

**WALK ON #1**

Lee County Board of County Commissioners  
Agenda Item Summary

Blue Sheet No. 20060166-UTL

**1. Action Requested/Purpose:**

Review/approve attached copies of documents (rate resolution and bulk water sales agreement) provided by Mr. David Miles, FGUA Special Projects Administrator regarding the proposed bulk water rate for the wholesale delivery of water from the Lehigh Acres Utility System of the FGUA (Florida Governmental Utility Authority), and subsequent interconnect construction.

**2. What Action Accomplishes:**

Allows Lee County to stay informed in the event of a future sale of the FGUA system to Lee County regarding the proposed two-way interconnect between the potable water supply systems of the FGUA Lehigh Utility System and the City of Fort Myers.

**3. Management Recommendation:**

Review and approval.

**4. Departmental Category:** 10 -

**WO #1**

**5. Meeting Date:**

**02-21-2006**

**6. Agenda:**

- Consent
- Administrative
- Appeals
- Public
- Walk-On

**7. Requirement/Purpose (specify)**

- Statute
- Ordinance
- Admin. Code
- Other  Approval

**8. Request Initiated**

Commissioner \_\_\_\_\_  
 Department Public Works  
 Division Utilities  
 By: [Signature] 2/10/06  
Rick Diaz, P.E., Director

**9. Background:**

On December 30, 2005 a January 18, 2006 Public Hearing was advertised by the FGUA in the Fort Myers News Press. On January 18, 2006, FGUA opened a Public Hearing for interested parties in Lehigh Acres to receive public input (see attached copy of Memorandum for Record) pertaining to the adoption of a new Bulk Rate for the wholesale delivery of water from the Lehigh Acres Utility System. The new bulk rate is required in order to deliver water on an economical basis to the City of Fort Myers Water System, adjacent to Lehigh Acres. The Public Hearing was continued on January 20, 2006. At the January 20, 2006 meeting the Board of Directors again continued the Public Hearing to February 24, 2006, to allow time for Lee County staff to present the proposed rate resolution and the Fort Myers/FGUA interconnect interlocal agreement to the Lee County BOCC for review.

(CONT'D.)

**10. Review for Scheduling**

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager / P.W. Director
					Analyst	Risk	Grants	Mgr.	
<u>[Signature]</u> J. Lavender Date: <u>2/10/06</u>	<u>[Signature]</u> Cindy Rogan Date: <u>2/10/06</u>	N/A Date:		<u>[Signature]</u> S. Coovert Date: <u>2/13/06</u>	<u>[Signature]</u> RK for PM 2/13	<u>[Signature]</u> 2/13	<u>[Signature]</u> 2/13/06	<u>[Signature]</u> 2/3/06	<u>[Signature]</u> J. Lavender Date: <u>2-10-06</u>

**11. Commission Action:**

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN: [Signature]  
 2-13-06  
 3:57  
 COUNTY ADMIN FORWARDED TO: [Signature]  
 2/13/06  
 4:30pm

Rec. by CoAtty  
 Date: 2/13/06  
 Time: 2:50pm  
 Forwarded to: Admin 2/13/06

The FGUA has been negotiating with the City of Fort Myers to enter into an interlocal two-way bulk water sales agreement for the mutual provision of backup water supplies for the FGUA Lehigh Acres Utility System). This Agreement (copy attached) shall have an initial term of ten years and may be extended by either party for an additional ten-year period. In order to consummate this bulk water sale, it is necessary for the FGUA Board to establish a new bulk rate for sale of water from the Lehigh Acres Utility System. This rate is in their Resolution 2006-01 (copy attached). The purpose of the Resolution establishes and adopts rates and charges for the provision of bulk potable water to wholesale water customers (which would include the City of Fort Myers) receiving bulk water from the Lehigh Acres Utility System. (The rate study was performed by PRMG to support the bulk water rate of \$3.76 per 1,000 gallons with a provision in the resolution for annual CPI based adjustments.)

The FGUA FY 2006 Budget for the Lehigh Acres Utility System provides two major capital improvement projects to increase the water supply to their customers:

1) Project LE004 provides for the construction of the first phase of the Mirror Lakes Water Treatment Plant #2 which will provide production of 1.8 MGD of additional water when the plant comes on-line in late 2007. (The Interlocal Agreement with the City of Fort Myers does not provide for the FGUA to sell water to the City until the Mirror Lakes Water Treatment Plant #2 first phase is completed. Due to the length of time for construction of the interconnect, it is unlikely that any sales will occur before FY 2007 by either party.)

2) Project LE038 provides for the construction of an interconnect with the City of Fort Myers Water System which will allow a maximum of 0.5 MGD to be sold by either party to the other party. During late FY 2006 and FY 2007, the FGUA expects that it may need to draw up to 0.5 MGD from the City of Fort Myers until the Mirror Lakes Water Treatment Plant #2 is completed. (The FY 2006 operating budget does provide up to \$562,100 for the purchase of water from the City of Fort Myers by the FGUA.) After that time, the interconnect will serve as a mutual backup for both water supply systems in the event of an emergency.

It is imperative that this review by the BOCC is completed no later than February 21st to avoid a further delay in FGUA's capital projects. After BOCC review it will be presented to the FGUA Board on February 24th, and finally to the City Council of Fort Myers on March 6th, 2006.

Attachment Copies: 1) FGUA Memorandum for Record (and PH 1 Summary/Recommendation)  
2) FGUA Resolution No. 2006-01 (and PH 1a Summary/Recommendation)  
3) FGUA Bulk Water Sale Agreement (and FA 1 Summary/Recommendation)



**MEMORANDUM  
FROM  
PUBLIC WORKS  
UTILITIES DIVISION**

**DATE:** FEBRUARY 10, 2006

**To:** RICHARD DESALVO  
PUBLIC RESOURCES

**FROM:** RICK DIAZ, P.E.  
DIRECTOR

A handwritten signature in black ink, appearing to read 'Rick Diaz', written over a horizontal line.

**SUBJECT: WALK-ON FOR FEBRUARY 21, 2006  
BS 20060166-UTL  
LEHIGH ACRES RATE RESOLUTION AND BULK WATER AGMT/  
INTERCONNECT WITH CITY OF FORT MYERS**

Lee County Utilities is requesting that the attached Blue Sheet No. 20060166-UTL be submitted before the Board on February 21, 2006 as a WALK-ON item.

