideration”.

26. In Section 11 (B), Termination, if SSGC determines that Leesburg has breached the Agreement and if the breach is not cured within the applicable timeframe, Leesburg is to convey the System to SSGC without consideration upon SSGC’s request.

27. In Section 11 (B)(ii), if The City of Wildwood were to fail to issue Leesburg’s Franchise on or before April 1, 2018, then Leesburg would, upon SSGC’s request, convey the System to SSGC without consideration. While this did not happen, it is a significant point in that it is consistent with the remainder of the Agreement where under every termination scenario, the utility infrastructure which SSGC “sold” to Leesburg is returned to SSGC for free.

28. In Section 13, Option to Purchase, SSGC is given an option to repurchase the System upon expiration of the term. The term is defined under Section 11(A) as the expiration or termination of Leesburg’s Franchise with the City of Wildwood. At the end of that term, SSGC has the option to purchase from Leesburg “for a price equal to the depreciated value of the System.” Depending on the rate at which the System is depreciated, it is entirely possible that there would be no depreciated value to purchase if the Franchise Agreement ran for anywhere close to its 30-year term. Once again, the System ends up going back to SSGC on termination of the Agreement.

29. Under Section 15(M), if the Commission classifies SSGC as a public utility subject to its jurisdiction, the parties will attempt to negotiate amendments to the Agreement, but if they cannot do so in thirty (30) days, either party may terminate the Agreement and if so, Leesburg shall convey the System to SSGC without consideration. Every way that this Agreement can be

terminated results in the System's being conveyed back to SSGC for no additional consideration. That is the hallmark of a lease.

WHEREFORE, Peoples respectfully urges the Commission to issue its order to Leesburg and SSGC to show cause why the Agreement does not create a partnership, association or other legal entity which, in supplying natural gas to or for the public, is, or will be, a public utility subject to the full regulatory jurisdiction of the Commission under Chapter 366, *Florida Statutes*, and why the Agreement is not a lease (as opposed to a purchase and sale) of public utility assets thereby requiring that SSGC, as the owner and lessor of such assets, be deemed a "public utility" as defined in Section 366.02(1), *Florida Statutes*, subject to the full regulatory jurisdiction of the Commission under Chapter 366, *Florida Statutes*, and to issue such other orders as may be appropriate in the circumstances determined by the Commission.

#### **REQUEST FOR DECLARATORY STATEMENT**

30. Whether or not the Commission issues an order or orders to show cause as requested above, Peoples seeks a declaratory statement as to which utility (Leesburg or SSGC, or a partnership, joint venture or other legal entity created by the Agreement between the two) Peoples should negotiate with in an effort to resolve the territorial dispute addressed in Docket No. 20180055-GU. Peoples' substantial interests will be affected in that the Commission's determination will enable the Company to know with which of the above entities it must work to resolve the dispute described in Docket No. 20180055-GU, which the Commission has the power to resolve pursuant to Section 366.04(3). This will involve the Commission's determination as to whether the Agreement creates a separate entity which is a "public utility" as defined in Section 366.02(1), *Florida Statutes*, and – if no such separate entity is created by the Agreement – a determination as to whether Peoples must resolve the dispute with Leesburg or SSGC pursuant to the Commission's jurisdiction under Section 366.04(3)(b), *Florida Statutes*.

31. Under some provisions of the Agreement, and on the expiration or earlier

termination thereof, title to the System can be transferred to SSGC which would have either to operate it itself (and thereby become a public utility if it is not found by the Commission to be one currently), or to find another entity to operate it (which other entity would either be or become a public utility). In order for a territorial agreement in settlement of the territorial dispute in Docket No. 20180055-GU to protect Peoples' interests, Peoples needs to know with which entity the dispute must be resolved. The same would be true if the dispute is not settled, and must be resolved by the Commission.

32. The particular circumstances in which the referenced statutes may substantially affect Peoples are set forth in this petition and in Peoples' petition in Docket No. 20180055-GU.

33. Simply put, Peoples is in need of the Commission's determination as to which entity the Company should attempt to negotiate with in an effort to avoid protracted litigation in Docket No. 20180055-GU. It should also be noted that Section 180.06, *Florida Statutes*, lists the activities authorized by municipalities and "private companies" such as SSGC, but states at the end of the section:

However, a private company or municipality shall not construct any system, work, project or utility authorized to be constructed hereunder in the event that a system, work, project or utility of a similar character is being actually operated by a municipality or private company in the municipality or territory immediately adjacent thereto, unless such municipality or private company consents to such construction.

Peoples is in doubt regarding which of SSGC, Leesburg, or another entity created by the Agreement, should have sought Peoples' consent to the construction of the System, which is ongoing.

WHEREFORE, whether or not the Commission issues orders to show cause as hereinabove requested, Peoples requests the Commission to issue a declaratory statement as to which utility (Leesburg or SSGC, or a partnership or other legal entity created by the Agreement between the two) Peoples should negotiate with in an effort to resolve the territorial dispute addressed in Docket No. 20180055-GU, and which of them should have sought Peoples' consent to the construction of the System, which is ongoing.

Respectfully submitted,



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Tampa, Florida 33601-1531

Attorneys for Peoples Gas System

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing petition has been furnished to the following by means of the following, this 2nd day of April, 2018:

Al Minner, City Manager  
City of Leesburg  
501 West Meadow Street  
Leesburg, FL 34748  
(Via U. S. Mail)

Jack Rogers, Director, Gas Department  
City of Leesburg  
501 West Meadow Street  
Leesburg, FL 34748  
(Via U. S. Mail)

South Sumter Gas Company, LLC  
1020 Lake Sumter Landing  
The Villages, FL 32162  
(Via U. S. Mail)

Jon C. Moyle, Jr., Esquire  
Karen A. Putnal, Esquire  
Moyle Law Firm, P.A.  
118 North Gadsden Street  
Tallahassee, FL 32301  
(Via E-mail attachment)

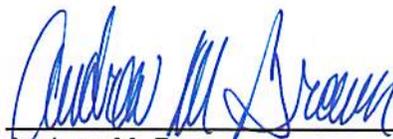
Todd K. Norman, P.A.  
Broad and Cassel LLP  
390 N. Orange Ave.  
Suite 1400  
Orlando, FL 32801  
(Via E-mail attachment)

Brian D. Hudson, Esquire  
As Registered Agent for  
South Sumter Gas Company, LLC  
1020 Lake Sumter Landing  
The Villages, FL 32162  
(Via U. S. Mail)

Adria Harper, Esquire  
Walter Trierweiler, Esquire  
Office of General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850  
(Via E-mail attachment)

Floyd R. Self, B.C.S.  
Berger Singerman LLP  
313 North Monroe Street, Suite 301  
Tallahassee, Florida 32301  
(Via E-mail attachment)

John L. Wharton, Esquire  
Dean Mead & Dunbar  
215 S. Monroe Street, Ste. 815  
Tallahassee, FL 32301  
(Via E-mail attachment)



Andrew M. Brown

## EXHIBIT A



## AGENDA MEMORANDUM

**Item No:** 5D.  
**Meeting Date:** February 12, 2018  
**From:** Jack Rogers, Gas Director  
**Subject:** Resolution approving a Natural Gas Agreement with South Sumter Gas Company, LLC

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**Staff Recommendation:**

Staff recommends adoption of a Resolution approving a Natural Gas Agreement with South Sumter Gas Company, LLC

**Analysis:**

South Sumter Gas Company, LLC (SSGC) is constructing natural gas infrastructure in the Villages Community generally located within the City of Wildwood, south of U.S. Highway 44. Upon completion of each section, they wish to convey ownership of the system, to the City of Leesburg, for maintenance and operation of the system. Currently it is estimated that there will be 14,000 natural gas homes built over the next 4-5 years. This number is expected to significantly increase as new land is acquired by The Villages. Under this Agreement Leesburg is obligated to fund construction of a 6" main line on County Road 501 and another in the future on U.S. Highway 44 and 468. Both lines are necessary to supply gas to the Developments. The City also agrees to supply the automated reading devices, which will assure accuracy and efficient reading of meters over manual reads. Automated reading devices are currently being used for all 12,000 of Leesburg's natural gas customers. In consideration of SSGC's significant investment in the design, engineering, and construction of the system, the City of Leesburg agrees to share with SSCG revenue realized from the sale of natural gas to residential and commercial customers within the community. To accomplish the objectives of the Agreement, Leesburg will establish a Villages Natural Gas rate, which in aggregate will mirror the rate paid by similarly situated customers in the Villages who are currently served by TECO, Peoples Gas. The term of the Agreement is for 30 years, consistent with the Franchise that will be granted by the City of Wildwood. Leesburg has the option to terminate the Agreement at any time, should revenues not meet the threshold established in the agreement.

**Options:**

1. Approve a Natural Gas Agreement with South Sumter Gas Company, LLC; or
2. Such alternative action as the Commission may deem appropriate.

Submission Date and Time: 2/7/2018 4:15 PM

Department: <u>Gas</u>	Reviewed by: Dept. Head <u>JR</u>	Account No. _____
Prepared by: <u>JR</u>	Finance Dept. _____	Project No. _____
Attachments: Yes <input checked="" type="checkbox"/> No _____	Deputy C.M. _____	WF No. _____
Advertised: <u>Not Required</u>	Submitted by: _____	Budget _____
Dates: _____	City Manager _____	Available _____
Attorney Review : Yes <input checked="" type="checkbox"/> No _____		
Revised 6/10/04		

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE CITY OF LEESBURG, FLORIDA  
AUTHORIZING AND DIRECTING THE MAYOR AND CITY  
CLERK TO EXECUTE A NATURAL GAS SYSTEM  
CONSTRUCTION, PURCHASE, AND SALE AGREEMENT  
BETWEEN THE CITY OF LEESBURG AND SOUTH SUMTER  
GAS COMPANY, LLC FOR THE PURPOSE OF SETTING FORTH  
THE TERMS AND CONDITIONS UNDER WHICH THE CITY  
OF LEESBURG WILL PROVIDE NATURAL GAS UTILITY  
SERVICE TO CERTAIN PORTIONS OF THE VILLAGES  
COMMUNITY; AND PROVIDING AN EFFECTIVE DATE.

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG,  
FLORIDA:**

THAT the Mayor and City Clerk are hereby authorized and directed to execute a Natural Gas System Construction, Purchase, and Sale Agreement between the City of Leesburg and South Sumter Gas Company, LLC, for the purpose of setting forth the terms and conditions under which the City of Leesburg will provide natural gas utility service to certain portions of the Villages communities designated under the terms of this Agreement as the "Service Area".

**THAT** this resolution shall become effective immediately.

**PASSED AND ADOPTED** by the City Commission of the City of Leesburg, Florida, at a regular meeting held the 12th day of February 2018.

\_\_\_\_\_  
H.D. Robuck, III, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

NATURAL GAS SYSTEM  
CONSTRUCTION, PURCHASE, AND SALE AGREEMENT

THIS NATURAL GAS SYSTEM CONSTRUCTION, PURCHASE, AND SALE AGREEMENT ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2018 (the "Effective Date"), by and between SOUTH SUMTER GAS COMPANY, LLC, a Florida limited liability company, whose address is 1020 Lake Sumter Landing, The Villages, FL 32162 ("SSGC"), and THE CITY OF LEESBURG, FLORIDA, a municipal corporation, whose address is 501 W. Meadow Street, Leesburg, Florida 34748 ("City"). SSGC and the City are individually referred to as a "Party" and collectively as "Parties."

RECITALS

A. The Villages Land Company, LLC, a Florida limited liability company, and its affiliates (collectively, the "Developer") are the developers of certain portions of The Villages® community (the "Community") located south of State Road 44 in Sumter and Lake Counties, Florida and more particularly depicted in the attached *Exhibit "A"* (as amended from time to time in accordance with the terms of this Agreement, the "Service Area").

B. The City is a municipality organized and authorized under Florida law to, among other things, supply natural gas as a natural gas local distribution utility, and is presently supplying natural gas service to its end user customers both within its corporate geographic boundary, and within portions of Lake County and Sumter County, Florida outside of its corporate geographic boundary.

C. Portions of the Service Area are located within the city limits of the City of Wildwood, Florida.

D. The City intends to obtain a franchise from the City of Wildwood, Florida permitting the City to provide natural gas service within the city limits of the City of Wildwood (the "City Franchise").

E. Furthermore, in each Declaration of Covenants, Conditions, and Restrictions recorded against every residential subdivision located within the Service Area (collectively, the "Declarations"), Developer has reserved and will reserve the right to select the natural gas service provider to provide its residents with consistent natural gas service quality, operation, and maintenance; and pursuant to that certain Continuing Designation of Franchised Gas Servicer executed by Developer, a copy of which has been delivered to City, Developer has selected the City as the natural gas provider under the Declarations during the Term (defined herein) of this Agreement.

F. The City and SSGC each wish for SSGC to construct within the Service Area, in phases, a natural gas local distribution system consisting of natural gas pipelines, meters, and such other appurtenances as more particularly described herein (collectively, and as more particularly defined in Section 1 below, the "System"), and upon completion of each portion of the System, sell and convey the System to the City so the City can safely and reliably distribute

Natural Gas System Construction and Lease Agreement  
Page 2 of 16

natural gas to residential and commercial users within the Service Area, all as more particularly set forth herein.

**NOW, THEREFORE**, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SSGC and the City agree that the foregoing Recitals are true and correct, and hereby incorporate them into this Agreement in full by reference, and further agree as follows:

1. **System Defined.** For purposes of this Agreement, and without limiting the description provided in the Recitals above, the "System" shall constitute those natural gas pipelines and associated equipment and facilities constructed by SSGC between the point of demarcation designated by the Parties for service to the Service Area and the outlet side of the meter installed by SSGC at each customer premises. The point of demarcation is deemed to be located at the outlet of the valve immediately upstream of the pressure regulator station(s). Generally, the System shall include the distribution lines that run along the streets and roads within the Service Area along with such necessary service lines, pressure regulator stations, individual meters and regulators for each customer, communication systems and other natural gas appurtenances by which natural gas will be locally distributed to the City's individual natural gas customers within the Service Area. The System shall not include any City-owned distribution and/or transmission lines upstream of the point of demarcation. The customer-owned gas supply line from the outlet side of the meter to the customer-owned equipment, and any customer-owned equipment regulators or other appurtenances are not included within the scope of the System or this Agreement and generally shall be constructed and paid for by the property owner, Developer, or other third party outside the scope of this Agreement.

