

File #060183

Exhibit C

*PREPAY FINANCING TRANSACTION -  
AGREEMENT WITH PROJECT PARTICIPANTS*

GAS SUPPLY AGREEMENT NO. 2

BETWEEN

FLORIDA GAS UTILITY

AND

CITY OF GAINESVILLE

D/B/A GAINESVILLE REGIONAL UTILITIES

Dated as of September 1, 2006

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## GAS SUPPLY AGREEMENT NO. 2

This GAS SUPPLY AGREEMENT NO. 2 ("Agreement") made and entered into as of September 1, 2006, by and between FLORIDA GAS UTILITY, a public body corporate and politic formed under the Florida Interlocal Cooperation Act ("FGU") and the CITY OF GAINESVILLE, doing business as GAINESVILLE REGIONAL UTILITIES, a municipal corporation of the State of Florida ("Project Participant").

### WITNESSETH:

WHEREAS, FGU was formed by Interlocal Agreement on September 1, 1989, which was subsequently amended by the Amended Interlocal Agreement on June 1, 1992, and thereafter amended and restated by Amended and Restated Interlocal Agreement dated as of July 1, 1996, and thereafter amended and restated by Second Amended and Restated Interlocal Agreement dated as of July 27, 1999 (the "Interlocal Agreement"); and

WHEREAS, in order to take advantage of perceived opportunities created by the restructuring of natural gas services, FGU was established between and among several public agencies for the purpose of achieving savings through joint services for, or which otherwise benefit, its Members; and

WHEREAS, Project Participant is a Member of FGU, wishes to obtain the benefits of participating in Gas Project No. 2 pursuant to this Agreement, which is intended to be a gas services contract within the meaning of the Interlocal Agreement, and is willing to assume the burdens of such participation described herein; and

WHEREAS, FGU will take or cause to be taken all steps necessary for the acquisition of, and will undertake such contractual arrangements necessary to secure, a suitable supply of Gas or a suitable pricing mechanism including Financial Products, or both, under one or more Gas Purchase Agreements or Financial Instruments, and will provide the Gas and pricing mechanism and services pursuant to this Agreement and/or other related or suitable Financial Instruments, and pursuant to agreements similar to this Agreement and related or suitable Financial Instruments with other Project Participants, all as hereinafter defined; and

WHEREAS, in order to enable FGU to provide its services hereunder, to pay the Costs provided for herein, and issue its Bonds to pay the Costs of Acquisition, FGU may have substantially similar Agreements with other Project Participants;

WHEREAS, Article VI of the Interlocal Agreement authorizes the Board of FGU to undertake a Special Project, and it is intended that each of Project Participants shall become a party to substantially similar Agreements, such

undertakings with respect to Gas Project No. 2 shall each be treated as a Special Project.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, it is agreed by and between the parties hereto as follows:

SECTION 1. Definitions and Explanations of Terms.

As used herein:

Aggregated Transportation Contracts shall have the meaning ascribed to that term in Section 3(a).

Agreement shall mean this Gas Supply Agreement No. 2 as the same may be amended or supplemented in accordance with its terms, including any other related or suitable Financial Instruments that may accompany this Agreement or be appropriate for the purposes to be achieved by this Agreement.

Annual Budget shall mean the budget adopted by the Board of FGU pursuant to paragraph (a) of Section 10, or, in the case of an amended Annual Budget adopted by the Board or Executive Committee of FGU, during the remainder of the Fiscal Year.

Approved Rate Tariff shall mean the tariff for the transportation of Gas by the Transporter as approved by FERC or the governmental or other entity charged with this responsibility.

Board of FGU shall mean the Board of Directors of FGU or if said Board shall be abolished, its successor board, body, commission or agency succeeding to the principal functions thereof or to whom the power and duties granted or imposed by any Bond Resolution shall be given by law.

Bond Resolution shall mean a resolution providing for the issuance of the Bonds, as may be adopted by the Board of FGU, and all amendments and supplements thereto adopted in accordance with the provisions thereof, and shall include any trust indenture providing for the issuance of and security for the Bonds, and other related documentation approved by the Board of FGU or delegated to the Executive Committee of FGU.

Bonds shall mean the bonds, notes or other evidences of indebtedness, or notes issued in anticipation of the issuance thereof, which may be issued from time to time by FGU pursuant to the Bond Resolution to pay any part of the Costs of Acquisition of Gas Project No. 2, whether or not any such issue shall be subordinated as to payment to any other issue, and shall include refunding bonds issued in accordance with this Agreement and the Bond Resolution.

Business Day shall mean any day except (i) Saturday or Sunday, (ii) any day on which nationally chartered banking institutions located in the states of New York and Florida are required or authorized by law to close or (iii) any day on which the New York Stock Exchange is closed. Unless otherwise specified as a Business Day, a day or days shall mean calendar day or days.

Calyon Hedge Agreement shall have the same meaning as set forth in the Gas Purchase Agreement.

Commencement Date shall mean the earlier of (i) the first date on which FGU shall make Gas available to the Project Participants pursuant to the Gas Purchase Agreement, (ii) the effective date of any Financial Instrument entered into for the benefit of Project Participant pursuant to this Agreement or the Special Project authorized hereby, (iii) the effective date of the incurrence by FGU of any obligations under the Gas Purchase Agreement, or (iv) the date of issuance of Bonds.

Contract Year shall mean the twelve (12) month period commencing at 12:01 a.m. on October 1 of each year, except that the first Contract Year shall commence on the first to occur of (i) the date which is twelve (12) months prior to the date on which the first principal installment on any of the Bonds is due or (ii) the Commencement Date, and shall expire at 12:01 a.m. on the next succeeding October 1.

Costs shall mean Monthly Costs and, to the extent not paid from proceeds of the Bonds, Costs of Acquisition.

Costs of Acquisition shall mean all costs of acquiring, planning, financing, pricing, transporting, storing and implementing the supply of Gas under the Gas Purchase Agreement, including, without limitation, the following:

(1) interest accruing in whole or in part on Bonds for such period as may reasonably be determined to be necessary in accordance with the provisions of the Bond Resolution;

(2) the deposit or deposits required to be made under the Bond Resolution from the proceeds of Bonds into any fund or account established pursuant to the Bond Resolution to meet Debt Service reserve requirements for Bonds or other requirements thereunder;

(3) the costs and expenses incurred in the issuance and sale of the Bonds, the proceeds of which have been or will be required to be applied to one or more purposes for which Bonds could be issued, including, without limitation, bond insurance premiums, letter of credit or other credit enhancement or liquidity fees, rating agency fees, discounts to the underwriters or other purchasers thereof, if any, legal, consulting and financial advisory costs, and amounts required to be paid under any

interest rate exchanges or swaps, cash flow exchanges, options, caps, floors or collars, in each case made in connection with the issuance of the Bonds;

(4) the payment of principal, premium, if any, and interest when due (whether at the maturity of principal or at the due date of interest or upon redemption) on notes or other evidences of indebtedness from time to time issued in anticipation of the issuance of Bonds, the proceeds of which have been or will be required to be applied to one or more purposes for which Bonds could be issued;

(5) all planning and development costs, insurance premiums, legal, consulting and financing costs, administrative and general costs, and all other costs properly allocable to the acquisition and implementation of the Project;

(6) all other costs incurred in connection with and properly chargeable to, the acquisition or implementation of the Project, and all costs in respect of commodity swaps, balancing contracts, hedging arrangements and other similar agreements related to the supply of Gas hereunder; and Financial Products authorized hereunder or by Financial Instruments implemented in accordance with FGU's obligations thereunder for the purchase of Gas (in each case, subject to the provisions of Section 3(f) below); and

(7) the provision for working capital or any other operating reserves that FGU deems reasonably required in connection with the Gas Purchase Agreement and Financial Instruments and for which may be required by FGU under this Agreement, and all costs relating thereto, and the cost of credit facilities or enhancements, in such amounts as FGU shall be obligated for under the Gas Purchase Agreement or this Agreement.

Debt Service shall mean, with respect to any period, the aggregate of the amounts required by the Bond Resolution to be paid or deposited during said period into any fund or account created by the Bond Resolution for the sole purpose of paying the principal (including sinking fund installments) of, premium, if any, and interest on all Bonds from time to time outstanding as the same shall become due; provided, however, that Debt Service shall not include any amount payable as principal solely as a result of acceleration of maturity of Bonds.

Default Share shall mean, as to each Project Participant on each respective date of calculation, an amount equal to the percentage of a Defaulted Gas Payment determined by multiplying the Defaulted Gas Payment by the ratio determined by dividing such Project Participant's aggregate Nominated Quantities of Gas for the remaining term of this Agreement by the aggregate Nominated

Quantities of Gas of all Project Participants that are not then in default, for the remaining term of this Agreement, in each case as of the date of calculation.

Defaulted Gas Payment shall mean those Costs that were not paid when due by a Project Participant, including all unbilled Costs accruing to and including the date on which FGU discontinues providing Gas to a Project Participant pursuant to Section 15 hereof. Defaulted Gas Payment shall not include transportation costs.

Designee shall mean FGU as the contractually authorized agent of a Project Participant pursuant to the terms of the general terms and conditions of Transporter's Approved Rate Tariff.

Direct Costs shall mean, with respect to any Gas not tendered for delivery to Project Participant (or FGU as its agent) pursuant to the terms of this Agreement, those items of Costs attributable to such Gas that are included within the definition of Monthly Costs related to payments (i) with respect to debt service on the Bonds and (ii) FGU payments due under the Calyon Swap. However, for purposes hereof, "Direct Costs" shall not include (and thus the Project Participant will remain liable for) the incremental difference, if any, between payments required under the Calyon Hedge Agreement with respect to such Gas (based on First of the Month Index pricing, minus the discount as described in the Calyon Hedge Agreement), and payments received from the Gas Supplier with respect to such Gas under the Gas Purchase Agreement (based on a Gas Daily spot index price on the respective date(s) of failed delivery).

Directive shall mean an instrument, in writing, executed and delivered by a Project Participant Representative that gives directions to FGU hereunder, or otherwise authorizes actions by FGU hereunder, or implements all or a part of this Agreement, and upon which FGU may rely as being duly authorized, executed and delivered by Project Participant.

Division shall mean a Project Participant of FGU, and the associated Point(s) of Delivery of that Project Participant, whose transportation entitlements have been aggregated under one transportation contract held by FGU to which Transporter's Approved Rate Tariff applies.

FERC shall mean Federal Energy Regulatory Commission or any successor governmental or other entity charged with its responsibility.

Financial Instrument shall mean an agreement entered into with respect to the purchase, financing or pricing of Gas or other services provided under this Agreement that provides for Financial Products by and between the parties thereto that may include FGU, or Project Participant, or both, or between Project Participant and any third parties or counterparties; the Project Participant Representative shall be authorized to provide a Directive with respect to any Financial Instrument on behalf of the Project Participant.

Financial Products shall mean futures contracts, commodity swaps and hedging arrangements related to the pricing or supply of Gas or other services provided hereunder, interest rate swaps (relating to Bonds), in either case, whether entered into by FGU, or by Project Participant and/or FGU, including balancing or similar agreements or interest rate exchanges or swaps, cash flow exchanges, options, caps, floors or collars implemented in accordance with the Derivatives Policy adopted by the Board of FGU from time to time. Without limiting the generality of the foregoing, such Financial Products may consist of those products described in Exhibit A and may have characteristics similar to those set forth in Exhibit A hereto.

Fiscal Year shall mean the twelve (12) month period commencing at 12:01 a.m. on October 1 of each year.

Gas shall mean pipeline quality natural gas (i) supplied pursuant to the Gas Purchase Agreement for Gas Project No. 2 and (ii) any gas furnished to replace undelivered Gas.

Gas Entitlement Share shall mean, with respect to each Project Participant, in any Contract Year, its share of Gas, expressed as an annual percentage determined by dividing such Project Participant's Nominated Quantities of Gas for such Contract Year by the aggregate Nominated Quantities of Gas of all Project Participants for such Contract Year, in each case as shown in the Schedule of Nominated Quantities set forth on Appendix 1 hereto, as the same may be adjusted from time to time in accordance with the provisions hereof.

Gas Project No. 2 shall mean the Gas to be provided pursuant to a Gas Purchase Agreement for Project Participants.

Gas Purchase Agreement shall mean one or more gas purchase contracts (including amendments thereto) entered into between FGU and one or more Gas suppliers or owners of interest in Gas for Gas Project No. 2, all or a part of the cost of which is to be funded with proceeds from the issuance of Bonds, and which shall initially consist of the Prepaid Gas Purchase Agreement between Florida Gas Utility and UBS AG.

Gas Supplier shall mean one or more suppliers or owners of interests in Gas, under the Gas Purchase Agreement.

Gas Supply Agreement shall mean this Gas Supply Agreement No. 2 and, as appropriate, the substantially similar Gas Supply Agreements between FGU and other Project Participants and any substantially similar contract entered into by FGU in connection with any transfer of a Project Participant's Gas Entitlement Share pursuant to Section 16, any assignment of such Gas Entitlement Share pursuant to paragraph (b) of Section 25 or any assignment of such Gas Entitlement Share with the consent of FGU in accordance with paragraph (a) of Section 25.



Member or Members shall mean, as the context shall require, the members of FGU who are Project Participants to this Agreement or similar gas supply agreements relating to the purchase of Nominated Quantities of Gas.