In order to meet FGUA's previously negotiated deadlines, and to avoid further expensive delays in FGUA's capital projects, it is imperative that the BOCC review the attached documents no later than February 21st. This will allow the FGUA Board to meet on February 24th, and the City Council to meet on March 6th, as already scheduled.

Thank you.

RD:sdg

Attachment: BS 20060166-UTL w/attachments

**DeSalvo, Richard A.**

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**From:** Sue Gullledge [GULLEDS@leegov.com]  
**Sent:** Friday, February 10, 2006 12:02 PM  
**To:** DeSalvo, Richard A.  
**Subject:** BS 20060166-UTL, PROPOSED WALK-ON FOR 2-21-06

Hi, Dick:

I just wanted to give you a heads-up that BS 20060166-UTL will have to be a walk-on item for Feb. 21st. As soon as the draft Blue Sheet is approved and the Walk-on justification memo signed, I will finalize and walk to the Attorney's office, possibly next Monday or Tuesday.

Thanks.

Sue Gullledge, Adm. Specialist  
(Blue Sheets Coordinator)  
Lee County Utilities - 3rd Floor  
1500 Monroe St, Ft. Myers, FL 33901  
E-mail: GULLEDS@leegov.com  
Phone: 239-479-8181, Ext. 5577; Fax: 239-479-8176  
[Note: E-mails to and from this GOVERNMENT address may be subject to PUBLIC DISCLOSURE.]

MEMORANDUM FOR RECORD

To: Chairman and Members, FGUA Board of Directors

From: David R. Miles and Yvette Hartsfield, Special Masters

Date: January 19, 2006

RE: Public Hearing on Proposed Bulk Water Rate for Lehigh Acres Utility System

Mr. Miles open the public hearing by the Florida Governmental Utility Authority (FGUA) at 11:00 a.m. on January 18, 2006 to receive public input regarding the implementation of a Bulk Water Rate for the Lehigh Acres Utility System. Mr. Miles introduced himself as the Special Project Administrator and Ms. Yvette Hartsfield as the Community Services Manager for the Florida Governmental Utility Authority. Both members of the FGUA staff were appointed as special masters to take public input regarding the proposed bulk water rate for the sale of water by the Lehigh Acres Utility System of the FGUA.

Mr. Miles stated that the FGUA and City of Fort Myers staffs have been discussing for the past several months an interlocal agreement to provide an interconnect between the potable water supply systems of the FGUA Lehigh Utility System and the City of Fort Myers. This would be a two-way agreement that would allow each of these two governmental entities to provide up to 500,000 gallons of water per day in the event of an emergency. The interlocal agreement is being drafted at this time. The FGUA does not currently have a bulk sales rate and is proposing to establish a rate in order to place it in the interlocal agreement with Fort Myers. The City of Fort Myers already has a rate in place to charge the FGUA. In a rate study



LEA ANN THOMAS, CHAIR  
Polk County

RICHARD W. WESCH  
Citrus County

ROBERT NANNI  
Osceola County

JIM LAVENDER  
Lee County

**FGUA OPERATIONS OFFICE**

Government Services Group, Inc.  
Protegrity Plaza, Suite 203  
280 Wekiva Springs Road  
Longwood FL 32779

877/552-3482 Toll Free  
407/629-6900 Tel  
407/629-6963 Fax

dated December 6, 2005, the FGUA rate consultant, PRMG, has recommended a rate of \$3.76 per 1000 gallons as the bulk rate.

This rate of \$3.76 is contained in the rate resolution to be presented to the FGUA Board of Directors. This Public Hearing will be continued to the regularly scheduled meeting FGUA Board of Directors meeting on January 20, 2006 to be held in Poinciana at the Community Center at 395 Marigold Road, Poinciana, FL at 10:00 a.m. in Polk County. The special masters will provide comments received from the public at this public hearing to the FGUA Board. The January 20, 2006 meeting is expected to be continued until February 24, 2006 at 10:00 a.m., at 280 Wekiva Springs Road, Longwood, Florida in the Longwood Meeting Room. The reason for this further continuance will be to take the rate resolution and interlocal agreement with the City of Fort Myer to the Lee County Board of County Commissioners for their approval.

Mr. Miles entertained public comments at this time.

Mr. Frank Lohlein stated that he was misinformed by the press regarding the purpose of this meeting. He thought that this meeting was to answer any and all questions that citizens have regarding the FGUA. Mr. Lohlein had passed out a list of questions before the meeting began. Mr. Miles stated that he would be more than happy to address Mr. Lohlein's questions after the public hearing, but since they did not address the FGUA Lehigh Acres Bulk Rate Resolution, they would not be addressed during the Public Hearing.

Mr. Lohlein then discussed that the City of Fort Myers regarding this cost of the sale of their water at \$3.42 per 1000 gallons and non-residential rate is \$5.12 per 1000 gallons. The FGUA will be providing the City water at \$3.76 per 1000 gallons. What is the FGUA charging for the commercial and will it bring the FGUA commercial rate down?

Mr. Miles stated that no other rates are proposed to be changed at this time. The only rate that is being proposed is to set a bulk water rate for sales to entities like the City of Fort Myers. This rate will apply to bulk customer purchases only. The agreement with the City of Fort Myers provides for the sale of up to 500,000 gallons per day.

Mr. Lohlein then stated that the real reason the FGUA needed the interlocal agreement with the City of Fort Myers was in order to sell water to developers, so that the developers could build more houses in Lehigh Acres. The FGUA is "catering" to developers.

Mr. Jim Fleming then stated that the real emergency in Lehigh Acres is that the FGUA had approved too many permits to developers to build additional houses. This rate resolution was all about supplying water from Fort Myers to Lehigh Acres. The FGUA explanation was all smoke and mirrors. He believes the FGUA is lacking capacity, and this interlocal agreement is to obtain more water

supplies.

Mr. Robert Anderson stated that he was a "watchdog". He had copies in his hands of five (5) development orders where the FGUA had committed capacity it did not have to these developers. The FGUA was using over 80% of its existing capacity, which by FDEP rules meant that the FGUA had an emergency that required additional capacity.

Mr. Anderson also stated that David Orr at a public meeting in September stated this water would be used for everyday use. That was because of all the commitments to the developers, who are currently breaking ground.