2. **SSGC's Obligations.** SSGC shall construct the System as development within the Service Area occurs, pursuant to the standards and specifications set forth in the Construction and Specification Standards, prepared by SSGC, a copy of which the City acknowledges receiving, applicable industry standards, and such other reasonable instructions and directions as may be provided from time to time in writing by the City to SSGC which do not materially increase SSGC's cost of construction or conflict with previously-approved standards and specifications (collectively, the "Standards"). SSGC shall design, engineer, and construct all natural gas distribution facilities including, but not limited to, distribution mains, district regulating stations, service lines, meters (including City-approved automatic meter reading ("AMR") equipment), regulators and meter and regulator sets at its sole cost; *provided however*, notwithstanding the foregoing, the City agrees to reimburse SSGC, upon demand, for any reasonable increase in SSGC's cost to purchase and install AMR equipment instead of manual meter reading equipment. The System shall enable the supply of natural gas service to all residential and commercial users within the Service Area. The System shall be designed and engineered to accommodate a single service line and meter to each lot and tract within the Service Area. After construction of the System, in the event a tract or parcel is subdivided into multiple lots, or a tract or parcel is developed in a manner requiring multiple meters or service lines, or a tract or parcel requiring or desiring natural gas service is created subsequent to the initial construction of the System, SSGC shall construct at its expense such additional

Natural Gas System Construction and Lease Agreement  
Page 3 of 16

distribution lines and other facilities as to permit City to supply natural gas service to each customer, to whatever extent service lines to each parcel are not constructed during the initial construction of the overall System. Upon completion of such additional service and distribution lines or other facilities, such facilities shall become subject to this Agreement. SSGC shall construct the System within existing easements and right-of-ways where natural gas lines may be installed or it will obtain such easements or other rights as may be needed where existing easements and right-of-ways are not adequate. SSGC shall perform at its sole cost and expense all studies, analyses, engineering, contracting, acquisition, construction, supervision, testing, acceptance, and other acts necessary to construct the System pursuant to the Standards, and the City shall have the right but not the obligation to perform, at its sole cost and expense, such tests and inspections reasonably required by the City to confirm the same. SSGC shall notify City in advance of constructing each portion of the System and provide the City with the opportunity to perform such tests and inspections reasonably required to confirm that SSGC has constructed such portions of the System in accordance with the Standards and this Agreement. SSGC shall follow all federal, state, municipal, and local codes and regulations in the construction and installation of the System, and SSGC shall be responsible for obtaining all permits, easements, authorizations, labor, materials, contracts, and other things and actions necessary to construct the System. The final report of the inspections conducted by SSGC shall be provided to the City prior to turnover of each portion of the System, and the reports shall be certified to the City as an additional party entitled to rely on it. SSGC shall promptly provide to the City "as-built" drawings, suitable to the City, for all facilities constructed under this Agreement.

3. **SSGC Insurance.** At all times during periods of System construction, SSGC shall be required to obtain and maintain the following insurance coverage in connection with construction of the System:

General Liability - \$2,500,000  
Worker's Compensation – as required by Florida law  
Automobile - \$500,000, to the extent SSGC owns any automobiles  
Umbrella Liability - \$5,000,000  
Completed operations – coverage equal to the lesser of (i) the actual total cost incurred from time to time to construct System, and (ii) \$10 million, subject to ten (10) years or the applicable statutes of repose, whichever is less at the time of loss

4. **Purchase and Sale of the System.** SSGC shall sell and convey to the City by Bill of Sale, in the form reasonably required by City, and the City shall purchase and accept from SSGC, each portion of the System constructed by SSGC under this Agreement (each such occurrence is referred to herein as a "Closing"), upon the completion of all of the following conditions in each instance (collectively, the "Closing Conditions");

- A. SSGC has substantially completed such portion of the System;
- B. The tests and inspection reports required by Section 2 above have been completed, delivered, and certified to the City;
- C. SSGC has assigned to the City any manufacturer warranties applicable to such portions of the System;

Natural Gas System Construction and Lease Agreement  
Page 4 of 16

- D. SSGC has delivered to City a map depicting the portion of the System included in the applicable Closing; and
- E. In addition to conditions A, B, C and D above, within thirty (30) days after delivery to the City of the Bill of Sale, SSGC shall deliver to the City "as-built" drawings as required by Section 2 above.

Portions of the System completed after initial construction, such as but not limited to distribution lines to serve additional parcels, service lines from the System to each customer, and meters installed after initial construction, shall be turned over to the City upon substantial completion, using the same criteria specified above.

5. **City's Obligations.** As each portion of the System is sold and conveyed to the City in accordance with Section 4 above, the City shall then be wholly responsible for all operation, maintenance, repairs (including capital repairs), and upkeep of the System, and SSGC shall have no financial or other responsibility for the operation, maintenance, repairs and upkeep of the System, and SSGC provides no warranty with respect to the System after acceptance; *provided however*, notwithstanding the foregoing, SSGC shall provide the City a limited warranty and assume the obligation to correct construction defects arising and discovered within one (1) year of each Closing (the "SSGC Warranty"). The SSGC Warranty shall commence as to each portion of the System on the date of Closing, and shall expire as to such portion(s) on the date that is one (1) year thereafter. Operation and maintenance activities shall include, but not be limited to, meter reading, line locates, leak surveys, meter turn ons and offs, and maintenance tasks. The City shall also be responsible for customer service related activities, including customer inquiries, billing, payment collection and other related functions, all as more particularly set forth in Section 8 below. Upon conveyance of each portion of the System, the City shall assume at its sole cost and expense full operational and legal responsibility for all aspects thereof. The City shall operate and provide natural gas service to the Service Area utilizing the System along with its own pipelines and related equipment and facilities as an integrated part of the City's natural gas utility operations. As the System is gradually conveyed to the City, the City shall be the natural gas utility for the Service Area during the Term for all purposes under Florida law, including Chapter 366, Florida Statutes. In addition to the System, the City shall acquire, own, operate and maintain the natural gas distribution facilities on Highway 501, north of SR 470, and at any other location constructed in the future that is mutually agreed upon as a connection point to the System, up to the point(s) of demarcation. The City shall construct these facilities at its expense, and, in the case of SSGC performing the construction under separate agreement with the City, the City shall acquire ownership of the facilities, all under the terms and conditions specified in a separate agreement between the parties regarding construction and acquisition of these facilities. If these facilities are constructed by the City, or the City reimburses SSGC for the cost of construction, and then the City cannot utilize the facilities to provide natural gas within the Service Area, due to any regulatory ruling preventing the City from providing service within the Service Area, SSGC shall reimburse the City for its construction costs or for all payments to SSGC on account of these facilities, and upon receipt of such reimbursement the City shall convey title and ownership of the facilities to SSGC, free and clear of all liens and encumbrances. Similarly, if the City cannot utilize the System to provide natural gas within the Service Area due to any regulatory ruling preventing

Natural Gas System Construction and Lease Agreement  
Page 5 of 16

the City from providing service within the Service Area, the City agrees to convey title and ownership of all portions of the System previously conveyed from SSGC to the City under this Agreement, back to SSGC, free and clear of all liens and encumbrances, for no consideration. The City shall at all times remain the owner of the natural gas distribution facilities, unless their use is prohibited by regulatory decision, and shall also be responsible for any retirement of natural gas distribution facilities (i.e. Abandonment of Services) at its sole cost, except that the City shall not be obligated to bear costs for Abandonment of Services if SSGC reacquires the system through Section 13 of this Agreement. Upon acceptance of each portion of the System, the City shall serve all residential, commercial, and other users within the Service Area that are connected to the System and that seek natural gas service, with natural gas service. The City shall comply with all applicable federal, state and local regulations regarding the operations and maintenance of the System.

6. **Service Area.** The Service Area described and depicted in the attached *Exhibit "A"* is effective as of the Effective Date, however, the Parties anticipate that the Service Area will expand as The Villages® community grows, and thus, as it may so expand, the Parties shall expand the Service Area from time to time by written Amendment to this Agreement. Any such Amendment may be executed by the then-acting City Manager on behalf of the City, and the same shall not need to be approved by the City Commission.

7. **Village Natural Gas Rate, and Option to Terminate.**

A. **Villages Natural Gas Rate.** To induce SSGC to enter into this Agreement, and except only as otherwise set forth herein, the City agrees to adopt and promulgate a Villages Natural Gas Rate (the "Villages Natural Gas Rate") which shall establish charges for customers who operate or reside within the Service Area contemplated in this Agreement. There shall be a Villages Natural Gas Rate established for residential and each class of commercial customer (with commercial classes determined according to usage, in-line with the usage parameters described in Section 7.C below). The Villages Natural Gas Rate shall consist of the Villages Aggregate Charge and the Villages Monthly Customer Charge, defined below.

i. **Villages Aggregate Charge.** There shall be a total aggregate charge per therm, which shall generally consist of a distribution charge, other surcharges, and a fuel charge. The Villages Aggregate Charge ("Villages Aggregate Charge") shall be equal to the total aggregate charges per therm for distribution, other surcharges and fuel as issued by the company currently doing business as TECO People's Gas, and its successors ("Peoples"), as amended from time to time.

ii. **Villages Monthly Customer Charge.** The Villages Monthly Customer Charge ("Villages Monthly Customer Charge") shall be equal to the total monthly customer charge as issued by Peoples Gas, and its successors, from time to time; *provided however*, the City shall not be required to reduce the Villages Monthly Customer Charge for residential or commercial customers served pursuant to this Agreement below the monthly customer charges imposed against similarly situated customers served by Peoples on the Effective Date, even if Peoples

Natural Gas System Construction and Lease Agreement  
Page 6 of 16

subsequently reduces its monthly customer charges. The City and SSGC acknowledge that on the Effective Date, Peoples' monthly customer charges are those charges illustrated below.

<u>Customer Class:</u>	<u>Monthly Rate:</u>
Residential:	\$15.00
Commercial consuming between 0 and 1,999 therms/year:	\$25.00
Commercial consuming between 2,000 and 9,999 therms/year:	\$35.00
Commercial consuming between 10,000 and 49,999 therms/year:	\$50.00
Commercial consuming between 50,000 and 249,999 therms/year:	\$150.00
Commercial consuming between 250,000 and 499,999 therms/year:	\$250.00
Commercial consuming 500,000 or more therms/year:	\$300.00

B. Service Charges. The City shall not offer transportation service to any customer, residential, commercial, industrial or other, located in the Service Area. Fees for service turn-on and turnoff shall not exceed those charged by Peoples, unless the fee charged by Peoples is less than the fee charged to City's native customers, in which case the Village's charge shall equal the charge imposed on City's native customers. The City may also charge customers affected by the Agreement for other miscellaneous non-recurring charges and fees, such as Collection Charges and Late Fees, at the same level and method as the City charges for its native customers. The City shall apply its existing natural gas deposit ordinance for its native customers, as modified from time to time by the City of Leesburg City Commission, to all customers served under this Agreement.

C. Option to Terminate. For the purposes of this Agreement, "Native Rate" shall mean the sum of City's distribution charge, other surcharges, and fuel charge per therm, charged to City's native customers as of the Fiscal Year beginning September 1, 2017. However, solely for purposes of calculating the Native Rate used to determine rates and charges under this Agreement within the Service Area (and without affecting any rates charged by City to its native customers), the distribution charge shall be fixed at \$0.56348, even if the actual distribution charge levied against the City's native residential customers exceeds, or decreases below, such amount. For the purpose of determining rates and charges within the Service Area under this Agreement, and without affecting what the City charges its native customers, the City shall establish a Native Rate for its residential customers, and for each class of its commercial customers (with commercial classes determined according to usage, in line with the usage parameters described in this Section 7.C below). If, at any time during the Term of this Agreement:

- (i) the difference between the Villages Aggregate Charge and the Native Rate for residential customers ever becomes less than \$0.15640; or
- (ii) the difference between the Villages Aggregate Charge and the Native Rate for commercial customers receiving between 0 – 1,999 Therms/Year ever becomes less than \$0.16865; or
- (iii) the difference between the Villages Aggregate Charge and the Native Rate for commercial customers receiving between 2,000 – 9,999 Therms/Year ever

Natural Gas System Construction and Lease Agreement  
Page 7 of 16

- becomes less than \$0.05256; or
- (iv) the difference between the Villages Aggregate Charge and the Native Rate for commercial customers receiving between 10,000 – 49,999 Therms/Year ever becomes less than \$0.00267; or
- (v) the difference between the Villages Aggregate Charge and the Native Rate for commercial customers receiving between 50,000 – 249,999 Therms/Year ever becomes less than negative \$0.03407; or
- (vi) the difference between the Villages Aggregate Charge and the Native Rate for commercial customers receiving between 250,000 – 499,999 Therms/Year ever becomes less than negative \$0.08876; or
- (vii) the difference between the Villages Aggregate Charge and the Native Rate for commercial customers receiving between 250,000 – 499,999 Therms/Year ever becomes less than negative \$0.13577, then

The City may request, in writing, for SSGC to approve a temporary increase in the Villages Aggregate Charge so that the difference between the Villages Aggregate Charge and the Native Rate for such customers is maintained at the minimum levels described above during such periods. SSGC shall respond within fifteen (15) days of its receipt of City's request, either approving or denying such request; failure of SSGC to respond within such fifteen (15) day period shall be deemed approval. SSGC may approve or deny, in its sole and absolute discretion, the City maintaining the minimum difference (through an increase to the Villages Aggregate Charge for such customers) from time to time, and may subsequently withdraw its approval at any time. If SSGC denies the City's request, or approves, but then subsequently withdraws its approval at any time when the difference is less than that required above, then, at any time when the required difference(s) are not being maintained, the City may terminate this Agreement upon not less than thirty (30) days prior written notice. In the event of such termination, the City shall convey ownership and title to the System to SSGC upon demand, without consideration, free and clear of all liens and encumbrances.

8. **Billing, Collection, and Customer Service.** The City shall be responsible for meter reading, billing, collection, and customer service for natural gas provided by it within the Service Area; *provided however*, no invoices or other communications sent by the City to end users within the Service Area may contain notices regarding recreation or events occurring within, or in association with, the City. City notices shall expressly be limited to information concerning the provision of natural gas service only. There shall be no bad debt charge-backs to SSGC against the Purchase Price (defined below) for any customer that does not pay the full amount of charges due for natural gas service. The City shall also be responsible for fielding, and responding promptly to, any calls for customer service from customers within the Service Area. The City shall utilize the same billing cycle and format for customers within the Service Area as it does for its native customers, and apply the same collection procedures, and remedies for nonpayment, as it applies to its native customers.