Month shall mean a calendar month.

Monthly Costs shall mean all items of cost included within the definition the Costs of Acquisition, to the extent not funded with proceeds received from Bonds, and all other costs that are paid or incurred, monthly or periodically, by FGU directly or indirectly with respect to the purchase, pricing, supply, storage or transportation of Gas to Project Participants hereunder and pursuant to the Bond Resolution, the Gas Purchase Agreement and Financial Instruments, including contingency reserves and any ongoing requirements for capital expenditures not funded with Bond proceeds, including without limitation, the following items of cost:

(1) amounts related to the purchase of Gas for which FGU may be liable under the Gas Purchase Agreement or the Bond Resolution, including amounts required to be paid or deposited during such Month into any fund or account established thereunder, for the payment of Debt Service on Bonds, or for any other payments required by the Bond Resolution, including, as may be applicable, the Default Share required to be paid by Project Participant;

(2) all fees and expenses of the trustee, remarketing agent, broker-dealer, credit or liquidity provider, provider of insurance and other parties to the financings contemplated by the Bond Resolution or this Agreement;

(3) the costs, as determined in accordance with the Pricing Policy (to the extent not covered through the payments described in clause (1) above) as follows:

(i) Gas supply purchased by Project Participant under this Agreement, whether provided by FGU from the Gas supply under the Gas Purchase Agreement, or any other such instrument;

(ii) Gas transportation to the Point(s) of Delivery of the Gas pursuant to the Transportation Contracts;

(iii) FGU service charges for its administrative services provided hereunder;

(iv) adjustments, and an equitably allocated portion of all FGU's other expenses; and

(v) any additional amount which must be paid by FGU during such Month in order to meet its requirements with respect to

any rate covenant under the Bond Resolution with respect to Debt Service coverage for the Bonds, or with respect to the Gas Purchase Agreement.

(4) amounts required to be paid by FGU to meet any hedging requirements of FGU (subject, however, to the provisions of Section 3(f) below), including those required by the Gas Purchase Agreement, the Bond Resolution and Financial Instruments entered into in respect of Financial Products for such purposes, and shall include both scheduled payments and termination payments in the order of priority as specified herein or therein. Unless expressly otherwise provided to the contrary in the Financial Instrument, the Bond Resolution or the Gas Purchase Agreement, payments on such obligations shall be allocated to Project Participant in accordance with its Gas Entitlement Share;

(5) any additional amounts not specified in the other items of this definition which must be paid by FGU during such Month that are either properly allocable to the Project or as determined in accordance with the Pricing Policy, including, without limitation, costs imposed or permitted by any regulatory agency, that are paid or incurred in connection with the supply of Gas or services thereunder, the provision of services by FGU for Project Participants, or relating to operations for which FGU may incur on its own behalf, or for which FGU may be liable under the Gas Purchase Agreement;

(6) all costs and expenses (including, but not limited to, legal fees and expenses) relating to personal injury and damage claims and extraordinary costs, expenses or assessments required to be paid by FGU pursuant to the Gas Purchase Agreement or this Agreement, in connection with the Project, or the delivery of Gas hereunder or thereunder, including, but not limited to, all federal, state and local taxes and payments in lieu of taxes required to be paid by FGU with respect to the services rendered pursuant to the Gas Purchase Agreement and all costs and expenses relating to claims or judgments (including injury and damage claims) arising out of the acquisition or implementation of the Project or relating to operations for which FGU may be liable under the Gas Purchase Agreement or this Agreement;

(7) any reserves required by FGU to meet obligations pursuant to the Gas Purchase Agreement, the Bond Resolution, any Financial Instrument and this Agreement, necessary for payment of those items of costs and expenses incurred in the delivery of services, to the extent not covered by any preceding clause and as may be determined by FGU for its operations; and

(8) All payments and charges on any line of credit, letter of credit, standby bond purchase agreement, working capital or other loans for which FGU shall be obligated. Payments on such obligations shall be allocated to Project Participant in accordance with its Gas Entitlement Share.

Notwithstanding the foregoing, if an item of cost or expense referred to above or any part thereof shall relate to less than all of the Project Participants (such as current transportation costs, or the cost of replacement Gas as described in the definition of Gas or the cost of Financial Products entered into for the benefit of one or more, but not all Project Participants) or shall clearly not be applicable to a Project Participant, such item shall only be included as an item of Cost with respect to those Project Participants to which such cost or expense relates.

Nominated Quantity shall mean the quantity of Gas in dekatherms per day that the Project Participant has requested FGU to acquire and sell to the Project Participant under the terms and conditions of this Agreement as reflected on Appendix 1 hereto.

Point or Points of Delivery shall mean the point or points of delivery specified in Appendix 2 hereto or such other point or points of delivery from time to time agreed to between Project Participant and FGU.

Point of Receipt shall have the meaning ascribed to that term under the Gas Purchase Agreement.

Pricing Policy shall mean the policy on pricing of Gas as may be adopted by the Board of FGU and in effect from time to time.

Project or Gas Project No. 2 shall mean the planning, financing, acquiring and placing in operation of the Gas Purchase Agreement and the delivery of services and/or Gas under the Gas Purchase Agreement or this Agreement.

Project Participants shall mean Members who are the parties, including Project Participant, other than FGU, to this Agreement and gas supply agreements substantially similar to this Agreement for which Bonds or other sources of financing may be required for a special project for such purpose. An initial list of Project Participants for Gas Project No. 2 is set forth in Appendix 1 hereto.

Project Participant Representative shall mean Project Participant Representative as defined in Section 28 hereof.

Service Area means, with respect to a Project Participant that is a natural gas utility, any area throughout which Project Participant provided at all times during the 5-year period beginning January 1, 2001, and ending December 31, 2005, natural gas transmission or distribution services; and, with respect to a Project Participant that is an electric utility, any area throughout which Project

Participant provided at all times during the 5-year period beginning January 1, 2001, and ending December 31, 2005, electricity distribution services. A Project Participant's Service Area also includes (a) any area within a county contiguous to the area described in the preceding sentence in which retail customers of the Project Participant are located if such area is not also served by another natural gas or electric utility, as the case may be, and (b) any area recognized as the service area of such Project Participant under Florida or federal law. The term, Service Area, shall have the same meaning with respect to a governmentally-owned utility other than Project Participant.

System shall mean and refer to a Project Participant's gas and/or electric enterprise system or other operations or combinations, as more particularly described in Exhibit B hereto, which describes those facilities or operations that require or permit the utilization or local distribution of gas or electricity, and any additions or improvements thereto, and all other gas and/or electric enterprise systems that may be constructed, acquired or operated by Project Participant.

Transportation Contracts shall mean the contract or contracts for the transportation of Gas between Transporter and (a) FGU, (b) FGU on behalf of Project Participant, or (c) Project Participant with the designation of FGU as Project Participant's agent.

Transporter shall mean Florida Gas Transmission Company, Gulfstream Natural Gas Systems, L.L.C., or any other company legally authorized to transport Gas, and its successors in interest.

Terms used herein in capitalized form and not defined herein shall have the meanings ascribed to such words in the Gas Purchase Agreement, Financial Instruments or the Bond Resolution.

## SECTION 2. Term of Agreement.

The provisions of this Agreement shall become effective upon the Commencement Date with respect to any Project Participant who shall have executed and delivered this Agreement, and shall, unless this Agreement is terminated pursuant to Section 26 hereof, continue until the earlier of (a) the date Project Participant's Nominated Quantity of Gas as shown on Appendix 1 has been delivered and all payments with respect thereto have been made as required by the terms hereof, and (b) the last to occur of the following: (i) the date the principal of, premium, if any, and interest on all Bonds, and all payments required under Financial Instruments for which Project Participant shall be obligated have been paid in full, (ii) the date that funds which, together with interest earnings from the investment thereof, have been set aside in irrevocable escrow for the payment of the Bonds and such Financial Instruments, all in accordance with the terms of the Bond Resolution and such Financial Instruments, (iii) FGU shall have received all rights and benefits under the Gas

Purchase Agreement prior to its termination, (iv) all costs due hereunder have been paid in full, and (v) the Gas Purchase Agreement shall have been terminated and all obligations of FGU thereunder satisfied.

The invalidity or unenforceability, in whole or in part, of any Gas Supply Agreement of any other Project Participant shall in no way affect the commencement, term or enforceability of this Agreement or Project Participant's obligations hereunder.

Neither termination nor expiration of this Agreement shall affect any accrued liability or obligation hereunder. In addition, the termination of this Agreement shall not relieve Project Participant of its obligations under Sections 23 hereof.

### SECTION 3. Gas Supply Service and Pricing.

(a) Certain Project Participants have, pursuant to separate agreements with FGU, aggregated their firm transportation entitlements with other Project Participants (referred to herein as the "Aggregated Transportation Contracts") and have authorized FGU to administer that capacity in the delivery of Gas to each such Project Participant. Certain other Project Participants have designated FGU as their agent for the utilization of their respective gas transportation entitlements for the delivery of Gas hereunder.

(i) FGU is hereby authorized, and shall be responsible for utilizing Project Participant's firm transportation entitlements, to the extent available under its respective Transportation Contract(s), if applicable to Project Participant, to cause Project Participant's Gas to be transported to Project Participant's Point(s) of Delivery and for all operational decisions and arrangements associated with the transportation of Gas on or upstream of Transporter's pipeline, including but not limited to, transportation along pipelines other than Transporter, selection of Point(s) of Delivery, scheduling, balancing and dispatching of Gas on such pipelines other than Transporter, as well as on Transporter's pipeline.

(ii) The administration of the Aggregated Transportation Contract(s), if applicable to Project Participant, shall be governed solely in accordance with the Pricing Policy.

(iii) Project Participant shall, throughout the Term, provide sufficient firm transportation for the Gas to be delivered under this Agreement.

(iv) Notwithstanding any other provision of this Agreement, Project Participant shall assume full responsibility for payment of actual transportation charges, including demand charges, incurred by the Aggregated Transportation Contract(s) for the benefit of Project Participant,

if applicable to Project Participant. To the extent another Division or customer of FGU may make actual use of Project Participant's transportation rights, a reallocation of demand costs shall be made by FGU in accordance with the Pricing Policy.

(v) Unless otherwise agreed to by FGU and Project Participant, Transporter and third parties will rely on FGU for all purposes connected with servicing the transportation of Gas for Project Participant on Transporter's system or otherwise, including, but not limited to, the furnishing and receipt of information concerning daily nominations, scheduling, balancing, Point(s) of Delivery, invoice payment, accounting, third party transportation, and communications with Project Participant, and that operational conditions may allow limited time for communications concerning such matters. To facilitate this process, and except with respect to services covered by the Aggregated Transportation Contract(s), Project Participant agrees to name and hereby designates FGU, or a representative of FGU, as Project Participant's designee to perform Project Participant's obligations with respect to nominations, scheduling and payment under the various Transporter transportation rate schedules under which Project Participant arranges transportation service for Gas purchased from FGU hereunder.

(vi) Notwithstanding the foregoing, FGU's responsibilities to arrange for transportation of Gas to Project Participant's Point(s) of Delivery shall be limited to Project Participant's transportation entitlements made available to FGU hereunder and Project Participant shall ultimately be responsible for securing transportation rights with respect to Gas to be delivered hereunder.

(vii) Project Participant agrees that, except for (1) any obligations it may have under any other projects for which payments for gas have been pledged for payment of debt service on any indebtedness and (2) any other contractual obligations in existence on the date hereof as set forth on Exhibit C hereto (collectively, "Other Gas Projects"), it will satisfy all of its gas requirements for its System from its Other Gas Projects, and this Gas Project No. 2, before it satisfies its gas requirements from any other source.

(b) Subject to the availability of Gas at Project Participant's Point(s) of Delivery, FGU agrees to sell and does hereby sell, and Project Participant does hereby agree to purchase and does hereby purchase, Project Participant's Nominated Quantity of Gas each Contract Year as shown on Appendix 1. FGU shall be authorized to calculate and enter on Appendix 1, Project Participant's Gas Entitlement Share for each Contract Year when all Gas Supply Agreements have been executed and delivered to FGU; and to amend Appendix 1 as and when Project Participant's Gas Entitlement Share is adjusted pursuant to Section 16, or otherwise.

(c) Project Participant shall, in accordance with and subject to the provisions of Section 4 hereof, pay FGU for its Nominated Quantities of Gas, periodically as billed during the term of this Agreement, an amount determined by multiplying the Costs applicable to all Project Participants by Project Participant's applicable annual Gas Entitlement Share, plus the items of Cost specifically allocable to Project Participant individually under the definition of Costs with respect to, among other things, replacement Gas, in each case as such Costs may be adjusted and allocated among Project Participants in accordance with the Pricing Policy; provided, however, that Project Participant shall be liable for Direct Costs to the extent and only to the extent (on a pro rata basis) Project Participant's Nominated Quantities of Gas are tendered for delivery at the Point of Receipt, or FGU provides alternative quantities of Gas in lieu thereof. If Project Participant's share of Gas tendered at the Point of Receipt in any month is less than Project Participant's Nominated Quantity of Gas for such Month, Project Participant's share of Direct Costs for such Month shall be proportionately reduced.