Mr. Anderson also stated that it was unsatisfactory that the Board of Directors was not present for this hearing. It was not appropriate for the staff to take input and carry it back to the Board of Directors. He also stated that the FGUA was going outside its current service area to serve other developers. He stated that the FGUA was going to create a traffic problem on Lee Road by digging it up or tunneling under it to install the water line connection.

Mr. Miles responded that the agreement with the City of Fort Myers was a two-way agreement and could also involve the sale of water from the FGUA to the City. He explained that the Board of Directors supervises multiple water systems and they rotate their meeting sites so they can be in each service area at some meetings. It is not possible for the Board to have all of its meetings in Lehigh Acres, which is why they appoint special masters to take public input at hearings they cannot attend.

Mr. Jim Fleming then stated the developers had MPDs on the books for Lehigh Acres for 7,500 units in the pipeline. That did not even count individual houses and small builder developments coming on line. He wanted the FGUA to slow development down. He stated the FGUA will facilitate the problems created by the developers by adding water capacity. The FGUA Board should consider a moratorium on new water permits for using added capacity. Lehigh Acres is growing too fast. He made it clear that he was not suggesting a building permit moratorium, just a moratorium on committing the addition of water and sewer capacity for central services.

There being no further public comments, Mr. Miles closed the public input at 11:50a.m. and continued the Public Hearing until January 20, 2006 at 10:00 a.m. in Poinciana, Florida.

# Florida Governmental Utility Authority

## Board Agenda Item Friday, February 24, 2006

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### Item

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**PH 1      Continuation of Public Hearing to Approve a Bulk Water Rate in Lehigh Acres**

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### Summary

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On January 18, 2006 at 11:00 a.m. Ms. Yvette Hartsfield, FGUA Community Services Manager, and Mr. David Miles, FGUA Special Projects Officer, opened a Public Hearing for interested parties in Lehigh Acres pertaining to the adoption of a new Bulk Rate for the wholesale delivery of water from the Lehigh Acres Utility System in Lee County. This new bulk rate is required in order to deliver water on an economical basis to the City of Fort Myers Water System, adjacent to Lehigh Acres. A written record of the meeting (Exhibit A) was provided to the Board of Directors at the continuation of the Public Hearing on January 20, 2006. The hearing was advertised in the Fort Meyer News Press on December 30, 2005 and a notice was placed in the bills delivered to all Lehigh Acres Utility System customers during late December and early January billing cycles noticing the Public Hearing, which was held at the Riverdale Branch Library, Meeting Room, State Road 80, Fort Myers, FL 33905. At the January 20, 2006 meeting the Board of Directors continued the public hearing to the February 24, 2006, at 10:00 a.m. at the Lee County East Regional Library, Meeting Room 1, 881 Gunnery Road, Lehigh Acres, FL in order allow time for the Lee County staff to present the proposed rate resolution and Fort Myers/FGUA interconnect interlocal agreement to the Lee County BOCC for review.

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### Recommendations

The Board of Directors accept the record of the January 18, 2006 Public Hearing results as information and approve the Bulk Rate Resolution 2006-01 at item PH 1a.

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### Budget Impact

None.

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### Board Action

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**Moved by:**

**Seconded by:**

**Action Taken:**

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**RESOLUTION NO. 2006-01**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE FLORIDA GOVERNMENTAL UTILITY AUTHORITY ADOPTING A BULK WATER RATE RELATING TO THE LEHIGH ACRES WATER AND WASTEWATER UTILITY SYSTEM LOCATED IN LEE COUNTY, FLORIDA; PROVIDING FOR AUTOMATIC INDEX RATE ADJUSTMENT; PROVIDING THAT UNPAID FEES CONSTITUTE LIENS; PROVIDING FOR NO FREE SERVICE; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE FLORIDA GOVERNMENTAL UTILITY AUTHORITY, AS FOLLOWS:**

**SECTION 1. AUTHORITY.** This Resolution is adopted pursuant to the provisions of the First Amended and Restated Interlocal Agreement Relating to Establishment of the Florida Governmental Utility Authority, dated as of December 1, 2000, as it may be amended (the "Interlocal Agreement"), and section 163.01(7), Florida Statutes.

**SECTION 2. PURPOSE AND DEFINITIONS.**

(A) This Resolution constitutes the Lehigh Acres Utility System Bulk Water Rate Resolution.

(B) The purpose of this Resolution is to establish and adopt the rates and charges for the provision of bulk potable water to wholesale water customers receiving bulk water from the Lehigh Acres Utility System.

(C) All capitalized words and terms not otherwise defined herein shall have the meaning set forth in the Interlocal Agreement. Unless the context requires otherwise, words imparting the singular number include the plural and vice versa. As used in this Resolution, the following terms shall have the following meanings, unless the context otherwise requires:

**"Customer"** shall mean any party, entity, or Person purchasing bulk potable water from the Authority's Lehigh Acres Utility System.

**"Future Obligations"** shall mean a future series of bonds or other evidence of indebtedness, including, but not limited to, notes, commercial paper, capital leases or any other obligations that may be issued by the Authority for which the Lehigh Acres Utility System revenues are the Pledged Funds.

Exhibit A

**"Owner"** shall mean the Person or entity holding legal title to any premises which is or is about to be supplied with utility services supplied by the Authority.

**"Person"** shall mean an individual, a corporation, a partnership, an incorporated association, trust or any other legal entity.

### **SECTION 3. FINDINGS.**

(A) The rates and charges approved and adopted in Section 4 of this Resolution provide and assure that necessary monies which, with other funds available for such purposes, shall be at least sufficient at all times to pay for the expense of operating, managing, expanding, improving, and maintaining the Authority Facilities, in compliance with Section 4.04(B) of the Interlocal Agreement.

(B) The adoption of the rates and charges provided in Section 4 of this Resolution is necessary and will comply with the covenants contained in the Financing Documents. The rates and charges for utility services provided by or made available by the Authority shall at all times be sufficient to meet all requirements of system operation, maintenance, replacement debt service costs, and other required reserves and costs contained in any applicable Financing Documents and any Future Obligations.