9. **Purchase Price.** In consideration of SSGC's significant investment in the design, engineering, and construction of the System, and conveying the same to the City, and in consideration for the City being designated as the utility supplying natural gas to customers

Natural Gas System Construction and Lease Agreement  
Page 8 of 16

within the Service Area, the City shall pay to SSGC the following as the purchase price for the System (collectively the "Purchase Price"):

- A. For each residential customer served by the City under this Agreement:

Customer Charge: Per month: \$6.93, plus any amount by which the Villages Monthly Customer Charge for residential customers served under this Agreement exceeds \$15.00 from time to time; and

Per Therm Charge: Per therm actually billed: \$0.53988, plus any amount by which the difference between the Villages Aggregate Charge less the Native Rate for residential customers exceeds \$0.25640 from time to time.

- B. For each commercial customer served by the City under this Agreement receiving between 0 – 1,999 Therms/Year:

Customer Charge: Per month: \$12.17, plus any amount by which the Villages Monthly Customer Charge for such commercial customers served under this Agreement exceeds \$25.00 from time to time; and

Per Therm Charge: Per therm actually billed: \$0.42213, plus any amount by which the difference between the Villages Aggregate Charge less the Native Rate for similarly situated commercial customers exceeds \$0.26865 from time to time.

- C. For each commercial customer served by the City under this Agreement receiving between 2,000 – 9,999 Therms/Year:

Customer Charge: Per month: \$22.17, plus any amount by which the Villages Monthly Customer Charge for such commercial customers served under this Agreement exceeds \$35.00 from time to time; and

Per Therm Charge: Per therm actually billed: \$0.34604, plus any amount by which the difference between the Villages Aggregate Charge less the Native Rate for similarly situated commercial customers exceeds \$0.15256 from time to time.

- D. For each commercial customer served by the City under this Agreement receiving between 10,000 – 49,999 Therms/Year:

Customer Charge: Per month: \$37.17, plus any amount by which the Villages Monthly Customer Charge for such commercial customers served under this Agreement exceeds \$50.00 from time to time; and

Per Therm Charge: Per therm actually billed: \$0.32615, plus any amount by which the difference between the Villages Aggregate Charge less the Native Rate for similarly situated commercial customers exceeds \$0.10267 from time to time.

Natural Gas System Construction and Lease Agreement  
Page 9 of 16

- E. For each commercial customer served by the City under this Agreement receiving between 50,000 – 249,999 Therms/Year:

Customer Charge: Per month: \$137.17, plus any amount by which the Villages Monthly Customer Charge for such commercial customers served under this Agreement exceeds \$150.00 from time to time; and

Per Therm Charge: Per therm actually billed: \$0.30441, plus any amount by which the difference between the Villages Aggregate Charge less the Native Rate for similarly situated commercial customers exceeds \$0.06593 from time to time.

- F. For each commercial customer served by the City under this Agreement receiving between 250,000 – 499,999 Therms/Year:

Customer Charge: Per month: \$237.17, plus any amount by which the Villages Monthly Customer Charge for such commercial customers served under this Agreement exceeds \$250.00 from time to time; and

Per Therm Charge: Per therm actually billed: \$0.27972, plus any amount by which the difference between the Villages Aggregate Charge less the Native Rate for similarly situated commercial customers exceeds \$0.01124 from time to time.

- G. For commercial customers served by the City under this Agreement receiving 500,000 or more Therms/Year:

Customer Charge: Per month: \$287.17, plus any amount by which the Villages Monthly Customer Charge for such commercial customers served under this Agreement exceeds \$300.00 from time to time; and

Per Therm Charge: Per therm actually billed: \$0.25771, plus any amount by which the difference between the Villages Aggregate Charge less the Native Rate for similarly situated commercial customers exceeds negative \$0.03577 from time to time.

10. **Payment of Purchase Price; Audit Rights.**

A. Payment of Purchase Price. City shall calculate and pay the Purchase Price to SSGC on a monthly basis throughout the Term, in arrears, in each instance within twenty (20) days of the expiration of the applicable previous calendar month. The Purchase Price paid each month shall be based upon those customer bills rendered by City in that month for the prior month's natural gas service, plus any appropriate adjustments for additional amounts billed or credits issued since the prior month's payment of the Purchase Price. City shall include with each monthly payment of Purchase Price reasonably-detailed supporting documentation evidencing City's determination of the same. To the extent the Term does not commence and

Natural Gas System Construction and Lease Agreement  
Page 10 of 16

terminate on the beginning and end of the City's fiscal year, respectively, the Parties shall appropriately prorate all amounts due herein. Additionally, if any actual Villages Monthly Customer Charges are prorated due to turn-on and/or turn-off not occurring simultaneously with billing period start and end, respectively, then the Purchase Price for such partial amounts shall be the partial customer charge actually billed multiplied by a fraction, where the numerator is the monthly customer charge that SSGC is entitled to be paid as Purchase Price for such customer class at that time, and the denominator is the full monthly customer charge imposed against such customer class at that time.

B. Audit Rights. SSGC shall have the right, upon reasonable notice, to audit all usage, billing, collection, and other records of the City related to the service of natural gas to end users within the Service Area under this Agreement. In the event any audit reflects the underpayment or overpayment of the Purchase Price, the City shall pay to SSGC such amounts necessary to reflect true, actual amounts due and payable, and City shall receive a credit for such amounts overpaid. If such audit reveals that the City has understated the Purchase Price in any period by more than five percent (5%), then the City shall reimburse SSGC for the reasonable cost of the audit.

11. Term; Termination.

A. Term. This Agreement shall become effective on the date of execution by both Parties and shall continue in full force and effect through the expiration or earlier termination of the City's Franchise from the City of Wildwood (the "Term"). The rights and obligations of SSGC and City as set forth in this Agreement shall extend throughout the Term, and where indicated, shall survive expiration or earlier termination of this Agreement. Except only as provided in Section 11.B below, SSGC and the City shall not have the right to terminate this Agreement.

B. Termination.

i. By SSGC. SSGC may terminate this Agreement if the City breaches the terms of this Agreement. SSGC must give City notice of its failure to perform and grant the City ninety (90) days for the City to cure the deficiencies. If the deficiencies are of a nature that they cannot reasonably be remedied within ninety (90) days, then the City shall be granted a reasonable time to remedy the deficiencies, but in no event greater than one hundred eighty (180) days. In the event SSGC terminates this Agreement as result of an uncured City breach, the City shall, upon SSGC's request, convey all ownership and title of the System to SSGC, without consideration, and free and clear of all liens and encumbrances. The foregoing conveyance obligation is not intended to be a limitation on SSGC's damages for City's breach.

ii. By SSGC and City. SSGC and City may each terminate this Agreement without the consent of the other party if The City of Wildwood fails to issue the City Franchise prior to the date that the first customer in the Service Area under this Agreement requires natural gas service to commence (the "First Service Date"). On the Effective Date, the First Service Date is expected to be on or around April 1, 2018. If SSGC or City terminates this Agreement as result

Natural Gas System Construction and Lease Agreement  
Page 11 of 16

of the City of Wildwood's failure to issue the City Franchise prior to the First Service Date, and SSGC has conveyed any portions of the System to the City at that time, the City shall, upon SSGC's request, convey all ownership and title of the System to SSGC, without consideration, and free and clear of all liens and encumbrances.

12. **Expiration of Term.** Upon expiration or earlier termination of this Agreement, the Parties shall work together in good faith to ensure the seamless and safe transfer of service to a successor provider selected jointly by Developer and SSGC. The foregoing obligation shall survive expiration or termination of this Agreement.

13. **Option to Purchase.** Upon expiration of the Term, SSGC shall have the option to purchase the System from the City for a price equal to the depreciated value of the System on the date the Option is exercised (the "Option"). SSGC may exercise the Option at any time within one (1) year after the expiration or earlier termination of the Term (the "Option Period"); *provided however*, in order to avoid the inadvertent lapse of the Option, should SSGC fail to exercise the Option with the Option Period, then the City shall promptly notify SSGC in writing, inform SSGC of the Option, and provide SSGC an additional one hundred eighty (180) days to exercise the Option after delivery of such written notice. If SSGC elects to exercise the Option, the City shall convey the System to SSGC by Bill of Sale, free and clear of all liens and encumbrances, in its as-is, where-is condition. All rights and obligations in this Section shall survive expiration or earlier termination of this Agreement.

14. **Indemnification.**

A. **By SSGC.** Except to the extent arising from the intentional or negligent acts or omissions of the City or its employees, agents, and contractors, SSGC agrees to indemnify, save, hold harmless, and defend the City for and from any and all claims, charges, and suits arising from events occurring prior to conveyance of the applicable portion(s) of the System and related in whole or in part to the engineering, construction, location, or any condition of the System and resulting from the negligent or deliberately wrongful acts of SSGC, or arising from SSGC's failure to obtain necessary permits or authorizations in connection with construction of the System, or SSGC's failure to comply with any federal, state, or local law or regulation applicable to construction of the System.

B. **By City.** Except to the extent arising from the intentional or negligent acts or omissions of SSGC or its employees, agents, and contractors, City agrees, up to but not in excess of the extent of the statutory waiver of sovereign immunity under §768.28, Fla. Stat. (2017), to indemnify, save, hold harmless, and defend SSGC for and from any and all claims, charges, and suits arising from events occurring after conveyance of the applicable portion(s) of the System and related in whole or in part to the operation, maintenance, use, or any condition of the System, or arising from the City's failure to obtain necessary permits or authorizations applicable to the System, or failure of the City to comply with any federal, state, or local law applicable to the System.

C. **Survival.** The obligations contained in this Section shall survive expiration or

Natural Gas System Construction and Lease Agreement  
Page 12 of 16

earlier termination of this Agreement.

15. **Miscellaneous.**

A. **Successors and Assigns.** This Agreement is binding on the successors, assigns and legal representatives of the Parties; *provided however*, City shall not assign this Agreement without the prior written consent of SSGC, which consent shall not be unreasonably withheld. SSGC may assign its rights under this Agreement without the consent of City. Further, City agrees that SSGC may assign portions of its work to qualified subcontractors without the consent of the City with SSGC ultimately remaining responsible for such work as set forth herein.

B. **Notice.** All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given when delivered in person or sent by registered or certified mail, postage prepaid, or via recognized overnight parcel service, or on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission), addressed as follows:

**TO SSGC:**

South Sumter Gas Company, LLC  
Attn: Kelsea Morse Manly  
1020 Lake Sumter Landing  
The Villages, Florida 32162  
[Kelsea.Manly@TheVillages.com](mailto:Kelsea.Manly@TheVillages.com)

**with a copy to:**

Erick D. Langenbrunner, Esq.  
1020 Lake Sumter Landing  
The Villages, Florida 32162  
[Erick.Langenbrunner@TheVillages.com](mailto:Erick.Langenbrunner@TheVillages.com)

**TO CITY:**

The City of Leesburg, Florida  
Attn: City Manager  
501 West Meadow Street  
Leesburg, Florida 34748  
[Al.Minner@leesburgflorida.gov](mailto:Al.Minner@leesburgflorida.gov)

**with a copy to:**

McLin Burnsed P.A.  
1000 West Main Street  
Leesburg, Florida 34748  
[FredM@mclinburnsed.com](mailto:FredM@mclinburnsed.com)

or to such other address as may be furnished in writing by a party to the other.

C. **Integration.** This is the entire Agreement between the Parties about the subject matter of this transaction and all prior agreements, understandings and representations, whether oral or written, about this subject matter are merged into and superseded by this written Agreement. It may not be modified except in writing signed by both Parties.

D. **Waiver.** No failure or delay by any Party in exercising any right under this Agreement shall operate as a waiver of that right, nor shall any partial exercise of a right preclude any further exercise of that or any other right. The rights shall be cumulative and not exclude any rights or remedies provided by law.

Natural Gas System Construction and Lease Agreement  
Page 13 of 16

E. Governing Law; Venue. This Agreement is governed by Florida law, exclusive of its choice of law principles. Any action or proceedings brought regarding this Agreement or the construction and operation of the System shall be brought in state courts located in Sumter County, Florida or federal courts located in the Middle District of Florida. Each Party to this Agreement hereby waives its right to a trial by jury.

F. Consequential Damages. Neither Party shall be liable to the other for exemplary, punitive, incidental, indirect, or consequential damages (including without limitation lost profits or revenues) resulting from or arising out of this Agreement, whether the claim is based in contract, tort, strict liability, or any other legal theory or principle.

G. Force Majeure. No delay or failure of performance by SSGC or the City, or the agents, directors, officers, employees and contractors of either, shall constitute a default hereunder or give rise to any claim for damages if and to the extent that such delay or failure is caused by Force Majeure Event affecting that Party's ability to perform. "Force Majeure Event" means any event that directly or indirectly renders a Party unable, wholly or in part, to perform or comply with any obligation, covenant or condition in this Agreement if the event, or the adverse effects of the event, is outside of the control of, and could not have been prevented by, the affected Party with reasonable foresight, at reasonable cost, and by the exercise of reasonable diligence in good faith, and is not attributable to the negligence or willful misconduct of the affected Party. Force Majeure Events include without limitation the following events (to the extent they otherwise satisfy the definition):

i.) act of God, fire, lightning, landslide, earthquake, storm, hurricane, hurricane warning, flood, high water, washout, explosion, or tornado;

ii) strike, lockout or other industrial disturbance, act of the public enemy, war, military operation, blockade, insurrection, riot, epidemic, arrest or restraint by government of people, terrorist act, civil disturbance, or local, state, or national emergency;

iii) the inability of the affected Party to acquire, or the delay on the part of the affected Party in acquiring materials, supplies, machinery, equipment, servitudes, right-of-way grants, pipeline shipping capacity, easements, permits or licenses, approvals or authorizations by regulatory bodies or oil and gas lessors needed to enable the Party to perform;

iv) breakage of or accident to machinery, equipment, facilities, or lines of pipe, and the repair, maintenance, improvement, replacement, test, or alteration to the machinery, equipment, facilities, or lines of pipe, and the freezing of a line of pipe; or

v) act, order, or requisition of any governmental agency or acting governmental authority, or any governmental law, proration, regulation, or priority.

This Force Majeure provision shall not apply to payment when due of money that is owed by one Party or to the other under the terms of this Agreement.

Natural Gas System Construction and Lease Agreement  
Page 14 of 16

H. No Partnership. SSGC and the City are independent entities and are not the agent, partner or employee of the other.

I. No Third Party Beneficiary. Nothing in this Agreement is intended to benefit any third party not a signatory hereto.

J. Equal Drafting. The Parties recognize that this Agreement is the product of the joint efforts of the Parties and agree that it shall not be construed against one Party or the other as a result of the preparation, submittal, or other event of negotiation, drafting or execution hereof.