(d) In addition to Project Participant's payment obligations with respect to its Gas Entitlement Share, and notwithstanding the failure to tender Gas at FGU's Point of Receipt, if there has been a Defaulted Gas Payment, Project Participant shall also pay its Default Share.

(e) If Project Participant's scheduled deliveries of Gas fluctuate monthly, FGU, in its discretion, may manage Project Participant's cash flow during such month or Contract Year in accordance with the Pricing Policy so that Project Participant's cash flow requirements with respect to payment of Monthly Costs more closely match the Nominated Quantities of Gas it receives on such monthly basis. FGU agrees to cover such payments to the extent of its available working capital as determined from time to time by FGU in its sole discretion. However, notwithstanding FGU's agreement, nothing contained herein shall relieve Project Participant of its payment obligations otherwise required under Section 3(c) and (d) above and Section 4(d) below.

(f) FGU agrees that without the prior written consent of Project Participant, it will not undertake or engage in any activity described in clause (6) of the definition of Costs of Acquisition in Section 1, or incur indebtedness of the type described in subparagraph (4) thereof and to the extent involving Financial Products, subparagraph (4) of the definition of Monthly Costs in Section 1 of this Agreement; provided, however, that FGU is not required to obtain such prior written consent with respect to initial indebtedness incurred in connection with the acquisition of a long term supply of gas for Gas Project No. 2 or the commodity swaps and other derivative transactions provided for in the initial transaction for the implementation of the Gas Purchase Agreement.

#### SECTION 4. Method of Payment.

In the event of any dispute as to any portion of any periodic statement, Project Participant shall nevertheless pay the full amount of the disputed charges when due and shall give written notice of the dispute to FGU not later than thirty (30) days after the date such payment is due. Such notice shall identify the disputed bill, state the amount in dispute and set forth a full statement of the grounds on which such dispute is based. No adjustment shall be considered or made for disputed charges unless notice is given as aforesaid. FGU shall give consideration to such dispute and shall advise Project Participant with regard to its position relative thereto within thirty (30) days following receipt of such written notice. Upon final determination (whether by agreement, arbitration, adjudication or otherwise) of the correct amount, any difference between such correct amount and such full amount shall be properly reflected in the statement next submitted to Project Participant after such determination.

(a) As soon as possible after the execution of this Agreement, the Executive Committee of FGU shall adopt and mail to Project Participant an amendment to the Annual Budget for the Contract Year which begins on the Commencement Date, which shall provide an estimate of Project Participant's periodic payments hereunder for Costs for such Contract Year. During each Contract Year, FGU may from time to time amend the Annual Budget to take into account changes in gas prices, extraordinary receipts, credits or costs substantially affecting the Costs. Neither the Annual Budget, nor amendments thereto, shall be binding on FGU or affect the amount a Project Participant is obligated to pay hereunder.

(b) As soon as the billing information is available, FGU shall render to Project Participant, by mail, courier or facsimile or other electronic transmission, a periodic statement no less often than monthly, showing (i) the amount payable by Project Participant in respect of Costs and, if applicable, its Default Share, (ii) the amount, if any, reasonably determined by FGU on a periodic basis, and any amounts determined in accordance with this Section 4(b) on an annual basis, to be credited to or paid by Project Participant with respect to any adjustment for actual Costs incurred during the next preceding period or Contract Year, (iii) the credits against Project Participant's share of Costs, including payments under hedge agreements received by FGU in such period, credits determined in accordance with Section 4(c), and other credits established pursuant to the Pricing Policy, and (iv) any other amounts (except amounts in respect of Costs and Default Share which are intended to be billed exclusively pursuant to clause (i) above) payable by or credited to such Project Participant pursuant to this Agreement or the Bond Resolution not otherwise shown; and such Project Participant shall pay the total of such amounts on the earlier of the scheduled due date provided by FGU annually or the date ten (10) days after Project Participant's receipt of any periodic statement. FGU will provide a calendar of invoice and due dates at the beginning of each fiscal year, to the extent feasible. If payment in full is not made on or before the close of business on the due date, or, if a scheduled due date is not a Business Day, on the next preceding Business



Day, a delayed-payment charge on the unpaid amount due for each day overdue may be imposed at the prime rate of interest as published from time to time by the Wall Street Journal and in effect in the calendar month for which the unpaid balance shall be received, plus 2%, or the maximum rate lawfully payable by Project Participant, whichever is less. Failure by Project Participant to pay the full amount due by the due date may result in the discontinuance of gas supply service by FGU as set forth in Section 15 below but such discontinuance shall not relieve Project Participant of its payment obligations hereunder. All statements will be trued up as provided in the Gas Purchase Agreement.

(c) On or before one hundred fifty (150) days after the end of each Contract Year, and at such other times as it shall deem desirable, FGU will submit to Project Participant a detailed statement of the actual aggregate Costs and Default Share due hereunder and any adjustment thereof or credit thereto pursuant to Section 4(b) above and Project Participant's share thereof, and all other amounts, if any, payable by or credited to Project Participant pursuant hereto during such Contract Year or for such number of months as FGU deems appropriate, and adjustments of the aggregate Costs, if any, for any prior Contract Year and any adjustment thereof or credit thereto pursuant to Section 4(b) above, based on the annual audit of accounts provided for in Section 10 hereof or, if for a period other than a full Contract Year, on such other information as FGU deems reliable. Notwithstanding the foregoing, actual costs as compared to amounts billed by FGU will be trued up within one hundred fifty (150) days of the end of the Fiscal Year and shall be payable forthwith by FGU, if not applied by FGU upon any other Costs of Project Participant, or if payable by a Project Participant, within sixty (60) days from receipt of invoices.

(d) The obligation of Project Participant to make payments under this Agreement shall not be subject to any reduction, whether by offset, counterclaim, or otherwise, and shall not be otherwise conditioned upon performance of FGU under this Agreement, Financial Instruments, the Gas Purchase Agreement or any other agreement or instrument or the validity or enforceability of this Agreement, Financial Instruments, the Gas Purchase Agreement, or any other agreement between FGU and any other Project Participant; provided however, that except as otherwise provided in Section 3(c) hereof, Project Participant will not be obligated to pay that portion of Direct Costs related to the Nominated Quantity that was not tendered for delivery as provided under this Agreement. The obligation of Project Participant to make the payments under this Agreement for its share of Monthly Costs and other such amounts, shall constitute an obligation of Project Participant payable as an operating expense of Project Participant's System solely from the revenues and other available funds of the System.

(e) The obligation of Project Participant to make payments under this Agreement shall not constitute a debt of Project Participant within the meaning of any constitutional or statutory provision or limitation or a general obligation of or

pledge of the full faith and credit of Project Participant, and neither Project Participant nor the State of Florida or any agency or political subdivision thereof shall ever be obligated or compelled to levy ad valorem taxes to make the payments provided for under this Agreement, and the obligation of Project Participant to make payments pursuant to this Agreement shall not give rise to or constitute a lien upon any tangible property of Project Participant or any tangible property located within its boundaries or service area.

(f) Notwithstanding the last sentence of Section 4(d), if the obligations of Project Participant to make payments under this Agreement or any part of the obligation under any Financial Instrument, would not be legally permissible as, or would not be treated as, or otherwise be accorded the status of, operation and maintenance payments under the provisions of Project Participant's indentures, bond resolutions or other bond documents or contractual obligations entered into in connection with the financing of or purchases for operation and maintenance for Project Participant's System, such part of such obligations that are precluded such status will be incurred and accorded the treatment in accordance with the provisions of paragraph (g) below. Project Participant covenants that it will not amend any existing indenture or bond documents relating to the System, or execute, adopt or enter into any new indenture, bond documents or contractual obligations, the effect of which would be to cause such payments to be treated otherwise than as a cost of operation and maintenance.

(g) If any part of Project Participant's obligations for the payment of services hereunder or under the Bonds or a Financial Instrument cannot be treated as, or otherwise accorded the status of, operation and maintenance costs of Project Participant's System for the reasons set forth in Section 4(f) above, such obligations shall constitute an obligation payable solely from the revenues and other funds of Project Participant's System, which Project Participant hereby pledges for such purpose, subject and subordinate to the following obligations of Project Participant to the extent, and only to the extent Project Participant's existing indentures, bond documents or contractual obligations would expressly preclude Project Participant from making the payments required hereunder senior to such obligations (i) operation, maintenance, renewal and replacement expenses of Project Participant's System, (ii) bonds (as well as bond anticipation notes), notes or other obligations for contractual commitments or borrowed money, now outstanding or hereafter issued, for System purposes payable from revenues of Project Participant's System, (iii) subordinated bonds, notes or other obligations of the System payable from revenues of Project Participant's System and senior in credit to, or subject to a negative pledge with respect to, the obligations of the type imposed hereby, in each case, outstanding on the date of execution of this Agreement by Project Participant, and (iv) payments required to be made into or from funds established under the ordinances or resolutions or other documents authorizing bonds, notes or other obligations referred to in clauses (ii) or (iii) hereof. All such obligations in existence on the date hereof shall be listed on

Exhibit C hereto, and all future obligations shall be listed on an amended Exhibit C and delivered to FGU.

(h) If at any time Project Participant has revenue bonds outstanding payable from or secured by a pledge of net revenues of its System, Project Participant agrees that, in connection with any financial tests or conditions for the issuance of additional revenue bonds or other obligations payable from and secured by a pledge of the revenues of its System, Project Participant shall, notwithstanding Section 4(f) and (g) above, treat all payments made or estimated to be made to FGU under this Agreement as operating expenses for purposes of computing the amount of revenues available for the payment of such outstanding revenue bonds and such additional revenue bonds.

If FGU is entitled to payments with respect to Gas not delivered under the Gas Purchase Agreement (other than termination payments, payments intended to reimburse FGU for its costs and expenses, and other than payments required under any applicable document or the Bond Resolution to be used in accordance with the Bond Resolution to pay Debt Service on the Bonds or other costs and expenses of Gas Project No. 2), FGU shall distribute such payments or Gas credits to each Project Participant in proportion to its respective Nominated Quantities of Gas that were not delivered, or provide replacement Gas as requested by Project Participant, in each case, after deducting therefrom any amounts otherwise due by such Project Participants hereunder for payment of Costs as provided by this Agreement. FGU shall distribute such payments or Gas credits to each Project Participant after deducting therefrom any amounts otherwise due by such Project Participant hereunder, all in accordance with the Pricing Policy. Any termination payment under the Gas Purchase Agreement shall be applied in accordance with the Bond Resolution.

#### SECTION 5. Scheduling of Deliveries; Title.

(a) All of the provisions of this Section 5 are subject to the provisions of the Gas Purchase Agreement, and in the event of any inconsistencies between this Section 5 and the provisions of the Gas Purchase Agreement governing scheduling, the terms of the Gas Purchase Agreement shall govern.

(b) The quantity to be supplied by FGU shall be nominated monthly by Project Participant as provided in Appendix 1 hereto and delivered in substantially equal daily quantities except as otherwise provided in this Section 5. No revisions to such Nominated Quantities shall affect Project Participant's payment obligations hereunder, except as may be otherwise permitted under Section 3(e).

(c) It will be Project Participant's responsibility to notify FGU of any variations in Project Participant's daily Gas usage rate. Project Participant will provide FGU with its Gas requirements in such a manner to allow FGU to

effectively arrange for the required Gas transportation and associated services and as required by the Gas Purchase Agreement, in a timely and cost effective manner for Project Participant. The actual details of such daily and monthly information requirements will be mutually agreed upon by the parties and may change from time to time to meet varying conditions.

(d) Project Participant shall advise FGU of any change in any of the Gas requirements at Project Participant's Point(s) of Delivery as soon as is reasonably possible to allow FGU to make necessary adjustments in other Project Participants' gas volume nominations to avoid imbalances and penalties and to fully comply with the Gas Purchase Agreement.

(e) FGU will promptly notify Project Participant of all pipeline operating conditions, including but not limited to operational flow orders and alert days for which Project Participant may be subject to costs or penalties as a result of noncompliance. If Project Participant does not fully comply with such operational requirements, Project Participant will assume full liability for any noncompliance.

(f) Title to the Gas transported for Project Participant with its own transportation contracts will pass to such Project Participant upon and concurrently with the purchase thereof by FGU under the Gas Purchase Agreement. Title to Gas purchased for transportation under the Aggregate Transportation Contracts will pass upon delivery by FGU to Project Participant at Project Participant's Point(s) of Delivery.

(g) Although FGU may hold title to the Gas during the transportation process to Project Participant's Point(s) of Delivery under paragraph (f) above, Project Participant shall bear the full risk of loss for all such Gas during such transportation by FGU on Transporter's system or otherwise, including but not limited to, injury, loss or damage caused by the Gas during the transportation thereof and any economic or consequential damages to Project Participant for failure to deliver Gas or otherwise.

Project Participant agrees, to the extent permitted by law, and pro rata with other Project Participant to the extent of its Gas provided hereunder, and/or its annual Gas Entitlement Share, in effect on the date of occurrence of the event giving rise to the claim, to indemnify and hold FGU harmless from any and all losses or damages sustained by FGU under this Agreement, the Gas Purchase Agreement, Financial Instruments or otherwise, including any and all suits, actions, damages, losses, and expenses arising out of adverse claims of any persons, including Project Participant, to such Gas or the title thereto, regardless of the party responsible for its delivery, or to royalties, taxes, license fees, or charges thereon, and from any and all liability to any persons, including Project Participant, or for any property damage, occasioned by FGU holding title to Gas for benefit of Project Participant.