(C) Pursuant to the Interlocal Agreement, a duly noticed hearing was held January 18, 2006 at 11:00 a.m. at the Riverdale Branch Library, Meeting Room, State Road 80, Fort Myers, FL 33905 and continued until January 20, 2006 at 10:00 a.m. at the Poinciana Community Center, Main Auditorium, 395 Marigold Avenue Road, Kissimmee, Florida, 34759 at which all customers of the Authority and all other interested persons were provided an opportunity to be heard concerning the proposed rates and charges. The meeting was further continued until the Board of Directors meeting at 10:00 a.m. on February 24, 2006 at the Lee County East Regional Library, Room 1, 881 Gunnery Road, Lehigh Acres, FL. Notice of public hearing was published in accordance with the requirements of Section 4.04 of the Interlocal Agreement on December 20, 2005. The proof of publication is attached hereto as Appendix A. Additionally, pursuant to Section 180.136, Florida Statutes, mailed notices were provided to all property owners within the Lehigh Acres Utility System. These notices contained the date, times, and place of the public hearing and information on the proposed bulk water rate.

(D) The Authority was created to acquire, develop and maintain safe, reliable and financially self-supporting water and wastewater systems which will meet the needs of the Lehigh Acres Utility System. This Resolution accomplishes or promotes the ability to accomplish such goals in a fiscally responsible manner and in a manner consistent with the Interlocal Agreement and the Financing Documents.

(E) Notice of this proposed bulk water rate for the Lehigh Acres Utility System has

Exhibit A

been provided to the Lee County Public Works and Utility Directors and County Attorney for review and

Exhibit A

comment. They have presented it to the Lee County Board of County Commissioners for review and approval.

**SECTION 4. RATES AND CHARGES.**

(A) The following rates and charges for the Lehigh Acres Utility System are hereby approved and adopted:

**Bulk Potable Water Rate Schedule for the Lehigh Acres Utility System**

<u>Service</u>	<u>Rate</u>
Bulk Water Consumption Charge	\$3.76 Per 1,000 gallons

(B) The rates and charges approved and adopted herein are just, equitable, uniform and reasonably related to the purpose for which the rates and charges are imposed. Adoption of this Resolution constitutes a legislative determination that the rates and charges as set forth above are fair, reasonable, and non-discriminatory.

(C) The rates and charges adopted herein shall become effective on all bulk water bills rendered on or after the effective date of this Resolution.

**SECTION 5. PRICE INDEX RATE ADJUSTMENT.** The periodic rate indexing provisions adopted in Resolution 2003-10, as approved on or about October 16, 2003, shall apply to the bulk water rates approved in Section 4 of this Resolution unless otherwise provided by the Board of Directors of the Authority.

**SECTION 6. UNPAID FEES TO CONSTITUTE LIEN.** In the event the fees, rates or charges for the services and facilities of any water or wastewater system are not paid as and when due, any unpaid balance thereof and all interest accruing thereon shall be a lien on any parcel or property affected thereby. Such liens shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles, and claims, until paid. The Authority shall have the right to foreclose and collect said lien in the manner provided by law for the foreclosure of mortgages on real property or any other lawful means and appoint or retain an agent to institute such foreclosure and collection proceedings.

**SECTION 7. UNLAWFUL CONNECTION PROHIBITED.** No Person shall be allowed to connect into any water or wastewater line owned by the Authority without the

Exhibit A

written consent of the Authority, and then the connection with such line shall be made only under the direction and supervision of the Authority. Any Owner, Customer or plumber who shall make any connection without such consent of the Authority shall be subject to criminal prosecution and civil damages.

**SECTION 8. OWNER OF PREMISES RESPONSIBLE FOR ALL ACTS.**

Every Owner will be held fully responsible and liable by and to the Authority for all that is done or omitted on, in, or about the premises by any agent or Customer or other Persons not in the employ of the Authority, who may gain access thereto.

**SECTION 9. NO FREE SERVICE.** No water or wastewater service shall be furnished or rendered free of charges to any Person.

**SECTION 10. APPLICABILITY.** This Resolution shall be applicable to all lands supplied with utility service by the Lehigh Acres Utility System in Lee County, Florida.

**SECTION 11. SEVERABILITY AND EFFECTIVE DATE.**

(A) If any phrase or portion or part of this Resolution is found to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

(B) This Resolution shall become effective immediately upon its passage and adoption.

**PASSED AND DULY ADOPTED** at the meeting of the Board of Directors of the Florida Governmental Utility Authority on the 24<sup>th</sup> day of February, 2006.

**FLORIDA GOVERNMENTAL  
UTILITY AUTHORITY**

By: \_\_\_\_\_  
Chairman

ATTEST:

By: \_\_\_\_\_  
Secretary

Reviewed and Approved as to Form:

Exhibit A

By: \_\_\_\_\_  
General Counsel

Exhibit A

**APPENDIX A**  
**PROOF OF PUBLICATION**

# Florida Governmental Utility Authority

## Board Agenda Item

Friday, February 24, 2006

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### Item

PH 1a Approval of Resolution 2006-01, Establishing a Bulk Water Rate in the Lehigh Acres Utility System

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### Summary

The FGUA staff has been negotiating with the staff of the City of Fort Myers to enter into an Interlocal Agreement for the mutual provision of back-up water supplies between the City Water System and the FGUA Lehigh Acres Utility System. A later agenda item (FA 1) contains an Interlocal agreement with the City of Fort Myers to implement the two-way sale of water on a bulk (wholesale) basis between the two entities. In order to consummate this sale, it will be necessary for the FGUA Board to establish a new bulk rate for sale of water from the Lehigh Acres Utility System. This new bulk rate is established within Resolution 2006-01, attached as Exhibit A. The rate established in Resolution 2006-01 has been coordinated with the Lee County Utility and Public Works staff. At the January 20, 2006 Board of Directors meeting, this item was continued to the February 24, 2006 meeting to allow time for the Lee County staff to present to the Lee County BOCC for review both the bulk rate resolution and the interlocal agreement between the FGUA and the City of Fort Myers. A copy of the Rate Study performed by PRMG, Inc. to support the rate of \$3.76 per 1,000 gallons is provided at Exhibit B. There is a provision in the resolution for annual CPI based adjustments to the rate approved in Resolution 2006-01.

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### Recommendations

The Board of Directors approve the new Bulk Water Rate of \$3.76 per thousand gallons for the Lehigh Acres Utility System as provided in Resolution 2006-01.

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### Budget Impact

The Interlocal Agreement with the City of Fort Myers does not provide for the FGUA to sell water to the City of Fort Myers until the Mirror Lakes Water Treatment Plant #2 first phase is completed. However, the FY 2006 operating budget does provide up to \$562,100 for the purchase of water from the City of Fort Myers by the FGUA. Due to the length of time necessary to construct the interconnect, it is unlikely that any sales will occur before FY 2007 by either party.

