

**FIRST AMENDMENT TO**  
**SETTLEMENT AGREEMENT**

This **First Amendment to Settlement Agreement** is entered into by and between Tampa Bay Water, A Regional Water Supply Authority (the "Authority"), Tampa Bay Desal, LLC, a limited liability company organized under the laws of Delaware and authorized to do business in the State of Florida ("Desal"), Hillsborough County, a political subdivision of the State of Florida (the "County"), and the Florida Department of Environmental Protection, an agency of the State of Florida (the "Department").

**WHEREAS**, the Authority, Desal, County and Department entered into a Settlement Agreement on June 28, 2001, resolving the County's Petition for Administrative Hearing opposing the issuance of Industrial Wastewater Facility Permit FLOI86813-001-IWIS (the "Permit") to Desal for the construction and operation of a seawater desalination facility in Hillsborough County, Florida (the "Desal Facility");

**WHEREAS**, Department issued the Permit to Desal on November 27, 2001;

**WHEREAS**, the Authority has previously entered into a Water Purchase Agreement and other agreements with Desal for the construction and operation of the Desal Facility;

**WHEREAS**, the Authority on March 25, 2002, approved Resolution 2002-05 directing Authority staff to deliver a Notice of Termination of the Water Purchase Agreement to Desal, and to take all appropriate actions to obtain right, title and interest to the Desal Facility and the assignment of the Engineering, Procurement and Construction Agreement, and all supporting contracts, and the Operation and Maintenance Agreement at the earliest feasible time; and

**WHEREAS**, the Authority, in conjunction with acquisition of the Desal Facility, agrees to accept the obligations of Desal set forth in the Settlement Agreement and Permit.

**NOW THEREFORE**, in consideration of the covenants and obligations contained herein and other good and valuable consideration, the sufficiency of which is conclusively admitted by the parties hereto, the following is hereby agreed to:

1. The Authority shall apply to the Department for transfer of the Permit from Desal to the Authority, with only those modifications necessary to effect a change in the name of the permittee, as soon as feasible. The Department shall review the application for transfer in accordance with Rule 62-620.340, F .A.C.
2. Upon the effective date of transfer of the Permit, all provisions of the Settlement Agreement binding upon Desal shall become binding upon the Authority, and Desal shall have no further obligation with regard to the Settlement Agreement.
3. Upon transfer of the Permit, the Authority, as permittee, shall be named the obligee on the operations and maintenance performance bond(s) required by the Settlement Agreement and Section VII.G.2 of the Permit.
4. All other provisions of the Settlement Agreement shall remain in full force and effect.

5. This First Amendment to Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties have caused this First Amendment to Settlement Agreement to be executed on the date( s) written below.

ATTEST:  
RICHARD AKE,  
Clerk of the Circuit Court

HILLSBOROUGH COUNTY, a political  
subdivision of the State of Florida

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Pat Frank, Chairman  
Board of County Commissioners

Approved as to form and legal sufficiency:

Date: \_\_\_\_\_

\_\_\_\_\_  
Assistant County Attorney

BOARD OF COUNTY COMMISSIONERS  
HILLSBOROUGH COUNTY FLORIDA  
DOCUMENT No. W - 0 5 ) 1

ATTEST:

TAMPA BAY WATER, A Regional Water  
Supply Authority

\_\_\_\_\_  
Jerry L. Maxwell, Secretary

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

Approved as to Form:

Date: \_\_\_\_\_

\_\_\_\_\_  
Office of General Counsel

DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

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

Name: W. Douglas Beason

Title: Assistant General Counsel

Date: April 19, 2002

TAMPA BAY DESAL, LLC

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

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_