## SECTION 6. Point(s) of Delivery.

Gas scheduled by Project Participant pursuant to Section 5 of this Agreement will be delivered at Project Participant's Point or Points of Delivery, which such party shall designate to FGU in writing. The quantity of Gas actually delivered to Project Participant shall be adjusted to take into account Gas used or consumed in the transportation thereof to the Points of Delivery.

## SECTION 7. Curtailment.

It is understood that, in the event of a capacity curtailment on the Transporter's system or other transportation system used by FGU which causes an interruption of transportation service, curtailment shall be implemented in accordance with Transporter's currently effective curtailment plan.

## SECTION 8. Availability of Gas or Gas Entitlement Shares.

Except as provided otherwise by this Agreement, and subject to the provisions of the Gas Purchase Agreement and any applicable Transportation Contracts or other transportation arrangements, Project Participant's Gas Entitlement Share, as the case may be, shall be made available in accordance with this Agreement during the term hereof.

## SECTION 9. Insurance.

FGU shall carry such insurance as shall be carried in accordance with customary industry standards, but in any event with such coverage as it has customarily carried in the last five (5) years to the extent commercially reasonably available at a commercially reasonable cost.

## SECTION 10. Annual Budget; Accounting.

(a) At FGU's annual meeting each year, the Board of FGU shall adopt an Annual Budget for the next ensuing Fiscal Year and shall deliver the Annual Budget to each Project Participant prior to the beginning of each Fiscal Year. During each Fiscal Year, FGU, by action of its Board or Executive Committee, may from time to time amend the Annual Budget. Notwithstanding the foregoing, any Costs payable by Project Participant shall be governed by this Agreement.

(b) FGU agrees to keep accurate records and accounts in accordance with generally accepted accounting principles, consistently applied. Said accounts shall be audited annually by a firm of certified public accountants, experienced in governmental accounting and electric and gas utility company accounting and of suitable reputation, to be employed by FGU. A copy of each annual audit, including all written comments and recommendations of such accountants, shall be furnished by FGU to Project Participant not later than one hundred fifty (150) days after the end of each Fiscal Year. Project Participant

shall have the right to audit the books and records of FGU from time to time, upon reasonable notice, to the extent necessary to verify the Costs and, with respect to Project Participant, payable hereunder.

**SECTION 11. Information to be Made Available.**

(a) Based, in each case, upon the data most recently available to FGU pursuant to the Gas Purchase Agreement or Financial Instruments, FGU will furnish or otherwise make available to Project Participant all information related to Gas supply or pricing of Gas, which FGU receives under the Gas Purchase Agreement or any Financial Instrument and all transportation costs under the Transportation Contracts, where available to FGU, and will prepare and issue to Project Participant reports each quarter of the Fiscal Year.

(b) Project Participant shall, upon request, furnish to FGU all such information, certificates, certified copies of official proceedings, engineering reports, feasibility reports, information relating to its system, Transportation Contracts, financial statements, opinions of counsel (including the opinion required by subsection (c) hereof), official statements and other documents as FGU shall be reasonably requested to deliver pursuant to the services provided under this Agreement.

(c) Project Participant shall at the times requested by FGU, cause an opinion or opinions (i) in substantially the form attached hereto as Appendix 3 to be delivered by one or more attorneys or firms of attorneys satisfactory to FGU with respect to the authorization, execution and validity of this Agreement or any Financial Instrument, as it relates to Project Participant, and, if Project Participant shall have bonds or other obligations outstanding secured by a pledge of revenues of its System, the legality under the terms and conditions of the ordinance, resolution, indenture or other contractual arrangement with the holders of such bonds, of the performance by Project Participant of its covenants and agreements under this Agreement, and (ii) in such other form as may be required under the Gas Purchase Agreement, Financial Instrument or this Agreement and with respect to Project Participant, the Bond Resolution or bond purchase agreement executed in connection with the sale and delivery of the Bonds.

(d) Project Participant shall provide to FGU, or its designees, on a timely basis and in such form as shall be reasonably requested by either, any and all documents, releases, financial statements and other information necessary to enable FGU to comply with any disclosure or other reporting requirement, including but not limited to Rule 15c2-12 of the Securities and Exchange Commission promulgated under the Securities Exchange Act of 1934 (the "Rule"), now or hereafter imposed by the United States of America, the State of Florida, or any political subdivision or agency of either having jurisdiction over the issuance of any debt obligations for the acquisition of gas, by law, judicial decision,

regulation, rule or policy. Such information shall be provided by Project Participant from time to time promptly following the occurrence of a "material event" as described in the Rule, and as otherwise may be requested by FGU, or its designees, but in any case, no less frequently than shall enable FGU or the underwriters or broker/dealers of the obligations of FGU, or such Project Participant, to comply with any such law, judicial decision, regulation, rule or policy.

(e) In addition to the foregoing, Project Participant will provide to FGU, or its designee, annually, promptly upon its preparation, but no later than one hundred eighty (180) days after the end of its Fiscal Year, a copy of its annual audit and such other financial and other records as may be required by the issuer of any credit facility or bond insurance policy or other security instrument securing all or any part of FGU's bonds or other indebtedness.

(f) Project Participant further agrees to enter into a continuing disclosure agreement or other contractual undertaking as may be reasonably requested by FGU to provide FGU with financial and operating data relating to the Project Participant, its System and financial condition and to provide it with information concerning other disclosure events.

(g) Project Participant shall provide to FGU, or its designee, on a timely basis and in such form as shall be reasonably requested by either, any and all documents or information necessary to assure that interest on the Bonds remains excluded from gross income for federal income tax purposes. FGU shall have the right to audit Project Participant's records regarding the use or resale of its Gas or Gas Entitlement Share for that purpose. In the event of an examination of Gas Project No. 2 or the Bonds by the Internal Revenue Service, Project Participant shall provide to FGU any documents or information needed to respond to an inquiry by the Internal Revenue Service.

## SECTION 12. Project Participant Covenants; Representations and Warranties.

(a) Covenants. Project Participant covenants as follows:

(i) If, for any reason, the proceeds derived from the sale of Bonds shall be insufficient for the purpose of paying Costs or for purposes of refunding all or a part of the Bonds previously issued in accordance with clauses (ii) and (iii) below, additional Bonds may be sold and issued by FGU in accordance with the provisions of the Bond Resolution at any time and from time to time.

(ii) Any such additional Bonds shall be secured by the pledge made pursuant to the provisions of Section 13 hereof, of the payments required to be made by Project Participant under Sections 3 and 4 of this Agreement, and all other payments attributable to the Project to be made in

accordance with or pursuant to any other provision of this Agreement, as such payments may be increased, decreased and/or extended by reason of the issuance of such additional Bonds, and such additional Bonds may be issued in amounts sufficient to pay the full amount of such Costs referred to in clause (a) (i) above and to provide such reserves as may be reasonably determined to be desirable. Any such additional Bonds issued in accordance with the provisions of this Section 12 and secured by the pledge of payments to be made in accordance with the provisions of this Section 12 and Section 13 hereof, may rank pari passu as to the security afforded by the provisions of this Agreement with all Bonds theretofore issued pursuant to and secured in accordance with the provisions of this Agreement or the Bond Resolution.

(iii) In the event Costs may be reduced by the refunding of any Bonds then outstanding or in the event it shall otherwise be advantageous to refund any Bonds, refunding Bonds may be issued and sold in accordance with the Bond Resolution to be secured by the pledge, made pursuant to the provisions of Section 13 hereof, of the payments required to be made by Project Participant under Sections 3 and 4 of this Agreement, and all other payments to be made in accordance with or pursuant to any other provision of this Agreement, as such payments may be increased, or decreased and/or extended by reason of the issuance of such refunding Bonds. Any such refunding Bonds issued in accordance with the provisions of this Section 12 and secured by the pledge of the payments to be made in accordance with the provisions of this Section 12 and Section 13 hereof, may rank pari passu as to the security afforded by the provisions of this Agreement with all Bonds theretofore issued pursuant to and secured in accordance with the provisions of this Agreement or the Bond Resolution.

(iv) Project Participant will not take any action or omit to take any action, which, if taken or omitted, would adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes. To assure its compliance with this Section 12(a)(iv):

(A) Project Participant will not make any sales of its Nominated Quantity of Gas to persons other than state or local governments unless:

- (1) such sale is a retail sale to a residential customer;
- (2) such sale is a retail sale to an industrial or commercial customer and is not made pursuant to a take or pay contract, or a requirements contract obligating the customer to make payments that are not contingent on its



output requirements or obligating the customer to have output requirements.

(3) such sale is (i) pursuant to a contract having a term, including all renewal options, not longer than 3 years and (ii) the contract is either a negotiated, arm's-length arrangement that provides for compensation to the Project Participant at fair market value or is based on generally applicable and uniformly applied rates; or

(4) prior to making the sale, the Project Participant obtains a determination from FGU that such sale will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes; and

(B) Project Participant will include in any contract with a person purchasing all or any portion of its Nominated Quantity of Gas a covenant that the purchaser will not resell such gas other than in a sale described in Section 12(a)(iv)(A) or shall otherwise notify the purchaser that it may only resell such gas in a sale described in Section 12(a)(iv)(A).

(v) Project Participant shall (1) maintain its System in good repair and operating condition; (2) cooperate with FGU in the performance of the respective obligations of such Project Participant and FGU under this Agreement, the Gas Purchase Agreement and all Financial Instruments; and (3) establish, levy and collect rents, rates and other charges for the products and services provided by its System, which rents, rates, and other charges shall be at least sufficient (a) to meet the operation and maintenance expenses of such System, (b) to comply with all covenants pertaining thereto contained in, and all other provisions of, any resolution, trust indenture, or other security agreement relating to any bonds or other evidence of indebtedness issued or to be issued by Project Participant, including, without limitation, all deposit requirements to pay debt service, fund debt service and operating reserves and to pay ongoing project costs hereunder, (c) to generate funds sufficient to fulfill the terms of this Agreement and all other contracts and agreements made by Project Participant and to fulfill its pro rata obligations to FGU to provide funds sufficient to satisfy FGU's obligations under the Bond Resolution, the Gas Purchase Agreement, and Financial Instruments, and to budget, appropriate and make all payments required hereunder in each fiscal year of Project Participant during the term hereof, and (d) to pay all other amounts payable from or constituting a lien or charge on the revenues of its System.

(vi) For good and valuable consideration and for the purpose of obtaining a source of gas supply upon favorable terms and price, Project Participant will not take any action, except as permitted by Section 25(b) hereof which will lead to its withdrawal as a Member of FGU, and Project Participant will not vote for or otherwise participate in any action to dissolve or otherwise terminate the existence of FGU.

(vii) Without first securing FGU's consent, Project Participant will only enter into Financial Instruments with respect to the Gas if all termination payments with respect to the related Financial Products shall be subordinate to the operation and maintenance expenses of its System required to be paid hereunder as Costs, and to the extent that the Costs are not payable from operation and maintenance expenses, as provided by this Agreement, such termination payments with respect to such Financial Instruments shall be subordinate to the Costs payable under this Agreement from other sources of its System.

(viii) Unless and until it shall sell all or substantially all of its System in accordance with the provisions of Section 25(b) hereof, Project Participant will maintain its present existence as a public body to the full extent permitted by its charter and other governing instruments, the Constitution and laws of the State of Florida.

(ix) Project Participant's Annual Nominated Quantity shown on Appendix 1 hereto does not exceed the annual average amount of Gas during the 5-year period beginning January 1, 2001, and ending December 31, 2005:

(A) purchased (other than for resale) by customers of Project Participant who are located within Project Participant's Service Area and who remain customers of Project Participant as of the date of issuance of the Bonds; or

(B) purchased to generate electricity if (1) the electricity was either generated by Project Participant itself or another utility owned by a governmental unit, and (2) the electricity was sold (other than for resale) to customers of Project Participant (or the other governmentally-owned utility) who are located within the Service Area of Project Participant (or the other governmentally-owned utility);

reduced by the sum of (C) the applicable share of any Gas being held in storage or otherwise by Project Participant on the date of issuance of the Bonds, and (D) any other Gas that Project Participant has a right or obligation to acquire, as of the date of issuance of the Bonds, during the Term of this Agreement. For purposes of the preceding sentence, the "applicable share" of Gas being held on the date of issuance of the Bonds

shall be determined by allocating such Gas ratably over the number of Contract Years during which the Project Participant will receive Nominated Quantities of Gas. Project Participant's Annual Nominated Quantity shown on Appendix 1 hereto may exceed the amount specified in the preceding sentence, however, if Project Participant obtains a determination from FGU that such larger Annual Nominated Quantity will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

(b) **Representations and Warranties.** Project Participant hereby represents and warrants as follows:

(i) Project Participant is a Member in good standing of FGU and has taken all actions, and executed all documents required by the Interlocal Agreement to be a Member.

(ii) Project Participant has not entered into, nor is it a party, directly or indirectly to, any contract, agreement or understanding, whether oral or written, the provisions of which would or might be breached by Project Participant's execution of this Agreement or the performance by it of its obligations hereunder.

