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Via Hand Delivery

Florida Public Service Commission
Office of Commission Clerk
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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COMMISSION
CLERK

RE: Docket No. 20250110-WS - In re: Application for transfer of facilities of Orchid Springs Development Corporation, Water Certificate No. 600-W, and Wastewater Certificate No. 516-S to CSWR-Florida Utility Operating Company, LLC, in Polk County

Dear Commission Clerk:

On behalf of Applicant CSWR-Florida Utility Operating Company, LLC, please find enclosed a Request for Confidential Classification concerning the engineering reports of the Orchid Springs Development Corporation water and wastewater systems: 1) Orchid Springs Development Corporation Water System Assessment; and 2) Orchid Springs Development Corporation Wastewater System Assessment. Pursuant to Rule 25-22.006(4)(a), Florida Administrative Code, also enclosed are unredacted, highlighted copies of the reports. Redacted copies of the reports have been filed in the docket via the Commission's online filing portal attached as Exhibits H-1 and H-2 to CSWR-Florida's transfer application.

Sincerely,

/s/ Thomas A. Crabb

Thomas A. Crabb
Susan F. Clark
Attorneys for Applicant
CSWR-Florida Utility Operating Company, LLC

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of facilities of
Orchid Springs Development Corporation,
Water Certificate No. 600-W, and Wastewater
Certificate No. 516-S to CSWR-Florida
Utility Operating Company, LLC, in Polk
County.

Docket No.: 20250110-WS

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF
WATER AND WASTEWATER SYSTEM ENGINEERING REPORTS**

CSWR-Florida Utility Operating Company, LLC ("CSWR-Florida"), pursuant to Section 367.156, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, requests that the Commission classify portions of the McKim & Creed Water and Wastewater System Engineering Assessment Reports (Exhibits H-1 and H-2 to the Application) as proprietary confidential business information. In support, CSWR-Florida states:

1. CSWR-Florida filed its Application on September 2, 2025.
2. Rule 25-30.037(2)(q), F.A.C., requires the applicant to provide information on the condition and compliance status of the system being acquired. Pursuant to that requirement, engineering reports relating to the condition of the water and wastewater systems of Orchid Springs Development Corporation are attached as Exhibits H-1 and H-2 to the Application.
3. The Water and Wastewater System Engineering Assessment Reports were prepared by the engineering firm McKim & Creed, Inc. as part of the acquisition due diligence process at significant expense to CSWR-Florida.
4. In this Request, the McKim & Creed Water and Wastewater Assessment Reports will be referred to as the "Engineering Reports."
5. CSWR-Florida's purchase of the assets of Orchid Springs Development Corporation will not close unless and until the Commission approves the transfer.

6. The Engineering Reports contain detailed engineering information relating to Orchid Springs Development Corporation's water and wastewater facilities, including a detailed description of the facilities and systems and recommended repairs and improvements, as well as capital estimates for triage and other improvements and repairs.

7. More specifically, the Engineering Reports address:

- General system information
- Description of the facility system components including age and condition
- Analysis of regulatory issues
- Recommended repairs and improvements
- Capital estimates for both triage repairs and other improvements and repairs

8. If for any reason, CSWR-Florida's acquisition of the assets of Orchid Springs Development Corporation does not close, and the Engineering Reports are not protected as confidential, another prospective purchaser could freeride on the Engineering Reports to formulate its own offer without having to expend the time and significant expense invested by CSWR-Florida in having them prepared.

9. CSWR-Florida accordingly requests that the Engineering Reports be classified as confidential until such time as the asset sale closes, at which point the competitive value of the Engineering Reports will have diminished. If for any reason the asset sale does not close, then CSWR-Florida requests that the Commission return to it the unredacted version of the Engineering Reports without them having been publicly disclosed.

10. Pursuant to Section 367.156(1), Florida Statutes, the Engineering Reports are confidential and exempt from Section 119.07(1), Florida Statutes, and Article I, Section 24(a) of the Florida Constitution because they contain proprietary confidential business information.