K. Prevailing Party. In the event of any action, or any judicial proceedings, or if the Parties agree to arbitration proceedings to resolve any dispute under this Agreement, or to enforce any term of this Agreement, or to protect or preserve any rights under this Agreement, the prevailing party shall be entitled to an award of its actual reasonable costs and actual reasonable attorney fees incurred.

L. Authority. Each person signing this Agreement warrants that he or she has authority to sign the Agreement.

M. Adverse Determination. Upon the effective date of any legislative, regulatory, judicial, or other legal action that materially affects any terms of this Agreement, or which has the effect of classifying SSGC as a public utility subject to the jurisdiction of the Florida Public Service Commission (hereinafter, the "Regulatory Change"), SSGC or the City may, on thirty (30) days' written notice to the other, request that the terms of this Agreement be renegotiated, and the Parties shall attempt to negotiate in good faith such mutually acceptable new terms as may be required to address the Regulatory Change. The amended provisions shall be substituted in place of those previously in effect and shall become effective on such date as the Parties mutually agree. In the event a Regulatory Change amendment to this Agreement is not fully executed within ninety (90) days after Regulatory Change Date, either Party may terminate this Agreement, and in such event, the City shall convey all title and ownership of the System to SSGC, without consideration, and free and clear of all liens and encumbrances.

N. Effective Date. This Agreement becomes effective on the date it is fully executed.

O. Acknowledgment. By signing, each Party acknowledges and agrees that it has read and understood each and every term and condition of this Agreement.

P. Facsimile Copies; Counterparts. This Agreement may be executed and delivered in any number of duplicate counterparts, each counterpart so delivered which bears the signature or a facsimile, electronic, or ".pdf" copy thereof, shall be binding as to such party, and all counterparts together shall constitute one and the same instrument even though the parties may not have executed the same counterpart. However, this Agreement shall not be effective until fully executed by both parties.

Natural Gas System Construction and Lease Agreement  
Page 15 of 16

16. **Acquisition of the System by The City of Wildwood.** If The City of Wildwood exercises rights contained in the City Franchise to purchase the System upon expiration of the City Franchise, then the City agrees to assign and does hereby assign to SSGC all rights to negotiate the purchase price with the City of Wildwood, and all right, title and interest in any and all proceeds of such sale. In exchange for and as a condition to this assignment, SSGC agrees to pay to the City the depreciated value of the System on the date that the City of Wildwood acquires the System. If The City of Wildwood takes action to acquire any portions of the System by condemnation or other means prior to the natural expiration of the Term, then the City agrees to assign and does hereby assign to SSGC all rights to negotiate the purchase price with the City of Wildwood, and all right, title and interest in any and all proceeds of such sale. In such case, SSGC shall not be required to pay the City any money for such assignment.

SIGNATURES ON FOLLOWING PAGE

Natural Gas System Construction and Lease Agreement  
Page 16 of 16

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto  
as of the day and year first written above.

**SSGC:**

**SOUTH SUMTER GAS COMPANY, LLC,**  
a Florida limited liability company

BY: TVL Company, LLC,  
a Florida limited liability company,  
its Manager

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CITY:**

**CITY OF LEESBURG**

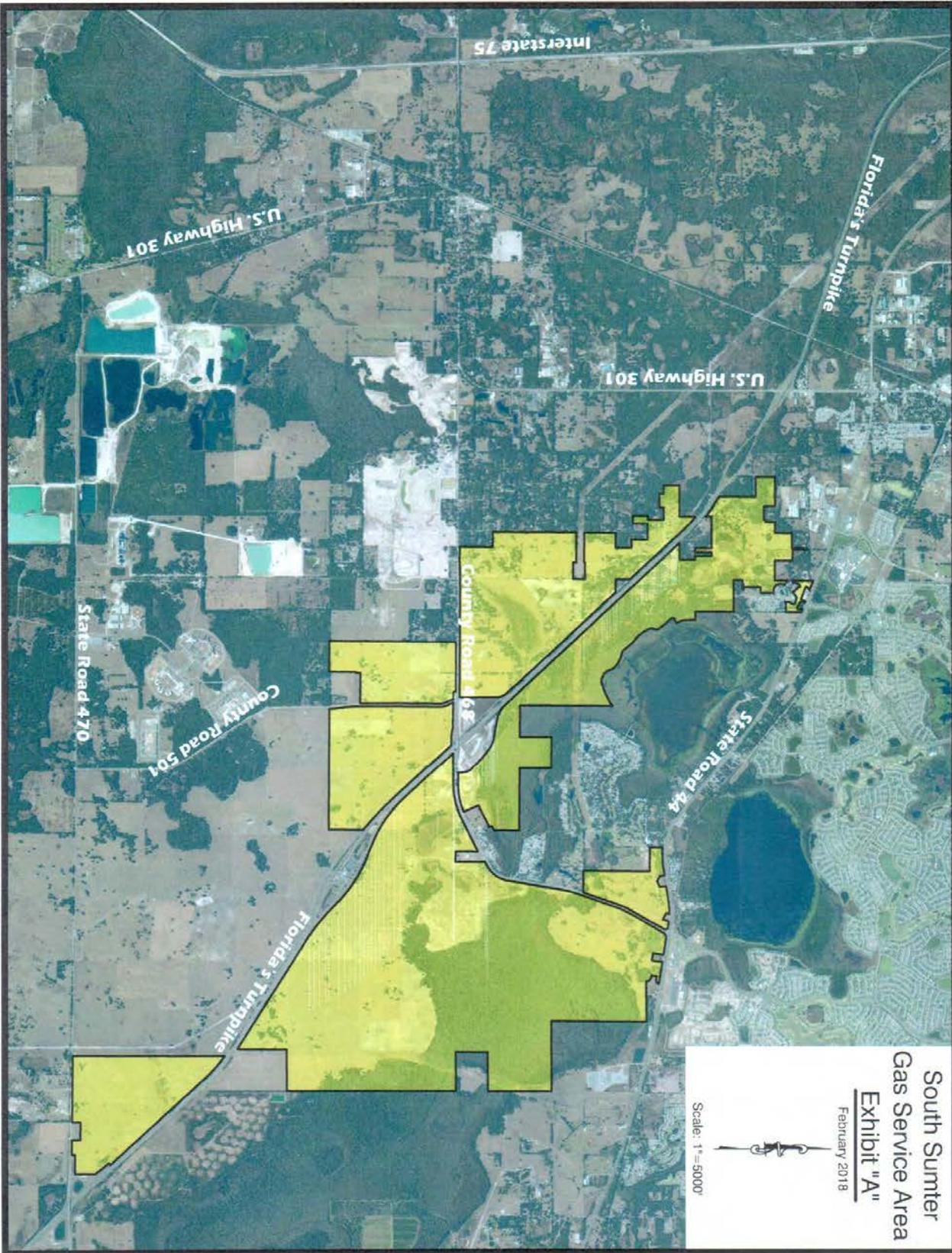
**ATTEST:**

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Approved as to legal form:

By: \_\_\_\_\_  
Fred A. Morrison, City Attorney



South Sumter  
Gas Service Area  
Exhibit "A"  
February 2018

EXHIBIT "A"

THE EAST 1/2 OF THE EAST 1/2 AND THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA.

AND

THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 31, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA.

AND

THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE EAST 1/2 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 AND THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 AND THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 AND THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 ALL IN SECTION 31, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA.

AND

THE SOUTH 325 YARDS OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 AND THE NORTH 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 AND THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4, LESS THE NORTHEAST 1/4 OF THE NORTHEAST OF THE NORTHWEST 1/4; AND THE NORTH 1/2 OF THE SOUTHWEST 1/4 AND THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF THE NORTHEAST 1/4, LESS 5 ACRES IN THE NORTHWEST CORNER AND LESS BEGIN AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4, RUN SOUTH 466 FEET 8 INCHES FOR POINT OF BEGINNING, THENCE RUN SOUTH 210 FEET, THENCE EAST 210 FEET, THENCE NORTH 210 FEET, THENCE WEST 210 FEET TO THE POINT OF BEGINNING; ALL IN SECTION 32, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA.

AND

THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 AND THE NORTH 1/2 OF THE SOUTHWEST 1/4 AND THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 AND THE

SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4, ALL IN SECTION 33,  
TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA.

LESS ROAD RIGHT-OF-WAYS LYING WITHIN THE ABOVE DESCRIBED PARCELS.

AND LESS THOSE PARCELS DESCRIBED IN DEED TO SUMTER COUNTY, FLORIDA  
RECORDED IN O.R. BOOK 950, PAGE 54, PUBLIC RECORDS OF SUMTER COUNTY,  
FLORIDA.

TOGETHER WITH

THE NORTH 330 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF  
SECTION 33, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA.

LESS ANY PORTION THEREOF CLAIMED BY SUMTER COUNTY, FLORIDA FOR THE  
MAINTENANCE OF COUNTY ROAD 505.

TOGETHER WITH

THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION  
31, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LESS THE  
NORTH 278.68 FEET OF THE WEST 163.00 FEET OF THE NORTHEAST 1/4 OF THE  
NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 19 SOUTH,  
RANGE 23 EAST, SUMTER COUNTY, FLORIDA; LESS THE RIGHT OF WAY FOR  
COUNTY ROAD NO. 468 ACROSS THE NORTH SIDE THEREOF.

TOGETHER WITH

THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST  
QUARTER OF SECTION 30, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER  
COUNTY, FLORIDA; LESS RIGHT OF WAY FOR HIGHWAY 468.

AND

FROM THE SOUTH QUARTER CORNER OF SECTION 30, TOWNSHIP 19 SOUTH,  
RANGE 23 EAST, SUMTER COUNTY, FLORIDA, RUN NORTH 00 DEGREES 07  
MINUTES 02 SECONDS WEST ALONG THE EAST LINE OF THE SOUTHWEST  
QUARTER OF SAID SECTION 30, A DISTANCE OF 34.05 FEET TO THE NORTH RIGHT-  
OF-WAY OF HIGHWAY 468 AND THE POINT OF BEGINNING; THENCE SOUTH 89  
DEGREES 54 MINUTES 25 SECONDS WEST 942.29 FEET TO THE INTERSECTION OF  
THE NORTH RIGHT-OF-WAY OF HIGHWAY 468 AND THE SOUTHEASTERLY RIGHT-  
OF-WAY OF HIGHWAY 301; THENCE BY THE SOUTHEASTERLY RIGHT-OF-WAY OF  
HIGHWAY 301, ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1486.18 FEET,  
1022.51 FEET TO A POINT; THENCE RUN NORTH 89 DEGREES 58 MINUTES 05  
SECONDS EAST 162.41 FEET; THENCE RUN SOUTH 00 DEGREES 07 MINUTES 02  
SECONDS WEST 630.01 FEET TO THE POINT OF BEGINNING.

LESS THAT PORTION CONVEYED TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION BY DEED RECORDED JUNE 25, 1990 IN OFFICIAL RECORDS BOOK 401, PAGE 26, DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; RUN NORTH 0 DEGREES 02 MINUTES 01 SECONDS WEST ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER A DISTANCE OF 33.65 FEET TO THE NORTHERLY EXISTING RIGHT-OF-WAY LINE OF COUNTY ROAD 468; THENCE NORTH 89 DEGREES 59 MINUTES 20 SECONDS WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE 942.26 FEET TO THE INTERSECTION OF SAID NORTHERLY RIGHT-OF-WAY LINE AND THE SOUTHEASTERLY EXISTING RIGHT-OF-WAY LINE OF STATE ROAD 35 (U.S. 301) FOR THE POINT OF BEGINNING, SAID POINT BEING THE BEGINNING OF A CURVE ALONG STATE ROAD 35 CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1482.70 FEET AND A CHORD BEARING OF NORTH 69 DEGREES 34 MINUTES 18 SECONDS EAST; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 02 DEGREES 25 MINUTES 58 SECONDS A DISTANCE OF 62.96 FEET FOR THE END OF SAID CURVE; THENCE, DEPARTING THE SOUTHEASTERLY EXISTING RIGHT-OF-WAY LINE OF STATE ROAD 35, SOUTH 01 DEGREES 26 MINUTES 29 SECONDS WEST 21.99 FEET TO THE NORTHERLY EXISTING RIGHT-OF-WAY LINE OF COUNTY ROAD 468; THENCE NORTH 89 DEGREES 59 MINUTES 20 SECONDS WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE 58.44 FEET TO THE POINT OF BEGINNING.