(iii) Project Participant is a municipal corporation, duly organized and validly existing under the laws of the State of Florida and in good standing under the laws of the State of Florida, and has the power and authority to own its properties, to carry on its business as now being conducted, and to execute, deliver, and perform this Agreement.

(iv) The execution, delivery, and performance by Project Participant of this Agreement have been duly authorized by all necessary corporate action of Project Participant and do not and will not require, subsequent to the execution of this Agreement by Project Participant, any consent or approval of the governing body or any officers of Project Participant, any consent or approval of any third party, or any other governmental consents or approvals.

(v) This Agreement is the legal, valid, and binding obligation of Project Participant, enforceable in accordance with its terms, except as such enforceability may be subject to (1) the exercise of judicial discretion in accordance with general principles of equity and (2) bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights.

(vi) There is no action, suit, proceeding, inquiry, or investigation at law or in equity, before or by a court, a public board, or another body, pending (*i.e.*, as to which Project Participant has received service of process)

or, to Project Participant's knowledge, threatened, against or affecting Project Participant (or, to Project Participant's knowledge, any meritorious basis therefor) (1) attempting to limit, enjoin, or otherwise restrict or prevent Project Participant from functioning, or contesting or questioning the existence of Project Participant, or the titles of the present officers of Project Participant to their offices; or (2) wherein an unfavorable decision, ruling, or finding would (a) materially adversely affect the existence or powers of this Agreement or any other agreement or instrument to which Project Participant is a party and which is used or contemplated for use in the consummation of the transactions contemplated by this Agreement, or (b) materially adversely affect (x) the financial condition or results of operations of Project Participant or (y) the transactions contemplated by this Agreement.

(vii) The execution and delivery by Project Participant of this Agreement and its compliance with its provisions will not conflict with or constitute on Project Participant's part a violation of, breach of, or default under (1) any of Project Participant's governing instruments, (2) any Constitutional provision or statute, indenture, mortgage, lease, resolution, note agreement, or other agreement or instrument to which Project Participant is a party or by which Project Participant is bound, or (3) any order, rule or regulation of any court or governmental agency or other body having jurisdiction over Project Participant or any of its properties.

(viii) Any certificate signed by an authorized officer of Project Participant delivered in accordance with this Agreement or the Gas Purchase Agreement shall be deemed a representation and warranty by Project Participant as to the statements made therein.

(ix) To the extent Project Participant has ever incurred debt, it has not, since December 31, 1975, been in default as to the payment of principal or interest on any such debt.

(x) To the knowledge of the Project Participant, there has been no material adverse change in the financial condition of the Project Participant or its System since the end of its most recently completed fiscal year for which audited financial statements are available, nor does the Project Participant have current knowledge of events or circumstances expected to occur that would have a material adverse effect on the business affairs of the Project Participant or its System.

(xi) Project Participant has not previously defaulted under or failed to comply with its obligations under any continuing disclosure agreement entered into pursuant to SEC Rule 15c2-12.

### SECTION 13. Pledge of Payments.

All right, title and interest of FGU in, to and under this Agreement and all payments required to be made by Project Participant pursuant to the provisions of Sections 3 and 4 hereof, and all other payments to be made in accordance with or pursuant to any other provision of this Agreement, may be pledged and assigned, in whole or in part, for the payment of Bonds, subject to application in accordance with the provisions of the Bond Resolution or for other such payments required to be made by FGU pursuant to the Gas Purchase Agreement or, if permitted by the Bond Resolution, the Gas Purchase Agreement or this Agreement, any Financial Instrument, to secure or provide for the payment of Bonds and any other obligations of Project Participant authorized by this Agreement, Financial Products or Costs, and Project Participant hereby expressly acknowledges and consents thereto. In this regard, the assignment and pledge may expressly provide for the order and priority of the payment or pledge for the payment of Costs and for the payment of the specified obligations of either FGU or Project Participants. To accomplish the foregoing, FGU may deliver possession of this Agreement to an agent of such assignee or pledgee in connection therewith, and, upon such assignment and pledge, FGU may grant to such party any rights and remedies herein provided to FGU, and thereupon any reference herein to FGU shall be deemed, with the necessary changes in detail, to include such trustee which shall be a third party beneficiary of the covenants and agreements of Project Participant herein contained.

### SECTION 14. Event of Default.

Failure of Project Participant to make to FGU when due any of the payments for which provision is made in this Agreement shall constitute an immediate default on the part of Project Participant.

### SECTION 15. Continuing Obligation, Right to Discontinue Service.

In the event of any default referred to in Section 14 hereof, Project Participant shall not be relieved of its liability for payment of the amounts in default and FGU shall have the right to recover from Project Participant any amount in default. In enforcement of any such right of recovery, FGU may bring any suit, action, or proceeding in law or in equity, including mandamus, injunction, specific performance, declaratory judgment, or any combination thereof, as may be necessary or appropriate to enforce any covenant, agreement or obligation to make any payment for which provision is made in or contemplated by this Agreement or Financial Instrument, against Project Participant, and FGU may, upon five (5) Business Days written notice to Project Participant, cease and discontinue, either permanently or on a temporary basis, providing all or any portion of the Gas sold hereunder or Project Participant's Gas Entitlement Share. Unless FGU reasonably determines that there is a valid business purpose for a delay in discontinuing the providing of Gas or temporarily

discontinuing the providing of Gas, it will give the required written notice to Project Participant of its intent to permanently discontinue such providing of Gas immediately upon any payment default and shall permanently discontinue such providing of Gas immediately upon the expiration of such notice.

#### SECTION 16. Transfer of Nominated Quantities Following Default.

In the event of a default by Project Participant and permanent discontinuance of service under this Agreement pursuant to Section 15, FGU is hereby appointed the agent of Project Participant for the purpose of disposing of Project Participant's Nominated Quantities of Gas and as such agent, FGU shall proceed to dispose of the defaulting Project Participant's Nominated Quantities of Gas as follows:

(a) FGU shall, as soon as reasonably practical, terminate any spot, short term or terminable supply of Gas that Project Participant may otherwise have the right to receive from FGU that Project Participant has not otherwise paid for.

(b) FGU shall then, with respect to long term or non-terminable Gas, pursuant to the Gas Purchase Agreement and this Agreement, offer to transfer to all other nondefaulting Project Participants, a pro rata portion of the defaulting Project Participant's Nominated Quantities of Gas which shall have been discontinued by reason of such default. Any part of such Nominated Quantities of Gas of a defaulting Project Participant which shall be declined by any nondefaulting Project Participant shall be reoffered pro rata to the nondefaulting Project Participants which have accepted in full the first such offer; such reoffering shall be repeated until the defaulting Project Participant's Nominated Quantities of Gas has been reallocated in full or until all nondefaulting Project Participants have declined to take any portion or additional portion of the defaulting Project Participant's Nominated Quantities of Gas.

(c) In the event less than all of a defaulting Project Participant's Nominated Quantities of Gas shall be accepted by the other nondefaulting Project Participants, pursuant to clause (b) above, FGU shall, to the extent permitted by law, use its reasonable best efforts to sell the remaining portion of a defaulting Project Participant's Nominated Quantities of Gas for the remaining term of the defaulting Project Participant's Gas Supply Agreement with FGU. The purchasers shall be reasonably acceptable to any credit provider with respect to the Bonds, and the agreement for such sale shall contain such terms and conditions as will not adversely affect the security for the Bonds afforded by the Gas Supply Agreement of such defaulting Project Participant, including provisions for discontinuance of service upon default and as are otherwise acceptable to FGU, and such purchases shall, in the determination of FGU, not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds; in the event of default and discontinuance of service under such agreement, the Project Participant's Nominated Quantities of Gas sold pursuant

to such agreement shall be offered and transferred as provided for defaulting Project Participants in this Section 16.

(d) Any portion of the Nominated Quantities of Gas of a defaulting Project Participant transferred pursuant to this Section to a nondefaulting Project Participant in accordance with clauses (b) and (c) above, shall become a part of and shall be added to the Nominated Quantities of Gas of each transferee Project Participant effective on and as of the date of transfer, and the transferee Project Participant shall be obligated to pay for its Gas Entitlement Share increased as aforesaid, as if the Gas Entitlement Share of the transferee Project Participant in the Gas Supply Agreement with FGU had been stated originally to increase as aforesaid on the effective date of the transfer.

(e) In the event less than all of a defaulting Project Participant's Nominated Quantities of Gas shall be sold or transferred pursuant to the foregoing clauses of this Section 16, FGU shall, to the extent permitted by law, use its reasonable best efforts to sell the remaining portion of a defaulting Project Participant's Nominated Quantities of Gas on such terms and conditions as are acceptable to FGU and that will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds, including sales made by the Gas Supplier as may be directed by FGU.

The defaulting Project Participant shall remain liable for all payments to be made on its part pursuant to this Agreement, except that the obligation of the defaulting Project Participant to pay FGU shall be reduced to the extent that payments shall be received by FGU for that portion of the defaulting Project Participant's Gas Entitlement Share which may be transferred or sold as provided in this Section 16.

Each nondefaulting Project Participant shall be obligated to pay its Default Share; provided, however, each such nondefaulting Project Participant is hereby expressly made a third party beneficiary of this Agreement and as such shall have a direct cause of action against such defaulting Project Participant for the amount of damages suffered as a result of such default. At a nondefaulting Project Participant's request, FGU shall take such enforcement actions as FGU deems reasonably appropriate to enforce Project Participant's obligations hereunder, or shall reasonably cooperate with such nondefaulting Project Participant in any action brought by such nondefaulting Project Participant against the defaulting Project Participant, in each case, upon the receipt of an indemnification agreement satisfactory to FGU of any costs and expenses it may incur in connection with such action.

#### SECTION 17. Other Default by Project Participant.

In the event of any default by Project Participant under any other covenant, agreement or obligation of this Agreement other than Section 14 hereof, which

shall be governed by Sections 15 and 16 hereof, FGU may bring any suit, action, or proceeding in law or in equity, including mandamus, injunction, specific performance, declaratory judgment, or any combination thereof, as may be necessary or appropriate to enforce any covenant, agreement or obligation of this Agreement against Project Participant. Such remedies shall be in addition to all other remedies provided for herein.

#### SECTION 18. Default by FGU.

In the event of any default by FGU under any covenant, agreement or obligation of this Agreement, Project Participant's remedy for such default shall be limited to mandamus, injunction, action for specific performance or any other available equitable remedy designed to enforce any covenant, obligation or agreement of FGU hereunder as may be necessary or appropriate.

#### SECTION 19. Abandonment of Remedy.

In case any proceeding taken on account of any default shall have been discontinued or abandoned for any reason, the parties to such proceedings shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of FGU and Project Participant shall continue as though no such proceedings had been taken.

#### SECTION 20. Waiver of Default.

Any waiver at any time by either FGU or Project Participant of its rights with respect to any default of the other party hereto, or with respect to any other matter arising in connection with this Agreement, shall not be a waiver with respect to any subsequent default, right or matter.

#### SECTION 21. Relationship to and Compliance with Other Instruments.

(a) It is recognized by the parties hereto that FGU, in undertaking, or causing to be undertaken, the planning, acquisition, and supply of Gas hereunder, may be required to comply with the applicable requirements of the Bond Resolution, the Gas Purchase Agreement, the Financial Instruments and all licenses, permits and regulatory approvals necessary therefor, and it is therefore agreed that the performance of FGU under this Agreement is made subject to the terms and provisions of the Bond Resolution, the Gas Purchase Agreement, Financial Instruments and all such licenses, permits and regulatory approvals.

(b) FGU covenants and agrees to use commercially reasonable efforts for the benefit of Project Participant to comply in all material respects with all terms, conditions and covenants of the Gas Purchase Agreement and all licenses, permits and regulatory approvals relating thereto. FGU shall diligently pursue all rights and remedies set forth in the Gas Purchase Agreement and Project Participant shall fully cooperate with FGU in such endeavor, perform such



obligations as may be required by Project Participant to enable FGU to do so, and pay all of the Costs for which it shall be obligated hereunder.

**SECTION 22. Measurement of Gas.**

All Gas delivered hereunder shall be metered at the Point(s) of Delivery by meters operated by Transporter, or as the parties shall otherwise agree.

**SECTION 23. Liability of Parties.**

(a) Except as otherwise herein provided, FGU and Project Participant shall each assume full responsibility and liability for the maintenance and operation of their respective properties and each shall, to the extent permitted by law, indemnify and save harmless the other from all liability and expense on account of any and all damages, claims, or actions, including injury to or death of persons arising from any act or accident in connection with the installation, presence, maintenance and operation of the property and equipment of the indemnifying party and not caused by the negligence of the other party; provided that any liability which is incurred by FGU hereunder and not covered, or not covered sufficiently, by insurance shall be paid solely from the revenues of FGU derived from sales of Gas and other services under this Agreement, and any payments made by FGU, or which FGU is obligated to make, to satisfy such liability shall become a part of Costs. The indemnification provided for herein shall include any liability or obligations for which FGU is obligated to indemnify the Gas Supplier under the Gas Purchase Agreement.