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### Board Action

Moved by:

Seconded by:

Action Taken:

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**BULK WATER SALE AGREEMENT  
BETWEEN THE CITY OF FORT MYERS, FLORIDA, AND  
THE FLORIDA GOVERNMENTAL UTILITY AUTHORITY**

**THIS AGREEMENT**, is made and entered into this \_\_\_\_\_, day of \_\_\_\_\_, 2006, by and between the City of Fort Myers, Florida, a municipal corporation organized under the laws of the State of Florida, acting by and through its City Council, the governing body thereof, and the Florida Governmental Utility Authority, a legal entity and public body created by interlocal agreement pursuant to section 163.01(7), Florida Statutes, acting by and through its Board of Directors, the governing body thereof.

**RECITALS**

**WHEREAS**, the FGUA has determined that the public health, safety, and general welfare of the Customers within the Lehigh Service Area necessitates the connection of these Customers to the City's System; and

**WHEREAS**, the City of Fort Myers has determined that the public health, safety, and general welfare of the Customers within the City of Fort Myers necessitates the connection of these Customers to the FGUA Lehigh Acres Utility System; and

**WHEREAS**, the City and the FGUA have agreed to connect the Lehigh Utility System to the City's System and for the FGUA to purchase bulk water from the City, as needed; and

**WHEREAS**, the City and the FGUA have agreed to connect the City's System to the FGUA's Lehigh Utility System and for the City to purchase bulk water from the

FGUA, as needed; and

**WHEREAS**, subject to the conditions and limitations cited herein, the City agrees to provide bulk water services to the FGUA for the Customers within the Lehigh Service Area; and

**WHEREAS**, subject to the conditions and limitations cited herein, the FGUA agrees to provide bulk water services to the City for the Customers within the City's Service Area; and

**WHEREAS**, the City and the FGUA find that the interconnection of the Lehigh System to the City's System for the provision of bulk potable water is necessary to avoid duplication of capital investment and maintenance costs and necessary to render water service to the public in the most efficient manner; and

**WHEREAS**, the City and the FGUA now desire to enter into and execute this Agreement setting forth the terms and provisions of their agreement for the purchase and sale of bulk water services.

**NOW THEREFORE**, in consideration of the foregoing recitals and the mutual undertakings and covenants contained herein and assumed, and other good and valuable consideration, receipt of which is hereby acknowledged, the City and the FGUA hereby covenant and agree as follows:

**SECTION 1. RECITALS.** The above recitals are true and correct and are incorporated herein.

**SECTION 2. DEFINITIONS.** The following words shall have the following

meanings unless the context hereof requires otherwise:

**"Abnormal Occurrence"** shall mean an event at a water or pump station facility that has the potential to cause a violation of a utility permit as is reportable to any regulatory agency that oversees the utility operations, including, but not limited to, equipment failures, lab analysis failures and line breaks.

**"Agreement"** shall mean this Bulk Water Sale Agreement Between the City of Fort Myers, Florida, and the Florida Governmental Utility Authority.

**"Connection Facilities"** shall mean those utility facilities, including but not limited to, transmission mains, pipes, and appurtenant facilities that are necessary to convey water through the Connection Point between the FGUA Lehigh Acres Utility System and the City of Fort Myers Water System, as shown on Exhibit C.

**"Connection Point"** shall mean that location, as identified on a map attached hereto as Exhibit A, where the FGUA Lehigh Acres Utility System shall be physically connected to the City of Fort Myers Water System for the purpose of transmitting bulk water between the two utility systems' Service Areas. The Connection Point shall be located on the north side of Lee/Colonial Boulevard, approximately 500 feet west of the intersection of State Road 82 and Lee Boulevard.

**"City"** shall mean City of Fort Myer, Florida, a political subdivision of the State of Florida.

**"Customers"** shall mean the City's retail water customers and the FGUA's retail water customers of the Lehigh Acres Utility System.

**"ERC"** shall mean 200 GPD average daily flow. For purposes of this Agreement each detached single-family residential connection shall be considered one ERC.

**"FGUA"** shall mean the Florida Governmental Utility Authority, a legal entity and public body created by interlocal agreement pursuant to section 163.01(7), Florida Statutes.

**"Force Majeure"** shall include, but not be limited to, acts of God, strikes, lockouts, or other industrial disturbances, acts of any public enemy, wars, blockades, riots, acts of armed forces, epidemics, delays by carriers, inability to obtain materials or rights-of-way on reasonable terms, acts or failures to act by public authorities not under the control of either party to this Agreement, or acts or failures to act by regulatory authorities.

**"GPD"** shall mean gallons per day.

**"Interlocal Agreement"** shall mean that certain First Amended and Restated Interlocal Agreement Relating to Establishment of the Florida Governmental Utility Authority among Citrus County, Florida, Lee County, Florida, Polk County, Florida, and Osceola County, Florida, Dated as of December 1, 2000.

**"Party" or "Parties"** shall mean the Florida Governmental Utility Authority (FGUA) and the City of Fort Myers, collectively or individually as the context may require.

### **SECTION 3. CONNECTION.**

**3.1** The FGUA shall design and construct all the Connection Facilities

between the City of Fort Myer's Water System and the FGUA's Lehigh Acres Utility System that are necessary to transmit water to and from the Connection Point on the existing 16-inch water main owned by the City of Fort Myers. The FGUA shall obtain all necessary governmental approvals for the construction of the Connection Facilities. The FGUA shall own, operate and maintain the Connection Facilities up to the Connection Point.

**3.2** Subject to the prior approval of the City of Fort Myer's City Engineer, the FGUA shall design and construct the Connection Point. The FGUA shall obtain all necessary governmental approvals for the construction of the Connection Point. All bulk water to be transmitted between the FGUA's Lehigh Utility System and the City of Fort Myers Water System shall be delivered and sold at the Connection Point.

**3.3** The FGUA shall purchase and install an appropriate bi-directional metering device of standard make and sufficient size on the FGUA side of the Connection Point which is acceptable to the City for the purposes of determining the amount of water being provided by either party pursuant to this Agreement. The meter shall be equipped with an indicating and recording register. The FGUA shall also install a reduced pressure backflow prevention devices, including a strainer, bypassing piping, and interconnecting piping in conjunction with the meter (the meter and backflow prevention device shall be collectively referred to as the "Connection Point Equipment"). It shall be the responsibility of the FGUA to pay all costs associated with the purchase and installation of the Connection Point Equipment. The FGUA shall obtain all

necessary governmental approvals for the construction of the Connection Point Equipment.