AND

THAT PORTION OF SECTIONS 1 AND 2, TOWNSHIP 20 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING NORTH OF THE SUNSHINE STATE PARKWAY; AND THE EAST 1/2 OF THE N.E. 1/4 OF THE N.E. 1/4 OF SECTION 34, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; AND THAT PORTION OF SECTION 35, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; LYING NORTH OF THE SUNSHINE STATE PARKWAY; ALL OF SECTION 36, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; AND A PORTION OF SECTIONS 25 AND 26, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF SECTION 36, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; THENCE S 00°10'31" W ALONG THE EAST BOUNDARY THEREOF, A DISTANCE OF 5331.12 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 36, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; THENCE S 00°10'54" W ALONG THE EAST BOUNDARY OF SAID SECTION 1, A DISTANCE OF 2798.38 FEET TO THE EAST 1/4 CORNER OF SAID SECTION 1; THENCE CONTINUE ALONG SAID EAST BOUNDARY S 00°15'53" W, A DISTANCE OF 2487.26 FEET TO THE INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF THE SUNSHINE STATE PARKWAY (WIDTH VARIES); THENCE DEPARTING SAID EAST BOUNDARY, PROCEED N42°55'02" W ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 504.38 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE

SOUTHWESTERLY, HAVING A RADIUS OF 5879.58 FEET AND A CENTRAL ANGLE OF 14°36'39"; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE A DISTANCE OF 1499.33 FEET; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE N 57°32'06" W, A DISTANCE OF 5872.48 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 5599.58 FEET AND A CENTRAL ANGLE OF 11°08'06"; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE A DISTANCE OF 1088.24 FEET; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE N46°22'11" W, A DISTANCE OF 799.15 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 5859.58 FEET AND A CENTRAL ANGLE OF 22°19'48"; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE A DISTANCE OF 2283.66 FEET; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE N 68°43'54" W, A DISTANCE OF 437.44 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 5599.58 FEET AND A CENTRAL ANGLE OF 07°46'53"; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE A DISTANCE OF 760.47 FEET TO THE INTERSECTION WITH THE WEST BOUNDARY OF SECTION 35, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; THENCE DEPARTING SAID RIGHT-OF-WAY LINE, PROCEED N00°26'01"E ALONG SAID WEST BOUNDARY, A DISTANCE OF 542.70 FEET TO THE WEST 1/4 CORNER OF SAID SECTION 35; THENCE CONTINUE ALONG SAID WEST BOUNDARY N00°19'24"E, A DISTANCE OF 1331.56 FEET; THENCE DEPARTING SAID WEST BOUNDARY, PROCEED N89°45'47"W ALONG THE SOUTH BOUNDARY OF THE EAST 1/2 OF THE N.E. 1/4 OF THE N.E. 1/4 OF SECTION 34, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, A DISTANCE OF 658.80 FEET; THENCE DEPARTING SAID SOUTH BOUNDARY, PROCEED N00°21'48"E ALONG THE WEST BOUNDARY OF SAID EAST 1/2 OF THE N.E. 1/4 OF THE N.E. 1/4 OF SECTION 34, A DISTANCE OF 1332.09 FEET TO THE INTERSECTION WITH THE NORTH BOUNDARY OF SAID SECTION 34; THENCE DEPARTING SAID WEST BOUNDARY, PROCEED S89°42'55"E ALONG SAID NORTH BOUNDARY OF SECTION 34, A DISTANCE OF 657.87 FEET TO THE NORTHEAST CORNER THEREOF, SAID POINT ALSO BEING THE NORTHWEST CORNER OF SECTION 35, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; THENCE S89°46'48"E ALONG THE NORTH BOUNDARY OF SAID SECTION 35, ALSO BEING THE SOUTH BOUNDARY OF SECTION 26, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, A DISTANCE OF 1324.73 FEET; THENCE DEPARTING SAID NORTH BOUNDARY, PROCEED N00°31'47"E ALONG THE WEST BOUNDARY OF THE EAST 3/4 OF SAID SECTION 26, A DISTANCE OF 1232.97 FEET TO THE INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD NO. 468 (WIDTH VARIES); THENCE DEPARTING SAID WEST BOUNDARY, PROCEED N63°16'42"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE A DISTANCE OF 124.84 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 1261.11 FEET AND A CENTRAL ANGLE OF 53°42'28"; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE A DISTANCE OF 1182.14 FEET; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE N09°34'14"E, 1355.55 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE, PROCEED N85°23'09"E, A DISTANCE OF 5645.47 FEET TO THE SOUTHWEST CORNER OF THE NORTH 1/2 OF THE N.E. 1/4 OF SECTION 25, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; THENCE N89°42'19"E ALONG THE SOUTH BOUNDARY OF SAID NORTH 1/2 OF THE N.E. 1/4 OF SECTION 25, A DISTANCE OF 2944.28 FEET TO THE INTERSECTION WITH THE EAST BOUNDARY OF SAID SECTION 25, THENCE DEPARTING SAID SOUTH BOUNDARY, PROCEED S00°03'24"W ALONG THE EAST BOUNDARY OF SAID SECTION 25, A DISTANCE OF 1330.48 FEET TO THE EAST 1/4 CORNER OF SAID SECTION 25; THENCE CONTINUE ALONG SAID EAST BOUNDARY S00°09'40"W, A DISTANCE OF 1332.99 FEET TO THE NORTHEAST CORNER OF THE S.E. 1/4 OF THE S.E. 1/4

OF SAID SECTION 25; THENCE DEPARTING SAID EAST BOUNDARY, PROCEED S89°43'40"W ALONG THE NORTH BOUNDARY OF SAID S.E. 1/4 OF THE S.E. 1/4 OF SECTION 25, A DISTANCE OF 1631.57 FEET TO THE NORTHWEST CORNER OF SAID S.E. 1/4 OF THE S.E. 1/4 OF SECTION 25; THENCE DEPARTING SAID NORTH BOUNDARY, PROCEED S00°28'00"W ALONG THE WEST BOUNDARY OF SAID S.E. 1/4 OF THE S.E. 1/4 OF SECTION 25, A DISTANCE OF 1332.82 FEET TO THE INTERSECTION WITH THE SOUTH BOUNDARY OF SAID SECTION 25; THENCE DEPARTING SAID WEST BOUNDARY, PROCEED N89°44'10"E ALONG THE SOUTH BOUNDARY OF SAID SECTION 25, ALSO BEING THE NORTH BOUNDARY OF SECTION 36, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, A DISTANCE OF 1638.67 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 23 EAST IN SUMTER COUNTY, FLORIDA; THENCE RUN S00°40'20"W, ALONG THE EAST BOUNDARY OF SAID SECTION 1, A DISTANCE OF 1740.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S00°40'20"W, ALONG SAID EAST BOUNDARY OF SECTION 1, A DISTANCE OF 1057.86 FEET TO THE EAST 1/4 CORNER OF SAID SECTION 1; THENCE S00°44'45"W, ALONG SAID EAST BOUNDARY OF SECTION 1, A DISTANCE OF 2487.49 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF FLORIDA'S TURNPIKE, AS RECORDED ON FLORIDA STATE TURNPIKE AUTHORITY RIGHT OF WAY MAP PROJECT NO. 2, SECTION 14; THENCE RUN ALONG SAID NORTHERLY RIGHT OF WAY LINE THE FOLLOWING THREE (3) COURSES: (1) N42°21'30"W, A DISTANCE OF 505.19 FEET TO A CURVE THAT IS CONCAVE TO THE SOUTHWEST; (2) THENCE NORTHWESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 1498.35 FEET (SAID CURVE HAVING A RADIUS OF 5879.58 FEET, A CENTRAL ANGLE OF 14°36'04" AND A CHORD BEARING AND DISTANCE OF N49°46'20"W, 1494.30 FEET); (3) THENCE N57°03'06"W, A DISTANCE OF 287.77 FEET TO A POINT ON THE WEST LINE OF A 100 FOOT FLORIDA POWER EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 1758, PAGE 342, OF THE PUBLIC RECORDS OF SUMTER COUNTY, FLORIDA; THENCE N02°21'09"W, ALONG SAID WEST EASEMENT LINE, A DISTANCE OF 337.71 FEET; THENCE N00°39'29"E, ALONG SAID WEST EASEMENT LINE, A DISTANCE OF 1724.92 FEET; THENCE S89°36'07"E, A DISTANCE OF 1733.89 FEET RETURNING TO THE POINT OF BEGINNING.

AND LESS

PARCEL 1:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 26, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; THENCE N. 00° 30' 06" E., ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 A DISTANCE OF 1152.51 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N. 00° 30' 06" E., ALONG SAID EAST LINE A DISTANCE OF 70.00 FEET TO THE EXISTING SOUTHERLY PROGRESS ENERGY POWER LINE EASEMENT LINE; THENCE N. 63° 16' 42" E., ALONG SAID SOUTHERLY EASEMENT LINE A DISTANCE OF 529.89 FEET TO THE CUSP OF A CURVE BEING CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1331.36 FEET AND A CENTRAL ANGLE OF 17° 35' 24"; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE AN ARC DISTANCE OF 408.73 FEET, SAID ARC HAVING A CHORD BEARING OF S. 54° 29' 00" W., AND A CHORD DISTANCE OF 407.13 FEET; THENCE S. 63° 16' 42" W., A DISTANCE OF 159.57 FEET TO THE POINT OF BEGINNING.

AND LESS

PARCEL 2:

WRA B

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 26, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; THENCE N. 00° 30' 06" E., ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 26, A DISTANCE OF 1304.60 FEET TO A POINT ON THE PROPOSED CENTERLINE OF COUNTY ROAD 468. THENCE N. 63° 16' 42" E., ALONG SAID CENTERLINE A DISTANCE OF 90.00 FEET TO THE POINT OF CURVATURE OF A CURVE BEING CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1196.11 FEET AND A CENTRAL ANGLE OF 43° 07' 04"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE AND SAID CENTERLINE A DISTANCE OF 900.13 FEET; SAID ARC HAVING A CHORD BEARING OF N. 41° 43' 10" E., AND A CHORD DISTANCE OF 879.04 FEET; LEAVING SAID CENTERLINE THENCE S. 68° 24' 08" E. ALONG A RADIAL LINE A DISTANCE OF 65.00 FEET TO THE POINT OF BEGINNING; SAID POINT ALSO BEING A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 468; THENCE S. 68° 24' 08" E., ON A RADIAL LINE, A DISTANCE OF 37.11 FEET; THENCE N. 84° 32' 29" E. A DISTANCE OF 447.36 FEET; THENCE N. 22° 09' 30" E. A DISTANCE OF 122.39 FEET; THENCE N. 58° 24' 13" E. A DISTANCE OF 128.38 FEET; THENCE N. 80° 26' 21" E. A DISTANCE OF 258.44 FEET; THENCE S. 09° 36' 02" E. A DISTANCE OF 45.70 FEET; THENCE S. 78° 28' 29" W. A DISTANCE OF 173.11 FEET; THENCE S. 26° 58' 33" E. A DISTANCE OF 234.85 FEET; THENCE S. 12° 55' 35" E. A DISTANCE OF 244.22 FEET; THENCE N. 77° 08' 40" E., A DISTANCE OF 61.60 FEET; THENCE S 12° 51' 20" E. A DISTANCE OF 14.00 FEET; THENCE S. 77° 08' 40" W. A DISTANCE OF 61.58 FEET; THENCE S. 12° 55' 35" E. A DISTANCE OF 15.00 FEET TO THE POINT OF CURVATURE OF A CURVE BEING CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 60.00 FEET AND A CENTRAL ANGLE OF 84° 36' 50"; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE AN ARC DISTANCE OF 88.61 FEET, SAID ARC HAVING A CHORD BEARING OF S. 29° 22' 50" W. AND A CHORD DISTANCE OF 80.77 FEET; THENCE S. 71° 41' 15" W. A DISTANCE OF 118.90 FEET TO THE POINT OF CURVATURE OF A CURVE BEING CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 75.00 FEET AND A CENTRAL ANGLE OF 97° 05' 58"; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE AN ARC DISTANCE OF 127.10 FEET, SAID ARC HAVING A CHORD BEARING OF N. 59° 45' 46" W. AND A CHORD DISTANCE OF 112.43 FEET; THENCE N. 11° 12' 47" W. A DISTANCE OF 236.84 FEET TO THE POINT OF CURVATURE OF A CURVE BEING CONCAVE WESTERLY AND HAVING A RADIUS OF 170.00 FEET AND A CENTRAL ANGLE OF 20° 40' 49"; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE AN ARC DISTANCE OF 61.36 FEET, SAID ARC HAVING A CHORD BEARING OF N. 21° 33' 11" W. AND A CHORD DISTANCE OF 61.03 FEET; THENCE N. 31° 53' 36" W. A DISTANCE OF 42.15 FEET; THENCE S. 88° 26' 47" W. A DISTANCE OF 218.47 FEET; THENCE S. 84° 32' 29" W. A DISTANCE OF 366.90 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY OF COUNTY ROAD 468, SAID POINT BEING ON A CURVE BEING CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1261.11 FEET AND A CENTRAL ANGLE OF 03° 25' 23"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE AN ARC DISTANCE OF 75.34 FEET TO THE POINT OF BEGINNING; SAID CURVE HAVING A CHORD BEARING OF N. 21° 56' 46" E. AND A CHORD DISTANCE OF 75.33 FEET.

AND LESS

PARCEL 3:

WRA C

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 26, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; THENCE N. 00° 30' 06" E., ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 26, A DISTANCE OF 1304.60 FEET TO A POINT ON THE PROPOSED CENTERLINE OF COUNTY ROAD 468; THENCE N. 63° 16' 42" E., ALONG SAID CENTERLINE A DISTANCE OF 90.00 FEET TO THE POINT OF CURVATURE OF A CURVE BEING CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1196.11 FEET AND A CENTRAL ANGLE OF 53° 42' 28"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE AND SAID CENTERLINE A DISTANCE OF 1121.21 FEET TO THE POINT OF TANGENCY; SAID ARC HAVING A CHORD BEARING OF N. 36° 25' 28" E., AND A CHORD DISTANCE OF 1080.61 FEET; THENCE N. 09° 34' 14" E., A DISTANCE OF 811.05 FEET; THENCE LEAVING SAID CENTERLINE S. 80° 25' 46" E., A DISTANCE OF 65.00 FEET TO THE POINT OF BEGINNING. SAID POINT ALSO BEING A POINT ON THE EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 468; THENCE S. 80° 25' 46" E., A DISTANCE OF 203.00 FEET TO THE EASTERLY EASEMENT LINE OF A PROGRESS ENERGY POWER LINE EASEMENT BEING 100 FEET WIDE; THENCE N. 09° 34' 14" E., ALONG SAID EASTERLY LINE, A DISTANCE OF 58.27 FEET; THENCE LEAVING SAID EASTERLY LINE PROCEED S. 80° 25' 46" E., A DISTANCE OF 153.20 FEET; THENCE S. 41° 13' 40" E., A DISTANCE OF 201.57 FEET; THENCE S. 22° 21' 27" E., A DISTANCE OF 234.98 FEET; THENCE S. 67° 38' 33" W., A DISTANCE OF 248.59 FEET; THENCE N. 22° 21' 27" W., A DISTANCE OF 186.22 FEET; THENCE N. 80° 25' 46" W., A DISTANCE OF 124.22 FEET TO SAID EASTERLY LINE OF A POWER LINE EASEMENT; THENCE N. 09° 34' 14" E., ALONG SAID EASTERLY LINE A DISTANCE OF 186.99 FEET, THENCE LEAVING SAID EASTERLY LINE PROCEED N. 80° 25' 46" W., A DISTANCE OF 203.00 FEET TO THE EASTERLY RIGHT OF WAY OF COUNTY ROAD 468, THENCE N. 09° 34' 14" E., ALONG SAID EASTERLY RIGHT OF WAY A DISTANCE OF 55.00 FEET TO THE POINT OF BEGINNING.