(b) For purposes of any indemnification under this Section 23,

(1) promptly after the party seeking indemnification (the "Indemnified Party") learns of any event or circumstance, including, without limitation, any claim or assertion by a third party that, in the judgment of the Indemnified Party, may give rise to a claim for indemnification hereunder (each such claim being referred to as a "Loss" and collectively as "Losses"), the Indemnified Party shall deliver to the party from which indemnification is sought (the "Indemnifying Party") a certificate (the "Certificate"), which Certificate shall:

(i) state that the Indemnified Party has incurred or anticipates that it will incur a Loss for which such Indemnified Party is entitled to indemnification pursuant to this Agreement; and

(ii) specify in reasonable detail each individual item of Loss included in the amount so stated, the date such item arose or was incurred, the basis for any anticipated Loss or Losses and the nature of the claim to which the Loss is related and the computation of the amount to which such Indemnified Party claims to be entitled hereunder;

provided, however, that any failure or delay by the Indemnified Party in delivering a Certificate to the Indemnifying Party shall not affect the Indemnified Party's right to indemnification under this Section 23, except to the extent that the Indemnifying Party is able to establish damages resulting directly from such failure or delay.

(2) If the Indemnifying Party objects to the claim for the indemnification by an Indemnified Party in respect of any Loss, the Indemnifying Party shall, within thirty (30) days after receipt by the Indemnifying Party of such Certificate, deliver to the Indemnified Party a written notice to such effect and the Indemnifying Party and the Indemnified Party shall, within such 30-day period beginning on the date of receipt by the Indemnified Party of such written objection, attempt in good faith to agree upon the rights of the respective parties with respect to each of such claim to which the Indemnifying Party shall have so objected. If the Indemnified Party and the Indemnifying Party shall succeed in reaching agreement on their respective rights with respect to any of such claims, the Indemnified Party and the Indemnifying Party shall promptly prepare and sign a memorandum setting forth such agreement.

(3) Notwithstanding any provision hereof, if any claim for any Loss is asserted against FGU hereunder, FGU may, at its option, assume the defense of the Indemnified Party against such claim or may undertake any remedial action required in connection therewith or both (including the employment of counsel, and the payment of expenses), provided, however, that any failure or delay by the Indemnified Party in delivering such written notification to FGU of any such occurrence, event or circumstance, other than the filing of any such claim, action or proceeding, shall not affect the Indemnified Party's right to indemnification under this Section 23, except to the extent that FGU is able to establish its damages resulting directly from such failure or delay.

(4) Until the Indemnifying Party shall have assumed the defense of the Indemnified Party against such claim following the delivery of such notice, the Indemnified Party may, but shall not be obligated to, undertake the defense of such claim on behalf of and for the account and risk of the Indemnifying Party, and if such Indemnified Party is entitled to indemnification under this Section 23, all legal or other expenses reasonably incurred by the Indemnified Party shall be borne by the Indemnifying Party.

(5) Any Indemnified Party shall have the right to employ separate counsel in any such action or claim and to participate in the defense thereof, but except with respect to FGU, the fees and expenses of such counsel shall not be at the expense of the Indemnifying Party unless (i) the Indemnifying Party shall have failed, within ten (10) Business Days after

having been notified by the Indemnified Party of the existence of such claim as provided in the preceding sentence, to assume the defense of such claim or to notify the Indemnified Party in writing that it will assume the defense of such claim, or (ii) the employment of such counsel has been specifically authorized in writing by the Indemnifying Party, and in each case above, FGU whether as an Indemnifying Party or an Indemnified Party shall have the right to assume full control of the defense of the claim or Loss in the manner provided below.

(6) An appealable final judgment will not give rise to an indemnification payment obligation if and only to the extent that the Indemnifying Party diligently undertakes an appeal of such final judgment and posts a supersedeas bond or takes other action which prevents the execution of the final judgment pending the appeal. Notwithstanding the foregoing (x) any liability or Loss incurred by FGU hereunder shall be paid in the manner provided above from the revenues of FGU derived from sale of Gas or other services hereunder, as a part of Costs; (y) FGU shall in all events, at its option, have the right to assume the defense of any claim for any Loss whether against the Indemnifying Party or as an Indemnified Party and shall be entitled to be reimbursed for the full amount of any such costs of defense including fees and expenses of counsel in trial or on appeal; and (z) as a part of its control of the defense of any claim for Loss, FGU shall have the full right and authority to compromise or settle any such claim or Loss for and on behalf of and for the account and risk of the Indemnifying Party, the Indemnified Party and/or itself.

(7) After any such claim has been filed or initiated, each party shall make available to the other and its attorneys and accountants all pertinent information under its control relating to such claim which is not confidential or proprietary in nature or which is made available under the terms of a confidentiality agreement or is delivered or obtained under appropriate protective orders satisfactory to such party and the parties agree to render to each other such assistance as they may reasonably require of each other in order to facilitate the proper and adequate defense of any such claim.

(8) In no event shall the indemnification obligations of the Indemnifying Party under this Section 23, whether based on contract, warranty, tort (including negligence), strict liability or otherwise, extend to or include special, incidental, consequential or punitive damages of any kind whatsoever, except to the extent that the Indemnified Party is obligated to pay any of such damages to a third party under any claim for which such indemnification is sought.

## SECTION 24. Sale of Project Participant's Excess Nominated Quantity.

In the event Project Participant shall determine that all or any part of the Gas which can be supplied from Project Participant's Nominated Quantity of Gas is in excess of the requirements of Project Participant, at the written request of Project Participant, FGU will thereby be appointed as Project Participant's agent for the purpose of the Project Participant's Nominated Quantity of Gas and shall use commercially reasonable efforts to sell and transfer on behalf of such Project Participant for any period of time all or any part of such excess Gas to such other Project Participant or Project Participants as shall agree to take such excess Gas, at such prices as may be agreed to, provided, however, that in the event the other Project Participants do not agree to take the entire amount of such excess, FGU shall have the right, to the extent permitted by law and this Agreement, to dispose of such excess to other parties, including sales made by the Gas Supplier as may be directed by FGU. Project Participant's Nominated Quantity of Gas and/or Gas Entitlement Share and resulting payments required hereunder shall not be reduced on account of such sale, and Project Participant shall remain liable to FGU to pay the full amount due as if such sale had not been made; except that such liability shall be discharged to the extent that FGU shall receive payment for such Gas from the purchaser or purchasers thereof and any net amounts received by FGU as payment for such sale of excess Gas which is greater than the liability owed by Project Participant to FGU in respect of such excess Gas shall be credited by FGU to Project Participant on a subsequent invoice to Project Participant. Notwithstanding the foregoing, if another Project Participant or Project Participants, each of equal or greater credit quality as Project Participant to whom all of such Nominated Quantity of Gas shall be sold shall agree to assume Project Participant's obligations under this Agreement and include such Nominated Quantity of Gas as a part of each such other Project Participant's Gas Entitlement Share hereunder for the remaining term of this Agreement, Project Participant may be released from any further obligations or liabilities with respect to this Agreement, except for any obligations or liabilities which shall have accrued prior to such sale and except with respect to its obligations of indemnity pursuant to Section 23 hereof. In exercising its rights under this Section 24, neither FGU nor Project Participant shall take any action or fail to take any action which would adversely affect the exclusion from gross income for federal income tax purposes of interest on any tax-exempt bonds of FGU, from the gross income of the holders thereof and/or Project Participant.

## SECTION 25. Assignment of this Agreement; Sale of Project Participant's System.

(a) This Agreement shall inure to the benefit of and shall be binding upon the respective successors and assigns of the parties to this Agreement; provided, however, that, except as provided in Section 16 hereof, in the event of a default, except for the assignment and pledge authorized by Section 13 hereof and, except for the sale or assignments authorized by Section 24 and paragraph

(b) of this Section 25, neither this Agreement nor any interest herein shall be transferred or assigned by either party hereto except with the consent in writing of the other party hereto.

(b) Project Participant agrees that, except as otherwise provided herein, it will not sell, lease, abandon or otherwise dispose of all or substantially all of its System except upon ninety (90) days prior written notice to FGU and, in any event, will not sell, lease, abandon or otherwise dispose of the same unless the following conditions are met: (i) Project Participant shall, subject to the terms and conditions of the Gas Purchase Agreement, assign this Agreement and its rights and interest hereunder to the purchaser or lessee of said System, if any, and any such purchaser or lessee shall assume all obligations of Project Participant under this Agreement and shall have the financial capacity to do so; (ii) FGU shall be permitted by then applicable law to sell Gas to said purchaser or lessee, if any; and (iii) FGU shall by appropriate action determine, in its sole discretion, that such sale, lease, abandonment or other disposition will not adversely affect FGU's ability to meet its obligations under the Gas Purchase Agreement or the Bond Resolution and will not adversely affect the value of this Agreement as security for the payment of Bonds and interest thereon or the Gas Purchase Agreement, or affect the exclusion from gross income of interest on the Bonds for federal income tax purposes or the exclusion of such interest as to bonds or other obligations which could be issued in the future.

Notwithstanding the foregoing, but subject to the provisions of clause (iii) above, Project Participant may sell, lease, abandon or otherwise dispose of all or substantially all of its System and may assign this Agreement and its rights and interests hereunder upon the payment of sufficient funds, as determined by FGU, to cause the purchase of a pro rata part of the outstanding Bonds equal to Project Participant's remaining Nominated Quantity to the aggregate Nominated Quantity of all Project Participants remaining to be delivered under this Agreement. Project Participant and its successor shall, however, remain liable for all ongoing Monthly Costs to the extent such Costs are not offset by the corresponding allocable payments received by FGU under the Calyon Hedge Agreement and the net proceeds received by FGU from the remarketing of Project Participant's Nominated Quantity for such Month. If such revenues exceed Project Participant's Monthly Costs, the difference will be remitted to Project Participant monthly in accordance with the Pricing Policy.

(c) Project Participant, in making or accepting such assignment, shall agree to assume any costs incurred in reporting the assignment as a "material event" or such other event pursuant to the Rule or any successor provision, or any law, judicial decision, regulation, rule or policy now or hereafter imposed by the United States of America, the State of Florida, or any political subdivision or agency of either having jurisdiction over such matters, requiring any such reporting.

(d) Notwithstanding any other provision of this Section 25, Project Participant agrees that it will not assign or transfer any of its rights hereunder without first obtaining and delivering to FGU and the bond trustee serving as such under the Bond Resolution, an opinion of counsel nationally recognized as experts on the subject of municipal bonds and 'acceptable to the Trustee and FGU, to the effect that such transfer will not cause interest on the Bonds to be includable in gross income of the holders thereof for federal income tax purposes.

#### SECTION 26. Termination or Amendment.

(a) This Agreement shall not be terminated by either party under any circumstance, whether based upon the default of the other party under this Agreement or any other instrument or otherwise except as specifically provided in this Agreement.

(b) This Agreement shall not be terminated, amended, modified, or otherwise altered in any manner that will adversely affect the security for any obligations authorized by FGU afforded by the provisions of this Agreement upon which the owners from time to time of the Bonds shall have relied as an inducement to purchase and hold the Bonds or enter into the Gas Purchase Agreement, so long as any of the Bonds or such obligations or the obligations of the Gas Purchase Agreement or Financial Instruments entered into by FGU, in its name, or on behalf of some or all of Project Participants shall rely thereupon. So long as any of such obligations are outstanding or until adequate provisions for the payment thereof have been made in accordance with the provisions of the instruments authorizing such obligations, this Agreement or Financial Instruments, shall not be terminated, amended, modified, or otherwise altered in any manner which will reduce the payments pledged as security for such obligations or extend the time of such payments provided herein or which will in any manner impair or adversely affect the rights of the owners from time to time of such obligations.

(c) No Gas Supply Agreement entered into between FGU and another Project Participant may be amended so as to provide terms and conditions substantially different from those herein contained, except upon written notice to and written consent or waiver by each of the other Project Participants, and upon similar amendment being made to the Gas Supply Agreement of any other Project Participants requesting such amendment after receipt by such Project Participant of notice of such amendment. In such event, no such amendment shall cause any increase in Costs or other increased obligations or burdens to those Project Participants who do not sign substantially similar amendments.

(d) It is recognized by FGU and Project Participant that in the future, events, circumstances or conditions may arise which, in FGU's reasonable judgment, will require certain revisions to the provisions of Sections 5, 6 and 7 hereof. In such event, FGU and Project Participant agree to negotiate in good

faith and amend such provisions to reflect conditions prevailing at such times, provided that such amendments shall not (i) adversely affect the payment of Debt Service on the Bonds or the obligations of FGU under the Gas Purchase Agreement or any Financial Instrument, and (ii) in the opinion of FGU's then existing bond counsel, adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

#### SECTION 27. Force Majeure.

(a) In the event that either FGU or Project Participant ("Party" or "Parties"), is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement or any subsequent service agreement between the Parties contemplated herein, other than the obligation of Project Participant to make payments due hereunder, including the payment of Costs and other amounts due under Sections 3 and 4, it is agreed that with respect to the Gas Supplier, the terms and provisions of the Gas Purchase Agreement shall apply, and with respect to this Agreement, upon such Party giving notice and full particulars of such force majeure in writing to the other Party as soon as possible after the occurrence of the cause relied on, then the obligations of the Party giving such notice (other than the obligation to make payments due), so far as they are affected by such force majeure, shall be suspended during the continuance of any inability so caused but for no longer period, and such cause shall as far as possible be remedied with all reasonable dispatch. It is further agreed that except for the obligation to make payments due, neither FGU nor Project Participant shall be liable to the other for any damage occasioned by force majeure.