11. Section 367.156(3), Florida Statutes, defines proprietary confidential business information as "information, regardless of form or characteristics, which is owned or controlled

by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, or order of a court of administrative body, or a private agreement that provides that the information will not be released to the public."

12. The Engineering Reports are information owned and controlled by CSWR-Florida, the public disclosure of which would harm CSWR-Florida's business operations as described above. The Engineering Reports have not been previously disclosed.

13. Section 367.156(3), Florida Statutes, provides a nonexhaustive list of examples of proprietary confidential business information that includes: trade secrets; information concerning bids or other contractual data, the disclosure of which would impair the efforts of the utility or its affiliates to contract for goods or services on favorable terms; and information relating to competitive interests, the disclosure of which would impair the competitive businesses of the provider of the information.

14. The Engineering Reports are trade secret.

15. The Florida Legislature has expressly made trade secrets confidential and exempt from disclosure under the Florida Public Records Act. Section 815.045, Florida Statutes, provides:

The Legislature finds that it is a public necessity that trade secret information as defined in s. 812.081, and as provided for in s. 815.04(3), be expressly made confidential and exempt from the public records law because it is a felony to disclose such records. Due to the legal uncertainty as to whether a public employee would be protected from a felony conviction if otherwise complying with chapter 119, and with s. 24(a), Art. I of the State Constitution, it is imperative that a public records exemption be created. The Legislature in making disclosure of trade secrets a crime has clearly established the importance attached to trade secret protection. Disclosing trade secrets in an agency's possession would negatively impact the business interests of those providing an agency such trade secrets by damaging them in the marketplace, and those entities and individuals disclosing such trade secrets would hesitate to cooperate with that agency, which would impair the effective and efficient administration of governmental functions. Thus, the

public and private harm in disclosing trade secrets significantly outweighs any public benefit derived from disclosure, and the public's ability to scrutinize and monitor agency action is not diminished by nondisclosure of trade secrets.

(underlining added)

16. Section 812.081(1)(c), Florida Statutes, defines "trade secret" as follows:

"Trade secret" means the whole or any portion or phase of any formula, pattern, device, combination of devices, or compilation of information which is for use, or is used, in the operation of a business and which provides the business an advantage, or an opportunity to obtain an advantage, over those who do not know or use it. The term includes any scientific, technical, or commercial information, including financial information, and includes any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Irrespective of novelty, invention, patentability, the state of the prior art, and the level of skill in the business, art, or field to which the subject matter pertains, a trade secret is considered to be:

1. Secret;
2. Of value;
3. For use or in use by the business; and
4. Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it

when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.

17. This statutory definition of "trade secret" has four required elements: (1) a "compilation of information"; (2) "for use or is used in the operation of a business"; (3) "which provides the business an advantage or an opportunity to obtain an advantage, over those who do not know or use it"; and (4) the owner of the information "takes measures to prevent it from becoming available to persons other than those selected." *Managed Care of N.A., Inc. v. Fla. Healthy Kids Corp.*, 268 So. 3d 856, 860 (Fla. 1st DCA 2019), *reh'g denied* (Apr. 24, 2019). "Value" is not an element of this test. "Instead, the enumerated portion of the statutory subsection establishes a presumption of what a trade secret is 'considered to be' once the required elements

of a trade secret are established, as set forth in the first sentence of the statutory subsection.” *Id.* In other words, once the elements of the test are established, “the trade secrets are considered, as a matter of law, to be ‘of value.’” *Id.*

18. The Engineering Reports are a compilation of information, including both objective data and the expert opinions of McKim & Creed. The fact that public information is periodically referenced by the experts in the reports does not alter their trade secret status. *See Managed Care of N.A., Inc.*, 268 So. 2d at 861 (noting that “[p]ublic information can be subject to trade secret protection, as the time and effort spent compiling and the unique presentation thereof, may render the product a trade secret”).