AND TOGETHER WITH

THAT LAND LYING IN SECTION 20, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 20, BEING THE POINT OF COMMENCEMENT, RUN ALONG THE EAST LINE THEREOF THE FOLLOWING TWO COURSES: N00°07'23"E, 46.67 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N00°07'23"E, 1,871.16 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF FLORIDA'S TURNPIKE; THENCE DEPARTING SAID EAST LINE AND ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY THE FOLLOWING TWO COURSES: N42°56'27"W, 3,013.33 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 5,579.58 FEET; THENCE NORTHWESTERLY ALONG THE ARC THEREOF THROUGH A CENTRAL ANGLE OF 07°56'12", A DISTANCE OF 772.89 FEET TO A POINT ON THE EAST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 20; THENCE DEPARTING SAID SOUTHWESTERLY RIGHT-OF-WAY AND ALONG SAID EAST LINE, S00°09'41"W, 661.41 FEET TO THE NORTH LINE OF SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 20; THENCE DEPARTING SAID EAST LINE AND ALONG SAID NORTH LINE, N89°53'07" W, 1,322.23 FEET TO THE NORTHWEST CORNER OF SAID SOUTHEAST 1/4 OF THE NORTHWEST 1/4; THENCE DEPARTING SAID NORTH LINE AND ALONG THE WEST LINE OF SAID SOUTHEAST 1/4 OF THE NORTHWEST 1/4, S00°10'33"W, 654.20 FEET TO THE NORTHERLY

RIGHT-OF-WAY OF LOIS AVENUE, AS SHOWN ON WILDWOOD RANCH, AS RECORDED IN PLAT BOOK 3, PAGES 29A THROUGH 29B, INCLUSIVE, PUBLIC RECORDS OF SUMTER COUNTY, FLORIDA; THENCE ALONG THE FOLLOWING COURSES AS SHOWN ON SAID PLAT: DEPARTING SAID WEST LINE AND ALONG SAID NORTHERLY RIGHT-OF-WAY, S89°39'15"E, 353.50 FEET TO THE NORTHERLY EXTENSION OF THE EASTERLY RIGHT-OF-WAY OF LEE STREET; THENCE DEPARTING SAID RIGHT-OF-WAY, S00°21'17"W, ALONG THE EASTERLY RIGHT-OF-WAY OF LEE STREET AND THE NORTHERLY EXTENSION THEREOF, A DISTANCE OF 178.54 FEET TO THE SOUTHWEST CORNER OF LOT 2, BLOCK P; THENCE DEPARTING THE EASTERLY RIGHT-OF-WAY OF LEE STREET AND ALONG THE BOUNDARY OF SAID LOT 2 THE FOLLOWING COURSES: S89°39'16"E, 580.03 FEET; THENCE N00°21'57"E, 178.54 FEET TO THE NORTHERLY RIGHT-OF-WAY OF LOIS AVENUE; THENCE DEPARTING THE BOUNDARY OF SAID LOT 2 AND ALONG SAID NORTHERLY RIGHT-OF-WAY, S89°39'16"E, 515.91 FEET TO THE NORTHERLY EXTENSION OF THE WESTERLY BOUNDARY OF LOT 13, BLOCK N; THENCE DEPARTING SAID NORTHERLY RIGHT-OF-WAY, S00°22'04"W, ALONG SAID NORTHERLY EXTENSION AND WESTERLY BOUNDARY A DISTANCE OF 666.78 FEET TO THE NORTHEAST CORNER OF LOT 3, BLOCK N; THENCE ALONG THE BOUNDARY OF LOTS 3 AND 4, BLOCK N, THE FOLLOWING COURSES: N89°39'51"W, 155.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 3; THENCE S00°22'04"W, 611.77 FEET TO THE SOUTHWEST CORNER OF SAID LOT 3; THENCE S89°35'38"E, 310.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 4; THENCE N00°22'04"E, 612.15 FEET TO THE NORTHEAST CORNER OF SAID LOT 4; THENCE DEPARTING THE BOUNDARY OF SAID LOTS 3 AND 4, ALONG THE SOUTHERLY BOUNDARY OF LOTS 9 THROUGH 12, BLOCK N, AND THE EASTERLY EXTENSION THEREOF, S89°39'51"E, 689.50 FEET TO THE EASTERLY RIGHT-OF-WAY OF JUANITA STREET; THENCE DEPARTING SAID EASTERLY EXTENSION AND ALONG SAID EASTERLY RIGHT-OF-WAY, S00°19'38"W, 662.84 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF LOT 4, BLOCK M; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY AND ALONG SAID NORTHERLY BOUNDARY, S89°37'33"E, 345.89 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 20; THENCE DEPARTING SAID NORTH LINE AND ALONG THE WEST LINE OF SAID SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4, S00°05'42"W, 661.44 FEET TO THE SOUTHWEST CORNER THEREOF AND THE NORTHEAST CORNER OF LOT 20, BLOCK H; THENCE DEPARTING SAID WEST LINE AND ALONG THE NORTHERLY BOUNDARY OF SAID LOT 20, N89°41'39"W, 643.47 FEET TO THE EASTERLY RIGHT-OF-WAY OF WILDWOOD STREET; THENCE DEPARTING SAID NORTHERLY BOUNDARY AND ALONG SAID EASTERLY RIGHT-OF-WAY, S00°21'08"W, 1,310.74 FEET TO THE SOUTHWEST CORNER OF LOT 13, BLOCK H; THENCE ALONG THE SOUTHERLY BOUNDARY OF LOTS 13 AND 30, BLOCK H, S89°38'50"E, 1,260.27 FEET TO THE SOUTHEAST CORNER OF SAID LOT 30 AND THE WESTERLY RIGHT-OF-WAY OF MEDINA STREET; THENCE DEPARTING SAID SOUTHERLY BOUNDARY AND ALONG SAID RIGHT-OF-WAY, N00°21'42"E, 35.24 FEET TO THE WESTERLY EXTENSION OF THE SOUTH LINE OF LOT 13, BLOCK G; THENCE DEPARTING SAID RIGHT-OF-WAY AND ALONG SAID WESTERLY EXTENSION AND THE SOUTH BOUNDARY OF SAID LOT 13, BLOCK G, S89°35'54"E, 699.28 FEET TO THE POINT OF BEGINNING.

AND

THE SOUTH 1/2 OF THE SOUTH 1/2 AND NORTHWEST 1/4 OF THE SOUTHEAST 1/4, LYING SOUTH OF LAKE OKAHUMPKA, LESS RIGHT-OF-WAY FOR FLORIDA'S TURNPIKE IN SECTION 21, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA.

AND

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 26, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA AND RUN WESTERLY ALONG THE SOUTH LINE THEREOF A DISTANCE OF 436.00 FEET TO THE SOUTHWEST CORNER OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1323, PAGE 77, PUBLIC RECORDS OF SUMTER COUNTY, FLORIDA, AND THE POINT OF BEGINNING; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH, ALONG THE WEST BOUNDARY OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1323, PAGE 77, A DISTANCE OF 500.00 FEET TO THE SOUTHWEST CORNER OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1334, PAGE 158, PUBLIC RECORDS OF SUMTER COUNTY, FLORIDA; THENCE RUN NORTH ALONG THE WESTERLY BOUNDARY THEREOF, A DISTANCE OF 431.00 FEET, MORE OR LESS, TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY OF C-468 AS DESCRIBED IN OFFICIAL RECORDS BOOK 2211, PAGE 383, PUBLIC RECORDS OF SUMTER COUNTY, FLORIDA. THENCE RUN SOUTHWESTERLY ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY A DISTANCE OF 1,004.17 FEET, MORE OR LESS, TO THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 26; THENCE DEPARTING SAID SOUTHEASTERLY RIGHT-OF-WAY AND ALONG SAID WEST LINE, RUN SOUTH, A DISTANCE OF 477.45 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID SECTION 26; THENCE RUN EAST ALONG THE SOUTH LINE THEREOF A DISTANCE OF 888.50 FEET TO THE POINT OF BEGINNING.

AND

THAT PORTION OF THE SOUTHEAST 1/4 OF SECTION 27, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING SOUTH OF COUNTY ROAD C-468.

AND

THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 27, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY FLORIDA,

AND

THE SOUTH 1/2 OF SECTION 27, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING NORTH OF THE NORTHERLY RIGHT-OF-WAY FOR COUNTY ROAD C-468 AND LYING NORTHEASTERLY OF THE LIMITED ACCESS RIGHT-OF-WAY FOR FLORIDA'S TURNPIKE, AS PER OFFICIAL RECORDS BOOK 2962, PAGE 320, PUBLIC RECORDS OF SUMTER COUNTY, FLORIDA, SAID LIMITED ACCESS RIGHT-OF-WAY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE NORTHEASTERLY RIGHT-OF-WAY OF FLORIDA'S TURNPIKE AS DESCRIBED IN OFFICIAL RECORDS BOOK 1352, PAGE 23 PUBLIC RECORDS OF SUMTER COUNTY, FLORIDA AND THE NORTHERLY BOUNDARY OF THOSE LANDS DESCRIBED IN OFFICIAL RECORD BOOK 871, PAGE 387, PUBLIC RECORDS OF SUMTER COUNTY, FLORIDA; THENCE ALONG THE BOUNDARY OF SAID LANDS DESCRIBED IN OFFICIAL RECORD BOOK 1352, PAGE 23, THE FOLLOWING COURSES: N42°56'50"W, ALONG SAID NORTHEASTERLY RIGHT-OF-WAY A DISTANCE OF 2,536.06 FEET TO THE POINT OF CUSP OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 1,112.00 FEET AND A CHORD BEARING AND DISTANCE OF S65°26'09"E, 543.85 FEET; THENCE DEPARTING SAID NORTHEASTERLY RIGHT-OF-WAY, SOUTHEASTERLY ALONG THE ARC OF SAID CURVE,

THROUGH A CENTRAL ANGLE OF 28°18'33", A DISTANCE OF 549.42 FEET; THENCE DEPARTING THE BOUNDARY OF SAID LANDS DESCRIBED IN OFFICIAL RECORD BOOK 1352, PAGE 23, S79°35'24"E, 647.30 FEET; THENCE S78°36'25"E, 172.80 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 1,255.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC THEREOF THROUGH A CENTRAL ANGLE OF 29°40'30", A DISTANCE OF 650.00 FEET; THENCE S48°56'05"E, 73.19 FEET; THENCE S51°47'40"E, 225.28 FEET; THENCE S48°55'55"E, 277.70 FEET; THENCE S46°04'10"E, 225.28 FEET; THENCE S48°55'55"E, 126.99 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 550.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC THEREOF THROUGH A CENTRAL ANGLE OF 48°36'09", A DISTANCE OF 466.55 FEET; THENCE S00°19'46"E, 174.91 FEET TO THE NORTHERLY BOUNDARY OF THOSE LANDS DESCRIBED IN OFFICIAL RECORD BOOK 871, PAGE 387, PUBLIC RECORDS OF SUMTER COUNTY, FLORIDA; THENCE ALONG SAID NORTHERLY BOUNDARY THE FOLLOWING COURSES, S89°41'23"W, 291.99 FEET; THENCE N89°48'21"W, 746.65 FEET TO THE POINT OF BEGINNING.

LESS

ANY PORTION OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1077, PAGE 294, PUBLIC RECORDS OF SUMTER COUNTY, FLORIDA, SAID LAND DESCRIBED AS FOLLOWS:

BEGIN AT THE MOST SOUTHWESTERLY CORNER OF LOT 8, OF TIMBERWOOD ESTATES, AS SUBDIVISION RECORDED IN PLAT BOOK 3, PAGES 54, 54-A, THROUGH 54-E, PUBLIC RECORDS OF SUMTER COUNTY, FLORIDA, SAID POINT ALSO BEING ON THE EAST LINE OF THE SOUTHEAST 1/4 OF SECTION 27, TOWNSHIP 19 SOUTH, RANGE 23 EAST, IN SUMTER COUNTY, FLORIDA, SAID POINT ALSO BEING ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 468; FROM SAID POINT OF BEGINNING, RUN S63 DEGREES 08'41"W, ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 468, A DISTANCE OF 186.53 FEET TO A POINT THAT IS 150 FEET WEST OF, WHEN MEASURED AT RIGHT ANGLES THERETO, THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 27; THENCE N00 DEGREES 15'45"E, PARALLEL WITH THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 27, A DISTANCE OF 900.00 FEET; THENCE N63 DEGREES 08'41"E, PARALLEL WITH THE NORTHWESTERLY LINE OF SAID STATE ROAD NO. 468, A DISTANCE OF 168.53 FEET TO A POINT ON THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 27; THENCE S00 DEGREES 15'45"W, ALONG THE EAST LINE OF THE SOUTHEAST 1/4, A DISTANCE OF 900.00 FEET TO THE POINT OF BEGINNING.

AND LESS

ANY PORTION OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2397, PAGE 654, PUBLIC RECORDS OF SUMTER COUNTY, FLORIDA; SAID LANDS BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 27, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA. PROCEED THENCE N00°25'17"E, ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 27 A DISTANCE OF 702.53 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 468; THENCE RUN S63°16'42"W, ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 579.51 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 3209.04 FEET AND A CENTRAL ANGLE OF 03°18'56"; THENCE RUN SOUTHWESTERLY ALONG THE

ARC OF SAID CURVE AND SAID RIGHT-OF-WAY LINE AN ARC DISTANCE OF 185.70 FEET, SAID ARC HAVING A CHORD BEARING OF S64°56'10"W AND A CHORD DISTANCE OF 185.67 FEET; THENCE N26°47'28"W, A DISTANCE OF 636.06 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL; THENCE S89°09'36"W, A DISTANCE OF 1392.04 FEET; THENCE N00°00'00"E, A DISTANCE OF 38.43 FEET; THENCE N33°27'25"E, A DISTANCE OF 128.60 FEET; THENCE N90°00'00"E, A DISTANCE OF 65.68 FEET; THENCE N00°00'00"W, A DISTANCE OF 136.46 FEET; THENCE N66°33'20"E, A DISTANCE OF 30.59 FEET; THENCE S86°48'38"E, A DISTANCE OF 39.86 FEET; THENCE N54°48'54"E, A DISTANCE OF 55.88 FEET; THENCE N80°43'41"E, A DISTANCE OF 87.06 FEET; THENCE S82°41'14"E, A DISTANCE OF 71.19 FEET; THENCE S51°13'54"E, A DISTANCE OF 65.18 FEET; THENCE S31°40'45"E, A DISTANCE OF 71.00 FEET; THENCE S20°50'35"E, A DISTANCE OF 109.42 FEET; THENCE S60°43'07"E, A DISTANCE OF 94.48 FEET; THENCE S74°56'15"E, A DISTANCE OF 54.13 FEET; THENCE S80°26'04"E, A DISTANCE OF 105.19 FEET; THENCE S75°26'19"E, A DISTANCE OF 60.91 FEET; THENCE S80°03'12"E, A DISTANCE OF 2.90 FEET; THENCE N89°09'36"E, A DISTANCE OF 180.52 FEET; THENCE N67°24'55"E, A DISTANCE OF 54.46 FEET; THENCE N11°24'01"E, A DISTANCE OF 53.61 FEET; THENCE N31°13'17"E, A DISTANCE OF 71.05 FEET; THENCE N22°50'32"E, A DISTANCE OF 132.04 FEET; THENCE N43°14'32"E, A DISTANCE OF 73.34 FEET; THENCE N44°41'23"E, A DISTANCE OF 82.50 FEET; THENCE N66°57'12"E, A DISTANCE OF 118.62 FEET; THENCE S82°40'56"E, A DISTANCE OF 56.90 FEET; THENCE N86°13'54"E, A DISTANCE OF 55.03 FEET THENCE N78°13'13"E, A DISTANCE OF 53.76 FEET; THENCE N49°39'54"E, A DISTANCE OF 76.95 FEET; THENCE N72°26'22"E, A DISTANCE OF 40.27 FEET; THENCE N51°53'19"E, A DISTANCE OF 86.37 FEET; THENCE S85°05'47"E, A DISTANCE OF 81.98 FEET; THENCE N83°59'34"E, A DISTANCE OF 103.91 FEET; THENCE N80°44'25"E, A DISTANCE OF 65.27 FEET; THENCE N80°39'14"E, A DISTANCE OF 53.25 FEET; THENCE N76°56'22"E, A DISTANCE OF 77.28 FEET; THENCE N67°45'41"E, A DISTANCE OF 116.14 FEET; THENCE S00°37'41"E, A DISTANCE OF 164.14 FEET; THENCE S63°15'42"W, A DISTANCE OF 920.98 FEET; THENCE S 26°47'28", A DISTANCE OF 19.43 FEET TO THE POINT OF BEGINNING.