(b) In the event of any nonperformance caused by any of the forces described in clause (c), the Party affected shall within twenty-four (24) hours promptly notify the other Party verbally, and within two (2) Business Days of nonperformance, provide the other Party with written confirmation of the nature, cause, date of commencement and anticipated extent of such nonperformance.

(c) The term "force majeure" shall have the meaning as set forth in the Gas Purchase Agreement, to the extent applicable to the parties hereto, and as employed in this Agreement shall also include acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, freezes, washouts, arrests and restraints of governments and people, civil disturbances, explosions, breakage or accidents to machinery or lines of pipe, the necessity for making repairs or alterations to machinery or lines of pipe (other than regularly scheduled or routine maintenance), freezing of wells or lines of pipe, planned or unplanned outages, disruptions or curtailments by Transporter, Project Participant or other parties in the transportation of the Gas, partial or entire failure of source of supply, acts of civil or military authority (including, but not limited to, courts or administrative or regulatory agencies), and any other similar or related cause, whether or not enumerated herein, and whether caused

or occasioned by or happening on account of the act or omission of FGU or Project Participant or any other person or concern, not reasonably within the control of the Party claiming suspension and which by the exercise of due diligence such Party is unable to prevent or overcome; such term shall likewise include, without limitation;

(1) in those instances where either Party is required to obtain servitude, rights of way grants, permits or licenses to enable such Party to fulfill its obligations hereunder, the inability of such Party to acquire, or the delays on the part of such Party in acquiring, at reasonable cost and after the exercise of reasonable diligence, such servitude, rights of way grants, permits or licenses; and

(2) in those instances where either Party is required to furnish materials and supplies for the purpose of constructing or maintaining facilities or is required to secure grants or permissions from any governmental agency to enable such Party to fulfill its obligations hereunder, the inability of such Party to acquire, or the delays on the part of such Party in acquiring, at reasonable cost and after the exercise of reasonable diligence, such materials and supplies, permits and permissions.

(d) The settlement of strikes or lockouts shall be entirely within the discretion of the Party having the difficulty, and the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes or lockouts by acceding to the demands of the opposing Party when such course is inadvisable in the discretion of the Party having the difficulty.

(e) If a force majeure, including a force majeure applicable to FGU under the Gas Purchase Agreement, prevents or curtails FGU's delivery of Gas, FGU shall use commercially reasonable efforts to locate and make available to Project Participant at its request, Gas from an alternative source at the then prevailing prices as FGU may reasonably determine, until the force majeure affecting the supply of Gas has ended.

(f) Consistent with Section 4(d), except as otherwise provided in Section 3(c) hereof, a force majeure affecting the supply of Gas or its transportation or delivery to Project Participant shall not relieve Project Participant of its payment obligations under this Agreement including, without limitation, its obligations under Section 3 and the payment for any replacement Gas, at the then prevailing price.

#### SECTION 28. Project Participant Representative.

Project Participant shall appoint from time to time by motion or resolution of its governing body and provide to FGU evidence thereof, and written notice of



the name, mailing address, telephone number and facsimile transmission number of one or more employees or agents with authority to give instructions required by this Agreement and otherwise exercise decisions by Project Participant required under this Agreement (the "Project Participant Representative").

(a) Project Participant Representative, or its designee as provided below, shall represent Project Participant in giving and receiving notices and directives regarding the routine operational decisions, which decisions may be relied upon by FGU and shall be contractually binding upon Project Participant.

(b) Project Participant Representative may also, if so stated, represent Project Participant in giving and receiving notices, Directives, taking actions or making decisions required or that may be exercisable under this Agreement or Financial Products provided by any Financial Instrument hereunder, in each case, for and on behalf of Project Participant. Such Financial Products may involve those risks and have characteristics similar to those set forth in Exhibit A hereto. The decisions of Project Participant Representative may be relied upon by FGU and such action and the due authorization, execution and delivery of such Directives shall be contractually binding upon Project Participant.

(c) Project Participant Representative may from time to time designate an operational representative to discharge its duties and obligations as set forth in subsection (1) above.

(d) Notices and directives between Project Participant Representative, its designee, and FGU may be transmitted orally when not required to be in writing, provided that all such notices and directives shall be promptly confirmed by a written notice as authorized by this Agreement.

#### SECTION 29. Notice and Computation of Time.

Any notice or demand under this Agreement shall be in writing, and shall be deemed given in writing and properly given if sent by (i) telegraphic, cable or wireless transmission (including by telecopy, facsimile, e-mail or other electronic transmission, with appropriate hard copy being made available) or (ii) delivery to an overnight courier or delivery service company in a sealed prepaid wrapper, or (iii) certified mail, postage prepaid, in each case to the number or address set forth below, or to such other number or address as a party hereto may give the other by notice given in accordance with the provisions in this section.

To FGU:

Florida Gas Utility  
Attn: General Manager  
4619 NW 53<sup>rd</sup> Avenue  
Gainesville, Florida 32606

To Project Participant: Orlando Utilities Commission  
6113 Pershing Avenue  
Orlando, FL 32822  
Attention: Fred Haddad  
Vice President/Power Resources

Unless otherwise specified herein, a notice is considered effectively given when it is received by the intended recipient, or when the intended recipient refuses delivery. If a notice is mailed by certified mail, or sent by courier or delivery service, to the address of the intended recipient specified above (or such other address as the intended recipient has previously specified in a written notice pursuant to the provisions hereof), the notice shall be presumed to have been received or refused by the intended recipient on the date indicated on the receipt or return invoice.

**SECTION 30. Applicable Law; Construction.**

This Agreement is made under and shall be governed by the laws of the State of Florida. Headings herein are for convenience only and shall not influence the construction hereof.

**SECTION 31. Severability.**

If any section, paragraph, clause or provision of this Agreement shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Agreement shall remain in full force and effect as though such section, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not been included herein.

*(Remainder of page intentionally left blank.)*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers respectively, being thereunto duly authorized, and their respective seals to be hereto affixed, as of the day and year first above written.

FLORIDA GAS UTILITY

By: \_\_\_\_\_  
Michael P. Taran, Chair

Attest:

By: \_\_\_\_\_  
Katrina R. Vaughan, Secretary

(Seal)

CITY OF GAINESVILLE D/B/A  
GAINESVILLE REGIONAL UTILITIES

By: \_\_\_\_\_  
Karen S. Johnson  
Interim General Manager for Utilities

(SEAL)

Approved as to form and legality:

By: \_\_\_\_\_  
Raymond O. Manasco, Jr.  
Utilities Attorney

# 3738188\_v4

## Exhibit A

### CHARACTERISTICS OF FINANCIAL PRODUCTS

1. Types of Financial Products. The General Manager of FGU, in accordance with the Derivatives Policy adopted by the Board of FGU from time to time, may approve, and Project Participant Representative shall approve on behalf of Project Participant, Financial Products which may consist of one or more of the following (including combinations thereof), without limitation:

(a) Swaps and swap options or swaptions, pursuant to which (i) the price of a commodity is converted from a fixed price to a floating price, a floating price to a fixed price, or from one floating price to another or (ii) the interest rate on debt issued to acquire or prepay the cost of Gas or interests therein may be synthetically converted from a floating rate to a fixed rate, or a fixed rate to a floating rate or from one floating rate to another.

(b) Options or Forwards, pursuant to which a commodity can be purchased or sold for future delivery on an optional or committed basis and on a physical or cash-settled basis;

(c) Caps, Floors or Collars, pursuant to which the price of a commodity can be limited to a maximum price, a minimum price, or a range between a maximum and a minimum price and the interest rate on debt may be limited to a maximum rate, a minimum rate on a range between a maximum and minimum rate;

(d) Futures Contracts or Options on Futures Contracts, pursuant to which a commodity can be purchased or sold for future delivery on a committed or optional basis, and on a physical or cash-settled basis, through exchange traded and regulated transactions;

(e) Other Hedges, pursuant to which the price or price fluctuations of a commodity, interest rates on debt used to prepay or finance the acquisition of a commodity or interests therein, or to the creditworthiness of a gas supplier or counterparty, can be established or mitigated, either in whole or in part, so as to reduce risk; and

(f) Combinations, including any combination of the foregoing.

For purposes hereof, a "commodity" includes, without limitation, natural gas of any kind (in place or delivered) and any precursor or by-product of natural gas.

2. Terms of Financial Products. Financial Products may be (i) established and regulated pursuant to the rules and regulations of exchanges upon which such products trade or (ii) be documented and evidenced by written financial contracts between the parties thereto pursuant to forms of agreements established by industry associations, including, without limitation, the International Swaps and Derivatives Association, Inc. (ISDA), such as ISDA's various forms of Master Agreement (inclusive

or any schedule or supplement, credit support document, and confirmations related thereto).

3. Risks assumed in Financial Products. Inherent in Financial Products will be a variety of risks including, without limitation, the following:

(a) Credit risks, including the risk that adverse financial changes occur with respect to a gas supplier, a counterparty, an exchange, or a clearinghouse (including bankruptcy) that would tend to reduce or negate the benefit of the Financial Product.

(b) Pricing risks, including the risk of not obtaining the best or most favorable price available for the Financial Product due to market conditions, lack of pricing liquidity or transparency, and macroeconomic events.

(c) Basis risks, including the risk that the Financial Product is not a complete or effective hedge with respect to a commodity, its price or the interest rate paid on debt.

(d) Termination risks, including the risk that the Financial Product must or should be liquidated or terminated early in light of the terms of the Financial Product, which, in turn, may result in a significant payment by, or loss to, a party due to then current market conditions, even though the party's actions did not cause or trigger the termination. Termination can occur because of a number of factors, including (i) a failure of a party to perform its obligations (whether related to payment, delivery, providing collateral or margin, or otherwise) under the terms of a Financial Product or some other agreement to which the Financial Product refers (which may include the default by other Project Participants whose payments are intended in part to make required payments under the hedge agreements), (ii) the misrepresentation of a party to a Financial Product, (iii) cross defaults, (iv) the bankruptcy, or decline in the creditworthiness, of a party to a Financial Product, (v) the determination that a Financial Product is illegal or unenforceable whether due to a change in law or regulation or otherwise, and (vi) other factors. Following a termination, a party can be unhedged unless it terminates the transaction or commodity being hedged or establishes a new hedge.

(e) Operating risks, including the risk that the Financial Product may increase costs or present new or unusual accounting, tax or operating difficulties that require adaptation of existing systems, processes and policies.

(f) Legal risks, including the risk that the Financial Product is unenforceable (whether due to a change in law or regulation or otherwise) or is not adequately documented to reflect the parties' agreement.

## Exhibit B

### DESCRIPTION OF SYSTEM (including gas burning, distribution facilities or other operations)

#### Gainesville Regional Utilities

##### General

Under its home rule powers and pursuant to the Charter, the City owns and operates the System, which provides the City and certain unincorporated areas of the County with electric, natural gas, water, wastewater, and telecommunications service. Natural gas service is also provided to retail customers within the corporate limits of the City of Alachua, Florida ("Alachua"). All facilities of the System are owned by the City, and all facilities, except the City's undivided ownership interest in CR-3, are operated by the City. The System is governed by the City Commission.

The electric system was established in 1912 to provide street lighting and electric service to the downtown area. Continuous expansion of the electric system and its generating capacity has resulted in the electric system serving an average of 87,260 customers in the fiscal year ended September 30, 2005 and having a maximum net summer generating capacity of 611 MW.

The natural gas system was acquired from the Gainesville Gas Company in 1990 to provide gas distribution throughout the City. The gas system served an average of 31,706 customers in the fiscal year ended September 30, 2005.

The water and wastewater systems were established in 1891 to provide water and wastewater service to the City. The water and wastewater systems served an average of 64,692 and 57,553 customers, respectively, in the fiscal year ended September 30, 2005. The water system has a nominal capacity of 54 Mgd and the wastewater system has a treatment capacity of 22.4 Mgd AADF.

The telecommunications system, GRUCom, was established in 1995 to provide communication services to the Gainesville area in a manner that would minimize duplication of facilities, maximize interconnectivity, simplify access, and promote the evolution of new technologies and business opportunities. GRUCom operates a state-of-the art fiber optic network and current product lines include telecommunications transport services, Internet access services, communication tower antenna space leasing services, and public safety radio services.