**3.4** The City shall grant to the FGUA a perpetual easement to access, own, operate, maintain, repair and replace the Connection Point Equipment by good and sufficient easement deed without any cost to the FGUA. Thereafter, the FGUA shall own, operate and maintain the Connection Point Equipment. In the event future relocation of this Connection Point Equipment is required as a result of the City's actions, the City shall pay for all relocation costs.

**3.5** The FGUA shall submit the design for the Connection Facilities, the Connection Point, and the Connection Point Equipment to the City Engineer at the address provided in Section 8 herein. Thereafter, the City shall have fifteen (15) calendar days to review and provide comments on the submissions. If the City fails to comment within the fifteen (15)-day period, the submissions shall be deemed to be approved.

**3.6** Subject to the provisions of paragraph 4.2 herein, the Parties are presently able to provide bulk water to each other upon completion of the Connection Facilities and installation of the Connection Point Equipment at the Connection Point. The transmission of water pursuant to this Agreement shall commence on the date when either Party first delivers water to the Connection Point. The FGUA shall first give the City written notice that the FGUA is connecting the Lehigh Acres Utility System to

the City's Water System no less than ten (10) days prior to said connection for purposes of inspection and final approval by the City. The transmission of water shall not commence until the City provides final inspection and approval of the connection. The City shall inspect the Connection Facilities, the Connection Point and Connection Point Equipment within two (2) days of written notice from the FGUA that said facilities are complete and ready for inspection.

**3.7** Prior to either Party's conveyance of water to the Connection Point, the FGUA shall comply with all terms of this Agreement and shall furnish to the City, in a form acceptable to the City, a copy of the as-built drawings for the Connection Facilities, the Connection Point, and the Connection Point Equipment, showing specific locations of all such facilities, service line connections, fittings and other appurtenant equipment installed by the FGUA pursuant to this Agreement.

**3.8** The City and the FGUA shall implement a cross connection control program in accordance with the State of Florida and Federal Safe Drinking Water Acts. Should any water supply contamination or possibility of water supply contamination occur in either Parties' water supply transmission system, the owner of that portion of water supply transmission system will immediately notify the other Party, correct the situation, and take all necessary precautions to insure the protection of the other Party's water supply transmission system.

#### **SECTION 4. BULK WATER SALE.**

**4.1** The City does hereby agree to sell and transmit to the FGUA and the

FGUA does hereby agree to receive and purchase an amount of water for the Lehigh Acres Utility System which shall not exceed a total of 500,000 GPD peak daily flow without prior approval by the City.

**4.2** The FGUA does hereby agree to sell and transmit to the City and the City does hereby agree to receive and purchase an amount of water for the City of Fort Myers Water System which shall not exceed a total of 500,000 GPD peak daily flow without prior approval by the FGUA. This capacity shall not be available until completion of the first phase of the FGUA Mirror Lakes Water Treatment Plant No 2 and certification of the plant for operation by the Florida Department of Environmental Protection.

**4.3** Notwithstanding any other provisions contained herein, neither party shall be liable for any damages, direct or consequential, as the result of the inability or failure to provide bulk water services pursuant to this Agreement on a temporary, emergency or permanent basis due to Force Majeure or other circumstances not within the control of that Party. Both Parties shall use best efforts to provide the water capacity needed by the other Party, however, in the event of restrictions imposed by governmental regulatory authorities, each Party reserves the right to reduce the GPD received by the other.

**4.4** In the event of an Abnormal Occurrence both the City and the FGUA shall abide by and provide proper response and notification to applicable governmental



regulatory agencies.

**4.5** Except under emergency conditions or an Abnormal Occurrence, the FGUA and City will maintain a minimum static pressure at the Connection Point of 50 psi gauge. Actual operating or static pressure may reach 90 psi gauge, and it shall be the responsibility of the both parties to affect pressure reduction as may be necessary to protect the their customers.

**4.6** Pursuant to 40 Code of Federal Regulations, ("CFR") Sections 141 and 142, and Chapter 62-551, Florida Administrative Code ("F.A.C."), the FGUA and the City are required to monitor water quality to determine levels of lead and copper and to take measures to correct levels that exceed permissible action levels. On the FGUA's side of the Connection Point, the FGUA shall be responsible for compliance with all applicable regulations including, source water monitoring, treatment, reporting, corrosion control, lead service line replacement, and any public notice requirements. On the City's side of the Connection Point, the City shall be responsible for compliance with all applicable regulations including, water monitoring, reporting, lead service line replacement, and any public notice requirements. Each party shall notify the other if it determines that an action level has been exceeded in any part of the water supply transmission system.

## **SECTION 5. OWNERSHIP, MAINTENANCE AND REPAIRS.**

**5.1** The FGUA shall own, operate and maintain in accordance with applicable laws and regulations, solely at its own expense, the Connection Facilities up to the

Connection Point.

**5.2** The FGUA shall own, operate and maintain in accordance with applicable laws and regulations, solely at its own expense, the Connection Point Equipment, all mains, lines, pumps and the other facilities necessary to produce and transport the water to be provided pursuant to this Agreement from the FGUA water treatment plant to the Connection Point.

**5.3** The City shall own, operate and maintain in accordance with applicable laws and regulations, solely at its own expense, all mains, lines, pumps and the other facilities necessary to produce and transport the water to be provided pursuant to this Agreement from the City of Fort Myers Water System to the Connection Point.

**5.4** The maintenance to be performed by the City and the FGUA shall be performed in such a manner as is necessary to meet the standards prescribed by applicable regulatory agencies and to maintain each Party's respective facilities at a level of performance, maintenance and repair which will not adversely affect existing customers of either the FGUA or the City.

**5.5** The FGUA shall not be liable for any loss of service or for any other damages, either direct or consequential, due to defects in the construction, maintenance, repair or operation of the Connection Facilities or the Connection Point.