AND TOGETHER WITH

ALL OF SECTION 28, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING NORTH OF COUNTY ROAD 468, LESS RIGHT-OF-WAY FOR FLORIDA'S TURNPIKE; AND LESS ANY PORTION THEREOF LYING WITHIN THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2962, PAGE 320, PUBLIC RECORDS OF SUMTER COUNTY, FLORIDA; SAID LANDS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: THAT LAND LYING IN SECTIONS 27 AND 28, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS: BEGIN AT THE INTERSECTION OF THE SOUTHWESTERLY RIGHT-OF-WAY OF FLORIDA'S TURNPIKE AND THE NORTHERLY BOUNDARY OF THOSE LANDS DESCRIBED IN OFFICIAL RECORD BOOK 871, PAGE 387, PUBLIC RECORDS OF SUMTER COUNTY, FLORIDA; THENCE ALONG SAID NORTHERLY BOUNDARY THE FOLLOWING COURSES: N89°48'22"W, 612.24 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 11,394.16 FEET; THENCE WESTERLY ALONG THE ARC THEREOF THROUGH A CENTRAL ANGLE OF 02°00'43", A DISTANCE OF 400.11 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 11,524.16 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°56'58", A DISTANCE OF 392.08 FEET; THENCE N89°44'49"W, 329.14 FEET TO THE WESTERLY BOUNDARY OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1864, PAGE 259, PUBLIC RECORDS OF SUMTER COUNTY, FLORIDA; THENCE DEPARTING SAID NORTHERLY BOUNDARY AND ALONG SAID WESTERLY BOUNDARY THE FOLLOWING COURSES: N00°13'42"W, 1,574.91

FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 622.20 FEET; THENCE NORTHERLY ALONG THE ARC THEREOF THROUGH A CENTRAL ANGLE OF 33°45'46", A DISTANCE OF 366.64 FEET TO A POINT ON THE BOUNDARY OF SAID LANDS RECORDED IN OFFICIAL RECORDS BOOK 1352, PAGE 23 AND A POINT ON THE ARC OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 1,112.00 FEET AND A CHORD BEARING AND DISTANCE OF N39°26'30"W, 148.13 FEET; THENCE ALONG THE BOUNDARY OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1352, PAGE 23 THE FOLLOWING COURSES: NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 07°38'16", A DISTANCE OF 148.24 FEET; THENCE N43°15'38"W, 342.25 FEET; THENCE N40°30'45"W, 513.82 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF FLORIDA'S TURNPIKE; THENCE ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY, S42°56'50"E, 3,681.60 FEET TO THE POINT OF BEGINNING.

AND TOGETHER WITH

THAT LAND LYING IN SECTION 29, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE NORTHEAST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 29, BEING THE POINT OF COMMENCEMENT, RUN ALONG THE EAST LINE THEREOF THE FOLLOWING TWO COURSES: S00°19'55"W, 448.33 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S00°19'55"W, 2,210.14 FEET TO THE EAST 1/4 CORNER OF SAID SECTION 29; THENCE ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 29, S00°20'02"W, 2,516.37 FEET TO THE NORTHERLY RIGHT-OF-WAY OF C-468; THENCE DEPARTING SAID EAST LINE AND ALONG SAID RIGHT-OF-WAY AS DESCRIBED IN OFFICIAL RECORDS BOOK 2791, PAGE 736 AND OFFICIAL RECORDS BOOK 871, PAGE 387, PUBLIC RECORDS OF SUMTER COUNTY, FLORIDA, THE FOLLOWING COURSES: N89°43'13"W, 115.87 FEET; THENCE S88°50'55"W, 747.68 FEET; THENCE N89°09'24"W, 209.10 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 5,794.58 FEET; THENCE WESTERLY ALONG THE ARC THEREOF THROUGH A CENTRAL ANGLE OF 02°29'41", A DISTANCE OF 252.30 FEET TO THE WEST LINE OF THE EAST 1/2 OF THE SOUTHEAST 1/4; THENCE DEPARTING SAID RIGHT-OF-WAY AND ALONG SAID EAST LINE, N00°29'26"E, 1,377.15 FEET TO THE SOUTHEAST CORNER OF LOT 13, BLOCK F, AS SHOWN ON WILDWOOD RANCH, AS RECORDED IN PLAT BOOK 3, PAGES 29A THROUGH 29B, INCLUSIVE, PUBLIC RECORDS OF SUMTER COUNTY, FLORIDA; THENCE ALONG THE FOLLOWING COURSES AS SHOWN ON SAID PLAT: N89°38'52"W, ALONG THE SOUTHERLY BOUNDARY OF SAID LOT 13 A DISTANCE OF 639.93 FEET TO THE EASTERLY RIGHT-OF-WAY OF WILDWOOD STREET; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY, N00°21'01"E, 3,501.12 FEET TO THE NORTHWESTERLY CORNER OF LOT 10, BLOCK H; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY, S89°39'22"E, ALONG THE NORTHERLY BOUNDARY OF LOT 10, BLOCK H AND LOT 31, BLOCK H, A DISTANCE OF 1,260.08 FEET TO THE WESTERLY RIGHT-OF-WAY OF MEDINA STREET; THENCE DEPARTING SAID NORTHERLY BOUNDARY AND ALONG SAID WESTERLY RIGHT-OF-WAY, S00°21'42"W, 130.36 FEET TO THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 9, BLOCK G; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY, S89°37'28"E, ALONG SAID WESTERLY EXTENSION AND THE NORTHERLY BOUNDARY OF SAID LOT 9, 699.71 FEET TO THE POINT OF BEGINNING.

AND

THE NORTH 3/4 OF THE EAST 1/2 OF SECTION 33, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; LESS RIGHT-OF-WAY FOR COUNTY ROAD 501 AND LESS RIGHT-OF-WAY FOR COUNTY ROAD 468;

AND

THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 33, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA AND THE NORTH 30.00 FEET OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 33; LESS THAT PORTION OF THE EAST 35.75 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, LYING SOUTH OF THE NORTH 208.71 FEET THEREOF, ALSO LESS RIGHT-OF-WAY FOR COUNTY ROAD 501.

AND

ALL OF SECTION 34, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING SOUTH OF COUNTY ROAD C-468; LESS THE EAST 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 AND LESS THAT PORTION OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 LYING SOUTHWESTERLY OF FLORIDA'S TURNPIKE. ALSO LESS RIGHT-OF-WAY FOR COUNTY ROAD 501; ALSO LESS RIGHT-OF-WAY FOR FLORIDA'S TURNPIKE.

**DRAFT**

ORDINANCE NUMBER 02018-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF WILDWOOD, FLORIDA; PROVIDING A SHORT TITLE; PROVIDING FINDINGS AND INTENT; GRANTING A CERTAIN NON-EXCLUSIVE FRANCHISE TO THE CITY OF LEESBURG, FLORIDA, ITS SUCCESSORS AND ASSIGNS ("FRANCHISEE"), A FRANCHISE FOR A PERIOD OF 30 YEARS TO ACQUIRE AND/OR CONSTRUCT, OWN, OPERATE, AND MAINTAIN CERTAIN SERVICES AND FACILITIES TO SERVE AREAS WITHIN AND ADJACENT TO THE VILLAGES AGED RESTRICTED DEVELOPMENT; SETTING FORTH THE TERMS AND CONDITIONS UNDER WHICH SUCH FRANCHISE SHALL OPERATE; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED** by the City Commission of the City of Wildwood, Florida, as follows:

**SECTION 1. SHORT TITLE.** This Ordinance shall be known and may be cited as the "City of Leesburg Natural Gas Ordinance."

**SECTION 2. FINDINGS AND INTENT.** The City Commission makes the following findings and intent:

(1) The City of Wildwood, Florida (hereafter "City") exercises control over all publicly dedicated rights-of-way, streets, alleys, bridges, easements and other public places located within the limits of the City.

(2) The City of Leesburg, Florida ("Franchisee") has entered into or will enter into an agreement with South Sumter Gas Company, LLC, a Florida limited liability company ("SSGC") whereby SSGC will construct and convey to Franchisee a natural gas distribution system (the "System"), and Franchisee shall provide end users located within the property located in the City of Wildwood and described in the attached Exhibit "A" (the "Property") with natural gas service.

(3) The aforesaid rights-of-way to be used by the Franchisee are valuable public properties to be dedicated to City by the Owners of the Property and maintained by the City at great expense to the City's taxpayers, and the right to use said rights-of-way is a valuable property right to the Franchisee.

(4) The City desires to ensure that the aforesaid rights-of-way used by the Franchisee are promptly restored to a safe and secure condition to protect the health, safety and welfare of the citizens and residents of the City.

**DRAFT**

(5) As provided by law and pursuant to the City Charter of Wildwood, Florida, and Chapters 166 and 180, Florida Statutes, the City is authorized to grant non-exclusive franchises to private corporations and individuals to provide gas service to customers within the corporate limits of Wildwood.

(6) The City Charter of Wildwood, Florida, expressly prohibits the grant of exclusive franchises to private entities or individuals for the provision of utility services within the corporate limits of the City.

(7) The City has previously granted a non-exclusive gas franchise to TECO and South Sumter Gas Company, LLC to permit them to provide retail gas service in those portions of the boundaries of the City where such service is requested and desired by the property owners.

(8) For its part, the City has agreed not to compete with other franchisees, such as TECO and South Sumter Gas Company, LLC, by providing its own retail gas service within the boundaries of the City.

(9) The Franchisee has applied for and requested to provide retail gas service within a portion of the boundaries of the City.

(10) The City Commission has considered a request submitted by the proposed Franchisee to provide natural gas services to serve the Property.

(11) The Franchisee already operates a gas utility either by itself or through contracts with others to provide retail gas service to lands, properties, and customers outside the boundaries of the City which are being developed and sold by owners related thereto.

(12) The parties hereto acknowledge and find that the Owners of the Property have stated their preference that the Franchisee be the provider of retail gas services to the Property.

(13) The City and the Franchisee both recognize the desirability and need to effectively provide retail gas service in the manner which is both economical, cost effective and consistent with sound economic policy, while recognizing customer preference.

(14) It is the City's intent to conserve and protect natural resources in the interest of public health, safety and welfare, and to avoid and eliminate the circumstances giving rise to the aforesaid duplications and resulting uneconomical and wasteful operations.

(15) It is also the City's intent to permit, subject to reasonable regulation as contemplated in its Charter and state and federal law, to permit and encourage customer preference to be considered in the granting of non-exclusive franchises for the provision of retail gas service.

(16) In construing this Agreement, it is hereby declared by the parties to be the purpose and the intent of this Agreement to effectively provide retail gas service and to prevent the needless and wasteful expenditures and harm to affected natural resources which would result from unnecessary duplication while also considering and taking into account customer preference as contemplated under Florida law. Nothing contained herein is intended to prohibit persons, corporations or governments other than the parties hereto from lawfully providing retail gas service within the City of Wildwood, Florida, subject to applicable state law. The parties do not intend and are not by this Agreement: (a) placing undue or unreasonable restrictions upon free competition; (b) fixing prices; or (c) unreasonably limiting the availability of retail gas service capacity or supplies.

(17) After due deliberation and full consideration, the City Commission has determined to grant a franchise to the Franchisee to provide such services, subject to the terms and conditions set forth below.

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**SECTION 3. DEFINITIONS.** For the purposes of this Ordinance, the following terms shall have the meaning given herein:

- (a) The term "City" shall mean the City of Wildwood, Florida.
- (b) The term "Customers" shall mean and include any and all organizations, firms, entities or persons who may desire or require Franchisee's services for land located within the Franchise Territory.
- (c) The term "Franchisee" shall mean The City of Leesburg, Florida, or any entity who is assigned the franchise rights of Franchisee, in accordance with this Ordinance.
- (d) The term "Franchise" or "Franchise Agreement" shall mean this Ordinance and agreement, as passed and adopted by the City and accepted by Franchisee.
- (e) The term "Franchise Territory" shall mean the following: (i) the area of the City more particularly described in **Exhibit "A"** attached hereto and incorporated herein, which area includes the Property and certain public right-of-way located adjacent to the Property; (ii) any and all streets, alleys, public ways or easements, and public property or places that may now or hereafter exist within the area of the City; and (iii) any other property that may be approved by the City from time to time for development as part of The Villages ARD Planned Development (as that term is used in The Villages ARD Franchisees Ordinance, O2017-23), provided such additional property must be added as an amendment to this franchise by ordinance, less and except that portion of the City lying within the Brownwood community.
- (f) The term "Operating Revenues" for Franchisee shall mean all user fees collected by Franchisee from the sale of such services provided by Franchisee to Customers within and throughout the Franchise Territory. Operating Revenues shall not include Customer deposits, meter fees, fees or improvements received as contributions-in-aid-of-construction, or other non-user fees or charges derived from the operation of the services of such Franchisee.
- (g) The term "Systems" shall have the meaning as herein defined in Section 5.