Exhibit C

Outstanding Debt of the City Issued for the System

Description	Interest Rates	Due Dates (October 1)	Principal Outstanding	Principal to be Outstanding After Issuance of 2006 Series A Bonds
<b>Utilities System Revenue Bonds</b>				
Series 1983.....	6.00%	2014	\$ 4,675,000	\$ 4,675,000
1992 Series B.....	6.50 – 7.50%	2008-2013	24,630,000	24,630,000
1996 Series A.....	5.00 – 5.75%	2006-2026	64,990,000	13,315,000
2003 Series A.....	4.625 – 5.25%	2015-2033	33,000,000	33,000,000
2003 Series B (federally taxable).....	4.40%	2013	6,350,000	6,350,000
2003 Series C.....	2.75 – 5.00%	2006-2013	102,715,000	102,715,000
2005 Series A.....	4.75 – 5.00%	2021-2036	196,950,000	196,950,000
2005 Series B (federally taxable).....	5.14 – 5.31% <sup>(1)</sup>	2015-2021	61,590,000	61,590,000
2005 Series C.....	Variable <sup>(2)</sup>	2026	55,135,000	55,135,000
2006 Series A.....	Variable <sup>(3)</sup>	2026	–	53,305,000
<b>Total Utilities System Revenue Bonds</b>			<b>\$550,035,000</b>	<b>\$551,665,000</b>
<b>Subordinated Utilities System Revenue Bonds</b>				
2002 Series A.....	Variable <sup>(4)</sup>	2017	\$ 28,500,000	\$ 28,500,000
2002 Series B.....	Variable	2032	40,000,000	40,000,000
<b>Utilities System Commercial Paper Notes</b>				
Series C.....	Variable		\$ –	\$ –
Series D (federally taxable).....	Variable		–	–
<b>Total Subordinated Bonds</b>			<b>\$ 68,500,000</b>	<b>\$ 68,500,000</b>

(1) The City has entered into a floating-to-floating rate interest rate swap transaction with respect to a pro rata portion of each of the maturities of the 2005 Series B Bonds (the "2005 Series B Swap Transaction"). The initial notional amount of the 2005 Series B Swap Transaction is \$45,000,000, which corresponds to approximately 73.1% of the principal amount of each maturity of the 2005 Series B Bonds. The counterparty to the 2005 Series B Swap Transaction currently has a counterparty risk rating of "Aaa" from Moody's and a counterparty credit rating of "AAA" from S&P. The term of the 2005 Series B Swap Transaction is identical to the term of the 2005 Series B Bonds, and the notional amount of the 2005 Series B Swap Transaction will amortize at the same times and in the same amounts as the pro rata portion of the 2005 Series B Bonds to which it relates. The 2005 Series B Swap Transaction is subject to termination by the City or the counterparty at certain times and under certain conditions. During the term of the 2005 Series B Swap Transaction, the City will pay to the counterparty a rate equal to the BMA Municipal Swap Index and will receive from the counterparty a rate equal to 77.14% of the 1-month LIBOR rate. The effect of the 2005 Series B Swap Transaction is to convert synthetically the interest rate on such pro rata portion of the 2005 Series B Bonds from a taxable rate to a tax-exempt rate. The City has designated the 2005 Series B Swap Transaction as a "Qualified Hedging Transaction" within the meaning of the Resolution (see SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION- Definitions" and "-Provisions Concerning Qualified Hedging Contracts" in APPENDIX C hereto).

(2) The City has entered into a floating-to-fixed rate interest rate swap transaction with respect to the 2005 Series C Bonds (the "2005 Series C Swap Transaction"). The counterparty to the 2005 Series C Swap Transaction currently has a counterparty credit rating of "Aaa" from Moody's and a counterparty credit rating of "AAA" from S&P. The term of the 2005 Series C Swap Transaction is identical to the term of the 2005 Series C Bonds, and the notional amount of the 2005 Series C Swap Transaction will amortize at the same times and in the same amounts as the 2005 Series C Bonds. The 2005 Series C Swap Transaction is subject to termination by the City or the counterparty at certain times and under certain conditions. During the term of the 2005 Series C Swap Transaction, the City will pay to the counterparty a fixed rate of 3.20% per annum and will receive from the counterparty a rate equal to 68% of the 1-month LIBOR rate. The effect of the 2005 Series C Swap Transaction is to fix synthetically the interest rate on the 2005 Series C Bonds at a rate of approximately 3.20% per annum. The City has designated the 2005 Series C Swap Transaction as a "Qualified Hedging Transaction" within the meaning of the Resolution (see "SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION - Definitions" and "-Provisions Concerning Qualified Hedging Contracts" in APPENDIX C hereto).

(3) See "FINANCING PLAN" herein for a description of a floating-to-fixed rate interest rate swap transaction entered into by the City in contemplation of the issuance of the 2006 Series A Bonds.

(4) The City has entered into a floating-to-fixed rate interest rate swap transaction with respect to the 2002 Series A Subordinated Bonds (the "2002 Series A Swap Transaction"). The counterparty to the 2002 Series A Swap Transaction currently has a counterparty risk rating of "Aaa" from Moody's and a financial program rating of "AAA" from S&P. The term of the 2002 Series A Swap Transaction is identical to the term of the 2002 Series A Subordinated Bonds, and the notional amount of the 2002 Series A Swap Transaction will amortize at the same times and in the same amounts as the 2002 Series A Subordinated Bonds. The 2002 Series A Swap Transaction is subject to termination by the City or the counterparty at certain times and under certain

conditions. During the term of the 2002 Series A Swap Transaction, the City will pay to the counterparty a fixed rate of 4.10% per annum and will receive from the counterparty a rate equal to the BMA Municipal Swap Index. The effect of the 2002 Series A Swap Transaction is to fix synthetically the interest rate on the 2002 Series A Subordinated Bonds at a rate of approximately 4.10% per annum. The City has not designated the 2002 Series A Swap Transaction as a "Qualified Hedging Transaction" within the meaning of the Resolution (see "SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION - Definitions" in APPENDIX C hereto), so all amounts owed by the City under the 2002 Series A Swap Transaction are payable from the amounts remaining on deposit in the Revenue Fund established pursuant to the Resolution following the payment of, among other things, Operation and Maintenance Expenses, debt service on the Bonds, debt service on Subordinated Indebtedness and required deposits to the Utilities Plant Improvement Fund established pursuant to the Resolution.

#### FIRM GAS CONTRACTS

1 Year Natural Gas Base Load Agreements through The Energy Authority through April 30, 2007 as follows:

Kinder Morgan.....5000/mmbtu/day

Chevron.....2000/mmbtu/day



Appendix 1

PROJECT PARTICIPANT: GAINESVILLE REGIONAL UTILITIES  
 GAS SUPPLY ACQUISITION PROJECT NO. 2  
 GAS ENTITLEMENT SHARE AND COST ADJUSTMENT FACTOR

Contract Year	Decatherms (Dth's)												Entitlement Share		
	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep		Annual	
2,006															
2,007	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	244,000	
2,008	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,460,000	
2,009	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,464,000	
2,010	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,460,000	
2,011	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,460,000	
2,012	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,460,000	
2,013	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,464,000	
2,014	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,460,000	
2,015	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,460,000	
2,016	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,460,000	
2,017	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,464,000	
2,018	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,460,000	
2,019	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,460,000	
2,020	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,460,000	
2,021	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,464,000	
2,022	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,460,000	
2,023	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,460,000	
2,024	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,460,000	
2,025	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,464,000	
2,026	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	1,460,000	
														Total Dth's	1,216,000
															29,220,000

\* Assumes Gas Flowing October 1, 2006.

Appendix 2

PROJECT PARTICIPANT'S POINT OR POINTS OF DELIVERY

PROJECT PARTICIPANT	POINT OR POINTS OF DELIVERY
Gainesville Regional Utilities	FGT-ANR/St. Landry (DRN 314571) - December - October Transco/Citronelle FGT (DRN 157553) November

# 3738188\_v1

[FORM OF OPINION OF COUNSEL TO  
PROJECT PARTICIPANT – GAINESVILLE REGIONAL UTILITIES]

September \_\_, 2006

UBS Securities LLC  
1285 Avenue of the Americas, 15<sup>th</sup> Floor  
New York, NY 10019

Calyon, Individually and as  
Administrative Agent  
1301 Avenue of the Americas  
New York, New York 10019-6022

UBS AG  
677 Washington Boulevard  
Stamford, CT 06901

Wells Fargo, N.A.  
Wells Fargo Corporate Trust Services  
Attention: Susan Thorpe  
Vice President Business Development  
306 South Orange Ave., Suite 1566  
Orlando, FL 32801

Florida Gas Utility  
4619 NW 53<sup>rd</sup> Avenue  
Gainesville, FL 32609

Re: Gas Supply Agreement No. 2

Ladies and Gentlemen:

I am counsel to the Gainesville Regional Utilities (the "Public Agency"), and am furnishing this opinion to you in connection with the Gas Supply Agreement No. 2 ("Gas Supply Agreement") (the "Agreement"), dated as of September 1, 2006, and executed between Florida Gas Utility ("FGU") and the Public Agency as a Project Participant and as a purchaser of Gas from FGU pursuant to a prepaid Gas Purchase Agreement (the "GSAP2 Project").

All terms used herein in capitalized form and not otherwise defined herein shall have the same meanings as ascribed to them in the Gas Supply Agreement.

In connection with this opinion, I have examined originals or copies, certified or otherwise identified to my satisfaction, of the following:

- (a) The Constitution and laws of the State of Florida including, as applicable, special acts, ordinances, charters and agreements pursuant to which the Public Agency was created and by which it is governed;
- (b) Resolution No. 060183, duly adopted on August 28, 2006 (the "Resolution"), and certified as true and correct by certificate and seal as of \_\_\_\_\_, authorizing the Public Agency to execute and deliver the Gas Supply Agreement described below to

participate in GSAP2, in accordance with the provisions of the Constitution of the State of Florida, the Florida Interlocal Cooperation Act of 1969, Section 163.01 and Chapter 166, Florida Statutes, and other applicable provisions of law;

- (c) A copy of the Gas Supply Agreement executed by the Public Agency;
- (d) The Interlocal Agreement dated September 1, 1989, as amended on June 1, 1992, and as amended and restated by Amended and Restated Interlocal Agreement dated as of July 1, 1996, and thereafter amended and restated by Second Amended and Restated Interlocal Agreement dated as of July 27, 1999, between the Public Agency and the other public agencies named therein and the Assumption Agreement executed by the Public Agency assuming the obligations of the Interlocal Agreement to become a Member of FGU (the "Interlocal Agreement");
- (e) The Continuing Disclosure Certificate, dated as of \_\_\_\_\_, 2006 (the "Continuing Disclosure Certificate"), among the Public Agency, FGU, and the Trustee.

All outstanding instruments relating to bonds, notes or other indebtedness of or relating to the Public Agency's System.

I have also examined and relied upon originals or copies, certified or otherwise authenticated to my satisfaction, of such other records, documents, certificates and other instruments, and made such investigations of law, as in my judgment I have deemed necessary or appropriate to enable me to render the opinions expressed below.

Based upon the foregoing, I am of the opinion that:

1. The Public Agency is a public body corporate and municipal corporation of the State of Florida, duly organized and validly existing under the laws of the State of Florida, with the legal right to carry on the business of its System as currently being conducted and as proposed to be conducted.
2. The Public Agency has the right and power to adopt the Resolution, and the Resolution has been duly adopted by the Public Agency and is in full force and effect as of the date hereof in the form in which adopted.
3. The Gas Supply Agreement, the Continuing Disclosure Certificate and the Interlocal Agreement (collectively, the "Agreements") have been duly and lawfully authorized, executed and delivered by the Public Agency,

and constitute the legal, valid and binding agreements and obligations of the Public Agency, enforceable against the Public Agency in accordance with their respective terms.

4. The authorization, execution, delivery, receipt and performance of the Agreements and all agreements and documents provided for or contemplated by the Resolution do not violate any applicable judgment or order of any court and do not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, the terms of any statute of the State of Florida, the Public Agency's ordinances or charter, any administrative rule or regulation of the State of Florida or any agency thereof or of any bond resolution, indenture, agreement, license, permit, franchise, or other instrument to which the Public Agency is subject, or by which it or any of its properties is bound, or result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or assets of the Public Agency, except as expressly provided by the Agreements, nor do such actions result in any violation of any order, rule or regulation applicable to the Public Agency of any court or of any federal, state or other regulatory authority or governmental body having jurisdiction over the Public Agency or any federal statute, order, rule or regulation applicable to the Public Agency or the State of Florida.
5. Amounts payable by the Public Agency to FGU pursuant to the Gas Supply Agreement will constitute operating expenses of the Public Agency's System.
6. All approvals, consents or authorizations of, or registrations, or filings with, any governmental or public agency, authority or person required on the part of the Public Agency in connection with the execution, delivery and performance by it of the Agreements have been obtained or made.
7. There is no action, suit, litigation, inquiry, investigation or other proceeding by or before any court, governmental agency, public board or body or other tribunal of competent jurisdiction (either State or Federal) pending or, to the best of my knowledge after due inquiry, threatened against the Public Agency or its System which (a) questions the creation, organization or existence of the Public Agency, (b) affects or seeks to prohibit, restrain or enjoin the Public Agency from entering into, or wherein an unfavorable decision would materially adversely affect the ability of the Public Agency to, comply with its obligations contained in the Agreements, including the payment obligations to FGU contained therein, or (c) in any way affects or questions the validity, legality or

enforceability of the Agreements, nor, to the best of my knowledge, is there any basis therefor.

8. Project Participant Representative has the power and authority to discharge its duties and obligations as provided in Section 28 of the Gas Supply Agreement and to bind Project Participant with respect thereto.

The opinions set forth herein as to the enforceability of the legal obligations of the Public Agency are subject to and limited by (i) bankruptcy, insolvency, reorganization, moratorium and similar laws, in each case relating to or affecting the enforcement of creditors' rights generally, and (ii) other general principles of equity.

This opinion is rendered only to the addressees and to other parties related to the GSAP2 Project, including but not limited to, one or more remarketing agents, in addition to UBS Securities LLC, one or more liquidity facility providers, in addition to Calyon, one or more broker-dealers, in addition to UBS Securities LLC, and one or more auction agents, and may not be relied upon by any other parties without my consent.

Very truly yours,

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