**5.6** In the event the City reasonably determines that all or any portion of the Connection Facilities requires testing, maintenance, repair, or replacement, the City

shall notify the FGUA in writing at the address specified herein for Notice purposes. The FGUA shall have the duty to commence and complete such testing, maintenance, repair, or replacement as is reasonably necessary as expeditiously as possible unless the FGUA can demonstrate to the satisfaction of the City that such actions are not required. In the event the FGUA fails to begin or fails to complete such reasonably required work, the City shall have the right to discontinue utility service to the Lehigh Acres Utility System upon ten (10) days' written notice to the FGUA of such failure.

**5.7** To assure accuracy, the meter installed as a part of the Connection Point Equipment at the Connection Point shall be tested annually by the FGUA. At any other time, the City may request testing of the meter. Should any test, other than the required annual test, demonstrate that the meter is registering within or at an accuracy of two percent (2%), the City shall pay for all costs incurred in testing the meter. However, if the test demonstrates that the meter is not registering within or at two percent (2%) accuracy, the FGUA shall pay for all costs incurred in testing and repairing the meter.

## **SECTION 6. CHARGES.**

**6.1** As consideration for the bulk water provided by the FGUA, the City shall pay to the FGUA a wholesale rate in the amount of three dollars and seventy-six cents (\$3.76) for each thousand gallons of water sold to the City, which shall compensate the FGUA for its operation expenses. This rate shall be subject to change in accordance with section 4.04 of the Interlocal Agreement and upon providing the City with ninety

(90) days written notice. The City shall also pay to the FGUA any and all other applicable charges, surcharges, rates, fees, or other payments imposed on or required to be paid by the City or the Customers in accordance with applicable federal, state, and local laws, statutes, rules and regulations, as they may exist or be amended from time to time, including the FGUA's rules and regulations. However, the FGUA shall not impose or collect capacity impact fees, service availability fees or other like charges from the City.

**6.2** The FGUA will invoice the City on a monthly basis in accordance with the meter readings taken at the Connection Point for the billing cycle. The City shall make payment based upon these meter readings within thirty (30) days after receipt of the invoice from the FGUA. Any failure to pay on or before the due date shall be considered a default under the terms of this Agreement.

**6.3** In the event the City disputes the accuracy of the meter reading, it must notify the FGUA in writing within thirty (30) days of receipt of the invoice and demonstrate through appropriate calibration testing that the meter was either not properly calibrated or was not functioning properly. In the case of a meter registering an inaccuracy of more than two percent (2%), the FGUA shall adjust its charges up or down using the percentage of error as determined by the test. All meter readings not disputed within thirty (30) days of receipt of the invoice by the City are final and not subject to dispute.

**6.4** As consideration for the bulk water provided by the City, the FGUA shall pay to the City a wholesale rate in the amount of three dollars and forty-two cents (\$3.42) for each thousand gallons of water sold to the FGUA, which shall compensate the City for its operation expenses. This rate shall be subject to change in accordance with City rate review policies and appropriate resolutions or ordinances and upon providing the FGUA with ninety (90) days written notice. The FGUA shall also pay to the City any and all other applicable charges, surcharges, rates, fees, or other payments imposed on or required to be paid by the FGUA or the Customers in accordance with applicable federal, state, and local laws, statutes, rules and regulations, as they may exist or be amended from time to time, including the City's rules and regulations. However, the City shall not impose or collect capacity impact fees, service availability fees or other like charges from the FGUA.

**6.5** The City will invoice the FGUA on a monthly basis in accordance with the meter readings taken at the Connection Point for the billing cycle. The FGUA shall make payment based upon these meter readings within thirty (30) days after receipt of the invoice from the City. Any failure to pay on or before the due date shall be considered a default under the terms of this Agreement.

**6.6** In the event the FGUA disputes the accuracy of the meter reading, it must notify the City in writing within thirty (30) days of receipt of the invoice and demonstrate

through appropriate calibration testing that the meter was either not properly calibrated or was not functioning properly. In the case of a meter registering an inaccuracy of more than two percent (2%), the City shall adjust its charges up or down using the percentage of error as determined by the test. The FGUA shall be responsible for the cost of repairing or replacing the meter to insure future readings are correct. All meter readings not disputed within thirty (30) days of receipt of the invoice by the City are final and not subject to dispute.

**SECTION 7. PEAKING OF FLOW RATES.** The Parties shall operate their respective systems in such a manner as to prevent peaking of flow rates that would place an unequal burden on the other Party's facilities and be out of proportion to the customers in the other Party's system. For purposes of this paragraph, peaking is any rate of flow greater than five (5) times the annual average gallons per day.

**SECTION 8. NOTICE.** All notices, requests, demands or other communications hereunder shall be in writing and shall be deemed to be properly given if hand-delivered, mailed by certified or registered U.S. Mail, or delivered by a generally accepted overnight courier service, such as Federal Express or United Parcel Service. Notices shall be addressed as follows:

**CITY OF FORT MYERS:** Saeed Kazemi  
City Engineer  
City of Fort Myers  
2200 Second Street  
P.O. Box 2217  
Fort Myers, FL 33902-2217

**FGUA:** Charles Sweat  
Director of Operations

Florida Governmental Utility Authority  
280 Wekiva Springs Road, Suite 203  
Longwood, FL 32779

Either party may, by notice in writing given to the other, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice shall be deemed given on the date such notice is delivered by hand or three days after the date mailed.

**SECTION 9. TERM.**

**9.1** This Agreement shall have an initial term of ten (10) years, commencing on the date of execution of this Agreement by both the City and the FGUA.

**9.2** The term of this Agreement may be extended by either Party for an additional ten (10)-year period. In the event the City or the FGUA elects to exercise its right to extend this Agreement for this additional ten (10)-year period, the requesting Party must notify the other Party in writing at least ninety (90) days prior to the ten (10)-year anniversary of this Agreement. The Party receiving the request must provide its response to the extension request within thirty (30) calendar days of receipt of the request.

**9.3** Either Party shall have the right to terminate this Agreement upon one (1) years= written notice to the other Party.

**SECTION 10. DEFAULT.** If either Party materially fails or defaults in keeping, performing, or abiding by the terms and provisions of this Agreement, then the nondefaulting Party shall give written notice to the defaulting Party specifying the nature

of the default. If the defaulting Party does not cure the default within forty-five (45) days after the date of the written notice, then this Agreement, at the option of the nondefaulting Party, shall terminate. This paragraph is not intended to replace any other legal or equitable remedies available to the nondefaulting Party under Florida law, but is in addition thereto. Notwithstanding the foregoing, any failure to make timely payments shall be considered a material default under the terms of this Agreement without the necessity for any written notice and such nonpayment shall be grounds for termination of service.