**SECTION 4. AUTHORITY.** This Ordinance is being adopted pursuant to the City's Charter, relevant special acts, and Chapter 166, Florida Statutes (2017).

**SECTION 5. GRANT OF AUTHORITY.** There is hereby granted by the City to Franchisee the non-exclusive right, privilege, and franchise to erect, construct, operate and maintain the Systems and related facilities, including but not be limited to natural gas pipelines and associated equipment and facilities, distribution lines, regulators, pressure meters, communication systems, warning systems, automatic controls, and shutoff fittings, all and collectively used as a means of conveying, distributing and selling certain services authorized by this Ordinance in Section 7 to any person or entity to be supplied by Franchisee within the Franchise Territory and to sell and distribute such services to Customers within and throughout the Franchise Territory (hereinafter collectively referred to as "Systems"). The foregoing rights granted to Franchisee shall be non-exclusive, but the City agrees, as part of the consideration for the granting of the purchase option set forth in this Franchise, to refrain from granting a similar franchise within the Franchise Territory to any other private, non-governmental entity or person at any time during the period of this Franchise, except for pre-existing franchises. The Franchisees each acknowledge that the City

currently has Franchise Agreements with TECO (Ordinance No. O2009-13) dated August 9, 2009, and South Sumter Gas Company, LLC (Ordinance No. O2017-23) dated May 8, 2017.

**SECTION 6. NATURE OF FRANCHISE; POWERS RETAINED BY CITY.** Once this Ordinance becomes final, it shall be deemed both a contract with Franchisee and a legislative act as provided under Florida law. Franchisee is subject to all franchises and permits heretofore granted by the City Commission to use the streets, alleys, lanes and public places of the City by public utility or public service corporations. It is not intended by the grant of this Franchise to abridge the exercise of the police power of the City. The grant of this Franchise is subject to all ordinances and resolutions of the City Commission as the same now exist or may be hereafter amended, revised or modified to the extent not inconsistent with the terms of this Franchise. Franchisee shall at all times continue to be subject to all applicable public service taxes (Section 166.231, Florida Statutes), ad valorem taxes (Section 166.211, Florida Statutes), and such other applicable taxes, charges or fees as may be lawfully authorized by the Florida Constitution, the general or special laws of the State of Florida, the provisions of the Municipal Home Rule Powers Act (Chapter 166, Florida Statutes), or the ordinances of the City, subject to the provisions of this Section 5 and to the extent that such ordinances are not preempted, as a matter of law, by federal or state law. Franchisee shall, at all times, during the life of this Franchise, be subject to all lawful exercises of police power by the City, and to such reasonable laws, rules and regulations as the City shall hereafter, by resolution or ordinance provide, including, but not limited to, any ordinances pertaining to excavation, reconstruction and development requirements and standards.

**SECTION 7. GRANT OF FRANCHISE.**

(a) **Franchise Granted to The City of Leesburg, Florida.** For natural gas transmission, distribution and related facilities, The City of Leesburg, Florida is granted the non-exclusive franchise pursuant to the provisions of this Ordinance. Franchisee shall be responsible for acquiring and/or constructing, operating, and maintaining the facilities in accordance with Section 5. Franchisee shall pay to the City a franchise fee as provided in this Ordinance

**SECTION 8. INDEMNIFICATION; INSURANCE.**

(1) Franchisee and its subcontractors, to the extent permitted by law, and subject to the limitations imposed by §768.28(19), Fla. Stat. (2017), shall indemnify and hold harmless the City, its agents, elected or appointed officials, officers and employees from any and all liability, claims, demands, damages, expenses, fees, penalties, suits, proceedings, actions and cost of actions (including attorneys' fees and costs at trial and on appeal), of any kind or nature, arising or growing out of, or any way connected with the exercise by Franchisees of its rights contained herein.

(2) Franchisee and its subcontractors shall procure and maintain, for the duration of this Franchise, insurance of the types and limits specified below:

- a. Comprehensive General Liability - bodily injury and property damage coverage shall be for not less than \$1,000,000.00 per occurrence and not less than \$1,000,000.00 in the aggregate. The City shall be named as an additional insured on the policy.
- b. Business Automobile Liability - business automobile liability coverage shall be in a combined single limit of not less than \$500,000.00 per occurrence.

The City shall be named as an additional insured on the policy.

- c. The City Commission for the City of Wildwood shall have the right to reassess and adjust the required amount of liability insurance required under this Section every five (5) years, if necessary. In so doing, the City Commission shall take into consideration all relevant factors, including, but not limited to, the rate of inflation, changes in law, and information related to risk assessment for the City. Whenever the City Commission exercises its right to reassess the amount of liability insurance required, the Franchisee shall have the right to present any information that it deems relevant to the City Commission's determination regarding the same.

**SECTION 9. SERVICE STANDARDS.** Franchisee shall maintain and operate its Systems and facilities and render efficient service in accordance with the rules and regulations as are, or may be, set forth by the City and/or other agency and/or entity with jurisdiction to regulate and/or promulgate rules regarding Franchisee's operations.

**SECTION 10. PAYMENTS TO THE CITY.**

(1) **Franchise Fee.** In consideration for the granting of this Franchise, the Franchisee, its successors and assigns, shall pay to the City, and its successors, an annual amount which will equal six percent (6%) of Franchisee's annual gross operating revenue taken in and received by it for providing all aspects of natural gas service to its customers within the corporate limits of the City, as now or hereafter constituted. The Franchisee shall pay the franchise fee provided by this section quarterly on January 1, April 1, July 1 and October 1 of each year during the term of this franchise. Any payments not made by the Franchisee within 20 days after the date said payment is due, shall thereafter be payable with interest at the rate of eighteen percent (18%) per annum.

Except as otherwise provided for within this Ordinance, the Franchisee shall at all times continue to be subject to and shall pay to the City all legally authorized public service taxes, ad valorem taxes (intangible, personal, real), occupational taxes, and any and all other valid tax, levied or imposed by the City. Such charges and fees shall include but not be limited to licensing, permit fees, development review and inspection fees and all other such fees including fees, charges, taxes and/or assessments validly adopted and/or imposed during the term of this Franchise Agreement.

(2) **Electronic Payment.** The quarterly Franchise Fee payments shall be made by wire transfer or other electronic means. Any quarterly payment or any portion thereof received after the due date shall be subject to interest at the rate of eighteen percent (18%) per annum until all payments due hereunder are paid in full.

**SECTION 11. RECORDS AND REPORTS.** The City or its designated representative shall have the right during the term of this Franchise to examine, at all reasonable business hours, all of Franchisee's plans, contracts, engineering, accounting, finance, statistical, customer and service records relating to performance under this Ordinance; provided, however, that the City expressly acknowledges and agrees that Franchisee may redact proprietary information and any private customer information from such documents and records prior to making the same available to the City for examination hereunder. The City agrees to keep any information it obtains confidential to the maximum extent possible under Florida's public records law. As well, Franchisee shall provide directly to the City an annual summary report showing gross revenues received by Franchisee from its operations within the City during the preceding fiscal year and

such other information as the City shall request with respect to properties, quality control, and expenses related to Franchisee service within the City. The City may audit the financial records of Franchisee for the purpose of determining that proper collection or payment of franchise fees is being made by Franchisee in accordance with this Ordinance at the City's initial expense. Franchisee shall cooperate with and make available those records necessary for City to perform the audit. If the audit demonstrates that payment or collection of franchise fees is more than 5% less than the semi-annual amount that should have been paid or collected, Franchisee shall, in addition to paying the fees that should have been paid or collected, pay the cost of the audit.

**SECTION 12. RATES.** Franchisee shall be responsible for the billing and collection of all fees and rates charged to Customers of the services authorized to Franchisee by this Ordinance.

**SECTION 13. TRANSFER OR ENCUMBRANCE OF FRANCHISE.** Franchisee may not assign or otherwise transfer its franchise rights except with the prior written consent of the City expressed by an ordinance, which consent shall not be unreasonably withheld, conditioned or delayed. Franchisee shall be released from all obligations set forth in this Ordinance upon the assignment of its rights in accordance with this Section and upon the written acceptance by assignee of the obligations so assigned by Franchisee.

**SECTION 14. FORFEITURE OF FRANCHISE; NON-COMPLIANCE.** In the event of a material default by Franchisee with respect to its obligations under this Ordinance, the City shall provide written notice of such default to Franchisee. In the event that Franchisee fails to cure the alleged material default within sixty (60) days of its receipt of such notice from the City, then the City shall be entitled: (i) to file an action against Franchisee for specific performance of its obligations under this Ordinance; (ii) to file an action against Franchisee for damages actually incurred by City by reason of Franchisee's default of its obligations under this Ordinance, provided in no event shall City be entitled to recover any consequential, indirect, special, speculative, punitive or exemplary damages from Franchisee; or (iii) to file an action against Franchisee to terminate the Franchise.

**SECTION 15. TERM OF FRANCHISE.** This Franchise and the rights herein granted shall take effect after final passage of this Ordinance, as required by law, and fully executed by both parties, and acceptance by Franchisee in accordance with Section 16 below, and shall continue in full force and effect for a term of thirty (30) years after the date on which this Franchise Agreement has been accepted by Franchisee in accordance with Section 16 below. The City recognizes that this Ordinance may incorporate additional property in the future which pursuant to Section 3(e) will become part of the Franchise Territory. At such time as the additional property is rezoned by the City to Villages ARD Planned Development, the parties agree to amend the term of this Franchise to expire thirty (30) years of the date the additional property is zoned Villages ARD Planned Development.

**SECTION 16. ACCEPTANCE.** This Franchise is hereby granted upon the condition that, within thirty (30) days after the date of passage of this Ordinance, Franchisee shall file with the City Clerk its acceptance of the terms and conditions of this Franchise, which acceptance shall be in writing, duly executed by or on behalf of the Franchisee and contain the Franchisee's address.

**SECTION 17. SEVERABILITY.** Should any section or provision of this Franchise or any portion thereof, the deletion of which would not adversely affect (in the general sense) the receipt of any material benefits or, substantially increase the burden of any party hereunder, be declared by a judicial or administrative tribunal of competent jurisdiction to be invalid, such decision shall

not affect the validity of the remainder, as a whole or any part thereof, other than the part declared to be invalid. In the event of any such partial invalidity, the City and Franchisee shall meet and negotiate in good faith to obtain a replacement provision that is in compliance with the judicial or administrative authority's decisions and consistent with the original intent of the parties as contained herein. If such decision is fundamental to or alters the essence of this Franchise, then the parties agree to negotiate a new franchise agreement.

**SECTION 18. GOVERNING LAW AND VENUE.** The rights and privileges granted to Franchisee by this Franchise shall at all times be subordinate and inferior to the rights of the public in and to the ordinary use of the Public Rights-of-Way and nothing in this Franchise shall be considered as a surrender by the City of its right and power to use and relocate the use of its rights-of-way. In the event that any legal proceeding is brought to enforce the terms of this Franchise, the same shall be brought in Sumter County, Florida.

**SECTION 19. NOTICES.** Except in exigent circumstances, and except as otherwise specifically provided in this Franchise, all notices by either City or Franchisee to the other shall be made by either depositing such notice in the United States Mail, Certified Mail return receipt requested or by facsimile. Any notice served by certified mail return receipt shall be deemed delivered five (5) days after the date of such deposit in the United States Mail unless otherwise provided. Any notice given by facsimile is deemed received by next Business Day. "Business Day" for purposes of this Section shall mean Monday through Friday, with Saturday, Sunday and City and Franchisee observed holidays accepted. All notices shall be addressed as follows:

As To City: City of Wildwood  
Attn: Jason McHugh, AICP  
City Manager  
100 N. Main Street  
Wildwood, FL 34785

With Copy to: Ashley S. Hunt, Esq.  
Hunt Law Firm, P.A.  
109 E. Main Street  
Leesburg, FL 34748

As To Franchisee: City of Leesburg  
Attention: City Manager  
501 West Meadow Street  
Leesburg, Florida 34748

With Copy to: McLin Burnsed P.A.  
City Attorneys  
1000 West Main Street  
Leesburg, Florida 34748

Notice shall be given as required by this Franchise and for all other emergencies. Notice shall be provided to the above-named addressees unless directed otherwise in writing by the City or Franchisee.

**SECTION 20. NON-WAIVER PROVISION.** The failure of either Party to insist in anyone or more instances upon the strict performance of anyone or more of the terms or provisions of

this Franchise shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same shall continue in full force and effect. No waiver or relinquishment shall be deemed to have been made by either party unless said waiver or relinquishment is in writing and signed by the Parties.

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**SECTION 21. COMPLETE AGREEMENT.** This Franchise together with the exhibits (as may be amended from time to time in accordance with the terms hereof) represents the entire agreement of the Parties and supersedes all prior representations whether oral or in writing with respect to the rights of the Parties.

**SECTION 22. AMENDMENTS TO FRANCHISE AGREEMENT.** Changes in the terms and conditions to this Franchise Agreement may be made by written agreement between the City and the Franchisee.

**SECTION 23. ORDINANCES REPEALED.** All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed as of the effective date.

**SECTION 24. EFFECTIVE DATE.** This Ordinance granting a franchise to Franchisee shall take effect immediately upon becoming a law; provided, however, this Ordinance shall become effective only upon the written acceptance of Franchisee all as provided in Sections 15 and 16 hereinabove.

**SECTION 25. . RIGHT OF ACQUISITION BY CITY.** At the expiration of this Franchise, the City at its election, shall have the right to purchase and take over the property and services of the Franchise subject to this Ordinance. Upon the exercise of this option by the City by the service of an official notice upon the Franchisee to that effect and payment to Franchisee of the price, the Franchisee shall execute such deeds or instruments of conveyance to the City as shall be required to convey to the City title to the property in fee simple, free from any and all liens and encumbrances.. The price, which shall be based upon fair market value as determined by mutual agreement or non-binding arbitration. Each side shall pay its own attorneys' fees.

The Franchisee shall make it a condition of each contract entered into by it with reference to operations under this Franchise that the contract shall be subject to the exercise of this option by the City and that the City shall have the right to be substituted for the Franchisee as a party to any such contract and shall have the right to succeed to all privileges and the obligations thereof at its option.

**DONE AND ORDAINED** this \_\_\_\_ day of \_\_\_\_\_, 2018, by the City Commission of the City of Wildwood, Florida.

CITY COMMISSION  
CITY OF WILDWOOD, FLORIDA

\_\_\_\_\_  
Ed Wolf, Mayor

ATTEST: \_\_\_\_\_  
Cassandra Lippincott, City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Ashley Hunt, City Attorney

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