19. The Engineering Reports are used in the operation of CSWR-Florida’s business, including as part of the due diligence process in evaluating Orchid Springs Development Corporation’s systems and by being produced in this transfer docket.

20. The Engineering Reports provide an advantage to CSWR-Florida, or opportunity to obtain an advantage, over any competitors interested in acquiring the Orchid Springs Development Corporation systems. The Engineering Reports provide comprehensive information relating to the systems that are presently unknown to competitors.

21. In satisfaction of the last element of the test for trade secret material, CSWR-Florida has taken “measures to prevent it from becoming available to persons other than those selected” including by filing this Request for Confidential Classification.

22. In addition to being trade secrets, the Engineering Reports include both “information concerning bids or other contractual data, the disclosure of which would impair the efforts of the utility or its affiliates to contract for goods or services on favorable terms” and

“information relating to competitive interests, the disclosure of which would impair the competitive businesses of the provider of the information.” § 367.156(3), Fla. Stat.

23. If a competitor could obtain the Engineering Reports, it could freeride on the time and expense required to generate them, impairing the efforts of CSWR-Florida to contract on favorable terms as CSWR-Florida’s costs are made higher by the costs of the Engineering Reports. This would similarly “impair the competitive business interests” of CSWR-Florida.

24. In sum, the Engineering Reports meet the general definition of proprietary confidential business information in Section 367.156(3) as well as the examples in that statute relating to trade secrets, information concerning bids or other contractual data, and information relating to competitive interests. The value invested by CSWR-Florida in the Engineering Reports is entitled to protection on these bases.

25. Similar engineering reports prepared for CSWR-Florida acquisitions have previously been found by the Commission to constitute proprietary confidential business information that is confidential and exempt from public disclosure. *See, e.g., In re: Application for transfer of wastewater Certificate No. 318-S from BFF Corp to CSWR-Florida Utility Operating Company, LLC, in Marion County*; Docket No. 20220061-SU, Order No. PSC-2023-0219-CFO-SU (Fla. PSC August 3, 2023); *In re: Application for transfer of water and wastewater facilities of Tradewinds Utilities, Inc., water Certificate No. 405-W, and wastewater Certificate No. 342-S to CSWR-Florida Utility Operating Company, LLC, in Marion County*; Docket No. 20220063-WS, Order No. PSC-2023-0296-CFO-WS (Fla. PSC September 29, 2023).

26. CSWR-Florida is not requesting confidential classification of the entirety of the Engineering Reports. The Water System Assessment Report is 131 pages. Confidential classification is requested for PDF pages 4-18 (Engineering Memo) and 51-54 (Appendix B Water

Treatment Facility Evaluation). The Wastewater System Assessment report is 250 pages. Confidential classification is requested for PDF pages 4-21 (Engineering Memo) and 54-72 (Appendix B Lift Stations Evaluation). Pursuant to Rule 25-22.006(4), Florida Administrative Code, the statutory justifications to protect these portions of the Engineering Reports are detailed above.

27. The remaining pages of the Engineering Reports are either publicly available or are otherwise documents over which the CSWR-Florida does not request confidential classification.

28. In compliance with Rule 25-22.006(4)(a), Florida Administrative Code, CSWR-Florida has filed a redacted copy of each report with the Commission via the online filing portal as Exhibits H-1 and H-2 to the Application. In addition, included with this Request for Confidential Classification is a copy of each report with the confidential information subject to this request highlighted (unredacted).

WHEREFORE, CSWR-Florida respectfully requests that the referenced portions of the McKim & Creed Engineering Reports be classified as confidential and exempt from disclosure under the Public Records Act, chapter 119, Florida Statutes, and Article I, Section 24(a) of the Florida Constitution until CSWR-Florida's acquisition of the assets of Orchid Springs Development Corporation closes.

Respectfully submitted this 3rd day of September, 2025.

/s/ Thomas A. Crabb

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