**SECTION 11. FORCE MAJEURE.** With respect to the matters contemplated by this Agreement, neither Party shall be liable or responsible to the other as a result of any injury to property or person, which was caused by Force Majeure.

**SECTION 12. ASSIGNMENT.** This Agreement shall inure to the benefit of and be binding upon the heirs, representatives, and assigns of the parties hereto. However, neither the City nor the FGUA shall assign this Agreement without the express, written permission of the other Party, which permission shall not be unreasonably withheld.

**SECTION 13. AMENDMENT.** No amendment, supplement, modification or waiver of this Agreement shall be binding unless executed in writing by all parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions of this Agreement, whether or not similar,



unless otherwise expressly provided. Each such amendment, supplement, modification or waiver of this Agreement shall be filed with the Clerk of the City of Fort Myers and the Clerk of the FGUA.

**SECTION 14. INDEMNIFICATION.** To the extent permitted by law, the City and the FGUA agree to indemnify and hold each other harmless from the negligent acts or omissions of themselves, their officers, employees or agents. Additionally, the FGUA shall require that its contractor responsible for the Connection Facilities, the Connection Point, and the Connection Point Equipment procure and maintain during the life of the contract all insurance necessary to protect the City and the FGUA in minimum amounts as determined by the FGUA and the City. The insurance policies shall name the City and the FGUA, its officers, agents and employees, as additional insureds. The FGUA shall also require the contractor to indemnify and hold harmless both the City and the FGUA, as well as the agents, employees, council members, officers, volunteers of each from and against all claims, actions, damages, fees, fines, penalties, defense costs, suits or liabilities which may arise out of any act, neglect, omission or default of the contractor arising out of or in any way connected with the construction of the Connection Facilities, the Connection Point, or the Connection Point Equipment.

**SECTION 15. SEVERABILITY.** If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect

the other parts of this Agreement if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can continue to be effected.

**SECTION 16. APPLICABLE LAW AND VENUE.** This Agreement shall be governed by, construed, controlled and interpreted according to the laws of the State of Florida. Venue for any action or proceeding to construe or enforce the provisions of this Agreement shall be in the Circuit Court in and for Lee County, Florida.

**SECTION 17. EXECUTION IN COUNTERPARTS.** This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 18. ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof, and supercedes all prior and contemporaneous agreements, understandings, negotiations, discussions or representations, either oral or written, between the parties and made with respect to the matters contained herein, and there are no warranties, representations or other agreements among the parties in connection with the subject matter hereof, except as set forth herein.

**SECTION 19. FILING.** Portions of this Agreement may constitute a joint exercise of power, privilege or authority by and between the City and the FGUA and may be deemed to be an "interlocal agreement" within the meaning of the Florida

Interlocal Cooperation Act of 1969, as amended. In recognition thereof, this Agreement shall be filed with the Clerk of the City of Fort Myers and with the Clerk of the FGUA.

**IN WITNESS WHEREOF**, the City and the FGUA have caused this Agreement to be executed by their proper offices and their corporate seals to be affixed hereunder by their proper offices the day and year first above written.

REMAINDER OF THIS PAGE NOT USED

**CITY OF FORT MYERS, FLORIDA**

BY:  
Mayor

ATTEST:

City Clerk

Approved as to Form and Legal Sufficiency:

City Attorney

**FLORIDA GOVERNMENTAL UTILITY AUTHORITY**

BY: \_\_\_\_\_  
Chairman

ATTEST:

FGUA Clerk

Approved as to Form and Legal Sufficiency:

General Counsel

\_\_\_\_\_

**Exhibit A**  
**Connection Point**  
**(Map designating Connection Point)**

**Exhibit B**  
**Lehigh Acres Service Area**  
**(Map and Legal)**

**Exhibit C**  
**Connection Facilities**  
**(Design)**

# Florida Governmental Utility Authority

## Board Agenda Item

Friday, February 24, 2006

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### Item

FA 1 Approval of the Two-Way Bulk Water Sales Agreement with the City of Fort Myers for the Lehigh Acres Utility System

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### Summary

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The FY 2006 Budget provides two major capital improvement projects to increase the water supply available to customers in the Lehigh Acres Utility System. Project LE004 provides for the construction of the first phase of the Mirror Lakes Water Treatment Plant #2. This first phase will provide for the production of 1.8 MGD of additional water when the plant comes on line in late calendar year 2007. Project LE038 provides for the construction of an interconnect with the City of Fort Myer Water System which will allow a maximum of 0.5 MGD to be sold by either party to the other party. During late FY 2006 and FY 2007, the FGUA expects that it may need to draw up to 0.5 MGD from the City of Fort Myer until the Mirror lakes Water Treatment Plant #2 is completed. After that time, the interconnect will serve as a mutual back-up for both water supply systems in the event of an emergency.

Preceding agenda items PH 1 and PH 1a provide for the adoption of a bulk water sales rate of \$3.76 per 1,000 gallons by the FGUA to other bulk customers, such as the City of Fort Myers. That rate has been placed in the Interlocal Agreement at Exhibit A. Either party based on 90-days advance notice can change the rates. The agreement provides for an initial term of ten years with an option to renew for an additional ten years. The agreement can be transferred to a successor owner (Lee County) in the event of the future sale of the FGUA system, with the permission of the City, which shall not be unreasonably withheld. The City proposes to put the agreement on their March 6, 2006 agenda for approval.

Once this agreement is approved, the interconnect construction is expected to begin shortly thereafter. A separate OP item on this agenda addresses the re-bidding of the construction contract because of excessive cost and only one bid being submitted the first time the project was bid.

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### Recommendations

A draft of the Interlocal Agreement is attached. At the recommendation of the FGUA Utility Counsel and the Lee County Attorney, this document is being reviewed by the Lee County staff and will be presented to the Lee County BOCC prior to bringing back to the FGUA Board of Directors at the February 24 Board of Directors meeting.

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### Budget Impact

The FY 2006 operating budget provides for \$562,100 to purchase water from the City of Fort Myers to augment existing supplies while Mirror Lakes Water Treatment Plant #2 is constructed.

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### Board Action

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Moved by:

Seconded by:

Action Taken:

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